LEGISLATIVE COUNCIL

Thursday 5 August 1999

The PRESIDENT (Hon. J.C. Irwin) took the Chair at 10 a.m. and read prayers.

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Treasurer): I move:

That Standing Orders be so far suspended as to enable petitions, the tabling of papers and Question Time to be taken into consideration at 2.15 p.m.

Motion carried.

CASINO (LICENCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 August. Page 1929.)

The Hon. NICK XENOPHON: This Bill allows a restructuring of the legislation, in a sense, to facilitate a sale of the Casino to a private operator. Apparently the Casino can now be sold to a private operator, but this Bill will make it clear that it can be sold to a public company, that there will not be impediments in its way. I have said that the issue is not so much whether a gambling entity is privately or publicly owned but the regulatory framework and the types of products on offer and the special impact they can have on the community. This Bill does allow for the privatisation of the Casino. It removes any impediments or hurdles in the way of privatisation. The concerns I have about this Bill are that it does not contain a sufficient regulatory framework to protect adequately the public interest in the context of impacting on the level of problem gambling and giving the public a direct say in some consumer protection provisions that ought to be included in the Bill. I will be moving a number of amendments, and I propose to speak in more detail about them later.

One of my principle concerns with this Bill relates to the approved licensing agreement. Clause 6 of the Bill seeks to amend section 16 of the principal Act which involves approved licensing agreements. My concern is that there is a distinct lack of accountability. If a deal is done, if there is an approved licensing agreement between the licensee and the Minister, it will be tabled and that degree of transparency is welcome. However, by the time it is tabled, the deal would have been done, and Parliament would not have been able to scrutinise that deal. That is why it is important that there is parliamentary scrutiny of any licensing agreement. We are dealing not with an ordinary product but with a major gambling institution—in many respects the State's largest gambling institution under one roof. It is important that there is a degree of significant parliamentary scrutiny. I have a number of reservations about the Bill. I propose to move a number of amendments during Committee and, no doubt, I will have an opportunity to ask the Treasurer a number of questions on the Bill.

The Hon. M.J. ELLIOTT: I will make my contribution brief. On a number of occasions in this place I have made it quite plain that I am not opposed to gambling, but I have also made it plain that the level of scrutiny and regulation of gambling in this State is inadequate. The Government had made an informal approach to me about the privatisation of a number of gambling assets, including the TAB, the Lotteries Commission etc., and the response I gave at that stage was, 'Look, on behalf of the Democrats, I am prepared to consider it, but I really do think it is about time the State bit the bullet and put a regulatory process in place first in relation to gambling right across the board.' The Government is already in a position to sell the Casino although, with the legislation as it stands, before the passage of this Bill, it would have some difficulty selling to a public company but it could sell relatively easily to a private buyer. The most likely private buyers will, I understand, most probably come out of Asia, and the economic meltdown that they have suffered has meant that interest from that sector has dropped away quite markedly at this point. There are a number of significant players among public companies that are likely to be interested.

So, while this is not a Bill about sale in a direct sense, I think indirectly it is because this really is the final facilitation for sale to a public company that is most likely to be the purchaser. In the absence of any sort of regulatory authority relating to gambling overall, I am concerned about the level of current regulation. I suppose that, so long as it is a publicly owned body, one can always seek to change the rules later, but it becomes increasingly difficult once we have privatised. So I would like to see things put right as much as possible now, rather than trying to tackle it again later on.

Many of my concerns have already been commented on by the Hon. Nick Xenophon. In particular, I am not happy with the concept of passing the legislation now and then having later an approved licensing agreement which may or may not give an adequate level of protection. The Casino Act in New South Wales by comparison has much more within the principal Act itself in terms of the way that a casino must behave.

I am keen for the Parliament to play a much greater role in setting the rules for the operation of a privately owned casino. In those circumstances, I indicate that the Democrats are supportive of the thrust of the amendments being moved by the Hon. Nick Xenophon and support the second reading.

The Hon. R.I. LUCAS (Treasurer): I thank honourable members for their contribution to this debate. As the Hon. Mr Elliott has indicated, in relation to the operations of the Casino or the sale thereof, the Government has been on the public record for at least a couple of years, I guess, so it is in a different category in that respect to the TAB and the Lotteries Commission. That is, at this stage the Government has still not announced a decision in relation to whether or not it intends to sell the TAB or the Lotteries Commission. The Government has undertaken scoping studies and has been doing work for a considerable time but has not announced a decision in relation to the TAB or the Lotteries Commission.

The Casino is different in that, at least for a couple of years, the Government has said that it does not think the taxpayers of South Australia ought to be in the business of running a casino. We do not see it as being a core business or expertise for the public sector. We see it more appropriately, in terms of managing the risk both up and down, being in the private sector. As members will know, I think in about late 1997 or early 1998 the Government announced a public process for the sale of the Casino. It was not something which had to come before the Parliament, and the Government did go through a process of endeavouring to sell the Casino. It was at the time of the Asian downturn. As I have indicated on a number of previous occasions, if it looks as though you will not get a reasonable return for the particular privatisation

process, it makes no sense to continue. And that was, indeed, the case in relation to the Casino: the indicative bids indicated that reasonable values would not be returned for the Casino. The view was that, if we held onto it for longer, value would return to the asset and that we would then put it in the marketplace again. And that is, indeed, the case.

Again, the Government is not seeking approval of the sale of the Casino either in this legislation or in anything else. So, members are not being asked to vote either for or against that particular proposition. They, of course, can express their views. This really is quite complex in some respects: there is a technical set of provisions to enable the sale process to proceed smoothly. There are a number of ways in which the process can proceed, but most of the other ways are obviously much more complicated, much more difficult and may well impact on the overall process in a number of different ways. As I said, the Government's position with respect to this asset, therefore, has been clear for quite some time.

In relation to the Hon. Mr Xenophon's amendments, the Government's position is that there are probably some aspects that may well be attractive to some members of the Government if they are conscience vote issues. Given that these amendments (through no fault of the Hon. Mr Xenophon, I might say) were presented to the Government only yesterday afternoon, they have come after the last joint Party meeting of the Government Party room and after the Cabinet meetings. There has been no opportunity to consider in some detail some of the provisions and the ramifications of some of these provisions for the Casino and then flow-on provisions, I suppose, for other gambling institutions.

There is one amendment that the honourable member has proposed—which I suspect would probably be a conscience vote in the Liberal Party but I am not yet clear with respect to that matter—which provides that the licensee should not permit an intoxicated person to gamble in the Casino. I understand that the honourable member said this comes from the New South Wales Casino Act. Obviously, I am not in a position to be able to comment on that in any detail. However, as I said, I suspect that in the Government there will be some people who, on a conscience vote, will be inclined to support this provision and there will be others who, like me, will want to know the ramifications of this. If you make it an offence, with a $10 000 penalty, for an intoxicated person to gamble in the Casino, why should it be any different for an intoxicated person to gamble on a gaming machine, for example, in a hotel or in a licensed club?

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Elliott asks whether the Hon. Mr Xenophon accepts that, and I suppose that is the obvious question. I think that the Hon. Mr Xenophon would, therefore, want to extend this provision in terms of equity to ensure that no licensee should permit any intoxicated person to gamble in any institution. And the Hon. Mr Elliott, without wishing to put words into his mouth—

The Hon. M.J. Elliott: You usually do.

The Hon. R.I. LUCAS: Only accurate ones. At this stage, I am not quite sure what his views are but I suspect that, by way of interest given his interjection, he is supportive of that notion—if that is not an unfair interpretation of his interjection. It would then be a question in relation to TAB outlets, and buying gambling products through Lotteries Commission outlets. Should any licensee of a Lotteries Commission outlet allow an intoxicated person to buy $2 000 worth of scratchy tickets or whatever?

The Hon. A.J. Redford: It's an offence to sell liquor to an intoxicated person.

The Hon. R.I. LUCAS: The Hon. Mr Redford may well support the provision as well.

The Hon. A.J. Redford: I'm thinking about it.

The Hon. R.I. LUCAS: He is thinking about it. As I said, members of the Government may well have a different view from mine in terms of the practicalities of this. I would invite the Hon. Mr Redford to discuss with his friends and colleagues in the AHA what their view on this provision might be.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Redford says they have agreed, and I guess his inference is that they may agree to this as well. Nevertheless, having been raised in the past 24 hours this may well be an issue that members such as the Hons Mr Xenophon, Mr Redford and others are interested in pursuing. As I said quite openly, on a conscience vote members of the Government might be sympathetic to this. This provision has been moved in the past 24 hours, and it would impact only on the licensee of the Casino and not on all the other providers of gambling products. The honourable member's position is that the only deal before us at the moment is the Casino; let us strike while it is here and we will talk about the others later. However, the Government has to deal with broader issues, not just the fact that the Casino is there at the moment. The Government will have to deal with a variety of other equity issues in relation to these issues.

I give that as only one example. I am sure that on closer examination members of the Government and I suspect also (the Hon. Mr Holloway and the committee can speak on behalf of the Labor Party) that some members of the Opposition may well be interested in exploring some of the provisions in the Hon. Mr Xenophon's package of amendments. I indicate that the Government will adopt a consistent position to the amendments during the Committee stage. That is, we will indicate our opposition to each of them, not on the basis of the substance of the argument at this stage but on the basis that we believe that some members of the Government Party might support some of these provisions on a conscience vote. At this stage we have not had an opportunity to canvass the issues with the Hon. Mr Xenophon and Government members. At this stage we will vote against them as a matter of form, and oppose them in Committee.

I would be disappointed if on that basis the Hon. Mr Xenophon would want to force a division. That will be a decision for him to take, but if he did force a division I would have to indicate as a matter of course that the Government opposes each amendment at this stage, because we have not had an opportunity thoroughly to consider the Hon. Mr Xenophon's suggested amendments. If the Hon. Mr Xenophon were to force a division, we would hope that he would not then use the fact that Government members were opposing the provisions as an indication of the final position of each Government member on the basis of having considered the merit or substance of the provisions. As I suggest, it is for the Hon. Mr Xenophon to take the decision as to whether he wants to force Government members and others to a division on each of these amendments during the Committee stage of the debate.

With that, I thank members for their indicated support for the second reading of the legislation, and I look forward to further support in Committee.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2.

The Hon. NICK XENOPHON: I move:

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

(ca) that the Adelaide Casino is managed and operated so as to minimise, as far as practicable, the adverse personal effects of gambling on persons who gamble at the Casino and their families; and

This amendment adds to the object clauses of the Casino in clause 2A of the Bill. The existing object clauses have a number of basic clauses in relation to the proper management and operation of the Casino: that those involved in the control and management are suitable persons; that gambling in the Casino is conducted fairly and honestly; and also that the interests of the State in relation to taxation of gambling revenue arising from the operation of the Adelaide Casino are properly protected. It is important that we add a further object clause, namely, the object clause that is the basis of this amendment, and that is to ensure that the Adelaide Casino is managed and operated so as to minimise, as far as practicable, the adverse personal effects of gambling on persons who gamble at the Casino and on their families.

We have seen from the report of the Social Development Committee of this Parliament on the impact of gambling, and more recently the sweeping and broad national report of the Productivity Commission, the devastating human toll of gambling on individuals—some 330 000 Australians—with a significant gambling problem, which translates in South Australian terms to some 24 800 South Australians, based on the Productivity Commission's figures for significant problem gambling in South Australia of 2.19 per cent.

This amendment will ensure that we are not simply talking about the business. The objects already in the Bill are important objects in terms of probity and in terms of the proper conduct of the Casino, but the issue of minimising the adverse impacts of gambling should be just as important, if not more important, if we are to treat gambling as an important social issue, if we are to treat the issue of problem gambling seriously and if we are to put people above considerations of simply gathering taxation or simple technical issues of how the Casino is managed. It is important that this amendment be supported.

The Hon. R.I. LUCAS: The Government's attitude to this and all remaining amendments is to vote against this as a matter of process at this stage on the basis that we have not yet had a opportunity to consider this as a Cabinet or in the Party room. If and when the honourable member brings this back by way of a private member's Bill in the next session we will obviously be in a position to consider it then, and I give an undertaking that the Government would not be setting about a process of unnecessarily delaying consideration of the honourable member's propositions during that period.

The Hon. P. HOLLOWAY: I indicate the Opposition's position on the three pages of amendments that the Hon. Mr Xenophon has on file. I congratulate Nick Xenophon on his diligence in these matters. I guess this Parliament needs an anti-gambling campaigner to keep us all honest on these issues.

The Opposition faces the same dilemma as the Government: these amendments have been produced only in about the past 24 hours and are quite comprehensive. As far as the ALP is concerned, a Caucus meeting would be necessary to determine whether or not these are matters of conscience. Some of those matters, such as clause 10, may well be determined under our Party processes to be conscience issues, because they do relate to the extent of gambling. Other matters such as the amendments to clause 12 with which we will deal later and which relate to disciplinary action, regulations, fines, and so on may well be determined not to be, but they are the processes that we need to go through under our Party structure.

Of course, with the huge volume of legislation that this place has considered in the past couple of weeks—and the past two weeks have been the busiest that I can recall in my time in this place—it is just not possible to have meetings on these sorts of issues to determine our position. In the normal course of events, if this Bill were being considered during the middle of the session, we would have the opportunity to adjourn it and to determine our position. That option is not really available to us now. If we were to adjourn the Bill at this stage, the technical provisions would not be passed into law. The Opposition has consistently supported those measures relating to the reconstruction of the ASER assets and those technical amendments concerning restructuring the Adelaide Casino.

Our dilemma is that if we adjourn this Bill now and consider those matters in Caucus at a later date, which would be when we resume in September, this measure will not pass into law until after that time. Facing that dilemma, the Opposition will not support the amendments at this stage, but that should not be taken in any way as opposition to the measure itself. As a Party we simply need the opportunity to determine whether or not these issues are conscience votes and the ramifications thereof.

Again, the Hon. Nick Xenophon has done the Parliament a service at least by raising these matters. I understand from my very brief discussions with the honourable member that some of these amendments mirror those in New South Wales. There may well be considerable merit in them, and we would welcome the opportunity to consider them at a later stage. Unfortunately, at this stage we really have no option but to oppose the amendments until our Party has the opportunity to give them full and proper consideration.

The Hon. M.J. ELLIOTT: I have a question and proposition for the Treasurer before I proceed further in relation to this clause. It appears to me that, despite the fact that there might be some divisions within both Government and Opposition on a range of these issues, even if they decide to declare it a conscience vote, there may be some sections—and I refer to the very amendment before us at the moment—that should not cause problems, given even five minutes opportunity to reflect.

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: Just let me finish. I have seen decisions made in this place perhaps not on the spur of the moment (although I have seen that as well), but it is not unprecedented for us to report progress on a debate and return to it later in the day. Personally—

The Hon. P. Holloway: We won't be holding a Party meeting today.

The Hon. M.J. ELLIOTT: Look, you don't have Party meetings in relation to every amendment on every issue.

The Hon. P. Holloway: We have to determine whether it is a conscience issue.

The Hon. M.J. ELLIOTT: It might not matter whether or not it is a conscience issue. I do not think any of these issues are particularly difficult, although I am prepared to accept that some people might find them to be contentious. I would have thought that, in terms of the very amendment before us right now, when you set up the objects of an Act for

the Casino that, whilst within the objects we consider matters such as its being properly managed, with gambling being conducted fairly and honestly and gambling revenue and interest to the State through our taxation being protected, you would minimise as far as practical the adverse personal effects of gambling on persons who gamble at the Casino and their families.

That, I think, is not an unreasonable question and I do not think that the Parties, generally speaking, would have great difficulty tackling that, conscience issue or not, whilst I am prepared to accept that some of these other issues will be seen as being more contentious and that we can at least construct an argument that we might have needed more time to consider them.

The Hon. R.I. LUCAS: This is National Kindness Week, and we have started off in a spirit of goodwill, trying to get through what will be a difficult day, so let me respond in kind. I understand the proposition that the Hon. Mr Elliott is putting, and it is true that on some issues Parties (both Government and Opposition) are in a position to respond quickly. I have to say that gambling is not one of the issues on which Governments or, I suspect, Oppositions are in a position to respond quickly. The Hon. Mr Elliott may be right and some of these amendments may well be inoffensive and able to be supported by Governments, Oppositions and other Parties.

However, I am indicating that the Government's position and, I understand, the Opposition's is that at this stage we intend not to support each of the amendments, and very quickly on each amendment we will say that we have not had a chance to consider the merits of this at this stage; we will do so when the honourable member brings back his mooted private members' Bill in the next session and we will give a commitment not to unnecessarily delay this Chamber's consideration of that piece of legislation. At this stage I understand the proposition but the Government's position and, I understand, the Opposition's position is that we intend to oppose, as a matter of process rather than a matter of substance or merit, each of these amendments today.

The Hon. T.G. CAMERON: SA First would like to place on the record that we will be supporting this amendment. You only have to read the amendment which provides:

> That the Adelaide Casino is managed and operated so as to minimise, as far as practicable, the adverse personal effects of gambling on persons who gamble at the Casino, and their families.

One would have thought that they should already be operating under that general code of practice.

The Hon. M.J. Elliott: I suspect they're not.

The Hon. T.G. CAMERON: I suspect that the Hon. Mr Elliott is right. The amendment before us is what I would consider to be the very minimum position. One would be extremely surprised if even the management of the Casino objected to the amendment. I understand that this is a situation that applies to casinos elsewhere in Australia, and one would have thought that the intent of the clause before us is something that the Casino, the Government and every member of this House should be more than happy to support.

I note the comments made by both the Hon. Michael Elliott and the Hon. Robert Lucas that we have not had sufficient time to consider all this. However, when one looks at this clause, one can only come to a conclusion that we would need only a few minutes to work out our position on it. I have no hesitation in supporting the amendment.

The Hon. M.J. ELLIOTT: Just for the record, I am not certain that when I was putting the proposition about delay until later I made plain that the Democrats do support this amendment.

The Hon. NICK XENOPHON: Further to the comments by the Treasurer in relation to the Government's considering this—and I will ask a similar question of the Hon. Paul Holloway in relation to the Opposition—is the Treasurer in a position to give an undertaking that the Government will have a position, whether it be a conscience position on all or some of the clauses, so that this matter can be dealt with expeditiously in the first two weeks of sitting in the new session?

The Hon. R.I. LUCAS: I cannot give a commitment in relation to the first two weeks. What I have said is that the Government will certainly not unnecessarily delay consideration in this Chamber of any private member's Bill that the member brings down. I note that the honourable member wants to have his gaming Bill concluded in the first two weeks of the next session. I have individually given a commitment and I understand that a number of others have given a commitment to speak in the first two weeks to progress his gaming regulation Bill in the first two weeks of the next session. These are all private members' provisions. The Government's commitment, and my commitment on behalf of the Government, is that we would certainly not unnecessarily delay consideration of whatever matters the honourable member sought to raise. It may be that, on the earlier matter, the issue of intoxication is not just something that relates to casinos: it may well relate to all providers of gambling products.

We need to see the scope and complexity of the honourable member's provisions. If he came back with something impacting on all hotels, PubTAB outlets, licensed clubs and approved Lotteries Commission outlets or the like, obviously the Opposition and the Government would have to have a period in which to consult with the industry if we got the Bill, for example, only on the first day: if it had been provided a month or six weeks prior to the start of the session, that would obviously assist the expedition of consideration of the Bill during this process. If it was introduced only at the death knell, it would impact on the terms of the process. I cannot give an absolute commitment as to two weeks and I would be surprised if anyone could. However, I can give a commitment that we will not unnecessarily delay, from the Government's viewpoint anyway, consideration of whatever provision the honourable member brings back to the Council.

The Hon. P. HOLLOWAY: The normal practice of the ALP is that, when legislation is introduced into this Parliament, be it private members' Bills or Government Bills, we take a position on it at the next Caucus meeting after that date. Of course, there are occasions when legislation is particularly detailed or complex and we may need further consultation. Certainly, it is our normal practice to take a view on that legislation and determine matters such as whether or not a conscience vote applies at the first meeting after the legislation is introduced. If it is necessary to seek further information, it might be delayed for one meeting, but I would not see any reason why we would not be able to deal with this in a reasonable time after its introduction.

The Hon. A.J. REDFORD: I wish to make one comment and I am sure it is shared by my Liberal colleagues. We have not had time to consider this measure. I must say that I am attracted to the proposition and I want to go on the record, if it does come back, as saying that I will give it serious consideration. If we are forced to make a decision on the run, generally speaking that decision is in the negative. That is the

way the world operates. I know that the Hon. Michael Elliott is very anxious to deal with this. I am sure that, if the Government had brought in a proposal such as this at short notice, the first member to howl about lack of notice, lack of reasonable time to consider, lack of consultation and lack of discussion would have been the Hon. Michael Elliott.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: Hear me out. That is not to say that the Government has had this Bill lying on the table for any considerable period. In fact, it has been with the cooperation of nearly all of us here that this Bill is being dealt with quickly. It is one of those issues that has been brought up and I congratulate the Hon. Nick Xenophon for raising it. It is worthy of detailed, careful and considered thought and reasoned debate, and I would hope that we did not rush into it.

One of the great things about the Legislative Council is that, when you look at its performance *vis-a-vis* that of the Lower House, we tend to produce a better legislative product than that which comes from the Lower House, and I would like to see that practice continue.

The Hon. Nick Xenophon: Does Ralph Clarke know that?

The Hon. A.J. REDFORD: I would have thought that Ralph Clarke would not know very much at all. Ralph is distracted by another agency of Government and I am sure that he does not have his focus entirely on the legislative process as we speak.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: The Hon. Terry Cameron's comment probably does not need any comment from me. But in this regard I think we all need to be mindful of the fact that the Legislative Council does, in my view—and I am sure I will get some unanimity on this assertion—present a better legislative product than the Lower House. The reason we do that is that we tend to make haste slowly. We tend to think things through more carefully than in the hothouse of the Government House, that is, the Lower House. So, I would like to go on record that I am attracted to the proposition; however, I will not support it because I would like to have time to consider it.

The Hon. Paul Holloway says that it will go to the Caucus, and I suspect that it will go to our Party room. I do not want to be held to this, but I suspect that there will be some debate about whether or not this is a conscience issue. I would like to think that it would be, and then the Hon. Nick Xenophon can deal with it in that more difficult environment, that is, he has to deal with each one of us individually rather than our respective Whips. But I just want to put that on record.

The Hon. NICK XENOPHON: I can indicate for the benefit of the Treasurer and the Hon. Paul Holloway that I will circulate private member's Bill amendments that are identical to these so that the Government and the Opposition, and indeed all other Parties here, can consider them, and I simply ask for the Treasurer to undertake that, if these are circulated within the next few days, his department at least will be able to look at the ramifications of these amendments from its point of view and to consider them accordingly.

The Hon. A.J. REDFORD: One thing I did overlook, and I think it ought to be acknowledged on the record, is that, of all the gambling agencies in terms of the delivery of a gambling product, the hotels have at least made some attempt to encourage responsible gambling with their Smart Play program and the like. The Casino—

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: I appreciate that. The Casino, the Lotteries Commission, the racing industry, and other associated gambling industries, have not done anything like what the hotel industry has done, and the hotel industry ought to be congratulated. I know that the Hon. Nick Xenophon is not in the business of congratulating the hotel industry, but it ought to be congratulated for at least taking those steps.

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: Smart Play came well before the Hon. Nick Xenophon did, to this place at least. So, I think there is need for some debate on the participation in other gambling codes in the amelioration of gambling. I know in New Zealand that the Gambling Rehabilitation Fund and various other programs associated with ameliorating gambling are actually funded on an agreed basis by all gambling codes. That is not happening in South Australia, and I think that is a very significant issue that this Parliament will have to address, I think, in the not too distant future. I certainly have some fairly strong views about ensuring that the other gambling codes participate and take up their share of responsibility in so far as this issue is concerned. That is another issue, in terms of what the Hon. Nick Xenophon is moving here today, that in my view needs to be considered in a detailed and careful fashion.

Amendment negatived; clause passed.

Clauses 3 to 5 passed.

Clause 6.

The Hon. NICK XENOPHON: I move:

Page 3—

Line 29—After 'amended' insert new paragraph as follows:

(a) by inserting in subsection (3)(c) 'and by a resolution of each House of Parliament' after 'Authority';

After line 33—Insert new paragraph as follows:

(c) by inserting in subsection (5) 'and by a resolution of each House of Parliament' after 'Authority'.

These amendments seek to ensure that any approved licensing agreement is approved by each House of Parliament. Essentially, they ensure that each House of Parliament has a chance to scrutinise any approved licensing agreement. This is an important issue. Once the Casino is sold from public hands and an agreement has been struck it will have very significant long-term ramifications. Given the public policy considerations in relation to the social and economic impact of gambling and given that the Casino, in many respects, is our biggest gambling house in this State, it is appropriate that Parliament scrutinises the agreement. It really is an important pinnacle of accountability in the context of this Bill.

The Hon. R.I. LUCAS: The Government opposes the amendments for some of the reasons given before. This is very similar to a debate we had in relation to electricity privatisation where at one stage it was proposed that important lease contracts or others come back to the Parliament to vote on one way or another. Ultimately, the Government's very strong view is that, if you are going through a sale process, that really has to be managed by the Executive arm of Government; and, to have a process where the key documents are or are not voted on by the Parliament, I would be very surprised if, after consideration of the provision, the Government would be in a position to support it. Nevertheless, as a matter of form and, as I indicated before, the Government will be opposing it at this stage.

The Hon. P. HOLLOWAY: We do not support the amendments.

The Hon. M.J. ELLIOTT: I indicate that the Democrats support this. Of course, it will not get up at this stage but I

indicate to the Government that there are other ways of achieving the goal. If the important rules can be put into another instrument, either by being inserted into the legislation or inserted into some form of regulation, we could probably circumvent these problems in that way. I think that there are alternatives but, in the absence of any alternative being offered, the Democrats will support these amendments.

Amendments negatived; clause passed.

Clauses 7 to 9 passed.

Clause 10.

The Hon. NICK XENOPHON: I move:

Page 4, after line 19—Insert new paragraph as follows:

(b) by inserting after subsection (1) the following subsections:

(1a) The approved systems and procedures for conducting approved games must—

(a) require—

(i) a copy of the rules of a particular game to be made available for inspection by a casino patron at his or her request; and

(ii) a copy of a summary of those rules to be provided to a casino patron at his or her request and;

(b) require information about gaming rules, payment of winning wages and the odds of winning for each wager to be prominently displayed in the casino; and

(c) subject to the approval of the Commissioner to the contrary, require—

(i) a sign indicating permissible minimum and maximum wagers for each game to be prominently displayed at the table or location where the game is played; and

(ii) if a minimum wager is to be raised, a sign indicating the new minimum and the proposed time of change to be displayed at the table or location where the game is played at least 20 minutes before the change.

Essentially, this amendment is based on the New South Wales Casino Control Act. I know that just because it comes from New South Wales it does not mean that it is necessarily good, as the Treasurer has said, but it indicates that there is a comprehensive legislative regime in place in New South Wales, that there are no issues and that it does appear to be a comprehensive piece of legislation. It simply mirrors what has occurred there. I would have thought that if it is good enough for the Star City Casino it is good enough for the Adelaide Casino.

It is not an onerous provision. It effectively gives a bit of very basic information about approved games to consumers. Given that many of the games are unique to the Casino in terms of roulette and various card games, I think that it is appropriate that it be moved in the context of this Bill.

The Hon. R.I. LUCAS: The Government opposes it for the reasons we outlined earlier.

The Hon. T.G. CAMERON: Subclause (1a)(b) provides:

require information about gaming rules, payment of winning wages—

I think that is supposed to be 'wagers'. Is that a typing error?

The Hon. NICK XENOPHON: I am indebted to the Hon. Terry Cameron, because people usually lose their wages at the Casino rather than win them. It is 'wagers'; I am indebted to the Hon. Terry Cameron. However, it does make the point that it is usually a case of losing wages at the Casino rather than winning them.

The Hon. T.G. CAMERON: I am not sure about my support on this clause. I am concerned about proposed new subsection (1a)(b) which relates to information about gaming rules and the payment of winning wagers; I understand that. How could 'the odds of winning for each wager to be prominently displayed' apply to poker machines?

The Hon. NICK XENOPHON: My understanding is this: in relation to gaming rules, that would apply to poker machines. In terms of the odds of winning each wager, that applies to games of chance such as roulette, card games and the like. My understanding—again based on the New South Wales Casino Control Act—is that it is intended to give punters or consumers some form of information as to games such as roulette and other games that are available at the Casino and that the issue of gaming rules would apply to poker machines specifically.

The Hon. T.G. CAMERON: I understand that the Hon. Nick Xenophon has said that that wording and the odds of winning for each wager would apply to all forms of gambling at the Casino other than poker machines. What would be the case with Keno? You could have a multiplicity of odds with Keno.

The Hon. NICK XENOPHON: My understanding with Keno is that there ought to be information as to the odds of winning—getting five out of five, 10 out of 10 or nine out of 10—so that could simply be done in terms of the phenomenal odds of winning Keno—getting five out of five or 10 out of 10 proportionately in terms of however many numbers you get out of 10 or whatever.

The Hon. T.G. CAMERON: I thank the Hon. Mr Nick Xenophon for his explanation. My original disposition was to oppose this clause on the basis that I could not see how it would apply to poker machines. Following the explanation he has given, I indicate SA First's support for this amendment.

The Hon. P. HOLLOWAY: For the reasons that I gave under clause 2, at this stage we do not support the clause.

The Hon. M.J. ELLIOTT: On behalf of the Democrats, I indicate support for this amendment. It is really about the notion of informed consent. It is something we use in many places—in stores where, for instance, for cigarettes there has to be a display indicating nicotine and tar levels, and those sorts of things—

The Hon. Nick Xenophon interjecting:

The Hon. M.J. ELLIOTT: Genetically modified foods; that's about to happen, too. In fact, there are a large number of products about which information is required to be provided, and the notion of informed consent makes this a very sensible amendment.

Amendment negatived; clause passed.

New clause 10A.

The Hon. NICK XENOPHON: I move:

After clause 10—Insert:

Insertion of part 4 division 5A

10A. The following division is inserted after division 5 of part 4 of the principal Act:

DIVISION 5A—INTOXICATION IN CASINO

Intoxication in Casino

42A. (1) The licensee must not permit an intoxicated person to gamble in the Casino.

Maximum penalty: $10 000.

(2) If in fact an intoxicated person gambled in the Casino, it will be presumed in the proceedings for an offence against subsection (1) that the licensee permitted the intoxicated person to do so unless it is proved that the licensee took all reasonable steps to prevent supply of liquor to intoxicated persons in the Casino and to prevent gambling by intoxicated persons in the Casino.

This amendment relates to intoxication in the Casino, prescribing that a licensee must not permit an intoxicated person to gamble in the Casino. Proposed new subclause (2) reflects section 163 of the New South Wales Casino Control Act. This is an important provision, because there is a growing body of research, including the results of research

into gambling studies, that there is a very clear link between levels of alcohol consumption and levels of gambling losses. Again, it goes to the issue of informed consent. I propose to refer to those studies when this amendment is brought back as a private member's Bill in due course. Effectively, it is about the Casino acting fairly and about ensuring that a person does not incur significant gambling losses as they cannot effectively make an informed choice because of levels of intoxication, especially in the context of the Casino providing alcohol or free drinks, as some gaming venues do. It is for that reason that I urge honourable members to at least consider this, if not now at a later stage.

The Hon. R.I. LUCAS: The Government opposes it for the reasons outlined earlier.

The Hon. M.J. ELLIOTT: On behalf of the Democrats I indicate support for this amendment. As another member noted earlier in the debate, licensed premises already have to make judgments about whether or not a person is intoxicated in terms of serving drinks, which is part of this, anyway. It is a judgment that these premises already have to make about their patrons. I do not believe it is a more onerous requirement than the one that exists. It applies not just to serving drinks, which is partly incorporated within this, but also, if you like, to serving the gambling product. It is a similar judgment, and there is no question that there is a strong link—for some people at least—between losses made and levels of intoxication. I recall reports prepared in quite early days of the gaming machines which stressed the value of having gaming machines fairly close to the bar, and the service of liquor does facilitate gambling: there is no question about it. Informed consent becomes an important part of decision making regarding intoxication.

The Hon. T.G. CAMERON: SA First will be supporting this amendment. It is my understanding that the South Australian Casino has two licences: a liquor licence and a casino licence. It already has clear obligations in relation to its liquor licence. As the Hon. Michael Elliott pointed out, under that provision there are strong obligations for the licensee. I would also point out that there is case law in relation to the role a publican may or may not play in dissuading a customer from getting drunk.

In relation to gambling, I just reiterate what the Hon. Michael Elliott has pointed out: the more you drink and the drunker you get, the less control you are likely to have over your gambling habits. I can recall, some 25 years ago long before I was involved in politics, being at an illegal casino in Sydney. The moment you walked into the place, they were pressing on you cognac, whisky and any other liquor that you might care to drink.

The Hon. Carmel Zollo: You probably looked like a big spender.

The Hon. T.G. CAMERON: If the Hon. Carmel Zollo knew me better, she would know I am not a big spender and that I rarely gamble. I know which side of the house the odds favour—and it is certainly not the punter.

The Hon. M.J. Elliott: Were the drinks okay?

The Hon. T.G. CAMERON: Yes, the drinks were okay; they kept them coming. I drank the drinks, but I did not gamble. But a mate that I was with got quite drunk and lost every penny he had on him. The only reason he went home was that I would not lend him any more money to gamble with. It was clear evidence to me that drinking to excess and gambling do not mix. So, I have no hesitation in supporting this provision, and it is probably a provision that could be looked at in relation to gaming machines.

The Hon. P. HOLLOWAY: For the reasons that I gave earlier, the Opposition does not support the amendment at this stage.

New clause negatived.

Clauses 11 and 12 passed.

New clause 12A.

The Hon. NICK XENOPHON: I move:

New clause, after clause 12—Insert:

Amendment of s.61—Disciplinary action

12A. Section 61 of the principal Act is amended by striking out from subsection (3)(b) '$100 000' and substituting '$1 million'.

The proposed new clause simply increases the maximum fine under section 61 of the principal act from $100 000 to $1 million. Given the amount of money involved at casinos, I would have thought that a maximum fine of $1 million would be more appropriate. The level of the fine is in keeping with other casino regulatory codes and Acts, and that is why I have moved it.

The Hon. R.I. LUCAS: The Government opposes the new clause, for the reasons outlined earlier.

The Hon. P. HOLLOWAY: The Opposition opposes the new clause, for the reasons given earlier.

The Hon. M.J. ELLIOTT: The Democrats support the new clause.

The Hon. T.G. CAMERON: SA First supports the new clause.

New clause negatived.

Clauses 13 to 15 passed.

New clause 16.

The Hon. NICK XENOPHON: I move:

New clause, after clause 15—Insert:

Amendment of s.72—Regulations

16. Section 72 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) In particular, the regulations may—

(a) impose restrictions on who may organise or promote inducements to individuals or groups of persons to take part in gambling at the casino;

(b) require the organiser or promoter of such inducements, or the licensee, to give the Authority advance notice and details of the proposed inducements;

(c) require contracts or agreements relating to such inducements to be in a form and contain provisions approved by the Authority;

(d) require the organiser or promoter of such inducements, or the licensee, to give participants or prospective participants specified information about the inducements;

(e) otherwise regulate or prohibit the offering of such inducements.

The proposed new clause relates to junkets and inducements at the Casino. It simply allows for regulations to be made to impose restrictions on the types of junkets offered, to give advance notice of the details of proposed inducements and the like. Again, this is based on the New South Wales Casino Control Act and, in the circumstances, it seems to be an appropriate amendment in the context of a casino that could well be privatised in the near future.

The Hon. R.I. LUCAS: The Government opposes the new clause, for the reasons outlined earlier.

The Hon. P. HOLLOWAY: The Opposition opposes the new clause.

The Hon. M.J. ELLIOTT: The Democrats support the new clause.

The Hon. T.G. CAMERON: SA First supports the new clause because of a concern that I have about the extraordinary lengths to which the Casino goes at times to attract people to its premises. I am not quite sure what the Hon. Nick Xenophon has in mind in relation to regulations but, as I

understand it, the new clause would merely provide for such regulations to be in place. I support the new clause.

New clause negatived.

The CHAIRMAN: For those who have been diligently following, we have a slight problem. At the end of the list of amendments there is, because it is a money clause, a suggested amendment—new clause 11A'. We have obviously gone past that, so I will ask the Hon. Mr Xenophon to move his amendment.

New clause 11A.

The Hon. NICK XENOPHON: I move:

New clause, after clause 11—Insert:

Amendment of s.51—Liability to casino duty

11A. Section 51 of the principal Act is amended by striking out subsection (3) and substituting the following subsection:

(3) The Treasurer must pay—

(a) 3% or $500 000, whichever is the greater, of the duty (and interest and penalties) received from the licensee in each year into an account at the Treasury to be used for the purposes of assisting persons adversely affected by gambling; and

(b) the balance of the duty (and interest and penalties) into the Consolidated Account.

This proposed new clause allows for the Casino to contribute to gamblers' rehabilitation in this State. I think it is anomalous that the Casino, the Lotteries Commission and the TAB do not contribute towards gamblers' rehabilitation. It also ensures that there ought to be an amount paid: 3 per cent of duty payable or $500 000, whichever is the greater. That is the basis for the amendment. It is anomalous that the Casino does not contribute towards gamblers' rehabilitation when, clearly, the Casino impacts on the level of problem gambling in the State.

I have a question of the Treasurer in relation to this matter and I will put it to him now for him to consider. I note from the appropriation papers the amount that the Casino has been paying in recent years towards the budget. Is it envisaged in the context of any privatisation that, as part of any agreement, the amount of duty payable will be reduced significantly? In other words, will it be the case that we are capitalising a future income stream, which will mean that we can expect a much lower level of duty in years to come, or is it anticipated that in any privatised model of casino operation there will still be a similar level of duty payable?

The Hon. R.I. LUCAS: The Government opposes the amendment, for the reasons outlined earlier. In response to the honourable member's question, my understanding is that the duty rate taxation regime is broadly the same as exists at the moment. I will have that checked, and if it is anything different to that I will correspond with the honourable member in the next couple of weeks.

The Hon. P. HOLLOWAY: The Opposition does not support the amendment at this stage, for the reasons given earlier. I think the complexities of this proposed new clause indicate why we need to go away and look at the implications of provisions such as this. So, we do not support it.

The Hon. M.J. ELLIOTT: The Democrats support the proposed new clause. Quite clearly, all gambling codes should have an obligation to contribute moneys which would be directly devoted to assisting those persons adversely affected by gambling, and the Democrats would support amendments to all the various gambling codes to establish this sort of arrangement.

The Hon. T.G. CAMERON: SA First supports the proposed new clause, but with some reservations. I am not sure whether 3 per cent or $500 000 is an appropriate figure. I can count, and this amendment will go down in a screaming heap. However, I would like to place on the record that the hotel industry, as I understand it, is the only body that contributes towards funds for problem gamblers. I support the statement made by the Hon. Michael Elliott that if it is good enough for one section of the gambling industry to contribute to that fund it should be good enough for all sections of the gambling industry to contribute to that fund—in particular, the Casino, which, as I understand it, has some 300 poker machines on site. At the very least, the Adelaide Casino should be required to contribute to the fund for its poker machines.

However, I am uncertain about the amount of the penalty that the Hon. Nick Xenophon is proposing. One would have thought that, if the Casino was being readied for sale, the prospective owners would need to have a clear idea about whether or not they will be required to contribute towards this fund. I do not believe that it would be a very satisfactory position if the Casino was sold and some three months later a new regulatory regime was brought into play. I suppose that, if I was a prospective purchaser, I would want to know where I was going on this issue. It seems to me that there is a wide body of support for the Casino to contribute to the fund. I urge the Government to resolve this issue one way or another before the Casino is sold.

New clause negatived.

Title passed.

Bill read a third time and passed.

LOCAL GOVERNMENT (ELECTIONS) BILL

Adjourned debate on second reading.

(Continued from 8 July. Page 1658.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank all members for their contributions to this debate. The Government proposes a small number of amendments which have become necessary since the Bill was considered in the other place. Most of these follow advice from the Crown Solicitor that the definition of 'elector' in clause 4 may not include groups of 'persons', so the Government proposes to clarify the matter by inserting 'body corporate or groups' in a number of places where 'person' or 'elector' currently appears. There is no change to the intent of any such provision.

I stress the importance in the scheme of the Bill of providing consistency of rules and administrative processes across the whole State. The independent review of the 1997 local government elections was strongly of the view that elector participation in such elections would be encouraged greatly if consistent practices were followed. For this reason, the Government proposes uniform postal voting, with limited exceptions possible in the case of non-metropolitan councils, with one consistent method of casting and counting votes. The Electoral Commissioner is to be the returning officer for all councils to set and maintain consistent standards of electoral administration.

I express my appreciation to the Hon. Carmel Zollo for stating the Opposition's support for these three planks of the Bill. The Government is aware of the proposals for voting to be compulsory. The Government's position in supporting voluntary voting as a matter of principle has been raised many times in this place. Voting has never been compulsory at local council elections, and there is nothing to suggest that the local government sector or the community at large wishes

to see any change in that practice. Any suggestion of compulsory voting in a postal voting setting would bring immense practical difficulties. It would also hold the prospect of considerable amounts of needless and, ultimately, ineffective expense.

Would this place want to approve a scheme of compulsory voting which might oblige the electoral authority to send hundreds of thousands of 'please explain' letters to everybody who for whatever reason failed to vote? I ask members to consider the clerical and managerial cost of assessing the responses, let alone sending out the letters in the first place. The chance of convincing a court beyond reasonable doubt that an elector had failed to vote when the defendant could say that he or she had posted back the ballot papers in a proper way is probably negligible and without realistic prospect of identifying and penalising those who do not vote. The whole matter could become an expensive waste of time, a nonsense.

The 'Robson rotation' method of preparing ballot papers being considered by the Australian Democrats, which may seem attractive in principle, will bring enormous practical difficulties, as the Hon. John Dawkins pointed out so effectively in his contribution. I suggest also that there would be the same outcome if a council were required to open at least one polling booth in its area. Effectively, most populous metropolitan councils and sparsely settled rural councils would be obliged to run two complete electoral processes in parallel—postal and polling booths—at major cost. Clearly, one polling booth would not suffice in councils such as Onkaparinga and Yorke Peninsula. At least half a dozen booths would need to be opened to give adequate coverage while still running a complete postal voting system.

I confirm that the provision requiring prior service of 12 months in order to be eligible to stand for the office of Lord Mayor, which had appeared in the consultation draft Bills, has been withdrawn by the Government at the last minute in the knowledge that the members of this Council and the other place had serious reservations about it. I urge all members to support the proposals set out in this Bill.

Bill read a second time.

In Committee.

Clause 1.

The Hon. DIANA LAIDLAW: I apologise to the Hon. Terry Cameron: I was not aware that he had not spoken to the second reading, nor that he wished to do so this morning. Clearly, I summed up before I should have. I apologise to the honourable member and hope that he will accept that apology and be prepared to make his contribution at this stage in the process.

The Hon. T.G. CAMERON: There is no need for the Minister to apologise but, since she has, I willingly accept. This Bill provides for the conduct of council elections and polls. In the second reading explanation the Minister stated that the principal aims of this Bill were to encourage greater community participation in council elections and to establish fair and consistent rules and procedures that are as simple as possible. That is a statement that every member of this Council would support. The Bill also provides for one standard system for casting and counting votes in council elections. These are aims that SA First fully supports in principle. As the level of Government closest to the people, local government increasingly plays an important role in the level and quality of services provided.

Decisions taken by councils, more than ever before, impact on the quality of life of South Australian citizens. That is why SA First believes that the election of council members should be scrupulously open and fair. Many of the provisions contained in this Bill are long overdue and will, I believe, enhance the integrity and probity of local government elections. We must facilitate a system that creates the opportunity for people from all walks of life to stand for local government. It was envisaged that local government would provide a mechanism that encourages community involvement and an avenue to communicate with the next tier of Government, that is, State Government. Therefore, it must be truly representative of that community. I will summarise the changes to the Act that are contained in the Bill.

Clause 7 provides for the situation whereby, if a candidate dies between the close of nominations and the conclusion of the election and the election is to fill one vacancy, the election fails. If two or more candidates die between the close of nominations and the election, the election will be taken to have failed, irrespective of how many vacancies exist. Clause 10 provides for the Electoral Commissioner to be the returning officer for all council elections. A council will be able to nominate a person who will be appointed by the Electoral Commissioner as a deputy returning officer if the Electoral Commissioner is satisfied that the person has sufficient training or expertise. Clause 13 provides for all election costs to be properly met by the councils.

Clause 17 provides that to be eligible to stand for election a person must be an Australian citizen or a prescribed person. A 'prescribed person' is now defined as one who has been an elected member after 5 May 1997, whereas before it was a person who has at any time before been a candidate for election in South Australia. Clause 17 also deletes the previous requirement that to be eligible to nominate for the position of mayor a person must have held office as a council member for at least 12 months. Clause 37 provides for all elections to be conducted by postal voting unless the returning officer is satisfied that traditionally high levels of voter participation in elections at polling booths have been achieved and the exclusive use of postal voting is unlikely to result in a significant increase in voter participation. This provision is available only to councils outside metropolitan Adelaide.

Clause 45 provides for a proportional representation system to be used by all councils as a method of voting. Clause 49 provides that a returning officer need not conduct a recount if he or she considers that there is no prospect that a recount would alter the result. Clause 62 is a new provision, making it unlawful to interfere with computer programs used by an electoral officer for the purpose of an election. Clauses 81 and 82 provide for the various matters that must be included in campaign donation returns, and will prevent a candidate receiving a gift of $500 or more if the identity of the person making the gift is unknown.

Consistent with SA First's aims of enabling South Australians to have a voice in their political affairs, my staff and I used a recent tour of country South Australia to consult as widely as possible with country councils on this Bill. Once again, I take the opportunity to thank the many councils that either made time to meet with me or sent in written submissions to my office. It is abundantly clear from the conversations that I had with members of country councils on the issues in the Bill, as on many others, that country South Australians have different concerns and views from members of city councils. Not only do they come to issues with a different perspective but they are affected by public policy differently. Overall, many regional councils I visited

recognise the need to mature for the future, and I believe that this Bill seeks to do that. It is apparent that councils can no longer afford to be constitutionally based back in the 1930s.

I give credit where credit is due, and I must state that in all the country councils I went to they gave credit to the Minister for what they considered to be a credible consultative process. Some of the concerns that were raised by country councils in relation to this Bill are as follows. Some councils argued that the mayoral position needs at least 12 months council experience to be familiar with regulatory processes, while some believe that the mayor should be elected from within elected members; others had the view that the mayoral position should be elected from the whole council area. Generally, country councils support the use of preferential voting in elections. Some thought that the numbers of councillors could be reduced and that there should be a clause in the Bill to cap the number of councillors.

There was some move for councils to have the right to choose their own returning officer, and also support for the *status quo* on the issue. In relation to the concept of compulsory voting in local government elections, I was not able to find elected councillors or council staff at any of the councils that I visited or consulted who support the introduction of compulsory voting for council elections here in South Australia. They raised the question of public funding, and views were also put to me in relation to extraordinary vacancies. As I have already stated, SA First is able to support most of what is contained in this Bill. It is long overdue and will bring the whole process for the election of councils into the twenty-first century.

Increasingly, local government plays an essential role in the provision of services for South Australians and is often the place of last resort for the less well off in our society. That is why it is so important that the election of local government is seen to be open, free and above reproach but also allows representation from across the board. In essence, it is a critical pillar of our system of democracy. South Australia First supports the second reading.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. DIANA LAIDLAW: I move:

Page 2, line 20—After 'person' insert:
, body corporate or group of persons

As I outlined in summing up the second reading debate, there are a few drafting amendments that the Government will be moving, and this is the first in that series. This amends the definition of 'elector', to clarify that this term extends to bodies corporate and groups of persons as the term is used in clause 14(1)(iii). This course has been recommended by the Crown Solicitor, and I note that the Australian Democrats have the same amendment on file.

The Hon. IAN GILFILLAN: As the Minister stated, I have on file identical amendments. This one is followed by a series that we can deal with expeditiously. I will not speak to them but support them as they are moved by the Minister.

The Hon. T.G. ROBERTS: As they are drafting amendments, the ALP will be supporting them.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 3, line 25—Leave out the note in this line.

This amendment is one of several which link to a common goal. I will take the vote on this amendment as a test case. It is difficult to track it back, but I can assure the Committee that it is essential to the drafting to have this amendment because it is relevant to the issue of postal voting. I will speak in general terms to it. Despite the emphasis on postal voting in the Bill, my amendment requires each council to have at least one polling place where votes can be cast in person. This initiative will require various consequential amendments.

The Bill prescribes postal voting as the exclusive method of conducting local government elections save that, in the schedule, it suggests that outside metropolitan Adelaide the returning officer may utilise polling places if he or she believes postal voting will not increase voter participation. I can see no reason to limit this provision to council areas outside metropolitan Adelaide. Why should polling booths be outlawed in the city and suburbs? If we wish to maximise voter participation, both postal voting and polling booths should be utilised. My new version of the schedule to this Bill and other consequential amendments will make it compulsory for each council district to have at least one place where polling booths are set up.

The question of whether to have any more than one polling place should be left to the discretion of the local returning officer of the district. I indicate to the Committee that I have had representations from people speaking for those from different ethnic backgrounds to English speaking Anglo Saxon and they are most strenuous in saying that it would be a lot easier and much appreciated if those people they represent had the opportunity to vote in a polling booth rather than just being restricted to postal voting. I indicate that this amendment will be an indicator to me as to what support there is in the Committee for this general intention.

If I am unsuccessful in this, I will not move the following consequential amendments, unless the Committee has something else in mind. That is the most satisfactory way to deal with it, and I will not try to identify where all the amendments would be significant, provided honourable members understand that this is the intention of the amendment. The intention of the amendment in its simplest terms is that every council would be obliged to have at least one physical polling booth so as to facilitate and provide for what is quite clearly a tangible requirement from a section of the electing population to have a physical polling booth in which to vote rather than having postal voting.

The Hon. T.G. ROBERTS: The Labor Party supports the honourable member's amendment.

The Hon. DIANA LAIDLAW: The Government strenuously opposes the amendment. I understand that the Local Government Association has responded to this amendment in the same way as the Government. We have one system, the postal voting system, and we should not operate two systems as proposed by the Hon. Mr Gilfillan in this amendment.

The Hon. Ian Gilfillan interjecting:

The Hon. DIANA LAIDLAW: They have to apply for an exemption and they have to prove in such instances that there has been high voter turnout. We also expect that applications for exemption will be rare because councils in country areas—and I am not sure about the Hon. Mr Cameron's experience in visiting councils—have found that the postal voting system has been generally effective not only in regard to cost but it has been easier to understand across the board if councils run the one system. What is proposed by the Australian Democrats is that there be at least one polling booth during council elections so that there is postal voting plus at least one polling booth.

In councils in country areas there could easily be an expectation that there would be many polling booths at some considerable expense to councils but that they would not be entirely effective in building or boosting voter turnout. It has been strongly contended from the councils, particularly during earlier 1997 feedback when all of these matters were reviewed, that, in terms of building voter turnout and interest and in explaining how the system works, it was easier to have one system to explain: universal postal voting was the system favoured for that purpose to ensure consistency of practice.

The Hon. Ian Gilfillan is right. The Government proposes that there should be an exemption if it is applied for, and it can be applied for only if there is a demonstration of high voter turnout, and it is accepted only on that basis. As I mentioned earlier, we believe that that will be a rare occurrence. We believe that the Democrat proposal will create uncertainly in that voters would be confronted by two systems and would not know necessarily which one will apply. I should highlight, too, that his explanation that some people from different cultural backgrounds, perhaps where English is a second language, may require assistance. I highlight that assistance is already provided through this legislation.

People who require such assistance in completing their postal voting papers can approach electoral officers under clauses 31 or 41 of the Bill. Therefore, the Democrat proposal in that sense adds little. The instance the honourable member gave of postal voting plus the booth system he proposes is undermined, I think, by the fact that assistance is already available and provided for in this Bill through electoral officers themselves if a voter seeks such assistance. Local councils generally, and certainly the Government, believe that, no matter how well intentioned this amendment, it will at best just add cost to councils as well as confusion to the electorate.

I have a note indicating that, under this amendment, voting at the nearly three yearly council periodic elections at a polling booth would close at 5 p.m. on the Saturday. Some people might mistakenly believe that that is the close of voting for everyone, whereas postal voting will not close until 12 noon on the next following business day as set out in clause 5. That is a further confusion that perhaps unwittingly the honourable member would add to the proposed voting system as outlined in the Bill; but, definitely in practice, it would be another confusing practice in addition to the real element of added expense to councils for no real gain. In fact, local councils and the Government believe that it would be a disadvantage because of the confusion that would arise from having two separate voting systems.

The Hon. T.G. ROBERTS: I can understand the Minister's position in indicating that it may cause some inconvenience to local councils in setting up booths, but I do not think it will cause confusion. I think it will make it easier. I congratulate the Government in that I think the whole Bill, in bringing in universal postal voting, is a major step forward. Perhaps the Minister might say that we should be grateful for that. We have a policy on compulsory voting, whether it be postal or booth voting. We have always had that, and I know the Government has always opposed that.

The Hon. Diana Laidlaw: So has local government.

The Hon. T.G. ROBERTS: And so has a section of the community, I suspect, which we tend to take into account when we make our decisions, even though other States have it and take it as a role and responsibility to have compulsory voting in their local government elections—Victoria for instance. We will be supporting the Democrats' position on the basis that we are putting together a new structure, a new form of voting, to increase participation, and certainly I think that on both sides of this House we can say that in many local government electorates throughout the State the returns have been abysmal—not poor but abysmal.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: Yes, but they have not had a history of postal voting.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I am not saying anything against postal voting because that is part of our policy as well. I suspect that most people will avail themselves of the postal vote rather than using the booth, but—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: I suspect that, as the systems evolve and as we move to compulsory voting, an analysis will be done by you in government and by us when we are in government on how to maximise the participation rates of people voting in local government. If we get the numbers up to a point by voluntary voting, using a combination of postal and booths, then the argument for compulsory voting for those who are opposed to it will be much stronger. You would be better off putting together a package where we can maximise the returns on voluntary voting and, if that does not work, then certainly future governments will have to make a consideration on whether the South Australian community needs to debate more fully the pros and cons of compulsory voting at a local government level, because the debate has not been carried into the community in any serious way by any of the major Parties.

The Hon. A.J. Redford: Rubbish!

The Hon. T.G. ROBERTS: It is a debate that raises its head from time to time, but if we are to transfer the powers, roles and responsibilities of State Government to local government, and if the budgets of local governments, through amalgamations—

The Hon. Diana Laidlaw: That seems to be based on a lot of ifs.

The Hon. T.G. ROBERTS: Well, there is an evolutionary process going on out there and a lot of change and a lot of the dust has not settled. I think we need to have a look at the amalgamation process, the turning of amalgamated bodies into regional development bodies, regional economic bodies, and the broader participation that, hopefully, that will bring. We have an evolved process, through the change that we have now and the changes that the Government is bringing in, that the Opposition applauds in relation to postal voting. We have been after it for a long time. But if we do not bring in the position in relation to booth voting then it may be that there is a percentage of people who will not be able to cast their vote. I am not sure whether it is a large or small percentage, but let us give it a try. If it is too inconvenient or too costly or is not effective, or if nobody uses the booths, then that is something that can be looked at further down the track.

The Hon. CAROLINE SCHAEFER: I served on a small country council at the time that it introduced postal voting. The percentage of people who returned a vote rose by 20 per cent in the first year and almost doubled in the second year. In the first year it was in fact an optional postal vote and there was a returning booth left open. We did that by allowing those who lived outside the town a postal vote or they could vote at the booth in the town. Even though they were in the town to play sport and so on, so few people used the booth that it was closed from then on. I suspect that that is fairly

typical of what would happen in country areas. It is very convenient to cast a postal vote and it is very expensive to keep a returning officer and a booth and to staff it for an entire day. I think the amendment as suggested is quite impractical and quite unnecessary.

The Hon. T.G. CAMERON: SA First did not walk into the Chamber today with a position in relation to the amendments that have been put forward by the Hon. Ian Gilfillan but, after having carefully listened to the debate, SA First will be supporting the Government's position in relation to this clause. There is no doubt that postal voting has seen a significant increase in the number of people participating in local government elections. Whilst I appreciate that under certain fairly strict conditions country councils are able to provide a polling booth, at the end of the day I understand that the Local Government Association and member councils are not supporting this proposition.

Whilst I have serious misgivings about the way the Local Government Association and the Adelaide City Council conduct their lobbying processes—and I will be much more circumspect the next time I deal with both those bodies—on this occasion I am persuaded by the arguments put forward by the Local Government Association. For the life of me I just cannot see how the Democrats' and the Australian Labor Party's proposition of introducing compulsory voting coupled with postal voting in a polling booth in each electorate is going to work.

I would have thought that the more we walked down the path of postal voting the more we are walking away from any concept of compulsory voting in local government. If you have compulsory voting and a complete system of postal voting and you are going to provide for penalties for people if they do not vote in local government then, as I understand, all someone would have to do is submit a statutory declaration stating that they posted a ballot paper and that Australia Post had lost it. I would expect that you would have tens and tens of thousands of statutory declarations pouring in.

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. CAMERON: Well, it would be. Under the old system of local government voting at polling booths we had situations where you would get turnouts of less than 5 per cent. At least under the system of postal voting participation has increased in local government. On balance, I believe that, to combine the two, would increase confusion about the voting processes. I believe it would be overly bureaucratic. I believe that it would impose unnecessary costs on councils, and I raise the question of how many people would go and exercise a vote in a polling booth, having received ballot papers by post. I suspect that there would be some.

Whilst there is merit in the argument that by having a single polling booth in the metropolitan councils it would make the system more democratic, I wonder how many people would completely reject a postal vote and would cast a vote at a polling booth? I concede there would be ratepayers who would do it, because I understand that there is the odd person who is suspicious of the postal voting system and who opts out of voting because that is the only choice that they have. On balance, considering the arguments that have been put, I am not persuaded to support the Democrats amendment at this point in time.

The Hon. T. CROTHERS: Just for the algebraic interest of calling for a vote, Mr Acting Chairman, I indicate that I, too, like the last speaker, SA First's Mr Terry Cameron, will be supporting the Government in this matter.

The Hon. IAN GILFILLAN: There has been a distortion of emphasis on this. I would like to repeat what I have said frequently: the Democrats thoroughly endorse and respect the significant contribution that postal voting has made to local government elections. Any portrayal that this amendment is diluting that or in some way challenging it is a failure to follow the logic of the amendment. In some ways I would say that it sinks into a silly debate.

Everyone here has postulated, 'We want to increase the participation in voting.' The Government and SA First are putting forward the argument that, by having a physical polling booth, it will in some way diminish significantly the number of people who will vote in total. There is absolutely no logic in that argument. Even if there was a small proportion of people who appreciated the ability to vote in a physical polling booth and who otherwise would be daunted by the process and would not vote, and if we are all dedicated to increasing the number of people who vote, even that small number of people would be precious enough to encourage. Hence the Government has included in its Bill clauses 31 and 41 to provide for special circumstances. It has conceded the logic of my argument in its own Bill.

How can you have a formal polling booth in an institution—it specifically sets up an institution under clause 31—so that the general public who want to use a physical polling booth can go trotting off to the institution? That is a nonsense. If the argument of the Government and SA First is so overpowering, why give a country council this particular measure? I do not object to having my amendment defeated on the basis of sound argument, but on the basis of nonsense I find it rather difficult to accept.

The Hon. DIANA LAIDLAW: You just cannot accept losing; that's your trouble I suspect. I will not dwell on this, but I think it is important to recognise that the fundamental difference is that we are providing councils in country areas with the option to have a booth and you are making it mandatory.

Members interjecting:

The Hon. DIANA LAIDLAW: At least one. I think we will move on.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: We don't believe in what you want. We are moving on.

The Hon. T.G. CAMERON: I want to take issue with the Hon. Ian Gilfillan. As has been pointed out, what applies in the country, as I understand it, is not mandatory. The councils have to decide for themselves that they want to have a polling booth, and I am not sure whether they have mobile polling booths for local government elections.

The Hon. T. Crothers: You mean for remote areas that might be disfranchised?

The Hon. T.G. CAMERON: For remote areas that might be disfranchised. As I understand it, it is the country council itself that has to make an application to have a polling booth. The Hon. Mr Gilfillan's proposition would mandate that all councils, both country and metropolitan, had to have a polling booth.

With respect, I think that, if anyone is arguing nonsense here, it is the Hon. Ian Gilfillan, because he wants to introduce a compulsory polling booth for every council, together with compulsory voting. It was interesting to note that the honourable member, whilst he does not have to, did not respond to my concerns about how compulsory voting will be linked with postal voting. But the honourable member has got up and said that our position is nonsense and it is

illogical, but I have not heard any argument from him to support those contentions.

I would argue that the position that has been put forward by the Democrats here is illogical, because the honourable member wants to compel all councils to have a polling booth, irrespective of whether or not they want one. I have sat in this Chamber for a number of years and have grown to have a healthy respect for the honourable member's notions on democracy, wanting to increase voter participation and getting people involved in the democratic process. But I am not sure the way to go about that is to compel councils. Some country councils might have already debated this issue time and again. They are the ones closest to their local communities and, on previous occasions, they might have rejected the argument for a polling booth. What the honourable member is saying is, 'Well, bugger that. I don't care what their views are on whether or not they want polling booths; they are going to have one whether they like it or not.' What is the logic of that?

The Hon. T. CROTHERS: I want to chime in a bit here, too. I think it is essential that country councils be given the absolute totality of flexibility. I am mindful, when I listen to the Hon. Ian Gilfillan, of the ancient Greek methodology of procuring democracy in their elections. They would get an amphora, a vase, and smash it.

The Hon. T.G. Roberts: Is that an amendment?

The Hon. T. CROTHERS: I wish you were an amendment so we could get rid of you by voting you down. They would smash the amphora and each electorate, as they came through the polling area, would be given a piece of it. The spare pieces would be kept in a box. To ensure that the election was absolutely democratic and fair, they would then piece together the amphora and, if one piece was missing, the election would be declared null and void.

That is the impact of the Gilfillan amendment in respect of some council electoral rolls in this State. If only one person is disfranchised, the amendment is a nonsense if one wants to talk about democracy. It is not accidental that at State and Federal Government levels there are mobile polling booths in the remote areas of our State in the Far North. But what if you have a mandatory centre for voting and you have a position that people want to cast a vote rather than use any postal system, as the honourable member suggested in part of his contribution, and they have to travel maybe 400 miles to the fixed polling booth? It is an amendment without total circularity in respect of democracy, because of what I have just said. It deserves to be condemned—and not just condemned mildly but roundly condemned—because of the inept rectitudinality that the mover of the amendment professes to embrace. He obviously has not thought the matter through with respect to people living in absolute remote rural areas in this State.

I had not intended to speak on this, Mr Acting Chairman, but I must confess that my democratic senses were becoming ever more heightened as I listened to the proponentry of supposed logic in the Hon. Mr Gilfillan's amendment—a man who I believe, as does the previous speaker, from SA First, is the epitome of logic in most of his contributions. I continue to believe that, but this time I think he has got it wrong.

The Hon. Ian Gilfillan: It's just a temporary aberration.

The Hon. T. CROTHERS: Just a mirage is it?

The Hon. T.G. ROBERTS: I feel I have to rise to defend my colleague for putting the amendment which I am supporting. I am not sure why they did not attack me, as well as the honourable member.

Members interjecting:

The CHAIRMAN: Order!

The Hon. T.G. ROBERTS: You'll have to read *Hansard*. The only logic I get out of the argument put by the two SA First members—

Members interjecting:

The Hon. T.G. ROBERTS: I am sorry; I withdraw that. I meant the one SA First member and the Independent Labour member. The only logic in their argument is that somehow or other booth voting is of less value than a postal vote. Somehow or other when you go to a booth—

The Hon. T.G. Cameron: No-one said that.

The Hon. T.G. ROBERTS: The logic of your argument is that, if you have to compulsorily set up booths, somehow or other that vote will be wasted. Somehow or other by giving people an option to vote in a booth means that, once they go into a booth, somehow or other their vote will disappear. With regard to the other piece of logic that the honourable member introduces, I am sure that the Jam Factory would be interested in the smashing of the vases, because it would probably end up with a lot of business.

The proposition that the Democrats put forward makes eminent sense. I cannot see how people can get worked up over additions to the democratic process to allow us to see whether we can maximise the vote in rural areas. I can understand the paranoia of the Liberal Party—reflected in the interjection made by the honourable member earlier—about our wanting compulsory voting and booth voting only. I can understand legislating for paranoia, but I cannot understand people supporting legislating for paranoia when it is not in their own policies.

The Hon. T.G. CAMERON: The Hons Terry Roberts and Ian Gilfillan remind me of a couple of people on a tandem bicycle, peddling like furry, but someone ought to point out to them that the chain is broken.

Amendment negatived; clause as amended passed.

Clause 5 passed.

Clause 6.

The Hon. DIANA LAIDLAW: I move:

Page 5, line 12—Leave out 'subsection (4)' and insert: subsection (6).

Amendment carried; clause as amended passed.

Clauses 7 and 8 passed.

Clause 9.

The Hon. IAN GILFILLAN: I move:

Page 6, lines 12 to 15—Leave out subclauses (1) and (2) and insert:

(1) Subject to this section, a poll may be held on any matter within a council's responsibilities, or as contemplated by the Local Government Act 1999.

(2) A council may hold a poll whenever the council considers that it is necessary, expedient or appropriate for a poll to be held.

(2a) Subject to this section, a council must hold a poll on petition if the following requirements are satisfied:

(a) the petition must be supported by at least 10 per cent of the electors for the area of the council (either by electors signing the petition personally or, in the case of a body corporate or group, by a nominee signing the petition on behalf of the body corporate or group);

(b) the petition must include the following particulars for each person signing the petition:

(i) the full name of the person; and

(ii) the place or residence or rateable property within the area of the council in respect of which the entitlement to be an elector arises; and

(iii) if the person is signing as the nominee of a body corporate or group—the name of the body corporate, or the name of the members of

the group or the name of the group (as the case requires); and

(iv) the date on which the person signs the petition;

(c) the petition must have a title and clearly state, in not more than 100 words, the proposition to be submitted to electors;

(d) the petition must be accompanied by a statement setting out in general terms the reason or reasons for the petition;

(e) the petition must comply with any requirement prescribed by the regulations;

(f) the petition must be accompanied by a fee of $500 (payable to the council).

(2b) Only persons who sign a petition within three months before the date of delivery of the petition to the council are to be taken into account for the purposes of subsection (2a)*(a)*.

(2c) If—

(a) a petition does not comply with the requirements of subsection (2a) (unless any non-compliance is trivial); or

(b) the proposition to be submitted to electors stated in a petition is clearly contrary to law,

the council may decline to hold a poll on the petition.

(2d) If a proposition to be submitted to electors stated in a petition contains defamatory material or deals with two or more subject—matters which are not directly or indirectly related—

(a) the council may alter the proposition so as to remove the defamatory material or to divide the proposition into two or more questions (as the case requires); or

(b) if there is no action that the council could reasonably take under paragraph *(a)* without making a substantial change to the proposition to be submitted to electors—the council may decline to hold a poll on the petition.

This amendment deals with councils holding polls. My amendment is fairly lengthy, and there are some other consequential amendments. This is the substantial argument. The purpose of the amendment is to give members of the public the right to demand a poll on any issue relevant to council by taking up a petition, and to force a poll the petition would need the support of 10 per cent of electors. Clause 9 of the Bill allows a council to initiate a poll on any matter if the council wishes. This is all well and good, but I can envisage many matters of concern to the community on which the council would not want a poll to be initiated.

The legitimacy of any Government depends upon the consent of those governed. The consent is given or withheld at election time, but there is a long period between elections when the community is given no say. Even at the end of that time, when you do come to cast a vote, you are often faced with a choice between two or three candidates, all of whom may be unacceptable to you. Alternatively, you may agree with some of their policies but not others. By choosing one candidate, you do not get to choose the policies you endorse. You get to choose a package of policies supported by that candidate, and that is often unpalatable to electors.

It is democracy as originally envisaged by those so admired by the Hon. Trevor Crothers, who has left the Chamber, the Ancient Greeks. I wish I did have that power to break vases. I might have to get my researcher to look more deeply into this. My advice is that the Ancient Greeks regarded democracy as to have every eligible person defined as property owning free men—a little restrictive—voting on every issue that concerned the community. There was no representation as such; there was only straight democracy. I do not suggest that, today, we need to have every citizen casting a vote on every proposed policy, even with the benefit of instant and universal electronic communication, which we may have in the foreseeable future. That idea would always be totally unwieldy—an extreme policy totally at odds with the concept of elected representative government.

What we have now is the direct opposite. We have representative government to the total exclusion of the citizen's right to decide any issue. This, too, is an extreme policy. It is at odds with the very concept of which representative government relies for its legitimacy, that is, the original concept of democracy ruled by the people. In terms of democracy and representation, the original Greek ideal of total democracy is at one end of the spectrum, and our concept of total representation is at the other end. It is the Democrat policy to move Australia away from the extreme end of the spectrum of democratic concepts and place some limited, well-defined powers directly in the hands of the people.

My amendment sets reasonably high the bar at which the poll would be initiated to trigger the action. I must emphasise that it would be initiated in respect of those areas that do not have council support. A citizen initiated proposal would need to have the support of 10 per cent of electors or more, and those signatures would need to be collected within a period of three months. It is a tough ask. It would mean that any issue would have to be substantially supported by the electors in a council area. However, if those hurdles can be overcome, it is only right and fair that the issue is legitimately put to a vote of all electors in a poll.

The Hon. DIANA LAIDLAW: The Government does not support this amendment. We believe that it is contrary to the general scheme of the main Local Government Bill, which places emphasis on councils undertaking consultation and strategic planning with community involvement. I know that that certainly is the approach we have been adopting through the Development Act and plan amendment reports. I think it is the only way to properly conduct business in the future. Certainly, we believe that it is undesirable for council operational plans and budgets. I assume that budgets and rates could be subject to a citizen initiated referendum?

The Hon. Ian Gilfillan: If the issue is defined as a poll subject which 10 per cent support—

The Hon. DIANA LAIDLAW: Including rates?

The Hon. Ian Gilfillan: I do not have that specifically in mind, because I think that rates are a responsibility of the group of people who are managing the council.

The Hon. DIANA LAIDLAW: But your amendment does provide for—

The CHAIRMAN: I would prefer that the Minister answered the Hon. Mr Gilfillan's questions. He can stand up and ask further questions.

The Hon. DIANA LAIDLAW: I just wanted to inquire, while it might not have been specifically provided for, or excluded, whether the amendment allows for a citizen initiated referendum with 10 per cent of local citizen support in terms of rates and budgets. One may not like rates but they are a necessity of life, and I would not want to see the whole structure of councils being vulnerable because they have struck a rate—taking into account that they could be voted out in a few years' time if they have got it wrong, anyway—and then were immediately subject to a citizen initiated referendum when they were part way through their financial year.

There has also been some concern that the 10 per cent trigger point for such a referendum is too low. For instance, in Prospect, only 280 signatures may be required, 190 in Coober Pedy and 81 in Lacepede. Councils that wish to provide for elector initiated referenda can do so as part of their public consultation policy and ensure a fair presentation

of arguments for and against the proposal. That is provided for in the Bill at the present time, in any case.

The Hon. T.G. CAMERON: The Minister has stated that councils can provide for elector initiated referenda at the moment as part of their consultation process. Can the Minister outline how a council would go about doing that and how the referendum would be held under that proposal?

The Hon. DIANA LAIDLAW: I am advised that it would be whatever the council may wish to present as part of its consultation policy—and it must develop such a policy. It could easily include an elector initiated referendum. So, if it wished to provide for one, it could, as part of its consultation policy. But it is not provided for specifically in the Bill as the Hon. Mr Gilfillan has proposed. That is the difference between leaving it to a council to do such a thing in terms of its consultation system and requiring it as part of a Local Government (Elections) Bill.

The Hon. T.G. CAMERON: Is the Minister aware of any councils that have conducted an elector initiated referendum as she has outlined? I am not aware of any council that has conducted a referendum under the public consultation policy.

The Hon. DIANA LAIDLAW: It is a new provision in the Bill in terms of developing a consultation policy because of the transparency of consultation processes. As such, it can be taken up in the future. We are certainly not aware of any on an issue other than possibly boundaries, where a number of electors can ask for boundary issues to be addressed by vote across various councils.

The Hon. T.G. CAMERON: Is the Government aware of any regulations already in place governing how a council would conduct an elector initiated referendum as part of its public consultation policy and, if not, does the Government have any intention to introduce regulations to govern such a process?

The Hon. DIANA LAIDLAW: Certainly, there is provision in the Bill for regulations to address the conduct of polls but not specifically, as the honourable member has suggested, for the conduct of a citizen initiated referendum, as part of the consultation policy initiatives.

The Hon. T.G. CAMERON: Does that mean that, with the passage of this legislation, councils could conduct referenda as part of their public consultation policy but would be doing so without any guidance or any regulations at all from the Government?

The Hon. DIANA LAIDLAW: I have just clarified the situation. Whether it is a poll initiated by the council or whether it is a citizen initiated referendum, which may or may not be part of any council's public consultation policy, if a citizen initiated referendum was to be undertaken it would be conducted in terms of this provision and the regulations—these provisions in the Bill before us—

An honourable member: The Act itself?

The Hon. DIANA LAIDLAW: The provisions in the Bill before us—clause 9.

The Hon. IAN GILFILLAN: There is not a lot of difference in the implementation and significance of the poll as outlined in clause 9 and my amendment, because there is a difference, from my understanding, between a poll and a referendum. A poll is purely an extraction of the opinion of the people: it is not binding on the council. The matters that can be dealt with in a poll—the scope as currently in the Bill—include: a council may hold a poll whenever the council considers that it is necessary, expedient or appropriate for a poll to be held; and a poll may be held on any matter within the ambit of a council's responsibilities, or as contemplated by the Local Government Act 1999. That is exactly the same scope of the poll that is available to the citizen, or the electors, having gathered their 10 per cent. However, their having gathered their 10 per cent, having done so in three months and having had a poll taken, it still remains a poll. This is not like the Californian Article 13—

An honourable member: Proposition.

The Hon. IAN GILFILLAN: —or Proposition 13, and it is not contemplated that it will be. But the point of the amendment is: why should there only be polls put to the electors which suit the council when there may be an issue that is so important to a significant proportion of the electors that it should be taken to the people as a poll so that there can be an expression of opinion? It seems to me that it is really just a—

The Hon. Diana Laidlaw: You told me that rates and budgets would be such an issue.

The Hon. IAN GILFILLAN: Are rates and budgets contemplated in subclause—

The Hon. Diana Laidlaw: We are addressing your amendment.

The Hon. IAN GILFILLAN: If the Minister had been listening, I just identified that it is exactly the same as the ambit in the Bill. So, if it applies to the Bill—

The Hon. Diana Laidlaw: No, it is different, because your amendment initiates a poll if 10 per cent of people are disgruntled with the rates or the budget. The poll provision is when the council initiates it, as outlined in the Bill.

The Hon. IAN GILFILLAN: It may well be that rates are a subject. I am not indicating that they would or would not be: I am indicating that, if there were a poll on the level of rates, it is an indication to the council. It is not a binding—

The Hon. T.G. Cameron: It is indicative.

The Hon. IAN GILFILLAN: Exactly right. It is indicative if a certain number of people are concerned about the rating policy, if that is what they want the poll on. If in three months they can get 10 per cent of electors to sign a petition, it is then put to a poll. The poll may show majority support for the council's policy or majority discontent with the policy. A council would be foolish not to take it into account; but there is no obligation or legal pressure to force the council to take any action.

The Hon. T.G. CAMERON: Again, SA First did not have a fixed position on the Hon. Ian Gilfillan's amendment. I wanted to hear the debate and put some questions to the Minister before arriving at a final conclusion. Whilst there are pros and cons on both sides of the debate on this clause, on balance, SA First will support the Hon. Ian Gilfillan's amendment. It is only an indicative poll. I do not think the Democrats' proposition can be compared to a citizens' referendum or to proposition 13 as exists in California in the United States.

The principal reason I say that is that it is only a poll; it is only a measure of the opinion of people who sign the petition on a particular issue. I cannot really see the problem with the amendment. Unless substantive reasons are put forward to oppose it, I will support it, because it is an indicative poll: it is not binding on the council. I see it acting as a kind of pressure valve. On issues where a minority of citizens are disgruntled with a council decision, it enables them to go into the community, discuss the matter with ratepayers and, if they can find sufficient support (according to my interpretation of the Gilfillan amendment), present their view. It is not binding on the council: it binds the council to only receive the petition. I am not sure whether, under the amendment, the

council would be required to debate such a petition. But at least it would send a message to a council about the community's opinion.

I listened to the Minister's concerns about 10 per cent being too low a number. Whilst I concede that there is some merit in that argument, I am prepared to ignore it on the basis that it is an indicative poll only. One of the Government's arguments in opposition to this proposition was that councils already would have set out their plans, budgets, etc. and that this indicative poll would make them subject to an *ad hoc* review. What is wrong with that? What is wrong with opening up the two-way communication process between councils and ratepayers? The council does not need to abide by the poll or the petition. I have no doubt that, if situations arose as outlined in the Minister's examples, the councils would probably dismiss the petition.

I am attracted to the Gilfillan amendment. It seems to codify the arrangements and provide for another alternative. Under the Bill—and this was one of the arguments that persuaded me to the honourable member's view—only a council can seek ratepayers' opinion. As I understand it, according to the Hon. Ian Gilfillan, the council would determine the issue. The council would determine what words went on the petition. We all know that, if you phrase a petition properly, you can get almost anyone to sign it. I cannot see what is wrong with allowing ratepayers to get together and work out the wording of a proposition. I see it as a means of encouraging people to become involved in the local government process. I can understand that elected councillors and mayors probably would not like it, but I see it as adding to the democratic process in local government and I support it.

The Hon. T.G. ROBERTS: The Labor Party opposes the amendment. From personal experience, I know that there are such groups in the community at the moment and that that is exactly how they operate. There is provision for groups to get petitions and to apply pressure to local government to influence decisions about to be made on a council, if they know what the agendas are. In a lot of cases, they get petitioners to sign and get numbers against council decisions—and sometimes they get decisions overturned. There is no fixed position in relation to 10 per cent, 20 per cent or 30 per cent: it is just a number of people opposed to a particular decision, and that provision is already built in.

In local councils of which I am aware there are factions which were defeated at previous elections and which set up ginger groups not for democracy but for their re-election. If this is written into legislation, they could see it as a cover for running their next election campaign by making it very difficult for well intentioned CEOs and elected members to perform their jobs dutifully during their term in relation to hammering them on issues. As the honourable member says, you can get any number of people to sign a petition. Who would know whether the people who signed the petition actually lived in the wards or areas of the council? What about the problem of checking addresses, names, etc.?

Democracy is serviced in the community by allowing minorities their views. Certainly, nations, States, local government and political Parties are judged on how they treat their minorities. If the minority viewpoint is being overrun in any democracy, usually that minority starts to turn into a larger group and, sometimes, ends up being a majority: it is just a part of evolving democracy.

The Committee divided on the amendment:

AYES (6)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I. (teller)
Kanck, S. M.	Xenophon, N.

NOES (12)

Dawkins, J. S. L.	Griffin, K. T.
Holloway, P.	Laidlaw, D. V. (teller)
Lawson, R. D.	Pickles, C. A.
Redford, A. J.	Roberts, T. G.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	Zollo, C.

Majority of 6 for the Noes.

Amendment thus negatived; clause passed.

Clauses 10 to 13 passed.

Clause 14.

The Hon. DIANA LAIDLAW: I move:

Page 9—
Line 4—Leave out 'Act' and insert:
Act[1]
After line 27—Insert:
[1.] Subsection (1) does not apply to the Crown (see section 303 of the Local Government Act 1999).

I understand that this move has been sought by the Electoral Commission and is a matter of clarification. It is a practical amendment in terms of the conduct of elections.

The Hon. CARMEL ZOLLO: I have a question in relation to clause 14(a)(iii) and 14(b). What status is afforded to permanent residents who are joint owners of rateable property? Do such joint owners each need to lodge a prescribed application to be able to cast a vote?

The Hon. DIANA LAIDLAW: It depends on whether they are residents of that or another council. If they are residents of the particular council they must both lodge as a resident, but if they are residents of another council then they must lodge one as a group, if they own property in that other council.

Amendments carried; clause as amended passed.

Clause 15.

The Hon. DIANA LAIDLAW: I move:

Page 10—
Line 15—After 'person' insert:
, body corporate or group
Line 16—After 'person' insert:
, body corporate or group
Line 19—After 'person' insert:
, body corporate or group
Line 20—After 'person' insert:
, body corporate or group
Line 20—After 'person' insert:
, body corporate or group
Page 12, line 1—After 'person' insert:
, body corporate or group

Amendments carried; clause as amended passed.

Clause 16.

The Hon. IAN GILFILLAN: I move:

Page 13, lines 17 to 19—Leave out subclause (4) and insert:
(4) However—
(a) a natural person may only vote in one capacity at an election or poll (but this section does not prevent a person voting at two or more elections for a council held on the same day); and
(b) if a body corporate or group has nominated a person as a candidate for a particular election, that person is the only person entitled to vote at the election on behalf of the body corporate or group.

The purpose of this amendment is to prevent one person exercising more than one vote. This Bill allows one person to vote as an individual and also as a representative of one or more bodies corporate or groups. In my opinion, it is

undemocratic to allow one person to exercise two or more votes, once in their private capacity and once on behalf of each corporation or group they may happen to represent. My amendments would not deny any company a right to vote. In fact, I have also proposed amendments that recognise that fact by amending the definition of 'elector'. However, I do want to make clear that no person acting as a company or group representative should have a second vote as an individual.

The effect of this on companies will be different, depending on whether or not my other amendments concerning compulsory voting are passed. If the later amendment concerning compulsory voting is not passed, then the effect of this present amendment would be that an officer, representing a company or group, could choose whether or not to exercise a vote as a company or group representative or in his or her personal capacity or not at all. However, if my later amendments requiring compulsory voting are also passed, then companies and or groups wishing to exercise a vote in a council election would need to appoint as their designated voter someone who would not otherwise have a vote in that council election, presumably someone who lived in another council area. That is because all local people would already be under an obligation to vote in their personal capacity.

In these circumstances, my later amendment makes it clear that a company or group would need to do no more than take reasonable steps to make sure that someone voted on its behalf. This initiative is supported by the Electoral Reform Society of South Australia. I do not want the Committee to be confused about this being a debate in relation to compulsory voting or not. My explanation was just to elucidate what would be the consequences under either the voluntary or compulsory regimes. The main principle, however, stands very clearly that we do not believe that a person should have a multiple capacity to influence a local government election.

It is probably appropriate just to make a general observation. We, and I as a Democrats representative in this debate, believe and promote that local government is inexorably moving towards being absolutely equivalent in integrity, importance and obligations to the other tiers of government in Australia—in this case, in South Australia. Sooner or later the aspects of democracy and fair elections must be imposed on local government if it is to have the respect of being in that league. One of the cardinal features of our democratic elections, both Federal and State, is that one person will have one vote and one vote only. It is on that basis that I move this amendment, which is to leave out the following subclause:

(4) However, if a body corporate or group has nominated a person as a candidate for a particular election, that person is the only person entitled to vote at the election for the body corporate or group.

That is the entitlement to vote. I am moving that that subclause be deleted and be replaced with the following subclause:

(4) However—
(a) a natural person may only vote in one capacity at an election or poll (but this section does not prevent a person voting at two or more elections for a council held on the same day); and
(b) If a body corporate or group has nominated a person as a candidate for a particular election, that person is the only person entitled to vote at the election on behalf of the body corporate or group.

The effect of the amendment is to ensure that one person can exercise only one vote.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. I respect the argument put by the honourable member that his amendment reflects what this place and this Parliament approved as appropriate for the City of Adelaide Act 1998, but we would argue that there are particular circumstances relevant to the City of Adelaide and the concentration of property in the city by some people that mean that we are addressing a different circumstance in the city than across metropolitan and country areas. We believe strongly that what applies to the City of Adelaide now is highly appropriate to its circumstances, but across all other council areas we do not accept that the same reason for caution or concern applies.

In a council area such as Charles Sturt or Salisbury, where there may be 50 000 electors, this measure would require the Electoral Commissioner to check every single postal vote application to see whether I, say, had voted as a natural person, Diana Laidlaw, plus whether I had voted as a representative, a nominated person representing a company. That is a very time consuming task when you are dealing with some of the bigger council areas.

At best the City of Adelaide has 15 000 eligible voters and it is not compulsory, so you would not get anywhere near that, although one might wish it were so. When you get to bigger councils which have amalgamated over time or which have naturally large and growing areas of population, we believe—and I understand that it is the Electoral Commissioner's view also—that this task is not necessary generally and it is also a cumbersome procedure. It is not necessary to deal with the problem because the problem does not exist to the same extent that it exists in the City of Adelaide where these provisions now apply.

Amendment negatived.

The Hon. IAN GILFILLAN: I move:

Page 13—
Line 29—Leave out 'A person' and insert:
An elector
Line 29—Leave out 'a person' and insert:
an elector

The Hon. DIANA LAIDLAW: The Government supports the amendments.

Amendments carried; clause as amended passed.

Clauses 17 and 18 passed.

Clause 19.

The Hon. IAN GILFILLAN: I move:

Page 15—
After line 23—Insert:
(ab) a profile of the candidate that complies with the regulations;
Line 24—Leave out 'the information' and insert:
other information.
After line 25—Insert:
(2a) A profile under subsection (2) may include a photograph of the candidate (that complies with the regulations).

These amendments would allow all candidates to supply to the returning officer their personal profile photo and how-to-vote recommendations so that information from all candidates can be distributed to all voters in the one official ballot pack. These amendments will not only enhance consumer friendly democracy but also save a great waste of paper and should perhaps be thought of as an environmental initiative as well. They are strongly supported by the Electoral Reform Society of South Australia. They provide that at the time of nomination a candidate must submit a profile statement, which can include a recent photograph. After nominations close and candidates are advised, within seven days, who their opponents are, they may also submit their how-to-vote recommen-

dations. This information can then be distributed to all voters, along with their ballot papers.

The information from all candidates can then be distributed to voters at the one time. Each candidate's profile, photo and how-to-vote recommendations can be fitted on to one sheet of paper containing enough information for a voter to make an informed choice. It makes sense to have the returning officer insert all of this information at once into the same envelope which contains the ballot paper. It will make more work for the returning officer, I am prepared to acknowledge, but for voters it very much simplifies the process, and this, I believe, is an important goal, because a simpler process is one which will encourage greater community participation in the voting. Presumably, it will also do away with some of the incentive for candidates to stuff all their local letterboxes with pamphlets in the lead up to the vote.

As I said before, the Electoral Reform Society supports the initiative. In fact, the society's support for postal voting is conditional upon that inclusion of candidate profiles and how-to-vote recommendations within the voting pack. I am sure that honourable members share with me a great respect for the opinion of that society. So this measure, if supported, will increase, in the society's view, the democratic aspects of this postal voting system.

The Hon. DIANA LAIDLAW: I support the first two amendments and would like an opportunity to speak to the third.

Amendments (after line 23 and to line 24) agreed to.

The Hon. DIANA LAIDLAW: My advice is that there is concern both from the Electoral Commissioner and from the Government. I am not sure about local councils or the LGA. But all honourable members will appreciate that clause 19 requires a person who is eligible to be a candidate for an election to an office of a council to nominate, but in doing so their nomination form must be accompanied by a declaration of eligibility. So it is mandatory that there be this profile of the candidate provided and the information and material that is required in the regulations.

The concern that has been expressed to me is that the amendment moved by the honourable member to insert paragraph (2a) simply provides that, in terms of this profile, which is required, a photograph 'may' be included—not 'must' be. I am advised that there would be some perceived difficulties in the conduct of elections if some have provided a photograph and some have not, and then if some claim that they have provided it and it is not featured, and vice versa, that in terms of the management of the declaration and the profile and other information being required in the nomination for a council election it would be much easier to have very clear what is required, rather than the photograph being a discretionary item.

If there was an argument later that it was included by the candidate and then lost, or put in the wrong one, it could become a bit of a shambles to administer. It is not that we object to the fact that the photograph is or is not required; we have concerns about is the fact that it is a discretionary 'may'. Does the honourable member want to have it mandatory? Should we have a break and think about this over lunch? At this stage we would object to the discretion, because of management issues.

The Hon. IAN GILFILLAN: I appreciate the offer to think this through. I do not have any problem in making it an obligation, if the Government is sympathetic to that. I have a minor concern that, in the failure of a candidate to provide the photograph, does that then disqualify the candidate from being eligible for the election? I think that is where the dangerous ground would be approached. So I think that the suggestion to think it through over lunch may be useful. But I leave that question that, if it is made mandatory, it would then virtually become a qualification without which a candidate may be rejected.

The Hon. DIANA LAIDLAW: Very briefly, I have the same personal concerns that the honourable member has just expressed. I have been advised that if the returning officer considers that in any way the profile or the nomination form is deficient they must immediately advise the person nominating, so it is then the prospective candidate's choice to see whether they upgrade the information to meet the requirements of the returning officer. So if we did put 'must' in here, but the prospective candidate did not include the photograph, the returning officer would immediately alert the prospective candidate and they could then choose. My difficulty with that would be if the prospective candidate puts in the nomination form right on the death knock and there is no opportunity to alert them that they have inadvertently, or whatever, left out the photograph. I am talking against what I said before. It is a personal view and I think I had better stop.

The Hon. T.G. Roberts: What if they provide a 10-year-old photograph?

The Hon. DIANA LAIDLAW: Yes, because they may well use a 10-year-old photograph and look terrific like I did 10 years ago!

Progress reported; Committee to sit again.

[Sitting suspended from 1.5 to 2.15 p.m.]

The PRESIDENT: Order! I am sure that all honourable members will join me in congratulating the Hon. Legh Davis on his 20 years of service to the Parliament. His reward will be that he will not have to ask a question today.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Progress of State Agencies in the detection, prevention and remedy of problems relating to Year 2000 processing

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

Industrial and Commercial Premises Corporation Charter
Information Industries Development Centre Charter
Land Management Corporation Charter.

NATIVE TITLE

A petition signed by 14 residents of South Australia concerning native title rights for indigenous South Australians, and praying that the Council does not proceed with legislation that, first, undermines or impairs the native title rights of indigenous South Australians and, secondly, makes changes to native title unless there has been a genuine consultation process with all stakeholders, especially South Australia's indigenous communities, was presented by the Hon. Ian Gilfillan.

Petition received.

INDUSTRIAL AND EMPLOYEE RELATIONS (WORKPLACE RELATIONS) AMENDMENT BILL

A petition signed by eight residents of South Australia concerning the Industrial and Employee Relations (Work-

place Relations) Amendment Bill, and praying that the Council will reject this Bill for the sake of all South Australians, was presented by the Hon. T.G. Roberts.

Petition received.

MOUNT BARKER FOUNDRY

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a ministerial statement about the Mount Barker foundry made in another place by the Premier.

Leave granted.

NATIONAL HEALTH REFORM

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a ministerial statement about national health reform made in another place by the Premier.

Leave granted.

NATIVE TITLE LEGISLATION

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of the Statutes Amendment (Native Title No. 2) Amendment Bill 1998.

Leave granted.

The Hon. K.T. GRIFFIN: I wish to provide honourable members with an update on the State's native title legislation and this Government's response to the Commonwealth's 1998 amendments to the Native Title Act 1993. As members will recall, the Statutes Amendment (Native Title No. 2) Bill 1998 was introduced into the Parliament on 10 December 1998. The Bill contains amendments to a number of State Acts. In particular, it proposes amendments to the State's existing native title scheme, as contained in the Native Title (South Australia) Act 1994, the Environment, Resources and Development Court Act 1993, the Mining Act 1971 and the Opal Mining Act 1995. It proposes the insertion of 'a right to negotiate' scheme in the Petroleum Act 1940 that mirrors the successful schemes that are already operating under the Mining Act and the Opal Mining Act. It proposes incidental amendments to the Aboriginal Lands Trust Act 1966 and the Electricity Act 1996.

Proposed amendments to the State's Land Acquisition Act 1969 were prepared separately but are being dealt with in conjunction with the Bill. The Bill was not unexpected. On 2 October 1998, I issued a media release signalling that the Bill was being prepared and identifying some of the issues to be addressed. The Government's intention to change the State's native title legislation was discussed by officers of my department with the Aboriginal Legal Rights Movement (ALRM) on a number of occasions around this time. The proposed changes, in general terms, were included in presentations by both the Solicitor-General and officers of the Crown Solicitor's Office at the Cooper 99 Symposium in Adelaide on 15 and 16 October 1998. A representative of ALRM responded to the proposed changes when he addressed this forum.

The Bill was introduced into Parliament on 10 December 1998 in order to have it formally on the public record and so that more consultation could occur. Immediately following the introduction of the Bill, an extensive consultation process commenced. The Bill was forwarded to key Aboriginal representative groups and to stakeholders in the mining and farming sectors. It was also forwarded to over 60 other community and interest groups. In an open letter that accompanied the Bill, I invited comments or suggestions for changes to the Bill and indicated that officers of my department were available to provide briefings on the Bill upon request. Initial comments were sought by 15 January 1999.

The proposed Land Acquisition Act amendments and a further open letter dated 24 December 1998 were forwarded to all interested parties two weeks after the initial Bill. Again, I sought comments or suggestions on the land acquisition proposals and indicated that officers of my department were available to provide briefings upon request. Comments were requested on the land acquisition amendments by 22 January 1999. Experience with the first round of State native title legislation in 1994-95 demonstrated the benefits of the Government committing its policy position into Bill form so that other parties could see exactly what was proposed and respond to it. In a complex area such as native title it helps, in my view, to have legislative proposals drafted in legislatible form in order to focus people's minds on the issues and to ensure that the Government's position is clear.

As the initial consultation process incorporated the Christmas break, I received a number of requests for extensions of time. In the interests of ensuring that all parties had adequate time to consider the Government's proposals and respond to them, I acceded to these requests. I and officers of my department were involved in numerous meetings and briefing sessions in relation to the proposals in the Bill from late January through to early March. In addition, my officers and I responded in writing to a number of letters received as a result of the consultation process. State officials also met with Commonwealth officials on a number of occasions during this period, as we sought an indication from the Commonwealth as to whether or not the State proposals would meet with Commonwealth approval.

By open letter of 21 April 1999, again forwarded to over 65 stakeholders and interested parties, I updated all parties on the situation at that time. I advised that it had not proved possible to deal with the Bill in the autumn session of Parliament but that I was keen to see it progressed in the budget session commencing in the last week in May. I again invited interested parties to make submissions in relation to the Bill and repeated my invitation to any interested party to discuss the matter with officers of my department.

I also made mention of the fact that it is important to progress the legislation as quickly as possible, as the existing State scheme is currently inconsistent in several important respects with the Commonwealth Native Title Act. Behind the scenes, officers of my department, in conjunction with Parliamentary Counsel, analysed the submissions, comments and feedback generated by the consultation process. A significant amount of redrafting was done to accommodate the comments and suggestions received in the consultation process. This was consistent with the commitment I made at the outset that the consultation process would be rigorous and genuine.

By an open letter dated 10 June, sent to key stakeholders and other interested parties on my behalf, the Crown Solicitor forwarded 'mock-ups' of the relevant State legislation showing how the State's native title scheme would look if the December Bill was enacted with all of the proposed Government amendments made to it following the extensive consultation process. Also enclosed was a table explaining the intent of the Government's amendments as proposed and identifying how submissions have been taken up in the amendments. The table was designed to assist stakeholders

and interested parties to more readily understand the changes made and the context in which they were made.

Since that time, my officers have provided briefings to or met with the South Australian Farmers Federation, the Aboriginal and Torres Strait Islanders Commission, the South Australian Opal Miners Association, the Environment Resources and Development Court, the South Australian Chamber of Mines and Energy and the Commonwealth Native Title Task Force to discuss the legislation.

Although the form and structure of the proposed legislation is now largely settled, there are still a number of outstanding issues that require further consultation and discussion. Accordingly, I propose to defer further consideration of the Bill to the spring sitting of Parliament, commencing on 28 September 1999. My revised time line for progressing the legislation, which has already been made known to interested persons, will require diligence from all those involved in the process. In deferring consideration of the Bill to September, all parties will have had ample time to further consider the Government's proposals. The Bill will have been on the table for over nine months by that time.

Some letters written to my office have erroneously suggested that there has not been equitable consultation with South Australian Aboriginal groups concerning the proposed Bill (there appears to have been a standard form letter circulating that individual citizens have adopted and signed for forwarding to me on this issue). As I have said in response to each of the letters I have received, the Aboriginal Legal Rights Movement, Anangu Pitjantjatjara and Maralinga Tjarutja, as the three Aboriginal representative bodies for native title in South Australia, each received a copy of the Bill, the proposed amendments and the letters referred to earlier.

ATSIC, the Aboriginal Lands Trust and the Council for Aboriginal Reconciliation have also been consulted at every stage. The Government received a submission on the Bill from the Native Title Steering Committee, which is comprised of representatives from the three representative bodies and ATSIC. It received a separate but similar submission from ALRM in its own right. There have been several meetings between officers of my department and representatives of indigenous interests. Accordingly, I reject suggestions of lack of consultation with indigenous groups in relation to this Bill.

The other assertion which is being made repeatedly and, again, erroneously, is that the South Australian Government is endeavouring to abolish or at least diminish native title. I vigorously reject that suggestion. Anyone who reads the South Australian Bill will see that that is simply not true.

I turn now to the Bill itself. The three issues that have attracted most comment are validation, confirmation of extinguishment and restrictions on the right to negotiate (RTN). The State is proposing to take up the validation and confirmation options, but is not restricting the right to negotiate. It has not yet proposed any changes to the pastoral legislation.

I deal first with validation of intermediate period acts. South Australia has included validation provisions in the Bill. New South Wales, Victoria, Queensland, Western Australia, Northern Territory and the Australian Capital Territory also include such provisions in their respective legislative responses to the Native Title Act. This Government, like the Commonwealth Parliament, is of the view that it was reasonable to act upon legal advice that pastoral leases necessarily extinguished native title, based upon the decision in Mabo. The validation provisions will ensure the validity of acts on pastoral leases prior to the High Court's decision in Wik. Native titleholders are compensated for the effect on their rights of validated intermediate period acts.

I now deal with confirmation of extinguishment of native title by previous exclusive possession acts. This Government, like the Commonwealth Parliament, believes that it is an appropriate exercise of legislative power for the Parliament to say which tenures have extinguished native title, rather than to leave it to the courts to determine the effect on native title of particular leases, on a case by case basis, over an extended period of time. If this matter is left to the courts to determine, the resolution of these issues will be lengthy, costly and will appear *ad hoc* and arbitrary.

The proposed provisions are consistent with the decisions in the Mabo and Wik cases and the principles identified in them. They will remove perpetual and other lessees who hold rights of exclusive possession from the process of determining native title applications in the Federal Court. Those who advocate against these provisions need to re-look at the principles enunciated by the courts but, more particularly, at the time it will take to resolve these cases in the courts, the tensions that they will create and maintain between Aboriginal people and other litigants, and the extraordinary costs incurred by the State (which taxpayers ultimately pay) and the other parties. It is, I suggest, very short-sighted to argue that the Government should not be proceeding with these provisions.

I deal now with the right to negotiate. South Australia is the only State to have existing alternative right to negotiate schemes (authorised by the Commonwealth Minister under section 43 of the Native Title Act in 1995 and 1997) in the Mining Act and the Opal Mining Act. The Government has given careful consideration to all of the options available under the Native Title Act. South Australia is planning to amend the Petroleum Act to insert a similar scheme, consistent with the existing determined right to negotiate schemes, subject to Commonwealth approval.

The proposed retention and extension of the right to negotiate in South Australia in the Bill has been commended by indigenous groups. On the other hand, some concerns have been expressed that the Government is not going far enough in its alternative provisions. An amendment is proposed to the legislation to flag that the Government may develop a section 26A scheme for excluding low impact exploration from the right to negotiate in the future. Honourable members should also note that the provisions applicable to conjunctive and umbrella authorisations will continue to be the subject of active consultation and discussion.

The new section 26D(2) of the Native Title Act (unlike the current State scheme) does not limit conjunctive authorisations to determined native titleholders and does not preclude the arbitral body from making a determination that operates conjunctively. The Government has received strong submissions suggesting that, like the Commonwealth Act, the State legislation should provide for conjunctive authorisations in a broader range of situations than presently covered. The Government will continue to explore ways of striking the right balance so as to ensure that conjunctive authorisations are a useful tool for industry, native titleholders and claimants. State Government officers are continuing to consult with officials from the Commonwealth's Native Title Task Force so as to ensure that the new right to negotiate (RTN) scheme for petroleum will be in a form that can be approved by the

Commonwealth Attorney-General as and when it has been passed by this Parliament.

In conclusion, it is the goal of this Government to achieve a workable State-based outcome that is consistent with the Native Title Act, at the earliest opportunity. I believe that the consultation process undertaken to date has been a valuable one. I wish to place on record my appreciation for the spirit of constructive cooperation that stakeholders and most interested parties have adopted to this point. I believe that the Bill and proposed Government amendments, viewed as a whole, are a beneficial legislative package for all people in this State, including indigenous Australians. I urge members of this Council to support the Bill when it comes before the Council in the spring session.

PRINTING COMMITTEE

The Hon. A.J. REDFORD: I bring up the first report of the committee 1998-99 and move:

That the report be adopted.

Motion carried.

QUESTION TIME

GOODS AND SERVICES TAX

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Treasurer a question about the GST.

Leave granted.

The Hon. CAROLYN PICKLES: I am advised that insurance companies are busily making provision for the application of the GST. For instance, if I bought a 12 month insurance policy today it would incorporate a period of time in which the GST applied. Given this, can the Treasurer advise of the impact of the GST on the Motor Accident Commission and, in particular, upon third party insurance policies; and have provisions been made by the Motor Accident Commission for the introduction of the GST?

The Hon. R.I. LUCAS: It is true to say that most, if not all, insurance companies (including the Motor Accident Commission) have been busy over the past few months looking at the impact of the GST on their businesses. I will take further advice on this but I understand that most, if not all, of them are looking for premium increases some time toward the end of this year, in terms of the potential effect of the GST on their businesses. The Motor Accident Commission has been contemplating this issue since early this year, I have been advised. I forget the exact dates, but it has indicated that there will be an impact on the operations of the Motor Accident Commission Fund and therefore it will be looking to make an application through the normal processes for some form of premium increase, consistent with most other insurance companies.

They will need to go through the appropriate processes. The Government has not made any decision at this stage. We will need to check the validity of any claim that will potentially impact on the businesses or, in this case, the Motor Accident Commission. Only at that stage will the Government make some form of final decision.

MEDIA ENDORSEMENTS

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about media endorsements.

Leave granted.

The Hon. P. HOLLOWAY: Last week, in answer to a question from the Leader of the Opposition, the Premier did not rule out the use of taxpayers' money to procure interviews, favourable journalistic coverage and positive editorial comment about the Government from any South Australian media outlets, but the Premier did invite the Opposition to give one example.

Has any money been paid, either directly or indirectly, from the Government's Electricity Reform and Sale Unit to any individual or company associated with an Adelaide radio station and, if so, will the Treasurer advise the Council how much was paid and for what purpose?

The Hon. R.I. LUCAS: It would assist me in my onerous task to find information for the honourable member if, publicly or privately, he could tell me which particular radio station is part of this claim. Certainly, I cannot recall any information that would bear any resemblance to the detail provided in the honourable member's question. Of course, being a very cautious Minister, as I am, I am happy to check but I cannot recall anything that resembles the sort of circumstances where, as I understand it, the honourable member is suggesting that the Government, through the electricity team, has paid a radio station to provide editorial comment.

I think at varying stages there have been paid radio commercials. I am not sure whether that is covered in the honourable member's question or not, so I will have to check the precise wording. There may well have been paid radio commercials at some stage, where that is quite clear and explicit in terms of what is being advertised. On further recollection I am not sure whether there have been paid radio advertisements: I know there have been one or two paid television campaigns, but I am not sure whether radio has been used over the past 16 months or so. The bottom line is that I cannot recall immediately anything that will provide a useful answer to the question. The simplest thing is to make inquiries and provide the honourable member with an answer during the coming break.

INDUSTRIAL AND EMPLOYEE RELATIONS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Government Enterprises, a question about industrial relations.

Leave granted.

The Hon. T.G. ROBERTS: I have raised in this Council on a number of occasions the problems that have faced employees in the meat industry in South Australia. An article in the *Advertiser* of 30 July 1999 entitled 'Less pay, more hours in new abattoir deal' by industrial reporter David Eccles states in part:

Lower paid, longer hours and no frills. [This] is the reality of a job agreement offered to Murray Bridge abattoir workers, the Meat Industry Employees' Union's State Secretary, Mr Graham Smith, claimed yesterday. The contract offered by T&R Murray Bridge reduced pay and conditions awarded to workers employed by the abattoir's former owner, Metro Meat, [the organiser] said. Metro Meat sacked more than 550 workers after it sold the site to T&R Murray Bridge in March. The new owner then closed the site.

The abattoir is [now] due to reopen on 9 August, with about 350 workers signed to an Australian workplace agreement. Mr Smith said pay and conditions won previously by the union had been destroyed by the agreement. But T&R Murray Bridge director Mr Chris Thomas said the agreement could not have been legally approved federally if it disadvantaged workers. Under the agreement, the working week has increased from 38 to 40 hours, with one hour of compulsory overtime each day. Workers might also be required for compulsory weekend overtime.

Overtime will not be paid regularly, but 'banked' and paid out at the company's discretion. Refusal to work extra production days or overtime is 'serious misconduct' punishable by instant dismissal.

These are some of the provisions included in Australian Workplace Agreements (AWAs) in response to the Federal Government's request for better industrial relations based on its legislation. We have legislation before us, on which I will not comment, but it appears that under the current legislation under Federal awards these sorts of agreements can be registered against the wishes of individuals and workers generally but, because there are no alternatives for work in regional areas, they are forced into signing up to put bread and butter on the table for their families. This is the issue that we have been raising on this side of the Council.

The question I have is in relation to the process of banking and then paying at the discretion of the employers the proceeds of their hours worked, which is the overtime hours, as if it belongs to the employer. So the question I have is: does the Minister believe that the meat industry in South Australia is a good example of industrial relations in this State under current State and Federal legislation, and is it appropriate or legal within the industrial laws of this State to withhold within banks legitimate payment to employees to be paid at the discretion of employers?

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

RIVERLINK

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer and Leader of the Government in the Legislative Council, Hon. Robert Lucas, a question on the subject of Riverlink.

Leave granted.

The Hon. L.H. DAVIS: Mr President, can I thank you for your kind remarks, and I must apologise for asking a question notwithstanding the fact that you gave me leave to have a day off. During 1998, the proponents of Riverlink indicated that Riverlink could be got up and running within a period of 12 months. As honourable members would be aware, the owners of Riverlink would in fact be Transgrid, the New South Wales Government trading enterprise, which would receive a return on that investment. The Hon. Nick Xenophon in this place has been a consistent, persistent and enthusiastic advocate of Riverlink, and it has been indicated that Riverlink could be established within a 12 month period, notwithstanding the fact that whichever route was chosen would, no doubt, have to run the gamut of inquiries from Aboriginal groups and face also the challenge of environmental interests. I am just wondering, in view of the advocacy of Riverlink by the Hon. Nick Xenophon, whether the Treasurer has any further information regarding what was a regulated connection between New South Wales and South Australia with respect to this proposed Riverlink connection?

The Hon. R.I. LUCAS: Mr President, I join with you in congratulating my colleague. I am pleased that he did not take the day off from asking a question because on the last day of this session I think it is appropriate; we have seen the passage of virtually all the key electricity Bills through the Parliament, and we did have a considered statement from the Hon. Mr Xenophon last evening. As I interjected on a number of occasions—I am not sure whether it made the *Hansard* transcript or not—I would think it was significantly influenced, if not written, by Mr Danny Price from London Economics and/or Mr Mark Duffy, the paid New South Wales Government lobbyist, who have been advising the Hon. Mr Nick Xenophon on electricity matters for the past 18 months. The Government has some differences of opinion with the statement made by the Hon. Mr Xenophon last evening. I will not address all of those this afternoon. There will be plenty of other occasions for us to engage in that debate.

The Hon. Mr Davis's question is indeed critical, because, as everyone knows—which I do not think the Hon. Mr Xenophon and his New South Wales Labor Government advisers will accept—the key decision for this Government and for the South Australian community has been to try to ensure that we have extra capacity guaranteed by the end of next year to try to minimise the prospect of brownouts or blackouts in the following summer. As I have explained, and I will not go through the long process again, all we were trying to ensure was a process or a project which guaranteed the power by the end of next year. The Hon. Mr Xenophon brought the paid New South Wales Labor Government advisers and Mr Blandy to a meeting—

The Hon. Nick Xenophon: Professor.

The Hon. R.I. LUCAS: —and Professor Blandy to a meeting with the Hon. Terry Cameron and me in the State Administration Centre what seems like decades ago, but it was probably only at the end of last year.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Cameron remembers it fondly. I think he walked out after about 10 minutes and decided to come back in again to listen to the rest of the presentation.

The Hon. A.J. Redford: Did or didn't?

The Hon. R.I. LUCAS: He did come back, yes: he endured the whole lot. One of the more interesting aspects of that submission was the claim by the Hon. Mr Xenophon's advisers that they could, if given approval, at the end of 1998 or the start of 1999, have Riverlink built within 12 months. They believed that all the issues that the Hon. Mr Davis and I had raised could and would be resolved within a 12 month period if they were given the go-ahead.

The Hon. L.H. Davis: Absolutely fanciful.

The Hon. R.I. LUCAS: The Hon. Mr Davis says, 'Absolutely fanciful.' That was the Government's view: it was not the view of the Hon. Mr Xenophon and his advisers. Of course, the Government did not need it by the end of this year: we needed the power by the end of next year, so there was at least that additional period within which the particular capacity option could be completed.

We warned the Hon. Mr Xenophon, his supporters and advisers all through that period of last year that he was being misled, that he was being fed a line in relation to Riverlink being able to be completed within a 12 month period, or anything that resembled it. We gave him, Mr Ian Weber, Professor Blandy and others a detailed time line as to how long Riverlink would take to come to conclusion. Mr Danny Price and Mr Mark Duffy produced an alternative time line for the Hon. Mr Xenophon, which he then shared with a number of people, indicating that the Government's time line was wrong and that the Government was extending the time

line so as to justify its decision in relation to the Pelican Point proposal.

I want to place on the public record this afternoon what the paid New South Wales Government advisers, in consultation meetings around South Australia, have been saying, and what their further advisers, Sinclair Knight Merz, which are the consultants to Transgrid, have been saying in terms of when Riverlink will get up and going. At consultation meetings in the Riverland, the paid advisers have been saying that they do not believe that the route—and this is not building it, this is not getting approval, and if you remember I said they were still trying to choose between 14 different routes when they came to visit us—

The Hon. Nick Xenophon: There were so many.

The Hon. R.I. LUCAS: There were so many; it is such a difficult choice, as the Hon. Mr Xenophon indicates. The New South Wales Labor Government advisers are now saying that they will not have chosen the route until the middle of next year: by the middle of 2000 they will have chosen the route to go down—not constructed it, not got environmental assessments and approvals, but they would have finally selected the route they want to go down by the middle of the year 2000.

The Hon. L.H. Davis: This would suggest that Nick Xenophon's into fairy lights.

The Hon. R.I. LUCAS: I think they're called bud lights, aren't they? That at least places your interjection on the *Hansard* record. The New South Wales Labor Government's proposal that is so fondly supported by the Hon. Mr Xenophon is also trying to wind its way through NEMMCO and the ACCC. As the Hon. Mr Xenophon has highlighted on a number of occasions—

The Hon. T.G. Cameron: I wonder whether the President will limit the answers, as he does the questions?

The Hon. R.I. LUCAS: Only if they stray away from the question. Mr President, this is right to the point. The ACCC has to look at a customer or public benefit test, as the Hon. Mr Xenophon has indicated. We were told at the meeting with the Hon. Mr Cameron that they believed that they would be out of these processes in the first part of this year, perhaps by about April 1999. We are now told that they will not get out of these processes at the earliest until potentially November and December this year.

Further, in the Riverland newspapers, a Mr Jones, a project manager for TransGrid's consultants, Sinclair Knight Merz, has said that the expectation for the completion of the project now is at the end of 2001—a full two years later than the time line originally projected by the paid New South Wales Labor Government lobbyists that the Hon. Mr Xenophon brought to meet with the Hon. Mr Cameron and me at the end of last year.

The Hon. T.G. Cameron: I'm confused. I can't understand why you didn't want to go to the next election after we had a blackout.

The Hon. R.I. LUCAS: I can't imagine! Professor Blandy didn't think that was a problem, did he? He said, 'You need to look at the costs of a few blackouts in the summer of 2000—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Yes, he did. The Hon. Mr Cameron was there, and he did say that.

The Hon. Nick Xenophon: You're taking it out of context.

The Hon. R.I. LUCAS: I didn't take it out of context at all.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Professor Blandy, the Hon. Mr Cameron and I were there, and we will both attest to what Professor Blandy said about blackouts in that period. The Government said that it was not prepared to accept the prospect of a significantly increased risk for brownouts or blackouts in that period. There are further problems for TransGrid in terms of its proposals, because recent proposals from the ACCC indicate that, on a new test the ACCC wants to put together, there should be an 18 month cooling off period, during which proposals for unregulated interconnectors should be first assessed. As everyone knows, TransEnergie is looking at an unregulated interconnector between New South Wales and South Australia.

The ACCC is looking at a test to say, 'We might not approve a regulated interconnector such as TransGrid's Riverlink until we have had a period to see whether or not an unregulated interconnector, which would appear to be the preferred option, is allowed to proceed.' If that did not proceed, then it might look at it. I say advisedly that, if that ACCC test was to be applied, I am told by my advisers that the completion date might be closer to the end of 2002, which is a full three years later than the promise made by the paid New South Wales Labor Government lobbyists who came to meet me and the Hon. Mr Cameron.

The Hon. L.H. Davis: And a few more blackouts later.

The Hon. R.I. LUCAS: Yes. I wanted to place this information on the public record, given the statements made by the Hon. Mr Xenophon last night, seeking to further defend his position and the Labor Government's position in New South Wales on the issue of Riverlink. I believe the Hon. Mr Xenophon, willingly or unwillingly, has been seriously misled by the paid lobbyists of the New South Wales Labor Government on this issue. It is for the Hon. Mr Xenophon to make a judgment as to whether he has been willing or unwilling, knowing or unknowing, in relation to this whole process. However, the Government warned the Hon. Mr Xenophon, Professor Blandy and the others who believe this line being pushed by TransGrid and the New South Wales Labor Government, that it had other motives in mind in relation to this total process. It could not deliver and was not able to deliver on the promises it was making to the Hon. Mr Xenophon.

If we had accepted the advice from the Hon. Mr Xenophon and Professor Blandy, we would have ended up at the end of next year and that following summer with a significantly increased prospect of brownouts and blackouts that summer, if we had not guaranteed the fast tracking of the Pelican Point Power Station. We will be able to explore this issue at greater length on many other occasions. However, at this stage, at the end of this session, it is critical that these facts are now placed on the public record.

MOUNT BARKER FOUNDRY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, questions about Mount Barker Products foundry.

Leave granted.

The Hon. M.J. ELLIOTT: On 27 May, the Mount Barker foundry issue was first raised in the Parliament by the Hon. Sandra Kanck, who informed this place that there had been reports of children and teachers suffering reactions to fumes from the foundry, which had commenced operations

in that month. The EPA became aware of this matter after a parent of one of the children had approached Mount Barker Products. The EPA warned this person that they had better be careful or they would be sued for slander—which is good advice from the EPA. In fact, on my understanding, the EPA did not do anything further for a couple of weeks and then sent a person to stand out on the school oval to detect levels of various gases using his nose. But that person then reported that everything was okay.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: It was a world's best practice nose. It was not just one of those ordinary noses: it was the sort that this Government has been using with its multi skilled work force. The EPA attended a public meeting that I was at, as I recall, about three weeks ago and gave an excuse at that time that it was being a bit slow, that it did not really have a lot of money and that it could not get bids at a reasonable price: however, it had finally got one, so it hoped to do some further testing. As I said, that was some three weeks ago.

I am told that the EPA finally conducted a once off test on one of the four stacks—and notice had been given to the foundry beforehand. Might I say, I believe that it cost some $30 000 for this test of one stack on one occasion, with notice. It did, apparently, find that levels of particulates were several times the acceptable levels and that levels of odour were, I think, six to eight times the acceptable levels. I have had no reports at this stage as to what was found in relation to levels of heavy metals, formaldehyde, ammonia and a number of other noxious substances that these sorts of places produce.

As a number of members would have noticed, there was a gathering out the front of this place today of some 1 000 people, largely residents of the Mount Barker area, particularly children who attend the Waldorf School which adjoins the property—might I add, a property where there is a foundry in a light industry zone, which is, indeed, against the zoning itself but it was issued with both planning approval and EPA licensing.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: No, we just have a process under the Development Act that allows delegations to that level. But that was not the question I was asking, so I ask the Minister not to start that one now, because I could go down that track too. That is why I am not asking the Minister.

The PRESIDENT: Order! The Hon. Mr Elliott will get on with the explanation.

The Hon. M.J. ELLIOTT: If I was being protected, that would be great. I note in the ministerial statement tabled by the Treasurer—

The Hon. T.G. Cameron: You don't need any protection.

The Hon. M.J. ELLIOTT: I do; I am a gentle flower. In the ministerial statement made today in another place by the Hon. John Olsen, which was also tabled in this place, he said:

> As I have indicated to local residents previously, and as I advised the House today, if the results show there is a health risk to residents, this Government will act decisively and swiftly.

Noting that, indeed, complaints were raised late in May that nothing more than a nose was sent during June and into July and that the testing did not happen until middle to late July, the residents would be very keen to know through the Treasurer, on behalf of the Premier, just how rapid is 'decisive and swift' likely to be in relation to further decisions in relation to this plant. Will they be just as rapid as other decisions about the Bitumax plant—

The PRESIDENT: Order! Is the honourable member getting close to the end of his explanation?

The Hon. M.J. ELLIOTT: —I am just about there—at Marino or, indeed, perhaps the Neutrog plant at Kanmantoo, that has had orders for probably a year and a half and still has not got it right. Will the Government guarantee that the foundry will immediately cease breaching air quality rules? If the foundry does not do so (and I note that the Government has already spent at least $200 000), will the Government provide assistance to relocate the plant? Will the Minister identify what other assistance the Government provided, other than the $200 000 mentioned in another place today?

The Hon. R.I. LUCAS: I am delighted that today the Premier indicated that tests are being conducted by the Health Commission and that results are expected either tomorrow or Monday. The EPA is meeting some time today and, as the honourable member said, the Premier has indicated that, if the results show that there is a health risk to residents, the Government will act decisively and swiftly and the health of local residents will not be compromised. That is clear, explicit and unequivocal. Rather than sniping at the edges, the Hon. Mr Elliott should congratulate the Premier on such a decisive statement, a clear commitment of the Government's position.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: It was at the end of May or the start of August, a period of two months since the initial complaint.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Elliott said that it was first raised at the end of May—it is now 5 August. We are some two months down the track, so the Hon. Mr Elliott is indeed stretching a point if he is trying to accuse the Government of needless delay and dallying. The honourable member should join with all members in welcoming the Government's decisive and swift action and its indication that it will take action as required in relation to this matter.

BUS SHELTERS

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about bus shelters.

Leave granted.

The Hon. J.S.L. DAWKINS: While driving around the City of Tea Tree Gully recently I noticed that some attractive new bus shelters have been erected. I understand that the bus shelters were constructed by young, unemployed people of the local area in a concept developed by the Tea Tree Gully Development Board. Is the Minister aware of this worthwhile community project? If so, will the Minister provide any details of the manner in which it has been developed and implemented?

The Hon. DIANA LAIDLAW: All members would be aware that, with the exception of the transit link routes operated by TransAdelaide and the bullet routes operated by Serco, councils in this State are responsible for bus shelters. In the Tea Tree Gully Council area it is therefore fantastic to see that the council, as the honourable member noted, has been working with the development board to look at how it can improve services to people who catch public transport by upgrading markedly the quality of bus shelters, and where in the past bus shelters have not been provided new shelters have been installed.

It is even better still that in undertaking this important public transport project the development board and the council have engaged unemployed people in the area, particularly younger people, through the work-for-the-dole scheme, a scheme that I understand the Federal Government calls Mutual Obligation. The scheme seeks funding and support from the Federal Government in association with local support and organisations.

To see the bus shelters selected as a project is to be celebrated, and I hope that we will see other councils across the metropolitan area adopt equally excellent schemes that not only have a benefit for young unemployed people in this State, in terms of building up their skills, confidence and identity, but also provide such an asset for the local community and for public transport, in turn, at a time when we are all keen to see public transport numbers increase in this State, particularly in the metropolitan area. I have seen these bus stops, because I was in the area on the weekend.

THE GROVE WAY

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DIANA LAIDLAW: I noted a contribution by Ms Rankine (member for Wright) in the House of Assembly grievance debate yesterday about the intersection of The Grove Way and Bridge Road. I noted a moment ago that I had been in the Tea Tree Gully area last weekend. One of the specific purposes was to see this intersection. I had earlier been invited to visit the intersection with the member for Wright, because many residents of the area had filled out petitions, had written to me and, through the honourable member, had been anxious to see that some upgrading work was undertaken at this site. I was not able to go out at the time the member for Wright suggested, which was early morning, but I did go on the past weekend, and I can only assume that the traffic was less on the weekend than it would normally be at morning rush hour.

However, having seen the intersection, I spoke with my officers and they, in turn, spoke to Transport SA officers early this week and a decision was made promptly to review earlier advice that there would be no lights installed at this intersection. I had earlier written to the honourable member that, on the basis of investigations by Transport SA, it was Transport SA's view that it would seek to deal with the intersection problems by permanently banning right turn movements from Bridge Road into The Grove Way. It was apparent from my observations that that was not going to be a satisfactory solution and I asked Transport SA to review the decision.

It has done so, and I am pleased to advise today (in fact, this information was conveyed to me yesterday) that Transport SA will be installing traffic signals at the intersection, which will overcome issues of public safety there. I have an undertaking from Transport SA that this work will be addressed promptly, and design work in particular will be commenced immediately with a view to installing these traffic lights as soon as practicable. My estimation of 'as soon as practicable' means that they will be working on this at lightning pace. I thank the Hon. Dorothy Kotz (the member for Newland), who has raised this issue with me in recent times. She was keen to see traffic lights, and I have advised her of my decision and Transport SA's review of its earlier decision.

GENETICALLY MODIFIED FOOD

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about genetically modified food.

Leave granted.

The Hon. IAN GILFILLAN: Last week, on 29 July, South Australia's *Stock Journal* reported that more than 90 per cent of submissions received by the Australian and New Zealand Food Authority called for compulsory labelling of foods containing genetically modified ingredients. On Monday 2 August, ABC TV's *7.30 Report* informed viewers that in a recent survey by the Australian National University 93 per cent of respondents wanted genetically engineered food clearly labelled as such. However, in Canberra on Tuesday 3 August (this week), a meeting of Health Ministers from around Australia voted to require labelling of some, but not all, genetically modified foods.

They decided that foods which contained less than a certain threshold of genetically modified ingredients would be exempt from the labelling requirement. Just what constitutes an acceptable threshold was left undecided by the Health Ministers and is to be the subject of further scientific debate.

The Hon. T.G. Roberts: It shows that they do not understand the issue.

The Hon. IAN GILFILLAN: That may well be so. That interjection questions their understanding of the issue. Therefore, in the absence of a clear decision, genetically modified food continues to be sold, unlabelled as such, in defiance of the public's wishes, throughout Australia. Indeed, some manufacturers who are selling food which has not been genetically modified have felt compelled now to start advertising that fact. In today's *Advertiser* the Public Affairs Manager of the Australian Consumers Association, Mara Bun, says the idea of threshold levels to trigger disclosure is unlikely to be accepted by consumers. But this issue is affecting not only consumers but also primary producers. Also in today's *Advertiser*, which is fruitful for a bit of background research, the National Farmers Federation described the decision—

The Hon. R.R. Roberts: You'll get a run.

The Hon. IAN GILFILLAN: —I would not bet on it—as disappointing and said that farmers would have liked more clarity in the decision. The Chief Executive of the South Australian Farmers Federation, Sandy Cameron, is also quoted as saying:

> We don't want the issue to raise an unnecessary level of concern about foods that are quite safe.

It is apparent to me, though apparently not to Australia's Health Ministers, that, if any threshold level is established below which the content of genetically modified food can be hidden or concealed from the public, then this issue will not go away. The only way to make it go away is to give consumers the information they say they want. When all genetically modified food is labelled accordingly, then the debate on which modifications are good and bad can go back to the scientists and the health experts, where it belongs. This is also the position taken in today's *Advertiser* editorial which says, in part:

> There is absolutely nothing wrong with the concept of plain, clear labelling. . . there should be no argument against the principle that

people should have a choice—and be alerted to the existence of choice.

I ask the Minister for Consumer Affairs:

1. Does the South Australian Government support the decision to exempt some genetically modified foods from the requirement for appropriate labelling? If so, is it on the grounds that the consumer is not entitled to know specific detail about some foods?

2. Does the Government believe that there is an acceptable threshold level of genetically modified foods below which it is acceptable for consumers to be kept in ignorance?

3. Does the Government accept the concerns expressed by producer groups that the continuing uncertainty, and the equivocal decision of the Australian Health Ministers, risks harming confidence in Australia's food production?

The Hon. K.T. GRIFFIN: Several portfolios are involved in that. I will see whether we can bring an answer together for the honourable member and I will refer the question to those Ministers who have responsibilities and bring back a reply.

The Hon. IAN GILFILLAN: I wish to ask a supplementary question. As Minister for Consumer Affairs, does the Minister recognise that the consumer is entitled to know clearly and in detail what is in the edible products that are being purchased?

The Hon. K.T. GRIFFIN: As Minister for Consumer Affairs I point out that we do have some interest in this but it is important that it be responded to on a whole of government basis. That is what the honourable member asked me for in the first place and that is what he will get.

MAINTENANCE COLLECTION

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for the Status of Women, both in her own capacity and representing the Minister for Human Services, a question about the collection of maintenance for custodial parents.

Leave granted.

The Hon. A.J. REDFORD: Over the past few months I have been approached by a number of constituents in relation to the collection of unpaid maintenance by the Department of Family and Community Services. Members would all be aware that the department provides an excellent service in assisting custodial parents to collect maintenance from non-custodial parents where the parents are not nor have been married. In relation to parents who have been married or who are married the responsibility for collection of maintenance is given to the Commonwealth Child Support Agency. One of the difficulties that has come to my attention is that the Family and Community Services Department, or FACS as it is commonly known, often has great difficulty in contacting non-custodial parents, because they are unable to determine where they live.

In some cases it is apparent that some non-custodial parents, who in my experience are mostly men, have gone to some trouble to ensure that as few people as possible know of their whereabouts. They do not tell FACS; they do not tell the custodial parent; and they certainly do not tell the Electoral Commission. However, in order to maintain their lifestyle they do tell their electricity supplier and, if they do not, they do not get their electricity put on; they do tell their landlord and they do tell their phone supplier. It has been suggested to me that, if FACS and, indeed, the Child Support Agency had access to the records of ETSA and, indeed, the Housing Trust for the sole purpose of obtaining current addresses for the sole purpose of collecting maintenance, that would improve the whole process and success rate in the collection of maintenance.

Currently, as I understand it, ETSA does not officially give out this information, as it is concerned quite rightly about general privacy issues. However, I am not sure that any legitimate privacy issue can be raised where somebody is, first, in arrears in the payment of maintenance and, secondly, has failed to notify the custodial parent and/or FACS of his whereabouts. Some single women, who I might say are single women through no fault of their own, struggle under extreme difficulty in bringing up their children. To deprive them of a means to assist them in that difficult task on the basis of some undefined concept of privacy I can assure members is of no solace to them. The frustration and anger at not being able to find the non-custodial parent is something that is an unneeded burden on them. In order to assist these true Aussie battlers, my questions are:

1. Has the Minister been made aware of the problems of locating non-custodial parents?

2. Will the Minister in her capacity as Minister for the Status of Women, representing women, who are the majority of care givers of children, and the Minister for Human Services consider developing a proposal whereby information could be given to FACS and the Child Support Agency by ETSA?

The Hon. DIANA LAIDLAW: I have been aware of this issue over some years and it is why I, and in fact I think the Liberal Party as a whole, supported the establishment at the Federal level of the Child Support Agency, so that there was a real concentration and focus on getting money, maintenance, financial support, from the non-custodial parent. Until that time it had been a very relaxed affair and so many children—

The Hon. A.J. Redford: It was voluntary.

The Hon. DIANA LAIDLAW: That is right, and now wages and salaries can be garnisheed in terms of automatic deductions, and most non-custodial parents, while they may struggle with the concept initially, do not go against this. There are, as the honourable member has suggested, some non-custodial parents, generally men, who will go to almost any length not to accept responsibility for a child that they are in fact responsible for, to the degree that some will change their identity, some will not even register their vehicle—in terms of the other measures that the honourable member mentioned, where they are making it an artform either not to disclose their identity or not to be on any official records in terms of follow up.

But the major thing in this matter is at all times to keep the interests of the child paramount, and that is the whole basis of our child welfare legislation and has always been in this State. Therefore, in terms of following up the honourable member's questions, which I will, and keeping in mind the focus of child welfare and the interests of the child being paramount, I will certainly have such discussions with the Minister for Human Services, and it may be that it would be beneficial across Government in terms of motor registration and the like. Thank you for raising the questions.

EMERGENCY SERVICES LEVY

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing

the Minister for Police, Correctional Services and Emergency Services, a question about the emergency services levy.

Leave granted.

The Hon. J.F. STEFANI: In recent weeks I have received many phone calls from constituents regarding the new emergency services levy and expressing great concern about the amount that they will be expected to pay. By way of example, a charitable organisation which was previously paying $132 for the fire services levy on its insurance premium will now be required to pay in excess of $2 400.

I have been informed by Revenue SA that private schools, clubs and associations, charities, churches, private hospitals and sporting groups will all be required to pay the emergency services levy on their properties. Many of these groups are already paying land tax on the land value of their properties which, in many instances, are worth hundreds of thousands of dollars, if not millions of dollars. In its present format the emergency services levy has been described by many property owners as a new land tax. People who are already paying land tax on their properties have described it as a double-dipping land tax.

Members would be aware that in previous years the fire services levy was charged as a percentage of the building and contents insurance premiums, and many people and organisations were paying moderate sums of money because the levy did not apply to the value of the land. Unfortunately, their ovals, vacant land and car parks, which do not burn and could never be insured, are now to be levied. Many entities will be paying huge increases.

In some instances small community and sporting clubs will be required to fund a new impost which represents a major component of their annual budget, and they are unaware of the impact of the levy until they receive their account. I have been informed that Revenue SA will be issuing accounts for the emergency services levy during late September and the month of October with a period of 28 days allowed for payment. I have been further advised that a late payment penalty of approximately 12.8 per cent per annum, calculated daily, has been determined in accordance with the Land Tax Act and will be enforced on amounts of more than $20 of penalty interest accrued. My questions are:

1. Will the Minister advise, by category, the total revenue expected to be collected by the emergency services levy from each of the following groups: churches; private schools; private hospitals; charitable organisations; sporting clubs; and community associations?

2. Will the Minister confirm that the levy applicable to Mitsubishi Motors at Clovelly Park and Lonsdale and General Motors-Holden's at Elizabeth will be $127 400 and $73 249 respectively?

3. Will the Minister confirm that the levy payable by the Australian Red Cross at North Adelaide and the Vietnamese Christian Community at Pooraka will be $2 479 and $1 306 respectively?

4. Will the Minister ensure that the proposed interest to be charged for late payments is adjusted to reflect a more reasonable rate commensurate with the current commercial rate of interest charged?

5. Will the Minister explain why the new emergency services levy utilises an existing section of the Land Tax Act for the application of the late payment penalties, which further confirms the view of many people that the emergency services levy is a new form of land tax?

The Hon. K.T. GRIFFIN: I do not have the answers to those questions at my fingertips: I will refer the questions to my colleague and bring back replies. I understand the issue that the honourable member is raising about the levy being imposed upon the value of land as well as what is on the land. The Government's difficulty was that it had to determine what would be an equitable basis for raising the revenue necessary to support emergency services, recognising that it is not just fire that emergency services deals with but it is storm, tempest, earthquake, flood and a whole range of other natural phenomena and disasters which might occur in any part of the State.

The big question in any situation is to determine what is the most equitable basis upon which a levy should be calculated. On the basis of all the advice over the years that has been received by successive Governments, we took the view that capital value was an equitable basis upon which to impose that levy.

The honourable member also talked about charitable, sporting and other organisations. It should not be forgotten that they do insure—and some of them are insured offshore, as I understand it—not just their fixed assets but also their moveable assets, including contents and other property, and, in those circumstances, they would now be saving not only the insurance levy but also the stamp duty on that insurance levy. So that obviously has to be set off against the cost of the emergency services levy. I will take the other issues on notice and bring back a reply.

FORESTRY CORPORATISATION

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement on the corporatisation of forestry made by the Minister for Government Enterprises in another place.

Leave granted.

HEARING IMPAIRED SERVICES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Disability Services a question concerning the tendering and awarding of Government services for grant hearing impaired services.

Leave granted.

The Hon. T.G. CAMERON: This year Better Hearing Australia (South Australia) celebrates 60 years of service as an important help organisation for the hearing impaired. It currently services and helps around 10 000 South Australians each year as well as distributing several thousand dollars worth of free advice material to assist the hearing impaired.

In September this year Adelaide will be the focus of hearing loss in Australia with South Australia hosting a national conference for Better Hearing Australia, and one would think the Minister would be attending that conference. This worthy organisation sets the entire Australian standards for hearing loss support and rehabilitation, with teaching qualifications and advisory training. Next year it will host an impressive International Hard of Hearing Congress in Australia.

This not-for-profit organisation, with a strong membership base and volunteer support, has provided a vital community service for 60 years in this State. However, it was deprived of its Government grant some three years ago in highly questionable circumstances following a fall-out with the then CEO of the Disability Services Section of the Health Commission. Two irregular tenders were called, with the first being set aside following a protest of bias.

The second tender panel comprised unidentified participants and, in a flagrant act of injustice that shocked the disability community in this State, the grant was awarded to the Guide Dogs of South Australia, an organisation not recognised as assisting hearing loss. Guide Dogs of South Australia created Hearing Solutions, an entirely new company that later staffed its operations with former Better Hearing employees to run it for them. Has the Minister investigated the irregularities and suggestions of corruption in the tender process and awarding of the Government contract, as suggested to the Minister by Better Hearing Australia?

The Hon. R.D. LAWSON: I acknowledge the role that Hearing Solutions Australia has played in the support of people with hearing impairments in this State. The honourable member's brief outline of the facts is a far more simplified—in fact, over simplified—view of the situation which led to Better Hearing not being awarded the tender for the provision of services to those with hearing impairment. The honourable member describes the award of tender on the last occasion as a flagrant act of injustice and also mentioned, in his description of that process, the word 'corruption'. These events occurred before I was responsible for this portfolio. However, upon coming into the portfolio, I did interview the President and other officials of Better Hearing Australia. I heard the complaints of Better Hearing on that occasion, and I made inquiries within the department about the background history to this matter.

As I said, the version which the honourable member has given is highly simplified and coloured by the sources from which he has obviously obtained his information. I was assured that the tender process had been the subject of complaint at the time the tender was awarded and had been investigated. The tender process, certainly in the last instance in which the Guide Dogs Association and Hearing Solutions were successful, was a process that stood up to all examinations of probity and propriety. However, as these matters occurred before I had portfolio responsibilities in this area, I will obtain some additional information and provide it to the honourable member. I can assure the Council that such inquiries as I have made indicate that there is no justification for assertions of impropriety or flagrant acts of injustice or the like in relation to this matter.

HILLS FACE ZONE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the possible development of the Hills face zone.

Leave granted.

The Hon. CARMEL ZOLLO: Concerns have been raised with me by a constituent in relation to a possible subdivision of 75 hectares of land at Rostrevor, next to Morialta Conservation Park. The issue was first raised earlier this year and reported in the Messenger Press. Rachel Brown, in a more recent article in the *Payneham Messenger*, reported that the land had been purchased by an Australian living overseas as a possible place of retirement, though apparently a relative did not rule out the possibility of subdivision. Understandably, local residents are anxious that the parcel of land not be subdivided, and they are hoping that the Government will, instead, purchase the land. My questions to the Minister are:

1. What is the likelihood of the Government buying this parcel of land to protect the Hills face zone?

2. Will the Minister outline the processes in relation to the approval of a development application and also whether the Minister is likely to approve such an application?

The Hon. DIANA LAIDLAW: I will be happy to explore the matters raised by the honourable member and the implications. I will bring back a reply.

LEGAL PROFESSION

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Attorney-General a question about the legal profession.

Leave granted.

The Hon. P. HOLLOWAY: An article in yesterday's *Financial Review*, written by Alan Mitchell, the Economics Editor, entitled, 'Wanted: a leader for competition reform', states:

> Professional regulation probably represents the biggest political challenge to Mr Howard and the Premiers.

The article continues:

> Reform of the legal profession is slightly more advanced, but the lawyers are still cosseted by anti-competitive regulation. As required by the competition policy agreement, the States are reviewing their various legal practitioner Acts. But the quality of the outcomes may depend on whether the Federal Government, representing the interests of the wider community, is prepared to pressure the States. The arguments used by Mr Howard for seeking to break the monopoly of the Maritime Union also apply to the anti-competitive arrangements of the professions.

My questions to the Attorney-General are:

1. What progress has been made on a review of the South Australian Legal Practitioners Act?

2. When will the review be completed?

3. Does he agree with Mr Mitchell that lawyers are 'cosseted by anti-competitive regulation', and does he expect that the review of the Act will lead to removal of anti-competitive practices in the profession?

4. Why have reviews of professions such as lawyers and medical practitioners been left to the last moment under the time lines for competition policy review?

The Hon. K.T. GRIFFIN: The competition policy review of the Legal Practitioners Act in this State is under way. There is a discussion paper which has either just been released or is about to be released for a very wide-ranging consultation process. From the Eastern States, there is a lot of nonsense written about the legal profession in terms of its anti-competitive structure. In this State, there are very few, if any, anti-competitive elements in the Legal Practitioners Act. It has been widely acknowledged that in this State whatever anti-competitive elements were in the legislation were removed years ago. Some of the suggestions as to what might be anti-competitive are quite bizarre. The honourable member asked why the review of the legal profession has been left until late in the process. What he may not realise is that we are currently also undertaking competition policy reviews of a number of other occupational licensing frameworks. Discussion papers are out at present—

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: With respect, I don't know where the review of the Medical Practitioners Act or the Nurses Act might be. I know that a new Nurses Act has been passed by the Parliament. However, through the Office of Consumer and Business Affairs, we have been reviewing a whole range of professions in other legislation. Some of the fruits of that will be seen in the next session, when some amendments are likely to be proposed. However, discussion

papers have been out now on a variety of occupations which are licensed or registered through the Office of Consumer and Business Affairs. I would expect that the final reports will be available within a month or so with respect to them. That is at about the same time as we are doing the legal profession. The legal profession will take quite some months longer, and I expect the whole process would be finished in early 2000 and elements included in that would be Queens Counsel and the disciplinary structure.

If you look at what is in place in South Australia with the disciplinary structure, you see it is pretty much independent, because you have a Legal Practitioners Conduct Board which is independent of the Law Society. The only thing for which the Law Society is responsible is managing the master insurance policy, legal professional standards and also the supervision of the auditing process. However, the Legal Practitioners Conduct Board can investigate at any stage on a complaint. The Legal Practitioners Disciplinary Tribunal is independent of the Law Society.

In other States, the Law Society used to do all the regulation of the profession, including issues of discipline and complaints against the profession. That is not the position in South Australia—and, of course, it has also changed in other States. However, there are some things that are best done by the profession, such as the management of the master insurance policy. But even that might be the subject of some sort of criticism because compulsory indemnity insurance is required, and it is required to be taken out through the master policy insurer. But that, of course, provides the most economic framework to cover all the risks which it is mandatory for the profession to cover.

So, far from what Mr Mitchell is suggesting is the position, at least in this State, the fact is that there is a lot of pressure on the legal profession. We are undertaking competition policy reviews. There is not a closed shop. It is not compulsory to belong to the Law Society. There is a whole range of other issues which I think could only lead one to the conclusion that, whilst one might have a view about lawyers, the way in which the legal profession is managed does bring a very significant measure of outside influence, particularly in the complaint resolution and disciplinary process.

The honourable member might remember that it was only last year that we passed legislation that would set up a new structure for legal education—the Legal Practitioners Education and Admission Council—which was established formally under the legislation earlier this year and which was designed to bring together for the first time all of those who provide practical legal and academic training for students as they make their way towards becoming members of the legal profession. I think that answers all the questions that the honourable member raised. The competition policy review is under way at the present time.

EMERGENCY SERVICES FUNDING (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly informed the Legislative Council that, following the receipt of a message from His Excellency the Governor recommending the appropriation of revenue in the Bill, it is necessary for the Bill to be reconsidered, and requested the Legislative Council to return the Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That the proceedings subsequent to the receipt of the message be declared null and void.

Motion carried.

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

That the request contained in the message from the House of Assembly be agreed to and that the Bill be withdrawn forthwith and returned to the House of Assembly.

Motion carried.

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

That Order of the Day: Government Business No. 2 be discharged.

Order of the Day discharged.

LOCAL GOVERNMENT (ELECTIONS) BILL

In Committee (resumed on motion).

(Continued from page 2006.)

Clause 19.

The Hon. IAN GILFILLAN: The matter that we were discussing prior to the luncheon adjournment—and we have all cogitated and thought profoundly over it since then—

The Hon. T.G. Roberts: I didn't cogitate.

The Hon. IAN GILFILLAN: Well, some individual members might like to make their personal confessions. I would like to share with the Committee a communication I have had from the Local Government Association, because the issue was whether a photograph in the material that a candidate automatically circulates to all electors would be obligatory, in terms of 'must' include a photograph or 'may' include a photograph. I will read a memo from Brian Clancey of the Local Government Association, as follows:

Ian, Re: Photograph. [The] LGA supports your amendment. We do not support 'must include a photograph' as we believe it will be a real problem/deterrent in rural/remote areas. We want to encourage not discourage candidates. Clause 20 would have significant implications for candidates in rural areas. John Comrie [who is the Chief Executive Officer] feels very strongly about this matter.

The CHAIRMAN: Is the honourable member going to leave his amendment as it is?

The Hon. IAN GILFILLAN: That is right, Mr Chairman. That is more or less what I am sharing with the Committee. I have thought about it and I have had an opinion which has reinforced my view that it should stay as moved.

The CHAIRMAN: The honourable member has already moved the amendment, so it stays as it is.

The Hon. DIANA LAIDLAW: I am not moving from my position either, in terms of the Government not supporting this amendment. I indicated earlier that this issue has been addressed in terms of the City of Adelaide, but it has been addressed through the regulations, not through legislation. The City of Adelaide approved the regulations some time ago and they were in place for the December 1998 elections. The regulations provide that 'the following information and material must be provided in association with this nomination'. The first item is the same as is provided in this Bill: a profile of the candidate. The second item is a photograph of the candidate that complies with the following requirements:

(i) The photograph must only (or predominantly) show the head and shoulders of the candidate.

(ii) The photograph must have been taken within the last 12 months.

(iii) The photograph must have on its back an endorsement signed by the candidate as follows: 'This is a photograph of (insert name) taken within the last 12 months.'

So, the regulations approved under the City of Adelaide Act require—it is mandatory—that the photograph of the candidate be provided. It is unsatisfactory across the systems that a different system apply to the Adelaide City Council in terms of nominations received by the returning officer. The Government will not accept the discretionary measures that the honourable member has proposed by saying that a photograph of the candidate may be provided.

The Hon. IAN GILFILLAN: I point out that the details of the photograph in my amendment would still need to comply with regulations and that the parallel with the City of Adelaide is not relevant. It is a separate Act: it would not be a separate Act if we were to treat everything the same. The objection identified by the LGA is for other council areas, particularly remote areas.

Amendment carried; clause as amended passed.

Clauses 20 to 25 passed.

Clause 26.

The Hon. IAN GILFILLAN: I move:

Page 17—

Line 2—Leave out '14' and insert:

seven

After line 10—Insert:

(3) A candidate may, within seven days after the receipt of a notice under subsection (1), submit to the returning officer in accordance with the regulations a recommendation from the candidate to electors on how-to-vote at the relevant election (for distribution to electors under Part 9).

These amendments follow on from the matter we have just been discussing, that is, the material to be provided to a returning officer: personal profile, photograph, how-to-vote recommendations, and so on. The first amendment aims virtually to facilitate the process so that proceedings progress a little more quickly, namely in seven rather than 14 days. In relation to the detail of the second amendment, all that has been accepted as material that can be circulated, and it is just an enabling subclause.

The Hon. DIANA LAIDLAW: The Government strongly opposes both amendments. The amendments to clause 26, together with the proposed amendment to clause 27, allow candidates to submit how-to-vote information which the returning officer must send out with ballot papers. The amendment invites candidates to submit their information within seven days, not within the 14 days provided for within the Bill. I suspect that is not seven working days: it is just seven days including the weekend. The City of Adelaide regulations 1998 limited the contents of material provided by candidates to biographical data. So, that is the information that had to be returned to the returning officer.

This Democrats amendment raises the risk of candidates defaming others or stating untruths and, in the pressure of collating and printing ballot packs, this could be sent to electors unwittingly. That is because of the pressure of time involved in later sending out material. This could give rise to challenges to results. It is also argued that by using clever wording a candidate may imply endorsement by council or the returning officer, which would be highly inappropriate. The amendment will impose big and we believe unacceptable strains on the returning officer's processes by holding up printing and dispatch of ballot packs until how-to-vote materials are received from every candidate, printed and inserted in the ballot packs.

The current state of high volume, merchandised packaging of envelopes means that only six inserts can be included in any one envelope. It is simply impractical to include this information in addition to the ballot papers, the return envelopes, the profiles of every candidate and the instructions to voters. I urge members opposite to think very seriously about the practical implications of what is proposed by this amendment, to think from their own perspective in relation to working with returning officers and to think about what we would be asking of returning officers in terms of local council elections. On that basis, the Government believes very strongly that the amendment regarding 14 days and the how-to-vote material contains unacceptable propositions in practice.

I am not sure whether the Electoral Commissioner has had time to speak to members opposite—perhaps he does not want to get involved in the hurly-burly of Legislative Council debate—but it is my understanding that, if he did wish to comment, he would very strongly urge members opposite to resist this amendment.

The Hon. IAN GILFILLAN: The question of whether it be seven or 14 days is a relatively minor matter. It would appear to me that it is not particularly onerous and that seven days after all the candidates are compelled to have nominated is enough time for the returning officer to ensure that the names of those candidates are made public and that the candidates who nominated get a notice in writing telling them who are the other candidates. Seven days seem to be adequate, but that is not really the significant part of my amendment: the more significant part is that the candidate may within the seven days after receipt of that notice submit a how-to-vote recommendation to be included in his or her distributed material. As I indicated earlier, anything which reduces a profusion of paper and other complications and which facilitates the process is a good thing.

The Hon. DIANA LAIDLAW: I understand that there is no limit on the number of electors. If one envisages a whole of council area election, for 11 or 15 vacancies there could be possibly 30 or 50 nominations that the Electoral Commissioner must process, check and insert in envelopes. As I mentioned before, the principal matter in terms of seeking to get the attention of the electors and encouraging them to vote is that they must not lose the ballot paper itself amongst all the material that the honourable member would now have the returning officer put into envelopes for one million electors.

Not all of them will vote, but a million electors will be receiving this material, and the critical things are the ballot paper, the return envelope, the profile of candidate and the instructions to voters. It would be quite wrong to divert attention from those essential papers if we are seeking above all to encourage interest in local government elections and to encourage as many people as possible to vote. Some candidates may not wish to issue a how to vote card: they may wish to circulate it themselves, notwithstanding what is stuffed into these envelopes. There may actually need to be three postings from the returning officer in addition to the critical ballot paper and return envelope, because we would be asking them to distribute all this other electoral propaganda.

The Hon. IAN GILFILLAN: A lot of unnecessary complication is being put on this. The regulations can control the size and volume of the material that is to be circulated.

The Hon. Diana Laidlaw: But not the number.

The Hon. IAN GILFILLAN: Not the number of people. But the returning officer will have to post material into every elector, and into envelopes have to be stuffed, if that is the term the Minister is using, all the material required in the

official ballot pack. What this proposal does could quite easily be contained on one extra A4 sheet in each pack.

The Hon. Diana Laidlaw: There were 24 candidates in the Barossa recently.

The Hon. IAN GILFILLAN: Yes. An A4 sheet for each candidate would be the maximum.

The Hon. Diana Laidlaw: So, you have 24 bits of paper.

The Hon. IAN GILFILLAN: Under those circumstances, obviously it would be impractical to do it in one posting. Where there are wards with three candidates or councils with 12, it may prove to be quite acceptable. I will let the argument rest.

The Hon. T. CROTHERS: Who will be responsible for keeping the names and addresses of the electoral roll for the council? Given the fluidity of movement in respect of a postal ballot of people in each council district, will it be the State Electoral Commissioner? There are different qualifications, if I recall rightly, for people who are entitled to vote at State elections as opposed to people entitled to vote in local elections, such as the qualification we visited last night in another matter about qualification to vote in a State or Federal election. If I recall aright, different qualifications are required in respect of having a vote in local government elections. So, who will keep and update the local government roll? If it is the electoral officer, how much will his roll differ in respect of qualification to vote at State and Federal elections from the electoral roll that has been drawn up and from which local government will draw its addresses in respect of postal ballots?

The Hon. DIANA LAIDLAW: I am advised that, in respect of the House of Assembly roll that is kept by the Electoral Commissioner, the CEO of each council is responsible for maintaining the owner-occupier roll. When it comes to council elections the two rolls are merged through a computer operation. I just asked about the expenses of the returning officer sending out not only what is required in terms of the ballot paper, the return envelope, the instructions and the rest, but in terms of all these how to vote cards that the Hon. Mr Gilfillan now wants to have included (possibly an A4 sheet for every candidate). If we take the Barossa example alone, and we have 24 candidates who all submitted their how to vote cards, we would have 24 sheets.

We can put only six mechanically into each, so in addition to the official information there are another four envelopes. That is initially paid by the returning officer and the Electoral Commission but they are reimbursed by the council. Potentially, a very big cost is being added to councils by this measure. Clause 12 of this Bill, 'Responsibilities of returning officer and councils', provides:

> For the purposes of this Act (but subject to any appointments under this Part and the operation of the Local Government Act 1999)—
>
> (a) the returning officer is responsible for the conduct of elections and polls; and
>
> (b) a council is responsible for the provision of information, education and publicity designed to promote public participation in the electoral processes for its area, to inform potential voters about the candidates who are standing for election in its area, and to advise its local community about the outcome of elections and polls conducted in its area.

That is separate from the conduct of the election, which is the responsibility of the returning officer. Clause 12(a) specifically provides that the returning officer is responsible for the conduct of the elections and polls and the council is responsible for the other matters.

The Hon. T. CROTHERS: If my understanding is correct in respect of local government, any resident in an area who registers to vote for the local council is entitled to a vote; is that correct?

The Hon. DIANA LAIDLAW: Australian citizens automatically go onto the House of Assembly roll if they fill in their enrolment form and then automatically, through this merging of the rolls, they would go onto the council roll. But if they are a resident but not an Australian citizen, they must apply to the council. I do not know what we do with dual citizenship.

The Hon. T. CROTHERS: Following that, and given that there has been much talk on this by movers of amendments and opponents of some elements of the Bill, the cost for some councils in respect of keeping an accurate list of registered voters and other Australian residents will be fairly prohibitive if the roll is to be accurate and if the amendments in respect of compulsory voting and postal voting get up. If you take areas such as Norwood and Unley—and we see it in State elections all the time—there are many flat dwellers who may, because of the fluidity of movement of those people, choose not to register. So, you almost get the position where compulsory voting is an absolute furphy and postal balloting is an even greater furphy, in respect of that charade that is overshadowing some of these amendments, that it is all in the interests of the common weal relative to ensuring that we are more democratic than even what occurred in heaven with the election of the archangels! I ask the Minister: how accurate in those council areas that have great movement, say, even in the City of Adelaide, with the number of tenants and flat dwellers—

The Hon. T.G. Roberts: You should apply to become the next returning officer.

The Hon. T. CROTHERS: I am available if the money is right and if I have retired from here.

The Hon. T.G. Cameron: You want to be careful: someone will make you a big offer.

The Hon. T. CROTHERS: I am a big fellow and I need a big offer. Is it not a fact that, however well intentioned this postal balloting and compulsory voting is, it will not come anywhere close to introducing some form of democracy which is even handed right across the State? In some council areas such as Elizabeth, Hackham or Mansfield Park and the like there are many trust houses and it might be difficult to inject the note of democracy that the mover of the amendments is genuinely trying to include in the Bill. I believe the amendments fall and fail because of some of the elements about which I have asked the Minister. How do you keep an accurate roll? Will the cost be almost prohibitive in some areas such as trust areas? Will some areas be more heavily disadvantaged than others because of the many flats or trust dwellings where tenants are very fluid in terms of occupancy over any period?

The Hon. T.G. ROBERTS: The Labor Party indicates that we do not support the amendments.

The Hon. T. Crothers interjecting:

The Hon. T.G. ROBERTS: The honourable member convinced me on another matter but not on the clause before us. The honourable member raised some points about the upkeep of electoral rolls.

The Hon. T. Crothers interjecting:

The Hon. T.G. ROBERTS: I think the honourable member ought to take up the offer as the returning officer for the next angels' election. We do not support either of the two amendments. It is the responsibility of each candidate to put

out their how to vote cards. That is the idea the honourable member has in relation to inclusions. Whether it is Mount Gambier or Morgan, it does not matter. Many places would like to see 26 candidates contesting an election, but generally they are uncontested or there are only two candidates. In the event that there are six or eight candidates, it is too difficult to administer.

The Hon. T.G. CAMERON: SA First is not disposed to support the first of the Hon. Mr Gilfillan's amendments which seeks to leave out '14' and insert 'seven'. I would be inclined to support seven working days rather than seven calendar days. I listened carefully to the debate on the second amendment moved by the Hon. Ian Gilfillan. Whilst the argument was generally against his proposition, my concern relates to the electoral officer posting out how to vote information for the candidates. I note that the LGA is opposed to this, and concerns have been expressed about the cost, etc. I am not concerned about those problems because you have to pay a price for democracy. If that price has to be paid, local government will have to pay it.

I am concerned about the electoral officer posting out how to vote information for candidates. I hark back to my days at the Australian Workers Union, and I am sure my colleagues would acknowledge that I have been involved in the odd union election or two.

The Hon. T. Crothers: Or three.

The Hon. T.G. CAMERON: Yes, or three, as the Hon. Trevor Crothers interjects. Union elections are conducted in the main—in fact, all of them these days—by postal ballot, and I note that in those elections they have shied away from the provision of how to vote material and it is left up to the candidates themselves. I am concerned about hundreds of candidates—it would be hundreds of candidates from all around the State—posting off their how to vote information, etc. Where are we left if the electoral officer makes a blue or a candidate believes he posted it and it never arrived? I am concerned about the possibility of legal action and disputes arising out of candidates arguing that their material was tampered with; it was not what was sent in; it was photocopied and they do not like the quality of the photocopy; or that their material was just never included.

There is also the problem of candidates objecting to ballots going ahead, etc. It places too onerous an obligation on the returning officer. I am concerned about the possibility for legal action. Whilst I agree with the Hon. Ian Gilfillan that it would assist the democratic process, I am not sure on balance, with some of the shortcomings in relation to this, that it would and I am concerned about ballots being contested, court action, etc. SA First does not support the amendments.

Amendments negatived; clause passed.

Clauses 27 and 28 passed.

Clause 29.

The Hon. IAN GILFILLAN: I move:

Page 19, line 5—Leave out 'a ballot paper' and insert:
ballot papers

If I were a betting man, which I am not, I reckon I could lose money if I were to bet on getting this amendment through and so I will not risk my dollars. This is the first of a series of amendments and I will regard it as a test case on the issue. The issue is to introduce the Robson rotation to ballot papers so that no candidate gets the advantage of the donkey vote. Rather than have the order of the names of the candidates determined by lot, as required by clause 29, the only fair way to have candidates listed on ballot papers is by rotation.

The Robson rotation system exists in Tasmania and the ACT and merely ensures that no one candidate gets the advantage of being listed first on the ballot paper and attracting the donkey vote: all have equal turns. The Electoral Reform Society informs me that the Robson rotation system was suggested by the City of Adelaide Governance Review, so it comes with good credentials. I will be content if honourable members have taken the trouble to look at and understand how the Robson rotation works because it is inevitable that early in the next century it will be widely used in elections, as it is seen by more and more people as the fairest way to present candidates for election.

The Hon. T.G. CAMERON: SA First will be opposing this amendment. I understand that the Robson rotation method is in operation in Tasmania. Is that correct?

The Hon. Ian Gilfillan: Tasmania and Canberra.

The Hon. T.G. CAMERON: In Tasmania, where they operate under a Hare-Clark system. But there is one clear distinction that I would like to make between the system under which the Robson rotation method operates and what currently operates in local government. The Robson rotation system that operates in Tasmania and Canberra operates under a system of compulsory voting. We only have voluntary voting in local government. I believe that under a voluntary system of voting the donkey vote is not a serious consideration. But I would indicate to the Hon. Ian Gilfillan that I would be prepared to revisit this proposal in the event that we get compulsory voting in local government elections, which I strongly oppose and would never support. In the event that we do end up one day with compulsory voting in local government, I can see some benefit in this proposition, but under a voluntary system, no.

The Hon. DIANA LAIDLAW: The Government opposes the measure. We think it would be awful in practice, and I think the Hon. Terry Cameron has explained many of our misgivings exceedingly well.

Amendment negatived; clause passed.

Clauses 30 to 38 passed.

Clause 39.

The Hon. IAN GILFILLAN: I move:

Page 22, line 1—After 'person' insert:
, body corporate or group of persons

The Hon. DIANA LAIDLAW: The Government agrees with the amendment.

Amendment carried.

The Hon. IAN GILFILLAN: My amendment on file which relates to page 22, line 10 refers to the postal voting papers issued under Part 9—Postal Voting, clause 39(6) of which provides:

> Postal voting papers issued under this section must be accompanied by an explanatory notice and a set of candidate profiles that comply with the regulations and may be accompanied by other material determined by the returning officer.

So the argument about volume going into envelopes takes a bit of a dent really, because here it is in the Bill that the returning officer is going to have to stuff an awful lot of pages into the envelope. So I think it was worth further reflecting on this, with your indulgence, Mr Acting Chairman. My next amendment, at line 23, fits into the image of the other amendments and, accordingly, I move:

Page 22, line 23—After 'record of the' insert:
electors and other

The Hon. DIANA LAIDLAW: The Government accepts the amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 22, lines 25 and 26—Leave out 'delivered to a particular person' and insert:
successfully delivered

This is another one of those joint amendments—meaning that the Government supports it.

The Hon. DIANA LAIDLAW: The Government has a similar amendment on file, and we accept the amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 22, line 27—Leave out 'to a person'.

I believe that this is in the same category as the previous amendment.

The Hon. DIANA LAIDLAW: Yes.

Amendment carried; clause as amended passed.

Clauses 40 to 47 passed.

Clause 48.

The Hon. DIANA LAIDLAW: I move:

Page 29, line 24—Leave out 'voters' and insert:
votes

This corrects a typographical error.

Amendment carried; clause as amended passed.

Clauses 49 and 50 passed.

Clause 51.

The Hon. DIANA LAIDLAW: I move:

Page 32, line 19—Leave out 'to voters'.

This is a tidy-up of issues that we dealt with earlier.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 32, line 21—Leave out 'to persons'.

Again, this is an amendment to tidy up uncertainties.

Amendment carried; clause as amended passed.

Clauses 52 to 60 passed.

Clause 61.

The Hon. IAN GILFILLAN: I move:

Page 36, line 9—Leave out 'postal'.

This amendment deletes the word 'postal' from subclause (3) of the clause which deals with 'persons acting on behalf of candidates not to assist voters or collect voting papers'.

The Hon. Diana Laidlaw: No. You lost earlier to have—

The Hon. IAN GILFILLAN: That was certainly my advice: I will look to Parliamentary Counsel for confirmation. A country council might have a polling booth, in which case not all the votes would be postal voting papers. That is the reason why I am formally moving it, so that this can be clarified. I agree that I lost the original principal amendment, but before letting it slip past I wanted to get clarification about the restriction in subclause (3), which provides:

Without limiting the generality of subsection (1) or (2), a person acts as an assistant by assisting another to obtain, complete or return postal voting papers.

That will restrict it just to postal voting papers. If a country council has a polling booth, does that mean that a person who assists will be outside the cover of this clause?

The CHAIRMAN: The Hon. Mr Gilfillan has two amendments to this clause. Will you move them both?

The Hon. IAN GILFILLAN: No.

The Hon. DIANA LAIDLAW: If you wish to continue moving them, that is fine: the Government will oppose it. This whole section is designed to deal with the postal method of voting, and therefore it is appropriate that that term be incorporated in this section and it be retained. I do not think I was exactly correct in my assumption when I said earlier that it was possibly not relevant to move the amendment because it was related to the earlier amendment to have both mandatory postal and booth voting, which was lost. This section relates to postal voting—

The Hon. Ian Gilfillan: Where does it? You can look at it closely and point it out to me if you like, but I can't see that.

The Hon. DIANA LAIDLAW: Would you like to speak to Parliamentary Counsel.

The Hon. IAN GILFILLAN: I will withdraw the amendment. I have been assured that the concern I had will be dealt with in the schedule.

Leave granted; amendment withdrawn.

Clause passed.

Clauses 62 to 68 passed.

Clause 69.

The Hon. DIANA LAIDLAW: I move:

Page 38, line 18—Leave out '(a)' and insert:
(b)(i)

This corrects an editorial error.

Amendment carried; clause as amended passed.

Clauses 70 to 90 passed.

New clause 90A.

The Hon. IAN GILFILLAN: I move:

Page 48, after line 20—Insert:

Compulsory voting

90A. (1) Subject to this section, it is the duty of every elector who is a natural person to vote at each election for a council for which the elector is entitled to vote.

(2) Subject to this section, it is the duty of every elector which is a body corporate to take reasonable steps to ensure that a person votes on behalf of the body corporate at each election for a council for which the elector is entitled to vote.

(3) Subject to this section, it is the duty of each member of a group of persons which is an elector to take reasonable steps to ensure that a person votes on behalf of the group at each election for a council for which the elector is entitled to vote.

(4) If a body corporate or group has nominated a person as a candidate for a particular election, the duty under subsection (2) or (3) (as the case may be) falls on the nominated person instead of on the body corporate or the members of the group.

(5) The duty imposed by a preceding subsection is satisfied although a ballot paper is left unmarked if the other formalities of voting, and returning voting papers, in accordance with this Act are satisfied.

(6) Within the prescribed period after the close of each election, the returning officer must send by post to each elector who appears not to have voted at the election (including, in the case of a body corporate or group, by a person acting on behalf of the body corporate or group) a notice, in the prescribed form—

(a) notifying the elector that the elector appears to have failed to vote at the election and that it is an offence to fail to vote at an election without a valid and sufficient reason; and

(b) calling on the elector to show cause why proceedings for failing to vote at the election without a valid and sufficient reason should not be instituted against the elector,

but the returning officer, if satisfied that the elector is dead or, in the case of a body corporate or group, is no longer in existence, or had a valid and sufficient reason for not voting, need not send such a notice.

(7) Before sending any such notice, the returning officer must insert in the notice a date, not being less than 21 days after the date of posting of the notice, on which the form attached to the notice, duly completed by the elector, is to be in the hands of the returning officer.

(8) Every elector to whom a notice under this section has been sent must complete the form at the foot of the notice by stating in it the reasons (if any) why proceedings for failing to

vote at the election should not be instituted and return it to the returning officer not later than the date inserted in the notice.

(9) If an elector is absent or unable to complete and return the form within the time allowed under subsection (8), any other person who has personal knowledge of the facts may complete and return the form within that time and, in that case, the elector will be taken to have complied with subsection (8).

(10) Subject to a preceding subsection, an elector must not—

(a) fail to vote at an election without a valid and sufficient reason for the failure; or

(b) on receipt of a notice under subsection (6), fail to complete and return the form that is attached to the notice within the time allowed under subsection (7).

Maximum penalty: $50.
Expiation fee: $10.

(11) An elector has a valid and sufficient reason for failing to vote at an election if—

(a) the elector failed to receive voting papers for the election either—

(i) personally; or

(ii) at an address on the voters roll (if the elector's name is on the voters roll); or

(iii) at some other address of which the returning officer has received notice in a manner determined or approved by the returning officer; or

(b) the elector was ineligible to vote at the election; or

(c) in the case where the elector is a natural person—the elector had a conscientious objection, based on religious grounds, to voting at the election; or

(d) in a case where the elector is a body corporate—an officer of the body corporate took reasonable steps to ensure that a person voted on behalf of the body corporate; or

(e) in a case where the elector is a group—a member of the group took reasonable steps to ensure that a person voted on behalf of the group; or

(f) there is some other proper reason for the elector's failure to vote.

(12) In proceedings for an offence against this section—

(a) a certificate apparently signed by the returning officer certifying that an officer named in the certificate was authorised to commence the prosecution will, in the absence of proof to the contrary, be accepted as proof of that authority;

(b) a certificate apparently signed by an officer certifying that the defendant failed to vote at a particular election will be accepted as proof of that failure to vote in the absence of proof to the contrary;

(c) a certificate apparently signed by an officer certifying that a notice under subsection (6) was posted to an elector, at a particular address, on a date specified in the certificate, will be accepted, in the absence of proof to the contrary, as proof—

(i) that the notice was duly sent to the elector on that date; and

(ii) that the notice complied with the requirements of this section; and

(iii) that it was received by the elector on the date on which it would, in the ordinary course of post, have reached the address to which it was posted;

(d) a certificate apparently signed by an officer certifying that the defendant failed to return a form under this section to the returning office within the time allowed under subsection (7) will be accepted, in the absence of proof to the contrary, as proof of the failure to return the form within that time.

This is an amendment to introduce compulsory or, as I would prefer to describe it, obligatory voting. Before identifying my argument, I would like to point out that I have been successful in amending the State Electoral Act so that it is not an offence not to vote: the offence is not to comply with the obligation to attend the polling booth. I think there is a very significant and distinct difference in that degree of obligation.

This amendment makes it compulsory either to attend a polling place, if that does occur in the country, or to return a ballot envelope unless there is a valid and sufficient reason. This introduces the same duty that applies in State and Federal elections. Compulsory voting is an essential element of the democratic process and it has, since 1924, been the accepted practice in all Australian State and Federal parliamentary elections. At least 21 democracies practise compulsory voting at the local, state, provincial or national level.

Voting is a means of participating in the political process that is uniquely accessible to the largest number of citizens and, for many, represents the only way they believe that they can influence what the Government does. To make voting merely voluntary is not simply a matter of relieving people from the performance of a duty: it represents a devaluing of the act of voting by the Government and a corresponding devaluing of the people's role in the system of government. The arguments for compulsory voting are:

· Voting is a civic responsibility of citizens in a democratic society.

· Each citizen must take responsibility for who governs them and how they are governed, at whatever level, and that, of course, includes local government.

· Compulsory voting ensures the expression of choice by all those eligible to vote and ensures, as far as possible, that parliaments are elected according to the will of all the citizens and, as local government is becoming more and more aligned with the responsibilities and operations of Parliament, it should be embraced by this as well.

· Compulsory voting helps legitimise the electoral process and the elected assemblies chosen by it.

· Social and political cohesion is promoted, and alienation from the political process by the disadvantaged is diminished.

· Citizens develop a sense of ownership of the political decision making process.

· Compulsory voting contributes to civic education and the entrenchment of civic values.

· Election campaigns focus on the issues and choices before the voters rather than concentrating on mechanisms to get people to the polls.

· Compulsory voting diminishes the opportunities for the exercise of corrupt, illegal and improper practices during elections.

· The involvement of all citizens in an election provides some protection against domination by minority interest groups, the economically powerful and other elites.

I refer to compulsory voting and individual liberty. Voting is a positive duty owed by each citizen to the rest of society arising out of the profound political and social significance it wields. It is argued that compulsion to exercise a right to vote infringes on individual liberty. However, it is integral to our system of democracy that citizens possess and exercise both rights and responsibilities.

The compulsion to vote is not unique. Other citizenship responsibilities accepted by Governments and citizens include jury duty, giving evidence in court proceedings, compulsory education and payment of taxes. The compulsion to vote cannot be considered an unusual or especially onerous requirement of citizens in the same way that the payment of taxes is accepted as a sacrifice that citizens must make to obtain various social benefits provided by a democratic system of government. The obligation to vote is accepted as a necessary duty citizens must fulfil in order to maintain our system of democracy and the benefits that flow from it.

It is clear that we strongly feel that the essence of motives for the obligation for the population—those who are eligible to vote—should be applied to the local government tier of government. I repeat again, with the hope and expectation

that this message gets through, that we believe that local government is in an unstoppable climb to more economic and social responsibility and a wider area of responsibility to the community at large. It is inevitable that it will be embraced eventually in the same electoral and political structures involved in the other tiers of government. It is for that reason that we move that compulsory voting be accepted in this Bill.

The Hon. DIANA LAIDLAW: The Government has very strong opposition to compulsory voting. We have held for years this principled position, possibly in the same way that the honourable member holds his views, as does his Party, in respect of compulsory voting. I would not assume, as the Hon. Mr Gilfillan has, that it is inevitable that local government will come to be involved in a compulsory system and, in doing so, join State and Federal Governments and their electoral processes. We may well find growing sentiment for voluntary voting across not only this State but the nation. It may be that the other two tiers will come to join local government and the system that applies to local government elections in this State. That is the system that prevails in every major western democracy—in fact, probably in any democracy, not just western democracy. It is equally likely that there will be a reversal from the way in which we have compulsory voting at State and Federal levels.

I could go through a whole variety of reasons, although I do not think it is necessary. I have only to refer to the Hon. Trevor Griffin's speeches over time on the consistent Bills we have introduced in favour of voluntary voting at State elections to realise the consistent and principled position we have taken against compulsory voting over a considerable period. We strongly oppose these provisions. I note that local government itself is opposed to compulsory voting for local government elections.

The Hon. T.G. ROBERTS: The Labor Party supports the Hon. Mr Gilfillan's amendment, and we do so based on the eloquence of his argument. I, too, am an optimistic evolutionist, like the honourable member. I must say that a large jolt of DNA may have to be injected into the process by way of parliamentary vote to allow it to occur. I suspect that there will be a conservative move to voluntary voting across the nation. There is no doubt about that at State level, and probably the conservative networks would also like to see it at Federal level. Democracy is diminished, and people do not take ownership of either the policies or the politicians they elect. It will only make the democratic process deteriorate, and people abscond from their responsibilities and all they do is criticise all elements of Parties and politicians even more than they do now.

If you to go to the north of England at any time during a cold winter, during high unemployment—and it does not matter whether it is a Labour Government or a Conservative Government—all you get is negative criticism from constituents regarding voting. Australia has a good system of compulsory voting, and there are checks and balances in that. The contribution I made earlier in relation to the way in which we present ballot forms for return will immediately improve returns. We certainly need nominations and contests to allow people to have choice. Victoria does not see compulsion as a big deal. Even in regional and rural areas when the ballot papers arrive, they see it as an obligation that they have to perform. Some do it with more vigour than others, but it is no big deal except in conservative forces to bring some sort of perceived electorate advantage by minimising the number of people who vote—

An honourable member interjecting:

The Hon. T.G. ROBERTS: I don't think so—and those who do not vote generally do not understand the value of their vote and tend to resort to other measures to have their voice heard. Australia has held off a lot of those divisions that have occurred in a lot of other countries that have the exact system the Minister is advocating.

The Committee divided on the amendment:

AYES (8)

Elliott, M. J.	Gilfillan, I. (teller)
Holloway, P.	Kanck, S. M.
Pickles, C. A.	Roberts, T. G.
Weatherill, G.	Zollo, C.

NOES (11)

Cameron, T.G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Laidlaw, D. V. (teller)	Lawson, R. D.
Lucas, R. I.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.
Xenophon, N.	

PAIR(S)

Roberts, R. R.	Griffin, K. T.

Majority of 3 for the Noes.

New clause thus negatived.

Remaining clauses (91 to 93), schedule and title passed.

Bill read a third time and passed.

STATUTES REPEAL AND AMENDMENT (LOCAL GOVERNMENT) BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 999)

The Hon. IAN GILFILLAN: The Democrats support the second reading of this Bill. It consists mainly of, first, transitional provisions between the Local Government Act 1934 and what will be the new Local Government Act 1999 and, secondly, consequential provisions updating a series of other Acts to reflect changes in the Local Government Act. I understand that there are no substantive matters of policy addressed by the Bill. However, several measures have attracted the attention of the Local Government Association, which believes that the transitional arrangements may, in some circumstances, impose an unfair burden on councils or increase the scope for the Minister to interfere in what should be a local decision.

The LGA is not opposing any of the amendments which have been filed by the Minister. However, in a fax received by my office last Tuesday (3 August), the LGA indicated that it was seeking some amendments to the Bill, including the insertion of some new clauses. Before we move into the Committee stage, I will be seeking an indication from the Government as to its position on the Local Government Association's advice. For my part, I am already on record as supporting strongly the principle of local autonomy along with improved local democracy, public accountability and environmental sustainability. Any amendment proposed by the LGA and agreed to by the Government will certainly receive favourable Democrats consideration, at least, so long as it does not conflict with those principles.

Regarding the amendments on file from other members, I understand that all the amendments on file from the Hon. Terry Roberts are consequential on amendments to the main Bill which have been lost. So, I do not expect that they will be moved. My own amendments to clause 5 of this Bill are consequential on the proposed amendments to the Local

Government (Elections) Bill. That was not successful, so I will not be proceeding with any of the amendments that I have on file.

An honourable member interjecting:

The Hon. IAN GILFILLAN: The Leader of the Government in this place has wonderful selective listening: I hope he heard me when I asked for a response from the Government to the LGA's advice, otherwise we will just have to stall in our tracks. The Hon. Terry Cameron has on file amendments concerning retirement villages, which I will be supporting. The Hon. Nick Xenophon has an extraordinary amendment on file regarding road closures. It is a strange piece of drafting, imponderable in its effects, and one which the Democrats will have to look at very closely in the Committee stage. However, with those remarks—

Members interjecting:

The Hon. IAN GILFILLAN: Well, is that what it is about? With those remarks, I indicate that the Democrats support the Bill.

The Hon. T.G. ROBERTS: As the Hon. Ian Gilfillan has already knocked out my ability to make a contribution on that by saying that all my amendments are no longer of any value, because they were—

The Hon. Ian Gilfillan: Maybe you can prove me wrong.

The Hon. T.G. ROBERTS: No, you are definitely right: it is good to see the coalition working at the moment. The Opposition will oppose much of the Bill before us but will support the Hon. Nick Xenophon's amendment: it is finely tuned and drafted. It is eminently sensible and may put out of reach once and for all in the minds of some members of this place the prospect of Barton Road either opening or closing. I do suspect that, if this is defeated, in some members' minds it probably will not be the end of the struggle in terms of what happens with Barton Road.

The Hon. R.I. LUCAS (Treasurer): Once again, I thank members for their contributions. A range of amendments to the Bill are proposed by the Government and by other Parties. The need for some Government amendments arose in the period following this Bill's introduction in March: others are consequential on amendments made to the other local government Bills in the package. Considering the proposed amendments, I hope members will bear in mind that this Bill completes a comprehensive review of the Local Government Act, that its passage is necessary to implement this very significant reform and that they will keep in mind this larger picture. I understand that the Hon. Mr Gilfillan has raised one or two issues which might, given the tightness of time, be explored in the Committee stage before the dinner break. When the Minister returns, it may well be that she can respond to some of these issues prior to completion of the Committee stage.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2.

The Hon. NICK XENOPHON: I move:

Page 1—

Line 16—Leave out 'This' and insert:

Subject to subsection (2), this

After line 16—Insert:

(2) Section 41A will come into operation on the day on which section 359 of the Local Government Act 1934 is repealed.

This is a commencement clause that relates, in turn, to a proposed amendment to clause 41A which, of course, I will move in due course. I understand that this proposed amendment will be a test clause for clause 41A. So, I propose to speak to both in order that this particular clause is seen in its appropriate context. The commencement clause ensures that clause 41A, if passed, will come into operation on the day on which section 359 of the Local Government Act 1934 is repealed.

At the outset it is worth mentioning that section 359 of the 1934 Act in its current form was arrived at in 1986 when one of the many Local Government (Miscellaneous) Bills was passed. Parliamentary Counsel headed the section 'Temporary closure of streets or roads'. The reason Parliamentary Counsel did that is that both the Government and the Opposition intended the clause to apply to temporary closures only. The Parliament dealt with permanent closures when it passed the Roads (Opening and Closing) Act 1932, which was rewritten and consolidated as recently as 1991 when Parliament passed a current version unanimously. The parliamentary debate on section 359 in 1986 makes it clear that section 359 was for the Christmas Pageant, road works, the grand final parade, street fairs and scheduled demonstrations or protest marches. The 1986 clause notes to the amended section 359 state:

> Clause 27 amends section 359 of the principal Act so as to allow part only of a street, road or public place to be closed on a temporary basis.

Then Minister Wiese's second reading explanation accorded with the clause notes, but the Opposition spokesperson on local government at that time went further and said:

> A further amendment to section 359 is to close public pathways and walkways on a temporary basis.

They were very wise words indeed from the then Opposition spokesperson on local government, whom I note is still with us in this Chamber, transformed as the Minister for Transport; indeed, the Minister has the conduct of the Bill in this place. This clause ensures that a road closure pursuant to section 359 of the 1934 Act, which clearly relates to temporary road closures, will cease to have effect in the case of a prescribed road which involves a road that runs from the area of one council into another council. There are literally hundreds of section 359 closures throughout the State that will not be affected by this amendment in any way. These closures are generally in suburban streets for the convenience of local residents and could be described as intra-council road closures.

This amendment ensures that the closure of a road that runs from one council area into the area of another council will cease to have effect before the expiration of the six month period referred to in subclause (1) of clause 41A as agreed to by resolution passed by the affected council under this subsection. This is something that can be effected easily and expeditiously for the handful of roads that would fall within this provision. It should be pointed out that there is also a *de facto* continuation of section 359 of the 1934 Act to allow for road closing by a council for traffic management purposes in proposed section 32A of the Road Traffic Act, amendments that were recently passed in this Parliament without dissent. There is also a provision for permanent closures which involve the grassing over of a road pursuant to the Roads (Opening and Closing) Act 1991. This amendment does not in any way touch or affect it.

At its essence, this amendment is about giving residents on both sides of a prescribed road closure a fair go. It is about ensuring that principles of natural justice and due process prevail, particularly in the context of the use of the temporary and unilateral road closure provisions of section 359 of the 1934 Act. I have confined the operation of clause 41A to roads that run into the area of another council. I have done so after consulting with my parliamentary colleague the Hon. Ian Gilfillan and after listening very closely to the views of the Local Government Association. I wait with bated breath to hear of the Hon. Ian Gilfillan's attitude. The scope of the clause 41A amendment has been narrowed to apply to those situations where, in effect, the amenities of residents as motorists, passengers and cyclists in an affected area are impacted on in a most obvious and direct manner where a road runs into the area of another council rather than circumstances where it runs, for instance, between the boundaries of two councils.

There are some important principles of local representation and local democracy at stake. This is about giving a say, an input, to the residents of an affected council. The impact of a road closure is much more direct and immediate than the circumstances envisaged by the amendment and, can I say, rare. From discussions with the Local Government Association, I understand that it will potentially affect only a handful of roads (in the order of seven), and I expect that in most of these cases the affected council will in all likelihood consent to it so that the issue is resolved expeditiously.

I should also mention that there has been a spurious and mischievous campaign against the underlying bases of the amendment in the form of an anonymous leaflet circulating in a number of areas, including the Warradale area, headed, 'Your local road closures', saying that this amendment will have the effect of reopening a closed local road in your area. It is a pity that those individuals—who did not have the courage to put their names to it—did not care to contact me to find out the true effect of this proposed amendment. I have indicated that this is a test clause; that if it is passed it will be an indication of support for clause 41A, a clause that at its heart is about natural justice and fairness and giving residents from different councils on both sides of an affected road a fair go and a real measure of natural justice.

The Hon. DIANA LAIDLAW: The Government vigorously opposes this amendment. As the honourable member has said, the amendment is part of a much more substantive amendment to clause 41A. That new clause as proposed by the Hon. Mr Xenophon seeks to override previous lawful decisions made by councils under section 359 of the 1934 Local Government Act to restrict traffic in their areas. As most of us who have been in this place for much longer than the Hon. Mr Xenophon know, it is usual when laws are changed, as he is proposing to do here, that previous decisions made under the old law are preserved and not required to be reviewed or reversed retrospectively. This amendment is designed to target specific previous decisions by councils to close roads to some forms of traffic and to require that they be reconsidered.

Barton road is one example, and I suspect that it is the only one that the honourable member has in mind, yet what he has done is cast the brush broadly across a whole range of council areas in this State. I was interested to see that he ended his contribution by references to natural justice and stated that it is a pity that people who had circulated material in the Warradale area, for instance, had not contacted him. I suspect that, in moving this amendment, he did not contact them to alert them to what he was planning or to provide them with natural justice. But some can perhaps afford to be holier than thou.

Under this proposed amendment, the traffic management scheme put in place by a council could not continue unless an affected council agrees. The Local Government Association has identified some seven roads specifically caught by this amendment, in the short time that the LGA has had to research this, because the amendment was produced so late in the long consultation process of this Bill. But in every case, including those previously agreed to by the affected councils, councils will be put to the unnecessary expense of obtaining agreement again. In all cases where an affected council does not agree, this process will frustrate a local decision that has been lawfully implemented by a council under its own autonomy.

Possibly, the decision will result in traffic management problems for councils and, where the road runs into a main State arterial road, the State will be required to undertake expensive road work to reinstate the side road that would be at issue. In a case such as Silkes Road at Paradise, a formal process for reviewing that decision has already occurred under section 721 of the Local Government Act. As I recall, it was former District Court judge Mrs Iris Stevens who was asked by the then Minister for Local Government to investigate this issue, as is provided for under the Local Government Act. She determined:

> The manner in which Tea Tree Gully Council exercised its powers under the Local Government Act 1934 in relation to roads and traffic management sufficiently complied with its obligations to provide a fair process.

Under section 721 of the Act her decision is final and may be made a rule of the Supreme Court and enforced accordingly. The amendment before us would make that decision, which is clearly designed to be a final decision, redundant. The focus of this motion is really to reopen Barton Road, in particular. The motion to reopen Barton Road has been put to the Parliament on a number of occasions and lost, most recently in the Road Traffic (Road Rules) Amendment Bill and prior to that in the City of Adelaide Bill.

It is relevant to refer briefly to a paper that I suspect has been circulated to all members of Parliament by Michael Abbott QC. He acknowledges, as he should, that he lives in North Adelaide and has an interest in Barton Road's continuing to be closed.

An honourable member: He comes in by bus.

The Hon. DIANA LAIDLAW: Yes, he is a keen supporter of public transport and therefore it is even more important that we hear his view. He writes that the definition of a prescribed road as proposed by the Hon. Nick Xenophon is extraordinarily wide. He states that the definition seeks to deal with roads that hitherto were exclusively inter-council roads and not intra-council roads. Obviously, if a road crosses from one council area to another, that other council has jurisdiction over that road. This amendment seeks to extend that jurisdiction to that other council in respect of roads which do not fall within their own boundary but which merely run up to that boundary.

In other words, the council that hitherto had exclusive jurisdiction over roads wholly within its own boundary no longer has any jurisdiction in respect of whether prescribed roads as defined, which it closed, should remain closed. That jurisdiction is purported to be given to the adjoining council, which is described by a misnomer as being the affected council. Mr Abbott writes that unless an adjoining council

meets within six months of the repeal of section 359, as proposed by the Hon. Nick Xenophon, and by resolution agrees that the prescribed road as defined shall continue to be closed, then the road will automatically no longer be closed.

What I find interesting in this amendment, from my own observation of clause 41A(2), is that there is no compulsion on the neighbouring council to respond at all to any representation from the council within the boundaries of which the road closure is the subject of attention. Essentially, the neighbouring council could reply right up to the deadline of the six months period, it could refuse to respond at all or it could come in late saying that it did not agree with the proposition that had been put to it by the respective council. That is a highly unsatisfactory way of dealing with a situation that has been in force for some time, in terms of the road closure. It is unfortunate when you see that it has to be matched up with the very broad definition of 'prescribed roads', and I think it is a particularly unfortunate decision that we in this place would even entertain this retrospective proposition that has been addressed legally through councils, and that we would not only be seeking to overturn those decisions but would do so retrospectively.

If we felt earnestly and if we dealt with this with integrity, we would say that this is something that we would wish to see happen in the future, not to overturn council decisions lawfully made and to do so retrospectively. Also, I highlight that in asking the neighbouring council about its view in terms of the road that has been closed and whether it should be reopened, the adjoining council is not required to contribute to the cost of the reinstatement of the road irrespective of the reply. That is pretty slack and inequitable. There are no funding repercussions from the decision it makes in this matter. As I have indicated, there is no time frame for the council to respond, other than the six months, and it could leave it right to the death knell, which would put the affected council into some sort of chaos in terms of administration. Certainly, it would put considerable trauma, unnecessarily so, on the residents.

The Hon. T.G. CAMERON: SA First will be vigorously supporting the Michael Atkinson Barton Road amendment.

The Hon. Diana Laidlaw: So Nick is not even getting credit for it?

The Hon. T.G. CAMERON: Yes, I will come to Nicholas in a moment. I do this not to be mischievous (to settle the Minister down), but I believe that this amendment needs supporting. I used to drive through North Adelaide on my way to visit my parents and was most put out when Barton Road was closed. At the time I considered it to be a high handed, arbitrary and selfish action on the part of the council, protecting a few people who were somehow or other offended because we plebeians from the Port used to drive through their suburb.

I used to drive either through North Adelaide or around the golf course. I did not take that course because it was a quicker way home: I did so because it was a pleasant drive around the golf course. Or, as I often do, I would enjoy driving through a few of the back streets of North Adelaide, appreciating some of the wonderful old homes there. I say that the action of the Adelaide City Council was a selfish action in closing that road. It was done with no consideration whatsoever for working class people in the western suburbs who have no other choice at times but to drive through that North Adelaide area.

I can recall on one occasion when I was picked up for actually breaking the law and driving along Barton Road when it was closed. For reasons unbeknown to me, the police officer decided not to proceed with the matter when he realised I was a member of Parliament and left me sitting there. I understand the same thing has happened to other people as well.

The Hon. T. Crothers: Another member?

The Hon. T.G. CAMERON: I will let the honourable member speak for himself. I must say that, when I saw the first amendment drafted by Parliamentary Counsel, I suppose under the instructions of the Hon. Nick Xenophon, I was a little concerned about it because of the number of road closures that it affected. I had read the correspondence from the Local Government Association, the somewhat alarmist correspondence I received from about seven or eight councils which was part and parcel of an orchestrated campaign to try to prevent this amendment from being put forward.

I was somewhat curious to read the opinion of Michael Abbott QC. I do not know Michael Abbott but I did think it was a fairly self serving, self interested opinion. It would be interesting to have a QC check that opinion if we could find one who actually lived in the Port area. I suspect that most QCs are safely reposited up in North Adelaide. I do not take a great deal of note of Michael Abbott's opinion: I think it is his opinion based on his own views in relation to Barton Road.

I vigorously support the amendment. I support it wholeheartedly and I hope it succeeds in this Council. I hope that the Hon. Ian Gilfillan can see the common sense of this amendment, which will send a very clear signal, if it is passed, to councils not to act unilaterally or in a high handed fashion, merely satisfying a small clique within their own council. Councils should look beyond that, and this amendment will force them to take into account how a road closure might impact on people other than the select few within their own narrow confines.

The Hon. T. CROTHERS: Independent Labour also supports the Xenophon amendment. I have some knowledge of the local area, having worked for the SA Brewing Company and being shop steward for a period of some 15 years. I, too, saw the opinion from Michael Abbott QC, and I was not impressed with it when he did, in all fairness to the QC in question, append a footnote to say that he had an interest as well—he talked about property values in his opinion—because he lived in North Adelaide. I want to say this to anyone who wants to listen: if one wants to talk about the economics of the matter, let me do that.

When it was closed, as a member here and as a former shop steward, I had many employees at the brewery coming to me and ringing me about the additional distance they had to travel because Barton Road was closed to them. I pose the question to the honourable Mr Abbott or anyone else with a vested interest.

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: I think he is an honourable man. I was using 'honourable' adjectivally rather than nomenclatorially. I ask the Hon. Mr Abbott and anyone else who has a vested interest in the area that was closed off to through traffic when Barton Road was closed quite high handedly by the council: what is the additional cost to the community in petrol expended because of the extra distance for people who would normally use Barton Terrace as a short interconnector, to take them to their place of residence, every day of their working lives, every week of every year and every year that they continue to be employed? Where is the economic justice from those vested few who are frightened

that through traffic might diminish the value of their residences or buildings?

In addition, because cars are having to stay on the road longer, now that the short cut is not available to them, I pose the intangible but obvious question to the Hon. Mr Gilfillan: what about the additional pollution that the car exhausts cause to the health of the community? It is a hidden intangible. My parliamentary colleague has a genuine conviction with respect to his views on the environment.

Not much more needs to be said by the supporters of the Xenophon amendment. If one looks at that and at a lot of other selfish activities that have brought about the introduction of this amendment, if one looks at the rational logic of the arguments advanced by the Xenophon amendment supporters (and I am too modest to include myself), one sees that there is no economic justification on God's earth why Barton Terrace should remain closed. There is, on the other hand, a hidden intangible damaging factor of the additional damage caused by car engines having to run for longer periods of time now that the short cut of Barton Terrace has been closed off to them.

The Hon. T.G. Cameron: You are turning into a greenie.

The Hon. T. CROTHERS: You can call me Winston; I thought I was turning into an orator. Now that Barton Terrace has been closed off to them they have to have their engines idling for an extra 10, 15 or 20 minutes, bearing in mind that these people are both going to work and coming from work at peak hours, when the capacity for celerity in respect to travelling on our roads is slowed down, again leading to engines being used for even longer periods than they would be should Barton Terrace not be closed in peak hours, as it is indeed for the other 21 hours a day.

I do not think there ought to be any dissentient voice in respect to this 'Xenophonic' amendment, or I should say the Hon. Mr Xenophon's amendment. But I did use the word 'Xenophonic'; perhaps it was a Freudian slip, because I think some of the residents of North Adelaide are 'Xenophonic' in so much as they think they are living in a foreign country divorced from the rest of the residents of Adelaide. I urge members to support the Hon. Mr Xenophon's amendment.

The Hon. J.F. STEFANI: I did not really want to speak on this subject but I feel compelled to do so, because I have used substantially that area of road and that particular area of the district. I have lived in the Woodville area and in the Gilberton area for a number of years and I have been involved and declare my interest in a society called the Australian Red Cross. I find it extremely objectionable to see a sign that says 'No traffic allowed other than buses'. To me it is something that strikes at the principles of democracy that a huge bus could use that road and yet anyone wanting to go to Red Cross, or that area of North Adelaide, is not permitted to do so. It just does not make sense. In fact, I have to say that on a number of occasions, when I was pressed for time to attend an important meeting at Red Cross, I have used that road, and I make no excuses for using the road and perhaps breaking whatever law it was, because I was committed to a community service that required me to attend a meeting which I considered to be very important and therefore I had to be there.

The matter of the closure of the road goes back many years. I do know something about the road closure being mooted at the time when the Lord Mayor was Wendy Chapman. I do know something of the circumstances and the lobbying and the desires that were expressed for the road closure. I guess at that time it was presented as a means of controlling traffic. We now have islands and bumps and other ways of controlling traffic, and I am sure that if there was a traffic problem there may have been some other way of addressing the issue at this time, where we have councils in many other areas adopting an attitude of not closing the road but restricting the speed, or whatever else. So I just want to make those observations about the issue and say that, in principle, I do feel very strongly about the road being open for the people who really require to use it.

The Hon. IAN GILFILLAN: The Democrats support the amendment. It is important that the amendment be looked at as a legislative measure, rather than an emotional response to what is perceived as perhaps, in an isolated sense, a matter of social injustice. The legislative structure that we currently have is that this cannot happen again. There cannot be unilateral closing of roads where it affects another area because there are conditions in the Road Traffic Act which prevent it happening. So this measure is really to patch up what may have been, in today's wisdom, an unbalanced, unfair assessment of what is acceptable as a road closure.

I was able to have conversations with the Hon. Nick Xenophon to make sure that, as far as we were concerned, it would not open up the local government community to a host of road closures, which his earlier draft would have done, and the latest count is 41 and rising. This does substantially restrict it numerically. I do not have a problem with this degree of retrospectivity, and honourable members will know that we successfully passed through this Chamber the Commercial Tenancies Bill—

The Hon. Diana Laidlaw: The Government did not agree.

The Hon. IAN GILFILLAN: That does not matter. We had a majority. This is democracy; it is the majority, and this Chamber passed a Bill which recognised that there should be certain conditions applying to tenancies that had been agreed which should be available to people who had had tenancy agreements entered into previously. The same principle applies here. And it does not matter where the road which complies with this crops up. It is now, if this amendment is passed, available to be revisited if one of the councils, in which area this closed road has direct route, objects. If there is no objection no burden will be put on either party and everything proceeds as happily as it did before. I know that in some circumstances there has been a continuing objection to a closure by a council which has been affected by the road closure and, in those circumstances, this measure will give them a chance to revisit the issue and have the road closure judged under the terms that this Parliament has accepted should apply to all future road closures. It is on that basis, and on that basis alone, that I believe that this amendment justifies support.

The Hon. SANDRA KANCK: I will be supporting this amendment and doing so strongly. Yesterday afternoon, at 2.25 I have written here on this missive that has come from Michael Abbott QC, a document was distributed in this Chamber by the Messengers. I must admit to a certain degree of disquiet about the fact that a document from Michael Abbott QC was distributed in the Chamber in this form. I wonder, for instance, why it was not distributed in our boxes, where things are normally placed, because I do understand, for instance, that the Public Service Association can no longer have the *PSA Review* distributed here in Parliament because it does not individually envelope them and address them to members, and yet we get something here from one of Adelaide's upper class, Michael Abbott QC, and it appears

here in this Chamber and is distributed, I find that very peculiar. It seems to me as though it is one law for the rich and one law for the poor.

I declare my interest at the outset. Unlike Michael Abbott QC, who wrote two and a half pages and then, at the end, turns around and says, 'Note: Michael Abbott QC lives in North Adelaide and has an interest in Barton Road, North Adelaide, continuing to be closed', I declare my interest as someone who lives in Athelstone and can no longer use the Silkes Road ford. My husband and I purchased our house there 18 years ago, and we knew that that ford was there and that it would shorten some of our travel distances by being able to cross that ford, except on those occasions when the river was running high and we would not be able to do that. We looked at houses on Reids Road and Silkes Road and we saw that it was a main road and decided that it would not be a good place to buy. Every other person who has purchased a house on Silkes Road or Reids Road over the past 50 years has had exactly that same knowledge. Yet, Michael Abbott's letter to us all says that this amendment 'will drastically affect many South Australians who have purchased their houses on the basis that what they saw is what they got'.

Well, I purchased a house, and I saw that within a short distance there was a ford and that I would have access to it. But what I saw is not what I got. Mr Abbott states:

> The amendment has the capacity to devalue the houses of South Australians without their having any say in it at all.

The closure of Barton Terrace probably increased the value of those houses—without any say in it at all, either. He is using his arguments in a very selective way.

Mr Abbott argues that the amendment will be 'destructive of existing rights of councils and homeowners'. In the Campbelltown Council that is exactly what happened when the Silkes Road ford was closed. He says that it 'will pit council against council'. Yes, that happened, and it did not require an amendment; all it took was the action of the Tea Tree Gully in deciding that it knew better than the people on the other side of the river. Michael Abbott's letter states:

> It is—
> (d) to a large extent being introduced to promote the special interests of its supporters.

I guess I am one of those supporters with special interests, so perhaps he is correct. He goes on to state:

> This proposed amendment gives councils the opportunity, by doing nothing, to undo agreements reached many years ago with other councils when those other councils acted in good faith and in the belief that an agreement was an agreement.

The closure of the Silkes Road ford was not done by agreement between the Tea Tree Gully Council and the Campbelltown Council; nor was the closure of Barton Road done by an agreement with, I think, the Woodville Council or the Hindmarsh Council—

The Hon. J.F. Stefani: Hindmarsh.

The Hon. SANDRA KANCK: —with the Hindmarsh Council and the Adelaide City Council. It was done on both occasions as a unilateral action. The Hon. Diana Laidlaw claims that the closures that have occurred have been lawful. In the case of the Campbelltown Council she validated that argument by saying that Iris Stevens reported on that and upheld the action. However, I will tell members what that action was: it was to put up barricades across the ford and to bring in earthmoving equipment to place mounds of dirt there. I would hardly call that lawful. It is very easy to say after the event when it has been closed that there is not much you can do about it. That may be the case, but there was nothing lawful about that. I think it was more a case of might is right.

The Minister, in arguing for the closures that have occurred, said that some of them have been in force for quite some time. I wonder what length of time the Silkes Road ford and Barton Road were open. I suspect that they were open for much longer times: three times, maybe 10 times longer, than the time they have currently been closed.

In his contribution the Hon. Trevor Crothers referred to the economics of the matter. I will introduce another issue as to the economics of the matter. Since the Silkes Road ford was closed, because that has added another 10 minutes to a round trip for me to go to Tea Tree Plaza, I no longer go to Tea Tree Plaza. I do not now how many other people who live in the downtown Campbelltown Council area—because obviously we are not as good as the people in Tea Tree Gully Council—have made the same decision not to go to Tea Tree Plaza to shop, but I suspect that I am not the only one.

I have long held objections to roads being closed because, in almost all cases that I have experienced, it seems to me that the residents of one suburb, who regard themselves as being of a higher socioeconomic class than the neighbouring one, close the road because they think that they have some God given right. If you look at the suburbs that have been closed off, with the Silkes Road—

The Hon. Diana Laidlaw: This is really ugly.

The Hon. SANDRA KANCK: Yes, it is ugly actually. Those of us who grew up in working-class suburbs and do not have degrees sometimes do feel a bit miffed at these sorts of things. Look at the Silkes Road ford as an example: on one side, the Tea Tree Gully Council side, you have the green and leafy suburb of Dernancourt; on the other side you have Paradise which had many Italian market gardeners who clearly were not of the same socioeconomic status.

Look at Barton Road, where you have the people of North Adelaide denying access to the people of Bowden, Brompton and Woodville. Look at Unley, which again is a suburb that has people of reasonably high socioeconomic standing, and they, too, decided that they would close roads and prevent people from using them. If the Minister knows of examples where the council that has closed the roads has not been of a higher socioeconomic standing than the one that it has closed it to, I would be interested to hear about it.

The issue of retrospectivity is something that is always of concern to the Democrats. But, when there is an injustice, as has occurred in these examples, I think that there are good arguments for retrospective action to right the injustice. I also note the comments of the Hon. Julian Stefani: I suppose we should not have been surprised to find out that Barton Road was closed when Wendy Chapman was Mayor. I understand that she lived in Barton Road, so there was quite a degree of self-interest involved in that and it probably would have resulted in a nice increase in value for the property on that road. I indicate that I very strongly support this amendment: it is very much needed.

The Hon. T.G. ROBERTS: The Labor Party supports the Hon. Nick Xenophon's amendment. If Michael Abbott, in his practise as a QC, has the same principles in relation to native title—which is another Bill before us that extinguishes native title over tenements back into the 1800s—I hope he joins with other members in this State in opposing bad legislation when that is debated. I would welcome him on our side. He talks about retrospectivity, the destruction of existing rights and says that it will pit council against council—or even South Australian against South Australian. He also says that 'to a

large extent it is being introduced to promote special interests of its supporters', and then goes on to sign 'Michael Abbott QC'. He lives in North Adelaide and signs in the third person.

This issue has had more words spoken about it in this Parliament than any other issue I can remember during the time I have been here. As with the privatisation of our electricity facilities, it is almost like Ground Hog Day: everyday we come here it is debated in a different form and there is almost the same conclusion but with a slightly different mix. The members who are debating this matter now are different to those who debated it on the last occasion it was before this Chamber, and hopefully the outcome will be different; and the form in which the amendment has been put is different to the other amendments that we have previously had before us.

This amendment corrects a little piece of civil social engineering—to give it a title and a name. It is not unusual for particularly large cities to have civil social engineering, and some cities have more than others. Adelaide was not used to those sorts of things until Barton Road was used in the way it was and became a focus point for a lot of people to use as an illustration. It stood out to most people who looked at it, even in a cursory manner, that it was a fine example of civil social engineering and a separating out of the classes of Adelaide. Although there are alternative routes for others to take, it was clear that people were not being encouraged to use the Barton Road route.

They were the issues that were around when the Bill was first drafted, discussions first took place, negotiation amongst members commenced and the numbers were drawn. I suspect that the Hon. Trevor Crothers has overcome his xenophobia; he is joining with the Hon. Mr Xenophon on this issue. The Hon. Mr Cameron has made his declaration, and I suspect we have the numbers this time to correct this issue in social engineering that should never have occurred in the first place.

The Hon. CARMEL ZOLLO: I also support this amendment. I declare that I am an Athelstone resident, as well. If anything, I live closer to what was the ford than the Hon. Sandra Kanck, and I am one of the many Campbelltown residents who woke up one morning to find the road being ripped up. Along with Barton Terrace, it certainly is a good example of an injustice. I hope this amendment goes some way to resolving that injustice.

The Hon. DIANA LAIDLAW: I find it quite bemusing to note that Barton Road, which has been before this Parliament on several occasions in the past, the measure being defeated on most occasions, is such an important issue to have brought together SA First, Independent Labour, No Pokies, Labor Party and Democrats members. This issue of State importance has brought together all members: at the end of a session, what could be more harmonious? In terms of harmonies, rarely do we see such ugliness in terms of overtones and the nature of the debate, with the brewing of social class tensions. I have been dealing with transport issues, being Transport Minister, for a long time—possibly for longer than any other, except for Mr Virgo. If you look fairly across the inner metropolitan area and even further out, you will find that pressure on inner-city roads, inner-city councils and populations is seeing the slowing of traffic and councils determining that through traffic not be permitted in some streets.

Members opposite could have been more honest, whatever their reasons for supporting the issues. The supporting speeches were essentially about Barton Road. There was another small reference from the Hon. Carmel Zollo and the Hon. Sandra Kanck but, essentially, Barton Road was the issue. It would have been more honest for members in this place to have dealt specifically with the motion that has stirred them to such depths that they have come together. I cannot imagine anything else. Even in terms of private members' Bills last night, which would have had a great effect on the State, members went everywhere. They were all over the place in their responses to those issues. However, dear old Barton Road has brought you all together. It is interesting.

The Hon. NICK XENOPHON: I would like to deal, first, with some of the comments made by Michael Abbott QC in his memorandum circulated to members of Parliament yesterday. To be fair to Mr Abbott, at least he had the courage to put his name to this memorandum, unlike others who distributed an anonymous leaflet in a number of areas, keeping my staff busy in the past few days with numerous phone calls in relation to a scare mongering campaign.

I need to add to some of the comments made by some speakers in relation to Mr Abbott's contribution. Mr Abbott asserts that this amendment has the capacity to devalue the houses of South Australians without their having any say in it at all. It is making an assumption about land values in North Adelaide that does not seem to be supported by any evidence. That itself is a sweeping assumption that does not have any merit to it.

Mr Abbott has discussed the effect of the proposed amendment but, at that stage, he was considering a much broader amendment: this amendment is much more narrowly confined. In fairness, his comments do not carry the same weight, if any at all, given that the amendment is much more narrowly defined. He talks about pitting council against council. It is about competing interests and about people having a fair say in all this, and it is important that we look at that. He says:

> There is no basis why a unilateral and inequitable right should be given to one council to enable that council to vitiate or set aside what that council had previously agreed or consented to. . .

This amendment allows for both councils to consent for a road closure to continue. The very basis of this amendment is one of giving both councils a fair go.

In relation to the issue of retrospectivity, it is important that that be put to rest. I do not accept that this is in the classic sense a retrospective amendment. Retrospectivity clearly applies if a right is being taken away. We need to look at this in the context of section 359 of the 1934 Act. It was all about temporary road closures. We are remedying essentially an abuse of process, in many respects. In the context of retrospectivity, if we were talking about a worker's rights on a particular day in relation to injuries that that worker had, and then those rights being taken away, that would make sense. Here we are talking about the rights of residents to have the right to pass from one council area into another on a prospective basis in a sense or, alternatively, the rights of residents who want the road to remain closed, not having motorists from another council area travelling into their domain.

In terms of retrospectivity, it is worth mentioning, for the benefit of the Minister, the High Court decision of Justice Isaacs in *George Hudson Limited v. Australian Timber Workers Union* as long ago as 1923, when the High Court said, about the presumption against retrospectivity:

> But [the presumption's] application is not sure unless the whole circumstances are considered, that is to say, the whole of the circumstances with which the Legislature may be assumed to have had before it. What may seem unjust when regarded from the standpoint of one person affected may be absolutely just when a broad view is taken of all those affected. There is no remedial Act which does not affect some vested right but, when contemplated in total effect, justice may be overwhelmingly on the other side.

I also need to refer to the legal academic, Leon Fuller, who writes:

> It is when things go wrong that the retroactive statute often becomes indispensable as a curative measure. Though the proper movement of law is forward in time, we sometimes have to stop and turn about to pick up the pieces.

Even if this amendment could properly be categorised as retrospective—and I do not agree with that—it is very much about picking up the pieces to remove an anomaly in a very limited number of cases and I urge members to support it.

The Committee divided on the amendments:

AYES (11)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I.
Holloway, P.	Kanck, S. M.
Roberts, T. G.	Stefani J. F.
Weatherill, G.	Xenophon, N. (teller)
Zollo, C.	

NOES (6)

Dawkins, J. S. L.	Laidlaw, D. V. (teller)
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.

PAIR(S)

Roberts, R. R.	Griffin, K. T.
Pickles, C. A.	Davis, L.H.

Majority of 5 for the Ayes.

Amendments thus carried; clause as amended passed.

Clauses 3 and 4 passed.

Progress reported; Committee to sit again.

[Sitting suspended from 6.10 to 7.45 p.m.]

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 27 July. Page 1694.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): In terms of all the questions that the Hon. Carolyn Pickles asked, that information will be provided by letter in the coming week, and I will table or incorporate it when Parliament resumes.

The Hon. SANDRA KANCK: A crisis has supposedly emerged in our public hospitals in the past few weeks. By my definition of 'crisis' it should mean a short-term situation which is abnormal. Unfortunately, the situation in nearly all our public hospitals is far from abnormal. During my numerous visits to our public health institutions over the past 5½ years as a Democrats health spokesperson, a clear picture has emerged of crisis management as the norm. Despite the media frenzy fed by the Minister for Human Services and the shadow Minister, there is nothing new about it.

The Premier revealed that yesterday in comments to the House of Assembly when he said, 'In a period of 10 years, the headlines have not changed.' While we agree with the Premier's comment, it is indeed a sad indictment on a Government that has had responsibility for our health system for more than half of that period. The Government has had 5½ years to fix the deficiencies, and it failed. The apparent crisis which emerged last month was yet again a crisis not in resources, facilities or staff but in Government commitment and contribution of cash. With the wards at Flinders Medical Centre having to be closed to meet budget requirements, a ludicrous situation emerges where in-patients wait in aisles while whole wards with empty beds remain closed. No doubt it would be demoralising for those who work in a system which does not allow them to treat people because of budget allocations.

I have had conversations with personnel from our hospitals which reveal the low morale that is endemic in our system. Media coverage gave these people an outlet to be heard when their calls for more funding for beds might otherwise have gone unheeded. When all this was occurring, I asked one of my staff members to telephone each of the metropolitan hospitals. After telephoning most of them it became clear that there was no new crisis, just the usual pressure brought on by the winter months. There always is a problem in winter when so many more people come down with colds, flu and, perhaps, pneumonia.

I understand the extreme pressure which our health system is under, and I by no means underestimate the difficulties faced by the staff, the administration and, above all, the patients. But I am concerned that the continuing stories of crisis are undermining the faith of the community in what by and large is still a good system of public health. It has been a bit like the runaway bus. We had the first story of patients in the corridors at Flinders Medical Centre and then the Minister for Human Services bouncing off that saying, 'Don't blame me: blame the rest of my colleagues, because I put in for money and they would not give it to me.'

The Premier then hopped on the bandwagon and did the chest beating, strong Leader number and told everyone what he would tell them all when they went to Canberra. Then the doctors and nurses got in on the act, because they could see that it was an opportunity to talk about where things were running short in their area. I certainly do not begrudge the doctors and nurses the opportunity that that presented to get some very legitimate complaints on the record. There is no more fat left to be cut in our health system. The fat is gone and we are now cutting through the muscle to the bone. An article written by Dean Jaensch in January highlights the ludicrous manner in which this Government has been treating our health system. In that article he stated:

> Hospitals, like any other organisation, have to meet budgets. But what if they are forced to go over them by the medical needs of the community? What if demand should exceed supply? What should a hospital do? Send them away?

The answer, if we judge the Government by its actions and not its words, is 'Yes'. The Government does not want to take the responsibility for the cuts: the cuts are the problem of each individual health service. But the Government expects budgets to be met, even at the expense of the people for whom the service is provided. In the resultant name calling that has emerged from the prominent media coverage given to health in the past few weeks, the finger has been pointed everywhere but at the State Government. Lack of private health insurance, an ageing population, people who are not in dire poverty who have the temerity to use the public system, and not enough Federal Government funding: these appear to be the favourite scapegoats of the Federal Government. Let us look at some of these apparent causes.

Evidence shows that private health insurance contributes very little to our public hospitals. I would join with John Olsen and Dean Brown in pointing the finger at the Federal Government because of the way the Federal Government has been propping up the private system. Its recent attempt to bolster the private health funds resulted in a subsidy to the private health system of $1.7 billion. Imagine what could have been achieved if that same amount had been put into the public system. Another 660 000 patients around Australia could have been treated in this coming year. The Premier has also used as a scapegoat the elderly and those who are moving into that category, and I note that even today in a ministerial statement the Minister for Human Services again named an ageing society as one of the reasons why we have problems in the health system at the present time.

Yet a recent study undertaken for the Productivity Commission (a body that the Premier apparent trusts) by Professor Jeff Richardson and Dr Iain Robertson of the Centre of Health Program Evaluation showed that only one-fifth of the increased health spending in 21 years around Australia is due to an increase in an older population. *Focus*, the magazine of the Hospital and Health Services Association of South Australia, highlighted some of the information that came out in that study. It notes that when the effects of ageing only are included in the model (the model that Richardson and Robertson were using), there is no projected increase in health costs as a proportion of GDP.

They also note that there is a common misconception that the younger your demographic profile, the less demand there will be on your health system. But they also note that the USA has a young population profile but the highest health costs as a proportion of GDP, and the opposite pattern is true in the UK. Richardson and Robertson say that costs are not driven by household income or price but, rather, by supply (for example, more doctors or new technologies) and demand and service availability. They argue that the hospitals' ability to achieve technical efficiencies may be exhausted and that technology will be the key factor.

I suggest that, if the Premier and the Human Services Minister are going to persist in arguing that an ageing population is part of the cause of our apparently escalating health costs, they need to do a little more research and stop blaming a group of people who are not to blame. Another of the scapegoats has been the issue of those who are not in dire poverty using the public health system. We need a health system that can provide universal, accessible health care based on need and not capacity to pay. I am one of those people who has decided not to have private health insurance. I have had the health portfolio for the Democrats for 5½ years, and it has been something to test my mettle, because I have seen what has been happening in the health system.

I have been seeing the decisions that the Government has been making and am probably more aware of them than many people in the general public. It has been very tempting, in fact, to go and join a private health insurance fund, but I have resisted the impulse because I believe that it is very important that articulate people who understand how the system works should use the public health system. Recently, when I had a gall bladder operation, I had to wait a number of months on a waiting list, just like other people have to. It is very important that politicians are part of that system; that they can go into a hospital and be in a public ward along with other people, not getting any extra benefits, no carpets on the floor, nothing fancy in the way of food, but experiencing the system as other people experience it. I will argue very strongly that a lot more people should be opting to do that.

I note an argument that is used, that from the point of view of wealth some people are not contributing more. But every member of this Parliament, because of the amount of money that we earn, already pays a higher amount for the Medicare levy, first on the base percentage and then we pay a further amount as a penalty for being in what is perceived to be a high income area. We are more than paying our way in the public health system. Another of the issues that both the Premier and the Minister for Human Services have argued about is that there is not enough Federal funding. On that, the Democrats have some agreement. We have been calling for quite a number of years for an increase in the Medicare levy.

I note that in the ministerial statement made by the Minister for Human Services today he stated:

> We already know that the Medicare levy funds only 8 per cent of the nation's total health bill.

Certainly, I have found people in the course of my job as a politician who say 'I pay my Medicare levy, therefore I am entitled to treatment.' But many people are not aware that they only pay a pittance of what is required. So, the Democrats have been urging for a long time that there ought to be an increase in the Medicare levy. We believe that the public would be accepting of such an increase if they knew that it was going to a worthwhile cause. That cause would be maintaining an efficient public health system, based on need and not capacity to pay.

We only have to look back a couple of years to the gun buy-back system, where the Medicare levy was increased so that the guns could be purchased, and there was very little murmur in the community about that, apart from those who had to surrender their guns. The great bulk of the community believed that the increase in the Medicare levy for that purpose was justified. I cannot say that, amongst any people that I know, there was any resentment of it at all. Any calls that this Government makes for increasing the Medicare levy would certainly have the Democrats' backing.

Returning to the issue at hand, our State-based health system and how the State Government uses its health funding, the South Coast District Hospital at Victor Harbor was an example used by Dean Jaensch in the article to which I referred earlier. Despite rapid growth in population in that area, funding to that hospital has been cut. I quote Dr Jaensch as follows:

> So, given that the hospital was servicing a growing population and that the pressure to properly service the local community would increase, what was the reaction of the State Government authority? Rather than recognise that the budget had been exceeded because of the need of a numerically increased clientele, the Government penalised the hospital by cutting its allocation by $52 000 for the next year. What great logic!—the hospital cannot cope with the already cut funding, so cut the funds still further.

The perceived crisis at Flinders Medical Centre that is going on at the moment is in exactly the same vein, but in this case we are talking not about $52 000 but $5 million. Another example is Julia Farr Services, which I have previously raised in this Chamber. In the past five years it has achieved $11 million in savings. Last financial year the Government expected a further $1.9 million in savings.

The Board of Julia Farr Services said that to achieve these savings patient care would have to be compromised. It attempted to get advice from the Government as to how to achieve these savings but it took six months before even an acknowledgment was given. This is a familiar story for most

public health services. Mental health is another area grossly underfunded. A prominent psychiatrist has told us that public hospitals are barely managing. He said the system is able to treat only those who are behaving in a manner which is socially unacceptable. In other words, those people having psychotic episodes and being neurotic is not good enough now—you have to be psychotic.

He says that 40 per cent of people who experience depression are going untreated. ACIS teams are understaffed and under-resourced, and a mental health worker recommended that anyone who was to experience a breakdown should do so in office hours because only then is normal staffing available. Yet despite the comments I have made there is no unmanageable crisis: our health system still remains the best in the world for quality, equity of access and cost. Australia's expenditure on public health as a percentage of GDP is currently one of the lowest in the OECD.

What is missing is a commitment from government to bring about effective reform to the public health system. Our health service in South Australia is becoming the victim of economic rationalisation. When the Government took control of the pursestrings in 1993 it rejected methods such as taxation and levies as means to get South Australia back on an even economic keel. Instead, it embarked on the haphazard route of asset sales, expenditure cuts and reducing Public Service employment. Yet this achieved very little, other than to make life harder for all South Australians who are having to pay the price twice over in the form of the emergency services levy and downgraded health services.

Since the early 1990s the political climate has turned to ensure that resource allocation has become dependent upon accountability. Goals and targets with time limits are now the focus of public health. This is particularly noticeable in the area of primary health care. Primary health has the potential to address social justice issues which impact strongly on health but, because they are difficult to measure, they do not get the impetus they deserve in health policies. Why would a Government introduce a program when the benefits might not be seen for another 10 to 15 years?

What is most concerning is that neither the Government nor the Opposition seem to know what primary health care means. At a recent primary health care conference which I addressed, the Minister spoke about redevelopments in public hospitals, while the shadow Minister spoke about dental waiting lists, neither of which have anything to do with primary health care. So what is the answer to this perceived crisis? There are no quick fix solutions. The Democrats recognise that there is no bottomless pit of money, but the question must be asked: are there more efficient ways to use the money we have now?

It is time to look at the administration of health in this State. Do we really need two levels of health administration? Why is it necessary to have an office of the Commonwealth Department of Health in Adelaide? How much is it costing the taxpayer and could that money be better directed into the provision of on the ground health services? Should not more money be invested into preventive programs in the community? What would be the impact on numbers in the prison system if adequate funding was available to treat children with ADHD in our school system? A survey in one Western Australian correctional service institution showed that a quarter of the prisoners had ADHD. With adequate earlier intervention these men may not have become criminals, with all the attendant costs that criminality brings to our economy.

One of the most galling aspects to the health funding crisis is that millions of dollars could be saved if only State procurement services were efficient or even remotely organised, a matter the Democrats have previously raised in this Parliament. In the end, health services and their clients pay the price for government inefficiencies. There are many potential solutions to the health funding dilemma. A Government which is willing to listen and consult could learn and achieve much in this area, yet rarely a day goes by without some media report announcing a crisis in our health system. This might sell newspapers and it might even benefit those who could gain from the uncertainty caused by such reports, but it does nothing to address the issues facing our health system, not least of which is a costly system of administration in our Health Commission.

Money and policy commitment need to be invested into South Australia's health system, although this will cost, but the Premier and the Minister for Human Services should stop and think that a system of illness will cost a lot more. With these comments I support the second reading of the Appropriation Bill.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Legal Practitioners Act 1981. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill amends the *Legal Practitioners Act 1981* (the Act) for two distinct purposes.

Firstly, the Bill will amend the Act to effectively exclude, from the Guarantee Fund, claims for losses incurred as a result of a legal practitioner's mortgage investment activities.

Section 60 of the *Legal Practitioner's Act* (the Act) provides that, where a person suffers loss as a result of fiduciary or professional default and there is no reasonable prospect of recovering the full amount of that loss, the person can claim compensation from the Guarantee Fund.

The question of whether a defalcation is covered by the Guarantee Fund will depend on whether the defalcation occurred in the course of the practitioner's legal practice, which, in turn, will depend on the circumstances of each individual case. If a legal practitioner is conducting a legal practice and a mortgage investment service, it is likely that, without a clear separation between the two distinct services, a defalcation in relation to a mortgage investment service would be considered to have occurred in the course of the practitioner's legal practice.

However, mortgage investment broking is not a general part of legal practice. There are no restrictions on the classes of persons who may offer or give such advice. As such, the Government believes that there is no justification for providing greater protection to a person who accepts mortgage investment services from a person who is a legal practitioner. By excluding claims related to mortgage investment broking from the Guarantee Fund, all clients accepting mortgage investment services will be in the same position in relation to indemnity for losses, regardless of the profession of the person facilitating the mortgage investment scheme.

Secondly, this Bill addresses the problem of the employment in legal practices of legal practitioners who have been suspended from legal practice, and former legal practitioners whose names have been stricken from the roll of practitioners.

These sanctions are among those which may be imposed by the Supreme Court, and in the case of suspension, the Legal Practitioners

Disciplinary Tribunal, for misconduct. They are not imposed lightly, but flow from a finding that the practitioner has been guilty of unprofessional conduct. The sanctions are intended to punish the practitioner for the conduct, and at the same time to protect the public from possible harm which might flow from dealings with the practitioner in his or her professional capacity. They prevent the practitioner or former practitioner from practising the profession of law during the period of suspension, or until readmitted. To do so is an offence under s.22 of the Act.

A difficulty which has arisen in practice, however, is that although prohibited from practising the profession of law, such persons may nevertheless be able to secure employment in legal practices as law clerks, or paralegals, or in like roles. In this capacity, it may occur that they, in reality, carry out duties very similar to the duties they would have carried out if engaged as legal practitioners. This form of employment has been used, therefore, to avoid the real effect of the disciplinary sanction.

Hitherto, although it has been an offence to aid an unqualified person to practise the profession of law, it has not been an offence for a legal practitioner employer, or contractor, to employ or engage in a legal practice a suspended or struck-off practitioner. While the suspended or struck-off practitioner commits an offence if he or she practises the profession of law, the mere fact of employment in a law firm has not been an offence.

This is to be contrasted with the position in other States, where the employment in and of itself constitutes an offence, or in some cases, unprofessional conduct by the employer. For example, the Victorian Legal Practice Act 1996 creates an offence of knowingly employing or engaging such a person in connection with the legal practice. Likewise, the Western Australian Legal Practitioners Act 1893 creates a similar offence, unless special permission is given by the Legal Practice Board. Similar provisions exist in New South Wales under the Legal Profession Act, although there the behaviour constitutes professional misconduct rather than a criminal offence.

This Bill would make it an offence for a legal practitioner to employ or engage in his or her legal practice a person who is suspended from practice or has been struck off the roll. This would prevent employment even in the capacity of a law clerk or a paralegal. In this way, the punitive and consumer protective aims of the disciplinary provisions would be carried into effect.

However, the Government accepts that employment in a law firm may be permissible in circumstances where it does not entail the practice of the profession of law by the disqualified person and where the public is protected. Hence, the Bill also permits the disqualified person or the practitioner proposing to employ or engage him or her, to apply to the Legal Practitioners Disciplinary Tribunal for permission for such employment.

The Tribunal may not grant permission for the employment or engagement unless satisfied that the disqualified person will not practise the profession of law, and that the public can be properly protected from harm. However, the Tribunal is not obliged to grant permission even if satisfied as to those matters. It has a discretion. It must decide whether the proposed employment should or should not be permitted, having regard to the facts and circumstances of the particular case. If it decides to grant permission, the Tribunal can attach to its permission such conditions as it may see fit.

There is to be an appeal from the decision of the Tribunal to the Supreme Court. This enables the disqualified person to challenge a refusal of permission, or the Legal Practitioners Conduct Board to challenge a grant.

The provisions of the Bill would come into effect immediately on proclamation. It may be, however, that there are already disqualified persons employed or engaged in legal practices. Such employment may have been lawful at the time it was entered into. Accordingly, transitional provision is made enabling those persons or their employers to apply to the Tribunal during the next 12 months seeking permission for the employment. If permission is secured within that time, the employment does not constitute an offence. If permission is not secured, and the employment and the disqualification from practice continue after that time, an offence is committed.

By this mechanism, persons disqualified from legal practice will be prevented, under this Bill, from practising the law de facto whilst calling themselves law clerks. At the same time, genuine employment which is not legal practice and which poses no risk to the public may be permitted.

The Government believes that this strikes a fair balance between the interest of the disqualified person in obtaining employment other than as a legal practitioner, and the public interest in effective sanctions for unprofessional conduct and in the protection of the legal service consumer.

I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 5—Interpretation

Clause 3 amends section 5 to include a definition of mortgage financing and to provide that a wrongful or negligent act or omission that occurs in the course of mortgage financing does not amount to fiduciary or professional default under the Act.

Clause 4: Insertion of ss.23AA

This clause inserts a section into the Act to regulate the employment of a person whose practising certificate is under suspension or whose name has been struck off a role of legal practitioners. If a legal practitioner knowingly employs such a person, in a legal practice, the legal practitioner is guilty of an offence unless the Tribunal has authorised the employment of the person. The Tribunal may grant such an authorisation in its discretion but only if satisfied that the person to be employed or engaged will not practise the profession of the law, and that granting the authorisation on the specified conditions is not likely to create a risk to the public. A legal practitioner must comply with any conditions imposed on an authorisation by the Tribunal or the Supreme Court.

A legal practitioner is not guilty of an offence against this section in relation to an agreement or arrangement to which the practitioner is a party at the commencement of this section if the agreement or arrangement is authorised under this section on an application made within 12 months after that commencement, and the legal practitioner complies with any conditions imposed on the authorisation.

Clause 5: Transitional

The transitional provisions provide that the provisions of this Act that deal with mortgage financing operations only apply to mortgage financing for which instructions were received after the commencement of this Act.

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

JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS AND POWERS) (DEFINITION OF JUDICIAL OFFICE) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Judicial Administration (Auxiliary Appointments and Powers) Act 1988. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill amends the *Judicial Administration (Auxiliary Appointments and Powers) Act 1988* by adding to the definition of 'judicial office' in section 2 the office of commissioner of the Environment, Resources and Development Court. At present, there is no provision for auxiliary appointments to that Court, but only for permanent appointments, either full-time or part-time. This Bill makes such provision.

Auxiliary appointment is a method of providing additional judicial resources to a court when a short-term need arises. An auxiliary appointment may be made for a term of up to 12 months, with the possibility of extension for a further 12 months. It is to be contrasted with permanent appointment. Examples of the use of auxiliaries include the situation where a judicial officer is on extended leave or where, due to a legislative change, there is a temporary increase in the workload of the court. The use of auxiliary appointments helps to prevent or reduce temporary backlogs in the work of the court, and increases the capacity of the court to deal expeditiously with new matters coming before it, and so improves the efficiency of the court's service to litigants. This was the original rationale for the Act.

By providing for the appointment of auxiliary commissioners of the Environment, Resources and Development Court, the Bill will

extend these benefits to the users of that Court also. I commend the Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 2—Interpretation

This clause amends the definition of 'judicial office' in the principal Act so as to include the office of commissioner of the Environment, Resources and Development Court.

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

POLICE (COMPLAINTS AND DISCIPLINARY PROCEEDINGS) (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Police (Complaints and Disciplinary Proceedings) Act 1985. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

A number of individuals and institutions, most notably the Police Association, have from time to time, expressed a variety of concerns of varying gravity about the operations and processes of the Police Complaints Authority ('the PCA'), the Commissioner of Police ('the Commissioner') and the Internal Investigations Branch of South Australia Police ('the IIB') in relation to their statutory functions in investigating and reporting on complaints against police officers under the *Police (Complaints and Disciplinary Proceedings) Act 1985* ('the Act').

These concerns may be summarised as follows:

1. There are undue delays in the complaints handling procedures;
2. There is a lack of professionalism at times in the investigative procedure;
3. There is no process by which a complainant or a police officer can seek external review of the manner or sufficiency of an investigation undertaken by the PCA;
4. There is no process whereby a determination of the PCA not to proceed with an investigation can be challenged;
5. There is no definition of the term 'assessment' in the Act and therefore the content and function of the assessment is ambiguous;
6. There is a general lack of fairness in the Act in that detrimental and unfair comments may be made and are made in published material without the subject of these comments being given a hearing or an opportunity to respond; and
7. There is a lack of confidentiality and unnecessary disclosure of information contrary to the intent of the legislation.

The Government, and the Attorney-General, as Minister responsible for the administration of the legislation, could not let these allegations continue to circulate and be repeated without investigation. To that end, the Attorney-General requested Mrs Iris Stevens to report on the operation of the Act. The terms of reference of the review were as follows:

1. Examine and review generally the operations and processes of the Police Complaints Authority, the Commissioner of Police and the Internal Investigation Branch in relation to their statutory functions in investigating and reporting on complaints against police officers under the *Police (Complaints and Disciplinary Proceedings) Act*, and report upon the effectiveness and appropriateness of those operations and processes; and
2. Without limiting the generality of paragraph 1 above, examine, review and report upon the following practices and procedures of the PCA:
   - the provision of reports of investigations, assessments or other material to complainant, police officers the subject of complaints and the Commissioner of Police;
   - the relevance of the principles of natural justice to the exercise of statutory functions by the PCA; and
   - complaint handling mechanisms within the PCA office.

These terms of reference were intended to exclude and did exclude any examination and review of individual cases.

Mrs Stevens reported in July 1998. I would like to now place on the formal record my gratitude to Mrs Stevens for the thorough, effective and timely manner in which she approached and completed the difficult task set for her. On Tuesday, 11 August 1998, I tabled a copy of Mrs Stevens' report in the Parliament and made a Ministerial statement. That Ministerial statement did three things. First, it outlined the specific findings of the report. I will return to those below.

Second, it indicated that Mrs Stevens had not found any major problems with the operation of the legislative scheme or its practice and that therefore the Bills then before the Parliament could proceed. Third, it indicated in relation to the specific findings made by Mrs Stevens, that there would need to be further consultation of a detailed nature before any attempt was made to resolve some of the technical and detailed issues identified by Mrs Stevens as requiring further consideration by the Government.

That process of consultation has necessarily taken time. It should be borne carefully in mind at all times that the Government is in this area dealing with the Police Complaints Authority, which is an independent statutory body and the Commissioner of Police, who has a special relationship with the Government and the law.

I now turn to Mrs Stevens findings. She made no specific recommendations for reform. It is noteworthy that, despite assertions by some persons and individuals that the system with which she was dealing was fatally flawed and fundamentally unjust, she made no such finding. Instead, she raised issues. They were:

1. Whether the Authority, the Commissioner and the IIB should re-examine their procedures in light of the decision in *Casino's Case* to achieve strict compliance with the provisions of the Act by ensuring that no procedural steps required by the Act have been omitted and no procedural steps not sanctioned by the Act have been introduced;
2. Whether the ambiguities in the Act, for example, in relation to the function of making findings of conduct and in relation to assessments, require statutory clarification;
3. Whether the inequities in the Act in relation to the supply to police officers of particulars of the investigation and the opportunity to make submissions ought to be remedied by statutory amendment;
4. Whether the issues relating to the confidentiality of the contents of reports of the results of investigations ought to be clarified by statutory amendment; and
5. Whether it would be appropriate to transfer complaints concerning management issues to the Commissioner for managerial action.

These issues have been the subject of detailed and intense scrutiny by the office of the Attorney-General in consultation with the Police Commissioner and the PCA. The Bill that is now presented to the Parliament is the result of that careful process. In explaining what is in the Bill and why, I will also explain what is not in the Bill and why.

The Bill

The Bill addresses, of course, only those matters which require legislative intervention. I now turn to discuss each of these briefly.

(a) Determination that matter be investigated by PCA

Section 23(2) requires the PCA to consult with the Commissioner before determining to investigate a complaint himself. The procedure used by the PCA is to send the Commissioner a letter advising him that he has determined to investigate a complaint and that the letter constitutes the consultation required by section 23(2). Mrs Stevens points out that the letter is not consultation as required by the Act.

The requirement for the PCA to consult with the Commissioner before determining to investigate a complaint himself can be contrasted with section 22A which allows the PCA to *initiate* an investigation. If the Commissioner does not agree, he can advise the PCA of his disagreement and the Minister is the arbiter if the PCA and Commissioner cannot reach agreement. On the other hand, s. 23 deals with the case in which the PCA decides that it wants to *investigate* a matter itself. Mrs Stevens makes the point that there has virtually never been an occasion when the Commissioner has disagreed with such a determination. It is considered that the cumbersome and high level intervention of the Minister is not required for such cases as these. The amendment therefore provides that the PCA must notify the Commissioner and must consider the views, if any, put forward by the

Commissioner but, in the end, if the PCA is determined to investigate the matter itself, it can proceed to do so.

(b) Production of documents and other property.

Section 25(5) requires a member of the police force to furnish information, produce documents or other records or answer questions when so required by the IIB. Section 28(6) provides that the PCA may by notice in writing require a person to furnish him with information, documents, or other records relevant to the investigation. The IIB has requested that the sections be amended to require the production of property as well. Sometimes property in the possession of the member of the police force can be relevant in the investigation of a complaint against the member. Consequently, the Bill contains a number of amendments to sections 25 and 28 making clear that that power requires the production of property and records.

(c) The right of persons to make submissions to the PCA

Section 28(5) contemplates that if the PCA decides to express opinions critical of a person that person should be afforded the opportunity to consider whether he or she wishes to make representations in relation to the matter under investigation. Mrs Stevens points out that this provision is not being observed.

It is considered that section 28(5) should be repealed. When the police investigate allegations of an offence, the person under investigation has no right to make representations about a decision to prosecute him or her. Under section 28(5) an assessment by the PCA has no immediate result. The Commissioner may disagree with the assessment and, if the matter goes to the Police Disciplinary Tribunal, the Tribunal may find the conduct not proven. Given this, it is hard to argue that natural justice requires the person about whom the PCA expresses a critical opinion should have a right to make representations before that opinion is expressed. Provided the person under investigation is, at the end of an interview or interrogation, asked if there is anything further he or she wishes to add, this is sufficient and conforms to good investigative practice. Further, police officers who are under investigation have ready access to advice through the Police Association and its lawyers. The repeal of section 28(5) will also remove any need to clarify what is meant by 'opinions' which was another matter considered by Mrs Stevens.

(d) Provision of the particulars of the matter under investigation

When a police officer voluntarily attends to answer the PCA's questions there is no requirement that the officer be given the particulars of the matters under investigation. Section 25(7) provides that where the investigation is by the IIB the investigator must, before giving a direction to the officer under investigation to answer questions, inform the officer of the particulars of the matter under investigation. Where the PCA gives written notice that he requires a person to attend before him and answer questions section 28(8) requires that the particulars of the matter under investigation be included in the notice.

Mrs Stevens suggests that it is inequitable that a person who attends voluntarily before the PCA to answer questions does not have to be informed of the particulars of the allegation. Mrs Stevens suggests that there should be one requirement that written particulars of an allegation should be supplied to a person under investigation before the person is interviewed by an investigator.

The supply of particulars of the complaint to the person under investigation should be reconsidered. A person under investigation for an offence is not supplied with particulars of the alleged offence before being interviewed. There is a perception amongst critics of the complaints system that the police are treated more favourably than ordinary suspects. On this view the supply of written particulars in advance of the interview could be construed as giving the suspect the opportunity to get his or her story straight. There does not appear to be any other instances where a suspect would be entitled to written particulars prior to an interview. If a person is charged before the Tribunal or a Court the prosecutor will be obliged to provide particulars of the charge.

The above analysis suggests that section 28(8) should be amended so that the PCA is not required to give written particulars of the matter under investigation. Rather, the PCA should be required to inform the officer of the particulars of the matter under investigation before questioning the officer as is required under section 25(7).

The question that arises—what is meant by 'particulars'? In practice, of course, the particulars that will be supplied, and should be supplied under the amendment proposed, will vary from case to case. It is therefore impractical to define in legislation what they should be and so no attempt has been made to do so. That is also the position in relation to the obligation to supply particulars in relation to an ordinary criminal charge. In practice, however, it can be said that the police officer will be entitled to know the nature of the allegation in sufficient detail to know the case that he or she is being asked to answer, which will include the general nature of the allegation, including dates, times and places. Particulars will not normally disclose the identity of the complainants, although such a disclosure will sometimes be inevitable from the substance of the complaint.

(e) Contents of the IIB's Report

Mrs Stevens suggests that the reporting function of the IIB under section 31 needs to be clarified. It is not clear if the IIB is authorised to make any determination of conduct by a police officer. If it is the function of the IIB to make such determinations or findings then it is appropriate to include them in the report but unnecessary to supply the PCA with the confidential investigation files and evidentiary material.

The IIB is required to report the 'results of the investigation' to the PCA and the PCA is required to make an assessment as to whether the conduct falls within any of the sub-paragraphs of section 32(1)*(a)*. In order to discharge his duty the PCA has to determine what conduct the member has in fact engaged in. In order to do this the PCA needs the investigation file. It cannot be that the IIB has the power to make the findings. If this were so the PCA would be a mere rubber stamp. Whether the IIB report should contain a finding that a member was culpable in respect of particular conduct is not so clear. The words 'results of the investigation' suggest that the IIB should include a finding in relation to a member's conduct.

The present practice has worked well and appears to be in accordance with the Act. Given that Mrs Stevens considers that there is some uncertainty about the present practice, sections 31-33 are amended to make it clearer that the present practice is sanctioned by the Act.

(f) Provision of confidential memoranda by the PCA to the commissioner and provision of assessments and recommendations to complainants and police officers the subject of complaints

Where the PCA determines that the conduct under investigation involves, on its face, breach of discipline or criminality he has adopted a practice of not providing reasons in his report to the Commissioner or in his assessment but of supplying a confidential memorandum to the Commissioner. Mrs Stevens points out that there is no provision in section 33, or elsewhere, that allows the PCA to provide confidential memoranda to the Commissioner. Further the fact that the existence and contents of such memoranda are not revealed to complainants and to the police officers concerned may amount to a denial of natural justice.

The PCA agrees that confidential memoranda should not be sent to the Commissioner. However it is important that the Commissioner receives the views of the PCA on the evidence and his reasoning in coming to a recommendation that criminal or disciplinary charges should be laid. It is also important that reputations are not damaged if the material becomes public. The solution is for the PCA's reasoning to be included in the assessment provided to the Commissioner and for section 36 to be amended so that where there is a recommendation that criminal charges or disciplinary charges should be laid the assessment is not provided to the complainant.

Further, Mrs Stevens notes that section 36 does not require the release of the full assessments nor does it forbid such release. This is an additional reason why section 36 should be amended so that assessments are not released to the complainant where disciplinary or criminal charges are recommended.

Other Issues Considered

(a) Determination that investigation of a complaint is not warranted

At times complainants take issue with a decision by the PCA not to investigate, or further investigate, a complaint. There are complaints by complainants and police officers that the PCA has determined that there be no further investigation when relevant witnesses have not been interviewed. Concerns have been raised that there is no way a complainant or a police officer can challenge a determination of the PCA not to investigate, or further investigate, a matter.

Mrs Stevens did not come to a concluded view as to whether there should be an external review of the PCA's decision not to investigate a complaint. The arguments against an external review are stronger than the arguments in favour of such a review. A review of a decision not to investigate a complaint would add an extra procedure to a process that is already complex and add further delay to a procedure that is already subject to delays. There needs to be a way of quickly eliminating complaints that are not to be investigated. As with all administrative schemes and decision-making processes, a line must be drawn between that which is reviewable and that which is not. If the PCA has made the wrong decision then the investigation can be re-opened under section 50.

(b) Supervision by the PCA of investigations by the IIB

The PCA and the IIB consult by telephone on the progress of investigations. Mrs Stevens suggests a note of caution—telephone exchanges conducted in an informal manner may have the tendency to erode the appearance of the independence of the PCA. No legislative change is required. The parties need to take heed of this warning note.

(c) Investigation by the PCA where there has not been a complaint

Mrs Stevens suggests a proviso to section 22A to the effect that the PCA may only investigate a complaint on his or her own initiative when the Commissioner has not inquired into the matter.

This is something that can be left to the good sense of the PCA. If the Commissioner has inquired into the matter it is highly unlikely that the PCA will require a new investigation.

(d) Complaints receipt process

Police officers sometimes have difficulties in deciding whether there has been a complaint. Mrs Stevens suggests that this is an area which requires clarification or the introduction of guidelines. The IIB has requested that what is a 'complaint' be defined in the legislation. This was considered and rejected in 1995. Firstly, there is difficulty in defining what is a complaint. Secondly, the experience in NSW is that defining what is a 'complaint' leads to litigation. The matter is best resolved by the Commissioner issuing guidelines as to when something is to be taken as a complaint that should be investigated rather than the mere expression of a grievance.

(e) Managerial matters

Mrs Stevens considers that managerial matters should be dealt with by the Commissioner rather than be investigated by the IIB and assessed by the PCA and that perhaps the way to do this is for the PCA and the Commissioner to agree that a complaint is a kind more appropriately dealt with by way of managerial action.

The Act already provides for 'minor complaints' to be dealt with by informal inquiry. The categories of minor complaints can be enlarged by agreement between the Commissioner and the PCA if necessary. It should also be noted that there is nothing to prevent the Commissioner from taking managerial action during the course of an investigation by the PCA should he so desire. No change to the legislation is required.

(f) Provision of information about the interrogation process

Mrs Stevens considers that it may assist if there were a clearer understanding of the investigator's role under the Act and the guidelines under which he or she operates. She suggests the information should be provided to police about the process of cautions given both under the criminal law and under the Act. The Commissioner is establishing a Professional Ethics and Standards Branch which will have an educative function. It will be the ideal body to perform this function.

(g) Reporting process

Mrs Stevens considers that the reporting process is more complicated than the Act requires. The process of supplying a report by the investigator, a section 31 report by the Officer in Charge of the IIB and the contents of the investigation file to the Deputy Commissioner and then forwarding all the material to the PCA appears to involve duplication of effort. The material is read by the investigator, the senior investigator, the Officer in Charge, the Disciplinary Review Officer and the PCA. This is not a matter that requires legislative change. It may be a matter which requires administrative attention.

(h) Responses by the PCA to inquiries by complainants

Mrs Stevens points out that section 30 does not authorise the release of the report of the result of an investigation or its discussion with a complainant nor is there authority to release an assessment until it has been finalised. If such information is to be released it can only be released by authorisation of the release of particular information by a particular prescribed person. The PCA agrees with Mrs Stevens and has taken appropriate action. There is no need for any changes to the legislation.

(i) Provision of 'other materials' to complainants

Mrs Stevens notes that section 26(1) does not authorise the disclosure of information acquired during the course of the investigation or the release of the contents of any report. The PCA agrees with Mrs Stevens. The PCA is not seeking any change to the legislation.

(j) Complaint handling mechanisms within the PCA's office

Mrs Stevens found that although there is a criticism of the length of time that the complaints procedure takes, the complaint handling procedure in the PCA's office cannot be criticised in this respect. Mrs Stevens did not recommend any legislative changes under this heading.

(k) Delays in dealing with matters

It is a common criticism of the current system that it takes too long to finalise a complaint and that police officers have an allegation hanging over their heads for far too long. The real position is as follows. The vast majority of complaints are investigated by the Internal Investigations Branch of the Police Force. The PCA has put firm time guidelines in place. Where a preliminary investigation is required, it is expected to be finalised within one month. Where a full investigation is required, it is expected to be finalised within three months. If a preliminary investigation report has not been received after one month, the PCA follows the matter up. Where a full investigation is concerned, after two months, the PCA sends a letter to the IIB reminding the Branch of the impending deadline and again, if the report is not on time, the PCA will follow it up. The office of the PCA has a computerised 'bring up' system for case management and funds a full time position for this task. The cases where there are very long delays are commonly those where the subject matter will be dealt with, in whole or in substantial part, by a court. In such cases, the standard and correct practice is to place the complaint on hold until the court decides the issue. That may take far longer than the PCA deadlines. Those cases aside, the PCA estimates that approximately 90 per cent of its case load conforms to the time guidelines.

Conclusion

This Bill therefore represents the results of a thorough and careful review of the entire police complaints system, both as it appears in legislation and as it operates in practice. The major part of the review has been conducted by an independent and experienced person who received submissions from those who had concerns about the system, who investigated those concerns and reported on them. The Government has considered the issues raised, consulted with the Commissioner of Police and the Police Complaints Authority and has received representations from the Police Association in bringing the Bill to this place. It is intended that it be left on the table until the next session. If there are any additional submissions to be made, this is a further opportunity for that to occur.

I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 11A—Delegation by Authority

Section 11A allows the Authority to delegate his or her powers or functions under the principal Act to a member of the staff of the Authority. The proposed amendment widens this delegation to allow the Authority to delegate his or her powers or functions under any Act.

Clause 4: Amendment of s. 23—Determination that matter be investigated by Authority

Section 23 provides, in part, that the Authority may, after consultation with the Commissioner, determine that a matter should be investigated by him or her. The proposed amendment provides that rather than consult with the Commissioner, the Authority may make a determination under this section and then may, with the Commissioner's agreement, or after allowing the Commissioner five days to comment on the determination and taking into account any comments received from the Commissioner, commence an investigation into the matter.

Clause 5: Amendment of s. 25—Investigations by internal investigation branch

Clause 5 proposes amendments to section 25 to provide that a member of the internal investigation branch may, as well as being able to obtain information and make inquiries relevant to an investigation, obtain property, documents or other records relevant to an investigation.

Clause 6: Amendment of s. 28—Investigation of matters by Authority

Clause 6 proposes amendments to section 28 to provide that the Authority may, as well as being able to obtain information and make inquiries relevant to an investigation, obtain property, documents or other records relevant to an investigation.

This clause also repeals the subsection that provides that the Authority must not, in a report in respect of an investigation, be critical of a person unless that person has been given an opportunity to make submissions in relation to the matter under investigation.

Subsection (8) is replaced by this clause to provide that the Authority must inform the member of the police force whose conduct is under investigation of the particulars of the matter before directing questions to the member. In the current Act, the member is told of the particulars of the matter in the notice requiring the person to attend to answer questions.

Clause 7: Amendment of s. 31—Reports of investigations by internal investigation branch to be furnished to Authority

Section 31 provides that when the internal investigation branch completes an investigation of a matter, a report of the results of the investigation must be prepared. The proposed amendment clarifies that the report is to be in relation to the investigation as a whole and not only of the results of the investigation.

Clause 8: Amendment of s. 32—Authority to make assessment and recommendations in relation to investigations by internal investigation branch

Consequential amendment—see clause 7.

Clause 9: Amendment of s. 33—Authority to report on and make assessment and recommendations in relation to investigations carried out by Authority

Consequential amendment—see clause 7.

Clause 10: Amendment of s. 36—Particulars in relation to matter under investigation to be entered in register and furnished to complainant and member of police force concerned

Section 36 provides that particulars of a recommendation or determination in relation to a matter under investigation are to be furnished to the complainant and the member of the police force concerned. The proposed amendment provides that if a recommendation or determination is that a member of the police force be charged with an offence or breach of discipline, the member and the complainant are to be furnished with particulars of the recommendation or determination only, without any other comments in relation to the matter.

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

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendment:

New clause, page 1 after line 25—Insert new clause 4A as follows:

Amendment of s.90—Tribunal may terminate tenancy where tenant's conduct unacceptable.

4A. Section 90 of the principal Act is amended by striking out subsection (2) and substituting the following subsections:

(2) If the Tribunal terminates a tenancy and makes an order for possession under this section—

(a) the Tribunal must specify the day as from which the order will operate, being not more than 28 days after the day on which the orders are made; and

(b) the Tribunal may order that the landlord must not enter into a residential tenancy agreement with the tenant in relation to the same premises for a period determined by the Tribunal (being a period not exceeding three months) (and any agreement entered into in contravention of such an order is void).

(2a) However—

(a) the Tribunal must not make an order under this section unless the landlord has been given a reasonable opportunity to be heard in relation to the matter; and

(b) if the landlord objects to the making of an order under this section, the Tribunal must not make an order unless the Tribunal is satisfied that exceptional circumstances exist justifying the making of the order in any event.

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

That the House of Assembly's amendment be agreed to.

Honourable members may remember that when this Bill was before the Council in Committee there was a question about how we can best deal with section 90 issues. Section 90 provides for circumstances in which persons who might be affected by perhaps disorderly behaviour of a neighbour, that neighbour being a tenant, can take proceedings in the Residential Tenancies Tribunal to terminate the tenancy. In those circumstances the landlord of the premises where the tenant's conduct is regarded as unacceptable is not a party to the proceedings, and the Residential Tenancies Tribunal has always had great difficulty in actually applying the provisions of section 90, even though there are a number of applications by persons who might be affected by unacceptable conduct by a tenant of another.

The difficulty which has been highlighted in particular is that, although the Residential Tenancies Tribunal can make an order for termination of the tenancy, there is nothing to prevent the landlord of that tenancy actually reletting the tenancy to the same tenant after the order has been made. I did undertake when the Bill was before us, and on the basis that the amendment that was proposed was rejected, that I would have another look at the issue. That has been done.

The amendment which comes back to us from the House of Assembly does a couple of things. It provides that where the tribunal terminates a tenancy, in the circumstances to which I have referred, and makes an order for possession, then the tribunal has to specify the day from which the order will operate, and that is not more than 28 days after the day on which the orders are made, and that is consistent with the existing provision, but the tribunal may order that the landlord not enter into a residential tenancy agreement with that same tenant in relation to the same premises for a period determined by the tribunal, being a period not exceeding three months. The tribunal now has the power to make that order to overcome the difficulty with the existing provision. But there are a couple of conditions attached.

The first is that the tribunal must not make an order unless the landlord has been given a reasonable opportunity to be heard. I have always regarded as unacceptable that a person, in this case a landlord, might be adversely affected by a decision of the tribunal yet not have been given the opportunity to be heard. It is just not in accordance with the rules of natural justice. So we now have an amendment which requires the tribunal to give the landlord a reasonable opportunity to be heard.

In addition to that, if the landlord objects—remembering that the landlord is to suffer financial consequences as a result of the order—to the making of an order then the tribunal must not make an order unless the tribunal is satisfied that exceptional circumstances exist justifying the making of the order, in any event. In those circumstances it builds in protections which I think are essential for the landlord in respect of whose tenant others are seeking to obtain an order to evict from those premises. The amendment, as I say, comes as a consequence of further consideration of the issues raised

in the Committee stage of the Bill in the Council. I am pleased to be able to move that we agree with them.

The Hon. CARMEL ZOLLO: As the shadow Attorney-General stated in the other place, we support the amendment. As we said, it is a reasonable compromise to the amendment that the Opposition introduced in this place, and I particularly want to thank the Hon. Ian Gilfillan for his support at the time. I concede the point that the landlord or landlords in question should at least be given the opportunity of being present when a section 90 application is heard by the tribunal. I also note the time period compromise of three months. I suspect, however, as does my colleague in the other place, that many landlords will be pleased to have disruptive tenants evicted. The Opposition supports the amendment and particularly thanks the Attorney-General for his attempts at compromise in relation to this amendment. I am certain that the intention of the Act will be strengthened.

The Hon. IAN GILFILLAN: I indicate my appreciation to the Attorney and the Hon. Carmel Zollo. I think that it shows the effectiveness of rational approach in the Committee stage and is a very good illustration of how effective the Legislative Council can be.

Motion carried.

STATUTES REPEAL AND AMENDMENT (LOCAL GOVERNMENT) BILL

In Committee (resumed on motion).

(Continued from page 2030.)

Clause 5.

The Hon. DIANA LAIDLAW: I move:

Page 3—
After line 23—Insert:
(ia) by striking out from section 24(1) 'will' and substituting 'is entitled to';
Line 33—After 'regulations' insert:
(unless the member declines to accept payment of an allowance)
Page 4, line 9—Leave out 'will' and insert:
is entitled to

All the amendments are consequential on amendments made to clause 76 of the Local Government (Elections) Bill.

The Hon. T. CROTHERS: Mr Chairman, I draw your attention to the state of the Committee.

A quorum having been formed:

Amendments carried.

The Hon. T. CROTHERS: Mr Chairman, I draw your attention to the state of the Committee.

A quorum having been formed:

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

Page 4, after line 25—Insert:
(na) by inserting after paragraph (3) of section 32(2) the following paragraph:
(ea) issues of equity arising from circumstances where ratepayers provide or maintain infrastructure that might otherwise be provided or maintained by the council;;

The Hon. DIANA LAIDLAW: The Government accepts the amendment. It is consequential on an earlier amendment moved by the Hon. Terry Cameron to the local government legislation.

The Hon. IAN GILFILLAN: I wanted to clarify whether this linked with the requirement for the retirement village aspect.

Amendment carried.

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

Page 5, after line 14—Insert:
(ya) by inserting after section 37 the following Part:

PART 3A
THE ADELAIDE PARK LANDS

Interpretation

37AAA. In this Part—

'Adelaide Park Lands' means the park lands of the city described in section 37C.

Protection of the area of Adelaide Park Lands available for public use

37AAB. (1) In this section—

'land trust' means the land (in the nature of open space) forming part of the Adelaide Park Lands that is available for unrestricted public use and enjoyment.

(2) For the purposes of this section—

(a) the Adelaide City Council will be credited with 1 credit unit for every 2 square metres of land that the Council adds to the land trust after the commencement of this section; and

(b) the Crown will be credited with 1 credit unit for every 2 square metres of land that the Crown, or any agency or instrumentality of the Crown, adds to the land trust (including by the return, surrender or redelineation of land so as to add land to the Adelaide Park Lands) after the commencement of this section.

(3) Before the Adelaide City Council, or the Crown or an agency or instrumentality of the Crown, adds land to the land trust under this section—

(a) in the case of the Council—the Council must—
(i) take reasonable steps to consult with the Crown; and
(ii) ensure that the land is suitable for public use and enjoyment as open space;

(b) in the case of the Crown or an agency or instrumentality of the Crown—the Crown or the agency or instrumentality of the Crown must—
(i) take reasonable steps to consult with the Council; and
(ii) ensure that the land is suitable for public use and enjoyment as open space.

(4) Any dispute between the Adelaide City Council and the Crown as to whether subsection (3) has been complied with in a particular case will be referred to the Capital City Committee.

(5) The Adelaide City Council may only grant a lease or licence over land that forms part of the Adelaide Park Lands, or take other action to remove land from the land trust, if—

(a) the Council is acting—
(i) with the concurrence of the Crown; or
(ii) in pursuance of a resolution passed by both Houses of Parliament; and

(b) the Council holds credit units equal to or exceeding the number of square metres of land to be subject to the lease or licence or to be otherwise so removed from the land trust.

1. If the Adelaide City Council grants a lease or licence or takes other action to remove land from the land trust under this subsection, then the number of credit units held by the Council will be reduced by an amount equal to the area, in square metres, of the land that is subject to the lease or licence or otherwise so removed.
2. This subsection does not apply—
(a) to the extension or renewal of a lease or licence, or to the granting of a lease or licence in place of an existing lease or licence or a lease or licence that has expired within the preceding period of three months (to the extent that land is not added to the area of the lease or licence); or
(b) to the extension or renewal of a lease or licence, or to the granting of a lease or licence in place of an existing lease or licence or a lease or licence that has expired, in a case where section 207 of the Local Government Act 1999 applies; or
(c) to the extension or renewal of a licence, or to the granting of a licence in place of an existing licence or a licence that has expired, for a term not exceeding 12 months if the grant of the licence is authorised in an approved management plan for the Adelaide Park Lands under the Local Government Act 1999 (to the extent that land is not added to the area of the licence); or
(d) to a lease or licence for a term (including any right of renewal) not exceeding three months, or to any other temporary removal of land from the land trust for a period not exceeding three months; or
(e) to a licence that does not confer a right to occupy land.

3. This subsection does not in itself confer a right on the Adelaide City Council to remove land from the land trust.

(6) The Crown, or an agency or instrumentality of the Crown, may only take action to remove land from the land trust if—

(a) the Crown, or the agency or instrumentality, is acting—

(i) with the concurrence of the Adelaide City Council; or

(ii) in pursuance of a resolution passed by both Houses of Parliament; and

(b) the Crown holds credit units equal to or exceeding the number of square metres of land to be so removed.

1. If the Crown, or any agency or instrumentality of the Crown, removes land from the land trust under this subsection, then the number of credit units held by the Crown will be reduced by an amount equal to the area, in square metres, of the land that is so removed.

2. This subsection does not apply to a temporary removal of land from the land trust for a period not exceeding three months.

3. This subsection does not in itself confer a right on the Crown, or any agency or instrumentality of the Crown, to remove land from the land trust.

(7) The Crown may (by instrument executed by the Minister) assign credit units held by the Crown to the Adelaide City Council and the Adelaide City Council may assign credit units held by the Council to the Crown.

Constitution of fund to benefit the Adelaide Park Lands

37AAC. (1) The Adelaide City Council must establish a fund entitled the Adelaide Park Lands Fund.

(2) The fund consists of—

(a) all amounts paid to the credit of the fund under subsection (3); and

(b) any income paid into the fund under subsection (5).

(3) A person or public authority proposing to undertake development on land forming part of the Adelaide Park Lands must not commence the development unless or until the prescribed amount in respect of the development has been paid to the credit of the fund.

(4) Subsection (3) does not apply to—

(a) development undertaken by the Council to maintain the Adelaide Park Lands; or

(b) development undertaken by a public authority to increase or improve the use or enjoyment of the Adelaide Park Lands by the general public; or

(c) development undertaken by any person or public authority for the beautification, rehabilitation or restoration of the Adelaide Park Lands; or

(d) development of a prescribed class.

(5) Any money in the fund that is not for the time being required for the purposes of the fund may be invested by the Council and any resultant income must be paid into the fund.

(6) The money standing to the credit of the fund may be applied by the Council for the beautification or improvement of the Adelaide Park Lands.

(7) If an amount is paid to the credit of the fund by a person or public authority in respect of a proposed development and the development does not subsequently proceed, the Council may, in its absolute discretion, repay the amount to the person or public authority from the fund.

(8) The Council may require a person or public authority to provide reasonable information or evidence in connection with the determination of a prescribed amount for the purposes of this section.

(9) If the Council believes on reasonable grounds that information or evidence provided under subsection (8) is incomplete or inaccurate, the Council may make a determination of the prescribed amount on the basis of estimates made by the Council.

(10) A person who—

(a) commences development in contravention of subsection (3); or

(b) fails, without reasonable excuse, to comply with a requirement under subsection (8) within a reasonable time,

is guilty of an offence.

Maximum penalty: $10 000.

(11) The Council must, on or before 30 September in each year, prepare a report relating to the application of money from the fund during the financial year ending on the preceding 30 June.

(12) The Minister must, within six sitting days after receiving a report under subsection (11), have copies of the report laid before both Houses of Parliament.

(13) The Council must ensure that copies of a report under subsection (11) are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.

(14) In this section—

'development' has the meaning given in the Development Act 1993;

'prescribed amount', in respect of a development, means—

(a) if the total anticipated development cost does not exceed $5 000—$50;

(b) if the total anticipated development cost exceeds $5 000—$50 plus $25 for each $1 000 over $5 000 (and where the total anticipated development cost is not exactly divisible into multiples of $1 000, any remainder is to be treated as if it were a further multiple of $1 000), up to a maximum amount (ie., maximum prescribed amount) of $150 000;[1]

1. The regulations may prescribe matters that will be included or excluded from total anticipated development costs for the purposes of this definition.

'public authority' means—

(a) the Crown;

(b) an agency or instrumentality of the Crown;

(c) a council or other body established under the Local Government Act 1999.

The Hon. DIANA LAIDLAW: I wish to support the amendment. I will not dwell on this matter. The matter of a land trust was canvassed in this place when the Local Government Bill was before members of the Legislative Council. It was before the Legislative Council because it was voted on earlier by a majority in the House of Assembly. It would not have come to this place otherwise. I will take up the issue at another time with selected members of the House of Assembly. I found some of the debate in the other House exceedingly surprising. For the member for Gordon, Mr McEwen, to argue yesterday that he was slamming the door at this time, that he did not want the Government to be seen to be sneaking through amendments into the broad generic Local Government Bill and that he did not want to be party to any of that is highly surprising, considering that this Bill came to us from the House of Assembly, where support had been received for these amendments, albeit for a land bank on the earlier occasion. As I said, I do not think tonight is the right time to canvass the integrity of the debate in the other place, but that will be canvassed later.

The Hon. T. Crothers: At a more appropriate time!

The Hon. DIANA LAIDLAW: Yes, but I will refrain from saying more.

The Hon. IAN GILFILLAN: This is an attempt to sneak back into legislation the land trust proposal for the parklands. I spoke extensively on behalf of the Democrats in opposing this scheme, both in and out of this Chamber, and I will continue to do so. It may come as no surprise for you, Mr Chair, to hear that the Democrats oppose the amendment.

The Hon. T. CROTHERS: I was not going to enter into the debate, but I will respond to some of the last speaker's comments. Judging by his comments, I think he has misread the strategic tactic of moving this item at this time, as did the member for MacKillop. I suspect that it is not being sneaky; that is not the tactic. I should expect, though, that at another time, in a much more profound and direct manner, the reason for the Government's doing this—and this is just my suspicion—will stand revealed. However, I do not think it is a sneaky or back-door tactic. That will stand revealed in due course.

The Hon. T.G. ROBERTS: I think I have seen the clause somewhere before.

The Hon. Ian Gilfillan: Do you like it, Terry?

The Hon. T.G. ROBERTS: Not any more than I liked it the first time. The Labor Party opposes the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 6, lines 36 to 38—Leave out subclause (10) and insert:

(10) A person, body corporate or group may, within one week after a preliminary revision is made available under subclause (8), object to the chief executive officer on the ground that the name of the person, body corporate or group has been omitted in error from the roll.

The Australian Democrats have an identical amendment on file. It is a consequential amendment to incorporate amendments in respect of the Local Government (Elections) Bill, to extend the term 'person' to other electors.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, after line 11—Insert:

(zda) by striking out subclause (8) of clause 7 of schedule 1 and substituting the following subclause:

(8) A person, body corporate or group is only entitled to one vote for each (or any) ward for which the person, body corporate or group is enrolled.;

(zdb) by inserting in clause 7(9) of schedule 1 ', body corporate or group' after 'A person';

(zdc) by striking out subclause (10) of clause 7 of schedule 1 and substituting the following subclause:

(10) If a person, body corporate or group is entitled to vote in more than one ward, the person, body corporate or group is still only entitled to one vote for the area of the council as a whole.;

The amendments provide for consistency with the Government amendments to the Local Government (Elections) Bill which were successful earlier this evening.

The Hon. IAN GILFILLAN: I support the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 9, line 1—After 'person' insert:

, body corporate or group

This amendment adds 'body corporate or group' after 'person', for the same reasons I have moved previous amendments to this Bill.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 9, after line 12—Insert:

(zla) by inserting in clause 12(8) of schedule 1 ', bodies corporate and groups' after 'the persons';

(zlb) by striking out from clause 12(9) of schedule 1 'delivered to a particular person' and substituting 'successfully delivered';

(zlc) by striking out from the note to clause 12(9) of schedule 1 'to a person';

This amendment again seeks to extend words after the word 'person' in terms of including 'body corporate or group'.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 9, line 18—Leave out 'is not invalid by reason only of the fact' and insert:

'may be admitted to the count notwithstanding'

This amendment is consequential following successful amendments moved earlier this evening to the Local Government (Elections) Bill, clause 39(11).

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 9—

Line 35—Leave out 'four' and insert:

'three'

Line 36—Leave out 'four' and insert:

'three'

These are consequential amendments.

Amendments carried; clause as amended passed.

Clause 6.

The Hon. DIANA LAIDLAW: I move:

Page 10, after line 17—Insert:

(2a) The Minister must, in taking steps under subsection (2), have regard to the duties of the Minister responsible for the administration of the Harbors and Navigation Act 1995 under section 86 of that Act.

This amendment ensures that the interests of both the Minister for Environment and Heritage and the Minister for Transport and Urban Planning in respect of coastal protection and navigation matters associated with the management of sand at West Beach boating facility are considered together and not in isolation.

Amendment carried; clause as amended passed.

Clause 7 passed.

Clause 8.

The Hon. DIANA LAIDLAW: I move:

Page 11, after line 16—Insert:

(ha) by striking out paragraphs (a) and (b) of section 25(1) and substituting the following paragraphs:

(a) if the agency concerned is not a council—

(i) the Government of the Commonwealth or of another State; or

(ii) a council (including a council constituted under a law of another State);

(b) if the agency concerned is a council—

(i) the Government of South Australia or the Government of the Commonwealth or of another State; or

(ii) another council (including a council constituted under a law of another State).;

Page 13—

Lines 9 to 13—Leave out paragraph (a) and insert:

(a) it contains information communicated to the Government of South Australia or a council by the Government of the Commonwealth or of another State or by a council constituted under a law of another State; and

Line 14—Leave out 'council or Government' and insert:

'Government or council'

Line 15—Leave out 'this Act or'

Line 21—Leave out 'or the' and insert:

', the'

Line 22—After 'another State' insert:

'or a council constituted under a law of another State'

Line 26—Leave out 'or the' and insert:

', the'

Line 27—After 'another State' insert:

'or a council constituted under a law of another State'

After line 30—Insert:

(wa) by striking out subclause (2) of clause 5 of schedule 1;

The provisions in the Bill before us maintain the *status quo* under the current Local Government Act from a technical perspective. At the request of the State Records Office, the Government has been advised that the amendments should be aiming to preserve the scheme of the FOI Act, and the amendments that I have just moved are designed to ensure that the current FOI scheme continues in the future. We believe that an even-handed approach has been maintained in the way that the FOI Act applies to the State Government and to councils, and the result is in line with interstate provisions relating to the exchange of documents between State Government and councils and among councils. So, these amendments are being introduced at this time to clarify measures in the Bill before us in terms of freedom of information.

The Hon. IAN GILFILLAN: I realise that it is pretty complicated, and it is actually a move to amend the Freedom of Information Act (and I do not have that with me), but can the Minister assure the Committee that these measures do not

extend the ambit of documents which will be exempt from access through freedom of information?

The Hon. DIANA LAIDLAW: My advice is that it does not extend the ambit of the documents. I have now been given further advice and I can give an unqualified assurance that it does not.

Amendments carried; clause as amended passed.

Clause 9.

The Hon. DIANA LAIDLAW: I move:

Page 14, after line 14—Insert:

(2a) The Minister must, in taking steps under subsection (2), have regard to the duties of the Minister responsible for the administration of the Coast Protection Act 1972 under section 36A of that Act.

This amendment mirrors an amendment to clause 6 which was earlier supported by this place.

Amendment carried; clause as amended passed.

Clauses 10 to 17 passed.

Clause 18.

The Hon. DIANA LAIDLAW: I move:

Page 23, line 5—After 'of that' insert:

'or any other'

This is a technical matter that ensures that the provisions in relation to the continuing existence of councils as constituted under the 1990 Act apply for the purposes of all Acts.

Amendment carried; clause as amended passed.

Clause 19.

The Hon. DIANA LAIDLAW: I move:

Page 23, after line 20—Insert:

(2) The validity of a notice published by a council pursuant to Division 11 of Part 2 of the 1934 Act on the basis of a certificate of the Electoral Commissioner under section 24(11) of that Act cannot be called into question.

(3) A council cannot be required to undertake a review of its composition and ward structure under section 12(24) of the 1999 Act by virtue only of the fact that a variation in representation levels has occurred as a result of the enactment of the 1999 Electoral Act[1].

[1] This provision does not affect the powers of the Electoral Commissioner under section 12(4) of the 1999 Act.

This amendment relates to structural proceedings. It is designed to protect periodical reviews of ward structure completed under the 1934 Act from legal challenge on the grounds of differing interpretations of the definition of 'elector' under the 1934 Act. The amendment is also designed to provide that a council cannot be required to undertake a non-scheduled representation review on the basis that its representation ratio for a particular ward or wards varies from the ward quota by more than 20 per cent, if this variation has been produced solely by the changes to the method of voting made by the Local Government (Elections) Bill.

Amendment carried; clause as amended passed.

Clauses 20 to 22 passed.

Clause 23.

The Hon. DIANA LAIDLAW: I move:

Page 24, after line 19—Insert:

(2a) A council may, in fixing an allowance under subsection (1), determine that any increase in allowance will be backdated to 1 July 1999.

(2b) A regulation made for the purposes of Part 5 of Chapter 5 of the 1999 Act before the periodic election to be held in May 2000 may be brought into operation on 1 July 1999 even if that date is earlier than the date of its publication in the *Gazette*.

Clause 23 relates to allowances. My amendment provides a capacity for allowance increases under subclause (1) to be backdated to 1 July 1999.

Amendment carried; clause as amended passed.

Clause 24 passed.

Clause 25.

The Hon. DIANA LAIDLAW: I understand that I have to accept the removal of this clause and two others, because Labor and the Democrats were successful in removing clauses in terms of the main Bill—clauses 96 and 104—and therefore these clauses must go.

Clause negatived.

Clauses 26 to 30 passed.

Clause 31.

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

Page 25, after line 40—Insert:

(3a) A council must, in respect of each of the first three financial years for which the council has a rating policy under Division 7 of Part 1 of Chapter 10 of the 1999 Act, prepare and publish a report in accordance with the following requirements:

(a) the report must provide information on—

(i) the number of applications for rebates of rates under section 167(1)(h) of the 1999 Act received from retirement villages in respect of the relevant financial year; and

(ii) the results of those applications; and

(iii) the way in which the council's policy on issues of equity arising from circumstances where ratepayers provide or maintain infrastructure that might otherwise be provided or maintained by the council has been applied in relation to each application (in so far as that policy is relevant to the application);and

(b) the council must ensure—

(i) that a copy of the report is submitted to the Presiding Members of both Houses of Parliament in conjunction with the council's annual report for the relevant financial year; and

(ii) that copies of the report are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) by the public at the principal office of the council for at least 12 months following its publication under subparagraph (i).

I do not think there is any need for me to elaborate further on this than I have previously.

The Hon. DIANA LAIDLAW: I accept the amendment.

The Hon. IAN GILFILLAN: I support the amendment.

Amendment carried; clause as amended passed.

Clause 32.

The Hon. DIANA LAIDLAW: I move:

Page 26, line 12—After 'for the purposes of that' insert:

or any other

This amendment is technical, so technical that it seeks to ensure provisions containing the existence of single controlling authorities as if constituted under the 1999 Act and that they apply for the purposes of all Acts.

The Hon. IAN GILFILLAN: I do not have any problem with that, but I mentioned in my second reading contribution that I had a position paper from the LGA. Rather optimistically, I was hoping that in the reply I might have been able to get some explanation from the Government about how it reacted to or considered the points made. Does the Minister have any notes or references to the LGA position on the Statutes Repeal and Amendment (Local Government) Bill as at 3 August 1999?

The Hon. DIANA LAIDLAW: Yes, I am highly organised; I have the document and I have a response if the honourable member wishes to hear it.

The Hon. IAN GILFILLAN: It made a comment on clause 31 but, in my judgment, it did not appear to be critical to raise that. In clause 32 it has emphasised quite a serious issue. Perhaps I will read this so that the Minister can respond to it. The document states:

Clause 32(2): subclause (2) should be amended to clearly state that councils (not the Minister) are to decide which controlling authorities are to continue as subsidiaries of council.

Comment: This is consistent with the principle of local autonomy. The role of the hypocritical should be simply to publish a notice, not make decisions on behalf of local communities and councils.

The document continues:

Second amendment (new provision inserted): The LGA proposes that a new transitional provision be inserted into the Bill so that section 199 controlling authorities are able to remain for a period of up to 12 months following the new Act coming into operation. If at the end of 12 months a council has not made any determination, then they shall become council committees.

Comment: This would enable councils sufficient time to determine whether to retain the controlling authority and, if so, whether as a council committee or subsidiary. A 12 month period is preferred on the basis that council elections will be held in May 2000 and the council budget process will be undertaken shortly thereafter. Furthermore, the LGA is of the opinion that it may be more appropriate for the 'incoming' council to make these decisions.

I invite the Minister to comment on that if she is in a position to do so.

The Hon. DIANA LAIDLAW: With due respect to the LGA, the Minister must be involved in this process because the entities or authorities established under section 199 of the current Act (which we are seeking to repeal so that we can introduce these new provisions) provides that the authorities are not legal entities separate from their councils, that is, they are not separately incorporated bodies and, therefore, specification by the Minister in the *Gazette* is a formal act of incorporation of these bodies. So, the Minister legally has to be involved. It is not a matter of principle or power: legally the Minister must be involved in terms of having these authorities gazetted in terms of their incorporation. This is consistent with the Minister's role in the establishment of single council subsidies in the body of the main Local Government Bill—a matter we debated either last night or the night before or last week.

The Hon. IAN GILFILLAN: The second amendment was the extension of time. Is the honourable member in a position to comment on that?

The Hon. DIANA LAIDLAW: I am advised that my previous reply answers the second issue as well—and I am hoping that it is very convincing.

The Hon. IAN GILFILLAN: Yes, you have won me over.

Amendment carried.

The Hon. IAN GILFILLAN: I have had a chance to rethink that explanation. Apparently, the answer given by the Minister does not address this problem that the LGA has identified in the time of the transfer. Obviously, some work has gone into this document and it would be a pity to waste it. The LGA proposed that a new transitional provision be inserted in the Bill. I am assuming that the Government has not done that, because a provision does not appear to be prepared, but I would like to know why not, because the LGA believes that it is important for the controlling authority to remain for a period of up to 12 months following the new Act coming into operation, to enable councils to have sufficient time to determine whether to retain the controlling authority and, if so, whether as a council committee or a subsidiary. If there is a prepared answer for this, I would invite the Minister to give it to us.

The Hon. DIANA LAIDLAW: The Bill before us already provides that these authorities can continue as committees, and I am advised that it does not need 12 months from the commencement of the Act to enable their continuation. If councils wish to, they can apply at any time and the Minister acts to gazette them. So, there is not a problem with the transitional arrangements as the Local Government Association has highlighted in its submission to members of Parliament. The Minister is not here, but I have his officers and I have Parliamentary Counsel. I am advised by people intimately involved with these matters that there is not a transitional difficulty; that councils must apply to the Minister and the process is that the Minister gazettes these committees.

I am not dismissing the concern of the LGA; the matter has been raised in the past. The same advice has been given in the past, and I give the undertaking tonight that there is not a transitional problem.

The Hon. IAN GILFILLAN: I do not think I can progress it further. I appreciate the Minister's assurances: I hope that what she says proves to be correct.

The Hon. Diana Laidlaw: I will make sure it is.

Clause as amended passed.

Clause 33.

The Hon. DIANA LAIDLAW: I move:

Page 26, line 24—After 'for the purposes of that' insert:
or any other

This amendment is technical, but it seeks to ensure provisions in terms of the continued existence of regional controlling authorities as constituted under the 1999 Act, and that they apply for the purposes of all Acts.

Amendment carried; clause as amended passed.

New clause 33A.

The Hon. DIANA LAIDLAW: I move:

Page 26, after line 35—insert:
References to controlling authorities
33A. A reference in another Act to controlling authorities established under the 1934 Act will be taken to be a reference to subsidiaries established under the 1999 Act.

The Hon. DIANA LAIDLAW: This is a technical amendment relating to controlling authorities.

New clause inserted.

Clauses 34 to 41 passed.

New clause 41A.

The Hon. IAN GILFILLAN: On behalf of the Hon. Nick Xenophon, I move:

Page 28, after line 24—Insert:
Certain road closures to cease to have effect
41A (1) The closure of a prescribed road to vehicles generally or vehicles of a particular class in force under section 359 of the 1934 Act immediately before the repeal of that section ceases to have effect (unless already brought to an end) six months after the repeal of that section (and the relevant council must, on the closure of a prescribed road ceasing to have effect pursuant to this subsection, immediately remove any traffic control device previously installed by the council to give effect to the closure).

(2) However, subsection (1) does not apply if the closure of the road is, before the expiration of the six month period referred to in that subsection, confirmed by action taken by the relevant council under another Act.

(3) In this section—

'prescribed road' means a road—

(a) that runs from the area of one council into the area of another council; or
(b) that runs along the boundary between two councils; or
(c) that runs up to the boundary of a council; or
(d) that runs up to another road running along or containing the boundary between two councils.

The Hon. DIANA LAIDLAW: It is unorthodox not to have the honourable member here to move his amendment, particularly on such a contentious issue.

The Hon. Ian Gilfillan interjecting:

The Hon. DIANA LAIDLAW: I accept that, but in terms of the protocols of this place it is unorthodox. Given that the earlier debate was extensive and noting the outcome of the division and the fact that the Chairman has accepted the amendment, I accept the position. However, I indicate that the Government remains vigorously opposed to this retrospective move.

The Hon. IAN GILFILLAN: As both the Minister and I have agreed, and as I am sure every other member in the Chamber would agree, the Hon. Nick Xenophon pointed out that the first of his amendments carried the extensive debate on the total issue. When that was completed, there was a test vote, and I do not think there is any problem in our dealing with this forthwith.

New clause inserted.

Clauses 42 and 43 passed.

Clause 44.

The Hon. DIANA LAIDLAW: I move:

Page 29, line 33—After 'relevant day' insert:

subject to the qualification that if a council is proposing to take action in a case where it is required by the 1999 Act to follow a public consultation policy then the council must adopt a public consultation policy under Chapter 4 Part 5 in order to comply with the 1999 Act.

This amendment removes the provision for an interim scheme of public consultation prescribed by regulation. It is being substituted with a requirement that, where the provisions of the Act require a council to follow the relevant steps set out in its public consultation policy before taking certain actions or decisions, the council cannot proceed without first preparing and adopting a public consultation policy under chapter 4, part 5. As part of its implementation and education program, the LGA will be preparing a model public consultation policy that councils can adopt if they so require.

The Hon. T.G. ROBERTS: We support the amendment.

The Hon. IAN GILFILLAN: We also support it.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 29, lines 34 to 36—Leave out subclause (2).

Amendment carried; clause as amended passed.

Remaining clauses (45 to 53) and title passed.

Bill read a third time and passed.

EMERGENCY SERVICES FUNDING (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill makes a number of amendments to the *Emergency Services Funding Act 1998*. The amendments will overcome a number of potential practical problems that have been identified in relation to the Act. The amendments have been identified during the implementation programme currently being undertaken. The Bill also makes several amendments consistent with the recommendations of the Report of the Select Committee on the Emergency Services Levy.

Currently, by virtue of section 15(1) and the definition of 'owner' in section 3(1), the Crown is liable to pay the levy assessed against land held from the Crown under lease, licence, or agreement to purchase. There is no provision in the Act that allows the Crown, or any landlord, to pass on this levy to the tenant. To overcome this, it is necessary to insert a provision in the lease or licence agreement to require the lessee or licensee to pay the amount of the levy. However, generally, due to the substantial duration of, and statutory basis for, the interested granted under the *Crown Lands Act* and the *Pastoral Land Management and Conservation Act*, in practice a legislative amendment is necessary to allow the levy to be passed on by the Crown.

Currently, the occupier of such land held from the Crown is liable for land tax and council rates and other similar taxes.

Consequently, the Bill will amend the definition of 'owner' to provide that where the land is held from the Crown under lease, licence, or agreement to purchase and the person has a right of occupation over that land, that person will be liable for the levy. Where the Crown lease, licence or agreement does not confer a right of occupation, the Crown will continue to be liable for the levy.

If a farmer has several titles that adjoin one another, these will be assessed as one parcel for rating and taxing purposes (these are classed as contiguous). This will attract one Emergency Services Levy fixed charge component ($50) and a balance calculated using the Capital Value of the parcel. If a farmer owns or occupies several titles that are all geographically separated from each other by more than a road or railway line ie. by other land in a different ownership or occupation, the titles will be assessed separately and have individual Capital Values (these are classed as non-contiguous). This situation attracts an emergency services levy comprising fixed charges ($50) on each of the separate titles and a balance on each one calculated using the Capital Value of the title.

This Bill seeks to overcome this problem for primary producers by aggregating, for the purpose of paying the fixed charge of $50, separate non-contiguous parcels of land in the same ownership or occupation, and farmed as a single unit, in the same Local Government Area, or in a part of the State that is not in the area of a Council. New section 5A is introduced to allow for application for aggregation of non-contiguous parcels in the same ownership or occupation, and provide an appeal provision if aggregation is refused by the Minister.

Under section 8 of the Act, the Valuer-General is required, on the 'relevant day', to classify each parcel of land according to land use. The 'relevant day' is defined by the Act as the day on which the notice under section 10(1) is published in the *Gazette*. However, due to the practice adopted by the Valuer-General, the day in which the notice is published will not necessarily coincide with the day on which the Valuer-General generally makes the assessment. In addition, the day on which the notice is published will rarely occur on the same day each year.

There is no reason why the 'relevant day' should be linked to the day on which the notice under section 10 is published in the *Gazette*. Consequently, the Bill will amend section 8, and make consequential amendments to section 10, to define 'relevant day' as the day specified in the section 10 notice for the purpose of section 8.

Section 12 of the principal Act requires the Minister to maintain specified information in an assessment book. Section 12(3) provides that certain information must be suppressed, if the Minister is satisfied that a person's address is suppressed from the roll under the *Electoral Act 1985*. In most circumstances, it will not be possible to suppress such information. The information contained in the Assessment Book may be kept on the Land Ownership Titles System (LOTS) database held by the Department for Administrative and Information Services. However, for the purpose of land titles, the information, as specified in section 12(3), cannot be suppressed. Consequently, section 12(3) will be amended to provide that the Minister *may* suppress the specified information, rather than making it a mandatory requirement.

Section 14 of the principal Act provides that a person may copy an entry in the Assessment Book on payment of a fee fixed by the Minister. However, the person is entitled to inspect the Assessment Book without charge. As previously stated, the information to be kept in the Assessment Book may be stored in the LOTS database. Currently, a person inspecting that database for information relating to land titles must pay a fee fixed by the Minister. It would be anomalous if a person was required to pay to inspect the database for the purpose of obtaining land titles information, yet not pay if the stated purpose was to obtain information from the Assessment Book. The Bill amends section 14 to allow the Minister to fix a fee to be paid by a person before inspecting the assessment book.

On registration of a Motor Vehicle, the Act provides that the person must pay the emergency services levy imposed under Part 3 Division 2 of the Act. Section 24(7) provides that, where the registration to which the levy is payable falls partly in one financial year and partly in the next, the levy will be made up of the appropriate proportion of the levy payable in respect of the levy for that year.

However, this is inconsistent with the current practice in relation to the registration of motor vehicles in that the registration fee will be the amount payable at the time of registration, regardless of whether that fee will be increased during the period of registration. The Bill will amend the Act so that, in calculating the levy, the Registrar of Motor Vehicles may assume that the levy declared for the subsequent financial year will be the same as the current levy.

Section 28 of the principal Act governs the operation of the Community Emergency Services Fund. The Bill amends the Act to allow the Treasurer to pay money from Consolidated Account. This will provide a mechanism to ensure that levy payers are not disadvantaged by the amendment proposal allowing only one fixed charge on certain non-contiguous farm land.

Section 33 enables Regulations to be made for the remission of one or both of the levies imposed under the Act for the benefit of specified classes of persons. However, it is not clear if the Regulations may provide for remission of part of one or both of the levies. The Bill amends the Act to make it clear that Regulations made under the Act may provide for the remission of one or both levies, or part of one or both levies. The bill also amends the Act to enlarge the regulation making power to ensure that any class or sub-class of persons or bodies can receive a remission.

The Bill amends the Act to ensure that the cost of remissions will not be borne by other levy payers but by Consolidated Account.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Interpretation

This clause amends the definition of 'owner' in section 3 of the principal Act. New subsection (1a) makes it clear how to determine who owns unalienated land of the Crown that is subject to a licence.

Clause 4: Repeal of Part 2

This clause repeals Part 2 of the principal Act. Part 2 establishes the Emergency Services Funding Advisory Committee. The Committee will not have any function after the amendment made by clause 9 to section 10 of the principal Act.

Clause 5: Amendment of s. 5—Land that is subject to the levy

This clause amends section 5 of the principal Act. Paragraphs *(a)* and *(b)* provide for the aggregating of non contiguous farming land for assessment purposes. New subsection (10) inserted by paragraph *(c)* exempts residential land held from the South Australian Housing Trust from the levy.

Clause 6: Insertion of new section 5A

This clause inserts a new section 5A which provides for an application by the owner or occupier of non contiguous land to have it aggregated for assessment purposes under section 5(2)*(c)*.

Clause 7: Amendment of s. 8—Land uses

This clause redefines the 'relevant day' for the purposes of section 8 of the principal Act.

Clause 8: Amendment of s. 9—Objection to attribution of use to land

This clause increases from 21 to 60 days the time within which an objection to the attribution of a use to land can be made. This new time limit will reflect time limits in the new Local Government legislation.

Clause 9: Amendment of s. 10—Declaring the levy and the area and land use factors

Paragraph *(a)* of this clause makes an amendment to subsection (1) of section 10 of the principal Act which is consequential on the amendment made to section 8 by clause 7. Paragraphs *(b), (c), (d)* and *(e)* remove reference to the Emergency Services Funding Advisory Committee from section 10 and substitute a requirement that the Minister refer a statement setting out his or her proposed determinations under section 10(4) to the Economic and Finance Committee. Paragraph *(e)* amends subsection (8) to require a resolution of both Houses of Parliament to authorise an increase in the levy in a subsequent year.

Clause 10: Amendment of s. 11—Liability of the Crown

This clause makes a consequential amendment to section 11 of the principal Act.

Clause 11: Amendment of s. 12—Minister to keep assessment book

This clause makes the amendment to section 12 already discussed.

Clause 12: Substitution of s. 14

This clause replaces section 14 of the principal Act. The only change in the new section is that a fee is now payable for an inspection of the assessment book as well as for a copy of an entry.

Clause 13: Liability for the levy

Clause 14: Notice of levy

These clauses insert a precise time (12.01 a.m.) at which the ownership of land on 1 July in each year is to be determined. The change will avoid the possibility of any confusion where land changes hands on 1 July.

Clause 15: Amendment of s. 24—Declaring the amount of the levy

Paragraph *(a)* makes a small amendment that accommodates the renewal of registration for a period that extends over three or more financial years. Paragraph *(b)* of this clause amends section 24 of the principal Act in the manner already described. Paragraph *(c)* amends subsection (8) to require a resolution of both Houses of Parliament to increase the levy in a subsequent year.

Clause16: Amendment of s. 28—The Community Emergency Services Fund

This clause makes an amendment that is consequential on new section 33A inserted by clause 19.

Clause 17: Amendment of s. 32—Service of notices

This clause amends the service provision of the principal Act by including the ability to serve notices electronically if agreed to by the person being served. This will be of value in the case of landowners with large numbers of separately assessed landholdings.

Clause 18: Amendment of s. 33—Remission of levies by regulation

This clause will allow for remission of part of a levy and enables the categories of persons who may benefit from a remission to be expanded by regulation. New subsections (4) and (5) provide for flexibility in paying remissions from the Consolidated Account.

Clause 19: Insertion of s. 33A

This clause inserts a new section providing for the recouping from the Consolidated Account of money lost to the levy because of aggregation of non contiguous farm land.

Clause 20: Amendment of Schedule 2

This clause inserts a new clause 4A into Schedule 2 of the principal Act. The new clause requires the Commissioner for Consumer Affairs to provide the Minister with a report on the effect of the Act on insurance premiums.

Clause 21: Amendment of Country Fires Act 1989

This clause amends section 54 of the *Country Fires Act 1989* to broaden the personnel who can take control of a fire on a government reserve.

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. This Bill as it has come from the House of Assembly—and it is nice that it has finally come to us in its proper order—represents the outcomes and recommendations of the Select Committee on the Emergency Services Levy, which were tabled on 3 August 1999.

At this stage I would like to commend the good work undertaken by my colleagues in another place, the members for Hart and Elder, for their efforts in exposing the Government's sham strategy. The Opposition originally supported (and it still does) the notion of creating a fairer and more efficient means of collecting emergency services funding. The old system was a case of bad public policy, and of course we supported a move to improve it. However, the Government's idea of improved public policy is at odds not only with the Opposition but every other member and group in this community who are experiencing the hardship created by this disastrous emergency services tax.

The select committee found a number of things but fundamentally it found that, despite the additional windfall to the Government, there is very little new money going into emergency services. Basically the message which emerges from the committee and which the Opposition always suspected is that South Australians are being taxed way out of line with what they are receiving in return. As the member for Elder in another place points out, there is virtually no change in the operational budgets of any of the emergency services. How dare we presume the community might

actually get improved services or anything in return for their contributions.

However, a quick comparison of the figures in this debate is very telling and easily exposes the Government. In the 1997-98 financial year between $46 million and $49 million was collected from the levy on fire insurance, with a local government component of $13 million, and the State Government's contribution provided $82 million. The projected figures for the year 2000 under the old regime would have been $100 million. However, the magicians in the Government came up with $141 million, which I do not equate with being fair or equitable.

What the windfall equates to—and it is totally transparent—is plugging the hole created by the Government's radio network at an extraordinarily high cost of $250 million. This Government's determination to pursue this contract, despite the costs and despite the lack of proper tendering process, goes a long way in explaining why we are being taxed in this way. South Australians are paying for the Government's incompetence once again. As a result, one of the key recommendations of the select committee report is that the Government reviews its commitment to the Government radio network.

Another important recommendation of the committee is that the Emergency Services Funding Advisory Committee be removed from the legislation and that the Economic and Finance Committee be appointed as the appropriate body to review and comment on the levy. The Opposition sought this amendment a year ago when the Bill was first introduced, hence it is gratifying to know that we were right the first time.

This Government has gone to extraordinary lengths to include anything it could find under the definition of an emergency service. For example, a component of ambulance funding is coming from the levy, despite the Government's assurance to the contrary. Accordingly, the select committee recommended a criterion for establishing whether a service is funded from the emergency services fund be revised to enable a tighter definition of an emergency service—in other words, so the Government cannot rort the system.

One of the most significant recommendations is that the Government examine means of providing relief from the levy to low income earners and pensioners. These are the people suffering most from this Government's blatant disregard for anyone who does not reside in one of the upper crust suburbs of Adelaide. As always with this Government, it is those who can least afford it who are bearing this burden. Of course this is coming at a time when the Howard Government is introducing the GST, which again will hit low income earners and pensioners very hard.

In closing, I draw attention to a letter sent by the RAA to all members of Parliament dated 4 August 1999. Of course owners of mobile property are being hit unfairly and senselessly with an across the board $32 tax. The Chief Executive Officer of the RAA, Mr John Fotheringham, said:

> The Government has used the emergency services fund to prop up the Consolidated Account by taking $23.8 million from the fund in its first year of operation for other agencies and the radio network. This is despite assurances to the RAA from the Minister that the definition of the fund was specific and this would not happen.

He continues:

> It will raise $60 million more than in 1998-99, yet more people are being taxed than before. A select committee inquiry has now been completed, yet the public of South Australia is none the wiser as to how the moneys raised by the levy will be spent on emergency services, and justifications for any budgetary increases or decreases the emergency services may face.

I respond to his comments by saying that I share his concerns, as does the rest of the community. The Government has blatantly and irresponsibly sought a quick fix to cover up the mismanagement. The Opposition, as it originally stated when the Bill was first introduced, supports the second reading. We will support the Attorney's amendment which he has on file.

The Hon. IAN GILFILLAN: I indicate Democrat support for the second reading, principally because the measure is important to progress. However, I find quite bizarre the way in which this matter has been dealt with, both in its timing and in some of the seesawing, backwards and forwards, that has gone on in an incredibly short period of time. It really is a travesty of the way this Parliament should work. I want to make those observations—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! It is difficult to hear the Hon. Mr Gilfillan because of the number of conversations in the Chamber.

The Hon. IAN GILFILLAN: For the benefit of those who can now hear, I would like to emphasise that I do not appreciate the way in which this Bill has been dealt with in the almost customary last minute rush. The Bill appears to have experienced a degree of chaos in the way that it has been handled between the two Houses and, as this is a critical matter and one which will affect—

The Hon. Carolyn Pickles: There was no chaos in this place.

The Hon. IAN GILFILLAN: Maybe not. I am not allocating the blame at this stage. However, I do indicate Democrat support for the second reading. The Bill was introduced in the House of Assembly on 25 March and was not dealt with for more than four months while the Parliament awaited a response from a select committee. The report of that select committee was tabled in the House of Assembly on Tuesday this week. I have not had a chance to read that report, so I come to the debate ill-equipped to consider the major recommendations which I understand the committee has made. I make no apology for that; there has just been no time. I suspect that many other members would have had the same problem.

I understand that the Government wants to proceed at great haste with this Bill in order, I presume, to protect the revenue stream it is about to collect through the emergency services levy. I have previously put on record my disquiet about the extent to which the revenue from the levy is being used to replace consolidated revenue to fund a much wider range of services—some of them only loosely related to emergency services. It is thus a *de facto* tax. I have moved two amendments to this Bill, one of which addresses this issue by limiting the purposes to which the emergency services levy fund can be used.

The amendments are simple. They were drawn up some months ago when I saw the original version of this Bill. However, the version which is before us now is considerably different from the version which was introduced more than four months ago in the House of Assembly. The Bill before us now attained its present form just before midnight last night (Wednesday 4 August). It was substantially amended in the final hour of last night's sitting of the House of Assembly. Most of the amendments are quite minor, but I must place on record how disappointed I am that two particularly significant amendments were slipped in late at night with little, if any, discussion or justification.

The first is the amendment which seeks to abolish the Emergency Services Funding Advisory Committee. This committee has been in operation for less than 12 months. I realise that the select committee recommended its abolition, but I repeat that I have not had a chance to see that select committee's report. However, I did read in *Hansard* that the Minister (Hon. R.L. Brokenshire) in the other place spoke quite highly of the effectiveness of that committee. I refer interested members to page 2048 of *Hansard* to get the text of his remarks, which were followed by comments made by Mrs Maywald that are obviously supportive of the abolition of the committee.

I hope that members of that committee consulted with the South Australian Farmers Federation, the Real Estate Institute, the Property Council and the Local Government Association before recommending that their voices should be silenced in a statutory, legislative way. I shall look forward to hearing from each of those bodies shortly to gauge their reactions to the abolition of their committee which I envisaged would be a watchdog on the way the Government collects and distributes funds for emergency services. The committee had no say on the overall amount of money that could be collected; that is a taxing power reserved to the Government, and we know how the Government has used that power.

A second amendment inserted into the Bill late last night which is worthy of particular mention is clause 21, which seeks to amend section 54 of the Country Fires Act. This was done in such haste that the amendment is internally inconsistent (well, it was, unless it has been adjusted), with the new version of subsection (7) inconsistent with subsection (6). My version of the Bill obtained from Parliamentary Counsel at lunchtime today contains a handwritten note, 'needs amendment'.

The title of the Bill also needs amendment because, as it was received from the House of Assembly, it erroneously suggests that this amendment to the Country Fires Act is somehow related to the Emergency Services Funding (Miscellaneous) Amendment Bill. This is not a related matter. It is an amendment which addresses an entirely different issue apart from emergency services funding. It deals with the power of Country Fire Service officers to control fires in or near Government reserves such as national parks. As far as I can tell, it gives more power to the CFS officers of the rank of brigade captain or above at the expense of even a consulting advisory role for the National Parks Service. Because this has been introduced in such haste with no discussion or even explanation, I indicate that the Democrats will oppose this clause, if indeed it still resides in the current Bill before us.

I did have a chance to look, unfortunately rather quickly, at a letter dated 4 August and signed by J.A. Fotheringham, Chief Executive of the RAA. The letter states:

> Dear Mr Gilfillan,
>
> Emergency services levy inquiry reveals lack of transparency.
>
> The report of the select committee on the emergency services levy was tabled in Parliament on 3 August 1999. The report has shown the RAA's concern about the lack of transparency associated with the emergency services levy was warranted.
>
> The Government has used the emergency services fund to prop up the consolidated account by taking $23.8 million from the fund in its first year of operation for other agencies and the radio network. This is despite assurances to the RAA from the Minister that the definition of the fund was specific and this would not happen.
>
> The Minister stated in a media release dated 25 May 1999, 'The emergency services levy will not fund ambulance functions of the South Australian Ambulance Service.' The select committee found that $774 000 would be paid to the ambulance service from the fund. The levy has now been declared and gazetted. It will raise $60 million more than in 1998-99 and yet more people are being taxed than before.
>
> A select committee inquiry has now been completed yet the public of South Australia is none the wiser as to how the moneys raised by the levy will be spent on emergency services and justifications for any budgetary increases or decreases the emergency services may face.

I do not intend to read the balance of the letter. I am sure that many members will have received the same letter, but I indicate that it is available for anyone who wants to read the rest of it. I use it to make the point that it is critical that there is a close and ongoing surveillance of how the Government honours its promise as far as the use of these funds is concerned. That is where the real area of concern about this measure lies. The actual principle is sound. The principle is the reason why the Democrats supported the original Bill which then became the Act, and were hoping it would in fact relieve the costs to a lot of dutifully rate-paying and insuring South Australians so that the burden would be spread, and that the funds would be available to enable fully-funded emergency services as listed in the original Act to be covered by the fund.

The two amendments which I have on file deal with a couple of matters that do concern me, and I think I will save the actual technicality of the amendments until we get to the Committee stage. The second amendment is in direct relationship to what I am referring to about the extension of the areas where the emergency services fund can be spent. The paragraph that I want to delete relates to what is permitted for the Minister to pay out of the emergency services, as follows:

> . . . any other person or organisation (whether an agency or instrumentality or the Crown or not) for the provision of emergency services.

I have a letter from the RAA which reads as follows:

> It's my intention, if the Minister wishes to make payments for emergency services to persons or organisations other than those named in section 28, that he or she will need to make payment from some other fund or seek Parliament's permission to insert into section 28 the names of the additional persons or organisations.

That shows how little reliance you can put in the Government's word that it will not fund certain end causes which should be properly funded from general revenue. To a large extent, that amendment would minimise the scope of future Governments not squandering the funds but relieving its general revenue obligation to fund these services.

The second amendment relates to judicial review. I believe we should retain the capacity of proceedings for judicial review or for a declaration, injunction, writ, order or other remedy before a court, tribunal or other person or body to challenge or question the amount of the levy, the value, or the area factor or the land use factor. I remind honourable members that in the previous debate on the measure I was very concerned that the prohibiting of judicial review of these matters was a denial of natural justice, and I hope to be able to reverse that by amendment in Committee. With those remarks, I indicate support for the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for the second reading of this Bill. I note the observations of the Leader of the Opposition, but the issues which he has raised have been canvassed previously in another place and publicly, and adequately responded to in both the public and parliamentary forums.

However, the Hon. Mr Gilfillan has raised some issues, and I would just briefly like to deal with them. He made the observation that the way in which the Bill has been handled was rather bizarre, with a last minute rush. I do not want to make any observation on the description of the way in which the Bill has been handled. The honourable member quite rightly indicated that the Bill was introduced into the House of Assembly on 25 March 1999. Again, there was no action on the Bill other than the House of Assembly's select committee for something like four months, and then the report was presented.

Of course, the occasion of a select committee has been the opportunity for a lot of people to play politics with the levy, even though last year when the Bill was debated I believe there was a full appreciation of the basis upon which the levy would be made, and a report which was tabled by the Hon. Mr Iain Evans, when he was the responsible Minister for this, more than adequately explained the way in which a system such as this would work, including the application of funds to the Government radio network.

I am sorry that the honourable member has not had an opportunity to read the select committee report, but I regret that the time constraints under which we now labour at the end of this session mean that this Bill does have to go through, otherwise there will be a significant cost to the revenue. More particularly, to balance that out, there will also be an inability for the Government to provide for concessions, including the exemption of South Australian Housing Trust land and a range of pensioner and other concessions which are not presently covered by the regulation making power in the principal Act. It is a balancing position that we have to address and, if we do not pass it today, we are in an impossible situation in terms of the administration of the levy on fixed property. There is no difficulty with the levy on mobile property but, if the Bill is not passed, the fixed property levy will be severely compromised.

The honourable member also makes reference to two issues, one being the abolition of the advisory committee. I think that is unfortunate, but the House of Assembly was anxious that its Economic and Finance Committee should have a more significant role than it does, even though the Government was proposing that it have a role in a different manner, that is, to be able specifically to review the accounts of both the CFS and the MFS after each financial year. This gives the committee a much stronger role in relation to the fixing of the levy in so far as any proposed declarations to be made by the Minister with respect to the ensuing year's levy must be referred to the Economic and Finance Committee, and then there is a mechanism for dealing with the circumstances where the committee will report to the Parliament and those circumstances where it will not.

Another matter to which the honourable member referred was clause 21, which deals with the role of the Country Fire Service in relation to Government reserves or other reserves. Again, this has been a contentious issue; in relation to fires in national parks, it was the view of the majority, if not all, of the members of the House of Assembly that this was an appropriate amendment to be made. I can offer no other explanation to the honourable member, except that it now clearly eliminates the potential for conflict between responsibilities of the Country Fire Service and those of National Parks and Wildlife officers in respect of fighting fires.

The last matter to which the honourable member referred was the letter from the Royal Automobile Association dated yesterday. I note that it has been conducting a public campaign today (and will probably do so tomorrow as well), suggesting that people who want to do something about the levy should contact their member of Parliament. I think the RAA's campaign was misguided. While it relatively accurately referred to the amount of funds which were going to agencies such as the police, ambulance, the Government radio network and the computer aided dispatch system, it was wrong in the way in which it sought to put that into a rather sinister context. The fact is that as far as I recollect those areas were identified in a report which was tabled by the Hon. Mr Iain Evans last year and which led to the drafting, subsequent introduction and enactment of the principal Act. There should not have been surprises either for the RAA or anybody else, because that report was available publicly.

It has to be remembered that all of the funds that make up the $23 million to which the RAA refers are all agencies where the moneys that are to be appropriated from the levy are within the description of 'emergency services', a description which has required us on a number of occasions in Government while developing the levy concept to obtain the Crown Solicitor's advice as to whether or not it was lawful to charge this amount or that amount to the levy. There has been very strict scrutiny by legal officers of the Crown in respect of that application of funds from the levy.

The Hon. Ian Gilfillan: Is it true that the Minister said the fund would not be used for the Ambulance Service and the select committee found that the funds had been used for the Ambulance Service?

The Hon. K.T. GRIFFIN: I do not believe that is the case. I think the ambulance component is about $700 000, and that relates to those parts of the Ambulance Service activity which are associated with rescue and other emergency services provided by bodies like the CFS and the MFS. That was within the limitation of the legislation, which authorises money to be spent on emergency services and on nothing else. That deals with the issues raised. I thank members for their indications of support for the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 8 passed.

Clause 9.

The Hon. IAN GILFILLAN: I move:

Page 4, after line 15—Insert new paragraph as follows:
(g) by striking out subsection (9)

I apologise for not having the principal Act with me, but this applies to the amendment which I referred to in my second reading contribution and one which I have moved before in an attempt to wind back the prohibition in the principal Act:

> [prohibits any] proceedings for judicial review or for a declaration, injunction, writ, order or other remedy. . . before a court, tribunal or other person or body to challenge or question the amount of the levy or the value of the area factor or the land use factor. . .

I do not want to have these doors closed to those who may have justifiable complaints. It seems to me quite extraordinary that in this area we are depriving a citizen of the opportunity to have access to a court to challenge these quite reasonable questions that a person should be entitled to challenge. Therefore, I move this amendment because, although it may look a little sparse on the amendment that is before honourable members, that is its intent.

The Hon. K.T. GRIFFIN: The Government opposes the amendment. I agree with the Hon. Mr Gilfillan that, with respect to clauses that seek to limit citizens' rights, we do have to be careful when we enact those in legislation. But

there are occasions when this is a valid exercise of parliamentary power, and for a variety of reasons.

I will come to the provision in section 10 of the Act in a moment, but let me just give a couple of examples. Section 31 of the Parliamentary Committees Act provides:

> The proceedings of a committee or any report or recommendation of or document published by a committee may not give rise to any cause of action or be made the subject of or in any way be called into question in any proceedings before a court.

So, we have a provision in the Parliamentary Committees Act that effectively rules out any challenge to the proceedings of a parliamentary committee or a challenge to any report. I can understand that, because the Parliament is, quite properly, beyond the jurisdiction of the courts. That provision in the Parliamentary Committees Act really puts that beyond doubt.

The Firearms Act of 1977 (which I know is dear to the heart of the Hon. Mr Gilfillan) contains a provision in the schedule of transitional provisions in clause 8(2), which provides:

> No proceeding for judicial review or for a declaration, injunction, writ, order or other remedy may be brought to challenge or question—
>
> (a) the amount of any compensation payable under regulations made under subclause (1) [which is the regulation making power] or a determination of, or a determination or decision that affects, the amount of compensation payable under regulations made under that subclause; or
>
> (b) proceedings or procedures under regulations made under subclause (1); or
>
> (c) an act, omission, matter or thing incidental or relating to the operation of regulations under subclause (1).

So, the Firearms Act has a similar provision, which I would have thought deals more specifically with the rights of the citizen than the clause to which the Hon. Mr Gilfillan is presently referring.

Section 10 of the principal Act provides for the Governor, by notice published in the *Gazette* on the recommendation of the Minister, to declare the levy and, where the levy or a component of the levy is an amount payable in respect of each dollar value of land, the area factor for each of the emergency services areas and the land use factor for each of the land uses referred to in section 8(1) for the financial year specified in the notice.

Section 10 of the principal Act then actually works through the process to be used to establish the levy. Subsection (9) provides:

> No proceedings for judicial review or for a declaration, injunction, writ, order or other remedy may be brought before a court, tribunal or other person or body to challenge or question—

and these are the three things that are not to be challenged—

> the amount of the levy or the value of the area factor or the land use factor declared in a notice under subsection (1).

It is my submission to the Committee that they should not be subject to challenge. If one looks at the notice gazetted on 30 June, the notice by the Governor provides after a preamble a declaration that:

> . . . the levy under Division 1 of Part 3 of the Emergency Services Funding Act 1998 for the 1999-2000 financial year comprises—
>
> (i) an amount of 0.1675 cents in respect of each dollar of the value of land subject to assessment; and
>
> (ii) a fixed charge of $50 for each piece, section or aggregation of contiguous land subject to separate assessment.
>
> (b) the area factors for each of the emergency services areas for the 1999-2000 financial year are as follows:
>
> (i) Greater Adelaide—1.0;
>
> (ii) Regional area 1—0.8;
>
> (iii) Regional area 2—0.5;
>
> (iv) Regional area 3—0.2;

So, there is a diminishing factor which is applied and which goes to the calculation of the levy in respect of individual properties that fall within those particular regions. Paragraph (c) of the notice states:

> . . . the land use factors for each of the land uses referred to in section 8(1) of the Act for the 1999-2000 financial year are as follows:
>
> (i) commercial—1.0;
>
> (ii) industrial—1.0;
>
> (iii) residential—0.4;
>
> (iv) rural—0.3;
>
> (v) all other uses—0.5;
>
> (d) the relevant day in respect of the 1999-2000 financial year is 30 June 1999.

I suggest that that is a quite proper provision to ensure that those particular matters covered in a declaration are not subject to challenge. If they were, the quantum of the levy might end up in the courts, up to the High Court, for the next two to three years. Imagine what sort of chaos that would involve—and for what purpose? Here we have a declaration where the Minister has fixed the amount of the levy, which is the percentage per dollar of value, the area factors and the land use factors, all of which are quite fundamental to the calculation of the levy. If there is a dispute about value, the Valuation of Land Act enables that to be challenged. There are a variety of other rights which citizens are given under the levy. On that basis, I argue very strongly against the amendment.

The Hon. CAROLYN PICKLES: The Opposition is persuaded by the persuasive argument of the Attorney-General and will not support the amendment.

The Hon. T.G. CAMERON: SA First will be supporting the Democrat amendment.

Amendment negatived; clause passed.

Clauses 10 to 15 passed.

Clause 16.

The Hon. IAN GILFILLAN: I move:

> Page 5—
>
> Line 12—After amended insert:
>
> —
>
> (a)
>
> After line 14—Insert new paragraph as follows:
>
> (b) by striking out subparagraph (vi) of paragraph (a) of subsection (4)

I commented on this in my second reading contribution. This amendment seeks to confine to the expressed intention of the Government when it proposed this scheme that the fund be used expressly for emergency services, that they should be specifically identified and, if there is to be any change in that, it should be by way of amending the legislation rather than a loose paragraph in the Act which gives the Minister permission to pay out of the Emergency Services Fund (and this is the part of the Act that I want deleted) 'any other person or organisation (whether an agency or instrumentality of the Crown or not) for the provision of emergency services'.

I make the point that this is far too open-ended for the public and, indeed, this Parliament to have confidence that the many millions of dollars—and it will be an increasing number of millions of dollars that will come in as this source of revenue—will be used only for the legislated expressed intention by the Government that it is an emergency services levy. It stretches out the edges.

It may be the RAA's indication that money was put into the ambulance services. I am not in a position to judge that,

but there is the assumption that this fund should certainly not fund the ambulance services. The ambulance services should be funded from other sources and general revenue.

If this open paragraph remains in the current Act it will mean succeeding Governments will be able to constantly stretch out the ambit to which the emergency funds can be applied and, therefore, relieve them of the obligation of applying general revenue to cover the cost, and even more of what is charged of it will become virtually a broad-based property tax to relieve the Government's budgetary problems. That is an extreme position. I do not believe we are anywhere near that at this point, but this paragraph which I am seeking to have deleted does leave the opportunity there for Ministers and Governments in the future to abuse the intention of this scheme.

The Hon. K.T. GRIFFIN: The Government opposes the amendment. The honourable member has misrepresented the provisions of the Act. Let me go through the structure of the relevant parts of the Act. Section 28(1) provides:

> The Community Emergency Services Fund is established.

It then identifies what the fund consists of. Subsection (4) clearly provides:

> The Minister may only apply the fund in one or more of the following ways:
>
> (a) in payment to—
>
> (i) the Country Fire Service; or
>
> (ii) the South Australian Metropolitan Fire Service;
>
> (iii) the State Emergency Service South Australia; or
>
> (iv) the Surf Life Saving Association of South Australia Incorporated;
>
> (v) a body or organisation that is a member of Volunteer Marine Rescue SA Incorporated;
>
> (vi) any other person or organisation (whether an agency or instrumentality of the Crown or not),
>
> for the provision of emergency services.

I emphasise 'for the provision of emergency services'. It continues:

> (b) for any purpose for, or relating to, the prevention of circumstances in which emergency services are likely to be required;
>
> (c) without limiting (b), for any purpose of, or relating to education as to, or research into—
>
> (i) the prevention of circumstances in which emergency services are likely to be required;
>
> (ii) the strategies and procedures for dealing with emergencies when they arise and for dealing with the harmful effects of emergencies; or
>
> (iii) the factors that give rise to emergencies;
>
> (d) in payment of the costs of, or relating to, the administration of this Act.

So, there are very clear limitations on what this money can be spent on. If one goes back to the definition section, section 3, 'emergency service' is quite clearly defined. That is really what I come back to: it is clearly defined. It means:

> (a) a service of the kind provided by—
>
> (i) the Country Fire Service;
>
> (ii) the South Australian Metropolitan Fire Service;
>
> (iii) the State Emergency Service South Australia;
>
> (iv) Surf Life Saving South Australia Inc.;
>
> (v) a body or organisation that is a member of Volunteer Marine Rescue SA Inc.; or
>
> (b) a service provided by the South Australian Police Department—
>
> (i) of a kind referred to in paragraph (a); or
>
> (ii) to assist a body or organisation referred to in paragraph (a) in providing such a service; or
>
> (c) a service or other activity incidental or related to a service of a kind referred to in paragraphs (a) or (b);

'Emergency service' is quite clearly defined. That is really to what I was referring when I noted briefly in my second reading reply that the RAA was wrong in its interpretation of the way in which the funds could be applied. It is very strictly limited. As I said, we had to take legal advice from the Crown Solicitor on a number of occasions to determine whether or not particular expenditure fell within the definition. All the expenditure in that $23 million or thereabouts referred to by the RAA falls within the definition. The honourable member also must recognise that he has referred to a wealth tax, and that a Government, no matter what political persuasion—

The Hon. Ian Gilfillan: I said property tax.

The Hon. K.T. GRIFFIN: A property tax. Some have called it a wealth tax. But the honourable member did refer to the fact that Governments could almost ramp it up, or that was the effect of it; they could slip in expenditure. I have tried to identify that that is not possible legally but, more particularly, if the amount of the levy is to be increased in any year, under the principal Act it has to go to the Parliament and both Houses have to approve it. Now, with the amendment made in the House of Assembly to cut out the Emergency Services Advisory Committee and put the Economic and Finance Committee in its place, information about what is proposed for the levy by the Minister has to be provided to the Economic and Finance Committee. So, there are a number of safeguards that put a cap on this. It is subject to scrutiny by the Parliament and by the committee of the House of Assembly, and it is ultimately constrained by the law: the law strictly identifies the expenditure upon which moneys collected and paid into the fund can be made. For those reasons, the Government very strongly opposes the amendment.

I make just one other comment. Looking at the structure of section 28 of the principal Act, if we did not have that provision, which the honourable member wishes to remove, we would end up with even more litigation. We would end up with litigation that would challenge the validity of the expenditure to determine whether or not it came within the authorised categories of prevention, education and research. The paragraph also needs to stay in the Act to enable us to ensure that we and the fund are not exposed to litigation on a monotonous and frequent basis.

The Hon. IAN GILFILLAN: I acknowledge the Attorney's capacity to argue very lucidly for his team's cause. He just repeated the provisions of section 28, which I want to delete, as if he were informing me of something afresh, which obviously he is not. What is more, there are other aspects in that paragraph which can expand even further the scope in which the Government can use the money. I will refer to the ambulance expenditure because the select committee reported it this way—

The Hon. K.T. Griffin: I thought you hadn't read it?

The Hon. IAN GILFILLAN: I have luckily, because someone who realised the significance of it made it available to me. The report states:

> The amount of $744 000 directed to the SA Ambulance Service (SAAS) is identified for services that are considered valid under the Emergency Services Funding Act 1998 as emergency services. These service allocations were based on a percentage of total workload and include:
>
> · Special rescue operating team—$48 000;
>
> · Ambulance attendance as safety stand-by at identified SA Metropolitan Fire Service and CFS (structure fire) and SES call-outs—$274 000;
>
> · Disaster planning—$93 000;
>
> · Emergency service joint training—$191 000;
>
> · Overheads associated with fire search and rescue—$88 000; and

- Coordination with emergency services communications and dispatch—$50 000.

It is all very worthwhile and important expenditure. Point 3.3.11 states:

The Department of Justice further advised that the $744 000 contribution to the SAAS estimated for 1999-2000 from the emergency services levy replaces $744 000 from consolidated revenue. Therefore there is no net increase to the SAAS budget.

It indicates that this is a relief to the Government for money that it otherwise would have had to pay out of general revenue. It might be arguable that this is justified under emergency services. Why not then have it spelt out in the legislation that it is the portion of the Ambulance Service so that it is all clear and above board? How many other areas will an inventive Government find in which to spend $744 000? I rest my case. It is important that the Government is kept answerable to this Parliament about the areas in which the emergency services levy can be spent.

The Hon. T.G. CAMERON: SA First supports the Democrats amendment. Whilst the Attorney argued lucidly, he did not argue convincingly.

The Hon. T. CROTHERS: For different reasons from the representative of SA First, I also support the Gilfillan amendment. I do so because today, like most other members, I received a letter from the RAA. I have not always agreed with the decisions of that body but I believe that it really has no axe to grind other than the truth as it sees it in respect of the differing public positions that it has taken. I have not always agreed with it but it is a body that I respect. From memory, the RAA makes the point that the emergency services levy will raise $60 million more than was raised under the algebraic equation of the old method of raising moneys to fund emergency services.

I understand that the State needs a new radio communications network, and I will support the Government on that, at some considerable cost relative to being able to bridge most if not all of the black spots that cause the present system not to function with maximum efficiency in being able to reach those parts of the State that such a network should reach in an emergency. I might be wrong but I do not think that the armed forces has a network that can perform the functions of the new network which the Government proposes to purchase. It will bring us right up to date relative to ensuring that, whenever our citizens require help or assistance, the emergency services will not fail for want of the capacity to communicate directly with our capital city.

They also argue the point with respect to expenditure because they put a question mark over one or two items of the expenditure for public transparency. That is one of the reasons why I agree with the contents of the Hon. Mr Gilfillan's amendment. If this matter does not go through between now and when Parliament next meets in its new parliamentary year that we will suffer much consequential damage while the Minister from another place, the Attorney-General representing him in this place, and perhaps the mover of the amendments get together, because everyone is endeavouring to grasp the same nettle in terms of how this Bill should be applied to, amongst other things, the expenditure of funds.

For a long time we have been struggling along with the present mathematical formula to determine how to raise money for emergency services and, should it be that agreement cannot be reached during the life of this parliamentary year, then the two or three months that may be additionally required to process the Bill in a manner acceptable to the totality of this Council or another place will not have much relevance one way or another to the ongoing continuation of emergency services. I support the Gilfillan amendment because it injects common sense and logic into the debate.

The Hon. CAROLYN PICKLES: The Opposition will not be supporting the amendment. If we look at the original legislation that we supported (and there is a list which the Attorney has read out previously), it is clear that it relates only to the provision of emergency services. We believe that is sufficient safeguard. It is a contingency if any other organisation emerged providing emergency services, but I cannot think of one off the top of my head. It seems to me the last part of that clause provides a safeguard that it is only for emergency services.

The Committee divided on the amendments:

AYES (6)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I. (teller)
Kanck, S. M.	Xenophon, N.

NOES (14)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Pickles, C. A.
Redford, A. J.	Roberts, T. G.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	Zollo, C.

Majority of 8 for the Noes.

Amendments thus negatived; clause passed.

Clauses 17 to 20 passed.

Clause 21.

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

Page 6, line 27—Leave out paragraph (d).

When the amendments were made to the Bill with respect to this clause in the House of Assembly, I gather paragraph (d) was an error. It is a matter of drafting.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment.

Amendment carried; clause as amended passed.

Long title.

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

Page 1, line 6—Leave out 'to make related amendments to'.

Again it is a matter of drafting.

Amendment carried; long title as amended passed.

The Hon. IAN GILFILLAN: I apologise; my attention was diverted. Did the Committee pass clause 21?

The CHAIRMAN: Yes.

The Hon. IAN GILFILLAN: I am not sure what the capacity would be to recommit that clause to the Committee. I would certainly be very keen to have an opportunity to contribute to that clause.

The CHAIRMAN: The clause has been the subject of an amendment. I understand that, after I report progress, the honourable member can move that the clause be recommitted.

The Hon. K.T. GRIFFIN: At this time of the night and at this stage of the session I will not get into an argument about whether or not people were not paying attention. I am therefore prepared to move:

That the Bill be recommitted for the purpose of considering clause 21.

Motion carried.

Bill recommitted.

Clause 21.

The Hon. K.T. Griffin interjecting:

The Hon. IAN GILFILLAN: I appreciate the *sotto voce* coaching I am getting from the Attorney. I also appreciate the consideration to have this clause recommitted. However, I make no apology for putting the Chamber to this particular inconvenience because the Democrats are cooperating 125 per cent in circumstances which always inevitably occur at the end of the session. I will not labour the point but the Attorney was behaving as if somewhat aggrieved because I had inadvertently missed the point that clause 21 had been passed. However, this extraordinary clause, totally unrelated to emergency services, was stitched on in a bizarre way late last night in the other place when it was dealing with the national parks and the control of fires between the two bodies.

Not only is it totally inappropriate to have it in this Bill but it is also a highly undesirable measure. I cannot believe that a matter that has a profound influence on the way that good relationships develop between national parks management and the fire services of the adjacent area would be put seriously at risk with this autocratic intervention. If this legislation becomes law there will be no consultation and no participation, in a formal sense, between the authorities (National Parks and Wildlife and the CFS). It will virtually entrench a constant feuding between the two bodies, and that, in any anyone's language, is totally undesirable and I signal to the Committee that, as a result of the recommittal of the clause, we will vote against it.

The Hon. M.J. ELLIOTT: I must speak to this clause. Whilst emergency services are covered by my colleague the Hon. Ian Gilfillan, issues surrounding conservation and environment are covered by me, and members need to be aware that an attempt has been made to really use this as a Trojan Horse to bring in a totally unrelated matter about which there has been no consultation or warning. A member of the other place simply took this as an opportunity hopefully to slip something through without anyone knowing it was even happening. As the Hon. Ian Gilfillan said, a lot of work has been done over a period of time to increase understanding between the CFS and those people working in national parks.

I remember in my previous life living up in Renmark and being a fairly regular visitor to Danggali Conservation Park to the north of Renmark. Bushfire management is an important thing in relation to national parks. The rangers up there had adopted a policy that, if a fire was a natural fire, that is, started by lightning, it would be allowed to burn, but they would control it so that it did not leave the park. On the other hand, when a fire that was artificially started entered or was in park, they would endeavour as best as possible to put it out. Basically, Australian vegetation types are adapted to fire frequency. If you alter the fire frequency away from that which is natural, either more frequently or less frequently, you actually damage the parks. Species are evolved to particular fire patterns.

There was a famous occasion when a fire started by lightning strike in the park. It was no threat outside, and the local CFS arrived and were about to go right into the middle of this very large park with their bulldozers to put out this fire. In fact, the police had to be called to try to separate the two groups, with the CFS insisting they would enter this park with bulldozers and rip into it. This is one of the most unique and natural parks in South Australia, indeed Australia. There are very few in such good condition as this park. That is going back about 13 years or so and, as the Hon. Ian Gilfillan has said, things have changed significantly since then.

There are quite elaborate protocols which I believe are working very well. We have one member of the Lower House, with a bee in his bonnet, and without any consultation with any of the relevant groups, who has managed to bulldoze this clause into this piece of legislation. I suggest to members, no matter what view they have about this issue, that they should recognise that this is an issue about which there has not been consultation, and it is quite outrageous that a Bill about emergency services funding should be used as a Trojan Horse on an unrelated matter about fire management. I urge all members in this place to be aware that that is happening and, regardless of whether or not at this stage they might have an inclination one way or another on the issue, this matter should be brought back in the next session of the Parliament, once there has been a chance to talk with all interested parties, rather than having it just go straight through as obviously some people were hoping that it would.

The Hon. T. CROTHERS: I rise to indicate that I will be supporting the Attorney's position on this matter. I have listened to the contributions made by the last two members, but let me now make a contribution that will enable members hopefully to see this in a different light. This State has on at least two major occasions sustained bushfires of horrendous length and breadth. The service best equipped to deal with those fires is, of course, the emergency services of the country fire brigade.

One of the reasons why it is advanced by some that there is a greater frequency of bushfires is that the people responsible for the maintenance of national parks have developed policy which on many occasions does not prevent the clearance of overgrowth of brush when a hot summer is very prospective relative to the enhancement of the risk of bushfires.

I remind myself of when I sat on the select committee into the Ash Wednesday disaster, with its subsequent fatalities. When was the last occasion when we had a major and, unfortunately, life threatening bushfire in the State? Some of the evidence indicated that the bushfire raged through some of the national parks areas and, because of the policy to not cut back overgrowth of brush, because they were separately controlled, the bushfire was assisted to get such a hold that the emergency fire service could not deal with it.

The Hon. Mr Elliott has said that our national parks are unique and contain valuable and unique things. I agree with that. I simply want to say this: human life is more unique. It certainly is at least as unique as the southern right whale or the twin-tailed honey-eating eagle. Those are just some of the reasons why I believe that, if you have a service which acts for a greater percentage of the land in this State in respect to bushfires, particularly towards the end of one of our hot summers, then you maximise its efficiency by having one unilateral service responsible for the whole of the State. We are told of a dicta of military strategy which often leads to the person pursuing that dicta deciding to divide and conquer. In my view, a certain part of that flows on in principle to this matter. As the man said, 'Sometimes when you get two Jewish people, you might get three political Parties'—not a position you want to arise should the whole of the State be threatened by a bushfire, where you have a national parks authority not really set up to deal with that as its major rationale for being set up. The Country Fire Service, underneath the metropolitan brigades, which from time to time are called into the issue, is equipped to do just that.

For all those reasons, and whilst I understand the rationale that underpinned the contributions of the Hons Mr Gilfillan

and Mr Elliott, whilst it may well be that this matter was arrived at last night because of skulduggery, nonetheless, I have to say that sometimes the right things are done for the wrong reasons, if that be the case. Do not shake your head, Mr Elliott; you may create sufficient friction to start a fire in your hair and we would then have to call in the CFS to put it out. The consequence of that proposition really is a divide and conquer decision relative to how to handle an emergency fire in this State. I am afraid I cannot see the logic of that, for whatever reason it was put in as an amendment to the Bill in another place.

I must support the position of the Attorney on this matter. It is the way to go to ensure maximum effectiveness relative to the emergency fire service, that is, the CFS, and the metropolitan fire brigade, whose main task in life and rationale for existence is to have the capacity to expertly and more expeditiously than any other organisation deal with an emergency bushfire which, after all, on more than two occasions in this nation, has been the subject of great loss of life and, on at least two occasions to my knowledge, the loss of an horrendous number of human beings. After all, if one is a biblical scholar—which I am not: I am an agnostic—we are told in the Bible—a book that is accepted as holy writ by many people in this State—that the human brain is the unique and greatest of all God's creations—not that I believe in the Hebrew God about whom I was taught, being forced to go to Catholic Sunday School in my childhood. I support the amendment standing in the name of the Attorney-General. I think it is the way to go.

The Hon. T.G. CAMERON: I have a high regard for the CFS. I was formerly and briefly a member of the CFS and on one occasion went out and did some firefighting, experiencing at first hand—

The Hon. T. Crothers: You don't mind if I hose you down in a moment to see which way you're going to vote?

The Hon. T.G. CAMERON: You'd need a pretty big hose to hose me down.

The Hon. T. Crothers interjecting:

The Hon. T.G. CAMERON: Are you finished? I am more than prepared to wait for him to finish. Having experienced at first hand what CFS firefighters go through, and having spent some 15 years or so living in the Adelaide Hills and still owning a property there, I am one of the Hills residents who believe they owe the CFS a lot. I have listened carefully to the arguments put by all the four speakers so far and, whilst the Hon. Trevor Crothers made a few points that I agree with, I would say at this stage that we will not have any bushfires between now and when we come back in October. I am sufficiently concerned about the points that are being brought forward by the Hon. Michael Elliott—

The Hon. L.H. Davis interjecting:

The Hon. T.G. CAMERON: I will ignore that interjection.

Members interjecting:

The CHAIRMAN: Order!

The Hon. T.G. CAMERON: The Democrats are waving a flag of concern here. I am not sure I fully appreciate all the ins and outs of what is going on with this amendment, but I make the point that we are at the beginning of August, and we will certainly not have any bushfires between now and when we come back in October. Perhaps I could prevail upon members: what is the absolute urgency in rushing this amendment through right here and now? I take on board the telling points the Hon. Mr Crothers has made, and I may well support the position he is putting now, but not at this time. So, I will be voting with the Democrats.

The Hon. M.J. ELLIOTT: I listened to what the Hon. Trevor Crothers said. I do not need to be reminded about the dangers of bushfires. Anyone who lives in Hawthorndene thinks about bushfires on every hot day throughout the summer. I can assure members that it is very much uppermost in your mind if you live in probably the most bushfire prone area in the Hills. I am very conscious of it.

The point I made was that there is no suggestion that there are two bosses; very clear protocols are in place in respect of how bushfire management works so that there is always only one boss. The people in the national parks are not just ordinary rangers: they are trained and have crews and they fight fires as well. Members should not think that they are there simply to cuddle the koalas and to keep out the firefighters. That would be a gross misrepresentation of what they do.

A more important point has to be made. It is scandalous that an issue like this, regardless of whether you think the arguments are good or bad, came out of left field yesterday in the other place. It was buried in the back of an unrelated Bill—

The Hon. Ian Gilfillan: I think it might have been today; it was after 12 o'clock last night.

The Hon. M.J. ELLIOTT: It was after 12 o'clock last night, and it was only by chance that people became aware that it was there at all. Certainly there has been no chance today to go out and consult with anybody—and I do not believe the Government consulted with anybody either, in introducing this. Members opposite should hang their head in shame for ever allowing this to happen in the first place. This is not about amending the Bill in terms of emergency services funding in any way; it is totally unrelated. I cannot believe anybody could allow the Government to get away with that stunt, and I am disappointed that the Government would even try it on. It is a disgrace and an absolute contempt of the Parliament. With respect to the Hon. Trevor Crothers, I do not think he knows the protocols and how they work.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: I have made the point that in the past 13 years there has been a significant evolution from the time when there were significant problems. There is no question about it, and I alluded to that. I also said that those problems are gone. People should go out and check on that and, as the Hon. Terry Cameron said, there will be no bushfires over the next two months. There is ample time to consult and if people believe it is a good thing they can support an amending Bill (which is an amending Bill to the Country Fires Act in itself) and debate the issue after due consultation.

The Hon. J.S.L. DAWKINS: I did not intend to contribute to this debate, but I have been prompted by a couple of things that have been said. First, the word 'stunt' has been used. As a now inactive but former active member of the CFS, I find the word 'stunt' a very unfortunate use of language when we are talking about defending not only the national parks but also the properties adjacent to them. I have been aware over many years of very genuine concerns, by landowners and others who defend both resources of each category, about the protocols and the ability to act quickly. There have been cases in the Mount Remarkable National Park, in terrain that is some of the most difficult in this State, where the protocols have not worked effectively and fires

have been allowed to get out of hand and threaten residences and farming properties.

I regret the fact that the word 'stunt' was used. It is important that we allow these fires to be fought with the best resources and tactics possible. In many instances the people who know the terrain best are those who live and make their living in those areas.

An honourable member interjecting:

The Hon. J.S.L. DAWKINS: I only use Mount Remarkable as an example, but I have fought fires in the Adelaide Hills. I would describe myself as a flat country man. I was pleased to have direction in fires in the Adelaide Hills from people who knew the territory, and that is very important.

The Hon. M.J. Elliott: No-one is criticising the CFS.

The Hon. J.S.L. DAWKINS: I did not take that as criticism of the CFS: I just think that it is important that we have the right people with an ability to have a say in how the fires are fought.

The Hon. M.J. Elliott: What happened at Mount Remarkable had nothing to do with—

The Hon. J.S.L. DAWKINS: We are not talking about specific fires but about fires that happened in parks like that over a number of years. We can go back to the big fire in 1988, but other fires have not had the same publicity. I am aware of long-standing concern by people in those areas that we need to look at the way in which the fires are controlled. I also take the Hon. Terry Cameron's point. I respect his thoughts that it is unlikely that there will be fires before we sit in late September or October.

The Hon. T.G. Cameron: Highly improbable.

The Hon. J.S.L. DAWKINS: Very unlikely, but not impossible. If we look at the history books members will find that there have been major fires in this State in September before when we have had severe dry conditions.

The Hon. L.H. Davis: We had a fire and a flood in the Barossa Valley within the space of a week or two.

The Hon. J.S.L. DAWKINS: A fortnight—that's right. I do not wish to contribute any further but I just felt that I needed to put those points on the record.

The Hon. CAROLYN PICKLES: One of the problems about dealing with legislation by exhaustion is that I think that we are prone to make mistakes. I know that my colleagues in another place supported this clause, and we originally supported it. I have had reservations about this and, in looking at the principal Act, I think that it probably was inappropriate to amend in it that fashion. We understand that the legislation has to pass because of other elements. Obviously, this recommendation that has come from another place was not part of the recommendations of the report of the select committee on the emergency services levy, which the Opposition in that place supported.

I think it is regrettable that we deal with legislation in this fashion; that we come in here night after night when we are all pretty tired—it is probably a tribute to most people that they are still reasonably sane. But I think that on this occasion (and I do not think that the numbers are here to support the position) I will support the position taken by the Hon. Mr Gilfillan.

The Hon. K.T. GRIFFIN: Looking at *Hansard* for the House of Assembly, I indicate that the shadow Minister in another place, Mr Conlon, said:

> The proposed amendment will be accepted by the Labor Party, but it has come to our attention very late. I understand that this may well be a regular feature of the last week of the session. We have agreed to support it, given the absolute assurances I have received from the Minister that it affects only national parks and national parks personnel, not other relationships between the CFS and other agencies, and that the Minister for Environment and Heritage is perfectly happy to have that relationship between the CFS and those national parks officers adjusted in this way. With those assurances we will accept the amendment.

I can say no more than that in relation to the events in the House of Assembly. The Labor Party indicated its support. The Government will be maintaining its support for the provision as it has been received from the House of Assembly. I think, as my colleague the Hon. John Dawkins indicated, that it is unfortunate that descriptions such as 'stunts' and other derogatory reflections have been made on the way in which this was dealt with in the House of Assembly. I ask members to maintain support for the clause.

The Committee divided on the clause:

AYES (9)

Crothers, T.	Davis, L. H.
Dawkins, J. S. L.	Griffin, K. T. (teller)
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Schaefer, C. V.
Stefani, J. F.	

NOES (10)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I. (teller)	Holloway, P.
Kanck, S. M.	Pickles, C. A.
Roberts, T. G.	Weatherill, G.
Xenophon, N.	Zollo, C.

PAIR(S)

Redford, A.J.	Roberts, R.R.

Majority of 1 for the Noes.

Clause thus negatived.

Long title.

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

That the long title be amended by deleting all words after '1998'.

Amendment carried; long title as amended passed.

Bill read a third time and passed.

APPROPRIATION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2032.)

The Hon. R.I. LUCAS (Treasurer): This is the first time I have been able to say that I am indebted to the Hon. Mr Gilfillan for not speaking! I thank members for their contributions to the Bill, and I thank the Hon. Mr Gilfillan for his non-contribution.

The Hon. Sandra Kanck this evening made some criticisms of the State Government in relation to the health system, and I refer the honourable member to the ministerial statement made by the Premier today in relation to the State Government's commitment to health funding from State sources. The Premier's figures today quoted that in 1995-96 the State Government's commitment towards hospitals was of the order of, I think, $404 million and that in 1998-99 the figure was about $587 million. That is an increase of some $180 million off a base of just over $400 million. What we have seen in our health system is a very significant increase in contribution from the State Government towards hospitals and health services generally. Anyone who says otherwise is not acquainted with the facts in relation to State health funding.

What is also true, of course, is that demand has grown significantly during that period. As the Minister for Human

Services and the Premier have acknowledged, our system remains under severe pressure, and that is why the State Government has been calling on the Commonwealth Government for an increased commitment from its not inconsiderable surpluses which it has very astutely put together, in part by squeezing State Governments for funds but in part by reaping the benefit of bracket creep from income tax and other tax collections through the 1990s. The State Government will continue to argue that a small proportion of those accumulating surpluses over the coming years should be directed towards greater funding for hospitals and for health services generally.

Finally, the Hon. Sandra Kanck's logic in relation to why she, as one of the wealthier members of our community, should remain a patient within the public health system and that in some way that was a benefit escapes me completely. She sought to make a virtue of the fact that she and others should remain within the public health system. She had a gall bladder operation which I hope went well for her; she is looking remarkably fit and obviously got very good health service from one of our hospitals in South Australia.

But the logic which escapes the Hon. Sandra Kanck is that, while she was pleased to be on the waiting list for a gall bladder operation and then was treated, as she sat on the waiting list for that operation and then took that operation in the public health system, someone else, much poorer than she, unable to afford private health insurance and unable to access private health medical services, had to wait even longer and was not able to get into the service of which the Hon. Sandra Kanck was able to avail herself. The logic of the Hon. Sandra Kanck's arguing on equity grounds that she, as one of the wealthier members in this Parliament and in this community, probably one of the top 5 per cent income earners in the community, should in some way be displacing poorer members of the community on the public hospital waiting listing, and in some way seeking to make that a virtue of that, and seeking to ensure that, indeed, more people should be doing this, escapes me. Our systems are under pressure at the moment because of the dramatic collapse we have seen in private health membership and the pressures we see on our public hospital system.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Let us not be diverted: let me finish this. The logic escapes me and escapes most people who have genuinely thought about the pressures that exist on our public hospital and health system here in South Australia. We can debate this on another day when we are all in a much happier frame of mind and we do not face the prospect of having to come back here tomorrow. I do not intend to delay the proceedings any longer. I thank members for their support for the second reading.

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

LOCAL GOVERNMENT BILL

Consideration in Committee of the House of Assembly's amendments:

Amendment No. 65:

The Hon. DIANA LAIDLAW: I move:

That the House of Assembly's amendment to amendment No. 65 of the Legislative Council be agreed to.

Motion carried.

Amendment No. 73:

The Hon. DIANA LAIDLAW: I move:

That the House of Assembly's amendment to amendment No. 73 of the Legislative Council be agreed to.

Motion carried.

Amendment No. 75:

The Hon. DIANA LAIDLAW: I move:

That the House of Assembly's amendment to amendment No. 75 of the Legislative Council be agreed to.

This removes the ability of councils to close a meeting to decide whether a matter warrants going *in camera*.

Motion carried.

Amendment No. 153:

The Hon. DIANA LAIDLAW: I move:

That the House of Assembly's amendment to amendment No. 153 of the Legislative Council be agreed to.

I note that this amendment was moved in this place by the Hon. Trevor Crothers and relates to vegetation clearance. The amendments made in the other place relate to the procedures in chapter 12 that apply to making vegetation clearance orders. It is my understanding that the Hon. Trevor Crothers accepts this amendment made in the other place.

The Hon. T.G. CAMERON: SA First is also happy with the amendment.

Motion carried.

Amendments Nos 114 to 131:

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council do not insist on its amendments Nos 114 to 131 and agrees to the alternative amendments made by the House of Assembly.

These essentially relate to the land bank, now the land trust.

The Hon. IAN GILFILLAN: This is about the one thing with confidence that I agree with in this schedule. I assure the Committee that the Democrats would be paying a lot more attention to this if we had not been assured that the Opposition is in support, so there is no dispute. The numbers are there, there is no point in our wasting time going over them one by one, so my silence should not be taken by the Committee as being agreement that all these amendments should be rolled back. However, the pragmatic acceptance of the numbers and the recognition of the hour persuades me not to participate in the debate on the matter other than to indicate some delight at seeing that clauses 208 and 209—the most obnoxious parts of the Bill—are knocked out.

Motion carried.

Amendments Nos 132 to 143:

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council do not insist on its amendments Nos 132 to 143 and agree to the alternative amendment made by the House of Assembly.

The motion relates to amendments that we had made in this place to the Land Trust and the fund that was established under the Land Trust. The amendments made in the House of Assembly removed that trust and I am asking that we agree to the alternative amendment made by the House of Assembly. I point out that, in terms of the Hon. Ian Gilfillan's contribution a moment ago, he may find the Land Trust odious or obnoxious.

The fact that we have just agreed that we do not insist on the Land Trust as part of this Bill should not discount the fact that the Land Trust is alive and well and, with the support of the majority of members in this place earlier this evening, the Land Trust was provided for in the Statutes Repeal and Amendment (Local Government) Bill so, while it is not here, we are only agreeing to the amendments on the basis that

there is provision for the Land Trust in another Bill that is still active in this Parliament.

Motion carried.

Amendment No. 152:

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council do not insist on its amendment No. 152 and agree to the alternative amendment made by the House of Assembly.

The amendment made by the House of Assembly removes a clause that was substituted relating to complaints against members of council.

Motion carried.

Amendments Nos 46, 47, 66, 67 and 83:

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council insist on its amendments Nos 46, 47, 66, 67, 76 and 83.

They relate to criminal penalties from general duties of members and relating amendments to closing of meetings, voting rights of presiding members and also to the right of reply.

The Hon. IAN GILFILLAN: I must comment that I deeply regret the removal of the right of reply aspect, especially as this Chamber had led the way in a very effective reform, and it appeared as if it had the support of a majority in this Parliament to carry it. I think it is a backward step and I feel I must make that observation at this Committee stage.

The Hon. A.J. REDFORD: I want to make this point in relation to clause 62. For those members who are not avid readers of the *Hansard* and do not go backwards and forwards, one might recall that last Thursday this issue arose in relation to clause 62 where the Hon. Terry Cameron sought to include a criminal responsibility in so far as a member of council acting honestly in the discharge of performance of official functions and duties, and indeed also sought to impose a criminal responsibility in relation to 'a member of a council must at all times act with reasonable care and diligence'. I made a contribution expressing some concern about that. The Hon. Trevor Crothers said:

I was not intending to enter this debate, but I want to make the following observations as a lay person. The Liberal Party has four qualified lawyers in this House, one of whom is a QC, and the Labor Party has four qualified lawyers in another place. Seven out of eight of those qualified legal practitioners are supporting the Cameron amendment. Why is it that time after time we see the Hon. Mr Redford as being the lone dissenting legal voice in respect of matters of law where the Opposition and the Government have got some agreement? Why is that so?

I am particularly heartened by the fact that the points that I made last Thursday have been accepted by the Government, by the Opposition, and indeed by all legal practitioners who form part of the Government and the Opposition. Whilst I might have been one out of eight this time last Thursday, not because of any skill on my part but because the arguments were self-evident all the lawyers without exception have come to the position at which I began.

There is a lesson in this, that occasionally one should stand up and speak one's mind and apply one's judgment as one sees it at a particular point in time, draw people's attention to the issue, and allow people to subsequently—in this case the last seven days—reflect on what is said. From being a lone voice in this particular case, I am now in the middle of a pretty substantial majority, which heartens and encourages me to continue to speak out when I see things that are wrong.

The Hon. T. CROTHERS: Whilst I admire the Hon. Angus Redford for speaking out so forthrightly, I am reminded that even a gaggle of geese can sometimes get it wrong acting in concert. They can lose direction, even though there may be eight or nine, or more, in the gaggle that are trying to go to other pastures. I am further reminded by the comments of the Hon. Angus Redford that the person in the English speaking world who is probably the greatest inventor in history, Thomas Edison, did not have a degree from any university in the United States. Whilst I admire the honourable member for speaking out, it does not therefore support any cause to say that because a grouping of people come to a similar conclusion they are right. After all, Guy Fawkes and the people who supported him in his attempt to blow up Westminster had all come to the same conclusion. Nonetheless, they were all hanged equally but separately for the error of their collective ways.

I would absolutely exhort the Hon. Angus Redford to continue to act unilaterally where he believes he is right and the rest of the world is wrong. I would urge him to do that but I want just simply to make the point that, because a number of people act in unison and produce a unilateral thought among that group, that does not of necessity support the recitudinality of their position or otherwise. As I said, I support the honourable member's efforts in respect of his decision to unilaterally speak out from among the ranks of his colleagues where he thinks those of us here and the rest of the world are wrong.

The Hon. DIANA LAIDLAW: In terms of this Bill and the consideration between Houses, compromises and variations to earlier opinions have been required by a number of people. I do not think it is any cause for chest beating.

Motion negatived.

The Hon. DIANA LAIDLAW: I move:

That the consequential amendments made by the House of Assembly be agreed to.

Motion carried.

MOTOR VEHICLES (MISCELLANEOUS) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 92, page 46, line 7—After '(whether registered or unregistered)' insert:
or any specified vehicle part

No. 2. Clause 92, page 46, line 9—After '(whether registered or unregistered)' insert:
or any specified vehicle part

No. 3. Clause 92, page 46, line 12—After 'vehicles' insert:
or specified vehicle parts

The Hon. DIANA LAIDLAW: I move:

That the amendments made by the House of Assembly be agreed to.

These amendments were introduced by the Government because we had been alerted almost at the last minute that an amendment was deemed necessary to ensure that the regulation-making power allows wrecked and written off vehicle notices to be placed on parts of vehicles as well as whole vehicles. We could have waited some time for this matter to be considered next session, but because the Government—

Members interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! There is too much noise in the Chamber.

The Hon. DIANA LAIDLAW:—was keen to act on passage of legislation through the Parliament some months ago in terms of wrecked and written off vehicles, we decided to do this now because it is the Government's intention that the earlier wrecked and written off vehicle legislation be proclaimed on 6 September this year.

If next session we had introduced this matter which has now been addressed by the House of Assembly and which I ask the Legislative Council to consider tonight, we would have either had to delay the introduction of the wrecked and written off vehicle proclamation, or we would have proclaimed that legislation knowing that it was deficient because it did not have this provision in relation to a regulating power to allow wrecked and written off vehicle notices to be placed on parts of vehicles as well as whole vehicles.

As soon as this matter came to my attention, I did send advice to the Hon. Carolyn Pickles, the Hon. Sandra Kanck, the Hon. Terry Cameron, the Hon. Trevor Crothers and Independent and National Party members in the other place, and I would like to thank them sincerely for being prepared so readily to consider this matter and approve it both in the other place and hopefully here tonight, enabling this measure to be dealt with very promptly, and the wrecked and written off vehicle legislation to be proclaimed effectively from 6 September.

The Hon. CAROLYN PICKLES: The Opposition indicates its support for the amendments that were moved in the House of Assembly. We believe that they make the issue much clearer. We are very happy to support them.

Motion carried.

NEW TAX SYSTEM PRICE EXPLOITATION CODE (SOUTH AUSTRALIA) BILL

Consideration in Committee of the House of Assembly's amendment:

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

That the amendment be agreed to.

This was a money provision in the Bill. As such, this is a matter of form and process with which the Hon. Mr Holloway and other members would be familiar. It is no new issue for us to consider; it is just a process we need to work our way through.

Motion carried.

FISHERIES (GULF ST VINCENT PRAWN FISHERY RATIONALISATION) (CHARGES ON LICENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 July. Page 1706.)

The Hon. P. HOLLOWAY: The Opposition supports this Bill, which seeks to make some changes to the Gulf St Vincent prawn fishery. The Leader of the Opposition dealt with the history of this matter in another place, and I therefore do not intend to go into the background of the fishery in great detail. However, I will make a few comments on the fishery, which I believe has been poorly managed by the department down the years. This fishery was reduced from 16 vessels to 10 in 1987. This was funded through a licence surrender and buy-back scheme. At the time of the buy-back the remaining licence holders were liable equally to repay the debt, which was levied through a surcharge on the remaining licence holders. There was a belief at this time that the numbers in the fishery would lessen over time, but this has not proved to be the case.

At the same time, the proposed annual catch has fallen dramatically, from over 400 tonnes in the late 1980s to just over 200 tonnes. This has meant that the remaining fishers have experienced financial difficulty, especially in their repayments to the Government. The Government has absorbed over $2 million of the buy-back debt and interest. It is against the backdrop of poor management that the Government has apparently offered the fishers a further $1 million off their debt, to be distributed amongst the fishers who agree to this offer. Eight of the 10 remaining fishers have agreed to this offer. However, under the current legislation, all would need to be in agreement for the subsidy to be paid, as the 10 are equally responsible for the debt. One reason why the two will not agree to this offer is that I understand the Government requires in return for its offer a signed assurance from the fishers that no legal claim will be made by them arising out of the Government's management of the fishery.

The two fishers who will not agree to this deal find it particularly galling. One of these two fishers, Mr Maurice Corigliano, has approached me with his concerns about the deal. I have great respect for Mr Corigliano's views and his understanding of the Gulf St Vincent prawn fishery and fishing matters generally. I know that he is respected within the fishing industry of this State. I feel it is important therefore to document his opposition to the Government's offer and the reasons for that opposition. I will quote a considerable part of a letter that Mr Corigliano wrote to the Leader of the Opposition on 1 August. Mr Corigliano states:

> If the Government's stated reasons for amending the Act were correct I would not oppose the amendments, and nor I believe would most of the fishing industry, but they are not. The suggestion that the amendments will lead to licence amalgamation, fleet reduction, and improvement in the commercial viability of the fishery is nonsense. As is the claim that there has been some improvement in the long-term sustainability of the fishery, when the latest SARDI assessment shows that there were 20 per cent less prawns in the fishery at the end of last season than was present when it was reopened in 1994.
>
> The Government suggestion that the amendment is required to enable it to consummate a $1 million deal with licence holders, and that the deal is in effect an out of court settlement, also lacks credibility. The truth is that the Government has been advised from several sources during the past few years that the debt needs to be reduced, and the Government was negotiating with the licence holders long before there was threat of legal action. The Government well knows that the licence holders are so hopelessly divided that there is no legal threat from them.
>
> The reality is that the licence holders have reneged on the assurances they gave to the 1991 parliamentary select committee that they would agree to fleet reduction if the fishery did not recover to full strength during the closure. Fisheries officials have not insisted that they do so because, having advised the select committee that there had been a three to four time stock recovery and no need to close the fishery, they have been in no position to push the fleet reductions on the basis of low stock numbers. The main objection that another long time licence holder and I have to the $1 million deal is that it would not be necessary had the select committee's recommendations for fleet reduction been implemented, because by now the fishery would have fully recovered and licence holders would be well able to afford the debt.
>
> Our further objection is that the $1 million pay-out of taxpayers' money will do nothing to fix the fishery's main problem, which is too many vessels. The $1 million would be better used as part of a fund to buy out vessels. We have taken a principled stand, being fully aware that it would cost each of us $140 000 more than if we accepted the Government's offer. Viewed in its proper perspective this is not a matter of two licence holders holding the rest to ransom, but two licence holders taking a stand for the benefit of the fishery. It is disappointing, therefore, that our action has been misjudged and

that we have not been given support by Parliamentarians who's paid duty and moral responsibility is to protect the resource.

To appreciate why two licence holders versus the rest, it is necessary to understand the fishery's history, which is lengthy and borders on the unbelievable. However, suffice to say that experienced fishermen have been driven out of the fishery and only two of us remain. We are lifetime fishermen and consequently have an affinity with fisheries and a good knowledge of fisheries management. The record shows that we have done all possible to protect the Gulf St Vincent fishery at a great personal cost.

I will omit the next part of the letter where he refers to two other members in the fishery. He continues:

Because it was recognised that investors with outside business interests had entered the fishery, the rationalisation Act was deliberately worded to provide some protection to *bona fide* fishermen. This was done by way of the buy back debt being a group debt. Licence holders contributed equally and the maximum penalty for non-ability to meet payments being the surrender of licences. The Act would never have passed the Parliament if these provisions were not included. If these amendments are passed, which remove this protection, it will be a serious let down of genuine fishermen. I note that your—

he is referring to the Leader of the Opposition—

agreement in the Lower House to the amendment was subject to the Minister agreeing to all licensees being offered the same terms. In itself that is not enough to prevent injustice because, although the Minister states that each licence holder will be given the same offer, the terms of the offer are not equal to all licence holders. The offer is subject to licensees signing an agreement not to pursue the Government legally about the management of the fishery. If that demand was restricted to the aspect which licensees had threatened the Government about, that is, the purchase and sale of vessels by the Government during the buy back, then that is fair enough. However, it is not and that amounts to straight out blackmail. It will be a sorry situation if the Parliament consents to the amendments without assurances from the Government that it will remove the all encompassing demand.

I will omit a section of the letter where he refers to legal action, because I think that might be *sub judice*. Mr Corigliano concludes:

Obviously, I believe that the amendments should not be passed but, if that is to be, then it is essential that Upper House parliamentarians not give consent until the Government gives assurances that any demands accompanying the $1 million offer be limited to licence holders forgoing the right to take legal action about the aspect of the buyback about which they have threatened. I appreciate that it was your intention to see fair play but, as I pointed out, that won't be the case unless further assurances are forthcoming from the Government.

I think it is important that I place those remarks on the record because, as I said, the Opposition has decided to support this Bill, notwithstanding those comments.

Following questions raised in the House of Assembly, the Minister for Primary Industries gave certain assurances, and I think it is important to repeat exactly what the Minister said, which is as follows:

The Leader has sought assurances about whether all existing participants will be given the same opportunity to resolve their outstanding debt with the Government individually—in other words: will they have the same offer? The answer is 'Yes'; all licence holders will be given the same offer by the Government for retiring the debt. The agreements are intended to be of a standard form and will reflect the specific repayment details of the principal debt.

Secondly, in answer to the Leader's question, 'Will the Government continue to honour its commitment to reduce the total debt by $1 million?' the debt reduction offer was originally made to encourage an early settlement of the debt and the problem.

So, the answer is that the Government does intend to honour the debt reduction offer as made. That quote was from *Hansard* in the House of Assembly on 27 July.

This is a complex matter, as I think all the correspondence I have read out and the history I have given would indicate. Given that there are only 10 participants in this industry, it is remarkable how complex it really is. But this Bill, it should be pointed out, does not authorise or even refer to the $1 million buyback scheme. It is largely an administrative means of unravelling the debt structure. What the Bill does is to move from joint liability for this debt, as it was established some years ago, to individual liability. The onus for the debt that was incurred passes to individuals. Obviously, that change has repercussions for the fishery. But the Opposition has no control over the management decisions of that fishery. We are in the position where we can only judge the legislation as it stands before us—and we recognise, certainly, that it will have implications.

So, that is why the Opposition has come to the decision that it will support the Bill. We do not support taxpayers' money being provided in the way that has been indicated by the Government. However, as I said, that is not part of the Bill; that is a matter for the Government to determine. We do believe that there may be some truth in what Mr Corigliano says about the problems in the fishery and the long-term sustainability of it. However, the Opposition—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: That is right. That is why I said that I do have respect, because he has had the habit of being correct. However, the dilemma that we have now (and if I can make a comparison with the pilchard fishery) is that we have a situation now where eight out of 10 fishers in the particular industry have agreed to a certain course of action. They have requested this change to the management structure of their fishery. Notwithstanding Mr Corigliano's comments, and notwithstanding the fact that he may well be correct, what do we, as an Opposition that has no control over the management of the fishery, do in relation to this issue, when a substantial majority—80 per cent—of the fishers in the industry have requested that we support this action?

On a number of occasions in relation to the pilchard fishery I have indicated that 12 out of the 14 fishers in that fishery have requested a particular course of action, that is, that no further licences be issued. I have publicly supported them in that request. To provide consistency in fisheries management, it would be consistent to support the majority of the fishers' request in this matter. In saying that—to give my philosophy of fisheries management—I do agree with the Minister for Primary Industries' comments during the recent Estimates Committees in the House of Assembly when he said:

Certainly, the Minister and the department have to make sure in relation to sustainability that there is not an unsustainable amount of fish able to be caught, whatever the fishery is. Decisions within a quota of reallocation of quota are a somewhat different issue, in that it is more an equity and allocation issue, rather than the bigger resource sustainability issue.

In other words, I believe that the Minister for Primary Industries must be responsible for determining the sustainable level of the fishery. That is a matter for which the Minister must take full responsibility.

In relation to management decisions and allocation issues within the fishery, it is my view that the relevant management committees made up of the fishers in that industry should recommend to the Minister—and there should be good reasons before the Minister would ignore the recommendations of that fishery. My view is that, if the fishery management committees were working well, in 90 per cent or more of cases the Minister would support the advice of the relevant management committees.

So, the situation in this case is that there is a recommendation from a majority of fishers in the Gulf St Vincent prawn fishery that we should approve the Bill. Against that, there is one respected fisherman in the industry who believes that this Parliament should not approve it. The Opposition does hold some concerns about the deal, because it is not supported by all fishers. There should continue to be an equal distribution of power among the fishers. A situation where some fishers receive this payment while others do not may change that balance of power. However, it is the Opposition's view that if the Government makes an offer—while we may not approve of it—it has the right to do that, and it is then up to each fisher to make a commercial decision about whether they accept or reject the offer. The Opposition is concerned by the continued taxpayer bail-out of this fishery. It is time that this fishery was restructured to make it more efficient and therefore more profitable. This may involve a reduction in the number of vessels or a reduction in the catch. Whatever the outcome, it is up to the Government to start managing this fishery responsibly so that it can be sustained properly.

In conclusion, the Opposition will support this Bill. We do not necessarily have great confidence that it will resolve all the issues within this fishery but, given that a majority of the fishers have requested this, we feel that we have little option. If we did nothing and took no action, this fishery would continue to remain in a stalemate situation. That is the background to our decision to support this Bill. We can only hope that the Government's promise that this will lead to some resolution of the fishery is correct; however, we have our doubts. At the end of the day, the Government will be held accountable for the management decisions it makes about this fishery.

The Hon. IAN GILFILLAN: I rise to indicate the Democrats' opposition to this Bill, and we will be opposing the second reading. In 1987 the principal Act provided for six of the 16 boats in the Gulf St Vincent (GSV) prawn fishing fleet to be removed through a buy-back scheme. This left the remaining fishers with a huge debt to the Government. The deal was supposed to enable the fishery to recover to enable the remaining 10 operators to be profitable: that did not occur.

Even though the fishery was closed for three years, yields from the GSV prawn catch remained low, well below anticipated levels, and since 1987 the remaining 10 fishers have been unable to pay their debt. Now the Government is offering to slash $1 million off the debt if they agree not to take legal action against the Government. This Bill facilitates the scheme.

It also allows licences to be transferred, with the new owner to take up a proportion of the remaining debt rather than having to pay out the entire debt at the time of the transfer. One of the fishers who has refused to take part in the scheme points out, quite rightly, that this expenditure of $1 million of public money does nothing to address the long-term sustainability of the fishery. In fact, the Government does not even claim that it does.

In the Minister's second reading explanation the effect of the Bill is entirely addressed to the issue of debt. So, this is really a Bill which is attempting to mop up the last remaining financial damage caused by the totally unsuccessful 1987 buy-out. I see it as no more and no less than a bribe to prevent prawn fishers taking legal action against the Government. How is the fishery to recover its profitability and sustainability by this Bill? If it is correct that this Bill does nothing to assist the profitability or sustainability of the GSV prawn fishery, why are we committing $1 million of public funds to it?

In 1991, a parliamentary select committee advised that the long-term viability of the GSV prawn fishery demanded a reduction in the number of vessels operating, that is, a reduction from the 10 which remain. The committee suggested that this be done by introducing equal individual catch quotas which would be transferable from one licensee to another. This made sense, because the purchaser of any licence would be buying a catch quota as well, which would be to his sole benefit. The quotas could also be set at sustainable levels.

In contrast, the Act and this Bill contemplate licences being transferred, but they do not facilitate the removal of any more licences from the industry. I cannot imagine anyone paying to acquire a licence and then, having paid a huge sum for entry into the fishery, withdrawing the licensed vessel from the fleet. Why would one fisher pay to remove just one of his nine competitors?

It seems to us that there is nothing to commend this Bill in relation to the priorities of creating a long-term sustainable prawn fishery in Gulf St Vincent; and it is of very dubious value as regards the use of public funds. As I indicated earlier, the Democrats will oppose the second reading.

The Hon. CAROLINE SCHAEFER: I rise to support the Bill. As has previously been said, the history of the Gulf St Vincent prawn fishery goes back to 1987, when it was decided that six of the boats must be removed from the fishery, and those licences were surrendered under a buy-back scheme. The money was borrowed from the South Australian Government at the time and a surcharge was charged on the licence holders who remained.

In 1995, a review was undertaken and the recommendations addressed a number of issues. The result of that review and of consultation with the remaining fishers was to introduce this Bill and to approve that the accrued debt be passed on when a licence is sold rather than remaining with the original licence holder.

Mr Corigliano has been mentioned: he is a long-time prawn fisher in Gulf St Vincent with a great knowledge of the gulf. However, on this occasion the whole of the prawn fishing industry in Gulf St Vincent was consulted, and it is its decision to go down this path. It is a decision that is supported by the fisheries section of Primary Industries SA. As such, it would appear to me to be a reasonably fair method of continuing to recoup that funding.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indication of support for the Bill.

The Council divided on the second reading:

AYES (14)

Cameron, T. G.	Crothers, T.

AYES (Cont)

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

NOES (4)

Elliott, M. J.	Gilfillan, I. (teller)
Kanck, S. M.	Xenophon, N.

Majority of 10 for the Ayes.

Second reading thus carried.

Bill read a third time and passed.

CONTROLLED SUBSTANCES (FORFEITURE AND DISPOSAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 July. Page 1648.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): This Bill was introduced to provide for the forfeiture of substances, equipment and devices used in the commission of drug offences and the destruction of dangerous substances, chemicals and poisons. A number of members addressed this Bill and I thank them for their contributions to the debate. Various questions were asked and, in particular, I address the questions of the Hon. Terry Cameron and the Hon. Mike Elliott.

The proposed amendments do not require police to issue a detailed receipt upon seizure of drugs or evidence. Such a legislative requirement is not commonly found in South Australia. However, police practice through written policy is that detailed receipts are issued at the time of seizure. Anything seized must be booked into a police station or a secure holding facility where it is further recorded. Police exhibit property facilities are controlled by staff who are independent of investigations. The facilities are secure areas with limited access and subject to strict audit procedures. The amendments before Parliament will not change these procedures.

It is not practical to weigh drugs or chemicals *in situ*. For meaningful results from such a process, various sets of certified accurate scales would be required along with appropriately trained certified operators. Small quantities of illicit drugs are scaled in 'tamper evident' exhibit bags in the presence of the accused. For evidentiary purposes, drugs and other evidence are weighed by independent experts from the Forensic Science Centre. The amendments will not affect that procedure. Where property is to be destroyed under proposed amendments, samples that provide a true representation of the nature of the property must be taken for evidentiary purposes. Furthermore, defendants will be entitled to have a portion of the sample analysed, and written notice of the entitlement must be given to them.

These are new provisions which mirror those existing relative to cannabis (and I refer specifically to section 52 of the Controlled Substances Act) and offer more rights to the defendant than presently exist. Where drugs and substances are destroyed pursuant to the amendments, police, in the absence of the actual drug or substance, will be required to produce substantial secondary evidence to support the allegation. As in all court matters, this evidence is adduced by witnesses, photographs and analysis certificates.

The illicit manufacture of drugs causes significant occupational health and safety issues for investigators, forensic scientists and emergency services personnel. Persons involved in the production of these drugs often leave corrosive, toxic and potentially explosive chemicals in unlabelled and unsuitable containers. These amendments will allow for the destruction of dangerous chemicals and poisons so that volatile substances will not be stored, for instance, up to three years, pending the outcome of the criminal trial. Specialised secure storage facilities are available to the police for chemicals that can be safely stored. Where the substance is not considered dangerous, it will be stored according to police policies and available as evidence in the usual manner.

The major issue is the safe handling and destruction of the large volume of substances which pose a danger to all who may be exposed to them. The proposed amendments will address these issues.

Bill read a second time.

In Committee.

Clause 1.

The Hon. DIANA LAIDLAW: I move:

Page 1, line 10—Leave out 'Forfeiture and Disposal' and insert:
Miscellaneous

These amendments again follow a recent case before the Magistrates Court. The police and the Director of Public Prosecutions have sought amendments and the Government considers it is desirable to proceed expeditiously and incorporate these amendments in the Bill now before the Council. I understand members have been advised earlier of these amendments, although I acknowledge that I did not provide this explanation to the Hon. Mr Elliott, although I had anticipated that he had received it.

The amendments seek to clarify issues relating to the burden of proof in proceedings for certain offences under the Controlled Substances Act 1984, the principal Act. This follows a recent case before the Magistrates Court in which a person was charged under section 18(1) of the principal Act with selling a prescription drug to a person who did not have a prescription. Section 18(1) is so structured that there is a basic offence of selling, supplying, administering and prescribing a prescription drug followed by several exceptions which have the effect of negativing the offence. Thus a person must not sell a prescription drug unless he or she is, for example, a medical practitioner acting in the ordinary course of his or her profession. The section lists several other professions and circumstances in similar manner.

In the case referred to the prescribing magistrate held that the Crown had not proved its case because the exceptions in section 18(1) were ingredients of the offence and the Crown had not proved beyond reasonable doubt that none of these exceptions applied to the defendant. The Government takes the view that it is not reasonable to ask the prosecution to prove a list of negatives in offences for which exceptions are listed. The amendments will put beyond doubt issues raised by the above case relating to the burden of proof in proceedings for certain offences under the principal Act.

The amendments will clarify burden of proof issues not only in section 18 but also in similarly structured sections of the principal Act, namely sections 13, 14, 15, 31 and 32. The amendments provide that, in respect of sections 13, 14, 15, 18, 31 and 32, it is not up to the prosecution to prove that the exceptions do not apply but rather that it is up to the defendant to prove that the exception does apply.

The Hon. CAROLYN PICKLES: The Opposition supports the raft of amendments. I understand that these amendments have come about because of an interpretation in a recent court judgment. During discussion on this amendment in the Labor Party room one member from the other place with a legal background pointed out that this matter could have been dealt with by an appeal in the courts rather than the path chosen by the Minister, that is, to amend the Act. Having said that, I indicate that the Opposition will support these amendments which will have the effect of further strengthening the Act in that it ensures that it is up to

the defence to provide proof of their status, not the prosecution.

The Hon. M.J. ELLIOTT: The Democrats support the amendment. I acknowledge that the Minister has provided responses to matters I raised during the second reading debate and I am satisfied with those responses.

Amendment carried; clause as amended passed.

New clauses 1A, 1B, 1C, 1D, 1E and 1F.

The Hon. DIANA LAIDLAW: I move:

Page 1, after line 12—Insert:

Amendment of s.13—Manufacture, production and packing

1A. Section 13 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) In proceedings for an offence against subsection (1), the paragraphs of the subsection are to be treated as providing exceptions, and, if the complaint negatives the exceptions or alleges that the defendant acted without lawful authority, no proof will be required in relation to the exceptions by the prosecution but the application of an exception will be a matter for proof by the defendant.

Amendment of s.14—Sale by wholesale

1B. Section 14 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) In proceedings for an offence against subsection (1), the paragraphs of the subsection are to be treated as providing exceptions, and, if the complaint negatives the exceptions or alleges that the defendant acted without lawful authority, no proof will be required in relation to the exceptions by the prosecution but the application of an exception will be a matter for proof by the defendant.

Amendment of s.15—Sale or supply to end user

1C. Section 15 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) In proceedings for an offence against subsection (1), the paragraphs of the subsection are to be treated as providing exceptions, and, if the complaint negatives the exceptions or alleges that the defendant acted without lawful authority, no proof will be required in relation to the exceptions by the prosecution but the application of an exception will be a matter for proof by the defendant.

Amendment of s.18—Sale, supply, administration and possession of prescription drugs

1D. Section 18 of the principal Act is amended by striking out subsection (4) and substituting the following subsection:

(4) In proceedings for an offence against subsection (1) or (3), the paragraphs of the subsection are to be treated as providing exceptions, and, if the complaint negatives the exceptions or alleges that the defendant acted without lawful authority and, in the case of a complaint for an offence against subsection (3), without reasonable excuse, no proof will be required in relation to the exceptions by the prosecution but the application of an exception will be matter for proof by the defendant.

Amendment of s.31—Prohibition of possession or consumption of drug of dependence and prohibited substance

1E. Section 31 of the principal Act is amended by inserting after subsection (4) the following subsection:

(5) In proceedings for an offence against subsection (2), subsections (3) and (4) are to be treated as providing exceptions, and no proof will be required in relation to the exceptions by the prosecution but the application of an exception will be a matter for proof by the defendant.

Amendment of s.32—Prohibition of manufacture, sale etc., of drug of dependence or prohibited substance

1F. Section 32 of the principal Act is amended by inserting after subsection (6) the following subsection:

(7) In proceedings for an offence against this section, subsection (2) is to be treated as providing exceptions, and no proof will be required in relation to the exceptions by the prosecution but the application of an exception will be a matter for proof by the defendant.

New clauses inserted.

Remaining clauses (2 to 7) and title passed.

Bill read a third time and passed.

WATER RESOURCES (WATER ALLOCATION PLANS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 August. Page 1919.)

The Hon. T.G. ROBERTS: I wish to make a brief contribution to this Bill, which has grown out of the report of the select committee set up to look at water allocations in the South-East. The report was drawn out of some fairly strongly held views on both sides in relation to how to proceed with the difficulties that had grown out of a whole history of problems associated with the allocation of underground water in the South-East. There was a lot of politicking going on at all levels, at a grassroots level in relation to those people making applications in the early days, as well as on North Terrace with respect to a bit of one-upmanship in relation to solving the problems.

The real issues of the separation of water rights and land were never considered appropriately, I do not think, until the report was put together and a coalition of views formed by taking evidence from a whole range of people in the South-East who had in many cases difficulties with the earlier formula of the first-in best-dressed policy with which the Government started. The problems actually crept up on the Government. When the first Minister tried to address the problem, he had to overcome a history of open slather, if you like, and allocations ranging fairly freely across large parts of the South-East. Water had been over-allocated in some areas, and it is hard to pull back once allocations have been made.

There were certainly differences of views and opinions between land-holders, which did not make it easy for the Government. Whatever policy the Government was going to come up with, there would be people who would be dissatisfied with it. Those people who were dissatisfied were always going to make it difficult for the Government, being a conservative Government in power and dealing with its own constituents. There would always be an arm wrestle internally within the Party which would culminate in winners and losers emerging out of the final policy that was drawn. I think David Wotton, the Minister at the time, almost had it right in the early stages, but then there appeared to be some unsettling influences within the South-East who used their influence to get some changes to the policy which then certainly made it very difficult for Minister Kotz to put together a coherent policy that would please or satisfy everybody.

Metropolitan based committee members, in particular, learnt a lot in relation to the South-East. The South-East does not have many visits from metropolitan based members of Parliament from either side, and when they do go down there they are pleasantly surprised, as if something new has popped up on the geographical landscape that they had not seen before. Once they get down there and look at the enterprise and the independence that pervades the whole of the Upper and Lower South-East, they are pleasantly surprised. There is a stand-alone economy down there that has been strengthened by value adding and a variation of agricultural activities that have taken place particularly over the last decade, and it has been assisted by the fact that the South-East actually sits on a watery gold mine that no other section of the State has.

That does not mean to say that, without good management, it will be a never ending gold mine that will be there for ever. Certainly, the lessons need to be learnt from overzealous activities in the Upper South-East which have

caused salinity problems in areas that people did not believe would experience such problems. It was a timely select committee, which comprised members from both sides of the House, as well as the Independent, Mitch Williams, who was able to add his local knowledge to the matter and to draw out many of the nuances that perhaps would not otherwise have been able to be drawn out.

However, as I said, in a bipartisan way the select committee was able to draw out enough recommendations to have a policy that will at least have a settling effect on those who thought that the first in first served policy did not serve them well. Now that we have recommendations for allocations for all landholders and that we have separated out land management from water management, that should at least allow the Government to administer the application of the policy in line with the broad policy that has been developed and stated.

I think there was much mistrust in the early days about allocations, based on favouritism, nepotism, and so on. The select committee has probably given confidence to those people who did not have an opportunity to place their case before the bureaucrats and the politicians in the early stages of the allocations. They felt that they were being particularly hardly done by.

The Hon. A.J. Redford: You don't think this could have been done three years ago?

The Hon. T.G. ROBERTS: The paranoia could have been taken out of the issue three years ago if there had have been a more transparent policy development—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Everyone had to be treated equally and fairly.

The Hon. A.J. Redford: Different lies were told at different meetings.

The Hon. T.G. ROBERTS: It was very difficult. In the early stages of the application of the policy, large sections of the South-East community—particularly graziers—were not doing very well. Their bank loans were extended and beef prices were not too good. Fat lambs were the only things that were doing any good. There were new kids on the block, particularly dairy farmers, and so on, making applications for water, who were cashed up—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: You'll have an opportunity shortly—and ready to go. If you had a large overdraft with the bank manager and you were put in a position of being forced to apply for water sitting under your land when you really were not in a financial position to be able do it, that put the wind up a lot of people who thought that they should be able to develop their properties and pastoral interests using water allocated to them on the basis that they owned land in an investment time frame that suited them, not their bank managers, or that suited some other advice being given about changing from one agricultural or horticultural pursuit to another. There are a lot of good news stories down there about some graziers moving from just grazing into multifaceted agricultural pursuits. It has forced a lot of graziers to look at how they will develop their land in the future.

So, the committee supported full tradability, which means the selling and leasing of water. This policy meant that water and land rights would be separated. It allows those people who want to develop their land or allocation slowly in relation to their land management to involve themselves in it. It ensures that they are not stampeded into making investment decisions that they may not be quite ready to make or into making an application for water rights on the basis of fear that there will not be any left unless they do.

The committee appeared to work quite well. Many lessons were learnt through the taking of evidence, and some relationships have been built up by some of the people in those areas that I was talking about earlier. There was a little more confidence that more people are aware of their circumstances, and I am sure that the Hon. Angus Redford's father and family will be feeling a little more comfortable, given the committee's recommendations, than they were before—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, he knows of them. They will be feeling a little more comfortable now that the committee has made its recommendations and the Government has introduced a Bill which will be supported in this Chamber by the Labor Party, and hopefully we will see its passage in this session.

Many words have been spoken about the issue in the South-East. There has been a lot of antagonism in some cases and a lot of cooperation in the final stages of the committee's work. The environmental aspects have not been overlooked in the investigation process that the committee had to go through.

One area which I could not see in the report on which a little more time could have been spent was that land management and water management can be separated out and allocations made. Right across the State, not only in the South-East, particularly where olive groves and other new horticultural prospects are being found, development applications for land use must be linked to water use. There is no point in making and approving development applications if the water is just not available for the horticultural and agricultural pursuit that people are interested in. Of course, you cannot over-allocate, because a percentage allocation has to be made for the environment to survive.

The South-East is going through what is called a 'green drought' at the moment. There has not been the replenishment of the upper aquifer as we normally would see during winter. Grass and crops are growing and everything looks very healthy but, as in other regions of the State, if there are no rains down there shortly, those pastures and crops will not hold. So, we need to manage those upper aquifers more professionally. This committee has highlighted that the benefits that come out of water allocations and better water management need to be put together urgently, there needs to be full cooperation among all potential users, and certainly environmental issues must be considered.

The issue of water quality is the one which must be taken into account by the Government. Not only is a volume of water required for good pasture management and good agricultural and horticultural pursuits but also the quality of water should be given high regard, particularly for people in isolated areas who have to rely on bore water for drinking and for their stock. Certainly, the nitrate levels are a concern in some areas.

The Hon. A.J. Redford: It's a beat up.

The Hon. T.G. ROBERTS: It is not a beat up. There have to be ways of managing interrelated agricultural and horticultural pursuits that use agricultural chemicals, and each farm agriculturalist has to respect their neighbours uses; and there needs to be integrated land water management on a regional basis in a more cooperative way. Hopefully as a result of this select committee evidence and from some of the replies the Government will give to considered positions down in the South-East there may be more confidence that

the Government has a full handle on the whole of the problems that could emerge out of the success that is starting to be created through new land use in the South-East area.

The Hon. A.J. REDFORD: On 27 February 1997 I stood up and began a lengthy speech on the Water Resources Bill. The speech began in Old Parliament House. Members may recall that we moved there for the afternoon because of a water leak—an ominous sign for the future. At the time the member for Heysen was the Minister, Dale Baker was the member for McKillop, Harold Allison was the member for Gordon, Rory McEwen was the Chair of the Grant District Council and Mitch Williams was raising fat lambs, a member of the Millicent Branch of the Liberal Party and involved in a group known as the Water Action Group in the South-East.

Since that date changes in the careers of each of these people have been profound and significant. In that 2½ year period the South-East water saga—and it has been a saga—has had a profound impact on politics in this State. Indeed, I am hopeful that the three year South-East water saga has provided a salutary lesson to the Liberal Government and Party and the relationship between the two. If a single word can be applied in so far as the lesson is concerned, it is the word 'listen'. It is one thing to go through a consultation process and entirely another to go through a consultation process that includes that important verb 'listen'.

The lesson from the report of the Select Committee on Water Allocation in the South-East, tabled in another place on 3 August 1999, has been the fact that on this issue the Government for 2½ years did not listen. This report and its findings are well overdue. The Government owes a great deal to the members of that committee for the work they have done, the manner in which their work was carried out and for the conclusions they have reached. I only wish that the listening had occurred three years ago because if it had much of the damage to the Party to which I owe my allegiance and my position in this Parliament and, more importantly, to many ordinary hard-working people in the South-East would have been avoided.

I well remember hearing at the time that we went through a consultation process that the situation in so far as water in the South-East was concerned was as a result of a consultation process. It is important that consultation is not confused with lecturing. As I said—and I will try not to do this too often in the course of this contribution—in my speech in early 1997:

> The consultation process has been a great cause for concern, alarm and distress to the people of the South-East.

I further stated:

> I believe it is my duty to outline my experiences over the past few months. These experiences clearly demonstrate a real fear and in my opinion a distorted view as to what constitutes public consultation in some quarters.

If anyone wants to see an example of a Clayton's consultation process I would invite them to read *Hansard* of 4 March 1997 at page 1115.

I now turn to the select committee report. First, the committee should be congratulated for listening to the people of the South-East. In different language they came to precisely the same conclusion that I was espousing in February 1997. The recommendations reflect what I argued on behalf of landholders in that the provision of fairness or equity in the allocation of water should be taken into account and, indeed, should be the primary factor taken into account in so far as allocation is concerned.

It is that principle that leads to the sound recommendations of the select committee and stands in stark contrast with the policies of greed and ignorance that have prevailed over the past three years. Indeed, the pragmatism of the report and its clear understanding of the ordinary land-holding battler is a credit to the Chair of the committee, Graham Gunn. If anyone needs anything to demonstrate why he has represented marginal seats for over 20 years, they need look no further than this report. The member for Stuart might display a rather gruff exterior to his colleagues, but he came to this issue in a serious way only a few months ago, came to grips with an extremely complex issue, knocked the rough edges off the member for MacKillop and provided a framework for a fair system that protects the ordinary and struggling land-holder in the South-East, and for that I congratulate him.

Again, it is my sincere hope that I do not have to be the parliamentary voice in the wilderness again as I was prior to the last election. In that regard, I should go on record and congratulate the member for MacKillop on this issue. He took up the battle armed only with a weapon of electoral success and, on the face of it, has won a major victory. I must say, though, it is only a victory. There is still a lot to be done before we have a sensible water management regime and a fair and equitable water allocation system in the South-East. In other words, the war is still yet to be won.

There is one recommendation I do wish to comment on in more detail, and that is recommendation 20. It recommends that six out of 10 members—a majority—be elected from the community. I believe that, in the longer term, this is the single most important recommendation and one that reflects my views when this Act was first passed. The recommendation should be implemented without delay and, in that regard, I put the Government on notice that I will introduce a private member's Bill to reflect this recommendation in the absence of any acknowledgment on the part of the Government. And, indeed, Mr President, you may well recall me debating quite strenuously, seriously and vigorously for exactly that recommendation only three years ago. I was soundly rejected by the Party room.

There are a number of matters that I could go into tonight. I could talk about the lies told to land-holders during the consultation process; I could talk about the public meeting chaired by the current member for Gordon, which was nothing more than a sham, albeit aided and abetted by the member for Gordon; the conversations I had with Mitch Williams and Alex Kennedy before he decided to stand as an Independent; some of the more vigorous conversations I had with the former member for MacKillop; the ignored warnings I gave to various people; and the inconsistent and mischievous stands taken by the member for Gordon. However, I will not do so because of the timing of this speech in the parliamentary program—it is 10 minutes to 1. However, I want to say four things in relation to this report and, in particular, to two of those who have been most critical of me and of whom I have been most critical. The first is Dale Baker. The report deals with Dale Baker at pages 32 and 33.

Members interjecting:

The Hon. A.J. REDFORD: There's a bit of surprise left in me yet. The report states:

> This policy change came as a surprise to some people in the South-East, particularly as the advice provided during the information sessions in August 1996 indicated that water would be allocated 'on demand'. Numerous individuals who feared that the 'Area Proportional Policy' would limit their ability to gain a water allocation sufficient for their proposed water use enterprise because of the size of the land available to them, made representations to their

local member of Parliament and to Minister Wotton. Some members of Parliament, including Mr Dale Baker, also made representations directly to Minister Wotton on behalf of their constituents.

The Lower South-East Water Resources Committee was requested to review the policy and to provide a new policy by the end of June 1997. The committee held a forum in Mount Gambier on 27 June 1997 to discuss the policy it had developed. Attendance at the forum was by invitation only. Invited participants included growers of the major irrigated crops, and representatives of industry and local government. Considerable concern has been expressed that the invitees did not reflect the broader community of the stakeholders.

I have absolutely no doubt that Mr Baker acted and argued on the basis of what he thought was in the best interests of the South-East. He had every right, indeed a duty, to press his views on the Premier and the then Minister in any lawful way he saw fit. The fact that he succeeded in prevailing is testimony to his considerable political skills. I believe he was wrong, but I have no doubt that he held his views genuinely. If he had not done what he did, and, indeed, if he had not done what the ALP accused him of, he would have been remiss in his duty. In my mind—and I had a lot to do with him at that time—he would have acted from a genuinely held belief in a way that all politicians should: by exercising his considerable political skills and persuasion. I admire him for that.

However, I believe Mr Baker was wrong. Ultimately, he paid an electoral price for his misjudgment. In that regard he is no political orphan. He certainly did not deserve the political vilification that he suffered at the hands of the ALP and the ridiculous media attention that he has been put through. In that regard, he ought to be allowed to get on with his life and be dealt with as an ordinary citizen in political, bureaucratic, and media terms.

The second issue I raise is the Environment, Resources and Development Court of South Australia's decisions. I believe that, in addition to the matters raised by the select committee, the Minister must conduct a thorough review of those decisions and pick up some of the comments made by that court, or we will have further problems, particularly in the area south of the Blue Lake. I give an example. In the case of *Dukalskis v. the Minister for Environment and Heritage*, Mr Dukalskis sought a water quota sufficient to irrigate eight hectares of onions and eight hectares of seed crops. The area he wanted to irrigate was 1.5 to 2 kilometres south of Mount Gambier, a rich horticultural area—probably the best in the State—which has been zoned for the purpose of horticulture. Mr Dukalskis had entered a contract to purchase the land from an elderly lady, Mrs Cox, subject to the granting of a licence. In a judgment delivered on 27 March 1998 the court made the following comments:

Evidence presented to the court both in this appeal and in other appeals shows quite clearly that the question of water allocation versus actual use is one of great concern to those people whose applications for water have been refused on the basis of allocations issued. The issue brings with it a taint of unfairness. Both Mr Dukalskis and the court raised the matter with Mr Stadter and Dr Rolls. It is not a question which can either be quickly or easily resolved. It is, however, one which goes to the very heart of how 'the system' works. We can understand why it is necessary to base the determination of the future and prospective water extractions on water allocation rather than water use. The fact that a water allocation is not being presently either fully used or used at all does not mean that within a year or so it must not be used to its fullest extent.

I digress here, lest my views be confused with the court's views, to say this about unused water allocations: it ought to be treated by the Government in the same fashion as any other property. The Government certainly does not go up to land-holders and say, 'You are not using that portion of your land in an efficient way and therefore we will take it off you.' Nor should the Government go up to the owner of a property right, that is, a water allocation, and say, 'You are not using this efficiently,' or 'You are not using it in the way we think you should be using it and therefore we will take it off you.' It would be outrageous for the Government to take a scrub block from the owner of land, as it would be to take a water allocation licence under the recommendation of this committee. I am pleased that the committee did not say anything inconsistent with that proposition. The court went on to say:

Failure to take this possibility into account may, in either the short or long term, lead to unacceptable depletion of the underground water supplies. On the other hand, if we gauge the situation correctly, there is a strong feeling in some sections of the community that landholders should not be permitted to retain unused water allocations for the purpose of speculative profit while their neighbours go without water.

The committee report is to be congratulated, and I say this: if everyone is given an appropriate share of water reflecting the value of their land, it is less likely that there will be any immediate, speculative profit whilst their neighbours go without water, because all their neighbours will have water or access to water. If it is shared equitably and fairly, speculative games are less likely to be played in so far as water entitlements are concerned.

The court went on and pointed out a major anomaly in relation to water use demands between the City of Mount Gambier and the rich horticultural area immediately to the south. The court explained how the maximum water use for a 16 square kilometre area around an applicant is calculated. For those who do not understand, the way in which they calculate what might be permitted to be taken from an area is by getting an area four kilometres by four kilometres, which is a total of 16 square kilometres; first, they calculate the recharge, which is how much water falls on the land and recharges the aquifer; and, secondly, they calculate the water allocations and, if they determine the allocations exceed the recharge by 25 per cent, there is no allocation. I remind members that the area immediately south of the Blue Lake is probably the richest horticultural area in the State. The court said this:

The practical effect of this appears to be that no further wells can be permitted within two kilometres of the circumference of the Blue Lake. Any application to sink a well would be refused on the basis that, within the 16 square kilometre area, allocations exceed vertical recharge by more than 125 per cent.

At the end of the day, what this statement reveals, bearing in mind that the judgment was delivered on 1 July 1998, well after the promulgation of the Bill, is a significant demonstration of the failure of the Government to properly consider an appropriately integrated management scheme in relation to both land and water use. I will return to that in brief terms later. Later on, the judgment makes some comments about the policy itself, and this is the policy under which ordinary people in the South-East have laboured for some considerable time. In 1998, the court said:

In view of what has been placed before us in this case, there are several comments which we wish to make in conclusion. Whilst we acknowledge that the Water Resources Act quite clearly places the formulation of water plans, water allocation plans and other policy documents into the hands of the Minister and bodies such as the Water Catchment Management Boards and Water Resources Planning Committees—and certainly not in the hands of this court—we wish to make several comments relating to the policy which was before us in this case. As we have already said, the policy applicable to the Comaum-Caroline area is in need of revision. This is

acknowledged and the policy is being reviewed. The draft ground water management plan for the area has been placed before us, and the comments we make relate as much to the draft as to the existing policy document. If the draft becomes policy, it will be read by a wide variety of people and should be clear in its terms. It should not leave to be inferred that which should be explicit.

The difficulty I have is that, notwithstanding the fact that this judgment was delivered on 1 July 1998, little has been done to ensure that any water allocation policy which is applied to ordinary people—they are not lawyers; they are ordinary people—is explicit, clear and easy to understand. I will give this place an example shortly.

My advice to the Minister is that she personally should read all judgments of the court and deal seriously with their suggestions. To my knowledge that has not happened. Indeed, I acted for Mr Brown recently in an appeal. He came to me in my political context and, given the serious frustrations I had experienced over the past few years, I said to him that I would be better able to assist him in my capacity as a legal practitioner, and that is what I did.

The Hon. T.G. Roberts: What about a mediator?

The Hon. A.J. REDFORD: The court provided a mediator. I will not go into detail because enough criticism has been levelled at enough public servants, but if the honourable member wants to bait me I can tell him a couple of really funny stories.

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: Indeed. And I am sure that is not an indication of the Minister's interest in this. The Minister's representatives collapsed in the face of the cogent arguments put on behalf of Mr Brown. As I said, I will not go into the ridiculous approach of the Ministers' representatives, although I would be happy to do so if provoked. In that regard, I will correct the member for Bragg's comments. He found two 'Sir Humphreys', and I suspect that they are the two people whom I named in this place in 1997. However, there are more—to my knowledge, three more at least.

I would urge that the Minister use an appropriately trained and experienced lawyer in these matters, preferably one at arm's length from the department, so that any advice to his or her department is independent and impartial. My experience was that the officers and, indeed, the advocate for the department, simply failed to understand the policy that had been promulgated.

Finally, I turn to the member for Gordon and, in particular, his comments last Tuesday evening. He and his supporters must certainly have been chastened by the select committee's findings. The direction he pushed—and I mean pushed—at the meeting in June 1997 has been overturned, and rightly so. He may disagree, but I am happy to distribute and remind him of the minutes and, indeed, the media reports of his statements about that meeting at the time. The fact of the matter is that that meeting was stacked: it did not properly represent those who were there. I am sure that the Hon. Terry Roberts will well remember that I pointed out to the Chair—he was not the member for Gordon then—that simply to count the hands in the air did not reflect the numbers. I was told in no uncertain fashion that I did not know what I was talking about and I was promptly sat down.

The fact that those people subsequently voted at what we all would describe as a very fair election to oust the then member for MacKillop probably supported my position and not that of the member for Gordon. However, my parents always taught me to be charitable when one wins a sporting contest, and I will attempt to be so on this occasion. In that regard, I draw members' attention to the contribution made by the member for Gordon last Tuesday evening, 3 August. He said:

> I am not convinced that the committee has gone far enough in addressing the first order issue, which is land use. . . there are times when you cannot create a market. There are times when supply will outstrip demand forever.

The only other point he made in his contribution was this:

> . . . I do not want to pay the holding costs for that water in perpetuity simply to create a market. We just need to look at that.

I have to say that I agree wholeheartedly with his sentiments there: he is absolutely correct. The view has been put to me that we need to charge water licence fees to the point where it hurts, and those who do not use them properly or efficiently will discharge them. That is not what we do with people who own scrub blocks, and I would urge that the Government not apply a similar approach in relation to water. If people do not want to use their water entitlement, that is their choice, provided that they pay an appropriate tax.

I go on record as saying this: if you separate water from land, you must by definition devalue the land. If you devalue the land, then the tax associated with that land must be less, whether it be by land tax or by the rates paid to local government. If that is the case and a person is given a fair and equitable allocation of water, the Government may well have to consider a tax on the water licence. But the bottom line should be (and I urge the Government seriously to consider this) that the amount of tax these people pay is no more than they would have been paying if the water and the land had not been separated in terms of property.

I urge the Government seriously to consider that for two reasons: first, on the basis of justice and equity; and, secondly, on the basis that it is my view that it is not legally sustainable to say that land is of the same value today without water as it was yesterday when it had a water right. No-one has yet bothered to challenge that, but I have no doubt that, if we continue to charge considerable amounts of money, that will in fact occur.

The final point is the border agreement. This Parliament, indeed this Legislative Council, was promised in late 1996, throughout 1997 and at times in 1998 that the border agreement would be reviewed. Everything this select committee says in criticism of the managed areas applies to the border area agreement. I have heard absolutely nothing about the review of the border agreement, and it is high time that this Parliament received some report from the Minister and the department about what is happening regarding the border agreement as well as the other proclaimed areas. I must say—and I am in no way critical of the committee—that there does not seem to be any specific or discrete reference to the border agreement, although I must concede I might have overlooked that.

This Bill is a small step forward but, for the first time in years, it is a step in the right direction. There is much to be done to repair the economic, social and political damage inflicted on those people affected by these policies in the South-East. I hope that we will do so speedily and effectively. After all, now I am armed not only with an independent member of Parliament but a select committee report—something I have not had before. I commend the Bill to the Council.

The Hon. M.J. ELLIOTT: On behalf of the Democrats I support the second reading of the Bill. First, I declare a family interest in so far as my sister and brother-in-law are

landowners in the Glencoe area, although I suspect that all the water in that area might have been allocated and this may not affect them at all. In case it is a possibility, I should at least declare that there is a close familial link to the area and there is some possibility that close relatives might be affected by the legislation.

The previous two speakers and I all hail from the South-East. We heard one speaker from Millicent and one from Kalangadoo. Originally I came from Port MacDonnell and more latterly I grew up in Mount Gambier. One is somewhat water conscious being from the South-East, if for no other reason than having lived near the Blue Lake and over years hearing reports about the level going up and down. There would be speculation about why that was happening.

The Hon. T. Crothers: It's not blue any more.

The Hon. M.J. ELLIOTT: The blueness relates to calcium bicarbonate, if I recall correctly, and depends upon water temperature. If it is not blue, it probably relates to the relative mixing of the upper and lower aquifers and water temperature, but that is all a guess. In the 13 years I have been in this Parliament I have been a regular visitor to Mount Gambier and, in discussions with groups there and with the media, for a long time I have said that the South-East has a very rosy future, because I believe that horticulture and dairying have a big future. Certainly, we have seen quite a dramatic growth in horticulture over recent years and dairying was just starting to show some signs although, as I understand from discussions, given some of the uncertainty about water allocation, it appeared to stall for a while. I hope that, now that people know in what direction things are heading, the huge economic potential of the South-East may be fulfilled, and I look forward to that.

Whilst I stressed that in those discussions, I also expressed concern that it should be done in a climate where we had very good knowledge of the size and quality of the resource and what impacted upon that as well. It is pretty sad to say that even to this day our knowledge is imperfect. We are probably getting a slightly better handle on the quantity question than we are on quality and what the actual determinants are on that quality. I did note an interjection from the Hon. Angus Redford on the nitrate issue. I am not sure whether he said it was a beat up, but he pooh-poohed it.

My own sister had her bore water sampled. The original reason quite simply was that in the washing process it was staining clothes. As I recall, it turned out to be caused by iron in the water. However, when they returned with the results of the water test, they also said, 'By the way, we suggest that, if you are pregnant, you do not drink the water', and that was on the basis of high nitrate levels. I do not think that, because of the iron staining, the water was too attractive to drink, anyway. However, I find it interesting that people are using bore water which is at risk and no warnings are given whatsoever. It was only the fact that the water was tested for another reason that that problem was identified. It is probably true that most people living outside the towns in the South-East are reliant upon rainwater for drinking, but I do think some very clear warnings need to be given about the use of the unconfined aquifer in some areas because of the nitrate levels. That, however, is somewhat aside from this Bill.

The Bill reacts to only a very small part of the overall report, but it is urgent in so far as the select committee recommended that the system of allocation change. Whenever a system changes we receive a flood of applications. The system is changing from a water licence being granted on the basis of an application being made to a system whereby water is allocated to properties according to area. Obviously, a lot of people very quickly would have lodged an application, and that would have undermined the alternative system that was being proposed. It was important that, if the system was to change, the legislation passed through Parliament quickly.

I express one level of concern. I guess that members of the Liberal Party, members of the Labor Party and Independents in the Lower House having been represented on the select committee had a good idea about what was proposed. However, speaking on behalf of the Democrats, the first we knew of it was when the legislation was introduced—and I imagine the Independent members of this place had the same problem. I acknowledge the need for the speed, but I am disappointed about the level of pre warning and consultation. I am supporting the Bill, but I think that the consultation process might have been a little better.

I have had a chance to read through the select committee report and, on the whole, I think a lot of the recommendations are very sensible. There is one area on which I would like to focus in particular; that is, people who are growing tree crops. As I understand the system that is proposed, water will be allocated according to hundreds and a calculation will be made in respect of what the recharge is within the hundred, although 10 per cent will be set aside for environmental reasons and, theoretically, also to allow for some error that might occur. However, I wonder whether 10 per cent is quite enough.

We have just had three dry winters in a row and, although we have been in this country for 150 years, climate patterns can vary over time and, if a dry cycle lasted for a couple of decades, we could find that the 10 per cent cushion is not enough. If the water is allocated and largely being used, that might prove to be a bit of a difficulty. That is just an aside. I return to the main theme that 10 per cent is set aside; the rest will be allocated. Clearly that will mean that there will not be enough water allocated for the whole of an area to be irrigated. Let us say hypothetically that enough water is allocated to plant up 20 per cent of the total hundred under irrigation. The danger I see is that other industries are a possibility in that area, and one industry that has been talked about a lot is growing blue gums. What happens if the water is all allocated in a hundred, 30 per cent of the area can and is being irrigated and then another 20 per cent goes under blue gums?

The blue gums will be using the water and, in fact, will diminish the recharge. It seems to me that, sensibly, forests should require a water allocation. I would argue that you would have to determine what the likely impact on recharge will be of a pine forest, blue gum forest, and so on, and that they should be required to have a water licence also. If that does not happen you will have the very problem about which I am talking: that you allocate the water and then you have other broad acre planting of pine or blue gums drawing up water. The hundred has then actually gone into a negative account.

It is also important to send good economic messages about best use of water. It is a bit of a nonsense if forests get their water without needing an allocation and everyone else must fight for an allocation. It seems sensible that a decision must be made whether it is best to have a hectare of pine forests or might that same water give a higher level of production if it were applied to a smaller area of grapes, apples, or whatever else. There needs to be a way of sending economic messages about the use of water and we are going to do it with every use of water except for trees, and probably for lucerne, which

is fairly deep rooted and probably also has a profound effect upon recharge.

The select committee has touched on that matter in only one way, in that it did suggest that if a person had their property under trees their pro rata allocation would diminish. The example it used was that if a person were entitled to irrigate 10 per cent of their property, but they had 50 per cent of their property under trees, they would get only a 5 per cent allocation. If you stop and think about that, they have actually half their property with trees, which are significantly diminishing the recharge and probably using a lot more water than the 5 per cent allocation to which they would have otherwise been entitled. I would suspect then that there is still a problem there.

This Bill, as I said, is really seeking to address one particular issue, that is, the immediate problem of the need to change the allocation. I believe that we have to make sure that this recharge issue in relation to forests is tackled. I would hope that that will be tackled during this next two months. I am sure that the Government will be sitting down and looking at the rest of these select committee recommendations. I would ask it to take on board that issue also, because otherwise it has the capacity to mess up severely the whole idea of water allocation.

You could actually have a negative draw down as a result of forest on areas that have not had water allocated. I also suggest that we should be granting a water licence of some sort to existing pine forests. It might not be on the same pro rata basis as you would have it for orchards, and so on, but at least you would then be encouraging people to make a decision about whether or not they will continue to grow pine forests or whether, when that particular crop is removed, they might apply that water to other crops.

There is no question that the forestry industry has given good returns to the South-East but a lot of the economics of the timber industry has been false. The timber industry has worked on the principle of waiting for the cyclic downturns in land prices. They buy up land at very low value and that makes the economics of forestry work but, in terms of maximising the overall benefit of what the land can return, it might not be the best practice, so I urge the Government to look at that. The Democrats support the second reading of the Bill.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank all members for their contribution to the debate.

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

MINING (PRIVATE MINES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 July. Page 1861.)

The Hon. P. HOLLOWAY: The Opposition supports the Bill. In fact, we warmly welcome it. When the Mining Act 1971 came into operation, it placed the ownership of all minerals in the Crown. At the time it was introduced a number of private land-holders lost the ownership of minerals on their land. As an alternative to paying compensation, the Government introduced the concept of a private mine into the Act. A significant feature of that section of the Mining Act in 1971 was that, unless it was expressly provided for by another section of the Act, operations of private mines were excluded from the operation of other provisions of the Act. In other words, these private mines had been grandfathered from the more stringent requirements of the new Act. That was a reasonable thing to do at the time because this new concept was being brought in and, as I indicated, some mines were outside the provisions of the Act.

The only section in the Act which expressly related to private mines, other than the specific part of the Bill, was the section that dealt with the requirements for the operator of a private mine to submit production returns to the Director of Mines every six months and pay royalties. Over almost 30 years since the introduction of that Act, the case for exemption of private mines has weakened to the point where it really does not exist at all. One might say that the anomaly should have been corrected perhaps some years ago. The problem is that anomalies have arisen because there is no real proper control of operations at a private mine.

We warmly welcome the fact that this Bill requires any operation of a private mine to be conducted in accordance with a mine operations plan and, as part of that plan, there should be a requirement for rehabilitating the site after the completion of mining, as is the case with non-private mining ventures. The operator is also required to exercise a duty of care to avoid undue damage to the environment, and that general duty of care is linked to the mine operation plan.

The Bill will introduce broader environmental controls for these former private mines than those afforded under the Environment Protection Act, but it will not limit or derogate from the powers of that Act. With these changes, we can see that we will have a far more desirable outcome as far as the management of private mines is concerned. Also, inspectors of mines and officers authorised under the Mining Act currently cannot legally enter on a private mine for undertaking investigations or surveys. That will be corrected by this situation. Also, the Bill provides for an efficient process to revoke private mines that are not being operated or cannot be operated into the future. A number of these private mines have been in existence with people hanging onto them, but they cannot be operated in the future due to environmental or planning constraints, or they do not contain minerals of value. Under this new scheme, they will be able to be removed.

In summary, this Bill provides a general tidying up of the situation regarding private mines. This situation has existed for 30 years. There was some sense in it when the Mining Act was first introduced. That case has long since gone and we welcome the introduction of this Bill to tidy up those problems. We warmly support the Bill.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

STANDING ORDERS COMMITTEE

The Hon. R.I. LUCAS (Treasurer): I move:

That the report of the Standing Orders Committee 1999 be adopted.

I will be mercifully brief at this hour of the morning. I thank members of the Standing Orders Committee for their assiduous work in undertaking the redrafting of the Standing Orders. More particularly, I thank the table staff, Jan Davis, Trevor and the others who worked on the redrafting in accordance with the instructions from the committee. A lot of work had to be done over a considerable period.

I thank the Hon. Carolyn Pickles for her continuing interest and initiative in this matter. Other members before

her have taken up the issue of the use of gender inclusive language and that is now incorporated into the draft Standing Orders. The provisions that we have been using as Sessional Orders in terms of the ordering of the commencement of Question Time are now formally incorporated into our Standing Orders, and that is appropriate. There are some provisions like that where changes have been made.

Members will be pleased to hear that it is not a comprehensive rewrite of all the Standing Orders. Many of us still have one or two Standing Orders that we want to take up at future meetings of the Standing Orders Committee, but now is not the time to be discussing those. I urge members to support the motion.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I am pleased to support the Leader's motion. Initially, I wrote to the Standing Orders Committee asking that, after over 100 years of this Parliament, the Standing Orders now be gender inclusive. As we now have a number of women in the Upper House, and the House of Assembly has had gender inclusive Standing Orders for a number of years, it seemed to me that it was timely that we changed our Standing Orders.

It was also a recommendation of the Select Committee on Women in Parliament, which reported in about 1996, so this has had a fairly long gestation period, and I am grateful that the Government has agreed to this. This is not the first time that I have tried to change them. I certainly tried to change them when the Labor Party was in government, although with not a great deal of success. I thank the Hon. Ms Laidlaw for initiating the Select Committee on Women in Parliament which finally, after a long period, has resulted in the change to the Standing Orders.

I was interested one day to read a Standing Order which provided that members must stand, uncovered, in their place—and I know that that referred historically to men standing and removing their hats. However, the spectacle of some honourable members standing uncovered in this place was too much for me to bear! So I thought we really ought to change it before somebody actually took that Standing Order literally and did just that—stand, uncovered, in their place. The other Standing Orders that we amended have been agreed to by all members in this place.

I, too, would like to thank Jan Davis in particular; I know it was a very lengthy process to do the drafting work. I would also like to thank the President and other members of the Standing Orders Committee for making this historic decision.

Motion carried.

The Hon. R.I. LUCAS (Treasurer): I move:

That the amendments be presented to the Governor by the President for approval pursuant to section 55 of the Constitution Act.

Motion carried.

TRANSPORT SAFETY COMMITTEE

Adjourned debate on motion of the Minister for Transport and Urban Planning:

That the interim report of the joint committee be noted.

(Continued from 4 August. Page 1985.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): I am pleased to support the motion to place the interim report of the Transport Safety Committee before Parliament. The committee decided to introduce this interim report, because the department preparing the driving companion for class C vehicles needed to go ahead with the printing. When in its deliberations on this document the committee found that there were some anomalies, we took into consideration a submission from Professor Jack McLean of the Road Accident Research Unit. Professor McLean indicated that he thought the driving companion document should be amended, and the committee agreed with the sentiments contained in his letter, which would have been circulated to all members, together with the interim report. The committee is undertaking an ongoing process of looking at driver training, but this is an urgent matter, so we are pleased to support the interim report.

The Hon. R.I. LUCAS (Treasurer): On behalf of my colleague, I thank the honourable member for her contribution to this motion.

Motion carried.

POLICE EXCLUSION REGULATIONS

Adjourned debate on motion of Hon. A.J. Redford:

That the regulations under the State Records Act 1997 concerning police exclusion, made on 25 March 1999 and laid on the table of this Council on 25 May 1999, be disallowed.

(Continued from 4 August. Page 1947.)

The Hon. R.D. LAWSON (Minister for Disability Services): This motion concerns a proposal by the Legislative Review Committee to disallow regulations which exempt from the operation of the State Records Act certain records of the Police Operations Intelligence Division. In my very brief remarks (given the time) I want to mention a couple of items under the general headings of, first, process and then principles. With regard to process, it should be said, as the Presiding Member, the Hon. Angus Redford, said in his remarks in moving the motion, that the Legislative Review Committee received evidence at its meeting last week and also yesterday and was not in a position to table the evidence nor to table a written report related to its deliberations.

I make that comment with no intention of criticising the committee in any way. I think it is a product of two things, the first being the system under which the Legislative Review Committee operates. That system requires it to move its motion for disallowance within a certain number of sitting days but, if no motion is carried in either House, at the end of the session there is no opportunity for the committee to continue its deliberations or to move for the disallowance of regulations. So, one has every reason to have sympathy for the committee, which I believe has not had all the evidence that it should have had before having to reach a conclusion.

I should also mention the underlying principle. I do not believe that the operations and activities of the Police Operations Intelligence Division are sufficiently or very widely understood, because the terms of reference of that division are specifically laid down in the Governor's direction and, since July of this year, in the Minister's directions.

Those directions lay down a specific regime relating to the holding and disposal of certain of the records of the Police Operations Division. They prevent the police from disposing of the records other than in accordance with the directions of an auditor who is independent of the police and who, in this case, is a retired Supreme Court Judge. This is a process that was devised after Mr Acting Justice White in 1977 conducted an inquiry into the records of the Police Special Branch, and in the following year that led to the dismissal of the Police Commissioner and the Mitchell Royal Commission into that

dismissal. They were tumultuous times and following them a regime was laid down for the Special Branch.

That regime was the one I have just mentioned, that the records would be culled under the supervision of an independent auditor because it had been found at that time that much of the information in the old Special Branch contained material of no probative value, was rumour, innuendo, and unsubstantiated claims, much of which could adversely affect the lives and livelihoods of individual citizens. That regime has continued since that time. There have been a number of auditors. The Special Branch became the Operations Intelligence Division. There have been refinements in the process, but we have adhered to that scheme, which is a very appropriate one.

When the State Records Act was passed there was a general rule embodied in the principles of the State Records Act, namely, that Government material and records of enduring evidential or informational value were to be preserved for future reference. You might say that the general principle of the State Records Act is that material will be retained for archival purposes, generally all Government material. Notwithstanding that, the Government was of the view that it would be appropriate to maintain the special regime which applied to the Special Branch and then the Police Operations Division.

The principle the Government acted on was reasonable. Serious concerns have been expressed by a number of organisations, in particular the State Records Council, the Friends of South Australia's Archives and the South Australian Society of Archivists, who take a very strong view that the regime of the State Records Act is in some way compromised by maintaining a particular scheme which is, as it were, outside the control or auspices of the State Records Council and Records Manager. In view of the concerns expressed by the Legislative Review Committee and by some of the speakers—the Hon. Ian Gilfillan, the Hon. Ron Roberts and the Presiding Member the Hon. Angus Redford—and after discussions with a number of members, I have agreed to provide the following undertakings, which I will now read into the record.

The Hon. T. Crothers interjecting:

The Hon. R.D. LAWSON: As the honourable member has indicated, supporters might want to strengthen the measure and an argument could be made for that. However, in the interest of expedition and in the interest of enabling the matter to be further examined, I have agreed to the following undertaking. The following text has been agreed with members of the House:

> In light of the concerns expressed by the Legislative Review Committee, I undertake to develop and publish a mechanism for ensuring that the management of records of the [police] Operations Intelligence Division is performed in a manner which is consistent with the public interest. (Such mechanism may be by way of regulation, legislation, ministerial direction, protocol, determination of the State Records Act or any combination thereof).
>
> I further undertake that the regulations will be revoked within three months of the date hereof and, if required, [they will] be re-enacted in the same or some amended form and tabled so as to enable the Legislative Review Committee to again consider the new regulations during the next session.

That is the text of the agreed position, and I thank honourable members for their cooperation.

The Hon. P. HOLLOWAY: In the absence of the Hon. Ron Roberts, I speak on behalf of the Opposition on this matter. We concur with the suggested solution that has been proposed by the Minister for Administrative Services. The solution is that the disallowance motion will not be taken to a vote, in light of the undertakings given by the Minister.

Members have referred, through a series of debates in this place over the past couple of days, to the difficult situation we face at the end of a session when time constraints intervene. This matter has, of course, arisen because of that situation, since the Legislative Review Committee had to make a decision to bring the matter to a head now or it would have had to wait for some months. So that the Legislative Review Committee can complete its consideration of the matter, this solution that has been provided by the Minister through his undertaking will enable that to happen while, at the same time, it will enable these regulations to go ahead. We now have a solution where the matter can be properly examined in due course; the problems of process that may have arisen will, under this solution provided by the Minister, be addressed; and we can now move forward on it. We concur in the proposal of the Minister for Administrative Services.

The Hon. R.I. LUCAS: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: NATIVE FAUNA

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

That this Council calls on the committee to examine and report on the interaction of native animals with agricultural activities and, in particular, current proposals and/or approvals to shoot native bird species.

(Continued from 28 July. Page 1748.)

The Hon. P. HOLLOWAY: The Opposition supports this motion. There have been a number of instances lately where the interaction of native animals and agricultural activities has created some problems. It seems an eminently sensible measure for the Environment, Resources and Development Committee of this Parliament to consider. We support the Hon. Mike Elliott's motion.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I was provided with some briefing notes. I did not sight them. I do not have them with me in this place. They have gone back to the office. I cannot find the Minister, so I assume we go with the numbers.

The Hon. M.J. ELLIOTT: I thank all members for their overwhelming support for this motion and look forward to its speedy passage.

Motion carried.

ADJOURNMENT DEBATE

The Hon. R.I. LUCAS (Treasurer): I move:

That the Council at its rising adjourn until Tuesday 31 August 1999.

In moving this traditional resolution I intend to say some nice words about everyone except the Hon. Mr Crothers, because he said that he did not want me to say any nice words about him.

The Hon. T. Crothers: I'm going to sing, 'For I'm a jolly good fellow'.

The Hon. R.I. LUCAS: Okay; it is the early hours of the morning. I thank all members of the Chamber for the past couple of weeks in particular. It has been a momentous session. There have been some very significant pieces of legislation, and moments of high drama and intensity, as sometimes occurs. I thank members for their assistance. I thank the Whips, the Leaders, and individual members. I thank the table staff, *Hansard* and all the other staff in Parliament who assist us in the difficult process of getting through a parliamentary session. I look forward to meeting you all again some time at the end of September or early in October.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I am pleased to second the motion, and I, too, thank the table staff, *Hansard*, the Messengers—everybody in this place. I am not sure whether I should thank the Government for keeping us up until 2 o'clock in the morning. However, over the past few days we have managed to get through a large amount of business. It is a pity that we could not spread it out a little more thinly and not have to sit quite so late. I do think that the sittings of Parliament need to be looked at, and, hopefully, that can occur some time in the break. The sittings of Parliament, the length of time and the way that private members' business is conducted need to be expedited. I thank my colleagues and the Whips (who are looking terribly wide awake and interested in this conversation) and wish honourable members some relaxation during the break.

The Hon. M.J. ELLIOTT: On behalf of the Democrats, I make even this briefer. I thank all fellow members of this Chamber for a fair degree of goodwill most of the time—amazingly so in the circumstances. I thank the table staff, *Hansard*, the messengers and all other staff in this place. On the whole, I think that the shape of the sessions we now have, with that extra session, has worked quite well. Unfortunately, I guess as a result of the Electricity Bill backlog, we have ended with a rather appallingly late sitting again, but one would hope that that is a one-off and that we will get down to more normal caseloads in future. As I have said, I think that on the whole the new structure of sitting has worked quite well and that it is just the backlog of Electricity Bills which has piled things up a bit. I wish all members well over the break—not that it is much of a break for most of us.

The Hon. NICK XENOPHON: All I say is, 'Ditto.'

The PRESIDENT: On behalf of the table staff, the messengers, *Hansard*, the library and catering, I thank members for the kind comments directed towards those people. I particularly add my thanks to those conveyed by members to Jan, Trevor, Chris, Noeline, Margaret (who is typing away at her screen outside the Chamber), Graham, Ron, Todd and Shaun. Jan's last count was that 20 pieces of legislation have been processed today—and I must say, and underline, meticulously processed without any hitches. As paper goes from one side of the table to the other, disappears over to the side, out to Margaret, onto a screen and over to the other side you come to appreciate the immense amount of meticulous work that is done.

I thank Caroline and George, the two Whips, for their help through this session. I thank the Hon. Nick Xenophon and the two Independents (Independent Labour and SA First). I thank all members for their help. I also thank John Dawkins for his great help over this session. He is getting so good at it now that I am getting rather scared of being shown up as being not as good as John. And, if anyone is listening downstairs on LEGCO FM Radio (which may be Bridie as she cleans up downstairs in Botany Bay), we do not forget the people who help us in the Blue Room and Refreshment Room.

Motion carried.

CASINO (LICENCE) AMENDMENT BILL

The House of Assembly agreed to the Bill without any amendment.

LOCAL GOVERNMENT (ELECTIONS) BILL

The House of Assembly agreed to the amendments made by the Legislative Council without amendment.

EMERGENCY SERVICES FUNDING (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without amendment.

CONTROLLED SUBSTANCES (FORFEITURE AND DISPOSAL) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without amendment.

ADJOURNMENT

At 2 a.m. the Council adjourned until Tuesday 31 August at 2.15 p.m.

Corrigenda:

Page 1649—Column 2—
Line 45—Delete 'not'.
Line 53—For 'justified' read 'unjustified'.