LEGISLATIVE COUNCIL

Thursday 6 February 1997

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

MULTICULTURALISM

A petition signed by 161 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. Bernice Pfitzner.

Petition received.

SUPREME COURT JUDGES

A petition signed by one resident of South Australia praying that this Council will investigate or cause to be investigated what can be done where Supreme Court Judges use their positions to cause detriment to truthful informants and to ensure any breaches of the law are properly remedied and, if needed, legislate to cure any defects of implementing Parliament's earlier expressed intentions was presented by the Hon. K.T. Griffin.

Petition received.

PAPER TABLED

The following paper was laid on the table:

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

Juvenile Justice Advisory Committee—Report, 1995-96.

PROPERTY TRANSACTION

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement made today by the Minister for Finance about allegations made by the Hon. Mr Elliott.

Leave granted.

QUESTION TIME

PROPERTY TRANSACTION

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Attorney-General a question about ministerial propriety.

Leave granted.

The Hon. CAROLYN PICKLES: Yesterday, the Hon. Mr Elliott asked a number of questions relating to negotiations for the sale and purchase of sections 35, 36, 37 and 190 in the hundred of Smith. Documents given to the Opposition indicate that discussions were held between Elders Limited, as the sole agent acting on behalf of the vendor, and the Primary Industries Manager for South-East forests on 28 February 1994 concerning an interest by the Department of Primary Industries in purchasing that land. This interest led to the department's undertaking a suitability survey and negotiations with the Native Vegetation Management Branch and then making a formal offer for the land on 14 July 1994, subject to the Minister's approval. Diary notes indicate that in the interim the Minister for Primary Industries inspected the land on 12 March 1994 and then personally telephoned to advise of his private interest in purchasing 500 acres of the land.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: You will find out in a moment. In other words, the Minister and his department were bidding against each other for the same land. A company associated with the Minister, the Banksia Company, then made an offer to purchase part of the land comprising about 500 acres on 2 June 1994. Given that the Cabinet handbook says that Ministers will cease to be actively involved in the day-to-day running of any business, and that the Liberal Party code says that a Minister must not knowingly use his position for private gain, will the Attorney advise the Council whether the Minister reported this apparent conflict to the Premier or to the Cabinet as required by the code of conduct?

The Hon. K.T. GRIFFIN: I am not in a position to acknowledge or otherwise whether there was a conflict of interest as alleged. The Minister's statement made in another place has been tabled here. I will take the question on notice.

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about ministerial conflict of interest.

Members interjecting:

The PRESIDENT: Order!

Leave granted.

The Hon. R.R. ROBERTS: Documents given to the Opposition concerning the former Minister for Primary Industries's interest in land in the South-East include a cover sheet which indicates that documents were forwarded to the President of the Liberal Party on 12 March 1996. This advice to the President of the Liberal Party indicates that, even though the Minister for Primary Industries had been dismissed, there was concern in the Liberal Party about the way in which this matter had been handled by the former Minister.

I have with me copies of documents which carry through the sequence and are quite extensive. They show the logic and concerns that many people in the South-East, in the Liberal Party in particular, were showing with respect to the business matters of the former Minister for Primary Industries. I seek leave to table those documents.

Leave granted.

The Hon. R.R. ROBERTS: My questions to the Attorney are:

1. Was the matter of a breach of the Cabinet handbook or conflict of interest by the former Minister for Primary Industries in 1994, referred to the Attorney by the then Premier, the President of the Liberal Party or any other person and, if so, what advice did the Attorney give?

2. Given the nature of the documents we have tabled yesterday and today, does he believe that the Minister for Primary Industries had any real or potential conflict of interest?

The Hon. K.T. GRIFFIN: It is interesting that the honourable member and his colleague the Leader of the Opposition seem to be Johnny-come-latelies on this. The matter has been raised by the Hon. Michael Elliott and now the Opposition wants to hop onto what it thinks is a bandwagon. It demonstrates how short of questions it is if it has to jump onto this bandwagon.

I was asked some questions yesterday about water and they came well after the event, so I suppose the questions today about the Minister for Primary Industries follow the same pattern that I talked about yesterday. So long after the event these sort of issues might be raised.

So far as the matters raised by the honourable member are concerned, I have not seen the documents that he has tabled. He did not give me a copy and I am not prepared to make any judgment about them on the run. The Minister for Primary Industries has made a ministerial statement in another place which has been tabled here to address the issues which the Hon. Michael Elliott raised yesterday. I can take the matter no further at this stage.

The Hon. R.R. ROBERTS: Given the answer that the Attorney-General has given, I have a supplementary question: was the Attorney-General consulted by Premier Brown before the Premier dismissed the former Minister for Primary Industries, or did the former Premier, at a later date, advise the Attorney-General of his reasons for dismissing the Minister? Did the current Premier consult the Attorney-General before reappointing the member for MacKillop to the ministry as Minister for Finance and Minister for Mines?

The Hon. K.T. GRIFFIN: It is a fascinating question. The Opposition is ducking and weaving again. I certainly do not intend to make any comments about those sorts of issues.

Members interjecting:

The Hon. K.T. GRIFFIN: I am not ducking or weaving; I'm just telling you. Some members on the other side have been in Cabinet previously, but the fact is that they have not remembered that the former Attorney-General would not discuss in the Parliament the advice which he may or may not have given or what issues may have been addressed. The honourable member knows that these sorts of things are not matters for public comment by the Attorney-General of the day.

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General a question in relation to the former Minister for Primary Industries, now Minister for Mines, the Hon. Dale Baker.

Leave granted.

The Hon. M.J. ELLIOTT: Yesterday, during Question Time I asked 13 questions which were addressed to the former Minister for Primary Industries, now Minister for Mines. Today in another place and in this place a ministerial statement has been made, and I assume that is meant to be a comprehensive response to the 13 questions that I asked. If one looks at the 13 questions that I asked, it would be a fact to say that one or two were indeed answered and that the other 11 were not. The Minister has not addressed the question as to whether or not he personally examined the property some three days after his department had expressed a very clear interest in the property.

I remind members of the question yesterday: Alan Gray, from the Department of Wood and Forests, inspected the land on 9 March and the Minister, on my information, personally inspected that same land three days later: that issue is not addressed by the Minister. The Minister has not addressed the issue that he then confirmed that he was interested in 500 acres of that land; that his department continued for the next couple of months to carry out due diligence investigations; and that there was concern about native vegetation. The Minister has not chosen to comment on that. He has simply acknowledged that a company with which he had an association had made an offer which was rejected. In his statement, the Minister said:

> In accordance with the Ministerial Code of Conduct, I had resigned my directorship of the Banksia Company immediately I became a Minister.

I have the Register of Members' Interests dated June 1995 and if one reads it one will find—

The Hon. A.J. REDFORD: I rise on a point of order, Sir. Section 6 of the Members of Parliament (Register of Interests) Act prohibits comment on what is contained within the register, and the member is seeking to comment on that in clear breach of section 6 of that Act. I therefore ask you to rule accordingly.

The PRESIDENT: Order! I acknowledge the point of order, and if the Hon. Michael Elliott wishes to rephrase what he is saying I will rule on that.

The Hon. M.J. ELLIOTT: I will not dispute the ruling, although I do not think the point of order is there. Whilst the Minister did say that he had resigned his directorship, what he did not say was that his partner continued to be a director; that he personally continued to see himself as being employed and having it as a business; and he also continued to see it—

The Hon. A.J. REDFORD: I rise on a point of order, Mr President. I will read it out for the benefit of the honourable member. Section 6(3) of the Members of Parliament (Register of Interests) Act 1983 provides that, where any comment is published by any person in relation to the register of interests, that can be dealt with as a contempt of this Parliament. I would ask that the honourable member take that into account

The PRESIDENT: Order! I rule that there is no point of order. The honourable member did not refer to the register of interests when phrasing that question.

The Hon. M.J. ELLIOTT: As I noted, whilst he had resigned his directorship, his partner had not; that it still was a business of his and it still was an investment of his. Yet in the ministerial statement today the Minister said that he no longer saw that he had any conflict of interest because he had resigned his directorship. I note that the Liberal Party code of conduct—one of the policies it went to the election with—stated quite clearly, if I am allowed to quote it:

> A Minister will seek to avoid all situations in which his or her private interests, whether pecuniary or otherwise, conflict or have potential conflict with his or her public duty.

The code of conduct quite clearly provides that his or her private interests, pecuniary or otherwise, should not conflict. This is the code of conduct that the Liberal Party took to the last election. A question has also been put to me whether or not there is any potential for section 251 of the Criminal Law Consolidation Act to have been breached during this process. The code of conduct also states (on page 3):

> Minister's will inform the Premier should they find themselves in any situation of actual or potential conflict of interest. This information will be tendered at Cabinet immediately a Minister becomes aware of an actual or potential conflict of interest, and a record will be made that the Minister tendered that information. The record will be available for scrutiny by the Auditor-General.

My questions to the Attorney-General are:

1. Is he prepared to investigate, first, whether or not there has been a breach of section 251 of the Criminal Law Consolidation Act in terms of abuse of public office, and will he see that a proper investigation is carried out to ensure that that has not occurred?

2. Does he agree that there has been a conflict of interest when a pecuniary interest resides in a property, where a personal inspection has been carried out by the Minister in a

private capacity, knowing that the department was also interested in purchasing that same piece of land?

The PRESIDENT: Order! I think the honourable member is debating the question.

The Hon. M.J. ELLIOTT: That is the question. I was asking the question. I was asking the Attorney General whether he agreed with that position. I also seek direct answers to each of the questions which were asked in this place and which so far have clearly been avoided in the ministerial statement. In particular, I ask the Minister to comment on the awareness that he had of delays that were occurring because of native vegetation assessments that were taking place at the same time as he was making offers for that land.

The Hon. K.T. GRIFFIN: In relation to the third question regarding obtaining answers to each of the individual questions, Ministers may answer questions as they see fit.

The Hon. M.J. Elliott: Or not answer them.

The Hon. K.T. GRIFFIN: Or not answer them. If questions have been asked in such a way that seek to distort or misrepresent the position, surely a Minister has the right to present the facts as he believes they should be presented and as they actually are. It is not for me to say. Those questions were put to the Minister, and the Minister can answer them in any way that he believes is appropriate. It is all very well for the Hon. Mr Elliott to start thumping the table. He knows what the rules are. He has been here long enough to know that there is an option as to the way in which questions will or will not be answered.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: I will take the second question on notice. In relation to whether or not I will investigate whether there has been a breach of section 251 of the Criminal Law Consolidation Act, I think it is a cowardly way to raise the issue. If the Hon. Mr Elliott has evidence that suggests there is a breach, he ought to take it to the proper authority, which is the Anti-Corruption Branch of the Police Department. I am not the investigator of criminal activity. The law enforcement agencies in this State include the police. No-one will go out and investigate just because someone says, 'I think there may have been a breach' if no evidence is presented to indicate that there has been a breach or at least there is a *prima facie* case of a breach or something which would tend to suggest there is a breach.

I invite the Hon. Michael Elliott, if he has any evidence and if he wants an answer, to take it to the appropriate authorities. As the Attorney-General I am not the person charged with the investigation of offences. If evidence comes to me in relation to any matter, I always refer it to the appropriate investigating body.

The Hon. M.J. ELLIOTT: I ask a supplementary question. Will the Attorney-General comment on the breaches of the code of conduct that was promised before the election.

The Hon. K.T. GRIFFIN: I said that I will take the second question on notice.

BASIC SKILLS TEST

The Hon. A.J. REDFORD: My question is directed to the Minister for Education and Children's Services. Will the Minister advise the Council of the feedback that he has received in relation to basic skills testing? Has the Minister examined the Labor Party's policies on this topic, which were issued in October last year, and do they contain any mention of basic skills testing?

The Hon. R.I. LUCAS: I thank my colleague the Hon. Angus Redford for that most informative and important question for the people of South Australia who are interested in the real issues, as indicated by the Premier recently. The Opposition spends two days on water, one day on this and one day on that, but the Government and its members will concentrate on the big issues such as getting the economy going and the things that interest parents and students in South Australia.

I am pleased to be able to inform the honourable member and other interested members that the feedback from the second basic skills test indicates that it has been even more well accepted, if that is possible, than the first basic skills test, which was conducted in 1995. The information available to the department and the Government is that approximately 80 per cent of the community and parents are very supportive of the notion of basic skills testing in literacy and numeracy for Government school students in South Australia. I am increasingly receiving information from individual parents who have indicated—

The Hon. T.G. Cameron: One or two?

The Hon. R.I. LUCAS: Lots of them. It is a bit like the Opposition: I have had many phone calls. Like the Hon. Mr Elliott, I have had a flood of phone calls, and they have all raised this issue with me. The telephone calls have continued to indicate that parents—in particular mothers, if I look back at the telephone calls that I have had—have had concerns about their child's possible learning difficulties and have raised the issue, on a number of occasions, with the school. It was only the result of the basic skills test undertaken by their child, either in year three or in year five, which clearly indicated that the child was performing in the lowest skill band level of all students.

Parents were then able to take up the issue with the department and say, 'I have been raising this issue for a long time. I have indicated my concern. So far the response has been, "Don't worry too much, it's developmental delay. Your child will catch up with the other students further down the track".' Now parents have been placed in a position of some strength and are able to discuss the issue with the department and the particular school and indicate that it is not only their concern but an independent, objective assessment of literacy and numeracy performance. They are then able to sit down with the school and the department and say, 'What are you going to do to help me in terms of the literacy and numeracy performance of my child?'

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: The Hon. Terry Roberts interjects with a very important question: it indicates that he is not aware of what the Government is doing. Let me tell him what the Government is doing in relation to that most important area. In the area of speech pathology, by this year the Government will have increased the number of speech pathology services by some 72 per cent. The Government increased, in its first budget in 1994, the number of speech pathologist salaries by six; and this year the Government is increasing that by a further 12 salaries. For the benefit of the Hon. Terry Roberts, that will be a 72 per cent increase in the level of speech pathology services provided—

The Hon. T.G. Roberts: Pretty low starting point.

The Hon. R.I. LUCAS: Yes, it was a very low starting point because it was the starting point left to us by the Labor Government. Out of the mouths of babes comes a most

important interjection. It was a very low starting point because we inherited a very low starting point from the previous Labor Government and the previous Minister for Education. There has not been—

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: Yes. The shadow Minister is very quiet: but that was an important and honest interjection from the Hon. Terry Roberts in relation to speech pathology—contrasting sharply with interjections from other Labor members. This Government has not reduced, at any stage of its three and a bit years in government, the level of speech pathology services: it has increased the level of service, as I said, by six salaries in its first budget and now it has provided an additional 12 salaries—an increase of 72 per cent from a very low base left to the Government by the previous Labor Government and previous Labor Ministers of Education.

Also, I am delighted to respond to the Hon. Terry Roberts' interjection in relation to support for learning difficulties. Parents have said to the Government, 'We are delighted that for the first time you are prepared to take on the leadership of the Teachers Union, and that you are prepared to discard the antiquated and outdated policies of Labor Administrations of the past which opposed assessment in the testing: but what are you going to do when you get the information?' That is the important point. As I have indicated on a number of occasions, we are not education voyeurs: we are not interested in just looking at the problem and doing nothing about it. We want to pour in additional resources to schools to provide assistance to teachers and schools in tackling these problems.

Last year the Government provided $2 million in cash grants. This year it will provide $3 million and next year it will provide $4 million in cash grants to schools to fund their early assistance action plans to help students with learning difficulties and also to provide extra help to students who are identified with learning difficulties as a result of the basic skills test.

So, the Government is not just collecting the information and looking at it. For the first time we are providing to schools targeted assistance which they can use on SSOs, special ed. teachers, training and development conference time or whatever to provide early intervention programs for students with learning difficulties.

Again, in response to the Hon. Terry Roberts's interjection, I am delighted that the Government this year will be providing $4.25 million. Next year it will be providing $9.25 million to schools for extra help for students with disabilities and for extra help for students with severe learning difficulties.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Just a few, but I thank those Labor members who are suffering from learning difficulties because it does assist us in Question Time in getting a message across not only to members but also to the people of South Australia. As I said, $9.25 million will be provided next year to provide that extra help for all those young students on negotiated curriculum plans in schools who have been struggling. We acknowledge the demand and need for extra help. We have struggled to provide that, and we are delighted that this year and next year that extra assistance will be provided.

Finally, the Hon. Terry Roberts raised the question of extra help for students with learning difficulties, and I want to indicate that this year the Government will be providing not only that additional help about which I have been talking but an additional $18 million this year for flexible staffing—something called flexible initiatives resourcing. That will allow schools, principals and local school communities to make their own decisions about their own priorities in terms of how they spend that $18 million.

Our biggest secondary schools will have the equivalent of almost four full-time equivalent teaching positions available to them. Of course, the smaller primary and secondary schools will not have as much as that. I acknowledge that, but that is the level or quantum of additional resource that we are providing. It can be used at their discretion. If they decide that particular remedial programs or extra programs and assistance for students with learning difficulties are the schools' chief priority, then all that flexible resourcing can be provided on extra SSOs, extra special education teachers, extra classroom teachers or extra training and development.

In fact, they can use it in a targeted way. It is not the Government's wish that it be used to pad out unnecessarily the administrative component of school administration. We would like to see the use of the extra flexible staffing and resourcing in these important areas of providing extra help for students with learning difficulties.

Members interjecting:

The Hon. R.I. LUCAS: There was one other issue about which I should advise the Hon. Mr Roberts as a result of his interjection. I am reminded that last year the Government established the Learning Difficulties Support Team under the leadership of Anne Bayetto, with a lot of experience in terms of providing seminars and training and development through SPELD, which is a terrific organisation providing help for students with learning difficulties. That support team is being swamped—I am sure the Hon. Mr Roberts will be delighted to know—with inquiries from schools, staff and parents looking for additional assistance in terms of techniques and ways in which classroom teachers can tackle the important issues of educating children with learning difficulties. Given that time is short this afternoon, I do not want to take up too much of Question Time, but there are another 10—

The Hon. Anne Levy: You would never dream of doing that!

The Hon. R.I. LUCAS: Exactly! I acknowledge the Hon. Anne Levy's comment and thank her for her honesty.

The Hon. K.T. Griffin: Very perceptive.

The Hon. R.I. LUCAS: Very perceptive and very honest. Because I take that approach, I will state that the Government has taken about 10 other specific initiatives in relation to providing extra help for students with learning difficulties. However, as I said, I will not take up Question Time to list those 10, although I am tempted to do so. Because I know the Hon. Terry Roberts is obviously interested in this area, I invite him to ask a further supplementary question or question by interjection or otherwise or correspond if he wishes, and I shall be delighted to provide that additional information for the honourable member to share with his colleagues.

The Hon. BERNICE PFITZNER: I desire to ask a supplementary question. With regard to the basic skills test, which is a screening test, will the Minister tell us whether his staff have looked at the rates of false positive and false negative results because, with any screening test, this can be expected?

The Hon. R.I. LUCAS: I thank the honourable member for her question because, again, it is an important one. I can advise the honourable member that some preliminary work has been done in relation to this issue. As the honourable member has indicated, if one were to rely solely on one

particular screening test, the notion of either false positives or false negatives can be an important issue.

The advice we are providing to our schools and school teachers is that the basic skills test is one element of a total assessment package. We rely to a very large degree on the expertise of our teachers and staff within our schools in terms of the evaluations and assessments that they take. Nevertheless, we argue passionately that at least a second opinion should be provided to parents by way of the basic skills test.

I can advise the honourable member that our best protection is that we continue that process of using the basic skills test as one element of a total assessment and evaluation package. Nevertheless, it is an important issue and we will continue to look and see what information we can provide and, if there is anything further that I can provide to the honourable member, I will do so.

Members interjecting:

The Hon. R.I. LUCAS: I am reminded by interjection from my colleague, the Hon. Angus Redford, that I did not really nail home the issue of the Labor Party policy in relation to basic skills testing. I did by way of introductory comment, before the interjection of the Hon. Terry Roberts, indicate—

Members interjecting:

The Hon. R.I. LUCAS: I am not going to do that. You do not know what I am about to say.

The Hon. T.G. CAMERON: I rise on a point of order, Mr President: it does not matter what the Minister is about to say: it is repetition. He has already told us that he just said it earlier in his speech.

The PRESIDENT: There is no point of order.

The Hon. R.I. LUCAS: The Hon. Terry Cameron has some skills, but certainly they are not in terms of knowing what I am about to say. I was about to say that I was not going to repeat what I said earlier, which was in relation to the past policy of the Labor Party. The Hon. Angus Redford rightfully reminded me about this matter in his question whether there was any indication about what the Labor Party policy might be in the unfortunate circumstance for the people of South Australia that the Labor Opposition was ever to be elected again to the government of South Australia, and particularly at the coming election.

When one looks at the education policy document, one sees that it is clear that this Labor Opposition, led by the Hon. Mike Rann and supported by the education spokesperson, will not continue with basic skills test for year 3 and year 5 students in South Australia. They have had three years. They have been challenged about their support for basic skills testing. They have opposed it every day in Opposition through the education spokesperson. They have opposed it and indicated that they will not continue the basic skills test should they be elected to government.

The people of South Australia and those 80 per cent of parents who support the basic skills test must bear in mind that, should the Labor Party be elected, those basic skills tests—those independent second opinions—will be abolished by the Labor Party if it is ever elected to government, and that would be a tragedy.

BUS SERVICES, NORTHERN

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport questions concerning inner northern bus routes and the impact on passengers in the city of Adelaide.

Leave granted.

The Hon. T.G. CAMERON: While the Minister for Transport has been busy gaining her bus licence in recent weeks, some serious and potentially dangerous problems have arisen in the public transport sector. Since Monday 13 January passengers who use inner northern bus routes serviced by Serco have had to get off at city bus stops and wait for up to 10 minutes before connecting with TransAdelaide buses if they wish to continue their journey to the other side of the city.

Before the inner-north routes were outsourced to Serco, TransAdelaide buses simply continued through Adelaide onto other suburbs, but now terminate in the city. The changes are an inconvenience for passengers and potentially dangerous for city school students. Not only are elderly passengers left waiting in the heat, cold and rain but also school children—some as young as five years—will be forced to wait at potentially dangerous city bus stops or walk for up to a kilometre to get to school.

Members interjecting:

The PRESIDENT: Order! The Minister for Transport will have an opportunity to answer the question.

The Hon. T.G. CAMERON: My office has received calls from parents concerned that their children would be left stranded on busy city streets while waiting for connecting buses. For example, a student attending Gilles Street Primary School who catches the 209 Serco bus from Ingle Farm will now have to wait 10 minutes at Victoria Square to catch the connecting 203 TransAdelaide service to South Terrace. A lot can happen in 10 minutes.

This debacle has also dramatically increased the number of buses that travel to and from and in and around the city. Buses are now queuing all the way from Elder Park up King William Street. How long, Minister, before they reach the Town Hall? The Minister has turned the road facing one of the loveliest parks in Adelaide into a bus parking station—not exactly conducive to tourism.

At a recent Adelaide City Council meeting members expressed their anger over King William Road's being used as a layover point for buses to park between drivers' rounds. Alderman Bob Angove likened the situation to the city becoming one big bus park.

A 1996 Passenger Transport Board submission paper warned that, unless TransAdelaide won future tenders for inner suburban areas, it would not be possible to maintain through-city bus route linking. The Minister knew this, but did nothing about it. Considering that the Minister ignored the advice of the PTB, because she insisted that Serco have the contract, it would be interesting to know what advice her old mate Mike Wilson has given her now on how to fix up the mess. My questions to the Minister are:

1. Was she advised by the PTB that, by awarding the inner-north contract to Serco, passengers would be required to change buses in the city, leaving them waiting at bus stops?

2. In view of the Government's election promise to improve services and now that the Minister has a bus licence, will the first route she tries be in the inner north, where she can personally explain to angry passengers how their services have been improved by making them disembark in the city to wait for connecting buses?

The PRESIDENT: That was a prepared question. There is no need for it to contain opinion. I can understand a slip of the tongue when a question is asked off the cuff, but I cannot do so when it involves a prepared question. There was considerable opinion in that question. That is contrary to

Standing Orders, and I ask honourable members not to include opinion in their questions.

The Hon. DIANA LAIDLAW: It is interesting to know where to start with the beat-up suggestions and accusations—possibly designed to get a headline but not to do anything of benefit to public transport—as outlined in the shadow Minister's explanation and questions. He knows, but perhaps is like his Labor Leader in the other place and does not want to acknowledge the truth and certainly does not mind distorting the truth in any situation. He knows as well as I know—and he has had that confirmed many times—that I do not make the decisions in terms of evaluation or awarding of contracts for public transport services. Had the honourable member been in the Parliament at that time he would know that I specifically ensured that this matter was in the Bill, and the former shadow Minister (Hon. Barbara Wiese) and the Hon. Sandra Kanck and I were one, as was the Parliament, in ensuring that the Minister was not involved in the evaluation or the awarding of these contracts.

An independent committee was established to report to the Passenger Transport Board. It was headed by the former Auditor-General, Mr Tom Sheridan. I bet that the honourable member would not take up the suggestion in terms of referring his concerns about the evaluation process to Mr Sheridan. Certainly I will do so. Mr Sheridan, as a respected auditor and former Auditor-General, will take some exception to the inferences and statements made by the honourable member.

I was presented with a proposition that Serco be awarded the inner-north contract, and I accepted that evaluation panel recommendation, which had been endorsed by the board. I did so because there were not only savings for taxpayers but also major improvements to people in the inner-north area and matters that the honourable member has deliberately chosen to ignore. They include, in response to public demand, extensions of the route 292 services to the Ingle Farm shopping centre, new inter-peak services from Valley View to Modbury centre, a peak period link from Gepps Cross terminus to Dry Creek station to facilitate travel by train and bus between outer and northern suburbs, and a taxi call service after 9 p.m. which was an innovation introduced by Serco and which has been taken up by other operators and has been well received by customers generally.

There is also the diversion of a service through Enfield, again to improve access in terms of popular demand. I have also received calls from individuals who live in the inner north suburbs. Some have rung to ask for explanations for the change; I have talked them through, and there is a general acceptance. I understand that some people would be inconvenienced by this change in operation. We believed that it would be a small number. We know, for instance, that about 3 per cent of customers at any given time when TransAdelaide was operating the services would go from one side of the city to the next. Some of those 3 per cent of people at any stage when travelling would have to change services, but we saw that the improvements generally, on advice from the evaluation committee and the PTB, far outweighed the inconvenience which I regret has occurred for a small number of our passengers. It is certainly obvious from the patronage records that patronage has not been affected but has increased in the few weeks since Serco took over those services.

The Hon. A.J. Redford: What happened when Labor was in power?

The Hon. DIANA LAIDLAW: We found that there was a continuing and repeated decline of some 30.3 million passengers over the 10 years up until the Liberal Party came to government. I am pleased to report that in all contracted areas at 1 January there was a 2.24 per cent increase overall in terms of the number of journeys.

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: No, it did not happen under Labor and we are slowly but surely—

The Hon. P. Holloway interjecting:

The Hon. DIANA LAIDLAW: They are all contracted areas now. We have not stopped the process. In the contracted areas there is a steady increase.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: No, you have misunderstood again or perhaps you are deliberately distorting. The process has never been in trouble. I advised TransAdelaide, after discussion with the PTB, that the PTB would be involved in the negotiated tender if the savings and other route services were not improved, as we anticipated the service area would have gone to competitive tender. The unions and TransAdelaide accepted and rose to that challenge and the contract was accordingly awarded to it.

I also indicate that the Adelaide City Council staff have been negotiating with the Passenger Transport Board in relation to the issue that I think the Hon. Mr Weatherill raised at an earlier stage about the turnaround of buses in Pennington Terrace. We have been seeking to have the turnaround outside the Victor Richardson gates of Adelaide Oval. Progress has not been as fast as anybody wanted and therefore, because we must respect employees' rest time, a temporary lay-over point has been arranged in King William Street. It is not satisfactory by any means. Discussions are continuing between Adelaide City Council and the PTB to make better and more permanent arrangements. I apologise for the present inconvenience caused to passengers and to the honourable member for his interrupted views across Torrens Lake.

The statement that children at bus stops for five to 10 minutes are in a potentially dangerous situation is outrageous. That danger is not present during that period. Many people are in the city during daylight hours. If members opposite want to turn away people permanently from public transport and generate a fear campaign, that is your choice, but there is no sound base for it and I will not be any part of a campaign to scare more people away from public transport. I am doing everything in my power, as are my colleagues, to make public transport far more attractive, reliable, frequent and affordable to ensure that more people use public transport services.

JUVENILE JUSTICE STATISTICS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question about the Juvenile Justice Advisory Committee report.

Leave granted.

The Hon. R.D. LAWSON: The annual report of the Juvenile Justice Advisory Committee for the year ended 30 June 1996 was tabled today by the Attorney-General. The report is most informative. In the section 'Juveniles admitted into custody', it is stated that the number of admissions to custody in 1995-96 was lower than that recorded in 1994-95. However, the average daily occupancy figures indicate a different trend. The report notes:

It seems then that, although fewer youths were actually admitted to the centres in 1995-96 than in the previous year, each youth spent longer in custody.

In the same section it is indicated that the number of youths held in the State's two training centres at the end of the financial year 1996 was significantly more than the number in detention in 1995. In the section headed 'Police cautioning', it is noted that, in 1995-96, 3 798 informal cautions were issued by police which was some 1 100 or 30 per cent fewer than the previous year. These informal cautions are for trivial offences issued by any police officer. Formal cautions can only be issued by cautioning officers (police sergeants) and can only be issued to the youth in the presence of his or her parents or guardians and can require the youth to enter into an undertaking such as to apologise to the victim or pay compensation. In the year under review, there were 3 121 formal cautions administered by the police. However, the report does not indicate the number of formal cautions issued in the previous year because of a change in statistical figures. My questions to the Attorney-General are:

1. Will he give an explanation for the fact that the number of informal cautions issued by police to youths decreased by 30 per cent in the past year?

2. Will he indicate the trend in relation to the issuing of formal cautions; is it going up or down?

3. Will he obtain a report on the effectiveness of those undertakings and, in particular, compliance with them?

4. In relation to the trends for juveniles admitted to custody, will he explain why, although fewer youths were actually admitted to the centres in 1995-96, each youth was spending longer in custody?

5. Will he explain why the number of youths serving detention orders increased substantially at the end of 1996?

The Hon. K.T. GRIFFIN: The encouraging aspect of the report was that about 1 200 fewer cases were recorded in 1995-96 than in 1994-95 which represents an 8 per cent decrease. As I said to the press today, whilst one can take some comfort from that and be pleased by the trend, if one relies too heavily upon statistics one will find that next year they may go up and then that has to be equally defended. I take some comfort from the fact that there is a downward trend which we hope will continue.

In terms of informal and formal cautions by police, the Juvenile Justice Review which was released late last year found that rather than, as the select committee had believed would happen, a significant number (I think 30 per cent) going to youth conference and 10 per cent going to court, with 60 per cent being dealt with by police caution, a smaller percentage of matters were dealt with by family conference and more matters were going to the youth court. In fact, the number of matters going to police caution were about as predicted by the committee. In fact, in 1995-96 just over 50 per cent of matters were dealt with by police either formally or informally by way of caution. There was a fall in the percentage of matters going to a family conference—10.6 per cent in 1995-96 compared with 11.3 per cent the previous year. There was quite a significant jump in the number of matters which went to the youth court—29.3 per cent up to 34.9 per cent. In terms of informal cautions, the percentage of those also went down from 33 per cent to 27.7 per cent, but formal police cautions actually went up from 22.1 per cent in 1994-95 to 22.7 per cent in 1995-96.

One of the things we are seeking to do as a result of the Juvenile Justice Review is to identify why more matters are not being dealt with formally or informally by way of police caution, but more particularly why there is not a larger proportion of matters going to family conferences. It is a matter of concern that, in this system, we should be looking more and more to bring victims and offenders face to face, so that the offenders get a better appreciation of the consequences of their action. But, in fact, that is not happening so readily. Matters are going straight to the youth court.

In terms of the formal cautions, as I have indicated, there is an upward trend, but one cannot really make any more categorical assertions about it than indicate that trend. In terms of the effectiveness of undertakings and the level of compliance, I can deal with that in respect of the family conferences because during that year 1 587 young people attended a family conference. All but 16 of these resulted in a successful conference, meaning that agreement regarding an appropriate outcome was reached. More than half (that is, 56.6 per cent) of those who attended a conference had only one offence alleged against them.

As I have indicated, whilst we believe that this system is a good system and all the information coming out of the reviews indicate that it is well received and is successful, there are several areas that do need some further attention. In terms of the youths admitted to custody, I do not know the reasons why fewer were admitted but for longer periods. I will endeavour to obtain some information about that but, quite obviously, it may relate to issues such as the seriousness of the offending. It may relate to a greater number of young offenders who were repeat offenders and a variety of other reasons, but I will endeavour to obtain some information about that.

If there are other matters which the honourable member raised and in respect of which information has been sought and I have omitted to deal with them, I undertake to have them examined and to bring back appropriate replies.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 November. Page 405.)

The Hon. BERNICE PFITZNER: In my brief contribution to this debate, I wish to refer to the substitution of section 113 under the heading 'Misleading advertising'. The proposal in the substitution of section 113 is to amend the Electoral Act 1985 to provide, first, where the Electoral Commissioner is satisfied that the electoral advertisement is inaccurate or misleading, the person who authorised, authored or published the advertisement should withdraw the advertisement from further publication; secondly, where the Electoral Commissioner satisfies a court that an offence of misleading advertising has been committed, the court shall, in addition to imposing any other penalty, require the person found guilty of the offence to publish a retraction of the inaccuracy or misrepresentation in the media by which the advertisement was published; and, thirdly, where the Electoral Commissioner satisfies a court that an offence of misleading advertising has been committed, an injunction from further publication may be granted by the court.

I am fully supportive of this increased restraint and penalty as I have had experience with misleading and

inaccurate material provided by Mr M. Atkinson, member for Spence, with regard to the Social Development Committee's report on prostitution. I raised that issue in detail on 5 November 1996 during Question Time, and I would like to further reiterate and summarise the inaccurate information provided by the member for Spence on the prostitution report of the Social Development Committee. The honourable member has put it in a very inaccurate response and I would like to quote some examples of this.

The proposed new prostitution laws are not solely an initiative of the Liberal Party. They are also supported by the Hon. Terry Cameron, MLC (ALP) and the Hon. Sandra Kanck, MLC (Democrats). It has been incorrectly claimed that brothels will be moved away from the eastern suburbs and that red light districts will be established in Hindmarsh, Thebarton, Torrensville and Mile End. This is completely untrue. The proposed new laws will not allow brothels in residential areas but they will be allowed in industrial and commercial areas if local council zoning permits in any suburb. The draft legislation does not allow red light districts to be created. Furthermore—

The Hon. T.G. Roberts interjecting:

The Hon. BERNICE PFITZNER: As I said, it will be in non-residential areas in any suburb. The ALP also claims that brothels in industrial and commercial zones may encroach on residences in those areas. This claim is refuted by the fact that the proposed new laws will ensure that brothels in these zones must be at least 100 metres from any residence.

So, these are some examples of misleading and inaccurate statements. However, it is most unfortunate that a penalty for misleading and inaccurate material cannot be applied to political material until an election is called or the writs are issued. I also think the penalty of $1 250 for a natural person and $10 000 for a body corporate is too lenient. This should be more in the region of $10 000 and $50 000 respectively. However, I will abide by my colleagues' recommended penalty. I support the Bill.

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

CRIMINAL LAW CONSOLIDATION (SELF DEFENCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 February. Page 838.)

The Hon. R.D. LAWSON: On a previous occasion I was outlining to the Council some of the incidents which had occurred in the community and which had given rise to disquiet about the operation of the rules relating to self-defence. I mentioned the case of Mr Leon Hutton who was charged with, I think, unlawfully discharging a weapon in circumstances where most members of the community would have regarded his actions as completely justified. There was an instance in Western Australia where a truck driver driving a load of beer was attacked by a group of people who commenced to steal beer from the back of his truck. He eventually discharged a firearm in the belief that he was defending himself, and he was charged with an offence. That resulted in a public outcry.

In 1989, during the election in this State, a considerable issue was raised on self-defence. The Liberal Opposition at that time proposed that the law relating to self-defence be reviewed. By 1990, there was ferment in the community reflected by the fact that petitions signed by 40 000 persons were tabled in this Council. The Liberal Opposition introduced a Bill on the subject in September 1990. However, before that time the Government of the day had appointed a select committee under the Chairmanship of Mr Terry Groom. Other members of the committee were: Mr Roger Goldsworthy, Mr Martyn Evans, Mrs Colleen Hutchison and Mrs Dorothy Kotz. That select committee produced a report, which recommended legislative action. Attached to the report was a Bill in the form which the committee recommended. The proposed Bill was fairly short. It dealt with general principles of criminal liability and touched upon matters such as the effect of intoxication and death and injury resulting from reckless driving.

The Bill proposed by the select committee was introduced in largely the same terms by the then Attorney (Hon. Chris Sumner). That Bill was subjected to strong criticism from the Criminal Law Committee of the Law Society. It was also strongly criticised by the Hon. Andrew Wells Q.C. who, by that stage, had retired from the Supreme Court Bench. It is perhaps unfortunate that a lengthy report from Mr Wells was not received by the committee until the very last moment owing to some misunderstanding. The criticisms of the Bill by that judge were quite trenchant, but in his own words he put his pen where his mouth was and submitted a Bill which he considered would more appropriately address the issues which had arisen.

The Government Bill was introduced in April 1991. I do not think it was debated on that occasion, but it was restored to the Notice Paper in August that year. The Bill was subjected to some debate in this Chamber. I have studied those debates. Some of them ranged over matters which, upon reflection, were not terribly enlightening. For example, the Bill contained the suggestion that an accused person must demonstrate a genuine belief. Some members, notably the Hon. Ian Gilfillan, considered that it was inappropriate to qualify the word 'belief' by an expression such as 'genuine'. In fact, this language had been used by the courts in a number of cases and legal tests. Notwithstanding the fact that it had been so used, a fairly strong position was expressed in this Chamber. It could not be resolved short of a deadlock conference. It required the deletion of the word 'qualified'. In the end, the Government insisted upon the Bill largely in the form in which it had been introduced, and Act No. 68 of 1991 was the result. That Act introduced our current law on self-defence. That law is contained in section 15 of the Criminal Law Consolidation Act.

By today's standards, that section is not terribly long: it occupies about one page of the statute. It is expressed in deceptively simple language. It must be borne in mind that the intention of the Parliament was that the defence of self-defence would be available to any person who on a subjective test defended him or herself when holding a genuine belief that the amount of force used was necessary and reasonable. The subject of excessive self-defence was dealt with in section 15(2), and the rule which would reduce a conviction from murder to manslaughter where excessive self-defence was used was embodied in our statute.

Notwithstanding the fact that the Parliament had a fairly clear intention in a general sense of what it wanted, this section has not been satisfactory in its operation. One of the difficulties about self-defence is that the community tends to think of householders defending personal property from criminal assaults and transgressions. The rules about self-

defence apply in many other circumstances. The most common circumstance in which it occurs is where there is an assault. As any reader of the statistics relating to the criminal law would know, assaults of various kinds represent the largest sector of violent crimes. It applies in other circumstances as well. It does not apply only in those dramatic circumstances where a householder is defending him or herself.

Take the simple case of *Branson v. The South Australian Police* (a decision of the Supreme Court in 1993). This case concerned the principal of a primary school. The principal and another teacher were attempting to break up a fight between students in the middle of the school oval. One student was restrained by the principal by putting him on the ground and holding his legs down with his knee. The principal said that he did this because the student was kicking uncontrollably.

The father of the child witnessed the event. He rushed on to the oval, pushed the principal off his son, shoved the principal violently to the ground saying things like, 'No-one touches my son and gets away with it.' The father went on swearing and shouting at the principal and shoved him about six times. The father was convicted in the Magistrates Court of assaulting the principal. The magistrate said that he was satisfied that the defendant did not believe that it was necessary to protect his son against unlawful force.

However, the father appealed to the Supreme Court. That appeal was heard by Justice Prior, and His Honour was critical of the magistrate's reasoning. The judge said that the accused was entitled to be acquitted because the prosecution had not excluded as a reasonable possibility that the accused genuinely believed the need to use force, whether he believed the force to be necessary and reasonable. So, the appeal was allowed. The judge said he was not satisfied that the magistrate had addressed his mind fully to all the implications of the section 15 defence.

The significance of this decision for the present purposes is that, in that simple case, the magistrate was not able to comprehend the full ramifications of section 15 and apply it to the circumstances of the case before him—and it was a fairly simple, factual situation. What chance, then, would a jury have of understanding a section if a legally trained, qualified and highly experienced magistrate was unable to?

I next refer the Council to the case of *R. v. Gillman*, which was a decision of the Court of Criminal Appeal in this State. The judgment of the court was given by Justice Mohr, and Justices Debelle and Nyland concurred in His Honour's finding. This was an appeal against conviction. It was alleged that the trial judge had not correctly directed the jury as to the significance of the distinction existing between subparagraphs (a) and (b) of section 15(2). It is unnecessary to go into the facts, but the significant part, from the present point of view, is the criticism of the judge who gave the judgment in the Court of Criminal Appeal, which was as follows:

> In my opinion, the section as drafted is completely unworkable and should be repealed, and either redrafted in a way to make it clear what is intended or repealed to allow the common law principals set out in subsection (2)(a) of the section to operate.

The judge continued:

> I do not criticise the way in which the learned trial judge attempted to rationalise the section as, in my opinion, he faced an impossible task.

Given that this is an important matter, that it is a matter in which there is great public concern, that this Parliament appointed a select committee which made a recommendation as recently as 1991 and the Parliament had introduced a new section into the Act, we now find, in 1994, a judge of the Supreme Court saying that the section is completely unworkable and should be repealed and redrafted. Faced with criticism of that kind, it is clear that an appropriate legislative response is required.

There have been other cases in the courts, and some cases of so-called 'home invasion' which did not reach the courts but which created great public notoriety (the Attorney mentioned them in his second reading explanation). It is extraordinary, when one consults the leading text on criminal law in South Australia, by Judge Lunn, to read the commentary on section 15—this section so recently introduced by this Parliament for the purpose of clarifying the law.

It refers to what I regard as one of the most extraordinary principles: the court last year, in the case of *R. v. Harris*, laid down that it is permissible to give to the jury a copy of this section—which Justice Mohr described as completely unworkable and completely unfathomable and which the magistrate in the case of *Branson* was unable to apply—to work out for itself. What an extraordinary rule! The whole of our criminal procedure is based upon the fact that the judge gives a clear and concise direction to the jury to assist them. Now the court is saying that it authorises judges to hand juries—lay people—a copy of this complex and difficult section to work it out for themselves. What an extraordinary admission of the inappropriateness of this case.

On the concept of what is a genuine belief of an accused person, Judge Lunn refers to the case of *McCarty v. (SA) Police*, an unreported decision of Justice Lander in May 1996. The essence of this decision can be encapsulated in the following:

> If there's a reasonable possibility that the defendant acted in self-defence, the test is whether the prosecution has excluded, as a reasonable possibility, that the defendant genuinely believed that he needed to use force and that he genuinely believed that the force he used was necessary and reasonable to defend himself.

A direction of that kind can often occupy a judge in an explanation that takes many pages of transcript to describe. The cases on this subject show, I regret to say, that this Parliament, when it enacted section 15, did not solve the problems but, rather, created more problems and has made it a section which is unworkable and which cries out for immediate resolution.

There is a very great difficulty in any Parliament seeking to put into statutory language, into the strictures of a statute, provisions of this kind. The common law rules, which everybody says were reasonably well understood, were generalised principles. When language is put into the strictures of a statutory enactment the focus becomes the words of the enactment itself, not the underlying philosophy or principle, the court is relieved of the obligation to look at principle and is required to examine the particular section of the legislation. It is for that reason that I approach this amendment with some trepidation. I am anxious to see that, in embracing these amendments and a new section, we do not create other problems because the Parliament, with the best will in the world, had sought in the 1991 amendments to effect reform.

The general underlying philosophy was accepted on all sides and there does not appear to have been any real debate about the principle. There was a belief that it was entirely appropriate for there to be a subjective test and that persons seeking to defend themselves should not be subjected to objective tests. However, notwithstanding the unanimity of

philosophical view, the words ultimately used have not served their purpose. This has increased costs and time and has meant that appeal courts have had to spend much time and effort, to say nothing of expense, in resolving difficult issues, but they simply have not been able to resolve the issues.

It is unfortunate that the Opposition should have adopted the attitude reflected in the second reading contribution of the Leader of the Opposition in this place. The Leader said that the most significant problem with this Bill is that the current law is being changed from a subjective belief to an objective test. The suggestion contained in the Leader's speech seems to me to be misguided. For example, the Leader said:

> . . . if we impose a completely objective test to the behaviour of a person accused of killing in a situation where they have been threatened, then injustice can arise.

She went on to state:

> On balance, the Opposition would rather that the law gave more weight to the subjective belief of accused persons.

It seems to me that these concerns about the current measure are misguided but, more particularly, are mischievous. As I understand and read the Bill, it is not the intention to remove subjective elements from the test. It is a great pity that the Leader did not suggest some other solution to the problem. No alternative is offered by the Opposition, and the Opposition spokesman on these matters in another place, the member for Spence, has been making a great number of mischief-making statements, suggesting that the Government is seeking to remove subjective elements from self defence as he goes about the community and the talk-back radio shows. It is interesting to note that, given the trenchant criticism of the court, there is no suggestion from the Opposition as to the way in which the legislation can be improved—nothing positive, nothing helpful, only mischief making and attempted political point scoring.

The Bill does introduce some elements that are not in the existing legislation. The concepts of 'defensive purpose' and 'reasonably proportionate to the threat' are new concepts introduced into the statute, but they are not new concepts in the law. The present sections divide the law relating to self defence into two segments. First, clause 2, proposed section 15, deals with acts directed at the defence of life, bodily integrity or liberty, and proposed section 15A is a separate section dealing with the defence of property.

I think one of the difficulties of the previous legislation was that it amalgamated those concepts in a way that led to some misunderstanding. I look forward to the Committee stage of the debate. I commend the Attorney for introducing the Bill. He says it has been the subject of a good deal of discussion with the judges and the legal profession. The Bill is a considerable improvement on an extremely unsatisfactory and difficult situation. I support the second reading.

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

LAND ACQUISITION (RIGHT OF REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 618.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading with some reservations, which we would like to have answered before the Bill proceeds to Committee. The Opposition notes that this Bill provides a right of review going to the Minister in the event of a citizen objecting to a land acquisition. The difficulty with the Bill is the exclusion of judicial review of the Minister's decision. Any Bill in which Parliament expressly excludes the right of judicial review must be treated cautiously.

In speaking to the Bill the Attorney stated that there was a concern relating to a lack of review mechanism for landowners. Is this an issue that has been raised with the Attorney by constituents? Can the Attorney provide us with any real life examples of where parties have been disadvantaged because they could not go to the relevant Minister for a formal review? Do not aggrieved parties lobby the Minister under the current land acquisition regime if they are not happy with a response from the inquiring authority? If the Attorney concedes that there is currently the potential for a degree of political intervention in the land acquisition process through directions given to the statutory authority concerned, why is there a need for this to be formalised in legislation?

In speculating as to the Government's reasons for introducing this Bill, we can only wonder whether the Government is planning any land acquisitions between now and the next election which might somehow be facilitated by the review process set out in the Bill. Is the Attorney aware of any such projects? To raise this issue is not merely political point scoring: unfortunately, this Government has shown itself capable of subverting the will of Parliament, for example, in respect of the establishment of private prisons.

The Attorney would be aware that judicial review is presently available in limited circumstances if a landowner is unhappy with their land being acquired. For example, if this statutory authority goes beyond the power given to it, the courts can provide a remedy to the landowner. The same applies if the acquiring authority seeks to take more land than actually required for the purpose stated in the acquisition notice.

We would therefore ask whether the Attorney intends, or whether he has at least considered, that existing common law rights to judicial review in respect of the acquiring authority's decision will be taken away by the statutory provision of an alternative review mechanism from which judicial review is expressly excluded.

Despite the fact that we have consulted with the Property Committee of the Law Society, among others (and the Law Society has not voiced any objections), the Opposition remains concerned about the need for this Bill and the implications of the proposed reform. We support the second reading but will carefully consider the Attorney's answers before proceeding further with the Bill.

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

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

A quorum having been formed:

SELECT COMMITTEE ON A PROPOSED SALE OF LAND AT CARRICK HILL

Adjourned debate on motion of Hon. Diana Laidlaw:

That the report be noted.

(Continued from 4 February. Page 797.)

The Hon. A.J. REDFORD: In rising to support this motion, I wish to thank all my colleagues on this select committee. The committee was ably chaired by the Minister for Transport (Hon. Diana Laidlaw). I believe that the Hons Anne Levy, Paolo Nocella and Sandra Kanck approached the problems with which the select committee had to deal with an open and fair mind. At the end of the day, having listened to all the evidence, we came to our conclusion. I might say that, during the course of the select committee, we did not just accept at face value propositions and evidence put to us.

We thoroughly tested and searched all the evidence given to the select committee from time to time. It was only at the end of that process that all members of the committee unanimously arrived at the one and same decision. The process and the result is testimony to the fact that the parliamentary committees system has a very valuable and important role to play. Indeed, on occasions it can be a very appropriate mechanism by which decisions can be arrived at; certainly that is the case in relation to Carrick Hill. I shall not refer to the recommendations or to the evidence, because they are clearly set out in the report.

However, I shall refer to one aspect, that is, the future management of Carrick Hill. My comments are directed towards the form of management for Carrick Hill in the future. In that sense we received evidence from Mr Hill-Ling, a person I had never met prior to this select committee. Having met him, having heard his evidence and having asked what I thought were some difficult questions, I was very impressed with him as a man in relation to his achievements and in relation to his dedication and vision for the future of Carrick Hill.

In considering the future management of Carrick Hill I hope that Mr Hill-Ling, who has a passion for Carrick Hill, is given an important responsibility in that respect. Certainly, he has the skills and, in my judgment, the strong desire to see Carrick Hill succeed where it has not succeeded before. I know that we considered the model of the History Trust as to whether it should be the future body to manage Carrick Hill, and I see some merit in that. There are other options, and I hope the Minister will explore all options before arriving at a model of management. I hope that they will be given the appropriate amount of resources to allow them to make Carrick Hill successful.

Finally, I refer to the stakeholders in relation to Carrick Hill. I know that Carrick Hill and the environment surrounding it is an important icon in South Australia. I know that, when important icons are discussed and considered, views become very passionate and strong. However, I was struck by the fact that, early in the piece, no-one wanted to change their position, take responsibility or be accountable in relation to how Carrick Hill should be run. Mitcham council felt that nothing should be done and that it should be carried on the way it is; but then Mitcham council is not responsible to the taxpayers of the whole of the State just as it is not responsible to ensure the integrity of the Treasury. In my view, it overlooked the very important and difficult job governments have in balancing the books.

I note that there was evidence from some nearby residents who felt that Carrick Hill should not conduct what they described as 'noisy outdoor functions' because it would destroy or disturb the peace and tranquillity of their neighbourhood. Those very same people also did not want Carrick Hill to sell off any land. I found that attitude disconcerting, to say the least. It seemed that these people wanted to have their cake and wanted to eat it as well. These same people did not indicate to their own council that perhaps the council ought to contribute to the funding of some of the losses that Carrick Hill is currently suffering. I was a little disappointed with their attitude. It was certainly not a constructive attitude. On the whole, most of the witnesses—other than those who fell into that category—were constructive and positive.

I thank the secretary to the committee, Chris Schwarz, and repeat my thanks and appreciation to my parliamentary colleagues, first, for their input and, secondly, for the manner in which we all approached this difficult issue. At the end of the day Parliament and the Minister have been the winners in this whole process. I commend the motion.

The Hon. J.C. IRWIN: I too am pleased to support the motion moved by the Minister for the Arts that the select committee report be noted. This includes the recommendations within the report. I note that the original motion to set up the select committee was reasonably simple, namely:

> (a) that, in accordance with the requirements of section 13 (5) of the Carrick Hill Trust Act 1985, a maximum of 11.34 hectares of the land comprised in Certificate of Title Register Books Volume 2 500 Folio 57 and 1718 Folio 159 (as shaded on the plan and laid on the table of this Council), be sold. . .
>
> (b) That a new trust fund be established to incorporate the net proceeds of the land sale and other external fund raising activities;

It continues, but I wanted to refer to those two terms of reference in particular. I note the recommendations proposed by the select committee in its report. Before I go through them, I congratulate the Minister and members of the select committee on the report and its recommendations. I will refer to those areas where I do not agree, but they are not far off from my thoughts. Of course, I did not have the advantage of being involved in the taking of the evidence, which I imagine was quite interesting. I have a couple of difficulties which I will explain to the Council.

It is a great achievement for the select committee process and this Parliament that we started with those terms of reference and finished up with the recommendations that have been tabled for noting. All those who gave evidence and those members of the committee who heard it should be congratulated, and they should feel proud of the process and the bipartisan way that this matter was handled.

All of the recommendations are better than the original proposal. I will refer to some of the recommendations. The first was that the sale of land as proposed in the Minister's motion not be approved. I totally support that recommendation. The second and third recommendations are:

> That the Government consider the merits of changing the administration and management arrangements for Carrick Hill by transferring responsibility, including land and buildings, to the History Trust of South Australia or such other body which has the established structure and expertise to effectively and efficiently administer, manage and promote Carrick Hill.

I will not comment on that other than to say that obviously the committee gave this a lot of thought. I do not know what other body could take on this responsibility if it is transferred by the Government following the select committee report. Nevertheless, I would hope that recommendations 2 and 3 come back for some consideration, rather than just being done off the cuff by the Minister. But that is for the final proposal. The third recommendation states that, if the responsibility for Carrick Hill is transferred to the History Trust of South Australia, the History Trust of South Australia Act should be amended to provide for the proper vesting of Carrick Hill land and the functions and powers of the Carrick Hill Trust, and that any land sales—which is the area I want to under-

line—beyond the land identified in recommendation 8 should continue to be subject to approval by both Houses of Parliament. I do not agree with that, but if it is approved I am not quite sure—and the Minister may be able to help me—what the processes are to put in place that dot point from recommendation 3. Recommendation 8 states:

> Within the shaded areas on the following map a maximum of 2.5 hectares to be available for sale under the above arrangements.

I understand that the committee is recommending that any sales beyond the 2.5 hectares identified by the recommendation should continue to be subject to the approval of both Houses of Parliament. I assume that Parliament has to put into place an arrangement for that to happen, but I am not quite sure of that process. I am pleased to acknowledge that at this stage there is no land approved to be sold, but that dot point is giving the go ahead to a sub-recommendation with reference to recommendation 8.

The next dot point advises the committee to appoint to an advisory committee nominees of the Friends of Carrick Hill and at least two people, appointed by the Minister, whose principal place of residency is in the vicinity of Carrick Hill. I think that is a good idea. The report also recommends the creation of a trust fund into which net proceeds of any land sales can be paid—and let us hope there do not have to be land sales to be paid into it—and they would be applied for the benefit of Carrick Hill. I assume that this is the body and the trust fund that can also receive donations from the public, from fundraising, etc. I would hope that, if there is ever set up in future, by the friends or the board that administers Carrick Hill, a body that was able to get tax free status, donations could be made as they are now to many areas, such as the Mawson exhibition at the Museum. There are many other areas where donations of money have been asked for and I understand have been reasonably generously forthcoming.

Recommendation 4 states that the Government requires by 31 January 1998, one year's time, the preparation of a long-term, 12 years, corporate plan for Carrick Hill, which plan is to be submitted to the Minister for approval. Putting all these recommendations together, I would say that the select committee has come up with a very well thought out and very neat package of proposals to achieve a certain aim. Recommendation 5 states that the corporate plan and corporate performance criteria and financial outcomes should be reviewed every three years, which is designed to reduce dependence on Government funding, with the criteria and outcomes to be prescribed by regulation. I am not sure how that will go or how far that needs to go but, again, it is part of the neat package.

Recommendation 6 provides that if, in the opinion of the Minister, the performance criteria and financial outcomes are not achieved in any three year period, legislation permits the Minister to authorise the sale of land identified in recommendation 8. That is where it ties back to the sub-recommendation under major recommendation 3. The Minister is to authorise the sale of land but subject to qualifications. I assume that the use of the words 'in the opinion of the Minister' is terminology for the broader Government; in other words, Cabinet would consider it before it went further. It may be down the track—and I might not be here—but it may be subject to a further select committee, anyway. The report continues:

> · that the Minister only authorise the sale of so much land as is reasonably necessary to meet the performance criteria and financial targets that have not been achieved during the relevant three-year period;
>
> · that the land in the western area (identified as Section A) be the first land released for sale; and
>
> · that land management conditions be imposed on any land sold to ensure that residential development on the land is of quality commensurate with the existing residential development in the area.

I will return shortly to the point I want to make about the accuracy of advice which goes to Minister. Recommendation 7 states:

> That the Minister be able to authorise the division of the land that is to be sold into allotments of a size specified in the authorisation.

That is a standard and acceptable recommendation. Recommendation 8 states:

> That within the shaded area of the following map, a maximum of 2.5 hectares be available for sale under the above arrangements.

In view of the work of two select committees which have looked at the sale of land at Carrick Hill, it would be a foolish Minister who would proceed to sell any land under recommendations 6, 7 and 8 without a great deal of public consultation. I have every confidence in this Minister and would expect that there would be a great deal of public consultation, even including another select committee.

The Hon. Diana Laidlaw: You say that but you have never sat on one.

The Hon. J.C. IRWIN: I was on the first select committee. However, one of the major witnesses, Mr Chris Legoe, had more time to appear before this select committee than he did last time. The performance indicators in the recommendations give a reason for the Minister to attempt to sell land at Carrick Hill. It is a neat package with many things fitting with each other, and I agree with and support the process but I hope it never comes to having to sell.

I have not read all the evidence that the select committee received although I have a great interest in it. However, I have had some very comprehensive notes from Mitcham Foothills Action Group, in particular Mr Chris Legoe, a nephew of Sir Edward and Lady Ursula Hayward who has a long and understandable interest in Carrick Hill. He tells me that since his retirement from the bench he has had far more time to devote to the defence of Carrick Hill.

The notes that he has provided cover a whole range of areas in short form—the purported statements by Sir Edward Hayward, the structural repairs, the environment and the sale of land—but I want to reflect on the building itself and the building audit. In support of setting up the select committee, the Minister said:

> The building audit conducted by Woodhead Firth Lee has identified as urgent over the next three to five years work estimated to cost $1.5 million to address structural problems with the foundations of Carrick Hill house, cracks in external and internal walls, poor fire protection and electrical systems, inadequate kitchen and toilet facilities, and ageing air conditioning.

Some of the detail of that is set out in the select committee report (pages 4 and 5) under the building audit. I must admit when I first heard that from the Minister, again declaring my interest in that my father was the architect, I was taken aback somewhat that the building was going to fall over. I thought that he was a pretty bad architect if, after 60 years, the building was going to fall down, which was the impression I got. I am not sure whether others gained that impression and that that was one of the reasons why so much needed to be done at a cost of $1.5 million at least. Admittedly, the Minister has set that out as being one of the major problems, but there are many other areas, such as fire protection, and that is understandable in a 60 year old house. That is the

problem with all heritage buildings that were built long before there was proper fire protection as we know it. Electrical systems that have been in the roof of the building for a long time need to be changed and updated. I assume that the kitchen and toilet facilities, although inadequate, would be a little better than when the building was used as a domestic house, but nevertheless with time and, hopefully, increased use, inadequate kitchen and toilet facilities and ageing air-conditioning need to be addressed. The first house probably did not have anything other than open windows as air-conditioning, which would probably have been quite efficient, but now everyone is so used to modern air-conditioning that it is understandable that that would add to the amount of money required.

I gained the impression from the Minister's second reading explanation that the condition of the house and the foundation was the big problem, but I have been made aware of other facts, and Mr Legoe's notes bring the following to my attention. In terms of the building audit, Mr R.S. Dally, architect, told the select committee that the building is in danger of collapsing. He said:

> . . . where the footings fail it is structural, and this is shown clearly at the west end of the building (see page 16 of paragraph 47)

Later Mr Daily said:

> What is not debatable is that there is a structural problem (see page 16 paragraph 50).

In paragraph 52 he was asked:

> Are the foundations moving?'

His answer was:

> At the western end, yes. With reactive clay, they will move.

Further, Mr Legoe's submission stated:

> I submit Mr Fargher's report to me dated 28 August and marked 'B'. I refer in particular to paragraph 6 of that report where Mr Fargher says, 'I think the findings of the audit must be considered with great care.' In the light of this knowledge I ask the select committee to question whether Mr Dally had the expertise to make the statements quoted above about the foundations moving.

I guess there was plenty more toing-and-froing and arguing about that, and it is dangerous for me, without having read all the arguments and counter arguments, even to put my foot in there, but I will do so to the extent—and I said it earlier—that I am worried about the sort of expert opinion which is given to a Minister and on which she or he acts to have a whole range of things happening, and it has finished up with a select committee that has involved a long time and probably some cost to many people.

The Hon. Anne Levy: $12.50 a member.

The Hon. J.C. IRWIN: That is your cost, yes. Your other reward is that you know you have done a terrific job. I did not even think I would concentrate on the cost, but there are costs. It raises problems. I do not know whether Mr Dally came out of SACON or where, but now that SACON has disappeared that is probably a good idea. If Ministers are to be given this advice and they go off and do certain things, I hope that, following this example, they are careful in future.

The select committee heard advice one way or another from a Dr Patrick Lunn, and part of his submission was as follows:

> There is professional evidence that there is no urgent need for structural repairs to the building and the quoted figure of $1.5 million for repairs and capital improvements is grossly exaggerated.
>
> 1. The cracks as noted on the south western wall of the Manor House are due to seasonal soil movement in response to changes in soil moisture content. The distress is not related to any soil bearing failure or settlement of the Manor House. That is, there is no foundation failure.

This man is a Bachelor of Engineering (Hons), Ph.D and Fellow of the Institute of Engineers Australia. It is another opinion, certainly. There is a lot more I would like to cite because it adds to the argument in many ways, and I am sure the select committee members took note of that. Another point states:

> 3.The extent of distress of the Manor House is quite common to a lot of buildings or houses in Adelaide. To say that the Manor House has major structural problems or foundation failure would imply that most houses in Adelaide have foundation failure. This is certainly not the case. The suggestion that the Manor House is subsiding has no technical justification. The so-called 'major structural problem' or 'apparent failure at the west end of the building' has no substance.

I am pleased to hear that from another expert. The select committee did not opt for four or five experts to try to work out where the truth lay, but I am glad that the argument put forward by Mr Dally was countered forcefully by Dr Patrick Lunn on behalf of the Mitcham Foothills Action Group.

The Minister's second reading explanation referred to $1.5 million and a whole lot of other things apart from the house. The building audit (page 4 of the select committee report) indicates that Woodhead Firth Lee was engaged in December 1995 to audit the condition of the building. I am not sure when the auditors reported. I assume that the dot points in the report are theirs—the installation of impervious paving around the building, $60 000; the upgrading of stormwater drainage, $4 000; stabilisation of wall and repair cracks, 60 000; and repair of internal cracks, $16 000. That adds up to about $140 000, without any substantiation as to how the house would be rebuilt if it was subsiding and about to fall over.

If we add to that (as stated on page 5) $65 000 for air conditioning, $100 000 for electrical and $11 000 for fire protection, that totals another $176 000, bringing the total to $316 000. Other new works referred to—and this is slightly horrifying—include $100 000 for security, $121 000 for a disabled lift (and I will not comment on that because I probably should not say anything), $222 000 for the kitchens etc., and $160 000 for a new toilet, to a total of $603 000. These figures are all from the audit report. If one adds the $603 000 to the $316 000, the total is $919 000. The Minister says it is going to cost $1.5 million, so there is some other expenditure amounting to $581 000 that is not mentioned anywhere that I can find in the report. I probably have not read every appendix or addition, but that leaves $581 000 to be spent on something else, and I do not know what that is. I hope I have fairly covered what is laid out on pages 4 and 5.

I reiterate my pleasure with the report that was brought down at the end of last year. This is the first opportunity we have had to debate it. I appreciate that I am able to support the select committee report. I do not like all the recommendations, as I have indicated. I hope that recommendations 2 and 3 regarding management by the History Trust or some other body will come back to the Council so that we can better understand what the Minister has in mind for the running of the Carrick Hill Trust.

I am one who wishes it well, and I indicate publicly that I am waiting for something to happen so that I can make a contribution and put some money where my mouth is in order to help in a moderate and modest way what I consider to be a marvellous institution with respect to the buildings and surrounds, pristine as they are, without being cluttered up by nearby suburban buildings. I hope that what the Minister has

stated, with advice from the select committee, is a good formula that will work so well that we will not have to debate the matter again in the next 10 years. I support the motion.

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

ADJOURNMENT

At 4.32 p.m. the Council adjourned until Tuesday 11 February at 2.15 p.m.