LEGISLATIVE COUNCIL

Thursday 7 November 1996

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

MULTICULTURALISM

A petition signed by 129 residents of South Australia concerning ill-informed sentiments expressed by a Federal member of Parliament and praying that this Council will strongly urge the Prime Minister of Australia to take note of the matters raised herein and give a firm commitment that the Australian Government will uphold the principles of multiculturalism and denounce racial discrimination which could divide the Australian community was presented by the Hon. B.S.L. Pfitzner.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 1995-96—
Legal Practitioners Conduct Board
South Australian Metropolitan Fire Service

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

Reports, 1995-96—
Department of Environment and Natural Resources
Department of Transport
Passenger Transport Board
TransAdelaide

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

Reports, 1995-96—
Department for the Arts and Cultural Development
Libraries Board of South Australia
South Australian Film Corporation.

PORTS CORPORATION

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement on the Ports Corporation annual report.

Leave granted.

The Hon. DIANA LAIDLAW: I have just tabled the annual report for the Ports Corporation 1995-96. I now highlight a number of the stunning achievements recorded by the Ports Corporation during that year, its first full year of operation.

Improved productivity and the introduction of new shipping services has helped Ports Corp record a higher than expected operating profit of $5.995 million before abnormals and after tax on revenues of $45.326 million. A dividend of $3.369 million was paid to the State Government.

Two key areas of management focus over the 1995-96 financial year have been the continued development of trade and shipping services to Ports Corp ports and the establishment of the corporation as an efficient, commercially structured and viable business entity.

Being incorporated under the South Australian Public Corporations Act 1993, Ports Corp has a charter which defines the nature and scope of Ports Corp operations. This is supplemented by an annual performance statement which defines specific objectives for the year. These documents were signed by the Deputy Premier and Treasurer and me on 29 March 1996.

Port Adelaide has consistently shown that it is the most efficient and reliable capital city port in Australia, and through Sea-Land (Aust) Terminals Pty Ltd it has achieved a strong record of performance and efficiency in its container operations. The last *Waterline* publication from the Bureau of Transport and Communications shows that the port of Adelaide is still the best performing container port in Australia with an elapsed crane rate of 23.3 containers per hour, 15 per cent better than the next best performing container terminal in Australia. And that is a sensational outcome! The record grain crops of last year also contributed to the excellent result for the first full year of operation of the corporation.

South Australian ports covered by Ports Corp are Port Adelaide, Thevenard, Port Lincoln, Port Pirie, Wallaroo, Klein Point, Port Giles, Kingscote, Cape Jervis and Penneshaw. The Ports Corporation has made significant progress in waterfront reforms and in attracting new business over the past financial year. The past financial year has shown:

- a total of 69 077 containers has passed through the port of Adelaide.
- an unprecedented growth in container shipments culminating in a record 6 979 containers in June 1996 alone.
- a total of 11.245 million tonnes was shipped through the ports, an increase of 8.7 per cent.
- exports of 8.62 million tonnes represented a 13.4 per cent increase, while imports decreased by 4.3 per cent to 2.62 million tonnes.

New container shipping services have been secured which include:

- a six day frequency shipping service to Singapore and Port Klang in Malaysia.
- a new weekly named day service to Singapore that arrives in Port Adelaide on a designated day each week.
- a weekly service to ports in South Africa and Europe. The volume of motor vehicles exported and imported through Port Adelaide is significant and continues to grow. The new model Mitsubishi Magna Diamante will lead to a significant rise in the number of vehicles exported from the Port in addition to the import of associated vehicle components into Port Adelaide in future years.

Ports Corporation will continue to promote and facilitate trade through its ports. It is working to provide service levels which meet shipper requirements. In particular, it will work with General Motors to facilitate the export of its proposed new model vehicle through Port Adelaide. The additional trade will be welcomed.

The corporation has also worked closely with the South Australian Riverland region citrus producers to facilitate the export of their product to existing and developing markets. This has included the trialing of options to chill citrus products while in temporary storage on the wharves prior to loading for export as break bulk consignments.

Issues which will be addressed as a priority during 1996-97 include:

- Further refinement of the business structure of the corporation, including a comprehensive assessment of all its business activities to determine their commercial and strategic value to the corporation.
- Refinement of the basic business systems of the corporation—in particular, its computing systems—to ensure that

they facilitate efficient management of corporation activities.

- refinement of the financing arrangements and debt structure to reduce the cost of funds and debt servicing to the corporation;
- enhancement of staff morale and commitment to the corporation following the transitions of 1995-96 (and those transitions have been enormous, and I commend all involved);
- continued market development to increase trade and improve shipping services to key markets in North Asia, Europe and North America;
- implementation of comprehensive risk management and asset management practices throughout the corporation.

QUESTION TIME

HILLCREST PRIMARY SCHOOL

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

Leave granted.

The Hon. CAROLYN PICKLES: I have been advised that students at the Hillcrest Primary School have been evacuated from school buildings following a report of asbestos dust which may have been released during the upgrading of the school. I understand that at present the students are standing on the school oval and that the school may have to be closed tomorrow, a day that was supposed to be an open day for students and parents. There is some concern that children and teachers may have been exposed to asbestos dust. I also understand that officers from SACON have been called in to make an examination of the building site. My questions are:

1. Will the Minister report to the Parliament on the situation at the Hillcrest Primary School?

2. What action has been taken to ensure the safety of students and teachers?

3. What is the process by the Department for Education and Children's Services, when letting contracts for school upgrades, to ensure that students and staff are not placed at risk by any substance such as asbestos?

The Hon. R.I. LUCAS: Just prior to coming into Question Time my office received a telephone call indicating that there had been some concern at the Hillcrest Primary School about the manner in which a building project had been undertaken by certain persons. In relation to the procedures that Services SA undertakes with all Government buildings, including the department in relation to building projects, there are strict guidelines and procedures and I would be happy to obtain a copy of those for the honourable member and bring back a further reply in relation to that.

I have just been handed a copy of a draft letter which I think has been sent—I am having that confirmed at the moment—from the District Superintendent for the Central East Area, Mr Malcolm Dayman, to parents at the Hillcrest Primary School, and I will read it for the benefit of the honourable member and other members. It states:

Dear Parents,

Sorry about the short notice but an issue has arisen in the building project currently under way at the school. Some concerns have been raised about the manner in which some asbestos removal work has been carried out. I am assured by the architect for the project that this is a minor matter but cannot be ignored.

The staff and I feel that it is better to be on the safe side and close the school for tomorrow (Friday 8.11.96) ONLY whilst the repairs are carried out. Children should return to school as usual on Monday 11.11.96 unless you hear otherwise (eg, phone ring-around).

Some staff will be on duty at Hampstead Primary School tomorrow. If the closure is inconvenient then limited supervision can be provided for your child/ren by going to Hillcrest Primary School in the morning as usual where a bus will take your child/ren to Hampstead Primary School for the day and return at the usual dismissal time. Family day will be cancelled for tomorrow but we hope to run it in conjunction with the sports day next Thursday. Thank you to all those who have put so much effort in at this stage. Yours sincerely.

As I said, the letter is not signed but is from the District Superintendent. I understand that it has been approved and authorised by the Chief Executive Officer, Denis—

The Hon. Anne Levy: An unsigned letter?

The Hon. R.I. LUCAS: As I said, it is a draft letter from the District Superintendent and carries the name of Malcolm Dayman. It is not alleging anything about anybody. It is, in effect, a letter to parents. If the Hon. Anne Levy wants to seek to make political capital out of what is obviously a sensitive issue at Hillcrest Primary School, then let her do so.

Members interjecting:

The Hon. R.I. LUCAS: When I get a signed copy of the letter—if it is sent in this exact form—I will share it not only with the Hon. Anne Levy but also with all members—unlike the Hon. Ron Roberts.

The Hon. T.G. Cameron: Will it be signed by then?

The Hon. R.I. LUCAS: Perhaps the Hon. Terry Cameron does not listen or is not capable of listening. That is what I just indicated. If I am able to get any more information prior to the end of Question Time, I will be pleased to share the information with members. The advice I have been given is that officers of the department, including Mr Malcolm Dayman, the District Superintendent, and others, are acting as cautiously as possible and are taking guidance. If there is any more information I can share with members, I will do so.

TEACHER TRAINING

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 teacher training.

Leave granted.

The Hon. CAROLYN PICKLES: The average age of teachers employed by the South Australian Education Department is now 46 years and figures released by the President of the Australian Council of Deans of Education, Professor Kym Adey, indicate that in the next eight years 3 350 secondary teachers, or more than 46 per cent of those now teaching in our secondary schools, will retire or leave for other reasons. Professor Adey, who is also Dean of the University of South Australia's Faculty of Education, has warned that South Australia faces a cumulative shortage of over 2 200 secondary teachers by the year 2003 as a result of the ageing of our teaching force, demographic changes and reductions in teacher training intakes. The story is the same for primary teachers.

The Minister was reported on 19 October as having responded by saying that there would be no shortage of teachers next year and that the shortage was several years away. To add to the looming problems, cuts to higher education funding by the Howard Liberal Government have resulted in the Adelaide University announcing plans to slash

its Department of Education from 15 to five academic staff. My questions to the Minister are:

1. Will he table the statistics on teacher demand and availability that he used as the basis for dismissing Professor Adey's concerns?

2. Will he meet with the deans of our universities to negotiate the maintenance of teacher training programs at levels to satisfy present and future demands?

3. Will the Minister take this issue to the Federal Minister for Education pointing out the serious consequences for teacher training in South Australia as a result of funding cuts to our universities?

The Hon. R.I. LUCAS: The Hon. Carolyn Pickles is two or three weeks behind the Hon. Michael Elliott—which I think says something. The exact question was asked by the Hon. Michael Elliott on two separate occasions three or four weeks ago and, again, two weeks ago. This issue has been discussed publicly for a long time.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: All I can do is refer—

The Hon. A.J. REDFORD: Mr President, I rise on a point of order. The Hon. Terry Cameron has been consistently making a habit of calling people 'liars' in the background and I ask him to withdraw.

The Hon. T.G. Cameron: I never used that word.

The Hon. A.J. REDFORD: You said that he was telling an untruth and then you said 'fudging the truth'. I ask him to withdraw it.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! Any argument will be through the Chair. There is no point of order.

The Hon. R.I. LUCAS: I can really only refer the honourable member to the questions that I have answered before. To summarise briefly, I have indicated that it is an issue of concern in relation to future work force planning. We have disagreed in terms of the timing. The deans indicated two years ago that there would be a shortage this year and next year. At the time my officers in the department—not me, because I am not making predictions—disagreed with that assessment and believed it would be closer to the end of the decade or the early part of next century. The deans have now come out two years later indicating that there will be a shortage next year. Again, my officers have indicated that they believed they were right in relation to the first predictions—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I will take advice whether there are any figures that I can share with members.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Their view is based primarily on experience and statistics: they know what they require. The deans are trying to predict shortages across the nation and across all sectors. We are responsible for teachers in our sector.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I am not responsible for the other States and I cannot get that information.

The Hon. Carolyn Pickles: Yes, but the program for South Australia.

The Hon. R.I. LUCAS: Yes. But in South Australia the deans, the Independent Schools Board, non-government schools and the Catholic Education Commission are talking about teachers sector wide. The point the Hon. Carolyn Pickles needs to factor in is that we are responsible for the Education Department, which is a significant employer but not the only one. The deans are talking system wide. Obviously they are related—I am not saying that they are not related—but they do canvass a broader estimate in terms of the South Australian work force needs and they are also talking nationally and, as I understand it, internationally as well. As I indicated to the Hon. Mr Elliott three or four weeks ago, we have already had informal discussions with Professor Adey over a long period about these sorts of predictions. Our officers have met with him.

I think I have amended a letter I have on my desk to be retyped to go to each of the three universities in South Australia asking them in the current climate, where obviously they are assessing their own priorities, to bear in mind that the South Australian Government, anyway, believes that come the end of the decade and the early part of the next century graduates leaving teacher courses will be looking at potentially prospective employment prospects in teaching within Government and non-government schools in South Australia. We will continue to maintain those sorts of discussions. A ministerial council meeting is scheduled for December this year and it might be possible to have this matter raised as part of the informal ministerial discussions, although there is some doubt whether that meeting will proceed in December and it might not be held until January or February next year. It might be possible to have—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Some universities would have already taken those decisions as of now. The honourable member is aware of the University of Adelaide but she would also know from press reports that universities in other States as of today may well have taken decisions. Nevertheless, there are still important decisions to be taken by universities in terms of their own funding priorities over the coming three or four years and they will have to factor that into their decision making. If they have made what we might see to be bad decisions this year, it is not beyond the wit of universities to reassess—in the past they have made one adjustment one way and found that they have gone in the wrong direction and have gone back the following year or two years' later. Preferably, you do not make the wrong decisions in the first place and I acknowledge that. As I have indicated to the Hon. Mr Elliott on a number of occasions, whilst the Government cannot control or dictate to the universities, which are independent bodies, we certainly are making, have made and will continue to make our views known about their estimates and when we see a demand in the State school system in South Australia.

ROADS, PASSING LANES

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about passing lanes between Lochiel and Port Augusta.

Leave granted.

The Hon. R.R. ROBERTS: Members will recall that it is almost two years since we started an experiment on the use of road trains between Lochiel and Port Augusta in South Australia. On the announcement of that trial the Minister for Transport advised that an investigation would be taking place into where safe passing lanes could appropriately be placed. Last year at about this time I asked a similar question and there was a problem because of the availability of funds to proceed with this work. As a result of an allocation of moneys I believe by the former Federal Minister for Trans-

port (Mr Laurie Brereton), that money has been made available and a start has been made on the building of those passing lanes. It was interesting to see—and I note there was comment from local government in Port Augusta in particular—that the passing lanes between Port Wakefield and Lochiel, where the experiment is not taking place, were built and completed far sooner than in those areas where the alleged unsafe situations could occur in relation to road trains.

Work has proceeded over the past 12 months. A number of constituents have raised this matter with me, as has my colleague from Whyalla, the Hon. Frank Blevins. He has observed—and I have also observed as a regular traveller on that road—that on numerous occasions for some months now the road building between Lochiel and Port Pirie apparently has ceased. It also appears that for approximately two months most of the surface has been completed but the areas have not been bituminised and sealed. It is my observation and the observation of my colleague in another place that the surfaces are starting to deteriorate. I know most of this work is now being carried out by contractors and there may be some reason for what is happening. There was also a problem, which I acknowledge, with line marking. Members would know that that has been contracted out. I raised that matter with the Minister and I thank her for her prompt attention to that matter. That road marking, especially on the entrance into Lochiel, has been completed. In the interests of the safety of those people in the north of South Australia my questions are:

1. What has caused the holdup with the sealing of the new work in association with passing lanes?

2. When can travellers expect this work to be completed?

The Hon. DIANA LAIDLAW: I will pass on to the Department of Transport the honourable member's commendation for the prompt response to his inquiries about line marking and Lochiel. Not only did the department promptly reply but the work was undertaken and completed promptly. In terms of the 10 passing lanes that have been constructed and almost completed, that was with the benefit of funds from the former Federal Government and the whole program was an affirmative action one in terms of providing those funds. The road work was to be finished by July, but the honourable member would recall that we had an extraordinarily wet winter between July and September, if not October, and the contractor, with the agreement of the Department of Transport, had completed all the excavations for the passing lanes—the survey and the excavations. On recollection, all the earthworks had been completed but they could not seal in that very wet weather. I think the contractor won another job and, with the agreement of the Department of Transport, went to complete the work on that job.

When I went to Port Augusta recently for the task force on Australian National, I came back along that road and I thought that the sealing work had recommenced. If that is not so, I will make inquiries why not and whether or not the contractor has completed the earlier work. Certainly, with Christmas holidays and annual leave coming up, it will be very important to have had that work completed by that time because it is a very busy road with people travelling north and west. I thought I observed that the sealing work had recommenced. I think that only four of the passing lanes have not been sealed. All the rest have been sealed and the majority are in operation. I will follow up this matter and get a reply to the honourable member promptly.

AMBULANCE SERVICE

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question on the Ambulance Service's marketing techniques.

Leave granted.

The Hon. SANDRA KANCK: Information relating to some failed marketing techniques by the South Australian Ambulance Service has reached my office. My information is that the Ambulance Service acquired $19 000 worth of fridge magnets as part of its general image cultivation. I am informed that these fridge magnets were originally intended to be distributed to school children, perhaps on the basis that they might subscribe. It seems that a hasty rethink of that curious strategy resulted in the fridge magnets then being distributed to doctors.

Another strategy involved the acquisition of novelty coffee cups. The cups in question change colour from green and black to green and red when hot fluid is poured into them. Unfortunately, they lose this chameleon-like quality when they are placed in a dishwasher or microwave oven. Worse, it now appears that these glowing additions to the South Australian Ambulance Service's marketing campaign have disappeared from the service's store room. My questions are:

1. Does the Minister consider the South Australian Ambulance Service's purchase of fridge magnets and novelty coffee cups an astute use of the service's considerable marketing budget?

2. How much did the novelty coffee cups cost, and where they have gone?

3. Has the Minister enjoyed the use of one of the aforementioned novelty coffee cups?

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

MEMBER'S REMARKS

The Hon. BERNICE PFITZNER: I seek leave to make a personal explanation.

Leave granted.

The Hon. BERNICE PFITZNER: Yesterday, in the other place, the member for Spence (Mr Michael Atkinson), who is also a member of the Social Development Committee, made allegations about me of a personal nature, and I seek to rectify these inaccuracies. I wish to make five points. First, he says that I 'threw a tantrum' because public attention was drawn to some of my supposed statements on prostitution. I do not throw tantrums. I finished throwing tantrums by the age of two years, although some members may still have trouble in that area.

The fact is that 15 months ago I concurred with the suggestion by a journalist that red light areas in various areas, not only Mile End, might be a strategy. However, after the Social Development Committee had taken evidence, we formulated a better strategy of registered brothels in commercial and industrial areas in any suburb, not just Mile End. The member for Spence, being a member of the Social Development Committee, well knows this. Red light zones have never been an option in the Social Development Committee's recommendations.

The second point is that Mr Atkinson said:

I know the *Advertiser's* quotes are correct, as I was there when Dr Pfitzner conducted the interview with the *Advertiser*.

The member for Spence is implying that I was lying when I previously stated that the newspaper reports were inaccurate. Yes, it was during our interstate trip, and the member was in the building, but he was not in the room when I was speaking to the journalist. I told the member that the journalist had suggested a 'red light zone' and that I said that it could be a strategy.

The third point is that Mr Atkinson said:

> Dr Pfitzner used both those votes so that she could get certain recommendations and wording into the report. Without the dual voting. . . certain recommendations and wording would not have the prominence they do.

Further, he said:

> . . . Dr Pfitzner as Presiding Member and therefore having two votes, the brothel zone proposal would not have the prominence it has.

I have never officially used those votes with regard to recommendations, wording, brothels or the proposal. I am sure that the Hon. Sandra Kanck will concur with me and that even the Hon. Terry Cameron might do so, as he is an honest person. I have never used that vote to influence the committee.

As we all know, the majority report was supported by three members: the Hon. Mr Terry Cameron, the Hon. Sandra Kanck and me. Another two, Mr Joe Scalzi and Mr Michael Atkinson, supported another proposal, and the last proposal was supported by Mr Stuart Leggett. At no time did the votes go to three all, in which case I might and could have used a casting vote. We came to a satisfactory compromise, as Mr Atkinson well knows.

Fourthly, Mr Atkinson referred to 'the Prostitution Bill that Dr Pfitzner has circulated'. I have not circulated the Prostitution Bill. The Social Development Committee circulated the prostitution report, as Mr Atkinson well knows.

The fifth point is that Mr Atkinson said:

> Dr Pfitzner will not take political responsibility for her own public statements as Presiding Member of the Social Development Committee.

The public statements I made during our interstate trip were made by me not as the Presiding Member, as Mr Atkinson well knows. The three of us, the Hon. Sandra Kanck, Mr Michael Atkinson and I, went unofficially and paid for ourselves. The alleged statements were made personally. In fact, if I remember correctly, the Hon. Ms Pickles pointed out during debate on the interim report that the interstate trip was unofficial and that, therefore, members on that trip responded on a personal basis only.

If the member for Spence wants to debate the prostitution report, let him do so, but it would be helpful to us all—

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. I suggest that the honourable member is clearly going beyond a personal explanation and debating the issue.

The PRESIDENT: I think that is correct.

The Hon. BERNICE PFITZNER: I will end by saying that he should play the ball, not the person.

TRANSPORT PLAN

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Liberal Party's promised strategic transport plan.

Leave granted.

The Hon. T.G. CAMERON: At the 1993 State election, the Liberal Party promised a 10 and 20-year strategic plan for transport for metropolitan Adelaide. The plan was 'to have an efficient and integrated road and public transport network to cater for Adelaide's long-term passenger and freight needs'.

The Hon. DIANA LAIDLAW: I rise on a point of order, Mr President. If there is a question on notice on the same matter, is this out of order? This is a matter of inquiry. I understood that one could not ask questions about matters that were already the subject of questions on notice.

The PRESIDENT: No. I think the honourable member is trying to anticipate a question, but I suspect that it will be a long time before he gets the answer to his question. However, he is not out of order.

The Hon. T.G. CAMERON: There is no doubt that Adelaide needs an integrated or 'whole of system' approach to the transport system. Organisations as varied as the Australian Conservation Council and the South Australian Employers' Chamber of Commerce and Industry have recently argued that a strategic transport plan is central to the economic development and environmental needs of this State. After nearly three years, we are still waiting for the plan, or even a draft of such a plan. I believe that, unless planning begins now, Adelaide faces major transport and environmental problems in the near future, and this will have serious implications for South Australian consumers and industry. My questions to the Minister are:

1. Where is the promised strategic transport plan; and why has it taken so long to prepare?
2. Will the Minister report on its progress?
3. When can it be expected to be finished?
4. What consultants have been employed in its production; and how much have they cost so far?
5. Is there any possibility that the plan may be released before the next election?

The Hon. DIANA LAIDLAW: The honourable member's questions are identical to questions on notice asked on 16 October. I looked at the answers last night. They should be with the honourable member next week. Do you not have any other original ideas?

HINDMARSH ISLAND BRIDGE

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

Leave granted

The Hon. P. HOLLOWAY: In answer to my question on 1 October the Minister referred to forthcoming legislation in the Senate to facilitate the Hindmarsh Island bridge project. She stated:

> The opportunity now provided by the Federal Government will speed this process and the approvals.

However, the following was reported in this morning's *Advertiser*:

> A decision on the future of the Hindmarsh Island bridge will not be made until late next year. The Howard Government—which has accused Labor of obstructing the project—has itself placed the project on the backburner.

My questions to the Minister are:

1. Given the Minister's answer on 1 October, was she given any undertakings by the Federal Government that it would expedite legislation enabling the Hindmarsh Island bridge to proceed?
2. Has she taken any action to persuade the Federal Government to speed up consideration of this legislation?

3. If further delays in the bridge's construction are now likely, will she say when the Goolwa ferry is due for upgrading or major servicing?

The Hon. DIANA LAIDLAW: I understand that the Coalition Government is having some difficulty seeking to get its own legislation, for which it has a mandate, through the Senate because the ALP and the Australian Democrats have procrastinated for so long, and I am not surprised that they deem those matters—that is, the industrial relations legislation and Telstra—to be a priority. Even the budget has not got through the Senate yet, and it is November.

On the basis of the report in the *Advertiser* today I have made inquiries and also indicated that this legislation was important to the South Australian Government and the South Australian community, and inquiries were to be made following my telephone calls. I have not—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Yes, that is right. I am seeking advice. I have not had a reply to those inquiries. But what the honourable member indicated is so: it is an important matter that the South Australian Government would seek to have expedited.

The Hon. P. HOLLOWAY: I also ask the Minister, if there are further delays, what impact this will have on the lifetime of the current Goolwa ferry.

The Hon. DIANA LAIDLAW: I cannot indicate that there are to be any further delays.

WASTE DISPOSAL

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to directing some questions to the Minister for Transport, representing the Minister for Housing, Urban Development and Local Government Relations, on the subject of rubbish disposal.

Leave granted.

The Hon. T. CROTHERS: Over the past several years much has been written about the impending lack of landfill areas within the Adelaide area which were suitable as sites for disposal, in the main, of household rubbish. To make matters even worse, many of the landfill sites or rubbish tips currently in use—

Members interjecting:

The Hon. T. CROTHERS: It is most appropriate that I am on my feet talking about rubbish and the Hons Legh Davis and Angus Redford interject. I could not think of two more appropriate people to interject about rubbish: they know a lot about it. Over the past several years much has been written—

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: There are no second prizes, Mr Davis. Over the past several years much has been written about the impending lack of landfill areas within the Adelaide area—

Members interjecting:

The PRESIDENT: Order on my right!

The Hon. T. CROTHERS: —which are suitable as sites for the disposal, in the main, of household rubbish. To make matters even worse, many of the landfill sites or rubbish tips currently in use have very short life expectancy times left. For instance, in the *Advertiser* dated 10 August of this year an article appeared which detailed that the Wingfield dump will be full by 1998; the Borrelli dump, also at Wingfield, by 1998; the East West dump at Highbury will be full by this year; the Enfield Council dump at Dry Creek will be full by 1997; the dump at Smart Road, St Agnes, by October 1996; the Salisbury Council dump on Coleman Road, Waterloo Corner, by the end of this year; and finally, there is the West Waste dump at Garden Island, the lease for which expires in October 1997. These seven dumps alone absorb some 1 140 000 tonnes of Adelaide's rubbish each year.

Even the most casual glance at these statistics will show that Adelaide's position in respect of rubbish disposal is extremely parlous indeed. To make matters worse, some interested parties have wished to reopen an old quarry dump at Highbury. This application so far has been successfully opposed by a group of local residents. And who, in this day and age, can blame them for that? Likewise in respect of a proposed dump site out at Wakefield Plains, authorities on this issue have said that as a consequence of this and other related matters the cost of rubbish disposal for Adelaide households will very shortly be double what it now is.

I further note that various German Governments currently in existence have enacted legislation to make supermarkets responsible for the disposal of rubbish, both biodegradable and non-biodegradable, on the basis that it is from these stores that the bulk of packaging rubbish comes. Also, these same German Governments believe that the amount of pressure that the supermarkets can apply to manufacturers in respect of rubbish is much more than can be done in any other way. My questions to the Minister are as follows:

1. How much help has his department given to local government bodies in order to try to resolve this looming problem for Adelaide and its environs?

2. Does he agree that this matter has considerable urgency attached to it?

3. Is any legislation likely to emanate out of national meetings of State and Federal Ministers in respect of encouraging local manufacturers to act more responsibly in respect of their present packaging standards? An example that I would cite here for the Minister to work on is the recycling of bottles and aluminium cans in South Australia.

4. Has the Minister given any consideration to the application of the German solution to the problems in South Australia?

The Hon. DIANA LAIDLAW: I think it is the best and most focused question on the environment that we have had for at least a year, and it has been asked on the first day that the shadow Environment Minister is not here.

Members interjecting:

The Hon. DIANA LAIDLAW: What has happened?

An honourable member: Don't encourage TC. He has ability. They don't want him on the front bench.

The Hon. DIANA LAIDLAW: Yes, that's right. As I said, it was the most focused and well researched question—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: Is it all going to the honourable member's head? Anyway, it is a question that I will with pleasure refer to the Minister and bring back a reply. I also commend the honourable member for taking the initiative on this important matter.

CREDIT CODE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of the Credit Code.

Leave granted.

The Hon. R.D. LAWSON: The new national Credit Code came into force on 1 November 1996. The Attorney, as

Minister for Consumer Affairs, has caused to be circulated a very useful pamphlet on the advantages of the new code. However, it was reported yesterday that some financial institutions were claiming that large costs would be passed on to consumers. In particular it was reported in the *Advertiser*:

> The enormous costs of implementing the new Uniform Consumer Credit Code will inevitably be passed on to consumers, according to financial institutions.

The item goes on to say that banks are claiming that the code will cost millions of dollars each year, which would be largely shouldered by consumers. Various bank spokesmen have been quoted to the same effect, some of them citing several million dollars as being the cost of implementing the code. My questions are:

1. Does the Attorney agree that the cost of compliance is as substantial as has been claimed by the financial institutions?

2. Does he consider that the costs to be borne are appropriate, having regard to the benefits to be conferred by the code?

The Hon. K.T. GRIFFIN: There is no doubt that there are costs of getting the new Consumer Credit Code up and running across Australia. For the first time banks, building societies and credit unions will be covered by this legislation, and it was always a matter of concern for the community that some consumer credit was covered by the previous State-based legislative regime and some was not. It was in that context that steps were taken many years ago—well over a decade—to try to get some rationalisation of the law relating to the provision of consumer credit.

It has to be remembered that home mortgages, for example, were never covered by the State-based laws, and that, too, was a matter of concern. There is now coverage across Australia of banks, building societies, credit unions and every other product which relates to consumer credit, and the rules and administration are uniform. For the first time there will not be, for nationally-based corporations providing credit, the need to have different forms for each of the eight different jurisdictions. That means that there is less prospect of costly errors because of different laws in different States, and even if they were errors that were costly to the credit providers undoubtedly that ultimately would be passed on to consumers.

Undoubtedly there will be lower costs in the longer term because of the uniform approach. It has to be remembered also that at least in this State credit providers no longer are required to be licensed. We abolished credit providers' licences under the State-based regime in August last year. That was a significant benefit not only because it saved credit providers over $300 000 in fees but also because it saved costs in relation to administration and applications to renew licences each year, and the licensing regime obviously had some significant costs. That has been eliminated. The new uniform code provides a lot more flexibility than the previous credit laws, and I think because of that there will be more flexibility in providing products tailored to the needs of consumers.

As I said, there are some costs which look quite substantial in the start-up phase, but I suggest that in the implementation of this, once the start-up phase has been completed, the costs to institutions will be minimal. There is no doubt that, ultimately, those sorts of costs are passed on to consumers, and one has to weigh against those net costs—taking into account the benefits and the costs of implementation and monitoring—that there are significant benefits for consumers and credit providers in the medium to long term.

In that context, whilst the figures look to be rather large, I think they will even out in the longer term. There is no way I have to check how much the costs actually are. Credit providers can say that they are $X million when in fact it is a different figure: it depends very much on what costs they have brought to account in calculating the cost of implementation of the new code. As one can see from the media reports today, there appears to be at least some profit being gained from the fact that interest rate reductions are not being passed on immediately, although I understand and can appreciate that some funds are on fixed term deposits which lending institutions are not able to get out of quickly, so there will obviously be a time lag in respect of that.

All in all, the view which I hold in relation to the Uniform Credit Code is that it is of benefit to consumers as well as to the community at large; that after the first year or so it will be important to see whether some of the bureaucratic requirements of the code can be eliminated with consequential savings to credit providers as well as to consumers and also benefits to consumers in the volume of paper with which they are required to be served when entering into a consumer credit transaction.

STIRLING COUNCIL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about the Stirling Council's waste collection trial.

Leave granted.

The Hon. M.J. ELLIOTT: For several months the Stirling Council has been planning a waste collection trial which involves reducing normal household waste collection to fortnightly pick-ups with recyclables being collected on the alternate week. This has been hailed by many in the community as an excellent program which seeks to reduce the amount of waste which ends up in Adelaide's landfills and also reduces costs significantly for the council and, therefore, the ratepayers by fewer collections with the money being diverted to fund other recycling projects.

The council has undertaken an education program with its residents, including 310 households to be involved in the trial. This has involved public consultation, public advertisements and the like to promote the trial which was due to start on 18 October. We are now in November and the council has been unable to begin the trial. The reason for this delay has been one signature—the signature of the Minister for Health—on an exemption from the Health Act regulations which require weekly garbage collection.

The trial was approved by the Public and Environmental Health Committee on 5 July and was forwarded to the Minister, but the council is still waiting for his seal of approval—well over three months later. My office has been contacted by a local resident who is concerned at the apparent ineffectiveness of the Minister's office. I understand that quite a few locals are ringing the council querying the delay in starting the trial. There is concern about the money already expended by the council in advertising and now the need to have to re-promote it. Also, I am told that many Adelaide councils are interested in the outcome of this trial in Stirling. My questions are:

1. Why has there been a delay of over three months in the signing of the exemption?

2. When is the exemption expected to be signed?

3. What has been the reason for the delay in signing that exemption?

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

DARTS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for the Arts a question about *DARTS*.

Leave granted.

The Hon. ANNE LEVY: For many years now, the Department for the Arts has produced a periodic publication called *DARTS*. This delightful publication, which has a wide circulation through the arts community of Adelaide, has provided a great deal of relevant and up-to-date news as to happenings in the department, has called for submissions or grant applications and detailed all grants which have been made. That information is not always available from other sources, as I am sure anyone will know who tries to find it in the *Advertiser*. The publication contains a wealth of information as to what is happening around the arts scene in South Australia. I am told that *DARTS* is to be abolished, which will be regarded as a great loss by a very large number of people in the arts community.

The Hon. Sandra Kanck: I have never seen it.

The Hon. ANNE LEVY: You could have got it by asking.

The Hon. Sandra Kanck: I did not know it existed.

The Hon. Diana Laidlaw: Not many people do.

The Hon. ANNE LEVY: It has a wide circulation and is much appreciated by all those who read it. As I say, it is now to be abolished. It was produced in-house, but outside assistance was sought for layout and design. Apart from that, it was produced entirely in-house. I also understand that *DARTS* is to be replaced by a newsletter, which will contain articles, but relevant information about grants, who has them and for how much, will not be included in the new newsletter. I further understand that this newsletter will still have outside assistance for layout and design but that a journalist is to be employed to write it which, I would have thought, would add considerably to the costs compared with *DARTS* which was produced entirely in-house. My questions to the Minister are:

1. Is it true that *DARTS* has now vanished?

2. Is it true that the information previously published in *DARTS* will no longer be published by the department?

3. Is it true that outside assistance is required to produce the new newsletter and, if so, what is the cost of that journalistic assistance?

4. What are the relative costs of the abolished *DARTS* and the new newsletter?

The Hon. DIANA LAIDLAW: I cannot confirm that *DARTS* is to vanish because no proposal has yet come to me for that to happen. I am quite sure that a move of that nature, which has been discussed in the department and with me in the past, would be forwarded to me for final approval. In fact, I would insist on no less. Ms Winnie Pelz, who has now retired as CEO of the department, spoke to me on several occasions over the past year indicating her concern, and others' concern, in the arts community that *DARTS* is not quite as relevant and as up-to-date as the honourable member would suggest. It comes out every three months and most of the information is about matters which are well past their relevance. It was thought that we could do far more that is relevant and up-to-date, unlike *DARTS*, in terms of benefit for the arts by having a more regular form of publication. Essentially, I agree with that; but I was to be alerted to, and to approve, the changes. As the honourable member would know, any changes of any nature in most organisations cause some difficulty for some people, particularly those who have been involved with something that they are pleased with and proud of and may not like the suggestion that it is not as good as it could be. There are some rumblings to that extent in the department; I am aware of that.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Electoral Act 1985; and to make consequential amendments to the Freedom of Information Act 1991. Read a first time.

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

That this Bill be now read a second time.

In November, 1995 the Electoral Commissioner provided a draft report on the 11 December 1993 Parliamentary elections. The document is a comprehensive review of, *inter alia*, the election administrative arrangements, the election period and the post election period. The Electoral Commissioner identified a number of areas where the electoral process can be improved and has made recommendations to that end. That document provided the basis for many of the amendments in this Bill.

Remuneration of the Electoral Commissioner and Deputy Electoral Commissioner: The first amendment of substance is to section 7 of the Electoral Act and provides that the remuneration of the Electoral Commissioner and the Deputy Electoral Commissioner are to be fixed by the Remuneration Tribunal. Their remuneration is now determined by the Governor. The Government believes that it is more appropriate for an independent body to fix the remuneration of the Electoral Commissioner and the Deputy Electoral Commissioner to reflect the independence of those officers. Their remuneration was fixed by the Remuneration Tribunal until 1990 and the Government believes that this was correct.

Provision of information to prescribed authorities: Unlike the Commonwealth Electoral Act and the legislation in some other States, the South Australian Electoral Act is silent on the provision of non-public electoral enrolment details to government agencies. Section 91 of the Commonwealth Electoral Act enables the Australian Electoral Commission to provide non-public enrolment information to prescribed authorities. Enrolment claim forms disclose the fact that the prescribed authorities have access to non-public roll information.

Non-public information is provided by the South Australian Electoral Office to the police and this is disclosed on electoral claim forms. The office provides the information to several other authorities, including the Sheriff's Office, the Public Sector Employees Superannuation Scheme, the State Superannuation Office and the South Australian Health Commission. There is no authority in the Act for the release of this information to these bodies but the Privacy Committee can authorise the release of the information. The release of

non-public information by the Electoral Commissioner should be put on a formal basis and new section 27A does this by allowing the Electoral Commissioner to release non-public information to prescribed authorities. Electoral claim forms at present only disclose that non-public information is released to the police. When claim forms are next reprinted they will contain the names of other bodies receiving this information.

Registered Officer. New section 42A deals with 'registered officers'. The qualifications of registered officers have been changed. Previously 'registered officer' was defined in section 4 of the Act as the person shown on the register of political parties as the registered officer. Section 27A now requires that the registered officer be an elector, that is, a person whose name appears on the roll of electors. By definition such a person will have to reside in South Australia. There have been occasions when registered officers have resided interstate and could not be located.

It is implicit in Part 1V of the Act that registered political parties have registered officers and the new section 42A makes this clear and requires changes of registered officers to be notified to the Electoral Commissioner. Registered officers play an important part in the electoral scheme and if it is to operate smoothly these people must be available to perform their functions.

Multiple nominations of candidates endorsed by political Parties: Provision is made in new section 53 for the registered officer of a registered political Party to nominate, on the same nomination form, all the candidates endorsed by a Party for an election as members of the House of Assembly or the Legislative Council. This system, which operates in the Commonwealth, has several advantages. Candidates can delegate authority to registered officers to apply for the print of Party names on ballot-papers and to lodge voting tickets on their behalf. An added advantage in permitting all nominations for the Legislative Council on the one nomination form is that candidates can be listed on the nomination form in the order the Party wishes their names to appear on ballot-papers. Furthermore, registered officers would have considerably more control over the nominations of their endorsed candidates and the possibility of a Party endorsed candidate lodging an incomplete nomination would be removed. Provision is retained for the nomination of a single candidate on a nomination form. This is contained in new section 53A.

Proceedings on nomination day: Section 55 of the Electoral Act provides that where the number of candidates for the Legislative Council is not greater than the number of candidates required to be elected the returning officer shall declare the candidates elected on nomination day. Similarly if only one candidate nominates for a House of Assembly seat, that candidate is declared duly elected on nomination day.

It is possible to envisage scenarios where this section could cause problems for candidates, bearing in mind section 45(2) of the Constitution Act 1934. Section 45(2) of the Constitution Act provides that, if a candidate holds an office of profit from the Crown, he or she shall, unless he or she resigns that office before the date of the declaration of the poll, be incapable of being elected. Candidates would not expect to be elected on nomination day and would expect that they would not have to resign their offices of profit until prior to the declaration of the polls after the election.

Candidates who hold offices of profit should not be expected to resign from their offices before the day of nomination in order to guard against contingencies, however remote, which would render their election invalid. Accordingly, section 55 is amended to provide that where the number of candidates is no greater than the number of vacancies in the Legislative Council or there is only one candidate for a House of Assembly seat the candidates will be taken to have been elected as from polling day.

Display of certain electoral material: There are problems with section 66 of the Electoral Act. This section requires each returning officer to prepare for display, in his or her polling booth, posters containing the how-to-vote cards that have been submitted by candidates not less than seven days before polling day. Section 66(6)(a) requires sufficient quantities of these posters to be prepared for display in each voting compartment. In order to provide time for returning officers to prepare the posters for display in voting compartments, section 66(2)(b) requires candidates to deposit sufficient quantities of their how-to-vote card with returning officers not less that seven days before polling day. The quantity required for each district varies according to the number of polling booths and the proposed number of compartments. However, as a general rule, returning officers require 200 for metropolitan districts and 250 for some country districts. Similar quantities are required for candidates and groups of candidates contesting Legislative Council seats.

The Electoral Office has, for several elections, offered to forward bulk supplies of how-to-vote cards to returning officers, provided they are delivered to the office not less than 10 days before polling day. This provides sufficient leeway for them to be dispatched to returning officers so that they are in their hands within the statutory seven day period. There are several weaknesses in the present system. There is a risk that how-to-vote cards posted to a returning officer may not reach the returning officer, as happened in one electorate in the 1989 election; there is a risk that how-to-vote cards may not always be placed on posters in the order determined by lot and advised by the Electoral Office. Furthermore, instances have arisen where electors have removed how-to-vote cards from posters in the polling booth.

Section 82(5) requires pre-poll voting issuing officers to make available to electors any candidates' how-to-vote cards in the possession of the officer that are to be exhibited in the polling booth on polling day. Candidates are now invited to deposit how-to-vote cards with the Commissioner 72 hours after the close of nominations so that they can be included in a booklet which is provided to all pre-poll vote issuing officers for use at hospitals, nursing homes, mobile polling booths and other pre-polling centres. It is advantageous to candidates if pre-poll electors have access to how-to-vote cards that will be displayed on polling day. As there has generally not been any difficulty in supplying small numbers of how-to-vote cards within 72 hours after the close of nominations it is proposed that these arrangements be built on to streamline the preparation of the how-to-vote posters and eliminate the weaknesses in the present procedure.

New section 53 gives the Electoral Commissioner responsibility for the printing of how-to-vote card posters. These can be printed in multi-colour to replicate the how-to-vote cards submitted for inclusion. The cards will need to reach the Commissioner within four days after the close of nominations to allow for colour printing. The size of the how-to-vote posters has also caused problems and the Electoral Commissioner has recommended amendments to the regulations to overcome the problems. The size of the poster

is effectively constrained by the size of the backing of the voting compartment which is approximately 600mm wide and 500mm high. Existing regulations (regulation 7) prescribe that how-to-vote cards must be 90mm by 190mm.

At the 1993 election, 17 independents and groups contested the vacant seats in the Legislative Council and, in several House of Assembly seats, there were eight candidates. This required the production of oversized posters which wrapped around the sides of the voting compartments and protruded over the top of the compartments. Several of the candidates whose how-to-vote cards were located at the extremities of the posters complained.

The proposed changes to the regulations will reduce the size of how-to-vote cards. The name and address of the person authorising the card and the printer's name will no longer be required to be printed on the card and there will no longer be a requirement that the card contains a statement that the Electoral Commissioner is satisfied that the card is in the prescribed form. The Electoral Commissioner will be satisfied of all these matters before he includes the card on the poster. The amendments to the regulations will be made once the amendments to the Act are in place.

Declaration voting: Amendments are made to the provisions relating to declaration voting. Section 74(3) provides that the Electoral Commissioner must maintain a register of declaration voters. Section 74(4) requires that only the names of declaration voters be included on the register. Candidates have requested copies on the names and addresses of declaration voters but there is no authority for the Commissioner to release the addresses of declaration voters or to provide a copy of the register. Section 74(4) is amended to provide that the register of declaration voters must contain the addresses of declaration voters, except those addresses that are suppressed from publication, and that a person may inspect the register and, on payment of a fee, receive a copy of the register.

Some voters whose names have been suppressed from publication have objected to having to provide their addresses before being issued with voting papers at a polling booth. This is a legitimate objection and provision is made in new section 74(3(a) to allow persons whose names have been suppressed to be included on the register of declaration voters so that they qualify for a postal vote.

Mobile polling booths: Section 77(2)(b) provides that mobile polling booths in remote areas shall open and close at such times as the Commissioner determines, being times that fall within four days up to and including polling day. Compliance with the four day time frame for the 1993 elections meant that two aircraft had to be chartered for mobiles one and two in the District of Eyre. The charter costs were $11 820 and, when accommodation and such like were added to this, the result was that a vote cost an average of $14.22. All other mobile polling booths used ground transport and the cost per vote was estimated to be less that 50 per cent of the cost incurred on mobiles one and two. The taking of votes at declared institutions can commence three days after the close of nominations in contrast to the voting at mobile booths in remote areas which can only commence four days before polling day. Extending the mobile booth polling time would eliminate the need to charter two aircraft in the District of Eyre. The Commonwealth Electoral Act allows voting at mobile polling booths to commence 12 days preceding the polling day and section 77(2) is amended to similarly provide.

Voting near polling booth in certain circumstances: On occasions voters travel to a polling booth but because of physical disabilities are unable to leave the car in which they travelled to enter the polling booth. In these circumstances, even though the Act is silent on the matter, electoral staff have assisted voters by taking ballot papers outside the polling booth area. This is only done where scrutineers are aware of what is proposed and are invited to observe the proceedings. The Queensland Act makes specific provision for this and a new section 80A is included in the amendments to regularise the procedure as has been done in Queensland.

Compulsory voting: Section 85(7)(a) of the Act provides that every elector who fails to vote at an election without a valid and sufficient reason for the failure shall be guilty of an offence. Similarly, an elector who fails to fill out, sign and return a 'please explain' notice or knowingly makes a false or misleading statement is guilty of an offence (subsections (b) and (c)). The Government's policy is to abolish compulsory voting but recognises that it does not have the numbers in the Legislative Council to achieve that goal at present.

The Electoral Commissioner is obliged to prosecute all offences that fall within subsection (7), irrespective of whether it is in the public interest to do so. For example, the costs of prosecuting itinerant electors in remote areas are prohibitive and the costs cannot be recouped. The Government believes that the Electoral Commissioner should be given a discretion not to prosecute where he is of the view that it is not in the public interest to do so and section 85 is amended accordingly.

Preliminary scrutiny: If an address at which a declaration voter claims to be entitled to vote does not correspond with the address in respect of which the elector is enrolled, the vote is rejected (section 91(1)). Following the 1989 elections, an internal review was conducted to assess the degree to which House of Assembly returning officers were complying with a range of procedural requirements, including those associated with the scrutiny of declaration votes. That review revealed that the requirements of section 91(1) were not being consistently applied. It also revealed that many declaration votes were rejected on the grounds that the electors' addresses, as shown on their declaration vote certificates, failed to match their enrolled addresses. The practical application of the section is difficult. 'Correspondence' of address does not necessarily require 'exact identity' but a nexus must be established.

Following the 1991 referendum where 108 724 declaration votes were accepted and 16 534 rejected, an analysis was undertaken to determine how many were rejected on the grounds of non-correspondence of addresses: 4 165 (or 25%) were rejected on the grounds of non-corresponding address with a high percentage occurring in country electorates. Although resources have not permitted a detailed analysis to determine the reasons for rejection of declaration votes at the 1993 elections, 19% of all declaration votes in country districts were rejected, compared with 14.4% in metropolitan districts.

Unlike the State Act, the Commonwealth Electoral Act does not impose such a stringent test of acceptance on declaration votes. That Act provides that if the returning officer is satisfied that the elector, who has cast a declaration vote, is enrolled anywhere within the electoral division for which the vote was obtained, the House of Representative and Senate ballot paper may be accepted for further scrutiny. Furthermore, in the event that the elector is found to be enrolled in another electoral division of the same State, the Senate ballot paper may be accepted for further scrutiny.

In view of the significance of declaration voting, section 91 is amended to repeal the requirement of a corresponding address and replace it with a provision that the returning officer must be satisfied of the elector's entitlement to vote in the district in relation to which the voter has recorded a vote.

Electoral advertisements, commentaries and other material: Division 2 of part 13 of the Electoral Act deals with the publication of electoral advertisements and political commentary. Section 113 provides that a person must not publish or distribute, or cause or permit to be published or distributed an electoral advertisement in printed form unless it contains the name and address of the author of the publication or the person who authorised its publication. Section 116 similarly provides that all published material containing or consisting of political commentary must identify the person responsible for the publication of the material.

Experience has shown that these provisions are difficult to enforce in the absence of an admission of responsibility by the author. Accordingly, a new section 116A is included which provides that in proceedings for an offence against the provisions of the division, persons identified in material as having, for example, authorised or printed it will, in the absence of proof to the contrary, be taken to have authorised or printed the material. It has been the practice of the Electoral Commissioner, when satisfied that an electoral advertisement is inaccurate or misleading, to allow a person the opportunity to withdraw the advertisement. This is given statutory backing in new section 113. It also provides for the Electoral Commissioner to require the publication of a retraction. The court, in determining the penalty for authorising, causing or permitting the publication of an electoral advertisement that contains an inaccurate or misleading statement, should take into account the defendant's actions in relation to any request made by the Electoral Commissioner for the withdrawal of the advertisement and the publication of a retraction. The Supreme Court may, if satisfied beyond reasonable doubt on application of the Electoral Commissioner, order a person to withdraw an offending electoral advertisement or to publish a retraction.

Injunctions: Section 132 has been repealed and a new section substituted providing for injunctive relief. New section 132 allows the Electoral Commissioner to apply to the Supreme Court for an injunction restraining a person from engaging in conduct which constitutes a contravention or an offence against the Act or to compel a person to take specified action. This remedy does not apply to division 2 of part 13 (the misleading advertising provisions) as new section 113, as previously discussed, specifically provides for injunctions in relation to electoral advertising.

Prohibition of advocacy of forms of voting inconsistent with the Act: Two paragraphs in section 126(1) are repealed. First, section 126(1)(a) makes it an offence to advocate publicly that a person who is entitled to vote at an election should abstain from voting under section 85 of the Act. To encourage someone to commit an offence is an offence under section 267 of the Criminal Law Consolidation Act 1935; thus section 126(1)(a) is not necessary. The penalty for an offence under section 267 is the same as the penalty for the main offence.

Secondly, section 126(1)(c) is repealed. Section 126(1)(c) makes it an offence to advocate publicly that a voter should refrain from marking a ballot paper. Section 85(2) provides that an elector who leaves the ballot paper unmarked but who otherwise observes the formalities of voting is not in breach of the duty to record a vote. Section 61(2) provides that each ballot paper must contain a clearly legible statement that 'You are not legally obliged to mark the ballot paper'. The Government does not believe that it should be an offence to advocate something that other sections of the Act specifically allow.

Miscellaneous: The opportunity has been given to bring the penalties for offences under the Electoral Act 1985 in line with the new standard scale for penalties and expiation fees. The penalties for bribery (section 109) and undue influence (section 110) have been substantially increased to bring them into line with the public office offences in the Criminal Law Consolidation Act 1935. The opportunity has also been taken to draft the Act in gender neutral language. Schedule 2 of the Bill contains statutes law revision amendments, including the gender neutral amendments.

Freedom of Information Act, 1991: Section 26 of the Electoral Act provides that the latest print of the electoral rolls shall be available for public inspection free of charge and be available for sale at a cost determined by the Electoral Commissioner. The effect of section 20 of the Act is that these printed rolls contain only names and addresses of electors, in alphabetic order of surname. To assist in the maintenance of the rolls, the Electoral Office, in conjunction with the Australian Electoral Commission, produces from time to time, lists of electors in street and locality order. These lists are not made available for either inspection or purchase by the public and requests for their release for commercial or other purposes are declined. It is not clear whether a request for these lists under the Freedom of Information Act 1991 could be successfully defended. Accordingly, schedule 3 contains an amendment to the Freedom of Information Act which provides that electoral rolls are exempt documents under that Act. The Commonwealth Act has been similarly amended.

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

Leave granted.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 7—Remuneration and conditions of office

Many of these amendments are of a statute law revision nature. The substantive amendments proposed to the section provide that the remuneration of the Electoral Commissioner and Deputy Electoral Commissioner will be determined by the Remuneration Tribunal and that such a remuneration cannot be reduced during the term of office of either Commissioner.

Clause 4: Amendment of s. 27—Power to require information

It is proposed to increase the penalty to $250 for a person who fails to provide information when required under section 27 within the time allowed.

Clause 5: Insertion of Part 4 Division 5A

New Division 5A is to be inserted after section 27.

DIVISION 5A—PROVISION OF INFORMATION TO PRESCRIBED AUTHORITIES

27A. Provision of information to prescribed authorities

The Electoral Commissioner may, on application by a prescribed authority, provide the authority with information about the gender, age and place of birth of an elector. A fee may be charged for the provision of information under this new section.

Clause 6: Amendment of s. 32—Transfer of enrolment

It is proposed to increase the penalty to $75 for an elector who fails, without proper excuse, to give a notification under section 27.

Clause 7: Insertion of s. 42A

New section 42A is inserted after section 42.

42A. Registered officers

A registered political party must have a registered officer who must be an elector. If a registered officer of a registered political party ceases to be an elector, he or she ceases to be the registered officer of the party.

It is an offence for a registered political party to be without a registered officer for a period longer than one month. (Penalty: $750. Expiation fee: $105.)

A registered political party must, within one month after any change in the identity or address of its registered officer, give notice in writing to the Electoral Commissioner containing details of the change. (Penalty: $750. Expiation fee: $105.)

It is a defence to a charge of an offence against new subsection (4) or (5) for the registered political party to prove that the matters alleged against it did not arise from a failure by the party to exercise proper diligence.

Clause 8: Amendment of s. 43—Changes to Register

Subsection (3) is to be struck out as a consequence of the insertion of new section 42A.

Clause 9: Substitution of s. 53

Proposed amendments set out in new sections 53 and 53A will allow for multiple nominations of candidates by political parties as well as the nomination of a single candidate.

53. Multiple nominations of candidates endorsed by political party

The registered officer of a registered political party may, after the issue of the writ for the election, nominate on the same nomination paper all of the candidates endorsed by the party for election by lodging, at least 48 hours before the hour of nomination, at the office of the Electoral Commissioner a duly completed nomination paper and a deposit in respect of each candidate nominated.

A nomination paper must be signed by the registered officer and contain a declaration (signed by each candidate) that he or she—

- consents to stand as a candidate in the election; and
- is qualified to stand as a candidate in the election; and
- authorises the registered officer to make an application under section 62(1), and to lodge a voting ticket under section 63(1), on behalf of the candidate.

If a nominated candidate, by notice in writing lodged with the appropriate district returning officer before the hour of nomination, withdraws consent to stand as a candidate in an election, the nomination is revoked and the returning officer must immediately inform the registered officer of the party of the revocation of the nomination.

The registered officer of the party may, if the nomination of a candidate is revoked or a nominated candidate dies before the hour of nomination, nominate some other person as the candidate endorsed by the party for the district.

A nomination is not invalid because of a formal defect or error if the provisions of the Act have been substantially complied with.

53A. Nomination of single candidate

A person may, after the issue of the writ for the election, nominate on a nomination paper a candidate for election by lodging, before the hour of nomination, at the office of the appropriate district returning officer a duly completed nomination paper and a deposit.

A nomination paper must be in a form approved by the Electoral Commissioner and be signed by 2 electors enrolled for the relevant district and contain a declaration, signed by the candidate, that he or she—

- consents to stand as a candidate in the election; and
- is qualified to stand as a candidate in the election.

If a nominated candidate, by notice in writing lodged with the appropriate district returning officer before the hour of nomination, withdraws consent to stand as a candidate in an election, the nomination is revoked and the candidate's deposit must be returned.

A nomination is not invalid because of a formal defect or error if the provisions of the Act have been substantially complied with.

Clause 10: Substitution of s. 55

55. Proceedings on nomination day

New section 55 provides that—

- in the case of a Legislative Council election—if the number of candidates nominated is not greater than the number of candidates required to be elected, the returning officer will make a declaration to that effect, and the candidate(s) will be taken to be duly elected as from polling day;
- in the case of a House of Assembly election—if one candidate only is nominated, the returning officer must make a declaration to that effect, and the candidate will be taken to be duly elected as from polling day.

If, in any election, the number of candidates nominated is greater than the number required to be elected, the proceedings will, subject to the Act, stand adjourned to polling day.

Clause 11: Amendment of s. 66—Display of certain electoral material

The proposed amendments move the responsibility for displaying electoral material in polling booths from returning officers to the Electoral Commissioner.

Clause 12: Amendment of s. 74—Issue of declaration voting papers by post

The proposed amendments to subsection (3) and (4) of this section provide that if an elector, on application to the Electoral Commissioner, satisfies the Electoral Commissioner that the elector's address has been suppressed from publication under the Act or because of—

- physical disability; or
- membership of a religious order or religious beliefs; or
- the remoteness of his or her place of residence,

the elector is likely to be precluded from attending at polling booths to vote, the Electoral Commissioner may register the elector as a declaration voter. The register of declaration voters must contain the name and address of the elector or, if the elector's address has been suppressed from publication under the Act, the elector's name in addition to the information currently required to be kept in the register.

New subsection (6) provides that the register of declaration voters may be inspected at the office of the Electoral Commissioner (as can be done currently) and, on payment of a fee, a person may obtain a copy of the register or part of the register.

Clause 13: Amendment of s. 77—Times and places for polling

The proposed amendment provides that, in the case of polling at a mobile polling booth in a remote subdivision, the poll must open and close at such times that fall within the 12 days up to and including polling day as may be determined by the Electoral Commissioner. Currently, this period is only for 4 days.

Clause 14: Insertion of s. 80A

80A. Voting near polling booth in certain circumstances

New section 80A allows for voters who are unable (because of illness, disability, advanced pregnancy or other condition) to enter the polling booth to vote, to be allowed by the presiding officer to vote at or near the polling place outside of the polling booth.

The presiding officer must, before issuing the voter with a ballot paper, inform any scrutineers present of the proposed action and invite 1 scrutineer for each candidate to be present at the place where the voting will occur. The secrecy of the voter's vote is maintained. After the voter has marked a vote on the ballot paper, the presiding officer must, in the presence of the scrutineers, ensure—

- that the ballot paper is folded to conceal the vote and placed in an envelope that is then sealed; and
- that the envelope is opened inside the polling booth and the folded ballot paper is placed in the ballot box.

Clause 15: Amendment of s. 85—Compulsory voting

New subsection (9a) provides that the Electoral Commissioner may, if of the opinion that it would not serve the public interest to prosecute an elector for an offence against section 85, decline to so prosecute.

Clause 16: Amendment of s. 91—Preliminary scrutiny

The proposed amendment provides that the returning officer must, at the preliminary scrutiny, be satisfied that the address in respect of which the voter claims to be entitled to vote entitles the voter to be enrolled for the district in relation to which the voter has recorded his or her vote.

Clause 17: Amendment of s. 109—Bribery

New subsection (1) makes no substantive amendment to the offence in respect of an electoral bribe except in relation to the penalty for such an offence. The penalty has been increased to imprisonment for 7 years. This is in line with the penalties imposed for public offences committed by public officers. (*Cf:* Part 7 Division 4 of the *Criminal Law Consolidation Act 1935*—Offences relating to public officers.) Currently the penalty is imprisonment for 2 years.

Clause 18: Substitution of s. 110

110. Undue influence

The provision has been redrafted in a modern way and it is proposed to increase the penalty for an offence against this section from imprisonment for 2 years to imprisonment for 7 years. (*Cf:* Part 7 Division 4 of the *Criminal Law Consolidation Act 1935*—Offences relating to public officers.)

Clause 19: Substitution of ss. 112 and 113

112. Printing and publication of electoral advertisements, notices, etc.

New section 112 has the same substantive effect as current section 112. It is proposed to increase the penalty for an offender who is a natural person from $1 000 to $1 250 in line with other penalty increases.

113. Misleading advertising

New section 113 applies to advertisements published by any means (including radio or television). A person who authorises, causes or permits the publication of an electoral advertisement (an advertiser) containing a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent is guilty of an offence. The penalties are as follows:

- if the offender is a natural person—a fine of $1 250;
- if the offender is a body corporate—a fine of $10 000.

It is a defence to a charge of an offence against new subsection (2) to establish that the defendant—

- took no part in determining the contents of the advertisement; and
- could not reasonably be expected to have known that the statement to which the charge relates was inaccurate and misleading.

If the Electoral Commissioner is satisfied that an electoral advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent, the Electoral Commissioner may request the advertiser to do one or more of the following:

- withdraw the advertisement from further publication;
- publish a retraction in specified terms and a specified manner and form,

(and in proceedings for an offence against new subsection (2) arising from the advertisement, the advertiser's response to a request under this proposed subsection will be taken into account in assessing any penalty to which the advertiser may be liable).

If the Supreme Court is satisfied beyond reasonable doubt on application by the Electoral Commissioner that an electoral advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent, the Court may order the advertiser to do one or more of the following:

- to withdraw the advertisement from further publication;
- to publish a retraction in specified terms and a specified manner and form.

Clause 20: Insertion of s. 116A

116A. Evidence

New section 116A provides that, in proceedings for an offence against Part 13 Division 2—

- an electoral advertisement that includes a statement that its publication was authorised by a specified person; or
- an electoral advertisement that includes a statement that it was printed by a specified person; or
- any material consisting of, or containing, a commentary on a candidate or political party, or the issues being submitted to electors, that includes a statement that a specified person takes responsibility for the publication of the material; or
- an apparently genuine document purporting to be a certificate of the Electoral Commissioner certifying that the Electoral Commissioner made a request for the withdrawal of a misleading advertisement or the publication of a retraction,

is, in the absence of proof to the contrary, proof of that fact.

Clause 21: Substitution of s. 119

The offence provisions have been redrafted in a modern way and it is proposed to increase the penalties. However, other than that, the substantive nature of the offence has not been altered.

119. Offender may be removed from polling booth

A person who engages in disorderly conduct in a polling booth, or fails to obey the lawful directions of the presiding officer, is guilty of an offence. (Penalty:$750.) A person who has been removed from a polling booth by direction of the presiding officer and who re-enters the polling booth without the permission of the presiding officer, is guilty of a further offence. (Penalty: $2 500 or imprisonment for 6 months.)

Clause 22: Amendment of s. 126—Prohibition of advocacy of forms of voting inconsistent with Act

New subsection (1) provides that a person must not publicly advocate that a voter should mark a ballot paper otherwise than in the manner set out in section 76(1) or (2). (Penalty: $2 500.)

Clause 23: Substitution of s. 127

127. Failure to transmit claim

There has been no substantive changes made to this section but the wording has been modernised and the penalty upgraded. A person who accepts an electoral paper for transmission to an officer must immediately transmit it to the appropriate officer. (Penalty: $1 250.)

Clause 24: Amendment of s. 130—Employers to allow employees leave of absence to vote

New subsection (2) provides that an employee must not, under pretence that he or she intends to vote at the election, but without a genuine intention of doing so, obtain leave of absence under this section. There has been no change in the effect of this subsection but the penalty has been increased from $500 to $750.

Clause 25: Substitution of s. 132

132. Injunctions

If a person contravenes or fails to comply with this Act or some other law of the State applicable to elections, or there are reasonable grounds to suppose that a person may contravene or fail to comply with this Act or some other law of the State applicable to elections, the Supreme Court may, on application by the Electoral Commissioner, grant an injunction for one or more of the following purposes:

- to restrain the person from engaging in conduct in breach of this Act or the other law; or
- to require the person to comply with this Act or the other law; or
- to require the person to take specified action to remedy non-compliance with this Act or the other law.

An injunction cannot be granted under this new section in relation to a contravention of, or non-compliance with, Division 2 of Part 13. (*See new section 113.*)

The Court may grant an injunction on an interim basis, or discharge or vary an injunction.

No undertaking as to damages is to be required as a condition of granting an injunction under this new section.

Clause 26: Amendment of s. 139—Regulations

The amendment to section 139 provides that a penalty not more that $750 may be prescribed for an offence against the regulations.

Clause 27: Further amendments

This clause provides that the principal Act is further amended in the manner set out in Schedules 1 and 2.

SCHEDULE 1—AMENDMENT OF PENALTIES FOR OFFENCES AGAINST PRINCIPAL ACT

Schedule 1 contains amendments that upgrade the penalties for offences against the Act.

SCHEDULE 2—FURTHER AMENDMENTS OF PRINCIPAL ACT

Schedule 2 contains amendments of a statute law revision nature.

SCHEDULE 3—AMENDMENT OF FREEDOM OF INFORMATION ACT 1991

Schedule 3 provides that Schedule 1 of the *Freedom of Information Act 1991* is amended by inserting after clause 6 a clause that provides for electoral rolls to be exempt documents. However, the part of an electoral roll that sets out the particulars of an elector is not an exempt document in relation to that elector.

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

INDUSTRIAL AND EMPLOYEE RELATIONS (PRESIDENT'S POWERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 November. Page 370.)

The Hon. R.R. ROBERTS: Oh well, here we go: another day, another dog's breakfast in the life of this Government. This is another retrospective Bill from those who opposed retrospectivity on every other Bill that was introduced by the

Labor Party. This is another instance of not heeding the timely warnings of the Opposition in respect of a matter involving employee relations.

This Bill refers to the appointment of the President of the Industrial Relations Commission of South Australia, who is also an employee relations enterprise bargaining commissioner. This legislation is necessary, and it has been agreed to by my colleague in another place, Mr Ralph Clarke. There is not much use my going over the sorry history of this Bill, so I indicate that we will support it without any amendment. However, I note that the Bill, at page 1, line 21, provides that:

> The purported appointment of the President of the Industrial Relations Commission of South Australia as a Commissioner is cancelled and is taken never to have been made.

I thought that was a fairly interesting line. Clearly, there was an appointment. However, as this matter needs to be dealt with, the Opposition will support it without amendment.

The Hon. M.J. ELLIOTT: I do not believe that the Opposition foresaw this problem arising.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: I don't claim it. I do not think anybody was aware of this until the High Court—

The Hon. R.R. Roberts: It is the only thing the Democrats did not predict.

The Hon. M.J. ELLIOTT: Perhaps you will not mind if I finish. I do not think anybody was aware of this until the High Court made a ruling which impacted on a Labor Government decision which they had not anticipated. I do not believe this was contemplated in any way.

It is unusual for legislation to go through both Houses of Parliament in about 24 hours. That would normally be resisted, but in this instance it appears that the legislation is sufficiently straightforward and is not likely to be opposed outside this place. Noting that the Labor Party has already concurred with the Government, the Democrats will not resist its going through with that speed.

The Hon. R.D. LAWSON: I support the second reading of this measure. As the Attorney-General mentioned in his second reading explanation, the decision of the High Court in *Wilson v. Minister for Aboriginal and Torres Strait Islander Affairs* has prompted reconsideration of some of the arrangements which exist in Australian courts. However, it is worth going back a little before that case, which related to the appointment of Justice Jane Matthews as a reporter by the previous Federal Government under the appropriate Aboriginal heritage legislation.

The cases on this go back to the famous boilermakers case in 1957, when the High Court held that the Arbitration Court was exercising judicial power of the Commonwealth and, therefore, it was not capable of enforcing awards or punishing for contempts. It was recognised at that time that some administrative power could be conferred on the Arbitration Court if it was merely incidental to the exercise of judicial power.

More recently, in 1995, in the case of *Grollo v. Palmer*, the High Court had to consider whether it was appropriate for Federal Court judges to be vested with the power to give warrants for telecommunication interception, namely, telephone tapping. A strong argument was mounted in that case that the power to grant such warrants was incompatible with the judicial function of Federal Court judges.

However, on that occasion a majority of the judges of the court, by six to one, decided that the grant of such a power to a Federal Court judge was not incompatible with the status and independence of a judge appointed under the Commonwealth Constitution and exercising Commonwealth judicial powers. The decision, as members of the High Court said, was largely based upon the maintenance of public confidence in the exercise of the judicial power of the Commonwealth.

In the judgment of the court close consideration was given to the question whether the exercise of the function of granting warrants in that case was incompatible with judicial office. That is important, because that is the question that we are facing today. The majority of the court, at page 365, said (and this is important, because it is the question that we are facing here today):

> The incompatibility question may arise in a number of different ways. Incompatibility might consist in so permanent and complete a commitment to the performance of non-judicial functions by a judge that the further performance of substantial judicial functions by that judge is not practicable. It might consist in the performance of non-judicial functions of such a nature that the capacity of the judge to perform his or her judicial functions with integrity is compromised or impaired. Or it might consist in the performance of non-judicial functions of such a nature that public confidence in the integrity of the judiciary as an institution or in the capacity of the individual judge to perform his or her judicial functions with integrity is diminished.

In the event, the court was of the view that there was no incompatibility in Federal Court judges granting warrants for telephonic communications.

However, in the case of *Wilson v. Minister for Aboriginal and Torres Strait Islander Affairs*, the court reached a different view on the compatibility of the office of reporter under the Aboriginal and Torres Strait Islander Heritage Protection Act, because that is the function which Justice Matthews was performing. The court held that the office of reporter was constitutionally incompatible with her office as a judge of the Federal Court.

The majority of the court based the decision upon their view that a reporter under this Act was essentially exercising a political function. It was a function which enabled the Minister to give instructions and directions; it was a function which enabled the reporter to give legal advice to the Minister; and it was generally one which, in the view of the majority, was incompatible with the principles to which I have referred.

The view of the court in Wilson's case was not unanimous. Justice Kirby, in a strong dissent, indicated that he would have been prepared to allow Justice Matthews or any other judge to fulfil what he considered to be a traditional function exercised by judges under our system. However, that is only a minority view.

The question for the Parliament is whether there is any incompatibility with the President of the Industrial and Employee Relations Court exercising the powers of a commissioner. It seems to me that there is absolutely no incompatibility. It is a function of a kind which does not undermine any confidence in the court, and it has traditionally been a function of judges to rule upon these matters. The decision is taken that the position of the President as an enterprise bargaining commissioner is, perhaps arguably, incompatible with judicial functions, and that appointment is terminated and taken never to have been made.

I support the measure. There is no public interest here which is adversely affected—in fact, the public interest is protected. Were this measure not taken, doubts could arise as to the efficacy of decisions of the judge in question, and the removal of those doubts as soon as possible is not only of

importance but is also a matter of urgency. I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indication of support for this Bill and also their preparedness to deal with it quickly. It is a matter of importance to the State and its citizens, particularly those who appear in the Industrial Relations Commission or the Industrial Relations Court. It is obvious that with the development of some of the propositions by the High Court relating to judicial independence and incompatibility of certain persons holding other offices that this is an issue of some sensitivity.

The advice which was received from the Crown solicitor was that we ought to be doing something about this, at least to protect the position of the President of the Industrial Relations Court and, for that reason, we wish to have the matter progressed as expeditiously as possible.

The Hon. Rob Roberts has made some passing remarks about retrospectivity. He misrepresents the position from the Government's point of view. We have never said that we should never do anything which has retrospective effect. One has to look at the context. Quite obviously, if it removes rights then it is much more questionable than if it confers benefits or rights, or if it confirms a position.

In this case what we are seeking to do is to ensure that no technical point can be taken in any arguments before the Industrial Relations Court or the Industrial Relations Commission about the powers of the senior judge or President. I think that is a matter of public interest and public benefit and puts beyond doubt questions which might otherwise have involved significant litigious time before the courts of this country for no real benefit.

In the final outcome, what we want to see being taken are judgments and decisions which are made properly on the law without being derailed by technical arguments relating to incompatibility of office.

The Hon. R.R. Roberts: You wouldn't want to put too many of those lawyers out of work, would you?

The Hon. K.T. GRIFFIN: It might put a few out of business by passing this, I would suspect, or at least it certainly would mean that they would not be spending their time on technical points. So, I think that the Hon. Ron Roberts' remarks about retrospectivity were certainly a misrepresentation of the Government's position, and in the context of this Bill there is nothing at all wrong with the proposition in clause 3.

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

ADOPTION (MISCELLANEOUS) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

The *Adoption (Miscellaneous) Amendment Bill* is a Bill to amend the *Adoption Act 1988.*

The *Adoption Act 1988* arose as a result of a gradual yet major shift in societal attitudes towards adoption.

Adoption, throughout history, has been characterised by periods of openness and secrecy. In South Australia, prior to the introduction of legislation in 1926, adoption was not a secret process. Indeed, adopted children were able to retain their birth names and usually retained the rights to inherit from their birth parents. The beginnings of secret adoption, such that relinquishing parents could no longer know the identity of their children, emerged in 1937. Until 1945 however, adoptive parents knew the identity of relinquishing parents and until 1966, adult adoptees were able to access their original birth certificates.

Total secrecy in adoption was introduced in 1966. From this time, adopted children were ostensibly treated as if born into the adoptive family, accruing full inheritance rights from their adoptive parents and losing the right to inherit from their birth families. The period from 1966 to 1988 saw full secrecy as the norm in adoption practice in South Australia although it is significant to point out that the *Adoption of Children Act 1966* still retained the capacity for openness if all parties were in agreement.

In 1987 legislation was introduced into this House which challenged the notion that secrecy was in the best interests of adopted children and indeed, of all parties to the adoption. It had become a widely accepted view in the community, and beyond, that knowledge of one's heritage and biological links played a significant role in the development of a person's identity and self-esteem. There was a strongly held belief in the community that individuals had the right to access information concerning their heritage.

There was a widely held view that the *Adoption of Children Act 1966* was representative of philosophies and values relating to secrecy that were no longer applicable to the changing times of the 1980's.

When passed, the *Adoption Act 1988* was considered progressive and innovative. It followed a period of extensive research and consultation and was thought to be widely representative of community views.

The *Adoption Act 1988* was introduced to keep pace with national and international trends towards more openness in the area of adoption.

For the first time in South Australia, the *Adoption Act 1988* allowed both parties affected by past adoptions to gain access to identifying information about themselves, their heritage, or their relinquished children. It heralded a significant shift away from the secrecy of the past into a new spirit of openness and change.

The *Adoption Act 1988* also created a balance between the right to access personal information and the right to privacy. This was particularly important given that past adoptions had been conducted under a climate of secrecy where the parties were guaranteed lifelong anonymity. The capacity of the legislation to respect the rights of those persons seeking to retain their privacy was considered essential if the legislation was to work and indeed, if the legislation was to be truly representative of the needs of all parties.

As such, restrictions on the release of information relating to past adoptions, known as vetoes, are a key feature of the *Adoption Act 1988*.

As all members of the House are aware, it is important that legislation such as this is both flexible and fluid. Fluid in that it must endeavour to stay abreast with changes over time and sufficiently flexible to meet the needs of individual situations. This is particularly important when legislation is reflective of social policy and changing societal views.

With factors such as these in mind, and given that the legislation related to such a sensitive area, an agreement was made to review the *Adoption Act 1988* after a period of five years of operation. This agreement had bi-partisan support.

The Review Committee was established in May 1994. Its task was to review selected parts of the *Adoption Act* and to make suggestions concerning legislative change.

Its terms of reference included a request to review the information rights of individuals affected by past adoptions. It was also required to review definitions in the Act; to update its general principles; and to ensure that the Act is consistent with other pieces of new legislation and international agreements. A number of miscellaneous topics were also considered.

The Review Committee conducted a wide-ranging community consultation process. Approximately two hundred submissions were received, representing a broad spectrum of views. The vast majority of submissions received related to release of information provisions. Many of the submissions were made on behalf of groups of people affected by adoption.

In response to the submissions received, the Committee produced a series of 26 recommendations which have been considered in detail in the preparation of this Bill.

In addition, during the course of the Review and following the release of the Review Committee's findings, the Government has received further submissions from various individuals, groups and organisations associated with adoption. These have been taken into account in the drafting of the proposed amendments.

The Government also recognises that in the area of adoption, with a history characterised by secrecy and shame, there are silent parties whose views need to be considered. There is no doubt that there are many individuals affected by adoption who may have been reticent to respond to a community consultation process, or indeed, to express their views to politicians and others, for fear of exposure.

It is also envisaged that there are many individuals affected by past adoptions who, for various reasons, are unaware of the current process of review and therefore have not been heard.

The *Adoption (Miscellaneous) Bill 1996* which is before the House is therefore based in part upon the recommendations of the Review Committee and, in part, upon the submissions on this topic that have been received by the Government. It also attempts to consider the needs of all parties affected by past adoptions, not solely those who were able to speak out.

The Bill which is before this House aims to achieve the following:

- To balance the rights and needs of all parties affected by adoption, both past and present, in relation to access to information provisions.
- To comply with the *Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption* which is due to come into force in Australia later this year.
- To ensure that children are afforded the opportunity to be heard in judicial proceedings in keeping with the *United Nations Convention on Rights of the Child*.
- To bring the *Adoption Act 1988* in line with recent changes in the *Family Law Act* and other pieces of legislation.
- To propose a series of miscellaneous amendments which reflect changes in current adoption practice and which aim to further clarify existing provisions.
- To abolish the Adoption Panel and institute a broader based approach to consultation.
- To give jurisdiction to the Youth Court to hear all matters relating to adoption.

ACCESS TO INFORMATION PROVISIONS

Section 27 of the *Adoption Act 1988* contains provisions for open adoption and access to information. The *Adoption (Miscellaneous) Amendment Bill 1996* offers an updated version of this section of the Act which is more in keeping with current practice and views.

The proposed provisions retain the policy of the current Act in that a distinction is drawn between adoptions occurring prior to the commencement of the 1988 Act and those occurring after that date. Both in the current provision and in proposed Part 2A, all adult adopted persons and birth parents have a right to access information held by the Department but, in the case of adoptions occurring before the commencement of the 1988 Act, this is subject to a person's right to veto the release of information that would enable that person to be traced.

As members of the House are all aware, there exist inevitable tensions between the right to privacy and the right to access personal information. In adoption, the rights of three parties, struggle for attention. There are often differences between the needs and rights of birth parents, adoptees and adoptive parents which need to be balanced.

Few rights are absolute however, especially when they interfere directly with the rights of another person. This is of particular significance when dealing with the very delicate/sensitive/difficult area of the right to release or withhold personal information.

The *Adoption Act 1988* has provided the people of South Australia with an excellent foundation for balancing these competing rights.

It has strived to balance for example, the adopted persons right to access genealogical information, with the rights of the adoptive parent to parent without interference, and the rights of the birth parent to retain his or her privacy.

Likewise, the current legislation also attempts to balance, for example, the needs of an adopted person who wishes to preserve his or her privacy, with the needs of a birth mother who is desperate to find the child she relinquished as a teenager.

The Bill which is before the House represents a further refinement in the balancing of these legitimate but sometimes conflicting rights and interests. It addresses the needs of all persons affected directly by adoption and, wherever possible, does not afford greater rights to any adult party. In doing this, it maintains, of course, as its guiding principle, the interests of the child as the paramount concern in all proceedings.

The Bill contains a number of significant improvements to the provisions for accessing adoption information. Prior to outlining these, it is important to state that in making these changes, the essence of the current provisions remain. These provisions have been most successful in meeting the needs of the majority of people, and in creating a balance between privacy and access to information.

Adult adopted persons and birth parents will still be able to access information concerning past adoptions. This is in recognition of the fact that access to identifying information for adopted persons can be an important component in successful identity formation. It also acknowledges the need for birth parents to gain knowledge about the life and experiences of their relinquished child in order to be able to resolve their feelings of grief and loss. It is also important for some birth parents to reconnect with their relinquished children.

The Bill also retains the capacity to restrict the release of identifying information. These restrictions can be lodged for a period of time up to but not exceeding five years.

It is important to retain this provision in the Act to maintain and respect the rights of those persons who entered into an adoption with an assurance of confidentiality.

For example, many birth parents relinquished children in a social climate of shame and secrecy. A number of women, in particular, have carried the secret of that relinquishment for many years. They are often unable or unwilling to disclose this to their present family and friends. These women form part of the silent group to which reference was made earlier whose needs must be included along with those of other parties.

Likewise, there are adopted persons who have no wish to explore information concerning their origins. These persons should have their rights to privacy respected and hence, truly representative legislation should be inclusive of their needs.

The most significant changes introduced by this Bill are as follows.

The needs of adoptive parents, the third party in the adoption triangle, have been considered and their rights clarified.

This is an innovative step in South Australia. The Review Committee received submissions from adoptive parents outlining their exclusion from the current legislation and their needs for privacy and greater recognition.

The Government too has received submissions from adoptive parents along similar lines. This Bill allows for the needs of adoptive parents to be incorporated for the first time. It affords them greater access to information, with permission, concerning the biological heritage of their adopted children. This information is considered important in assisting the adopted person in his or her transition into adulthood and healthy identity formation.

The Bill also allows adoptive parents wishing to preserve their privacy the right to limit the release of information concerning themselves, where the adoption occurred prior to the commencement of the Act. This is also an innovative step. It allows adoptive parents the right to have their privacy respected in so far as it does not prejudice the rights of the adopted person and birth parent to seek information about each other, and indeed, to make contact if they choose.

The Bill also extends a similar right to birth parents to access information concerning their relinquished child and the adoptive parents. This is subject, of course, to veto rights in respect of pre-1988 adoptions.

The Bill further provides for parties to have the option of exchanging information without prejudicing their rights to anonymity if they choose. This information exchange may take the form of a message, explanation, gift or any form of information that one party wishes to have passed on to the other.

The needs of descendants of adopted persons have also been considered. The Review Committee received a number of submissions from descendants of adopted persons unable to gain access to information concerning their heritage. Some descendants of adopted persons, for example, report experiencing a similar sense of genealogical bewilderment as that experienced by adopted persons themselves.

Members of the House will be aware that the *Adoption Act 1988* allows relatives of birth parents to access information with permission of the birth parent or upon production of the birth parent's death certificate.

There is no such equivalent provision for descendants of adoptees. The Bill that is before the House rectifies this imbalance

and provides descendants of adopted persons the right to access information for the first time. Such access will be provided only with the permission of the adopted person or upon production of the adopted person's death certificate.

This recognises the importance of genealogical and biological links. It acknowledges the difficulties faced by relatives of adopted persons in gaining an accurate picture of their heritage. The proviso that such information is only released upon permission of the adopted person or upon production of the adopted person's death certificate is representative of the
importance of protecting the privacy of the adopted person. Again, this represents a fair and balanced system in which privacy needs are well considered.

It has become clear that there is certain information that is of value in giving the adoptee knowledge of his or her origins and the birth parent knowledge of the adopted child's life after adoption. This may be information about, for example, physical attributes, education, employment, social and cultural background, health and welfare, or religious beliefs.

The Bill provides for the release of this information so long as it does not unjustifiably intrude into the privacy of any other person.

It also retains the very important proviso that enables a person to lodge a direction, known as a veto, which prevents the disclosure of any information enabling him or her to be traced. Again, this incorporates a balance between the right to privacy and the right to access information.

The Bill also provides for the opportunity for persons lodging restrictions of information requests to participate in interviews. These interviews will, of course, not be mandatory and will only be with the permission of the person lodging the veto.

Such interviews will be designed to assist the person to gain a full appreciation of the circumstances and ramifications of lodging such a restriction. This further provides the opportunity for those persons lodging a veto to outline their reasons for doing so, without the release of any identifying information. These reasons will only be released upon application by the other party.

Experiences interstate have shown that there is considerable merit in being able to provide recipients of vetos with information concerning the reasons for the information restriction. The helps to alleviate the disappointment associated with the denial of access to information.

There are a number of other important components of this Bill.

THE HAGUE CONVENTION

Social Welfare Ministers in the States and Territories are soon to sign the Commonwealth/State Agreement which will allow Australia to become a signatory to the *Hague Convention on the Protection of Children and Cooperation in respect of Inter-Country Adoption*. The aim of this Convention is to establish safeguards to regulate inter-country adoptions with the intention of eliminating the abduction and sale of children.

To comply with this Convention, only minor amendments to the *Adoption Act 1988* are required. Thus, the Bill provides for automatic recognition of adoption orders in relation to children who have been adopted from countries who are signatories to the Convention. It also provides for automatic recognition of consents to adoption given in accordance with the law of a Convention country. Where a child is being adopted from a non-Convention country, however, the issue of consent will be dealt with in the same way as for local adoptions.

The Bill also provides for consistency with the Commonwealth legislation currently being proposed to implement the Convention.

UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

Article 12 of the *United Nations Convention on the Rights of the Child* states that the child has the right to express his or her opinion freely and to have that opinion taken into account in any matter or procedure affecting the child.

Clause 9 of the Bill provides that the opinion of any child over the age of five years should be ascertained by the Court and considered in the decision-making process relating to any adoption proceedings. In addition, under clause 22, the opinion of the child is also provided for when negotiating adoption arrangements between birth parents and adoptive parents. These will be discussed later.

CONSISTENCY WITH OTHER LEGISLATION

Recent changes to the *Family Law Act*, effective from June 1996, have seen the terms "custody", "guardianship" and "access" removed. Parents now have a broadly stated set of legal responsibilities incorporated within the concept of 'Parenting Orders'. This impacts upon the *Adoption Act 1988* in relation to section 10 which refers specifically to guardianship as a preferred option to step parent adoption applications. The Bill provides for amendment to section 10 to reflect this change in terminology.

The concept of guardianship, of course, continues to exist under State law and the Bill also provides for amendments to the term 'guardian' to be consistent with the definition in the *Children's Protection Act 1993*.

MISCELLANEOUS AMENDMENTS

A number of other amendments are also proposed.

Clause 22 of the Bill provides for a system of negotiated arrangements between birth parents and adoptive parents in respect of new adoptions.

These are designed to allow birth parents and adoptive parents the opportunity to enter into written arrangements stipulating the wishes of either party in respect of the adoption. This allows parties an element of choice and control in relation to the extent of openness in the adoption. Thus, the arrangement may incorporate anything from on-going information exchange and the provision of regular photographs right through to access visits between the child and his or her birth parents.

Such arrangements are designed to be as flexible and as applicable to individual needs as is possible. These arrangements are entirely voluntary and are not legally enforceable.

The term 'parent' is used frequently in the *Adoption Act* to mean either 'birth' or 'adoptive' parent.

These terms have been specifically defined in the Bill to provide greater clarity in interpretation.

The term 'birth parent' has been included in preference to 'natural parent'. This removes the implication that an adoptive parent is in some ways an 'unnatural' parent to the child.

The Bill clarifies the position in relation to birth fathers by inserting a definition of 'birth parent' which makes it clear that paternity may be established under the *Family Relationships Act 1975*.

The Bill also includes a number of minor definition changes. The 'Department for Community Welfare' has been replaced with the 'Department for Family and Community Services'. 'Director General' has been replaced with 'Chief Executive'. The 'Court' is taken to refer to the 'Youth Court'.

The confidentiality provision of the Act is amended to provide for the release of information with the consent of the person to whom the information relates.

The Bill provides repeals Section 13 of the *Adoption Act* relating to adoption of persons over the age of eighteen years. Current adoption philosophies reflect the concept that adoption is a process of securing families for children who are in need of a permanent and legal alternative to their birth families.

This is not consistent with the adoption of adult persons. Where an adult wishes to be adopted into a family, there are currently sufficient existing means available to enable issues of inheritance and change of name to be addressed. It is not appropriate to use adoption as a vehicle for securing inheritance rights for adult persons.

The Bill also repeals Division 2 of Part 1 of the Act relating to the *South Australian Adoption Panel*. This was a recommendation of the Review Committee. This Panel was established under the 1988 legislation as an advisory body to the Minister. While it has served its purpose well in this role, there is now a need for greater flexibility in the advisory process. A broader consultative base across the community including organisations and individuals with a special interest in the area of adoption is needed. This is provided for in Clause 7 of the Bill.

These amendments, as outlined, form the essence of the *Adoption (Miscellaneous) Amendment Bill 1996*. This Bill is reflective of a changing society and is in keeping with the fluid nature of social attitudes. It builds upon the strong foundations of the *Adoption Act 1988*, particularly in relation to openness in the adoption arena. It acknowledges the competing rights and interests of those affected by adoption and creates a delicate and equal balance between the needs of all parties.

I commend the hard work of all of those involved in the Review and thank those individuals who saw fit to make submissions direct to the Government.

I have pleasure in submitting this Bill to the house.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Repeal of heading

This clause is consequential to clause 5.

Clause 4: Amendment of s. 4—Interpretation

This clause makes a number of amendments to the definitions contained in the Act to—

- bring the terminology used in the Act up to date (ie. the new definitions of "birth parent" and "Chief Executive" and the amendment to the definition of "the Court");
- clarify what is meant by certain terms used in the Act but formerly not defined (ie. the new definitions of "adoptive parent", "Family Law Act 1975" and "guardian");
- provide for the operation in this State of the *Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption* (ie. the definitions of "the Convention" and "Convention country").

Clause 5: Repeal of Division

This clause repeals Division 2 of Part 1, which constituted the Adoption Panel.

Clause 6: Repeal of heading

This clause is consequential to clause 5.

Clause 7: Insertion of s. 7A

This clause inserts a new section 7A requiring consultation with appropriate persons and organisations in relation to the operation of the Act.

Clause 8: Amendment of s. 8—General power of the Court

This clause amends section 8 of the principal Act (which gives jurisdiction to the Youth Court) to indicate that Commonwealth law may impact upon adoptions involving Convention countries.

Clause 9: Insertion of s. 8A

This clause inserts a new section requiring the Court, before making an adoption order in relation to a child of 5 years of age or over, to consider the opinion of the child (taking into account the age of the child and other relevant factors).

Clause 10: Amendment of s. 9—Effect of adoption order

This clause clarifies the effect of an adoption order on vested or contingent proprietary rights acquired by the child before the making of the order. This provision was contained in the old *Adoption of Children Act 1966* but was omitted from the current Act.

Clause 11: Amendment of s. 10—No adoption order in certain circumstances

This clause amends section 10 of the Act to make the wording of that clause consistent with recent amendments to the *Family Law Act 1975* (by not specifically referring to guardianship orders under that Act).

Clause 12: Amendment of s. 11—Adoption of Aboriginal child

This clause amends section 10 of the Act to make the wording of that clause consistent with recent amendments to the *Family Law Act 1975* (by not specifically referring to guardianship orders under that Act).

Clause 13: Amendment of s. 12—Criteria affecting prospective adoptive parents

This clause makes minor amendments to section 12 of the Act to clarify the intention of that section.

Clause 14: Repeal of s. 13

This clause repeals section 13 of the Act, which deals with the adoption of a person aged between 18 and 20 years.

Clause 15: Amendment of s. 14—Discharge of adoption orders on ground of fraud

This clause amends section 14 to give the power to discharge an adoption order (because it was obtained by fraud, duress or other improper means) to the Youth Court rather than the Supreme Court.

Clause 16: Amendment of s. 15—Consent of parent or guardian

This clause amends section 15 of the principal Act—

- to make it consistent with the Hague Convention by ensuring that the same rules apply in relation to consent to adoption, whether the parents/guardians are in Australia or overseas; and
- to recognise that where the Chief Executive or the Minister is the guardian of the child, the requirements relating to witnessing of the consent and counselling should not apply.

Clause 17: Amendment of s. 17—Consent given under law of another jurisdiction

This clause provides, in keeping with the provisions of the Convention, for automatic recognition of consents to adoption given in accordance with the law of a Convention country (subject to the laws of the Commonwealth on this issue).

Clause 18: Amendment of s. 18—Court may dispense with consents

This clause amends section 18 to clarify that an application to the Court to dispense with the consent of a parent or guardian may be made by the Chief Executive or any party to an adoption (including the child).

Clause 19: Amendment of s. 21—Recognition of adoption under foreign law

This clause provides, in keeping with the provisions of the Convention, for automatic recognition of an adoption order made in a Convention country (subject to the laws of the Commonwealth on this issue). The law relating to recognition of orders made in non-Convention countries is unchanged.

The clause also gives jurisdiction to hear proceedings relating to recognition of foreign adoption orders to the Youth Court (instead of the Supreme Court).

Clause 20: Amendment of s. 22—Court to consider report on suitability of adoptive parents

This clause amends section 22 to provide that a report relating to the circumstances of the child need only be prepared and considered by the Court prior to the making of an adoption order where the Chief Executive is the guardian of the child. A report relating to the suitability of the adoptive parents, however, must be prepared and considered by the Court in all cases.

Clause 21: Amendment of s. 25—Guardianship of child awaiting adoption

This clause amends section 25 to clarify the intent of the section. The amendments make it clear that if the Chief Executive places a child (in relation to whom consent for adoption has been given or dispensed with) in the care of the birth parents (or any other suitable person) that action will not terminate the Chief Executive's guardianship of the child. The Chief Executive's guardianship may, however, be terminated if a court makes an order that the child be placed in the custody or guardianship of a person or if the Chief Executive orders in writing that the child is to be placed permanently in the custody of a parent (as well as the existing grounds for termination of guardianship ie. the making of an adoption order in relation to the child or revocation of the consent to adoption). The amendments also specify that the section does not apply to children in the guardianship of the Minister.

Clause 22: Insertion of s. 26A

This clause inserts a new section in the principal Act providing for arrangements relating to the provision of information about a child who has been or is to be adopted. The new section provides that, if the birth or adoptive parents of a child wish to enter into, or vary, such an arrangement the Chief Executive (or a person authorised by him or her) will endeavour to facilitate the arrangement or variation. The opinions of the child must, where possible, be taken into account in formulating the arrangement or variation.

An arrangement under this section will only operate until the adopted child has reached the age of 18 years.

All arrangements will be in writing and will be recorded on a register maintained by the Chief Executive.

Arrangements entered into under this section will not be enforceable in a Court and any breach of, or failure to enter into, an arrangement will not undermine the validity of an adoption order.

Subsection (8) of the proposed section provides that such arrangements may only be entered into in relation to children adopted after the commencement of the principal Act. This has been inserted to ensure that the right of a child adopted before the commencement of the Act to place a veto on the disclosure of information (which arises when the child turns 18) is not prejudiced by an earlier release of identifying information in accordance with an arrangement under this section.

Clause 23: Substitution of s. 27

This clause repeals the current section dealing with open adoptions and substitutes a new Part 2A dealing with that issue as follows:

- Proposed section 27 provides the basic rights of access to information held by the Department. Rights are given to—
  - an adopted person (and, if the adopted person consents or is dead or cannot be located, his or her lineal descendants);
  - a birth parent (and the natural relatives of an adopted person if the birth parents consent or have died or cannot be located);
  - if the adopted person consents, an adoptive parent.

  The section allows for the provision of all the information retained by the Department, other than material that the Chief Executive determines would be unjustifiably intrusive. The way in which this discretion is to be exercised will be the subject of guideliness, which will be available to members of the public on request.
- Proposed section 27A provides for the disclosure, in certain circumstances, of information prior to a right arising under section 27. This clause is essentially the same as current section 27(2).

- Proposed section 27B provides what are commonly referred to as the "veto rights" for adoptions that occurred prior to the commencement of the principal Act. This section, like the current provision, allows an adopted person and birth parents to direct the Chief Executive not to disclose information that would allow them to be traced. In addition the proposed section allows adoptive parents to lodge such a direction, although in the absence of any direction by an adopted person, the adoptive parents' direction will not operate to prevent disclosure of information relating to the welfare or whereabouts of the adopted person. This has been included to ensure that a direction lodged by an adoptive parent does not restrict access to information about the adopted person where the adopted person has chosen not to place a veto on such access.

  Any person lodging a direction may provide reasons which will be passed on to a person seeking access to information. As in the current provision, allowance is made for the lodging of directions on behalf of an incapacitated person, and any direction lodged will operate for a period of five years (with a power to renew or revoke at any time).
- Proposed section 27C provides for interviews with persons seeking information or lodging a direction under the new Part.
- Proposed section 27D gives the Minister a discretion to disclose information in the same terms as the current section 27(5).
- Proposed section 27E provides that any requirement for the consent of a person is waived on the death of that person.

Clause 24: Amendment of s. 29—Negotiations for adoption

This clause amends section 29(4)*(b)* to make it clear that an approval given to a person or organisation to conduct negotiations for adoption may be withdrawn if the person or organisation acts improperly in the course of or in relation to the adoption or proposed adoption of a child. The current wording of this paragraph refers merely to the impropriety in the negotiations themselves. The amendments, however, aim to cover conduct right up to the making of an adoption order in relation to a child. The section is also amended to make it clear that improper conduct by a servant or agent of an organisation will be taken to be improper conduct by the organisation.

Clause 25: Amendment of s. 31—Publication of names, etc., of persons involved in proceedings

This clause amends section 31 to extend its operation to interstate adoption proceedings.

Clause 26: Amendment of s. 36—Confidentiality

This clause amends section 36 of the Act to allow the disclosure of information with the consent of the person to whom the information relates.

Clause 27: Further amendments

This clause makes the further amendments to the Act contained in the schedule.

SCHEDULE

Further Amendments of Principal Act

The schedule makes a number of consequential and statute law revision amendments to the Act.

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

LOCAL GOVERNMENT (CITY OF ADELAIDE) BILL

Adjourned debate on second reading.

(Continued from 6 November. Page 391.)

The Hon. J.C. IRWIN: First, I shall declare an interest in this legislation, as my wife owns property in North Adelaide. She and I therefore benefit from the rate rebate and the other benefits that come from being in North Adelaide, and she are and I are electors within the city and the City Council area.

I want to make a few observations and qualifications before I debate the Bill. I have had no specific contact with the Adelaide City Council or the Local Government Association whilst the Local Government (City of Adelaide) Bill has been around. I do not condone the utterances, actions and manoeuvrings of some members of the council. As with the bad behaviour of the younger members of the Royal Family who have made it difficult to maintain support for a monarch in our constitutional system, the poor behaviour of some members of the City Council has made it difficult to give them support. But who am I to question other people's behaviour? I would suggest that it is no better or worse than some elected representatives at the State and Federal levels.

The support I give to this Bill is for a principle and not for individuals. Nevertheless, I do have respect for many representative members of the Adelaide City Council. I will support the second reading of the Bill, but I must say that, having read the contributions in another place and listened to those made here, I am somewhat saddened by some comments and attitudes which go beyond reason in their attack on the local government system and, in particular, the institution of the Adelaide City Council.

I sometimes wonder about how the city has evolved since the first days of white settlement in 1836—how it has evolved into a place today universally referred to as a beautiful city. Part of the progress of evolution includes the building over of my family's first house, which happened to be a mud brick house where the Westpac Bank now stands adjacent to this building. Undoubtedly, a key factor in its evolution was the layout of the city given us by Colonel William Light.

I have in my possession a paper written and researched by my friend, architect Robert Cheesman, a former President of the Royal Australian Institute of Architects. His paper, in short, raises the very real possibility that Colonel Light's plan was based on the plan of Toronto, Canada—a grid pattern surrounded by parklands, as it happened, laid out by my ancestor General Gotha Mann of the Royal Engineers in the late 178Os.

I visited Toronto with my wife in 1990 and was struck by the similarity it has to Adelaide. I sometimes wonder about the people who have worked and fought for the sort of city that we have today—the civic—minded elected representatives from all sorts of background and professions who have seen it as their duty to give their service to the city—and a service without cost. This is, of course, no different to any other South Australian municipal or district council—the clerks, the professionals and ordinary work force people who have moulded the city that everyone today calls 'beautiful'. Of course there have been times of unrest and of course there have been times of tardiness and a lack of so-called development. We may well be at this point now in the history of the city—who knows? What I do know is that the city has always recovered, and if we are at a low point now I have no doubt it will recover again.

I will do all in my power to help the city evolve to its next phase. The Bill before us seeks to do two things—terminate the positions of a democratically elected body and install three commissioners for up to three years. I do not support the termination of a properly elected council without any legal grounds or any evidence whatsoever of improper or corrupt dealings. Therefore, I support the elected council to May 1997 and any elected council after May 1997. I also support a number of appointed commissioners or a mix of elected members and commissioners whose task it would be to recommend change to the governance of the present City of Adelaide or even an expanded City of Adelaide.

In recent times I have been convinced that what I call the high rise central business district should be managed differently from the governance of the residential population. I may also argue that certain aspects of the so-called city-state of Adelaide, such as the maintenance of parklands, should not be carried alone by the residents and ratepayers of the city.

It is not my intention to develop this line of debate any further as it will be covered by any review of the city and the rewriting of the Local Government Act, which we have yet to see.

However, I take this opportunity to urge caution when deciding on the easy throwaway line about the so-called undemocratic nature of the property vote: in my opinion it should not be discarded lightly if there were ever a special governance for the high rise central business district. He or she who pays the piper can argue that they have a right to call the tune.

In 1990 my wife and I visited America on a study tour of private and public prisons which took us to a number of American cities. In Detroit, the world headquarters of the Ford Corporation and some other major car manufacturers, I was struck by the utter decay of the central business district. When we could not find any people or shopping areas we asked, 'Where is everybody?' We were directed to Fairlane, a regional shopping centre of some 40 or 50 acres (as I estimated)—a three-storey, fully enclosed shopping centre.

In Dallas we found the same thing—a large city of very modern, odd-shaped glass buildings with no people or shopping evident. As with Detroit and no doubt many other American cities, people drove to the city to work in the office buildings and drove home again at night. All the shopping was done out of the city in those huge regional shopping centres with which we are now all familiar. As other speakers have mentioned, the same thing is happening to Adelaide. This is undoubtedly a challenge before us. In my opinion it will not be solved by dismissing a council and appointing three commissioners to act alone.

It was my practice when in Opposition, and now on this side of the House, to read the Minister's second reading explanation to seek justification for any legislation of interest to me, and I have always looked for some evidence of consultation. Members have been advised—and I have not been advised otherwise—that there was no consultation with the City of Adelaide or the Local Government Association prior to this Bill going before Cabinet and coming into the Parliament a couple of weeks ago. As to the justification for dismissing the council, I look to the Minister's second reading explanation, as follows:

> That report reflected concerns which have been expressed by successive State Governments for some years over the operations of the Adelaide City Council. The concerns can be divided into two classes; those arising in the past and present and those which cause anxiety for the future. The principal concerns in the past and present have been the emergence of factions and personal clashes within council, rendering the proper exercise of its functions difficult.
>
> These concerns are not occasioned by malpractice of the council or its administration, but arise from the electoral structure and the limiting franchise of the councillors. The Local Government Act contains suitable provisions for dealing with malpractice but it is powerless to deal with the Government's present concerns. These concerns were strongly voiced by contributors to the consultation on city centre issues conducted as part of the Adelaide 21 study. However, Adelaide 21 also sets out a vision for the future—a future that the current governance of the City of Adelaide cannot deliver.

There is nothing in the rest of the rather short second reading explanation which gives me any justification for breaking the principle of not sacking an elected council without justifiable and legal reasons.

There are references to the Adelaide 21 study, but to me they do not justify the course of action spelt out in the Bill before us. It is not my intention to debate the merits or otherwise of the Adelaide 21 study or the Adelaide partnership: there will be time for that on other occasions, especially when we see the recommendations—if there are any—of a commission (whatever form that might take).

Let me refer to two matters in the Minister's second reading explanation from which I have just quoted. The explanation stated:

> That report reflected concerns which have been expressed by successive State Governments. . . The Local Government Act contains suitable provisions for dealing with malpractice but is powerless to deal with the Government's present concerns.

If we go back to 1983, in the 13 year period since then, covering 10 years of Labor Government and three years of the present Government we have had many amendments to the Local Government Act. I could not possibly add up the number of amendments made to the Local Government Act since 1934, let alone since 1983. I have to ask: 'Why is it that appropriate amendments to the Local Government Act have not been made already to cover today's perceived problem?'

I commend the Government and the Minister for biting the bullet. I question the method chosen and I question exactly who is driving the reform agenda for local government, including the re-working of the City of Adelaide. Certainly there is an economic agenda which has total disregard for the people. The word 'local' is fast becoming irrelevant. The driver or drivers have, by their actions so far, revealed themselves as having no idea of the consequences of their actions either politically or practically. It is altogether too simple to put a question to the people asking, 'Do you want increased services and reduced rates?'

Local government was designed to evolve—that is true—but it was always meant to be simple, and a simple form of government close to the people. Building powerful, expensive empires at the expense of the common people is dangerous and wrong for what is called the 'third level of government'. I refer again to the Minister's second reading explanation, as follows:

> The principal concerns in the past and present have been the emergence of factions and personal clashes within council. . .

In addressing that assertion I recall what I said to the North Adelaide Society at a public meeting on 9 October which has been accurately referred to in part by the Hon. Mike Elliott. First, I apologise for being incorrect at that meeting when I said that my father was the longest serving Adelaide city councillor: in fact, he served 29 years, from 1935 to 1940 and from 1949 to 1972, with nine years out for wartime. Bert Edwards, one-time ALP member for Adelaide, local character and local hero known as 'The King', served the people of Adelaide for 31 years and died in 1963.

Factions and personal clashes are not new to the workings of local government, particularly the Adelaide City Council. I recall my father's time as Lord Mayor from 1963 to 1966, because I have access to many relevant documents of that time and the research work was reasonably easy. The issues during that time were not small or insignificant in the development of Adelaide (or, if one likes, the city-state). Let me name a few of those early issues. I emphasise that every one of the issues I will name were contentious; every one of them had heated debates both within the council and the public arena.

I refer first to the City of Adelaide pool—a move tied up with the final site for the Adelaide Festival Centre, to which I shall refer later. The new pool, as members know, is sited in the northern parklands. It was a contentious siting. As I recall, an inner city site somewhere off Hindley Street was on the agenda. That was also contentious at that time. The northern site was also later contentious when the pool was

covered. It was contentious because the City of Adelaide ratepayers were footing the bill for a facility which serviced many people from outside of the city. It was contentious even more so because it was sited on parklands, even though cricket at Adelaide Oval and tennis at Memorial Drive are also sited on parklands.

Next, I refer to the central city markets which were redeveloped at a cost to the city of in excess of £300, again mainly paid for by ratepayers; the development of Rymill Park and its round pond; the development of Veale Gardens; the first move for one-way traffic in Rundle street, which ultimately led to the formation of Rundle Mall—a move later given great support by Premier Dunstan. In 1964, huge moves were made for the provision of off-street parking for the first time and the introduction of parking meters. If members do not think these moves were contentious, I refer them to the *Advertiser* and the *News* of the day. Indeed, council seriously looked at the Adelaide Railway Station for parking. I understand that my father suggested underground parking at Victoria Square, and there were many other issues leading to the sort of parking that we have today, off-street and the new form of parking meters.

In relation to Morphett Street Bridge, debate raged for many months, from 1963 with many factors considered, including the parklands and what to do with the traffic through North Adelaide. North Adelaide stood in the way of through traffic to the north. The Lord Mayor at that time gave a casting vote in favour of the project. The bridge as it now stands was supported by the Playford Government. However, Playford's Roads Minister, known to some of us here, Norman Jude, also supported a West Terrace extension north and south. He said that this could be considered as an addition at some later time. However, this is not a direct outlet north because once you go over the Torrens River you must branch east or west to get the traffic to flow to another outlet. I recall that the Hon. Legh Davis mentioned this possibility a few weeks ago in debate in this place.

I was interested in a quote from Sir Roland Jacobs who at that time was chair of the South Australian Brewing Company and whose company lost two hotels in the bridge program. He said, 'Hotels must not stand in the way of progress.' Here we have evidence of cooperation between the State Government, Adelaide City Council and business in Adelaide. The fountain debate is not new and quite a number of fountains were established in Adelaide in the 1960s. It is interesting that the fountain debate has occurred again recently; it is always handy to redevelop Victoria Square and have a fountain debate to provide news for the papers.

This debate is not new and quite a number of fountains were established: Bonython Fountain on North Terrace, the Torrens River spout fountain, as I call it, and fountains at Rymill Park and other sites. Incidentally, when speaking recently with John Dowie, the designer of the Victoria Square fountain, he told me that the centre spout in that fountain in Victoria Square will reach 40 to 50 feet in height. It is very rarely used as wind gusts blow the spray far and wide. So much for the suggested recent addition of a water spout as a focus for Adelaide where Queen Victoria now stands. The constant winds north and south and east and west through those corridors would mean that everyone moving in and out of the square would be drowned, and so the water spout would be very rarely turned on. The Dowie fountain is the focus of Adelaide now. Most people moving up and down King William Street can see it.

The debate on the redevelopment of Victoria Square which started in about 1963 was about as contentious a debate in Adelaide as one could imagine, again both inside and outside of the council. If any member needs reassurance of my statements, please talk to the Trim brothers or any relatives of the Trim bothers who fought that project tooth and nail right to the bitter end. The Government was asked to intervene and refused to do so. The first major plan was for a fountain in the northern sector in the middle of King William Street, with the road going straight through the square north and south. In 1964 there was another plan to have a northern and southern sector.

In 1965, after a year's discussion, the Lord Mayor of the time gave another casting vote after a divisive eight-eight tied vote to close part of King William Street. Council had previously voted eight-six to redevelop the square. The square is now as Light planned it: no direct north-south King William Road through the middle of the Square. In May 1966 the Lord Mayor again gave a casting vote for the new design of the square to go ahead, including at that stage the Dowie fountain. John Dowie started the new design in about 1966 and the fountain was completed a few years later. Again, it was a contentious issue. It is still a favourite throwaway line to drag out these new development plans. The issue was resolved by cooperation between the council, the State and the people. It took time but was worth it in the end. It is now part of the ambience of the city and part of the reason why people keep on saying how beautiful Adelaide is.

Let me pause before I refer to the Adelaide Festival Centre. It may be of interest to some to factor into this debate the makeup the Adelaide City Council's membership in the mid 1960s. In doing this I make no reflection on succeeding councillors. My father as Lord Mayor was the architect for the University of Adelaide, having cut his teeth on Bonython Hall—itself a very contentiously placed building. It totally blocks the passage of Pulteney Street from going further north, which I understand is exactly why it was placed there. He was architect for General Motors Holden in its huge expansion days; for St Peters College in its building days; for the National Bank; for the AMP Building; for the Advertiser Building, which was the first building of its height in Adelaide; for the Da Costa Building and for many other buildings.

The council consisted of Alderman Gerard, of Gerard & Goodman, later to become Gerard Industries; Alderman Jack Glover, an architect who was a former Lord Mayor; Alderman Nichols, a businessman; Sir Arthur Rymill, lawyer, member of the Legislative Council and a former Lord Mayor; Alderman Grundy; Alderman L.M.S. Hargraves, lawyer, former Lord Mayor and senior partner of Knox and Hargraves; Councillor Bevan Rutt, architect and Australian President of the Guide Dogs Association; Councillor Murray Hill, real estate and member of the Legislative Council—known to us as a colleague; Councillor Burgess, leading Adelaide accountant; Councillor Tom Porter, sharebroker, company director and in wartime ADC to Field Marshall Blaney; Councillor Bob Clampett, businessman, wine and spirit merchant and future Lord Mayor; Councillor Bridgland, next Lord Mayor; Councillor Hayes, businessman, Chairman of Rigby's and a future Lord Mayor; Councillor Tom Phillips, a share broker; Councillor George Joseph, lawyer and future Lord Mayor; Councillor Esther Lipman, the first woman on the council, President of the National Council of Women and a future Deputy Lord Mayor.

These were the people who were thrashing out the various contentious issues and ordinary day-to-day administration of the council. The names I have mentioned contain nine past and future Lord Mayors. There was much mirth about at that time because there was reference made to what was called the 'Old Chums Act' which meant it was convenient for Lord Mayors to serve two years and then hand on to another person to succeed them—not always without an election. In view of the present uproar over terms of Lord Mayors it may be interesting to debate as part of the new Local Government Act limiting the tenure of Mayors and Chairs. I come from a council which adopted a two-year term rule and which I believe worked well and I would probably support some sort of capping.

The last example of a contentious project, where the council and community were divided for a time, is the siting of the Adelaide Festival Centre, a not insignificant institution in South Australia now, so much tied up with, and built because of, the Festival of Arts which has international recognition and has had for some 20 or 30 years. In 1963 the Festival of Arts was already up and running. The Dean of Architecture, Professor Rolf Jeusen, had a well progressed plan for Botanic Park. Sir Thomas Playford favoured Victoria Square tram barn or a site on North Terrace. The Adelaide City Council purchased Carclew in 1964. You might remember that Miss Ada Bonython, who had been in residence for 60 years, refused to move from Carclew. It caused a bit of a stir at the time and she was assured by everyone that nothing would be done until she moved in her own time.

I understand that a parliamentary select committee chaired by Baden Pattinson looked at 12 sites and the outcome of the committee was to pass a Bill accommodating a city site, wherever that might be. In 1966 a festival hall was still in the melting pot as there were not enough funds. Funds were not available from State or local government. Funds were available, but they were not enough to build the hall. The council approached Prime Minister Holt for Federal funds without success. In 1968 the Hall Government considered the present site, and thus we saw the move of the old Olympic Swimming Pool to the northern parklands to which I referred earlier.

Adelaide Festival Centre was built in 1970 and the Dunstan Government completed and expanded the plan in 1972-73. The Commonwealth came good with £200 000, the State gave two-thirds of the remainder and the Adelaide City Council provided one-third. This project produced a deal of community anguish over six years; there was a great deal of public debate; there was a long gestation period but there was a good outcome. I have used extensive examples to make my point that nothing is new about an elected body of people having differences of opinion. What is being missed in this debate, and a factor I greatly admire about local government, is that, as I have often said in this place, every issue discussed in South Australian local government is resolved by a conscience vote. Long may Party politics be kept out of local government. As I understand it, it is not in great evidence in South Australia at present. Every vote is decided by 10, 11, 12 or 14 independent people.

The Hon. Diana Laidlaw: There are factions.

The Hon. J.C. IRWIN: They are not political Parties.

The Hon. Diana Laidlaw interjecting:

The Hon. J.C. IRWIN: If you want Cabinet solidarity to come into action in local government, you will have exactly the same outcomes. This is where local government is different. Together with its declaration of interest provisions it is very different from this place and from Canberra. Who is going to judge what is the best way to make a decision? Who is going to judge who are the best people to make decisions? Probably the most important question of all so far as the council is concerned is who is going to pay? Should it be Adelaide ratepayers—including those nasty people who own property and vote—the ratepayers and Federal grants, or ratepayers and Federal grants and a State contribution? I have not done the figures but Adelaide City Council ratepayers have carried a large State-wide financial burden for a long time.

Members may be interested to know that Adelaide City Council has been receiving a dramatically reduced Commonwealth grant distributed through the South Australian Local Government Grants Commission. In 1986-87 ACC received $1.61 million in general purpose grants. In 1996-97, 10 years later, that grant had fallen to $576 000, a 64 per cent reduction in the same dollar terms, and a much greater reduction if we add inflation to the calculation. Without attempting to calculate inflation over the 10 years and taking an average of $600 000 as an average grant as we slid down from $1.6 million to $576 000, I estimate that since 1986-87 the council has missed out on about $10 million in Commonwealth untied grants.

The 40 per cent rebate is probably relevant here. It has become a matter of mirth and derision in this debate. Certainly the city could have raised more rates by abolishing the rebate, but it may well have driven more and more people out of the city. I cut my teeth in this place debating what is referred to as the Selth report, a report commissioned by the Hawke Government in about 1984-85 and I remember speaking about it in my maiden speech. It should be remembered that local government received virtually no grants up to 1972. Although I was not in local government at the time, I believe local government did not seem to have too many problems when it got absolutely nothing from any other Government and was beholden to no-one except ratepayers. There were some special purpose grants to local government from Government sectors but they were tied grants.

The Whitlam Government started the process of distributing untied grants to local government in about 1973. The Fraser Government took up that issue and promised 2 per cent of personal income tax through the Grants Commission back to local government. That 2 per cent was nearly achieved when Fraser lost Government in 1982. The Hawke Government continued the untied grants to local government but never lifted the total above the 1982 level of dollars plus inflation. The grants have been standing still since 1983 whilst the Commonwealth's own income has spiralled upwards. The Selth committee recommendations taken up by the Hawke Government changed the method of calculating the grants based on fiscal horizontal equalisation.

Put simply, it is the lowest common denominator approach. Philosophically it is wrong for a Liberal Coalition Government and I hope the system is changed as soon as possible so that a number of additional factors can be considered by the State Grants Commission which would not continually penalise the likes of Adelaide City Council, which obviously has a high capital value. As I have often said, nowadays high capital values do not reflect an ability to pay. If members want confirmation of that, ask farmers and people in small business. It is urgent that this is reviewed for the benefit of regional areas in this State, because many of them are being penalised by the distribution method as every

year passes. Of course, there are some rural areas that benefit. The developing cities north and south of Adelaide are the big winners, with ever increasing grants and these again are a factor in attracting people north and south of the central area of Adelaide.

Further, I refer to the distribution of Better Cities money from 1992 to 1995. It is strange to report that Adelaide City Council has received zilch from Better Cities money based on my reading of reports. Better Cities in South Australia has four strategy areas: north-west, western, Elizabeth Munno Para and the south area. I do not know who advises them and I have not done the background reading but I have been familiar with Better Cities money and questioned it from time to time. Total funding in South Australia from 1992-93 to June 1995 provided by the Commonwealth was $42.5 million, the State provided $260.4 million, the council $95 million and other sources $124 million. As I said, ACC has not received any funding at all from Better Cities.

Why is it that the premier city in South Australia—admired by all and criticised by many as tardy and backward—is not able to attract one dollar from Better Cities distributions and the matching State grants as well as council funds. It has been said but not mentioned by many that local government in general terms runs by the rules and Acts passed by the Government in this place. Local government and councillors will inevitably adapt to whatever those rules are. In the 1960s to which I referred earlier the council was undoubtedly pro development and individually there was a strong personal appreciation of preservation and heritage. From that time to not long ago there were mistakes. I remember that Tom Playford wanted to knock over Old Parliament House, which was saved, and the old South Australian Hotel opposite was knocked over. Many people regret that. Many other old buildings have gone that should not have gone.

There has been a mentality that Adelaide should be preserved as a museum. The member for Colton and former Lord Mayor, Steve Condous, spent time in his contribution in another place outlining the problems with the streetscape proposal before the council. I do not want to add to that, but I do say clearly that the planning and heritage laws put down by this Parliament cannot be blamed on local government and the Adelaide City Council in particular. There may be many other laws that inhibit the development of Adelaide City Council and other councils. I refer to Chris Kenny's article in last month's *Adelaide Review*. I found his comments relevant and somewhat penetrating, as is his style, which, I must confess, I like. In part, it says:

> On a crisp, still morning in late March 1987, the then Lord Mayor, Jim Jarvis, was drifting silently above the city in a hot air balloon. He was nearing the end of his first two year stint and, under a gentleman's understanding that his successors Steve Condous and Henry Ninio disregarded, he was not seeking another term. The balloon ride was my idea [that is, Chris Kenny]—the chance to do something interesting and generate a photo-story for *The News*. There was plenty to look at and talk about. We could see workers busy on the ASER and the State Bank 'ant farms' and we could make out the Grand Prix track which had hosted two tremendous events. The city was busy and the skyline was messy with cranes.
>
> It was perhaps fitting that in the wicker basket, a long way from the ground and suspended by the hot air, the media first heard about the Myer-Remm project. As soon as we touched down in the parklands I raced back to North Terrace, armed with Jarvis's announcement. The headline that afternoon read:

and listen to this—

> '2 000 jobs in $300 million shop plan.' The story talked about 'the biggest retail project' in the State's history which would be under way later in the year, subject to approval. At the time the council was already worried about the drift of retail trade away from the city—

and I remind members that this was in late 1987—

> into the major suburban centres and the Myer-Remm deal was seen as a way to reverse the trend. Jarvis was widely recognised as one of the better Lord Mayors. He took some of the first steps to enliven the city and make the night life strips safer. But in the broader scheme of things he becomes almost irrelevant because when you look at the major developments of the period—State Bank, ASER and Myer-Remm—it's clear that the Bannon Government and its financial institutions were shaping the city, while the council merely looked on. A decade later, regardless of their individual merits or failings in architectural or planning terms, these developments have had a devastating effect on the city. They were all devised and financed in deals that were driven as much by politics as they were by business, economics or planning imperatives.

Many of us in this place have criticised the disgusting appearance of the ASER development. It continues:

> They all relied on the State Government's financial institutions for funding. Consider the economic impact of the State Bank collapse—the Remm-Myer building provided the bank's biggest loss and the State Bank tower also accounted for heavy losses. It comes to symbolise the hubris of the Government and its hired help. Largely because of those losses, more than 10 000 public service and at least 2 000 State Bank jobs have gone. Such losses can't have occurred without substantially reducing the number of people who travel into the city each day for work and stay for meals, shopping and socialising.

I refer to the editorial in the *Advertiser* on 12 October, which was three days after the North Adelaide society public meeting attended by some 300 people. I will not bore everyone by going over the whole meeting saga. I hope it is sufficient for me to say the question that I was asked from the floor was:

> As a Government representative, will you justify why the Government introduced the Bill and what you are going to do about it?

After speaking briefly to the meeting, I finished by uttering the now famous words 'As for justification of the Government, frankly I don't know.' I still do not know any more than is contained in the Minister's second reading speech to which I alluded earlier in my contribution.

On 12 October, in an article headed 'Stick to your Party, Mr Irwin' the Editor said:

> With friends like Mr Jamie Irwin, the Premier, Mr Brown, has no need of enemies. Mr Irwin is a Liberal backbencher in the Legislative Council who has publicly questioned the need for legislation to get rid of the Adelaide City Council, reform it and, meanwhile, have Adelaide's moribund city run by commissioners. Mr Irwin says he does not understand why the Government introduced the Bill. He must walk around with his eyes and ears shut. Can he not see that we are lagging behind other States, has he not heard the endless faction fights and bickerings which characterise the council? Has he not read and heard the antics which have made the Town Hall vastly entertaining in the past weeks but entertaining only as low farce? The elected council needs to go into prolonged recess because there is a job to be done and it has manifestly failed to do it. The Liberal Party bestowed on Mr Irwin an honour and a privilege. It gave him a seat in Parliament. It fought for and won Government so that its program could be implemented. The least he can do is to give it unqualified support. We repeat: this change is essential to create the conditions which can equip Adelaide for the twenty-first century.

Surprisingly enough, I wrote a letter to the Editor, but again, surprisingly enough, like many other letters it was not published. My letter to the Editor of the *Advertiser* said:

> Dear Sir, Thank you for the advice in your editorial 'Stick to your Party, Mr Irwin' (Saturday, *Advertiser* 12.10.96). I will look after my own integrity and treat with respect the rights given to me by my Party. I was selected by the Liberal Party to uphold its democratic principles. I would prefer to defend these principles than those you have revealed to be yours.

The Editor's principle is that the ends justify the means and that is not one of my principles.

Adelaide is the oldest municipality in Australia, incorporated in 1840, four years after white settlement. Adelaide was the beginning of local government in this country. Adelaide's first Lord Mayor was James Hurtle Fisher, a name known to those who look at the portraits of former Presidents in the corridor outside the President's office. The system of ballot for voting by now used all over the world was introduced in Adelaide by Sheriff Boothby. With great difficulties to collect, a depression and debts of £1 670, the council was legally defunct in 1843. From memory, this was around the time of Captain Tolmer's famous gold escort group which went through my old district, the Tatiara district, bringing gold from the goldfields in Victoria which went a long way to saving South Australia at the time.

Governor Fox set up five commissioners who ran the city until 1 June 1852. It may come as a surprise to some that Adelaide City Council has been run by commissioners before and, I might add, under very different circumstances from those pertaining now in 1996. Some people are very keen to throw in the line that what is proposed now for Adelaide has already happened in Sydney, Melbourne and Perth. I know my colleague and friend (Hon. Legh Davis) referred to this yesterday. As far as the City of Perth is concerned, it was removed to create the central business district. The old council covered an area of the city business district and surrounding metropolitan areas which was later to become three satellite towns. These areas did not have commonality of interest and administration of them was unfocused and not necessarily in the best interests of promoting a city. It is interesting that that State has gone along the line of promoting smaller local government.

The Sydney City Council was sacked because it was corrupt. The Melbourne City Council was sacked because it had a number of unsuccessful attempts to restructure under the existing Local Government Act. Both Melbourne and Sydney have a history of being sacked. In relation to Sydney City Council, in 1967 the council was dismissed by the Askin Government and a commissioner was appointed. Sydney City Council was restored in 1969. Northcott (later South Sydney) Municipal Council was established. This council has also been sacked for being corrupt. I talked about the 1960s, and when my family and other members of councils from South Australia ever went to New South Wales they would not tell them they were in local government because everything in that State was corrupt. Again in 1987, as I said before, council was dismissed by the Unsworth Government and an administrator was appointed—and one of those three commissioners is our present Governor. So, if you get away with it the first time, it might become a habit.

I have taken some time to put on the record some facts and alternative views which I believe are relevant to the debate before us. As I have indicated, my major objection to the Bill lies in the dismissal of an elected council. I hold this as a strong principle and I will not compromise that principle. All things considered, I have to justify the position I take on any legislation as we all do in this place. In the end, I have to live with the decision I make. I found myself in the same position over the Local Government Reform Bill. I sincerely hope that this Parliament will find a solution that will keep the Adelaide City Council functioning until and after the May elections and that a structure will be put in place for the future of the city and its residential population.

I hope that anyone fairly judging my contribution to the debate may see a clear message from the past for the future: that, no matter what we do in this place regarding the City Council, it will not work unless there is strong commitment, communication and contribution from the council, the State and the people, and they must all work together. I am sure we all want that to happen. I support the second reading.

The Hon. T.G. CAMERON: First, I should declare an interest in this matter as I am a ratepayer of the Adelaide City Council.

The Hon. Anne Levy: South Adelaide.

The Hon. T.G. CAMERON: Adelaide City Council. I might live in the south, but it is the Adelaide City Council.

The Hon. Anne Levy: You pay rates in south Adelaide, not North Adelaide.

The Hon. T.G. CAMERON: I thank the Hon. Anne Levy for pointing out to me that I pay rates in the south of Adelaide, not the north. I will comment briefly on the contribution made by the Hon. Jamie Irwin, who, I understand, was a former shadow Minister for Local Government. One could not help but be impressed by the sincerity of his contribution, which obviously came from the heart. His address to the Council was thought provoking. It is a pity that not more Government members were present to hear his contribution.

I had a speech prepared for this debate. After hearing some of the contributions, particularly by the Hon. Jamie Irwin today and yesterday by the Hon. Legh Davis, who put forward different views, it was clear that those views were sincerely held, in sharp contrast to the contribution made by the Hon. Angus Redford, who, again, sought to use political opportunism to try to get his points across. He failed dismally. However, the contributions made by the Hon. Jamie Irwin and the Hon. Legh Davis were so thought-provoking that they have prompted me to depart from my prepared speech and to cover not only some of the material that they put forward, particularly the Hon. Legh Davis, but also a number of issues relating to the proposed sacking of the Adelaide City Council, Liberal Party local government policy, and the contribution made by the Hon. Legh Davis, including an article that he had printed in the *Public Service Review* on 21 July this year. It is also my intention to canvass some of the suggestions made in the Adelaide 21 report before dealing with the contribution by the Minister, Mr Ashenden, in another place.

I was never what one would call a strong supporter or even much of a fan of local government. My first experience with local government was at the princely age of eight when I was handing out 'how to vote' cards for the late Dr Alan Finger, who was standing for local government. I could never quite work out at the time why my father had me there handing out 'how to vote' cards while he decided to park a couple of hundred metres up the street and stand by his Volkswagen, never taking his eyes off me during the four hours of my polling duty. It subsequently turned out that Dr Alan Finger was a member of the Communist Party and was standing as a candidate for that Party. As my father was a loyal member of the Labor Party, he could not hand out 'how to vote' cards. If my memory serves me correctly, Dr Alan Finger won that election and went on to serve as a councillor.

I have always had some relationship with local government, as my father was an organiser with the Australian Workers' Union and spent a lot of time organising all the metropolitan councils. I have two uncles who still work in local government. Between them they have about 50 to 60

years working life with the Salisbury council and the Port Adelaide council.

It was not until I became an industrial advocate with the Australian Workers' Union that I began to learn what local government was all about. As an industrial advocate and the industrial officer responsible for looking after the Local Government Employees (SA) Award, I had occasion to travel all over the State. At some stage or another, with a few exceptions, I probably visited every council in South Australia. Naturally, as part of that process, I had a great deal of contact with town clerks, who go under a whole range of different names these days, city engineers, and the inside work force and the blue collar work force which the Australian Workers' Union covered.

During my experience with the Australian Workers' Union, I also came into contact with a number of officers of the Local Government Association. When I first took over the award, we served a log of claims on the Local Government Association, the body which represents councils on all industrial matters, and I had occasion to work with Jim Hullick, the Secretary-General, and other officers, one of whom I recall was Murray Steward. I do not know that I could really say that I worked with him; I think a better way of describing it would be that I fought with him.

On numerous occasions over seven or eight years I dealt with Jim Hullick, Murray Steward, David Greenwell and other officers of the Local Government Association. I was always impressed with their professionalism and the way that they did their job.

The first detailed negotiations in which I was involved with the Secretary-General, Jim Hullick, followed a march of 1 500 members of the AWU, who put pickets around Local Government Association House. It is only fair to say that Jim Hullick and I did not get off to a particularly good start. However, I am pleased that, having negotiated with the Local Government Association over six or seven years and dealt with Jim Hullick on a number of occasions, I was not only involved in hard bargaining sessions across the table with him on industrial matters but I also had occasion to enjoy the odd lunch and bottle of red with him. I must compliment him on his taste in good wine.

I also had occasion to serve on the Local Government Superannuation Committee, which was responsible for reforming the local government superannuation Act. I was somewhat younger then and perhaps a little more outspoken and aggressive than I am these days, having turned 50. I can still remember a man by the name of Des Ross, who chaired that committee, and if he is an example of what local government produces then full merit to them. Des Ross chaired that committee over a number of months. I can recall a number of occasions when things got out of hand. But his patience and his sincerity and the patient way in which he went about reconciling the different points of view that were being put forward by the members of that committee were not only a tribute to him but also a tribute to the Local Government Association. Needless to say, at the end of the day, we set up the local government superannuation scheme, which, as I understand it, still operates today.

During those years, in becoming fully acquainted with local government, one could not fail to be impressed by the sincerity and dedication of nearly all the elected representatives in local government with whom I came into contact. I am not sure whether or not members of the Government have a full appreciation of what local government is, or how their proposed sacking of the Adelaide City Council cuts to the heart—

An honourable member: You have got 12 minutes left.

The Hon. T.G. CAMERON: If you keep going I can spend another 12 minutes on my introduction, if you like. I understand that you want to get up at 6 o'clock tonight to go and have dinner.

Members interjecting:

The Hon. T.G. CAMERON: It is not a problem for me, either.

The ACTING PRESIDENT (Hon. T. Crothers): Order! The speaker is on his feet. I was very impressed with the way the House listened to the previous speaker. I will be just as impressed if the House extends the same courtesy to the present speaker. I call the Minister to order.

The Hon. T.G. CAMERON: I was always impressed with the three tiers of government that we have in this country. I guess if one of those tiers of government has to go it probably should be State Government. Local government is a vital ingredient in our local communities, particularly in the country, where the relationship between the local community and its elected representatives and councils is a very close one. Councils play a vital role in the lives of their ratepayers—probably more so in the country than in the city.

From my observations, country people are closer to their elected representatives and to their councils than they are here in the city. One hopes that this Government, with its country representatives, would have had more of an appreciation of how country people feel about their councils and would have been in a position to empathise with the ground swell of concern that has arisen, not only from country councils but also from city councils. I understand that there are something like 111 councils left in South Australia, and I also understand that they have unanimously condemned the Government for its draconian and jack-booted approach to reforming the Adelaide City Council.

I had occasion to look at the local government relations policy that the Premier trumpeted in December 1993, and it is an interesting document. I wonder now how local government feels about whether or not the Government has honoured its commitments in that policy document. I quote from the document as follows:

> The Liberal Party recognises that South Australia has moved to a new era in the relationship between the State Government and local government and desires to further cooperate, promote and develop this approach to intergovernmental arrangements.

It is an interesting set of words—words which are sharply contradicted by the Government's ham-fisted approach in its attempts to sack the Adelaide City Council. I guess there was one part of the statement that was correct—where it talks about a new era in the relationship between State and local government. But that is where it ends. Any desire further to cooperate and promote and develop this approach has completely gone out the window. I guess all the local government supporters who were impressed by the words in this document must be asking themselves now 'Were we sold a pup?' The document also states:

> A Liberal Government will acknowledge the role of a negotiation task force in structuring a model for the review of the local government legislative framework and other reforms and will continue the task force concept of officer-to-officer discussions leading to decisions which are mutually acceptable.

It then goes on to say:

> A Liberal Government will ensure that the review process guarantees greater accountability of councils to their electorates.

Again, what a sharp contrast to the actions that this Government is now trying to force through this House with what it said it would do before it took office. Once again, local government supporters can only feel betrayed by the policy document that was put forward by the Liberal Party.

The document then goes on to say the following in relation to the local government reform agenda:

> A Liberal Government will continue to negotiate with the LGA in order that local government is not seriously disadvantaged by any transfer of responsibility.

I wonder what the Local Government Association thinks today about that promise. Quite clearly, the Local Government Association, and local government, must feel totally betrayed by the action that this Government is now proposing—that is, to step in and sack the Adelaide City Council. I will deal later in a little more detail with some of the phoney reasons that this Government has put forward in conjunction with the *Advertiser*, as it seeks to bludgeon this Bill through the Upper House.

I earlier referred to the contribution made yesterday by the Hon. Legh Davis, and I think I mentioned that it was a thoughtful contribution and one in which I believe he sincerely believes. It is quite obvious from his contribution that the honourable member has had a long interest in the affairs of the Adelaide City Council and local government.

Whilst I agree with many of the sentiments expressed in the Hon. Legh Davis's contribution—and I will deal with those in more detail in a moment—I cannot agree with the Hon. Legh Davis's support for his Government's action to step in and sack the Adelaide City Council. I think it is only fair to say that many of the statements that the Hon. Legh Davis has made one can only agree with, and I will deal with some of those now as well as some of the statements with which I do not agree.

The Hon. Legh Davis quoted extensively from a Mr Landry and some of the quotes that he had in his contribution and in his article in the *Public Service Review*. He said:

> But Landry's most telling comment is that unfortunately we have concluded that the main problem is the mindset, that there is an air of complacency.

The Hon. Legh Davis went on to say that he believed that many in the community shared that view. I was not familiar with the writings or the utterances of Mr Charles Landry, who was a contributor to the Adelaide 21 report, but I noted an *Advertiser* report on Monday 7 October which stated:

> Mr Charles Landry, who contributed to the Adelaide 21 report, said, 'Sacking the council and appointing commissioners as intended in the legislation now before Parliament was an extreme option.'

Quite clearly he did not support it. Mr Landry said that the Government—

The Hon. Diana Laidlaw interjecting:

The ACTING PRESIDENT: I call the Minister to order. The cacophony of interjectory noise last night from both sides was a disgrace and dishonoured the debate on this important issue. The Minister will have the opportunity to wind up the debate, and I call on her to utilise that time and not encourage interjections back across the Chamber.

The Hon. T.G. CAMERON: Mr Landry went on to say:

> The Government should have used its powerful position to persuade the council to adopt change.

He also said—and I think that this is a telling comment by Mr Landry:

> It was more in the tradition of Adelaide to let change emerge less abruptly.

He went on to make a number of other comments. It is quite clear that, whilst the Hon. Legh Davis evoked some of the comments that Mr Charles Landry had stated, he must have missed the other comments he made which make it quite clear that Mr Charles Landry does not support the ham-fisted approach that this Government is adopting in its attempt to kick out the democratically elected councillors.

The Opposition took issue with some of the Hon. Legh Davis's figures, and his accuracy on matters economic is usually pretty hard to fault. It would appear that the figures we were using were not correct and that the figure he was quoting was correct. We were relying on a vacancy rate of 18 per cent but the correct figure, as I understand it, according to BOMA and the latest Property Council of Australia, is 19.5 per cent. As it turns out, I think we were all wrong in relation to the figures that we were quoting for Melbourne. I understand that the Hon. Legh Davis used a figure of 21.8 per cent to refer to Melbourne's vacancy rate, but the correct figure for its CBD vacancy rate has gone up to 22.5 per cent.

I believe the Hon. Legh Davis was correct when he pointed out that the construction of new office space in Adelaide has been very low in recent years whereas in Melbourne there has been substantial construction of new office space (I am not quite sure that one can read too much into all of those figures one way or the other). In his contribution on 21 July the Hon. Legh Davis said:

> The most telling observation of the Adelaide 21 interim report is that, importantly, Adelaide is the last of the major Australian cities to address the strategic importance of the city centre and its role in the emerging global economy. This revelation underlines the complacency and smugness of Adelaide's leadership group, while other capital cities glide by.

My understanding is that it was the Adelaide City Council that pressed the button to start the Adelaide 21 initiative and that it was the Government, despite the recommendations that have been put forward in the Adelaide 21 report, which cobbled together this proposal to appoint commissioners for three years and sack a democratically elected Government.

The Hon. Legh Davis in his contribution also talked about the lack of leadership in the Adelaide City Council, factionalism, the lack of development in the City of Adelaide and a whole range of other matters—somewhat in sharp contrast, I suggest, to the contribution made by the Minister for Housing, Urban Development and Local Government Relations in another place.

One should always approach sensitive and emotionally charged issues such as this with caution, so I took the opportunity this morning to not rely on what I thought I had heard the Hon. Legh Davis say last night, and I read his contribution in *Hansard*. I have to say that the Hon. Legh Davis has a point to make when he talks about some of the antics, factionalism and problems that have been facing the Adelaide City Council over the past few years. It is fairly obvious that we do have problems here in the City of Adelaide. Other members of the Government (and I note the Hon. Legh Davis did not do so, and he is to be commended for it) have attempted to lay the blame for all the problems that might be occurring here in Adelaide wholly and solely on the Adelaide City Council.

The Hon. Diana Laidlaw: You didn't read his speech.

The Hon. T.G. CAMERON: I did read it very carefully, and if the Minister wants to contradict me I can provide her with his quote. I suggest that before the Minister gets on her feet and makes a contribution she might care to read his

speech: she was so busy interjecting last night I would be surprised if she heard any of it. The Hon. Legh Davis made the point that both the Labor Government, this Liberal Government and the Adelaide City Council—I guess everybody—must accept some of the responsibility for the problems that the City of Adelaide currently faces. But to sit back, as this Government has done, and attempt to lay the entire responsibility at the feet of the Adelaide City Council and its elected representatives and to blame the current Lord Mayor for all the problems that are bedevilling the City of Adelaide is nothing more than a futile attempt to try to justify the Government's reason to move in and sack the Adelaide City Council. Rather than the ham-fisted approach that this Government is adopting it perhaps would have been far better to have entered into bipartisan negotiations with all the parties—and I will say more later about the nature of bipartisan negotiations which have been taking place between Dean Brown and the Leader of the Opposition, the Hon. Mike Rann.

Clearly, it is a furphy to point to the behaviour of either the Lord Mayor, the honourable Henry Ninio, or the elected councillors as being totally responsible for the problems of the Adelaide City Council. I understand that they do not get paid very much although they are contributing a great deal of their time, energy and effort to providing a community service. I guess that we get well paid—approximately $100 000 a year if you are a backbencher—for entering into public service, but the local councillors and aldermen do not get paid much. The Lord Mayor of the Adelaide City Council, I understand, gets a substantial sum of money, but if one looks at it one will find that that is spent on servicing the ratepayers of the Adelaide City Council.

I can hardly call myself a friend or associate of the Lord Mayor: I have had a conversation with him twice and have shaken his hand a couple of times at official functions since becoming a member of this House. However, I believe that the Government's attempts to blacken his name and reputation by attempting to blame him for everything that is wrong with the Adelaide City Council is misplaced.

It is more of an attempt to find a scapegoat. Sure, I will concede that the Lord Mayor probably has not helped his case of late, but if he is to be criticised for the friends that he has, then we should also criticise the Premier and the Treasurer for the friends that they have, because they happen to be one in the same people. It is interesting to note that the Lord Mayor appears to stand by his friends and business associates a little more steadfastly than does our Premier. The Minister for Education might have been correct when she interjected and said that the honourable—

The Hon. Diana Laidlaw: That is not my portfolio.

The ACTING PRESIDENT: Order! I assume that you are referring to the Minister for Transport

The Hon. T.G. CAMERON: It might not have been yesterday that he made these comments; it may have been in his article in the *Review* where he said:

> State Governments over many years must also shoulder some of the blame for allowing Adelaide to unravel to such an alarming extent. There was no allocation in the 1996-97 State Budget for the refurbishment of North Terrace or Rundle Mall.

I will deal with some of the achievements of the Adelaide City Council in more detail if time permits but, quite clearly, the Hon. Legh Davis is adopting a much more realistic approach as to where the responsibility lies. For either the State Government, the Labor Party Opposition or the Democrats to sit back and wash our hands of our responsibility in relation to the problems that we now face would be incorrect. If members of Government will not accept their share of responsibility for where we are with the Adelaide City Council, then I am prepared to accept our share—the Labor Party's share—of responsibility for the situation in which we now find ourselves.

The Hon. Legh Davis did ask yesterday whether anyone on our side of the House had bothered to read the Adelaide 21 report. Whilst I had had a cursory look at it, I did take the opportunity, following his challenge, to read it in the early hours of this morning. It is an excellent contribution and all those involved, including Adelaide City Council, the State Government and past and previous Federal Governments, ought to be congratulated for the farsighted document which has been put forward.

However, unless I was extremely tired from last night's debate, I could not find anywhere in that document where that committee was recommending that this Government immediately step in and sack the elected council. It did make a number of recommendations such as: there should be involvement of all key stakeholders; we should ensure that governments, business and others are brought to the decision-making table; effective private sector participation ensuring that new arrangements involve and have the confidence of the business and investment communities; and that we should draw together the three tiers of Government, particularly State and city.

With this hamfisted bull at a gate attitude that the State Government is adopting, one can hardly say that this State Government has paid any attention at all to that recommendation. If anything, its actions have driven the Adelaide City Council and its ratepayers further away from the State Government, as well as the Local Government Association and the 111 councils that unanimously rejected the Government's plans. I might add that not only was that unanimous, but I am not able to locate any councillors or aldermen—and there are well over 1 000 of them—who support the actions that the State Government is adopting. A number of recommendations were made. The report talked about effective city council structure as follows:

> . . . dealing with the widely agreed need to restructure the council for the twenty-first century.

The Australian Democrats, Local Government Association, Adelaide City Council, Labor Opposition and State Government all agree that there is a need to restructure the council and to look at the question of boundaries, who can and who cannot vote, the property franchise and so on. It may be that the current method of electing councillors has seen a situation develop which has been conducive to the establishment of factions in the Adelaide City Council. It is quite clear that we have a number of groups, but to suggest, as members of the Government have, that they are the same as political Parties, makes a mockery of what local government is all about. My observation of some of the groups that belong to the respective factions is that they are made up of many different political persuasions. They are people who share similar views about what is good for the City of Adelaide, rather than people who have degenerated into factional groups.

I find it quite strange that the State Government and the Minister for Local Government Relations would state that the degeneration of the elected representatives into factionalism means that they just cannot work any more. If he holds that view about the Adelaide City Council, one could also ask whether he holds that view about this Government. If he does

not hold that view, then I guess he must have been missing from the four-hour meeting on Monday which, I understand, degenerated into a factional brawl unlike anything we have ever seen at the Adelaide City Council. I find it rather curious that factionalism has been used as one of the sledgehammers to belt the Adelaide City Council. I understand that there may have been members of the Adelaide City Council in the Chamber last night listening to the debate which took place. I am quite sure that they would have walked away with a view that factionalism is alive and rife in the Legislative Council. They have must have shaken their heads and wondered, 'Is this the same group of people who are criticising the way that the elected councillors of the Adelaide City Council operate?', when they came in here and listened to the way that we carried on. I guess they must have walked away somewhat confused.

It is easy to be critical of the Council. The Hon. Legh Davis said yesterday that one can be critical of the council, one can be critical of the Government, but one must recognise that amongst all this criticism something positive must emerge to address the issues that have been focused on so strongly, and I think persuasively, by the Adelaide 21 team. I cannot find anywhere in the documents a recommendation for the sacking of the Adelaide City Council. I do agree with the Hon. Legh Davis when he says that something positive must emerge to address these issues.

It seems to me that the Opposition and the Government are in agreement on a number of issues contained in the Bill, but the one matter on which we cannot and will not agree is that the State Government, unless it has good reason, can sack a democratically elected council. I understand that the Act allows for that but I will not go into that detail because I have only 30 minutes to go. There were interjections about whether or not the council is democratically elected. Reference has been made to voluntary voting. It has been claimed there was only a 20 per cent vote, so how could that be democratic? References have been made to the property franchise and the fact that some people, because of the number of properties they own, can vote 30 or 40 times. It is clear that the agendas for the elected representatives of some council wards are in sharp contrast to the agendas of other councillors representing other wards.

The Government seeks to lay the blame at the feet of the council and argue that it is all right for us to sack the council because it is not democratically elected. It then points to the faults in the system that determines how the elections must take place, but to extrapolate from that and blame the council for this is taking a long bow. I agree with the Hon. Legh Davis that something positive must come out of this. We cannot sit back if the Bill does not get through because of the differences in view that we have with the Government's position—it wants to sack the council and we do not. We agree that commissioners can be appointed; we can appoint a reform board; and the Hon. Mr Redford suggested that a select committee could look at it. There are a number of ways in which we can look at the question of governance and property franchises. To argue that we must sack the council to do that is using erroneous information to support an argument that cannot stand on its own feet.

As to the Hon. Legh Davis's speech yesterday and his thought-provoking article in the *Public Service Review*, I would encourage him to use his considerable economic skills in a couple of years to undertake the same due diligence exercise on the EDS site as he did on this matter.

Members interjecting:

The ACTING PRESIDENT: Order! For those members who were not present earlier, I have already said that the decibel level last night was inappropriate. I do not mind interjecting myself, but I have asked that interjections be kept to a minimum. I call on members on both sides to observe that request. The Hon. Mr Irwin was listened to in silence; I ask that the Hon. Mr Cameron to be listened to in silence; and, if I am still here when the Minister replies, I will be asking for her to be heard in silence, too.

The Hon. T.G. CAMERON: The Government is clearly attempting to lay the responsibility for the problems we have in South Australia on the council. As the Hon. Mr Davis has interjected frequently, the State Bank and SGIC debacles have impacted severely on our State and we have had to deal with a recessed economy in South Australia since 1991. To try to lay the fault at the feet of the elected representatives of the Adelaide City Council and point to the lack of cranes and development in the city as all the fault of the council is inappropriate, especially as it has approved over 99 per cent of development applications within 21 days, which is the best figure in Australia. That stretches the bounds of credibility. Notwithstanding some of the shenanigans that the council has got up to from time to time and some of the heated and intense debates that have occurred, and notwithstanding factionalism, the councillors are the democratically elected representatives of the City of Adelaide. We have less than six months to go before an election and it is the Opposition's view that these democratically elected representatives should be allowed to see out their term.

I am confident that we will be allowed to see out our term, so why should they not see out theirs? To argue that all of the city's and the State's ailments can be tracked back to factionalism within the council or a governance system is inappropriate. The Government has been in office for three years and has not attempted to change it. Therefore, to blame the council for the lack of cranes on the skyline when the council has approved all development applications that came before it is really asking too much for ratepayers to believe. I will not shout from the rooftops that the Labor Party is the champion of democracy in South Australia, because we have our own problems with the way in which representatives are elected to the council, but I would have thought that the olive branch extended by the Hon. Mike Rann to Dean Brown to adopt a bipartisan approach—except for the sacking of the democratically elected representatives—on this matter would have been picked up by the Premier.

Once again we have a Premier who cannot resist the temptation to fudge the truth. He has misrepresented his negotiations with the Hon. Mike Rann and if time permits I will say more about that later. For whatever reasons—and they can only be known to him—we have a Premier who has adopted this approach. I have heard suggestions that he wants to adopt a Kennett persona. I had that in my original speech but I could not believe it. Dean Brown will never be a Jeff Kennett. I cannot believe that he would delude himself into believing that he is going to—

The Hon. R.R. Roberts interjecting:

The Hon. A.J. REDFORD: Mr Acting President, the honourable member interjected and called the Premier of this State a boofhead and I ask him to withdraw that comment.

The ACTING PRESIDENT: I did not hear the interjection. Did you say that?

The Hon. R.R. ROBERTS: I did not.

The ACTING PRESIDENT: What did you say?

The Hon. R.R. ROBERTS: I said: 'He will never be a boofhead.' It is well known by his chums at private school that Jeff Kennett's nickname is 'boofhead'. It was suggested that he will be a Jeff Kennett and I said that he would never be a boofhead, but I bow to the Hon. Mr Redford's better judgment that he may well be.

The ACTING PRESIDENT: Order! There is no point of order.

The Hon. T.G. CAMERON: Thank you, Mr Acting President, it is appreciated that you attempted to ascertain precisely what the member said before you ruled on the point of order and I congratulate you on that. I am getting short of time and have only 25 minutes to go. I do not wish to seek leave to continue my remarks later. Although I am not going to the President's Dinner I have no desire to inconvenience members, so I will try to wind up by 6 o'clock.

I refer members of both sides of the House to pages 46 and 47 of the Adelaide 21 report. Some of the options which they said might be considered included widening the boundaries of the city, extending the franchise for the Lord Mayor, redefining the statutory roles of the State Government and city council and widening representation on the council. They are all things that can be done without the need to sack the Adelaide City Council. I did take up the Hon. Legh Davis's suggestion and read the document thoroughly, but I cannot find in this document where they recommend the Adelaide City Council be sacked and replaced for three years by a board of commissioners. I cannot see why the Adelaide City Council cannot be allowed to run its course and why we cannot set up a reform board, a select committee or whatever body. It is not as if we will be dealing with an extremely complicated issue.

Some people believe that North Adelaide should be out of the Adelaide City Council—and I happen to be one of those—and others believe that it should be in. Other people suggest that we should broaden the boundaries. It may well be that we do not even have to address some of those issues. We can merely address the issues in relation to the property franchise. It seems obvious to me that, unless we do something about the way in which the Adelaide City Council is structured, then we will not resolve some of the problems it is experiencing. Unless we do something about the boundaries and the way in which people are elected, then all we will do is elect another group of councillors who will work under the same structure and the inevitable divisions, factionalism, developers against the North Adelaide residents, the south Adelaide residents against the North Adelaide residents, this ward against that ward and so on will continue.

I have listened carefully to all the contributions made by Government members of the Council and I have read the contributions made by Government members in the other House and I still cannot find any compelling reasons why we cannot all achieve what we want to achieve for the Adelaide City Council and achieve some of the recommendations contained in the Adelaide 21 report without having to sack a democratically elected government. I do not wish to make a philosophical contribution about democracy, Mr Acting President; you would have done a much better job of it than I could ever do and I am a little disappointed that you will not be making a contribution. As we all know, democracy is a very fragile and precious thing which should be protected.

It is obvious that the Local Government Association—which represents the councils—and all the 111 councils and their elected representatives believe that the draconian stand this State Government is taking will be a threat to democracy in local government in South Australia. I am not certain whether or not their fears are founded, but it would certainly have to do with their perception of what this State Government is attempting. Obviously, a number of councils, having looked at what the State Government is attempting to do this time, might propose similar action elsewhere. Who knows? We know that things are not going well in Port Pirie, Port Augusta, and Whyalla. One could hardly blame those councils for some of the very serious economic problems faced by those major cities in the northern triangle which might be exacerbated soon when the recommendations of the Brew report are implemented.

Should we be blaming the Mayor of Whyalla and the council's elected representatives for decisions taken by BHP to relocate its steel operations elsewhere or overseas? Should we blame the Whyalla council for BHP embracing new technology in order to remain competitive, which inevitably means people lose jobs? Should we blame the Mayor of Port Pirie for the new technology which BHAS adopted in order to remain competitive and which saw hundreds of jobs lost? Of course, we cannot blame those councils and those mayors for what is taking place in the northern triangle but, obviously, they are concerned that this Government may attempt to. If it can point the finger at the Adelaide City Council with the flimsy evidence that it has so far put forward, why could it not point the finger elsewhere and the dark hand of State Government descend on other democratically elected councils? Why could it not appoint commissioners and blame those councils for all the problems in those country areas?

Whilst the argument may or may not be well-founded, we have to deal with the perception that local government is up in arms about the measures being proposed by this State Government. Any suggestion by any members on the other side of the Chamber that they are not flies in the face of the overwhelming evidence. We have a unanimous resolution from every council—every mayor, all the aldermen, all the councillors. They have all voted to unanimously condemn and oppose the actions being taken by this State Government. They are to be commended for taking on this State Government, particularly as the boundary reform process is well under way.

Yesterday, the Hon. Mr Davis referred to correspondence that he had received from a ratepayer. I too have received correspondence from a J. van de Swan of 193 Sturt Street, Adelaide, urging me:

> . . . to use all your influence to keep Adelaide a caring, human and fair environment for all. Please dismiss the move to install commissioners and redraft the objectives to include a commitment to social justice and democracy.

I have no doubt that, if these commissioners are appointed, they will be more concerned with getting cranes on the Adelaide skyline than they will be about social justice issues, social equity issues and so on.

I have also received correspondence from the Administrators Group, Inner-City Services for Homeless Adults, which includes the Society of St Vincent de Paul, the West End Baptist Mission, the Hutt Street Centre, the Adelaide Day Centre for Homeless Persons, the Adelaide Central Mission, the Aboriginal Sobriety Group and so on. Again, they are expressing grave concern at this plan to appoint commissioners to manage the governance of the City of Adelaide. They are concerned that it may put in jeopardy the council's current level of support to people who are homeless and living in the city. In part the letter says:

This concern is largely based on our reading of the 'Objectives for the new governance of the City of Adelaide' which has a very strong focus on the economic and business aspects of the city with very little attention to the needs of the people.

I have probably received 20 or 30 pieces of correspondence all expressing grave concern about this move by the State Government.

Another interesting observation is the timing of the proposed Bill. I understand—and I will stand corrected by the Hon. Legh Davis if I am wrong—that the State Government has had the vision 21 report for six months or more. One would have to question whether this Government is more interested in propping up its Leader, who appears to be under considerable threat at this stage. Is this a tactic or red herring that is designed to be trotted out to the voters should the Premier get really worried about numbers in the other place and decide that the only thing that might save his skin is to call an early election?

One wonders whether this measure and other measures are being collated in order to go to the people of South Australia with the line, 'Have a look at the Opposition; have a look at the Legislative Council. Yet again they are frustrating the democratically elected Government of this State.' It would be a curious line to take: that we are frustrating the democratically elected Government of this State because we do not believe that this Government should have the right to sack another democratically elected government—local government. The two do not sit very comfortably at all.

Members interjecting:

The Hon. T.G. CAMERON: The Hon. Robert Lawson has finally lifted his head from his newspaper. He usually has it in some brief.

The ACTING PRESIDENT: Order! I ask the Hon. Mr Cameron not to respond to interjections.

The Hon. T.G. CAMERON: I guess I am easily goaded, Mr Acting President. Another observation is the legal structure that the Adelaide 21 partnership is suggesting. I stand to be corrected by the eminent lawyers on the other side if I am wrong on this point, because I do not pretend to be a lawyer. However, I understand that the legal structure which the Adelaide 21 partnership is proposing and which would be set up by the State Government is a company structure. There would be shareholders and partners: the shareholders of this company would be the partners.

I always thought that the Local Government Act specifically excluded local councils from doing that kind of thing. If they are setting up a partnership and the Adelaide City Council cannot legally join, that seems to contradict the fact that at the last council meeting the State Government asked the Adelaide City Council for $695 000 annually towards the partnership. Perhaps we could get the eminent QC to have a look at that one.

There has been a great deal of criticism about lack of council activities. If one has a quick look—I am only sorry that I do not have more time—one can see that the Adelaide City Council has introduced a whole range of measures over the past few years. The Adelaide 21 project was an initiative of the council. There is the West End and the $7.1 million upgrade of Rundle Mall. I understand that it has kicked in $800 000 worth of new street lighting in Hindley Street, and it has allocated $315 000 for a study of North Terrace. I could go on and on. There is the Torrens clean-up, library services, the university footbridge, Queen's Theatre, its approach to disabled access, the environment plan that is being set up, precinct design strategies, and so on. One could hardly set out a very persuasive case that the Adelaide City Council has sat on its bronze and done nothing. As the Hon. Legh Davis correctly pointed out yesterday, something positive must come out of this exercise.

It is a pity that I shall not be able to cover a lot of the material that I wanted to cover, so I will summarise some of the key issues. Again, I will stand corrected by the eminent silk on the other side of the Council. I understand that the Bill breaches the constitutional guarantee of the continuance of local government contained in the Constitution Act 1934. I refer to part 2A, section 64A of the Act.

I make no comment about the suitability or otherwise of the commissioners, except to say that I cannot find in their CVs very much about their involvement in local government. I think that one of the proposed commissioners was quite active recently in opposing a development project in North Adelaide. If my memory serves me correctly, it was something to do with Calvary Hospital. I do not know what experience these commissioners have in local government, but I know from my experience that when it comes to running a local council, particularly one the size of the Adelaide City Council, a bit of experience would go a long way.

These commissioners would have no duty or obligation to the ratepayers or residents of the City of Adelaide; they would be responsible to the State Government, and the Government would appoint them. The commissioners are subject to the control and direction of the Government. The Government may allow the commissioners to be involved in transactions with the city and have a personal interest or hold an office, even though it may conflict with their duties as commissioners. The Minister approves the declaration of general or separate rates. The commissioners have all the powers of councillors, but none of the corresponding legal or political accountability, except to the Government. In fact, in the Minister's second reading explanation, when he introduced the Bill in the other place, we find:

Clause 8: Validity of acts and immunity of Commissioners.
A Commissioner will not incur personal liability for an honest act or omission in acting in his or her office. Any liability will attach instead to the City of Adelaide.

So, these elected representatives, elected by the ratepayers and residents of the City of Adelaide, who are to be sacked, will be replaced by three commissioners, and, if they stuff it up, all the liability for any actions that they might take will attach to the City of Adelaide. We have the State Government wanting to sack the elected representatives, who are six months away from facing an election.

The ultimate test in a democracy is that you run your race during your term, you have your say and you fight for your issues, but at the end there is a bigger judge than any of us in this place—the voters. We must ask why the Government wants to deny all voters in Adelaide an opportunity to vote in May next year. If the accusations about the Adelaide City Council are correct, why not let the voters make the ultimate decision? Why is the Government afraid to allow these elections to go forward? It is not a principle that we believe that democracy runs rife in the corridors of the Adelaide City Council for which we are fighting.

These elected representatives were elected for a term of office. They put their platform and policies before the constituents as they went around and doorknocked them. Heaven forbid, it was a hotly contested election, and one can only assume that, whatever new voting procedures might come to pass for the Adelaide City Council, it will be hotly contested again. And so it should be. One would hope that the

next time they vote in the Adelaide City Council—and I hope that it is in May next year—there will be an even bigger turnout than we got last time. The Adelaide City Council has a considerable turnout. If we claim that it is not democratically elected, we should look at other councils which are elected on a much lower voter turnout than takes place in the Adelaide City Council area.

So, here we are: we have a situation where the Adelaide City Council and the ratepayers will have to accept all the financial liability for any of the decisions that these commissioners might make, notwithstanding their lack of experience in running a council—let alone the biggest council in the State. Those commissioners' report to the Government on the future of the city can be accepted, amended or disregarded by the Government with no consultation with the community before the new city is reformed.

There are no processes similar to those required in the boundary reform legislation, which largely relies on community consultation or a poll of the community. Existing councillors of the Adelaide City Council are to assume that the Bill has passed Parliament and are under penalty or personal liability for the current decisions being taken.

There is a lot more that I would have liked to say about this issue, but, again, I reiterate the Hon. Mike Rann's olive branch to the Premier. The Australian Labor Party is more than prepared in a bipartisan way to sit down with this Government, as the Australian Democrats have also indicated: we are prepared to sit down and talk about every measure that the Government has raised in this Bill. However—and I cannot make it any more clear than I am at this moment—in no circumstances will we accept sacking representatives who have been elected by the ratepayers to see out their term until May of next year.

I am afraid, Mr Premier, that we are not going to give you a reason to call an early election. I am afraid, too, that at the end of the day you will not be able to blame us if this Bill does not go through. You will have to wear the responsibility for it yourself. We believe that we can attend to all the issues that have been raised in the Adelaide 21 report; we can address the problems in your Bill; but we will not support sacking elected representatives who are to face an election in six months' time. If they are to be sacked by anybody, then let the ratepayers of the Adelaide City Council cast their votes in May and they can re-elect whom they like and they can sack whom they do not like.

The Hon. DIANA LAIDLAW (Minister for Transport): I declare an interest as a ratepayer. I also declare that I love being a South Australian and my State, and I am thrilled to have the opportunity to live so close to the CBD, my place of work, all the theatres, the Art Gallery in the CBD and the parklands, which I do not get all the time I would like to these days to enjoy. However, it is an enormous pleasure to witness in recent months the leaves changing from winter to spring and to see the colours in the grasses change from green to gold.

Notwithstanding city life and theatre life, it is glorious to have these wonderful parklands and to be so close to nature. Adelaide is a very precious place in which to live. But it is also now looking old, tired and dirty, and anybody who loves this city and who takes pride in its appearance and pride in being South Australian would acknowledge that Adelaide is old, tired and dirty and that it needs a huge injection of enthusiasm, care and—

The Hon. Sandra Kanck: Old and tired?

The Hon. DIANA LAIDLAW: It is looking old, tired and dirty. Those comments have been around for a long time. We should expect more from this city. If one travelled around the world, one would not question that our blue skies and the rest of our attractions are wonderful, but the city itself needs help. That has been known for some time. As the Hon. Mr Davis said, one of the sad aspects is the lack of references in annual reports and the like to tourism activity in the city, in particular North Terrace.

The Hon. Jamie Irwin delivered one of his typical speeches that was more in the past than in the future. The speech was well meaning and an interesting history lesson on the wonderful heritage of the city and the older characters who served this city long ago. But we are only 3.2 years away from the twenty-first century. The twenty-first century demands a great deal more of all of us than was ever demanded in the 1950s and 1960s.

We have to be far more enlightened and active rather than complacent and comfortable in the way we think, work and create with respect to our business activity. Otherwise, Adelaide and the State will be left far behind in terms of what is the real world. In terms of getting jobs and attracting business, the real world matters to our youth today. As members of Parliament, this is our obligation. It is our obligation in terms of our membership of the Legislative Council, because we represent the whole State—not 12 000 people in the City of Adelaide who are comfortable with their rate rebate. As a ratepayer, I acknowledge my rates. It has been a deliberate and well-designed policy by a succession of councils to maintain an active presence of residents in the city. Whether it has worked as everyone might have wished is another matter, but the council has deliberately kept people living in the city, and there should be more.

As I indicated, we have a responsibility well beyond 12 000 ratepayers. In any case, one must argue whether those people have been democratically elected. In part, I know that that is a responsibility of this place because of the property franchise provisions under the Local Government Act. Many wonderful comments were made by members opposite in terms of deploring this Government for being undemocratic. Yet one person who gave years of her life in a voluntary capacity working as a councillor of the Adelaide City Council recently deplored the undemocratic way in which the Adelaide City Council was elected and operates. I refer to former city councillor Jane Lomax-Smith. It is interesting that not one member opposite chose to refer to a councillor who felt so frustrated about not being able to operate effectively as a councillor that she took the courageous step of resignation. She wrote an article in her own name. It has not been subject to editing by a newspaper or quoted through a reporter, but is directly attributed to her. She writes on 25 September:

> I am resigning because the council has achieved very little since May 1995 and is unworkable. This entire term has been wasted. We have no achievements, only the advantage of projects initiated several years ago. Rundle Mall, Gouger Street, King William Street South, bicycle tracks—these were all initiated by a former council and delivered, some inadequately, by this council.

In fact, many were initiated, such as the bicycle tracks, with enormous help from the State Government. I announced $1.8 million in grants for bicycle tracks late last month. The State Government and taxpayers paid a further $379 000 for bike tracks in the City of Adelaide. We had to take that action because the Adelaide City Council had been so tardy—

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: Yes, so tardy, in implementing its own bicycle network plan. I believe the Hon. Sandra Kanck, who has an interest in cycling, would acknowledge that fact, too. So to push the council to make these decisions—

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: No, I am just trying to put some things into perspective, and I have listened to many members speak against what the Government is doing. I refer to the remarks of a councillor who resigned and the reasons why she resigned. She talked about projects which were initiated by former counsellors—of which this council is taking credit—and which have been delivered in recent times. But they were not delivered without enormous contribution from this State Government through taxpayers' funds. Ms Lomax-Smith states:

> At present we cannot even exercise the powers we have because of the bickering and the infighting. We are regarded by the community as irrelevant and, sadly, most [of the council members] haven't even noticed.

What I notice now is that most of the council representatives who were here as witnesses of the debates have all chosen to leave: perhaps they do not want to hear what Jane Lomax-Smith is saying. She states:

> Henry Ninio is not the sole problem with the council.

And I would agree with Jane Lomax-Smith entirely. She further states:

> I believe this problem stems from a vast and corruptible electoral system.

This is a matter that this Government is very keen to address. She further states:

> This is not democracy as it functions at State and Federal elections.

As we all know, this Parliament dealt with these very issues in terms of a democratic system of election for the Upper House in the 1970s. We must do the same with the Adelaide City Council and others. I would agree with Jane Lomax-Smith about questioning the democratic nature of the Adelaide City Council. I know that it is our responsibility, as a Government, and as members of the Legislative Council who have been democratically elected. Heaven knows how the Hon. Ron Roberts would have got in here just a few years ago without a democratically elected Government, but—

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: On your preferences? And you are here because we changed the way in which we elect, and people with property do not have multiple votes. That has been changed and it is something that we must change in this regard as well. I want to acknowledge very strongly that issue. In reflecting on Jane Lomax-Smith's comments about the bickering and unworkable nature of the council I note that observers opposite, those who now seem to be in love with the Adelaide City Council, did not reflect on what was happening with this council and the way in which it was working until the Government made the decision to challenge the council.

It seems to me ironical that, if nothing else, this Government has brought the Adelaide City Council together with a common purpose, a common cause, and that is only because the council has been challenged with its own demise—and that is a tragedy in itself. However, it took this strong, deliberate and decent action by this Government to bring the council to work together with a common purpose, But what purpose? It is simply a negative, self interested purpose to obstruct further what is good and necessary for the future of this State and young people in particular. It talked about South Australia's being the retirement State. Let us just make sure that we in this place do not contribute to that demographic complexion for this State. It is not a fate that young South Australians deserve. It seems to me that, within the past six weeks, this council and some councillors—those who just could not stand each other, could not even look each other in the eye, and did nothing but back bite and shove the knives in each other's back—have now found a wonderful new sense of comfort and unity. It is a false unity and a false sense of comradeship, but it is a neat sense of purpose for self interest and self preservation.

I also find interesting in the contribution of members opposite that they have deliberately misunderstood the purpose of this Bill for short term political purposes. That is disappointing but not necessarily surprising when one considers that these same people opposite, who have almost bankrupted this State through mismanagement of State funds and who have left us to pick up the mess, would now frustrate further efforts by this Government to ensure that we have a city council that is relevant for the twenty-first century. They were prepared to compromise South Australia's future by financial mismanagement in the past, and today they are prepared to compromise the city's future for short term political gain, short-sighted purpose, compromising and gain seeking to thwart this initiative.

We are well aware of the powers of the Local Government Act in terms of sacking councils in the case of mismanagement and, had it been appropriate, we would have used the relevant powers of that Act. In fact, we were urged to do so. The esteemed friend of the Hon. Mr Holloway, the member for Spence, Mr Atkinson, is really keen to get rid of the Adelaide City Council. He seems to have a problem with Barton Road, but now that problem is sufficient in his eyes to see that the council is sacked. But, as I have indicated, we are not aiming to do so on the basis of mismanagement, because we would have used the provisions in the Act if they were the grounds that we were seeking. However, despite—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: We have not sought it; we have not argued it, but your own colleague, the member for Spence, has. We on this side have not argued that. However, despite the obvious factionalism in council and despite the fact that the Lord Mayor is ostracised by the members—in fact, on reflection it is not one issue alone that has brought this council together; it is not because we have introduced this Bill that we have found odd bedfellows and friendships in the Adelaide City Council: I forgot that they are also united in the manner in which they detest the elected Lord Mayor.

But that democratic vote, in terms of the election of the Lord Mayor, does not seem to fuss the Adelaide City Council. The people concerned do not care if he takes retired holidays; they do not care if he goes out to pasture; they do not care if he disappears altogether. In fact, that is what they want. He is democratically elected but, as for these wonderful, democratically elected councillors that you all think are so fantastic, you do not mind supporting them and you do not mind stabbing the Lord Mayor in the back. That is what they are doing and you support them. So, stop this crap about democracy and the Adelaide City Council, because the Lord Mayor is democratically elected and the council could not care a stuff about democracy.

The PRESIDENT: Order! I know there is a lot of passion in this debate but I think the Minister could rephrase her remarks and perhaps use 'fertiliser'. I ask her not to use that word. If the Hon. Ron Roberts wants to interject—

The Hon. DIANA LAIDLAW: What word would you suggest, Mr President?

The PRESIDENT: Order! The Hon. Ron Roberts will have a good chance in the Committee stage. I suggest that he listen to what is being said.

The Hon. R.R. Roberts: Thank you, Sir, I will take up your kind offer.

The PRESIDENT: I do not expect another interjection from him.

The Hon. DIANA LAIDLAW: I did hear other speakers in silence. When I challenged whether the Adelaide City councillors or members opposite are actually interested in democracy, you cannot argue on any ground that they are, not only because of the way in which the council is elected but also because of the way in which they have treated the Lord Mayor in recent times. They do not believe in democracy, and I do not believe in their big tears.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: Despite the obvious factionalism in council, despite the fact that the democratically elected Lord Mayor has been ostracised by the so-called democratically elected members of council, despite the fact that two councillors have already resigned, and despite the fact that one former councillor, Jane Lomax-Smith, has described the council as dysfunctional, we find that members opposite think that the pasture is green in the Adelaide City Council. It is an absolutely fantastic attitude. Notwithstanding all of those factors, we are not sacking the council on any of the grounds set out in the Act. If we were, we would not be here with this Bill. Neither are we here with this Bill as a back-door way of getting around the Local Government Act: it is patently absurd to suggest that is the case. The Bill is concise and clear and so, too, is the rational explanation given in the second reading speech and on other occasions by the Minister for Local Government Relations.

To help the Hon. Mr Elliott, I want to go over a few points. Normally he can think through these things quite clearly, but another agenda seems to be the undercurrent here. First, the Government is concerned that the electoral franchise of the City of Adelaide does not and cannot represent the interests of the majority of South Australians who use the city but do not either live in or own part of the city. This is not our concern alone. Mr Ilan Hershman, former CEO of the Adelaide City Council and now Executive Officer of Adelaide 21, said on the release of that report that it was important for everybody to recognise that the city centre was not just the province of the Adelaide City Council; it was a responsibility of everyone. The Government agrees entirely. It should be our responsibility as members of the Legislative Council because we have the benefit, as a House of Review, not actually to be caught up with the local politics. However, members opposite cannot get out of that gutter—that political short-term gutter.

Therefore, the Government is concerned about the electoral franchise of the City of Adelaide and wants to change that franchise. That is simple and is our objective. In that area I understand that there is some accord between the Opposition and the Government. However, we believe that three commissioners—independent individuals—should be encouraged to take the lead in this role. Again, this is where the Opposition and the Government have some common ground, but it is not exactly where the Hon. Mr Elliott lies in terms of his argument. If he, in formulating his comments on factions and personal clashes in the council, had read or listened to the report on this Bill, he would have discovered that we believe that these factions and clashes render the proper exercise of council's functions difficult.

I again get back to Jane Lomax-Smith. She said that she found it demeaning to be part of such a dysfunctional body. She went on to say:

> We should flush out the system, giving it time for the wounds—

talking of her fellow councillors—

> to heal and develop a proper electoral system that allows us to choose better quality candidates.

She also goes on to say that this course of action taken by the Government is not her first preference. She says:

> I am very sad that we are losing the council, but I think it is inevitable.

She says more. She says that she is philosophically opposed to unelected commissioners running the city, but that she will lobby Mike Elliott of the Australian Democrats and the State Opposition to support the Brown Government's change of governance legislation. She said:

> I have a deep distrust of commissioners and I think it is a tragedy for Adelaide to lose elected representatives.

The Government would say, 'Hear, hear!' But, as Jane Lomax-Smith said:

> But it's a misunderstanding of the electoral franchise in the Local Government Act to suggest that it is a democratically elected body now.

I repeat her words:

> We should flush out the system, give it time for the wounds to heal and develop a proper electoral system that allows us to choose better quality candidates.

In his contribution the Hon. Mr Elliott did not mention those matters. He preferred to portray the council without factions and resignations and to hide like an ostrich with his head in the sand. That is where he is, and that is sad. Neither did he acknowledge that the Minister responsible for local government had clearly said that the Government's concerns are not occasioned by malpractice of the council or its administration but arise from the electoral structure and franchise of the council.

A similar selective loss of memory by not only the Hon. Mr Elliott but also members opposite was applied to the role of the Adelaide 21 report. Nobody has said at any time—particularly no member of the Government—that the report advocated sacking the council. We said that strong concerns about the electoral franchise were expressed by contributors to the Adelaide 21 report. We said that Adelaide 21 stresses the need for changes to the governance of the city, that it is vital to put in place a new form of governance to give effective representation to the affairs of the city to a broader cross-section of South Australia.

We also explained that the change of governance is part of a package including the Adelaide partnership and a new marketing authority for the city. We drew attention to considerable support for these proposals, and that has come from the Housing Industry Association, the Master Builders Association and a number of other groups that are very keen for jobs to be created and prosperity to be restored to this city. The obvious upshot of such proposals to give a wider group a say in the governance of the city is that those who run it now can be expected not to agree to any change that would restrict or dilute their say. However, the elected members of

the council have responded to this whole challenge by the Government in a predictable way. They have mounted a public campaign to protect their patch. They have supported and attended protest meetings and enlisted the support of their erstwhile friends, the Local Government Association, to promote an alternative way of going about the job. It can hardly be a surprise that that has included a prominent place in the process for themselves. In doing so, the protesting councillors have provided even further evidence to the Government that demonstrates why they should be removed from the process of determining governance.

What confidence can Parliament have in a City Council elected on a narrow franchise accepting a view that the franchise should be broadened? It is entirely predictable that the council would step up its rate of activity and fill the gaps left by its own initiatives, form alliances where none formerly existed and go to electors in their narrow parish to stave off threat to their position. That is why the Government wants the councillors set aside. That is simply why—because of their self interest, which has been entirely demonstrated by the way in which they have addressed the challenges that the Government has presented in the form of the Bill. We believe that they have operated without looking at themselves, and have formed allegiances and alliances—and some in the gallery may wish to smile but they should check their own form first. I believe that councillors seem able to say that they can deliver when the record shows that they have not delivered to the extent that one of the most capable, able and intelligent members of that council—and that would be the view of any impartial observer—Jane Lomax-Smith was forced to resign.

The Opposition and the Democrats say that they support an inquiry into governance, but they want it done in a couple of months and they want it broader, to consider the boundaries of the city, and they want to consider whether the Lord Mayor should be elected by councillors. The effect of these changes would be to make the job more difficult, to cause the inquiry to duplicate the work of the Local Government Boundary Reform Board, to put unreasonable time constraints on the consideration of a complex subject and to preserve the ability of the current council to disrupt the process and potentially spend resources unwisely on projects designed to demonstrate its power and independence. Obviously, these are unwanted and unnecessary complications. They hold no promise of achieving a rational and focused discussion on the best form of future governance of the City of Adelaide. They allow no time for the development of a solution into a sound Bill to be put to Parliament.

The worst aspect of these proposals is that they are based on the misconception that this Bill is just one to sack the council. It is not, and I hope the reasons I have put today further elaborate and reinforce the Minister for Housing, Urban Development and Local Government Relations' outline for this action. It is not action we take with enthusiasm. It is not action we needed on our agenda but it is action taken out of genuine concern about the way in which the city presents as a shopfront for the State.

I want to indicate a few matters about the council and its focus for the future. It was a member of the Adelaide partnership, yet when the marketing proposal was put to the council it could not accept that it could work in a joint effort with Federal and State Governments and local government. It voted to go on its own. It was only through the intervention of Mr Ilan Hershman and the Lord Mayor that the council recognised that its future lay in working with others. So, we had this wonderful Adelaide 21 report. The first time it came before council and the council had the opportunity to back the promotion of this city with resources from both the State and the Federal Government, it wanted to go it alone. To me, that is an indication of the lack of vision and commitment that the current council has for its responsibilities and the future of the city as representatives of this State.

Finally, I want to indicate a few small points. Today, I attended the launch of the imaging for the South Australian Museum. It was interesting to hear Dr Chris Anderson, the Director of the South Australian Museum, talk about the fact that he was thrilled that, after one year of working with the Adelaide City Council, finally it had agreed to and assisted in transplanting, I think, six palm trees from an obscure spot on the banks of the River Torrens to the lawns at the front of the Museum to replace palms that had blown over in the past because of age. It took one year for the council even to get a grip on the fact that it should assist the Museum in its promotion and that of North Terrace. I emphasise that the council has lost the plot. The only time that I have seen it come together with a common purpose is during this challenge, and its common purpose is self-protection not the future of the Adelaide City Council, the CBD or the State.

Bill read a second time.

RACIAL VILIFICATION BILL

Consideration in Committee of the House of Assembly's message—that it had disagreed to the Legislative Council's amendments.

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

That the Council do not insist on its amendments.

Given the lateness of the hour, and the fact that I understand there are some members who have other places to be and have delayed leaving, I will not go over all the arguments again. The Government strongly maintains its position, believes in the rightness of its arguments which have been put before and will continue to insist on that position. If the majority in this Chamber—the Australian Democrats and the Labor Party—insist on going down this path, there really are only two options: either the Bill is lost or there will need to be a conference of managers. We will need to vote in this Chamber just to establish whether either the Australian Democrats or the Labor Party have seen the error of their ways and will now agree with the Government's overwhelming logic in relation to this matter.

The Hon. P. NOCELLA: Without going over the same ground again, I indicate that I oppose the motion for the simple reason that nothing has happened in the intervening period to cause us to change our mind. The reasons we put forward are as valid today as they were then. I oppose the motion.

The Hon. SANDRA KANCK: The Democrats have not changed their mind either. This is pointless game playing we are going through, particularly as in recent weeks, as we all know, our Prime Minister has told Australia that political correctness has come to an end. That has encouraged many people, along with the Pauline Hanson debate, to become more overtly racist. All the Government wants to do is to try to put any complaints through the courts system. It will turn these people into martyrs, which is exactly what they want to do. It is just a stunt. If members opposite want to go to a deadlock conference, I can assure the Council that I will not accept anything that will keep this entirely in the court's domain. This is just a waste of time.

The Committee divided on the motion:

AYES (7)

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

NOES (8)

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

PAIRS

Pickles, C. A.	Griffin, K. T.
Roberts, T. G.	Stefani, J. F.
Elliott, M. J.	Lawson, R. D.

Majority of 1 for the Ayes.

Motion thus carried.

SOUTH AUSTRALIAN TOURISM, RECREATION AND SPORT COMMISSION BILL

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

ADJOURNMENT

At 6.45 p.m. the Council adjourned until Tuesday 12 November at 2.15 p.m.