LEGISLATIVE COUNCIL

Wednesday 14 March 2001

The PRESIDENT (Hon. J.C. Irwin) took the chair at 2.15 p.m. and read prayers.

AUDITOR-GENERAL'S SUPPLEMENTARY REPORT

The PRESIDENT: I lay on the table the supplementary report of the Auditor-General 1999-2000 on the electricity business disposal process in South Australia—arrangements for the disposal of Optima Energy Pty Ltd, Synergen Pty Ltd, Flinders Power Pty Ltd, Terra Gas Traders Pty Ltd and ElectraNet SA—some audit observations.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay on the table the tenth report of the committee and move:

That the report be read.

Motion carried.

The Hon. A.J. REDFORD: I lay on the table the eleventh report of the committee.

The Hon. A.J. REDFORD: I lay on the table the twelfth report of the committee.

QUESTION TIME

TRANSPORT PROJECTS

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Transport a question in relation to transport projects.

Leave granted.

The Hon. CAROLYN PICKLES: In the minister's confidential pre-election budget submission to the Treasurer and the Premier, which outlines her budget priorities for the financial year 2001-2, the minister reveals that several key transport projects remain unfunded. The submission shows that included in the list of projects are the overtaking lane strategy, the Southern O-Bahn, the Bedford Park Interchange, and bus and tram replacement programs. All these projects are unfunded to date. Is the minister confident that these projects will be funded in the May state budget?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I am in the process of negotiating with the Treasurer and my cabinet colleagues a range of funding opportunities for the government. Every other minister is undertaking the same discussions with the Treasurer and their colleagues.

The Hon. T.G. Roberts: Confidentially, of course.

The Hon. DIANA LAIDLAW: Well, I am quite relaxed. The honourable member has identified a number of projects that the government has indicated it would like to deliver in terms of taxpayer funds. If I do not deliver, the taxpayers and the opposition can have a real go at me. At this stage, they are still alive and in various stages of negotiation.

MOTOROLA

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question on government records.

Leave granted.

The Hon. P. HOLLOWAY: In his report to the Premier in relation to the Motorola missing documents, the Chief Executive Officer of the Department of Premier and Cabinet, Mr Warren McCann, states at clause 43:

> According to DIT, there is no record in that department of the file DII 2802/96. There is no record of a transfer having taken place. Thus, one file has been destroyed (apparently according to proper processes) and one is missing.

What are the proper processes by which government files are destroyed, particularly in circumstances where they relate to government contracts, the delivery of services under which are yet to be finalised?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): The government is committed to good record keeping and it does have a system called RecFind, under which dockets within government are recorded and are available for retrieval through that system. However, there are hundreds and thousands, if not millions, of files within government, and it is obviously not possible at any one time to be sure that one has the right file when one seeks retrieval, especially where files have different names.

As was explained in the statement to which the honourable member referred, some of the files in question were apparently not indexed with the name which might readily suggest that they had some bearing on the matter under discussion. As to the specific matters raised by the honourable member, I do not have the information to hand. I will obtain the information and bring back a prompt response.

ABORIGINES, SUBSTANCE ABUSE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Human Services, a question on substance abuse by Aboriginal people in South Australia.

Leave granted.

The Hon. T.G. ROBERTS: The federal government's diversion strategy, which was announced recently with quite a bit of fanfare, means that an extra $1 million will come to South Australia for crisis management in Aboriginal communities, especially in regional and remote areas, concerning drug and alcohol abuse and, in particular, the vexed question of petrol sniffing. We have a bipartisan approach to these difficult questions in this state and I certainly do not want to move away from the cooperation that has existed between government and opposition.

However, the sum of $1 million that has been allocated by the federal government would have disappointed the state government in its attempts to deal with this vexed question, which will not go away. The multiple problems of substance abuse—drugs, alcohol and petrol sniffing—will not go away and it appears that other programs will have to be introduced and financed, particularly by the commonwealth government. The problem is not peculiar to Australia's Aboriginal community as many other indigenous communities in English-speaking countries have to deal with the problem, and I refer to Canada and the United States in particular. In relation to the federal allocation to the state, my questions are:

1. Will the minister provide details of the number of Aboriginal people in South Australia who have addiction or who are abusing drugs, alcohol and, in closed communities, petrol sniffing?

2. Will the minister provide details of the South Australian allocation of the federal government diversion strategy for funding petrol sniffing and other state and federal programs to deal with addiction abuse?

3. Will the minister outline what drug, alcohol and substance abuse programs are currently operating in South Australian Aboriginal communities that are being funded adequately, as well as associated educational programs?

4. Does the minister support the concept of promoting drug and alcohol education awareness programs in Aboriginal communities, and what programs currently exist?

5. Does the minister support the notion that drug and alcohol education awareness programs by print and electronic media for Aboriginal communities should include Aboriginal input into these programs in the production and distribution of such programs, and should traditional languages be used in the promotion of these programs?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's questions to the minister and bring back a reply.

GOODS AND SERVICES TAX

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Treasurer a question on the subject of the GST.

Leave granted.

The Hon. L.H. DAVIS: All members in this chamber would be well aware that the federal Labor Party has, through its leader, the Hon. Kim Beazley, indicated that it will roll back the GST if it is elected to government.

The Hon. R.R. Roberts: There has also been a roll back on the Prime Minister's popularity, too.

The Hon. L.H. DAVIS: You wouldn't roll back; you would just fall over, Ron. Interestingly, the Victorian Labor Premier, Steve Bracks, said yesterday that the GST would have to be renegotiated if a federal Labor government rolled it back. He was further quoted on ABC news as saying that raising the GST rate is not the only way to fund a roll back. My questions are:

1. Is the Treasurer aware of Premier Bracks' comments about the GST?

2. Will the Treasurer advise the Council of any other way to fund the roll back of the GST, in view of Premier Bracks' comments only yesterday that raising the GST rate is not the only way to fund a roll back?

The Hon. R.I. LUCAS (Treasurer): I hope that this issue generates a good degree of public commentary and interest over the coming months in the lead up to the federal election, because this is one of the more critical issues in terms of the future finances of the state of South Australia, and it will be discussed during the federal and state election campaigns.

Late last year the Leader of the Opposition (Mr Rann) and possibly also the shadow Treasurer (Mr Foley) shook hands on a deal with Kim Beazley in relation to rolling back the GST. The simple reality is that in the last 24 hours Mr Beazley has ruled out funding the roll back of the GST by an increase in the rate. The roll back of the GST for states such as South Australia means less money for South Australia: less money for our schools, less money for our hospitals and less money for roads and law and order services.

The Leader of the Opposition and other Labor leaders last year indicated that they had been given some commitment from Mr Beazley in relation to roll back. I have pursued the issue with Labor Treasurers over the past few months, but none of them has been prepared or able to provide the detail of what this compensation to the states was going to be. The Hon. Mr Davis raises the question today as to exactly where that money would come from.

If the money is not going to come from raising additional taxes through a commonwealth Labor government, should it be elected, the only other way this can eventuate is for a very significant reduction in moneys from a federal Labor government to the states to pay for schools and hospital services. One of the concerns that we will need to root out over coming months is the precise detail of any claimed compensation to the states under the tax agreement.

Just to highlight the detail of that, under the current arrangements the states generally go positive (in terms of getting more money under the new promised arrangements than under the pre-existing ones) around 2006, 2007 or 2008. So, it is a way down the track yet before the states go positive. However, at that stage the states stand to gain, on the current conservative federal Treasury estimates, hundreds of millions of dollars of additional funding. For example, in New South Wales, in the third year of going positive—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The New South Wales Treasury has signed off on these as well, so you can call Michael Egan and the Labor Treasury officers in New South Wales away with the fairies if you want to, but these are the figures that have been produced: an extra billion dollars in revenue over and above the existing arrangements in the third year of New South Wales going positive.

In the state of South Australia the predictions for the third year of going positive range from somewhere around $200 million to $250 million a year in additional revenue going to this state. There has been no guarantee from Kim Beazley—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: He is going to wind it back. There has been no guarantee from Kim Beazley that any compensation will compensate the state of South Australia and others to that level. The issue we put to the Labor Treasurers is that if, as has occurred in other states—because the GST was to be a growth tax for the states—the GST collected more revenue than the conservative federal Treasury estimates, that was to be a benefit to the states to be spent on schools, hospitals, transport and law and order services. It was to be a growth tax for the issues the Minister for Transport and other ministers are highlighting. That growth tax was to be for the benefit of the states and territories.

Mike Rann and Kevin Foley have sold out South Australia and South Australia's future. They have done a deal with Kim Beazley where there has been no compensation and no detail of compensation, and I challenge Mike Rann and Kevin Foley today to provide the detail of the compensation package that Kim Beazley allegedly has offered the state of South Australia in relation to tax reform. I challenge the shadow minister for finance, Mr Holloway, to stand up today at some stage on behalf of Mr Rann and Mr Foley and detail the compensation package that Kim Beazley is offering the states under Labor governments, federal and state. We know the arrangement. We challenge the Hon. Mr Holloway to see whether he will stand up. I want him, after question time, to

ask Kevin Foley and Mike Rann to give us the detail of the deal you have done with Beazley down in Tasmania at the national—

Members interjecting:

The Hon. R.I. LUCAS: They had a leadership meeting, did they? Well they can go down after question time and say, 'You did a deal; you shook hands; you got the publicity with Kim Beazley; you have sold out South Australia. Let us get the detail of the deal you have done on behalf of South Australia in terms of tax reform.' Let us make it clear that between now and the next federal and state campaign this government in South Australia will pursue Mike Rann, Kevin Foley and the Hon. Mr Holloway relentlessly until that election to try to get an honest, truthful and detailed answer in relation to this deal they have done with Beazley.

The people of South Australia will be demanding the detail, prior to the election, of this deal. They will be told—mark my words—that their spending on schools and hospitals in the future will be reduced by significant tens if not hundreds of millions of dollars if we cannot get the detail of the package—and not only this (what has been released publicly) but a guarantee that any growth in the GST above this that will be ripped away by Beazley, Rann and Foley will be compensated by any Labor government in the case of schools and hospitals in South Australia.

TAN, DR ARNOLD YANG HO

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Attorney-General a question on the length of time that elapsed between allegations of rape and the eventual suspension for professional misconduct of Dr Arnold Yang Ho Tan.

Leave granted.

The Hon. SANDRA KANCK: The Tan case highlights the difficulties that beset our legal system regarding the timely delivery of definitive judgments. It was in August 1996 that a former patient and employee of Dr Tan made allegations of rape against him. The following day a police raid of Dr Tan's surgery discovered a locked room with a bed and various sexual aids and led to the seizure of hundreds of polaroid photographs of Dr Tan and his former patient in various sexually compromising positions. Some of these photographs were taken while Dr Tan was treating the woman concerned.

Despite the existence of this evidence of gross professional misconduct, it was not until February of this year—4½ years later—that Dr Tan was suspended from practice. In that time he made appeals to the Supreme Court, the Full Court of the Supreme Court and the High Court concerning the case. During those appeals, a medical practitioners professional conduct tribunal was unable to rule on the issue of professional misconduct. Consequently, Dr Tan was permitted to continue to practise throughout the appeals period.

In revoking a suppression order on Dr Tan's name, the tribunal indicated that the public had a right to know that he had pleaded guilty to four counts of professional misconduct. It is an irony that the public was in a position to know of Dr Tan's conduct only after he had been barred from practice and no longer posed a threat to them. It should be noted that the allegations of rape made against Dr Tan were not tested in a court of law.

Issues of natural justice weigh heavily in areas of untested allegations. Equally, there must be some protection for the public in situations such as this. I believe that the public good was undermined by Dr Tan's being able to continue to practise medicine for 4½ years after the initial allegations. My questions are:

1. Does the Attorney acknowledge that the time-frame between the original allegations and the final determination is unacceptable?

2. If so, what steps does the Attorney propose to take to ensure that a similar situation does not occur again?

The Hon. K.T. GRIFFIN (Attorney-General): Whether or not it is acceptable or unacceptable depends upon all the facts—and I do not know all the facts about this matter. The medical practitioners board is not responsible to the Attorney-General but to the Minister for Human Services. It is an independent body established by statute, as the honourable member would know. There are rights given to practitioners who might be subject to disciplinary proceedings before both the board and the tribunal.

All I can do is undertake to make some inquiries about the reasons why these long periods of time were involved and bring back a reply. That is the best I can do, because I am not familiar with the detail of the case. All of the judgments about the length of time have to be made on the basis of knowledge of the facts and not on supposition. I will bring back a reply.

FIRE BLIGHT

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about the importation of fire blight.

Leave granted.

The Hon. T.G. CAMERON: Today is Apple and Pear Fire Blight Day. I do not know how many members are aware of that, but I walked down to Rundle Mall to look at the apple and pear growers' presentation and to talk to them about the issue.

Members interjecting:

The Hon. T.G. CAMERON: If any members did go there, they would have had the opportunity to sample some delicious Adelaide Hills apples.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: Fire blight is not a laughing matter. I am sure that members are watching in horror as the foot and mouth disease takes over England, Wales and Ireland and spreads to France. That disease may well end up resulting in a bill running into tens of billions of dollars before it is all over. Local growers claim that New Zealand apple growers can mask the symptoms of fire blight so as to gain import approval by cutting out the infected tree tissue or using antibiotics to stop the symptoms.

I think we are all aware that in 1997 the disease was detected in the Adelaide Botanic Gardens and that over 100 plants and trees had to be destroyed. The South Australian Apple and Pear Growers Association claims that the federal government's draft document is based on flawed science. An outbreak of fire blight could cost South Australian growers up to $15 million in a single year. Therefore, my questions to the minister are:

1. Is this claim correct? Can the symptoms of fire blight be masked through the use of antibiotics or by cutting out the infected tree tissue?

2. Is the government concerned about the possibility of fire blight being released into our local markets through the importation of New Zealand apples; and, if so, will the state government intervene with its federal counterparts to protect

South Australia's $45 million pip-fruit industry? If not, why not?

The Hon. K.T. GRIFFIN (Attorney-General): As the honourable member has said, it is a serious issue. I have to refer the question to my colleague in another place. I will do so and bring back a reply.

CONSULTANTS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Treasurer a question about the cost of consultancies.

Leave granted.

The Hon. J.F. STEFANI: Over a period of time the government has engaged a number of consultants for various reasons. Members would be aware that due to currency fluctuations the Australian dollar has suffered badly over a period of time. My questions are:

1. Will the Treasurer advise the number of consultancies contracted by the government in US-dollars and whether the contracts were subject to any hedging arrangements?

2. What was the expected cost of the US-dollars consultancies converted to Australian dollars at the time of signing the contracts?

3. What was the additional cost, if any, on consultancy agreements that were not covered by hedging arrangements when the contracts were finalised?

4. Are any consultancies contracted in US-dollars still current and, if so, how many, and what is the value of the consultancies?

The Hon. R.I. LUCAS (Treasurer): I am happy to take that question on notice. It will not surprise the honourable member that I do not have that detail with me, and we would not even have it back at the office, I suspect, in an aggregated form. Obviously, we will need to canvass those issues with—

The Hon. T.G. Roberts: Isn't your backbench committee system working?

The Hon. R.I. LUCAS: It works very well, thank you very much. We will need to contact ministers and chief executive officers seeking advice on that issue and bring back a reply as soon as we can.

BUSHLINK

The Hon. CAROLINE SCHAEFER: Can the Attorney-General outline the services offered to country people by the Bushlink project and give examples of the benefits that the system will offer to regional communities?

The Hon. K.T. GRIFFIN (Attorney-General): Bushlink is a marketing logo: it is the logo of the Equity of Access to the Justice System Videoconferencing Pilot Scheme. It was launched in November 1999. Sites were established at Amata in the Pitjantjatjara lands, the Port Augusta courthouse, the Port Augusta prison, the Whyalla office of the Legal Services Commission and the Adelaide office of the Legal Services Commission. A mobile videoconferencing unit shared between the Adelaide Magistrates Court and the Sir Samuel Way building was established with some funds made available through the commonwealth government's Regional Telecommunications Infrastructure Fund.

The Local Government Association has received a grant from that same fund to establish videoconferencing facilities at 11 sites, and seven of those are in country towns surrounding Whyalla and Port Augusta. The Local Government Association has agreed to allow communities to use its videoconferencing facilities to access the justice system. The other sites are at Tumby Bay, Wudinna, Kimba and Ernabella in the Pitjantjatjara lands.

An agreement has also been established with Centrelink in Ceduna to allow access to its videoconferencing facilities for justice users. A number of services are provided through Bushlink, such as registry services, so that rather than attending a registry in person a court user can access many of the services by video link and fax machine for things such as applications for community service or an application to suspend a warrant. In relation to prisoners in custody, for simple matters prisoners can be dealt with by video without the need for the prisoner to be transported to court, and that is better for the prisoner as well as for the court and for the prisoner transportation system.

With respect to remote witnesses, evidence can be taken from witnesses anywhere in Australia, or for that matter anywhere in the world when appropriate. As to legal aid, people who live in remote and rural communities can access a solicitor for legal advice. With respect to prison visits, the next best thing to visiting a family member or friend in person is to visit them by video link. That has proved to be particularly significant for Ernabella and the Amata Aboriginal communities. It also provides access to Parole Board hearings, and that means considerable time and effort is saved by the Parole Board when it utilises video conferencing services to conduct hearings. The Bushlink video conferencing units have been used on 102 occasions, and 78 per cent of that usage has been for justice services. I will cite a couple of examples.

In the first video conference link between the remote Amata Aboriginal community and the Port Augusta prison, a distance of approximately 1 200 kilometres, the prison's Aboriginal liaison officer said that a particular prisoner was very surprised that he could talk to and see his family and relatives. His wife and children were present. He left looking and feeling much happier, and the liaison officer commented that overall he thought it went very well. It is an excellent procedure for the prison service to use with prisoners of high stress levels and self-harm tendencies. The Aboriginal communities in particular are very pleased with the way it operates. They think it is good for the family to see that the prisoner is all right. It is good for the prisoner to see his or her children; it is better than the phone; and of course the prisoner can talk to a mob of people and not just one or two.

Medical practitioners use Bushlink particularly when they are required to give evidence as witnesses in trials, whether at Port Augusta or elsewhere. In one recent case when a doctor gave evidence through video conferencing, he was resident in Coober Pedy and was required to give evidence at Port Augusta. The video conference took about 40 minutes. If he did not have access to video conferencing, it would have taken approximately three days out of the doctor's time. Lawyers have been using the system in the Adelaide Magistrates Court for a civil court case where the trial was in the Supreme Court in Darwin, and there have been a number of other uses to which that service has been put where courts require evidence to be given from remote locations. It has been used for applications for bail and in a variety of other areas.

All in all, the pilot project has been particularly successful. The sum of $12 000 has been reallocated for additional promotion of Bushlink because the government certainly feels that it is a service that is providing a significant benefit to those in remote areas of the state.

BREAKEVEN GAMBLERS REHABILITATION NETWORK

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Human Services, a question in relation to the BreakEven gamblers rehabilitation network.

Leave granted.

The Hon. NICK XENOPHON: The independent review of the Gamblers' Rehabilitation Fund and the work of BreakEven Services, conducted by Elliott Stanford and Associates and released in October 1998, made a number of recommendations as to the independence, adequacy and long-term funding of gamblers' rehabilitation services in this state, and it included recommendations on triennial funding for BreakEven (recommendation 21), early intervention programs (recommendation 1 (e)), and that the GRF undertake research into the potential impact of the introduction of internet and pay TV gambling facilities in South Australia (recommendation 15).

On Monday I was advised that such was the demand for the resources for one BreakEven Services provider in the southern suburbs that the waiting time for problem gamblers—people in distress because of gambling—was 3½ weeks before they could get an appointment to see a BreakEven Services counsellor. My questions are:

1. What progress has been made with respect to the 26 recommendations of Elliott Stanford and Associates of October 1998, and in particular recommendations 1(e), 15 and 21?

2. Does the minister consider that the 3½ week wait for a problem gambler to get help from BreakEven Services is a disgrace?

3. Will the minister undertake an urgent review of the adequacy of funding for BreakEven Services providers and waiting periods for people in distress because of problem gambling obtaining assistance from BreakEven Services?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's question to the minister and bring back a reply.

WORKPLACE ACCIDENTS

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question about the systems in place for the prevention of workplace and amusement park accidents.

Leave granted.

The Hon. R.K. SNEATH: I am delighted that parliament has doubled penalties for breaches of the Occupational Health and Safety Act, but the minister's claims of prosecution after the event are no substitute for maintenance and the proper supervision of owners and operators of amusement rides. I imagine that would also apply to the people in charge of workplaces—which I think is fair enough.

However, this is certainly not the government's argument as far as road accidents are concerned. It is of the opinion that prosecution and on-the-spot fines are a deterrent for speeding and reckless driving and wisely continues to place great emphasis on the policing of motorists. With so many industrial deaths and what seems to be an increase in the number of deaths and injuries in leisure activities, not only tougher penalties but also more inspectors and more vigorous controls are surely warranted. I understand that the Insurance Council of Australia expressed the view that it would be a wise commercial investment for the government to pursue a harder line in guarding against workplace injuries. My questions are:

1. Has the minister met with the Insurance Council of Australia to discuss measures that could be taken to prevent accidents occurring?

2. Are inspectors' reports available to the United Trades and Labor Council and, if not, why not?

The Hon. R.D. LAWSON (Minister for Workplace Relations): I thank the honourable member for his question. I certainly adhere to the view expressed in his question that prosecution for breaches of occupational health and safety regulations is but one aspect of a multi-faceted strategy to reduce workplace injuries and accidents. Better information, better understanding, better practices and greater vigilance on the part of workers as well as employers are all important parts of that strategy.

I am not entirely sure that I agree with the honourable member's analogy in respect of the position between road accidents and industrial accidents. I do not profess to be an expert in relation to the strategies adopted by the government in relation to the minimisation of road accidents, but I am aware that the government does not have a policy which focuses purely on prosecution and enforcement of breaches of the road traffic code. Indeed, much is spent on advertising, education, promotion and training in relation to road accidents and such issues as the appropriate design of roads, analysis of black spots and other factors which might contribute to road accidents. I believe that we adopt much the same approach in relation to occupational health and safety issues.

The honourable member mentioned fatalities. It is true that there have been several fatalities at workplaces in South Australia in recent times. However, on the figures that I have been given, the number of those fatalities is not rising. I accept, of course, that one fatality, any fatality, is one too many and that every step should be taken by employers as well as by occupational health and safety inspectors, by WorkCover and anyone else with responsibilities in this area, whether it be local government, or trade associations and the like, to minimise the possibility of fatalities or serious injuries. Every step taken is to be commended. It is not simply a matter of appointing more inspectors. It is a matter of more appropriately targeting our resources and ensuring that we have a multifaceted approach which is effective and is working.

The honourable member asked whether I had met with the Insurance Council. I have not. However, I would certainly be happy to meet with the Insurance Council or any other body, association or union that wants to present material that might lead to more effective systems to minimise injuries, fatalities and any other incidence of poor occupational health and safety.

The honourable member asked questions about the availability of inspectors' reports. I do not have to hand the information relating to that matter, but I will certainly make inquiries and bring back a response and provide it to him as soon as possible.

FISHERIES COMPLIANCE UNIT

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question relating to the

Fisheries Compliance Unit and the southern zone rock lobster industry.

Leave granted.

The Hon. IAN GILFILLAN: In 1999, allegations of quota fraud in the southern zone rock lobster industry led to an investigation by the Fisheries Compliance Unit, which found serious instances of fraud and which resulted in charges being laid. Subsequently, during negotiations between the various fishery management committees and the fisheries services department of PIRSA, as part of the funding cycle in those negotiations it came to light that the investigation had blown out the compliance budget by approximately $900 000. In other words, the extra investigation of those allegations of quota fraud and the eventual laying of charges had been costed at approximately $900 000.

The southern rock lobster industry refused to accept responsibility for that cost and so, as far as I can get advice, the money was found by cutting allocations to other sectors of the industry. For example, I have been informed that the abalone sector had around $450 000 taken from its funding, and all other sectors lost commensurate amounts. However, it is not clear whether additional funding was found from other government sources. However, what is clear is that, since 1997-98, the year in which the fee for service was introduced, the number of compliance officers has been cut by approximately 11 full-time positions, and it could be assumed that this was partly as a result of the very heavy cost factor in the funding of the southern rock lobster fraud incident. My questions are:

1. Will the minister confirm that the figure of approximately $900 000 was the cost of the investigation and other charges related to that investigation?

2. If that figure is correct, did the government meet the cost by drawing funds from other industries or were the funds drawn from outside the fishing industry or a mixture of both?

3. As I am advised that the funds were drawn from outside the rock lobster sector, what plan does the minister have to adjust the financial contribution of the southern rock lobster sector to more accurately reflect the call that sector made on the industry and/or public funds?

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

DRUG COURT

In reply to **Hon. T.G. ROBERTS** (7 November 2000).

The Hon. K.T. GRIFFIN: I have been advised of the following information as at 6 December 2000:

1. Of the 170 people who have been assessed for eligibility for participation in the Drug Court trial, fifteen have been either Aboriginal or Torres Straight Islander decent; and

2. Of the 170 people, eighteen individuals have been identified as having the dual problem of alcohol and drug abuse in addition to a mental health disability.

3. SAPOL is currently training all operational police regarding the philosophy behind the diversion process, the legislative aspects of the Police Drug Diversion Initiative and the protocols for interaction with health providers.

LAND AGENTS

In reply to the supplementary question of **Hon. P. HOLLOWAY** (7 November 2000).

The Hon. K.T. GRIFFIN: The honourable member has asked, by way of a supplementary question regarding the National Competition Policy Review of the Land Agents Act 1994, whether I would place 'on hold' the Commissioner for Consumer Affairs' registration function under the Act in relation to applications for land agent registration received from those who hold legal and appraisal qualifications.

I note that I had been asked this same question by the Real Estate Institute of South Australia Incorporated; they too have sought a 'hold' on the exercise of the commissioner's registration function pursuant to my powers under section 5 of the Land Agents Act 1994 to control and direct the commissioner in the administration of the Act.

In addition, the Real Estate Institute had also written to the commissioner requesting that he not exercise his registration function pending the review panel's consideration of the Real Estate Institute's supplementary submission on the 'legal qualifications' recommendation.

Having considered this matter and consulted with the commissioner, I concluded that it would not be appropriate for such a direction to be given to the commissioner, either in relation to individual applications for registration or in a more general sense. The accepted convention is that the power of 'control and direction' does not extend to the consideration of individual decisions, but rather to issues of general policy direction.

However, this is not a case of general policy direction; the commissioner has a statutory obligation to consider each and every application. A failure to do so could result in judicial review proceedings being commenced by an applicant seeking to compel an exercise of the discretion expressly conferred by parliament on the commissioner.

When assessing an application for registration lodged by a person with both legal qualifications and appraisal competency, the commissioner must assess that application on its merits. I note that principles of administrative law require that in doing so the commissioner must consider all relevant facts and circumstances and to exclude from his consideration anything irrelevant. To act in any other way would amount to the commissioner fettering the discretion given to him by parliament and therefore failing to discharge the responsibilities imposed by the act on the office of commissioner.

As I intimated, I referred this question to the Commissioner for Consumer Affairs for consideration. The commissioner has advised me that he has no power to prevent the lodgement of an application made in reliance on the provisions of any of the parts of section 8 of the Land Agents Act 1994, and he is obliged to deal with each and every application received on its own merits in the manner in which I have just described.

Honourable members should be aware that the National Competition Policy Review of the act has not made any difference to the existing statutory powers of the commissioner to recognise appropriate alternative qualifications under section 8(1)(a)(ii). The review simply noted the qualifications that the review panel considered analogous to traditional qualifications. In this regard, the 'legal qualifications' recommendation of the review is not a binding decision, or indeed a decision of any kind, but rather is simply a matter which the commissioner is entitled to take into consideration when exercising the existing discretionary power.

Nonetheless, the commissioner has further advised that should an application for approval of alternative qualifications be lodged prior to the outcome of the Review Panel's consideration of the supplementary submission, he will be required to consider whether, in the context of that application, the fact that the review panel is reconsidering the issue of legal qualifications is a relevant factor.

Therefore, it would be inappropriate, and contrary to the express will of the parliament, to place 'on hold' or fetter in any other way the Commissioner for Consumer Affairs' registration function under the Land Agents Act 1994.

BUSES, COUNTRY

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 regional bus services.

Leave granted.

The Hon. J.S.L. DAWKINS: I am aware that the Bus and Coach Association of South Australia held its annual conference at Hahndorf last week. I understand that the conference included the launch of a new marketing campaign, Bus SA, through which bus and coach operators will promote services to the local community and tourists in a coordinated manner. My questions are:

1. What, if any, involvement will the state government have in this campaign?

2. Is the minister's expectation that this campaign will encourage more people, both from regional areas and from the metropolitan area, to use regional bus services?

3. Does the campaign include a component that will assist local coach and bus service providers to work with tourist operators in the development of new travel packages?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The government has invested $150 000 in this campaign. These are new funds provided through the Passenger Transport Board this financial year and, over the course of the year, the PTB has been working with the Bus and Coach Association to prepare this marketing package. The government some years ago agreed that the service contract areas for the delivery of regional bus services between the regions and Adelaide should remain as the exclusive operation of the company that won that contract area, but that exclusivity does not mean that it is a licence to print money.

The bus business is very competitive, and the chief competitor is the motor vehicle. In terms of interstate buses, it may well be that these days Virgin or even Impulse will provide stiff competition between Melbourne and Adelaide or between Adelaide, Sydney and Brisbane to the services traditionally provided to bus passengers. So, it is a very competitive environment for the regional and intrastate bus sector.

Therefore, the government believes very strongly that marketing must take place, particularly in terms of the viability of the bus business in South Australia's regional areas, but we also maintain strongly that the bus business in South Australia's regional areas has never realised its full potential to make a strong role for itself in regional tourism. The honourable member would know that probably the only good thing about the rate of the dollar at the present time is that there are fewer South Australians and Australians generally travelling overseas.

The South Australian Tourism Commission is to be commended for its strong campaign to promote South Australians to travel to and enjoy holidays within South Australia and, likewise, for people from interstate to travel to South Australia. In such instances, the bus business to regional areas is a really important means of getting people to regional South Australia, to experience and enjoy much that we have to offer in tourism terms.

It is also a very special market for the backpackers and younger people who come from overseas to South Australia. We believe that the bus business can play a much greater role in tourism in South Australia and, with the PTB, are encouraging the intrastate bus businesses to look at how they can develop packages for customers that would give the bus customers benefits in the towns. For instance, in the Riverland, whether it be with accommodation, at the local pub, at the local store or on some of the paddleship rides, they could give a reward to bus passengers for having travelled by bus to those specific regional locations.

In addition, we are giving to the coach industry through this $150 000 package packs called 'The Adelaide Welcome Pack' which can be distributed to help bus passengers and visitors to the state to understand and to encourage them to use the Adelaide public transport system. This package has been developed with industry, and it would be my wish in future years to see that the government does not totally pay for all elements of the marketing campaigns but that we see a contribution from the bus business, particularly as it leverages support from towns and businesses in regional South Australia, because they all have a common interest in getting more people to visit regional South Australia and a great interest in seeing more people spend more money in those areas.

MOTOR REGISTRATION ADVERTISING

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about private sector use of registration renewal notices to encourage credit debt.

Leave granted.

The Hon. CARMEL ZOLLO: Private sector advertising flyers have been inserted in SA motor vehicle registration notices for a number of years. However, I recently had drawn to my attention a brochure entitled 'We Loan U' from GE Finance and Insurance inviting South Australians to take out personal finance to pay for their registration insurance renewals. The brochure says, 'Now you can pay your rego and insurance with a personal loan from us.'

The Hon. T.G. Roberts: And petrol.

The Hon. CARMEL ZOLLO: It could be soon. GE Finance and Insurance further claims to be known for giving people a go and specialises in small balance loans of $500, $1 000 or $1 500. Whilst the brochure quotes that the interest rate (annual percentage rate) applicable will be determined on the basis of individual rating and amount borrowed, my inquiries revealed that an indicative interest rate is around a staggering 25 per cent per annum. This amount is almost twice the rate applicable to most credit cards that Transport SA already accepts. On the rear of the glossy brochure is a disclaimer in tiny type face which states:

> The Government of South Australia and Transport SA do not warrant, endorse or recommend any of the goods or services advertised in this material.

Despite this, some constituents have expressed their concern that Transport SA could be seen as encouraging people who are most likely already stretched to their financial limit to apply for credit at what appears to be an exorbitant rate in order to renew their car registration. My questions are:

1. In light of the already massive levels of consumer credit debt in Australia, will the minister ask Transport SA to cancel the insertion of this brochure in renewal notices and instead provide consumer advice to assist those who have difficulty in paying fees?

2. Does Transport SA receive commission on any loans granted by GE for consumers to renew their registration?

3. Does Transport SA have guidelines to stop misleading or other material which may not be in clients' best interests being included with registration and licence renewals or is all advertising accepted?

4. What personal information is made available by Transport SA to private companies to encourage them to advertise in this manner?

5. What is the approximate amount of revenue raised annually by Transport SA?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): This initiative of registration and licensing of including advertising material in envelopes that also contain registration renewal notices was introduced by the Labor government, as I recall, as a money raising effort, and it certainly has been continued by this government. I recall that it raises about $1 million a year, which goes

immediately into the Highways Fund, which is dedicated for road construction and maintenance purposes. I am not aware that the policy that registration and licensing developed back in 1991 when Mr Blevins was Minister for Transport has changed over this past decade, but I will have that checked.

There are certainly some strict guidelines on the material that could be considered for inclusion in the renewal of registration envelopes. As I mentioned, about $1 million has been received as commission by Transport SA for the insertion of this material. It sounds rather horrible that there would be any notion that Transport SA would also get a commission on the product. That has never been suggested to me, and I have never seen any income line in Transport SA or Registration and Licensing that would ever suggest such an enterprise. However, I will make inquiries.

The honourable member has asked a number of questions. I could not note them all, but I will seek advice and bring back a prompt reply. I add in conclusion that it is expensive to operate a motor vehicle. There is not only the price of petrol and registration but the cost of proper maintenance of the vehicle. I caution anyone against ever contemplating raising funds to pay for registration. There are alternatives to the operation of a personal vehicle, and I encourage people to look at those alternatives if they are stretched for funds to the degree that they would have to raise money to pay for their registration. If they are doing that, I question whether they are also providing sufficient money in their budget to maintain the vehicle to a safe standard, but that is a question for another day.

TREES, SIGNIFICANT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question in relation to significant trees.

Leave granted.

The Hon. M.J. ELLIOTT: The minister introduced significant trees legislation into the parliament last year which I think received support from all parties. I have received recent reports that a number of councils believe that they simply cannot get their significant tree register together in time for the 1 July deadline. I understand that a number of them have formally approached the minister and that seven or eight councils are expressing some concern.

Some councils such as Mitcham have a problem with there being so many trees that it might take them a decade if they have to list them all individually. They have gone along another path and, rather than listing individual trees, they have tried to describe areas containing such trees in other ways. However, they do not know at this stage whether or not the approach that they have adopted will be accepted by the minister.

Another matter that has come to my attention in relation to significant trees is that the minister's transport department is currently proposing to fell at least 20 trees on the edge of Belair National Park that would be covered by this legislation. These trees are on the roadside but directly adjacent to Belair National Park. They include mature blue gums and box trees, and they are to be removed to install some sort of a passing lane. This is causing some concern in the hills. I ask the minister:

1. Will she indicate whether or not she is entertaining granting extra time beyond 1 July in this interim period, which extends legislation to trees below a 2½ metre girth and, I think, down to 1½ metres?

2. What is the minister's thinking in relation to the approach that is being adopted by the Mitcham council?

3.Will the minister tell us what alternatives are being investigated other than the knocking down of 20 mature trees adjacent to Belair National Park to put in a passing lane?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will make inquiries of Transport SA in regard to the Belair roadside trees. In terms of the legislation relating to significant trees, it is correct that all members in both houses gave excellent support for its passage. The legislation ultimately passed by the parliament was broader than that recommended by the task force which was established by the government and which defined a significant tree as being 2.5 metres in circumference. The trees to which the honourable member is now referring and which are the subject of council correspondence to me are in patches of native vegetation in areas not covered by the native vegetation law—therefore, native vegetation in metropolitan Adelaide—and trees of 1.5 metres in circumference and above.

I am not entertaining an extension to the July deadline. I have had discussions with some councils about this but I have not formally corresponded with them, because this was not an agreed position by the task force: it was something that we, in the parliament, determined later. Because of the issues with local councils and others, I think councils knew of the difficulties involved in extending the legislation to trees of 1.5 metres to 2.5 metres in circumference. Therefore, unless I get much more persuasive evidence of the diligence with which councils have undertaken their registers, I will not be entertaining an extension of the time limit with interim controls.

If the councils give me more evidence of their diligence and if the task still is beyond their means, I might change my mind. However, I do not have that evidence at the present time—that they moved quickly knowing that there was a one-year interim control in place.

MATTERS OF INTEREST

DISABILITY SERVICES

The Hon. R.D. LAWSON: Yesterday in the adjournment debate in the House of Assembly, the opposition spokesman on health, aged care and disabilities, Ms Lea Stevens, the member for Elizabeth, made what she I think would have perceived as an attack upon the disability services framework that was recently launched by me. The Disability Services Planning and Funding Framework for the next three years is an important and innovative document, one of which I am particularly proud. However, the honourable member complained that this document had taken seven years to develop after the passage of the Disability Services Act 1993. The honourable member completely misunderstands the function of the disability services framework and her criticism of it is entirely misguided.

In her contribution, Ms Stevens said that the minister told 300 people present at the launch that the framework could be changed if required. It was of some interest that the opposition spokesman was not present at the launch (although

invited to be present) and had not made any contribution to the development of the framework, notwithstanding the fact that it was extensively consulted upon over quite some time across the whole sector and notwithstanding the fact that I personally invited submissions to be made in relation to it. All we get from the opposition is criticism but certainly no positive or constructive suggestions.

Criticism was made—entirely misguided criticism—that this framework is not backed by any practical policy or funding plan. I need hardly remind the Council and the opposition that, under this government, funding for disability services has significantly increased. Indeed, in this past year alone, an additional $10 million for disability services has been invested in this state—$6 million solely from state government sources, with another $4 million from the federal government. Funding for disability services is at a record level. So, it is entirely misconceived by the opposition to say that this is a services framework that is not backed by any term of funding.

Somewhat curiously the opposition spokesperson then goes on to criticise this framework on the basis that most of it is taken allegedly from Labor Party disability policies. Well, I had a look at the Labor Party disability policies and it is true that they contain a lot of motherhood statements and not much of a blueprint for practical action, but it is quite wrong for the honourable member to describe this framework in those terms, because it is a unique way of redistributing resources in a changing environment. It is a policy which has been very warmly received by all in the disability sector and it is, as I mentioned before, a blueprint for the future.

The piece de resistance in the honourable member's contribution was that, in criticising it, she said that most of it has been lifted from Labor and speeches and commitments made by Labor in the past. She says, 'This document is a load of pre-election waffle.' So, in describing this document as 'pre-election waffle', she is describing her own statements on the subject as pre-election waffle. I suggest that the honourable member get another speech writer. The source of this diatribe will be obvious to anyone with any familiarity with the disability sector. Talk about being savaged by a wet lettuce!

This framework outlines significant achievements and significant contributions. It does not bother to highlight the neglect of disability services by the Labor Party whilst in government until 1993; nor does it mention, as it well could have, Labor's grave neglect of the Home and Community Care program which assists people with disabilities.

Time expired.

FOLIO/FOLIAGE BOOKSTORE

The Hon. CAROLYN PICKLES (Leader of the Opposition): I wish to make some comments about the issue of censorship. On 8 January this year, two detectives visited the Folio/Foliage bookstore in Hindley Street. This is a very high class bookshop that sells predominantly art books and gardening books, and contained in the same area is a very good flower shop. These two detectives wandered around the store and were asked by the owner whether she could help them. They said, 'No, we are just having a look.' Finally, they went up to her and told her they were detectives and said that they had received one complaint about a photographic book.

The police searched for this unknown book—they did not know its name or what it looked like. With the help of the owner of the shop, Penelope Curtin, they thought, but were not sure, that the publication they were looking for was a book of photography by the renowned, since deceased, American artist, Robert Mapplethorpe. Robert Mapplethorpe has held many exhibitions in Australia, including a very successful one at the Museum of Contemporary Art in the early 1990s which I attended. While I will admit that his work is very confronting and is not to everybody's taste, it was certainly not banned. I understand that the National Gallery in Canberra and the National Gallery of Victoria have works by Mapplethorpe. I have also been told that the Art Gallery of South Australia has sold this book in the past. Upon examination of the book, it was confiscated by police to enable further examination on the basis that perhaps the material was too explicit and pornographic. I might add that this book costs $145, was on the top shelf of the book shop and would have been absolutely inaccessible to any child.

Miss Curtin told the police that she understood that the book had already been deemed suitable for public display and sale. At that stage the commonwealth censor had passed the book called *Pictures for Sale:* it had not been viewed by the South Australian Classification Council, as that body usually waits for a public complaint before reviewing a decision of the commonwealth censor. The police, who under the act have the power to confiscate the book, then requested the federal body to examine it. I understand that on 18 January 2001 the book was given an unrestricted classification. However, the police in this state were not content with this decision and sought to have it reviewed, as is their entitlement under the act. One must look at the act because I believe that complaints by one person are not sufficient.

The second hearing was held on 2 March 2001 and the South Australian police were represented by three solicitors; the managing director of Tower Books was also represented at the meeting; and the book was given a restricted licence. Miss Curtin has yet to be formally advised of this decision: three months after this saga she has yet to have the book returned to her. I understand that South Australia will now be the only place in the world where the book has a restricted licence.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: Well, someone who does not have anything better to do. I think the comments made by the Minister for the Arts in relation to the police department (and I may be quoting her slightly inaccurately here), according to the newspaper columnist, are relevant: she said, 'The police should get a life', and that is my view, too.

Certainly, under the act the police have the right to do this, but I would question the way they went about it. They had no complaints about any specific book. I invite anyone to walk into this store, because it would be obvious to anyone walking in that it is not a sleazy bookshop: it is a very high class one. It is located in the arts precinct and has been strongly supported by the minister and the government of this state, and Miss Curtin—

An honourable member interjecting:

The Hon. CAROLYN PICKLES: Well, the police still have the book and I am sure that they have had a jolly good look at it. It is the only book of its kind that Miss Curtin has in her store—

An honourable member interjecting:

The Hon. CAROLYN PICKLES: Yes, indeed. One might ask that there be better use of police time when one considers the crime in this state. I abhor the actions of the police department.

Time expired.

WORLD WAR I CASUALTIES

The Hon. L.H. DAVIS: Recently I attended the opening of the travelling exhibition hosted by the Australian War Memorial entitled '1918—Australians in France', which is displayed at the Maritime Museum in Port Adelaide. It brought home to me the horror of the First World War. By the end of the First World War in 1918 it is quite probable that every Australian town had experienced the loss of someone in the community. Of the 416 809 Australian men and women enlisted, 61 720 died—an enormous figure; 46 000 of those died on the Western Front, mainly in France but, of course, some in Belgium. In addition, 155 133 were wounded. Over 45 000 men died in France alone. Thirty-five thousand from South Australia enlisted and 27 700 of this number served overseas.

If one looks at those statistics one sees that one in six or one in seven of those who enlisted paid the ultimate sacrifice. There were 5 649 South Australians killed in World War I. In fact, an average of 38.7 per cent, or more than one in three males in the age group 18 to 44, enlisted, which means that in the 1914-18 war about 6 per cent of all men aged between 18 and 44 died: one in 16 in that age group paid the ultimate sacrifice and an enormous number were wounded.

In 1917 the Australians were heavily engaged along the Western Front in the great battle of the Menin Road offensive. In November 1917, for the first time the five divisions from Australia were formed into the Australian Corps and Lieutenant General Sir John Monash was brought in to command them in May 1918.

In March and April 1918, the Australian Corps took a dominant role in preventing the capture of Amiens, Villers-Bretonneux during the German offensive. The Australian Corps was also engaged in desperate battles at Mont St Quentin and the penetration of the Hindenburg Line. As I have said, these were desperate times and one only has to consider the battlefield of the Somme in 1918, where between April and September—just five months—10 439 were killed in action, died of wounds or died because they were gassed. The number of wounded and prisoners of war amounted to a staggering 40 420.

The French Prime Minister, Georges Clemenceau, went to the headquarters of the Fourth Australian Division in recognition of their key role in helping liberate them from the German invader, and he thanked the Australians personally for their sacrifices for his country. He told them this:

> When the Australians came to France, the French people expected a great deal of you. . . We knew you would fight a real fight, but we did not know that from the beginning you would astonish the whole continent. . . I shall go back tomorrow and say to my countrymen: 'I have seen the Australians. I have looked in their faces. I know that these men. . . will fight alongside us again until the cause for which we are all fighting is safe for us and for our children.'

It is interesting to reflect on those times, nearly 90 years ago, and to remember the hardship, the grief and the loss suffered by so many Australian families. I urge honourable members to see this extraordinarily fine travelling exhibition, '1918—Australians in France,' put on by the Australian War Memorial.

THERRY DRAMATIC SOCIETY

The Hon. CARMEL ZOLLO: As members of parliament, we all regularly receive invitations inviting us to attend drama productions by the Therry Dramatic Society. I recently attended the society's production of the *Night of the Ding Dong*, described as a home-grown comedy staged especially this year when we celebrate our Centenary of Federation. The play was written by Ralph W. Peterson and is based on true events in colonial Adelaide in the late 1860s.

The play tells the story in a light-hearted and humorous manner of the leader of the Free Rifles and Legislative Council member, Colonel Beauchamp. A rather ineffective Colonel Beauchamp attempts to protect the fledgling colony when it is believed that a Russian gunboat has attacked Adelaide. The story is centred around the fortification of Glenelg. In fact, Glenelg was considered at the time to be a secondary target and, whilst a fort was intended, it was never actually built. However, I understand that guns were purchased in the late 1880s and were for their time sufficiently advanced to have deterred bombardment.

The excellent cast provided a wonderful evening's entertainment—and, for the record, whilst Colonel Beauchamp's direct behaviour hopefully bears no resemblance to any past or sitting member of this place, the political scene as such has changed little. Self-interest lobbying and egocentric behaviour are consistent human traits.

The Therry Dramatic Society was established in 1943 and is known as Adelaide's Catholic theatre, although it is open to everyone. It is acknowledged as Adelaide's best value live theatre because costs are kept to a minimum and tickets are very affordable. The society, founded by George Duke Walton, was established in several states and is named after Father John Therry, a pioneer Catholic priest in Australia. South Australia is now the only state that still runs a theatre.

At different times the society has been based in various locations, but for the past five to six years the home of the Therry Dramatic Society has been the Arts Theatre. Productions commenced in the then Australia Hall, which is now known as the Royalty Theatre.

For those interested in both history and the theatre, Bernard John Moriarty has written an excellent book, *Fifty Years of Therry 1943-1993*. Mr Moriarty has been associated with the society for over 50 years, serving in a number of positions, and he has continued his membership to the present-day. His book chronicles the history, productions of the society and also the actors and actresses in their productions from 1944 to 1992. So many members of the Adelaide amateur theatre community and professional theatre are represented in the book. In fact, I noticed names like Patricia Pak Poy and Dennis Olsen.

The first life membership of the society was presented to Claire Leahy OAM in December 1992 for her 40 years of outstanding service to the society. The society is a non-professional or amateur theatre company that has provided a forum for so many actors, both at the professional and amateur level. It provides excellent grounding and training in amateur theatre. Live theatre as a form of artistic expression is very important in our community, and it is a wonderful form of entertainment. The art form is as old as civilisation itself—often allowing us to express the emotions and values that would not otherwise find expression in a 'correct' world.

I congratulate everyone involved with the society, especially the active membership, all of whom contribute in the various aspects of production, ranging from acting, costume to front of house. At the moment the society is headed by president Jill Bartlett, vice president Claire Leahy, auditions Julia Whittle and secretary Bronwynne Sholl. I understand that for the past five years the council of the society has been an all matriarchal one with, I am told, budgets balancing.

My special congratulations go to Loriel Smart for her direction of the *Night of the Ding Dong*. Seeing part of South Australia's colonial history depicted in a lighthearted and colourful manner in the year we celebrate the centenary of Federation was a great evening's entertainment. I urge all members to support the Therry Dramatic Society by regularly attending its productions.

NATIVE BIRDS

The Hon. M.J. ELLIOTT: I address the issue of bird populations and bird culling in the Mount Lofty Ranges. This issue has been with us for the last two summers following the decision of the former environment minister (Dorothy Kotz) to repeal the permit system for culling parrots in the Mount Lofty Ranges. The new minister allowed that to be extended through the most recent summer, and that culling is going on right now. A very conservative estimate suggests that 45 000 native birds were killed in South Australia in 1999-2000, and that is based solely on questions put to 231 fruit growers. It is quite possible that the numbers are much higher, and one would assume that similar numbers have been shot this year.

I am not sure that this is a reliable measure, but I usually have a number of rainbow lorikeets in my garden at this time of year, but this year there are only three or four of them. They are also far more secretive in their behaviour. They usually sit around the edges of the trees but now they are sitting in the core of them, so there has been a modification of their behaviour.

The Hon. R.D. Lawson interjecting:

The Hon. M.J. ELLIOTT: That is anecdotal but, despite the minister's interjection, nobody has accurately assessed the numbers that are being shot. Nobody knew what the bird numbers were before the shooting started, and that is an important point. The minister might not like anecdotal evidence, but there is no evidence other than anecdotal evidence right now as to what is happening to these bird populations.

We cannot be blasé and say that there are large numbers of these birds. Those members who have done some reading might have heard of a bird called the passenger pigeon. In the United States these flocks contained millions of birds, yet they disappeared within 10 years. Because the flocks were so large, it took half an hour for a flock to fly overhead and apparently the whole sky went black because there were so many of them. They disappeared over a 10-year period. It is possible for what seem to be quite numerous bird species to disappear extremely rapidly.

The Hon. R.D. Lawson: Not by shooting.

The Hon. M.J. ELLIOTT: It was shooting that wiped out the passenger pigeon. The minister is not widely read. It is worth noting that a paper was released by Professor Hugh Possingham last year about the populations of animals in the Mount Lofty Ranges. It noted that it is believed that some 50 land bird species currently in the Mount Lofty Ranges are likely to be extinct within the next 20 years or so. So far we have lost only 10, but he predicts that another 50 will be lost. He does that on the basis of the theory of island biogeography and, if members are interested, I can give them a more detailed paper on that.

If there is a series of isolated populations, which is the case in the Mount Lofty Ranges because of the way in which the national parks are set up, there is a real danger that the populations being isolated will inbreed. Another danger for a parrot that lives or breeds in a national park is that, if it happens to leave the park to feed, it will be shot out of the sky. Even without shooting, we could see some 50 bird species disappear.

That is one of the reasons why I was extremely cynical when, on the weekend, the environment minister announced the Mount Lofty Ranges Greater National Park, which did nothing to provide any new protection for any native habitat.

The Hon. P. Holloway: It could well mean less in some areas.

The Hon. M.J. ELLIOTT: Yes, that is right. I understand that a long-term goal is to bring some SA Water land into national parks. At the moment the public cannot go into SA Water land so it probably has a higher level of protection than the national parks, which we know the government of this state does not mind putting mines into.

The Hon. T.G. Roberts: The minister was after protection.

The Hon. M.J. ELLIOTT: The minister was after protection, and that is the major issue. I understand that the parks are to be linked with bicycle tracks and walking paths, so perhaps the parrots can hop on a bike and ride from one park to another, pedal low and try to keep out of sight of anybody with a gun. It was something of a stunt and, if it was not a stunt, the minister could prove it by bringing new land into national parks and causing revegetation work to occur to produce the wildlife corridors that get rid of isolated populations. He should also introduce a program of management of bird species that would include planting species that these parrots usually feed on. Eucalypt flowers provide the usual feed for many of these parrots.

Time expired.

GLENELG CROQUET CLUB

The Hon. NICK XENOPHON: I rise to speak about the Glenelg Croquet Club, which has existed since 1902, virtually since Federation. It has used the same lawn on Brighton Road since 1906 and it faces extinction as a result of the actions of the City of Holdfast Bay. Until recently the club had a membership of only 30 with an average age in excess of 60 years. The club has found it very difficult to fight a decision of the City of Holdfast Bay, which, in its lack of wisdom, decided that the priorities of the Glenelg Football Club with respect to a redevelopment proposal exceeded those of the Glenelg Croquet Club and all its history and heritage. This is very much a David and Goliath struggle and I hope that the croquet club will succeed against the interests of the Glenelg Football Club.

My involvement in this issue occurred as a result of representations from members of the club who saw me at the beginning of this year and who had given up every avenue of hope in terms of reversing a decision made by the City of Holdfast Bay to demolish the club to make way for 72 car parks as part of the Glenelg Football Club redevelopment. That redevelopment includes as an integral part of its financial plan a proposal that, in order to fund this $2 million

redevelopment of the football club, the poker machine turnover will need to increase by $2 million a year.

Peter Goers, the *Sunday Mail* columnist, recently wrote the following:

> How much more of our heritage will be sacrificed for soulless car parks? . . . We lost the world famous Theatre Royal in Hindley Street to the ugliest possible car park in 1962 and now we may lose historic croquet lawns for a car park. . . Hopefully the unions will put a green ban on the site in the manner of those so well and wisely applied by one of the great heroes of Australian conservation, Jack Mundy. The Glenelg Croquet Club is about to become the mouse that roared.

We need to pay tribute to Jack Mundy because, if it had not been for him in the 1960s, the historic Rocks area in Sydney would have been demolished. Clearly he is on the radical left of politics, but if it were not for his intervention and the green bans, the historic Rocks area of Sydney—all that heritage and history—would have been lost. That is one case where a union acted in a manner that has shown with the benefit of hindsight to be very much in the public interest, something that all political parties would agree today was very much an act of vision on the part of Jack Mundy.

A public meeting was held on 1 March, which I attended with a number of speakers. Notwithstanding that it was the night of Sir Donald Bradman's funeral, 300 people were in attendance. The Reverend Tim Costello flew in from East Timor. He changed his travel plans to attend the public meeting and it is worth quoting what he said about this struggle, as follows:

> I also guess I am here because I am one who believes the sorts of norm, the belief structures, the values, the—to use a big word—plausibility structures that have been so dominant in our culture are at last being resisted. The norms that say if you can't measure it, it is not real. What? Only 18 playing, only 30 playing, and the average age is 60? Surely they don't expect their interests to outweigh 100, 200, whatever it might be in terms of the numbers that will come and support cricket and football, tens of thousands maybe.
>
> Nor does it say that unless there is a dollar figure as the bottom line, then well, it's probably illusory, it probably does matter, it can be relocated. Norms that in this country, unfortunately, have seen us divide with; globalisation, economic rationalism, neoliberalism, call it what you like, divide our community into two groups, those who are winners and those who are losers.

He goes on to say that the Mayor, Brian Nadilo, said that there had to be losers and that the croquet club lost. Tim Costello responded:

> Let me say that I think that we are finally raising our voice in this country to say, this country which actually defines its cultural identity in terms of a fair go for all, wants to resist these categories of winners and losers.

GRANTS WEB SITE

The Hon. J.S.L. DAWKINS: During my time in this Council and during earlier years working for federal MPs I have received regular requests for information about the availability of a range of government grants. Indeed, I would be surprised if all other members of this chamber had not had similar experiences. I am pleased to report that the information for community groups about accessing government grants is now available via the internet, thanks to a joint initiative of the state government (through the Office of Regional Development) and the Local Government Association.

The new web site, www.grants.ord.sa.gov.au, will help community groups to search for grants offered by all three spheres of government. The site was jointly launched on 2 March by the Deputy Premier and Minister for Regional Development (Hon. Rob Kerin) and the LGA President (Mayor Brian Hurn). The launch coincided with meetings of both the Regional Development Council and the Regional Development Issues Group at Kadina. This service makes access to grant information as simple as logging onto the internet and following the prompts.

The web site delivers a database that provides a comprehensive review of the full range of grants available from local, state and commonwealth governments. In addition, the details of private sector grants are provided. As you, Mr President, would no doubt be aware, the report in 1999 of the South Australian Regional Development Task Force identified the need for a comprehensive grants site when examining the difficulties facing regional communities in accessing appropriate sources of funding. The need for such a register has been endorsed by the Regional Development Council, while members of the Regional Development Issues Group have assisted the Office of Regional Development in this site's development.

This site, with the assistance of the South Australian Council of Social Service (SACOSS), will provide a generic guide on how to write a grant application and give examples of the types of projects that are being funded in regional Australia. It will help South Australians make the most of the opportunities available to them. Councils have supported the site's development, and information about their own particular community grants are included thereon.

Councils will also find it useful to access information about state and federal grants and to assist community groups to do so. This initiative, which has been assisted by the Local Government Association's research and development scheme, will also allow people to register on the web site so that they can be notified as new grants are added. The web site also provides useful suggestions for rural and regional businesses seeking to research and identify their own private sector finance options, how to raise finance, the most appropriate sources of finance for a particular venture, and where to begin looking for debt or equity finance.

Non-government organisations can also become involved in the project by registering their details on the site, if they provide any kind of direct or indirect assistance to business, the community or local government.

DIGNITY IN DYING BILL

The Hon. SANDRA KANCK obtained leave and introduced a bill for an act to provide for the administration of medical procedures to assist the death of patients who are hopelessly ill and who have experienced a desire for the procedure subject to appropriate safeguards. Read a first time.

The Hon. SANDRA KANCK: I move:

That this bill be now read a second time.

I have been a member of this parliament for more than seven years, but today is the proudest moment of that time. Today I am introducing my Dignity in Dying Bill which, if passed, will allow access to voluntary euthanasia for hopelessly ill people who make a request for it to be carried out. When a majority of members of the Social Development Committee recommended to this parliament that voluntary euthanasia legislation not be proceeded with, I told the media that this issue would not go away, and that I would ensure that it would not. Today I am keeping my promise.

Voluntary euthanasia is an idea whose time has come, and progress is being made around the world. It is arguably the foremost social issue facing us as politicians. The great majority of the public—almost 80 percent in South Australia—want such legislation passed but, so far, the majority of politicians have ducked for cover. In other jurisdictions, some have exhibited courage, however. Although truncated by a reactionary federal parliament, the Northern Territory was the first place in the world to have legal voluntary euthanasia.

In Western Australia, the Democrats' Norm Kelly has introduced voluntary euthanasia legislation on four occasions, and in New South Wales the Green Party's Ian Cohen has announced his intention to introduce voluntary euthanasia legislation into that parliament. I will speak a bit more about the South Australian history in a moment.

Internationally, the State of Oregon in the United States has its Physician Assisted Suicide Act. This allows doctors to prescribe medication, leaving the patient to decide, first, whether to have the prescription filled and, secondly, if they do that, whether or not they will take the medication. This is regarded as the most forward legislation in the United States.

For years in the Netherlands voluntary euthanasia has been accepted in a framework which deemed it a criminal act but which was not prosecuted if it was carried out within a certain set of guidelines. That country is currently putting the finishing touch to legislation that will see legal voluntary euthanasia from next month. However, developments occur in unexpected places. Who would expect that the Republic of Colombia—a country that has a population of which 95 per cent are Roman Catholics—would be setting an example to other jurisdictions?

Last year's World Conference on Assisted Dying held in Boston in the United States, which I attended, heard a presentation from the Hon. Mr Carlos Gavira, Chief Justice of the Republic of Colombia Constitutional Court. On 28 May 1997 the full bench of the High Court of the Republic of Colombia unanimously determined that the state could not outlaw assisted dying for a mentally competent, terminally ill adult, nor impose a penalty on anyone who aids that person out of mercy. The court instead determined that the Colombian Constitution justifies intervention in dying. According to Mr Gavira the court found this way for a variety of reasons which include:

1. The individual is autonomous.

2. A pluralistic society implies there will be varying meanings to life. For some but not all life may be sacred. Both Socrates, who died for his right to question ideas, and Jesus Christ, who died for the sins of others, demonstrated that clinging to life is not the only alternative.

3. People can freely choose between life and death.

4. Life is a right and not a duty.

5. There is a basic human right—the right not to be forced to suffer—and a person assisting someone to die in these circumstances is removing unwanted suffering.

Such views, of course, hold equally well in South Australia as they do in the Republic of Colombia. Although Colombia's High Court threw down the challenge to the legislators in 1997 to follow up their ruling with appropriate legislation, they have failed to do so. The reluctance of legislators to tackle the issue of voluntary euthanasia appears to be a world-wide one.

I now turn to the history in South Australia, where there have been two previous voluntary euthanasia bills. Back in 1995, after six months of debate, the Consent to Medical Treatment and Palliative Care Act 1994 was passed. Some in this chamber who argued against it are now supporters of it. The act is not, I stress, a voluntary euthanasia one, but it does ensure that a patient can refuse medical treatment which they regard as intrusive, burdensome or futile and, under section 17 of this Act, if with the patient's consent a doctor administers treatment as symptom relief which has the side effect of hastening the patient's death, action will not be taken against the doctor. This practice is known as terminal sedation and produces something called double effect, about which I will speak later.

Meanwhile, back in 1993 the South Australian Voluntary Euthanasia Society (SAVES) began preparing a draft bill under the guiding hand of Mr Eric Garget, whom I acknowledge for his tireless contribution in ensuring that this issue is back on the agenda today. But out of the blue a bill appeared in March 1995, introduced to the House of Assembly by the member for Playford, Mr John Quirke. It was the first voluntary euthanasia bill to find its way into the parliament and it was, sadly, soundly defeated 30 votes to 12 some four months later. That bill strictly limited the opportunity to request voluntary euthanasia to those who were suffering from a terminal illness that was likely to cause death within 12 months. Unlike the Consent to Medical Treatment and Palliative Care Act, it contained no provision either for advanced requests or for the appointment of a medical agent.

Meanwhile, the work being done by SAVES with its draft bill continued and it was taken up by the Hon. Anne Levy when she introduced its bill into this chamber in November 1996. That bill did contain advance request and medical agent provisions. It passed the second reading stage with the votes of some in this chamber who are opposed to voluntary euthanasia but on the condition that it go to a select committee. The committee was formed, its existence and terms of reference were advertised around Australia, written submissions were solicited and received, a research officer was appointed, and then a state election was called and the committee was no longer in existence. So, when the new parliament was formed, the Hon. Carolyn Pickles moved to set up a new committee with the same terms of reference, but a majority in this chamber amended her motion, voting against the wishes of the mover and referring the bill instead to the Social Development Committee. Given the make up of the Social Development Committee, it was widely anticipated that the committee's final report would come out with recommendations against voluntary euthanasia. So, when four of the six members of that committee ultimately released a report with just those recommendations, no-one was surprised. The Hon. Bob Such and I produced a dissenting statement to those recommendations.

This Dignity in Dying Bill is the third voluntary euthanasia bill that has found its way into the South Australian parliament. The twist on this occasion is that the same bill will be introduced into the House of Assembly by the Hon. Bob Such, so we will have the unique conjunction of the same bill in both houses at the same time. This is a voluntary euthanasia bill, but I have chosen to name it the Dignity in Dying Bill, because it describes what the bill is about. The title was one that emerged as a result of my decision to attend the World Conference on Assisted Dying. In the lead up to attending the conference, I received an e-mail from one of the organisations that were to be represented at the conference, which advised that its group had a motto 'Death with dignity'. I thought it was a pretty good slogan in terms of

saying what that group was working towards and decided that it would be a good name for the bill I intended to introduce.

But some people fear death. It sounds sudden: now you are fully alive and now you are not. Mostly, it is not that simple. Death is a process, sometimes a very long, agonising and undignified one at that. The word 'dying' says that we are talking about a process, just as birth is a process and in between is life. So I decided to substitute the word 'death' with 'dying'. We will all die. The difference between some deaths and others—the difference that drives others and me to seek the passage of voluntary euthanasia legislation—is that it can be undignified and worse. The dying is a given: what can be lacking is dignity in the process. So, what we are seeking—dignity—is rightfully now the lead word in the title of this bill.

Why is this legislation needed? Let me turn to some comments made at the Boston conference in regard to Oregon's Physician Assisted Suicide Act. Of those who have used the Oregon act, when asked why they were accessing it, loss of autonomy and dignity were given as the principal reasons. No matter how good the pain management, overwhelming weakness and fatigue cannot be controlled. In the first year of operation of the Oregon act, a total of 15 people hastened their deaths by using the act and 27 in the second year. For the two years 1998 to 1999, there were 60 000 deaths in Oregon, of which 43 used assistance in dying. When so few people have used the act, why is it important that it be able to continue working? The answer is that because of the act tens of thousands of people in Oregon have been able to face death knowing that they will not have to face a terrorised death. These are not people who want out: they want to know where the key is.

People have asked me, 'Why now?' I have previously said that the best time to introduce controversial legislation is immediately after an election when politicians would be more likely to support it, but I have changed my view. This is an election year and we know that we will be facing a state election within 12 months. By having legislation appear at this time, it puts the spotlight on all members of both houses who will be up for re-election, and my wish is that by highlighting the issue at this time voters will be encouraged to find out not only how their own MP stands but how all other candidates stand on this issue.

How is this bill different from other bills? There are limits to variations on a voluntary euthanasia bill, but this bill is arguably the best in the world. I put on record my thanks to the members of SAVES for their continuing input and support in getting the bill to this point and to Aimee Travers of Parliamentary Counsel for the work she has done in putting it together in the written form.

In putting the bill together we have taken particular note of the comments made by the Law Society in its evidence to the Social Development Committee. This bill is different in that we have produced and incorporated a set of objects and a Dignity in Dying Act Monitoring Committee. A majority of that committee would be composed of representatives of conservative organisations. Every doctor who participates in the hastening of a death of a person using this act would be required to submit a report to the State Coroner who in turn must forward a copy to the minister, who would have to forward it to the monitoring committee. The committee would then be able to take an overview of every such death and would be able to make recommendations to the minister at any time about needed changes to the act. Of course, with the reports in the coroner's hands, there is always the option for further investigation of individual cases and consequent action by the DPP.

The local branch of the Australian Medical Association (AMA) stated that it preferred to opt for palliative care. But is it an either/or question? Palliative care and voluntary euthanasia are not mutually exclusive. Palliative care allows for the disconnection of life-sustaining technology which can allow for some form of voluntary euthanasia if, for instance, your disease is lung cancer and a ventilator is keeping you alive. But, if you are unfortunate to have, for instance, a brain cancer, there will not be the equivalent of a ventilator that can be disconnected, and one does not usually get to determine which debilitating condition might hit you.

I am a strong supporter of palliative care, and it is perfectly feasible that a person who is hopelessly ill would use palliative care to its fullest extent and opt to hasten death via voluntary euthanasia, if the palliative care is no longer able to provide for the patient in terms of pain, discomfort or dignity. Just as I have given the example of a person with brain cancer not being able to disconnect from the life support system, there are other examples where the patient can be let down by the current laws. Terminal sedation is basically available only to those suffering a great deal of physical pain. But what if your pain is psychological? If you do not, for instance, want to continue life being pricked and prodded, confined to your bed, developing bed sores, perhaps vomiting, perhaps with diarrhoea, you will be compelled to stay alive.

Some members may allow their views on this issue to be informed by public statements of the leaders of the Roman Catholic church, so we should consider what the church has to say about freedom. Items 1 730 and 1 738 from article 3 of the Roman Catholic Catechism were signed as recently as 11 October 1993 by that none too radical Pope John Paul II. Item 1 730 states:

> God created man a rational being, conferring on him the dignity of a person who can initiate and control his own actions. 'God willed that man should be ''left in the hand of his own counsel'' so that he might of his own accord seek his Creator and freely attain his full and blessed perfection by cleaving to him'. Man is rational and therefore, like God, he is created with free will and is master over his acts.

Item 1738 states:

> Freedom is exercised in relationships between human beings. Every human person created in the image of God has the natural right to be recognised as a free and responsible being. All owe to each other this duty of respect. The right to the exercise of freedom, especially in moral and religious matters, is an inalienable requirement of the dignity of the human person. This right must be recognised and protected by civil authority within the limits of the common good and public order.

More recently, Sydney's Dr Gleeson, in an article in the *Australian* of 3 March this year headed 'Fusion of Belief and Science is Possible', stated:

> When the church speaks of human life as sacred, it affirms, along with those other religions and no religion at all, that every human being is a person in their own right, beyond the manipulating will of another, a someone who may never be treated as a mere means to an end, who is unique and irreplaceable, with an inherent dignity and worth.

I do not wish to pick a fight with any religion—I respect the rights of others with different belief systems from my own—but I also ask for those others to observe tolerance of mine. We live in a multicultural society. Jewish people believe that we should not eat pork, but they do not try to push that view onto the rest of society. We have Hindu people in our community who say that we should not slaughter cows. Most

of us in this place are not vegetarian, we eat beef, and we would be most upset if members of the Hindu religion tried to prevent us from eating beef.

Some Christians believe that it is wrong to access right-to-die legislation, but it is a belief system. They have their right to their belief: others have their right to their beliefs. To deny the right to access voluntary euthanasia under the guise of religious authority is to deny freedom of religious expression in our society.

I have sometimes heard it said that we treat our animals better than we do some people when they are dying. Just last week, two lions at the Adelaide Zoo were euthanased, one because it had arthritis and the other because it had cancer of the jaw. I heard it said in a radio interview that this was the most humane—I did not make up that word—thing to do for those animals. So, why is it that we cannot allow humans to be treated humanely? At the Boston conference that I attended, one of the right-to-die societies reported that it was considering the use of a bumper bar sticker or a T-shirt with a slogan that said, 'I want to die like a dog.'

There was quite an amount of media coverage at that conference, and the *Boston Globe* of 2 September 2000 included, on the very same page as its coverage about the conference, a story about a horse which was euthanased because it had contracted West Nile virus and had 'severe central nervous symptoms, including disorientation and paralysis'. A horse can be euthanased if it has these symptoms: a human being cannot.

The medical profession has a lot to say about this issue. The medical profession has always fought change, including vaccination and blood transfusions. I note that the South Australian branch of the AMA has come out in opposition to this bill. In contrast, the New South Wales branch has left it up to each of its members to determine their own position. I must give credit to the local AMA and its President, Dr Michael Rice, for meeting with me to discuss the bill and at least being willing to look at the legislation.

The preamble to the AMA's position statement 'The Care of Severely and Terminally Ill Patients' contains an interesting acknowledgment, as follows:

> . . . while for most severely and terminally ill people, pain and other causes of suffering can be alleviated, there are some instances when satisfactory relief of suffering cannot be achieved.

The AMA said that. So, it is saying, 'Yes, for some people, dignity may not be there, but we are not going to allow legislation that will give a person that dignity.'

The Hon. T.G. Cameron: Do they put a figure on it?

The Hon. SANDRA KANCK: No, not in their statement. If we do not legalise voluntary euthanasia, the alternative for doctors is what I referred to before as terminal sedation and double effect. If it is true that some patients might lose trust in their doctors if we have legal voluntary euthanasia, we must also seriously look at the impact of the double effect on the doctor, his patients and their relatives.

In double effect, a doctor can prescribe pain relief in doses which will ultimately lead to the death of the patient but, provided the doctor's motive is to reduce pain, no crime is deemed to have been committed when the patient dies. So, it appears that it is all in the motive: if the doctor's motive is pain relief and the patient dies, then he is acting honourably but, if another doctor gives identical pain relief to someone with an identical illness but with the motive of putting the person out of his or her misery, that doctor becomes a criminal according to our laws. Identical disease, identical act, identical death, but one doctor is a saint while the other is a sinner; we praise one while we castigate the other; we call one a palliative care specialist while we call the other a murderer.

This is a practice which encourages doctors to deceive themselves if not to overtly lie to both the patients in some cases and the relatives of the patients. What does this do to doctor/patient relationships? Which does the most damage to a doctor/patient relationship: the potential for a doctor to hasten a patient's death at the patient's request through legal voluntary euthanasia or the current system that causes some doctors to act covertly, to use sophist arguments to justify what they are doing, and to lie to relatives?

Edward Lowenstein, Professor of Anaesthesiology and Bioethics at Harvard University Medical School, told the World Conference that, in encouraging doctors to lie, double effect has an erosive effect on them. Michael Irwin, a former Medical Director of the United Nations, told the conference that double effect is society's wink to euthanasia, that it is both a help and that it is full of hypocrisy, and that double effect adds to medical paternalism.

It is a theological doctrine developed by St Thomas Aquinas and backed by Pope Pius XII. According to Dr Rodney Syme, a Melbourne urologist, being a medieval doctrine, it pays no heed of the patient and ignores the moral value of compassion. In double effect, death must be foreseen but not intended. The potential for doctor self-deception, therefore, is substantial. Dr Syme powerfully describes the erosive effect of double effect on doctors, as follows:

> Terminal sedation is intellectually dishonest, morally ambiguous, ethically dubious, often lacks dignity, is inefficient, may lack autonomy and is futile.

Nevertheless, it protects the legal and moral interests of the doctor. If anything erodes trust in doctors, this must.

At the World Conference, I met a quiet, gentle, caring old man who, according to the statutes of his country, is a criminal—a murderer. Mr Christian Sandsalen is probably one of the most unlikely people to have been categorised as a murderer, and I definitely had no fear for my safety in his presence.

In Norway, in June 1996, Dr Sandsalen—and I say 'doctor' because he was a doctor then—had euthanased a woman suffering from multiple sclerosis at her request. The circumstances of the death were as follows. The 45 year old woman had been suffering from multiple sclerosis for 20 years. For more than a year she had been begging her family to assist her to die. They were too scared to help her, but ultimately they arranged for Dr Sandsalen to visit her.

With the exception of some small head movements, her body was paralysed. She was confined to her bed with large wounds on her back, and she was totally incontinent with restricted respiration. Her mind was very alive, however, and she feared death by suffocation. She asked Dr Sandsalen if he could give her some tablets to take, but he advised her that her digestive system would be unable to break down tablets effectively and that lethal injection of morphine would be the only effective method. He asked her to think about it over the ensuing week and said that if she wanted to go ahead he would require proof of her request to provide himself with some protection.

A week later, when he again visited, she spoke her wishes to a video camera (obviously, because of the paralysis caused by the MS, she could not write) and explained why she wanted this action taken. Two days later the doctor acceded to her request. Her last word was'Takk', the Norwegian word

for 'Thanks'. She fell into a coma 10 minutes after the injection had been given and died five hours later.

Dr Sandsalen then reported himself to the Attorney-General. He was charged with and found guilty of murder, although he was given a suspended sentence. His doctor's licence has been revoked, as has his membership of the Norwegian Medical Association. With the gentleness and caring that he displayed, what an extraordinary loss he must be to his patients. It is a Norwegian example, but it could just as easily happen here: when a doctor acts responsibly and humanely he faces the risk of condemnation and criminal action when he ought rightly to be praised.

For the individual denied access to voluntary euthanasia who does not know a friendly doctor who will take that chance on intervention, suicide or self-help may be the only alternatives that they see available to them. At the Boston conference, we were told of an instance in the US, where a woman had just received a cancer diagnosis. She asked her husband to take her life, which he did there and then by hitting her over the head with a hospital oxygen bottle. A post mortem subsequently showed that she had been given an incorrect diagnosis. Self-help is not the ideal solution.

ABS figures reveal the methods of suicide used by the over-70s in Australia, ranging from hanging to drinking weedkiller. There is surely no dignity in these methods. Do we not owe it to the older members of our society and those with hopeless illnesses to offer something better than this? When doctors are forced by our legal system to absent themselves from the decisions of their patients there is a greater chance that a wrong decision will be made. Because of the hostility of politicians in Australian parliaments to voluntary euthanasia, the antipathy of the medical profession, and the possibility of a long wait before voluntary euthanasia legislation is passed, Dr Philip Nitschke, the first doctor in the world to legally hasten the death of a patient, and others, have formed the Voluntary Euthanasia Research Foundation. This body is investigating other non-legislative, peaceful, end-of-life solutions that you and I will be able to access if politicians and medicos keep standing in the way of people who want to ensure dignity in their dying process.

I will repeat what I have already said about what the Roman Catholic Church has to say in its catechism about freedom, as follows:

> Every human person, created in the image of God, has the natural right to be recognised as a free and responsible being. All owe to each other this duty of respect. The right to the exercise of freedom, especially in moral and religious matter, is an inalienable requirement of the dignity of the human person.

I ask honourable members to recognise the wisdom of these words. I ask them to show that respect to the rights of others by allowing them to exercise their own free will and allow the passage of this bill. In the event that any of us become hopelessly ill, we are asking not to end our lives but to end death. I seek leave to insert the explanation of clauses in *Hansard* without my reading it.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the measure will commence 6 months after the date of assent or on an earlier date fixed by proclamation.

Clause 3: Objects

This clause sets out the objects of the measure.

Clause 4: Definitions

This clause defines certain terms used in the measure. In particular—

- a person is 'hopelessly ill', within the meaning of the measure, if the person has an injury or illness that will result, or has resulted, in serious mental impairment or permanent deprivation of consciousness or that seriously and irreversibly impairs the person's quality of life so that life has become intolerable to that person;
- 'voluntary euthanasia' is defined as the administration of medical procedures, in accordance with the measure, to assist the death of a hopelessly ill person in a humane way.

Clause 5: Who may request voluntary euthanasia

This clause provides that an adult person of sound mind may make a formal request under the measure for voluntary euthanasia.

Clause 6: Kinds of request

This clause provides for two kinds of request as follows:

- a 'current request' by a hopelessly ill person that is intended to be effective without further deterioration of the person's condition; and
- an 'advance request' by a person who is not hopelessly ill that is intended to take effect when the person becomes hopelessly ill or after the person becomes hopelessly ill and the person's condition deteriorates to a point described in the request.

The clause also provides for later requests to override earlier requests.

Clause 7: Information to be given before formal request is made

This clause sets out certain information that must be provided by a medical practitioner to a person making a request.

If the person making the request is hopelessly ill or suffering from an illness that may develop into a hopeless illness, the person must be informed of the diagnosis and prognosis of the person's illness, of the forms of treatment that may be available and their respective risks, side effects and likely outcomes and of the extent to which the effects of the illness could be mitigated by appropriate palliative care.

If the proposed request is a current request (ie. the person is hopelessly ill) the person must also receive information about the proposed voluntary euthanasia procedure, risks associated with the procedure and feasible alternatives to the procedure (including the possibility of providing appropriate palliative care until death ensues without administration of voluntary euthanasia).

In the case of an advance request, the person making the request must be informed about feasible voluntary euthanasia procedures and the risks associated with each of them.

The clause also provides that if the medical practitioner providing information about palliative care to a hopelessly ill person, or a person with an illness that may develop into a hopeless illness, is not a palliative care specialist, the medical practitioner must, if reasonably practicable, consult a palliative care specialist about the person's illness and the extent to which its effects would be mitigated by appropriate palliative care before giving the person the information.

Clause 8: Form of request for voluntary euthanasia

This clause provides for the forms set out in Schedules 1 and 2 of the measure to be used for the purpose of making a formal request for voluntary euthanasia.

However, if the person making the request is unable to write, the clause provides that the person may make the request orally in which case the appropriate form must be completed by the witnesses on behalf of the person in accordance with the person's expressed wishes and must, instead of the person's signature, bear an endorsement signed by each witness to the effect that the form has been completed by the witnesses in accordance with the person's expressed wishes. The clause provides that, if practicable, an oral request for voluntary euthanasia must be recorded on videotape.

Clause 9: Procedures to be observed in the making and witnessing of requests

This clause provides for the witnessing of a request by three people (one of whom must be a medical practitioner) and specifies that the witnesses must certify that the person making the request—

- appeared to be of sound mind; and
- appeared to understand the nature and implications of the request; and
- did not appear to be acting under duress.

The medical practitioner must also certify—

- that the medical practitioner has given the person making the request the information required under clause 7; and
- in the case of a current request—that the medical practitioner, after examining the person for symptoms of depression, has no reason to suppose that the person is suffering from treatable clinical depression or, if the person does exhibit symptoms of depression, the medical practitioner is of the opinion that treatment for depression, or further treatment for depression, is

unlikely to influence the person's decision to request voluntary euthanasia.

Clause 10: Appointment of trustees

An advance request for voluntary euthanasia may appoint one or more adults as trustees of the request (although persons cannot be appointed to act jointly). The functions of such a trustee are to satisfy herself or himself that the preconditions for administration of voluntary euthanasia have been satisfied and to make any necessary arrangements to ensure, as far as practicable, that voluntary euthanasia is administered in accordance with the wishes of the person who requested it.

Clause 11: Revocation of request

This clause provides that a person may revoke a request for voluntary euthanasia at any time and that a written, oral, or other indication of withdrawal of consent to voluntary euthanasia is sufficient to revoke the request even though the person may not be mentally competent when the indication is given.

A person who, knowing of the revocation of a request for voluntary euthanasia, deliberately or recklessly fails to communicate that knowledge to the Registrar is guilty of an offence punishable by a maximum penalty of imprisonment for 10 years.

Clause 12: Register of requests for voluntary euthanasia

This clause provides for maintenance of a register in which both requests and revocations may be registered. The clause also obliges the Registrar to provide certain information to medical practitioners attending hopelessly ill patients. No fee may be charged for registration of a request, registration of the revocation of a request or for the provision of information to a medical practitioner in accordance with the clause.

Provision is also made for the regulations to prescribe conditions for access to the Register.

Clause 13: Registrar's powers of inquiry

This clause gives the Registrar certain powers of inquiry to ensure the integrity of the Register is maintained.

Clause 14: Administration of voluntary euthanasia

This clause sets out the preconditions for the administration of voluntary euthanasia. Under the provision a medical practitioner may administer voluntary euthanasia to a patient if—

- the patient is hopelessly ill; and
- the patient has made a request for voluntary euthanasia under the measure and there is no reason to believe that the request has been revoked; and
- the patient has not expressed a desire to postpone the administration of voluntary euthanasia; and
- the medical practitioner, after examining the patient, has no reason to suppose that the patient is suffering from treatable clinical depression or, if the patient does exhibit symptoms of depression, is of the opinion that treatment for depression or further treatment for depression is unlikely to influence the patient's decision to request voluntary euthanasia; and
- if the patient is mentally incompetent but has appointed a trustee of the request for voluntary euthanasia, the trustee is satisfied that the preconditions for administration of voluntary euthanasia have been satisfied; and
- at some time after the making of the patient's request, another medical practitioner who is not involved in the day to day treatment or care of the patient has personally examined the patient and has given a 'certificate of confirmation' (in the form prescribed in Schedule 3); and
- at least 48 hours have elapsed since the time of the examination conducted for the purpose of the certificate of confirmation.

The clause also provides that a medical practitioner may only administer voluntary euthanasia—

- by administering drugs in appropriate concentrations to end life painlessly and humanely; or
- by prescribing drugs for self administration by a patient to allow the patient to die painlessly and humanely; or
- by withholding or withdrawing medical treatment in circumstances that will result in a painless and humane end to life.

In administering voluntary euthanasia, a medical practitioner must give effect, as far as practicable, to the expressed wishes of the patient or, if the patient is mentally incompetent but has appointed a trustee of the request who is available to be consulted, the expressed wishes of the trustee (so far as they are consistent with the patient's expressed wishes).

Clause 15: Person may decline to administer or assist the administration of voluntary euthanasia

This clause provides that a medical practitioner may decline to carry out a request for the administration of voluntary euthanasia on any grounds. However, if the medical practitioner who has the care of a patient does decline to carry out the patient's request, the medical practitioner must inform the patient, or the trustee of the patient's request, that another medical practitioner may be prepared to consider the request.

In addition, a person may decline to assist a medical practitioner to administer voluntary euthanasia on any grounds (without prejudice to their employment or other forms of adverse discrimination) and the administering authority of a hospital, hospice, nursing home or other institution for the care of the sick or infirm may refuse to permit voluntary euthanasia within the institution (but, if so, it must take reasonable steps to ensure that the refusal is brought to the attention of patients entering the institution).

Clause 16: Protection from liability

This clause provides protection from civil or criminal liability for medical practitioners administering voluntary euthanasia in accordance with the measure and persons who assist such medical practitioners.

Clause 17: Restriction on publication

This clause makes it an offence (punishable by a maximum penalty of $5 000) for a person to publish by newspaper, radio, television or in any other way, a report tending to identify a person as being involved in the administration of voluntary euthanasia under the measure, unless that person consents or has been charged with an offence in relation to the administration or alleged administration of voluntary euthanasia.

Clause 18: Report to coroner

A medical practitioner who administers voluntary euthanasia must make a report (in the form prescribed by Schedule 4) to the State Coroner within 48 hours after doing so. Failure to so report is an offence punishable by a maximum penalty of $5 000. The State Coroner must forward copies of such reports to the Minister.

Clause 19: Cause of death

This clause provides that death resulting from the administration of voluntary euthanasia in accordance with the measure is not suicide or homicide but is taken to have been caused by the patient's illness.

Clause 20: Insurance

Under this clause an insurer is not entitled to refuse to make a payment that is payable under a life insurance policy on death of the insured on the ground that the death resulted from the administration of voluntary euthanasia in accordance with the measure.

The clause also makes it an offence (punishable by a maximum penalty of $10 000) for an insurer to ask a person to disclose whether the person has made an advance request for voluntary euthanasia.

This clause applies notwithstanding an agreement between a person and an insurer to the contrary.

Clause 21: Offences

This clause provides that—

- a person who makes a false or misleading representation in a formal request for voluntary euthanasia or other document under the measure, knowing it to be false or misleading, is guilty of an offence; and
- a person who, by dishonesty or undue influence, induces another to make a formal request for voluntary euthanasia is guilty of an offence.

Both offences are punishable by a maximum penalty of imprisonment for 10 years.

In addition, a person convicted or found guilty of an offence against this clause forfeits any interest that the person might otherwise have had in the estate of the person who has made the request for voluntary euthanasia.

Clause 22: Dignity in Dying Act Monitoring Committee

This clause obliges the Minister to establish the Dignity in Dying Act Monitoring Committee, consisting of a maximum of eight members appointed by the Minister. The Committee must include persons nominated by the South Australian Branch of the Australian Medical Association Inc., The Law Society of South Australia, the Palliative Care Council of South Australia Inc., the South Australian Voluntary Euthanasia Society Inc. and the South Australian Council of Churches Inc..

The Committees functions are to monitor and keep under constant review the operation and administration of the measure, to report to the Minister (on its own initiative or at the request of the Minister) on any matter relating to the operation or administration of the measure and to make recommendations to the Minister regarding possible amendments to the measure or improvements to the administration of the measure which, in the opinion of the Committee, would further the objects of the measure.

Clause 23: Annual report to Parliament

This clause provides for the making of an annual report to Parliament on the measure.

Clause 24: Regulations

This clause provides a power to make regulations.

SCHEDULE 1

Current Request for Voluntary Euthanasia

This schedule sets out the form to be used for a current request.

SCHEDULE 2

Advance Request for Voluntary Euthanasia

This schedule sets out the form to be used for an advance request.

SCHEDULE 3

Certificate of Confirmation

This schedule sets out the form for the certificate of confirmation by a second medical practitioner.

SCHEDULE 4

Report to State Coroner

This schedule sets out the form for the report to the State Coroner.

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

LEGISLATIVE REVIEW COMMITTEE: EVIDENCE ACT

The Hon. NICK XENOPHON: I move:

That the Legislative Review Committee inquire into and report on the operation of section 69A of the Evidence Act 1929 and, in particular, the effect of the publication of names of accused persons on them and their families who are subsequently not convicted or not found guilty of any criminal or other offence.

I move this motion as a result of the representations of one constituent—Mr Peter McKeon—who I believe deserves credit for his determined and single-minded campaign on the issue of the impact on the families of accused persons, and persons accused and subsequently not found guilty, with respect to the publication of their names.

At times, Mr McKeon has waged a lonely campaign in this place to have this issue raised and noted. Following discussions with the Hon. Angus Redford, the chair of the Legislative Review Committee, I have moved this motion and I hope that that committee will see fit to examine this issue because it is an important issue that touches on a whole range of matters that are of concern in the community. It touches on the fundamental issue of the relationship between the media, the criminal justice system and the right of the public to know or, in some cases, not know, depending on the impact it has on family members.

By way of background it is appropriate to reflect on the current provisions of section 69A(1) of the Evidence Act, which deals with suppression orders and provides:

Where a court is satisfied that a suppression order should be made—

(a) to prevent prejudice to the proper administration of justice, or

(b) to prevent undue hardship—

(i) to an alleged victim of crime, or

(ii) to a witness or potential witness in civil or criminal proceedings who is not a party to those proceedings, or

(iii) to a child,

the court may, subject to this section, make such an order.

Subsection (2) provides:

Where the question of making a suppression order (other than an interim suppression order) is under consideration by a court—

(a) the public interest in publication of information related to court proceedings, and the consequential right of the news media to publish such information, must be recognised as considerations of substantial weight; and

(b) the court may only make the order if satisfied that the prejudice to the proper administration of justice, or the undue hardship, that would occur if the order were not made should be accorded greater weight than the considerations referred to above.

The section goes on to deal with a number of matters with respect to interim suppression orders and parties who can have standing before the court in respect of suppression orders. It also takes into account the evidentiary matters that must be dealt with in considering such matters, the appeal process, and those persons who are entitled to be heard before an appeal process.

It also sets out that where a court makes a suppression order, other than an interim suppression order, the registrar must be forwarded a copy of that order, and within 30 days the Attorney-General is forwarded a report setting out the terms of the order, names of the persons whose names are suppressed, the transcript or record of evidence, and full particulars of the reasons why the order is made.

I do not have a strong view one way or the other as to the current application of section 69A of the Evidence Act. As honourable members know, I am a legal practitioner but the issue of suppression orders in the context of the work that I have done over the years is something that I have rarely touched on, because I have practised only very rarely with respect to criminal law matters in the past. But I think it is worth reflecting on the concerns of Mr Peter McKeon and to read his letter sent to members of parliament some time ago as to his concerns which, I think, puts this into context and why I think it is a matter of public interest as to why we ought to deal with these issues and why the Legislative Review Committee would have a valuable role in reporting to this parliament as to the whole issue of suppression orders. Mr McKeon wrote in the following terms to all members of parliament:

I have been very concerned for some time regarding the injustice being done to innocent people by allowing names to be published in court cases. Now before you claim that I am trying to protect the criminal, let me assure you that that is the last thing I am intending to do with this proposal I am putting to you. By allowing names to be published in court cases, the people who are hurt are the families of accused or convicted persons, and in the majority of cases their only part in the crime is that they were related to the person in the dock. I am not against the media publishing all the details of a court case, so long as the person who is defending the charge is not identified. The reason I stated earlier in this letter that I am not trying to protect the criminal is because the people who are convicted of serious crime usually end up in prison therefore are not subjected to having to face the public as their families are.

Let me give you an example of how the publishing of names in court cases causes hardship to innocent family members. Some time ago I was involved in a charity organisation in Tasmania and a woman who was married to a man convicted of stealing came to me, to see if the charity I was connected with could find her and her three children new accommodation as she was being harassed by people she once called friends, and the children were suffering torment from other students at their school. The woman could not get served at the local shop, despite being a customer for many years, as the innocent members of the family were being treated as if they were the criminals. The case was one in which her husband, an accountant with a national company which had a large manufacturing plant in this Tasmanian town, falsified the accounts which enabled him to steal many thousands of dollars from the company. The man concerned lost the money in a gambling frenzy, all of which was unknown to the rest of the family, yet they were the ones who suffered at the hands of the general public, while her partner and the children's father did not have to face the outside world as they did because he was in prison.

No doubt you are aware of someone who has suffered mayhem because of the way court cases are allowed to be reported, maybe it happened to a family in your own electorate. No-one has ever proven to me that the publishing of names in court cases has benefited society, or reduced the crime rate, which are the main reasons given for the practice to be continued. Now I know that the media will say that it will be curtailing the freedom of the press but they cannot

publish names of juveniles or family law matters, and I can't hear a great outcry from the public about that procedure. The only people beside the media who want this injustice to continue are the people who love to kick someone when they are down and the 'I told you so' types.

Why can't a story read like, 'A 29 year old man was today found guilty of murdering another man in North Adelaide last month.' Does the public need to know any more about the guilty party? Remember, a defendant's name can be published in the media unless a suppression order has been granted once he or she has been formally charged with the crime and brought before a court of law. At this stage they have only been charged with the crime and are guilty of nothing, yet their name, age, address and occupation can be released to the media. In my opinion, the only people who benefit from the publishing of names in court cases are the media themselves, who love to get their teeth into a juicy story, no matter who it may damage. The media feel that, if there is no name mentioned in a story, there is no story. Well, in my opinion, the law should not pamper to the media but instead should protect innocent people from the scorn that they suffer under the present system.

Another reason given for the present system being the correct one is that it acts as a deterrent against crime. This is a fallacy. If you ask anyone who has been convicted of a crime, as I have, if they considered the fact that they would have their name published if they were caught, they will tell you that the idea never entered their head as they did not expect to get caught. So much for that line of reasoning. I believe that our courts are courts of law and not courts of justice as they should be.I am writing to you in the hope that you will realise that what I have put to you in this proposal is sound reasoning and you will be willing to show some compassion to the families of criminals and work to have this situation rectified in South Australia. I will be looking forward to hearing from you and hope that you can see your way clear to support this proposal and do something to change the law regarding what can be published from the courts.

The letter is signed by Peter McKeon. I do not necessarily endorse a number of things said by Mr McKeon but it is important that, not only as a constituent but as a person who has shown himself to be a very active citizen—and active citizenship is very important for a democratic system to work—his concerns are investigated by the Legislative Review Committee. My understanding is that the Hon. Angus Redford is prepared to look at this issue subject to the views of the majority of the committee.

We ought to balance a number of the considerations to see whether section 69A of the Evidence Act is working as it ought to, whether the appropriate balance between the public's right to know, the media's right to report cases and the extent to which they can report is being balanced by considering some of the injustices that may undoubtedly occur from time to time. I urge members to support this motion.

I believe that such an inquiry by the Legislative Review Committee will be one of great interest, not only to this parliament but to the public at large. If this inquiry is proceeded with by the Legislative Review Committee, I would like to think it would be a spirited and robust inquiry with full participation by members of the public, prisoner rehabilitation groups and the media in this state. I commend the motion to honourable members.

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

ELECTORAL (VOTING AGE) AMENDMENT BILL

The Hon. T.G. CAMERON obtained leave and introduced a bill for an act to amend the Electoral Act 1985 and to make related amendments to the Age of Majority (Reduction) Act 1971, the City of Adelaide Act 1988 and the Local Government (Elections Act) 1999. Read a first time.

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

That this bill be now read a second time.

This will lower the voting age in South Australia from 18 to 17 years and lower the age for provisional enrolment on the electoral roll from 17 to 16 years. I have introduced this bill because of the community feedback and party support that I have received that young people deserve more rights and responsibilities because they are developing at a much faster rate in today's community.

South Australia First Youth has convinced me that we need to lower the voting age. Approximately one-third of South Australia First is made up of people under 25 and they have had a great influence on our party's policy. How better to be open to young people and their ideas than enabling 17 year olds to participate in the electoral process?

For far too long politicians have been treating young South Australians with disinterest and outright contempt, ignoring their cries and calls for reform and a cleaning up of the parliamentary process. How better to do this than to get younger South Australians more directly involved and at an earlier age in the political process? South Australia First Youth, its President, James England, and its Secretary, Dannielle Little, have worked tirelessly to provide a voice for younger South Australians through my office and thus through parliament, and they have been active in calling for reform in the political process and in presenting the views of over 100 young South Australians as members of SA First Youth.

They have also joined a number of other people calling for things like four-year terms for all MPs and an end to what they see as the perks and rorts that undermine the confidence that they have in politicians and the political process. I take this opportunity to thank them for their ideas and outspokenness in promoting this reform that will help alleviate the alienation they feel.

I thank the member for Fisher (Dr Such) in concurring with me that South Australian youth are growing up much more quickly than in generations past, as the bill he has introduced into the lower house would see 17 year olds treated as adults in the eyes of the courts. If we follow the logic of 17 year olds being responsible for their criminal actions, I guess it is fair to argue that they should also have a say in what the laws that they follow should be. Treating 17 year olds as adults in breaking laws and treating them as children when it comes to making those laws is inconsistent and a touch hypocritical.

Let us face facts: 17 year olds can join the army, they can have a probationary licence to drive, they have jobs, careers, apprenticeships and they make decisions about their sexual relationships. Extending their right to vote is only a natural and evolutionary step in the political process.

South Australia is no orphan when it comes to leading the way in electoral reform and has been amongst the first to recognise a changing world and adapt itself accordingly. In 1856, all adult males gained full voting rights for the House of Assembly and women were granted full voting rights in 1894. I understand that South Australia led not only Australia but the rest of the world in some of these issues, and here is an opportunity for us to take a stand in relation to lowering the voting age.

It is a fairly simple bill. I have introduced no other measures into it, although the temptation was there, apart from lowering the voting age because I believe that it is something that we can deal with fairly quickly and it will not be complicated by a debate about a whole lot of other

extraneous material. The bill will keep the age of a person standing for office at 18 years, and the bill also makes incidental amendments to the Age of Majority (Reduction) Act 1971, the City of Adelaide Act 1988 and the Local Government Elections Act 1999 to effect the application of this bill. If approved, the bill would come into force two months after the date of assent.

I commend the bill to the Council and I ask members to look at it. If this parliament were to act fairly quickly on this issue, within the next six months—and I cannot see why a bill like this should take six months to go through this chamber—

The Hon. Nick Xenophon: Don't be surprised.

The Hon. T.G. CAMERON: I thank the Hon. Nick Xenophon for his interjection. It is a very simple amendment and merely needs to be discussed by the respective parties to form a position on it. It is not a bill that lends itself to amendment.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: I know that I will get one vote for a referendum. We have an opportunity to demonstrate to the electorate at large that we are not out of touch, that we are in keeping with community attitudes and that we recognise that younger people are taking their place in the world at a much earlier age than they did when I was a teenager. I commend the bill to the House.

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

SELECT COMMITTEE ON OUTSOURCING OF STATE GOVERNMENT SERVICES

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

That the time for bringing up the report of the select committee be extended until Wednesday 25 July 2001.

Motion carried.

SELECT COMMITTEE ON WILD DOG ISSUES IN THE STATE OF SOUTH AUSTRALIA

The Hon. A.J. REDFORD: I move:

That the time for bringing up the report of the select committee be extended until Wednesday 25 July.

Motion carried.

SELECT COMMITTEE ON INTERNET AND INTERACTIVE HOME GAMBLING AND GAMBLING BY OTHER MEANS OF TELECOMMUNICATION IN SOUTH AUSTRALIA

The Hon. DIANA LAIDLAW: On behalf of the Hon. R.I. Lucas, I move:

That the time for bringing up the report of the select committee be extended until Wednesday 25 July 2001.

Motion carried.

SELECT COMMITTEE ON THE FUTURE OF THE QUEEN ELIZABETH HOSPITAL

The Hon. J.F. STEFANI: I move:

That the time for bringing up the report of the select committee be extended until Wednesday 25 July 2001.

Motion carried.

PARTNERSHIPS 21

Adjourned debate on motion of Hon. P. Holloway:

I. That a select committee of the Legislative Council be established to consider and report on the introduction of Partnerships 21 to Government schools in South Australia including—
   (a) the impact of Partnerships 21 on the budget for the Department of Education, Training and Employment;
   (b) global budgets and resources for schools;
   (c) preferential funding for Partnerships 21 schools;
   (d) schools' reliance on top-up funding;
   (e) teacher recruitment and placement issues, transfer rights and temporary relief teachers;
   (f) special programs including disability funding;
   (g) school audits, accountability and cash reserves;
   (h) the impact on workloads for school service officers;
   (i) DETE implementation staffing and costs;
   (j) school maintenance funding;
   (k) Risk Fund and insurance issues; and
   (l) any other relevant issue.

II. That standing order 389 be suspended as to enable the chairperson of the committee to have a deliberative vote only.

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

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

(Continued from 25 October. Page 241.)

The Hon. P. HOLLOWAY: I move:

That this Order of the Day be discharged.

Motion carried.

UNION STREET WALL

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

That this Council express its concern at the proposal for the demolition of a historic wall in Union Street and Grenfell Street and urge the Minister for Transport and Urban Planning to use her discretionary powers to retain the 1930s wall arches, as well as ensure that a development be designed that provides for shops at street level and preserves the heritage character of the East End Precinct.

(Continued from 6 December. Page 829.)

The Hon. M.J. ELLIOTT: As the wall no longer exists, I move:

That this Order of the Day be discharged.

Motion carried.

GAMING MACHINES (FREEZE ON GAMING MACHINES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 December. Page 967.)

The Hon. CARMEL ZOLLO: As the Council elected to deal with similar legislation in the last session, I move:

That this Order of the Day be discharged.

Motion carried.

The Hon. CARMEL ZOLLO: I move:

That the bill be withdrawn.

Motion carried.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a bill for an act to amend the Harbors and Navigation Act 1993, the Motor Vehicles Act 1959 and the Road Traffic Act 1961. Read a first time.

The Hon. DIANA LAIDLAW: 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.

Road Traffic Act 1961 and Harbors and Navigation Act 1993

Provisions for carrying out breath tests in certain circumstances, to determine whether or not a person has consumed alcohol, are set out in the *Road Traffic Act 1961* and the *Harbors and Navigation Act 1993* and the regulations made under these Acts.

To ensure consistency of application, the provisions of the *Road Traffic Act* are mirrored in the *Harbors and Navigation Act* and the regulations made under these Acts.

Time limit for commencement of a breath analysis

These Acts provide that, in certain circumstances, a member of the police may require a person to submit to an alcotest or breath analysis or both.

The *Road Traffic Act* currently stipulates the alcotest or breath analysis must be performed within two hours of the event giving rise to the need for the alcotest or breath analysis. Consequently, delay in completing the alcotest or breath analysis may result in non-compliance with this provision. The proposed amendment removes this uncertainty by providing that the test must be commenced within two hours.

A further anomaly exists in section 47E of the *Road Traffic Act* in that no time period is stipulated for the conduct of a breath analysis at a random breath test station, although alcotests are required by section 47DA to be conducted in quick succession at a station.

It is therefore proposed that the same two hour requirement apply to a breath analysis at a random breath testing station.

Consequences of not having a blood test

While the legislation makes provision for a blood test to be taken in circumstances where a person cannot provide a breath sample as a result of either a medical or physical condition, it does not require police to advise a person of this facility.

In the absence of advice, very few people would be aware of their rights in this regard. Consequently, a person may forgo their right to a blood test and then be charged with failing or refusing to provide a breath sample.

The penalties for this offence are quite severe and would be even more traumatic if they were imposed simply because the person was not made aware of the alternative or the full consequences of not pursuing a blood test option.

It is understood that police advise people of their right to a blood test without detailing the consequences of not providing the blood sample. This may not therefore be sufficient for a person already distressed by their contact with police and their inability to provide the breath sample, to fully understand the ramifications should they not opt for a blood test.

The proposed amendment will ensure that police fully explain that a blood test can be taken in place of the breath test. Police will also be required to explain that failure to adopt this approach could lead to a charge of failing to provide a breath or blood sample and to outline the penalties involved.

Testing procedure to be prescribed

At the moment the Acts are silent as to the manner in which an alcotest or breath analysis is to be conducted. It is proposed that the regulations provide for the taking of two samples of breath in the conduct of a breath analysis, as a fairer testing procedure, with the lower result obtained from analysis of the two samples being designated as the result of the test for the purposes of the Act. Both the *Road Traffic Act* and the *Harbors and Navigation Act* are amended to provide for the making of such regulations. It would seem that provisions requiring that there be two breath samples will have to deal with the question of adequacy of breath samples. The matter is left to be dealt with by regulations in order to ensure the necessary flexibility to cater for technical changes that might be required as new forms of instruments are introduced.

Clarification of the concentration of alcohol in a person's blood

Section 47B(2) of the *Road Traffic Act* presently provides that, if the prescribed concentration of alcohol is shown to be present in a person's blood within two hours after the alleged offence, it may be presumed that the prescribed concentration was present at the time of the offence.

The Supreme Court decided in *Delurant v Macklin* that the wording of the section meant that the presumed alcohol concentration at the time of the alleged offence could only refer to the prescribed concentration of alcohol, not the actual concentration obtained as a result of a breath or blood analysis.

The presumption can still be used to establish that a defendant had a blood alcohol concentration of the prescribed limit which will be sufficient to allow the prosecution to establish that there is a case to answer. However, it will not by itself assist the court to establish the extent by which the prescribed concentration of alcohol was exceeded.

This can only be achieved by calling expert evidence to establish the concentration of alcohol at the time of the alleged offence by the use of back calculations. In the absence of back calculations, the court will be restricted to determining penalties on the basis of the blood alcohol level being at the minimum level of illegal concentration.

The use of back calculations is both costly in terms of the need for expert witnesses and time consuming through the questioning of witnesses.

Another anomaly arises from this decision in that if the actual concentration of alcohol cannot be established, then the category of the offence cannot be determined as category one, two or three.

The category of the offence is important as the penalties differ significantly between each category. The court may thus be disposed to impose a category one penalty as the lowest common denominator. However, the *Road Traffic Act* requires that the issue of an expiation notice must commence the prosecution of a category one offence.

The proposed amendment will create a presumption that the concentration of alcohol present at the time of a blood test conducted under section 47I or 47F must be conclusively presumed to have been present throughout the period of two hours immediately preceding the blood test.

This amendment will facilitate the court establishing the concentration of alcohol at the time of the alleged offence without the need to introduce back calculations and will ensure that the penalty imposed is in accordance with the extent to which the prescribed concentration of alcohol is exceeded.

Designation of breath test results in terms of grams per 210 litres of alcohol

Since the inception of breath analysis in Australia during the 1960's, the unit of measurement for breath analysis results has been expressed in grams of alcohol per 100 millilitres of blood. This method of reporting was adopted from the United States where much research had been done during the early years of breath analysis. It is still the current method used throughout Australia.

When a breath analysis is conducted under the current procedures, the instrument converts the breath result into a blood result by using a formula that contains a distribution ratio. While this distribution ratio is internationally acknowledged, it is not uncommon for the validity of this method to be challenged in court. It is quite feasible that improving technology might eventually disprove this approach.

The Australian Standards Commission has advised that Australia is a signatory to the Convention on Legal Metrology and is obliged to adopt the International Recommendations of the International Organisation of Legal Metrology (OIML).

From a scientific view, it is generally unsatisfactory to measure an anolyte in one matrix and express the concentration in terms of another matrix. There is a risk of introducing an unnecessary error. Expression of the test result in terms of breath concentration rather than blood concentration removes this risk.

In 1977, OIML approved the draft International Recommendation on Evidential Breath Analysers. The recommendation makes no provision for converting breath analysis into blood alcohol measurements but requires that 'evidential breath analysers shall be capable of expressing measurement results in terms of ethanol content in the exhaled breath'.

Since the adoption of breath analysis, all Australian jurisdictions have expressed breath analysis results in terms of grams of alcohol

per 100 millilitres of blood. A great deal of time, effort and resources has been expended in increasing public awareness of the dangers of drinking and driving. As a result, the expressions 0.05, 0.08 and 0.15 are now synonymous with the drink/drive message and are readily recognised and understood by the majority of the Australian public.

The Australian Standards Commission has acknowledged the importance of retaining the present numeric values for expressing breath analysis results and has recommended that alcohol related offences be expressed in terms of 0.05 (or 0.08 etc.) grams of alcohol in 210 litres of breath. Blood test results will continue to be expressed in terms of grams of alcohol per 100 millilitres of blood.

The relevant offences will however, continue to be expressed in terms of alcohol in the blood so the change to the readings produced by breath analysing instruments necessitates an amendment to the *Harbors and Navigation Act* and the *Road Traffic Act* to introduce a deeming provision for the conversion of that reading (expressed in terms of breath) to a reading that is meaningful in relation to our offences.

Other minor amendments

Section 47GA of the *Road Traffic Act* makes provision for breath analysis to be undertaken in circumstances where a person has consumed alcohol between the time of an event giving rise to a breath test requirement and the conduct of that test. For example, when a person is involved in a crash and someone gives the driver an alcoholic drink in the mistaken belief that this will calm the driver.

To take advantage of the defence provided under section 47GA, the driver must do a number of things, including meeting the crash reporting requirements of the *Road Traffic Act*.

The crash reporting provisions were previously set out in section 43(3)*(a), (b)* and *(c)* of the *Road Traffic Act*. However, these provisions are now contained in section 43(1) of the *Road Traffic Act* and Rule 287 of the Australian Road Rules.

Amendment to section 47GA of the *Road Traffic Act* is now required to update this reference. The opportunity has also been taken to update an obsolete reference in section 167. The Bill also amends a penalty provision in section 26 of the *Harbors and Navigation Act* to remove the reference to a Divisional penalty.

Motor Vehicles Act

Nominal Defendant

The purpose of this part of the Bill is to make a change to the *Motor Vehicles Act 1959* to enable the appointment of a body corporate or a natural person as the Nominal Defendant.

The Nominal Defendant is the means by which a person can make a claim for death or bodily injury under the Compulsory Third Party insurance scheme, where the identity of the motor vehicle is unknown.

The nominating of a natural person as the Nominal Defendant may expose an individual to personal harassment from claimants for compensation. This has occurred in the past.

Therefore this amendment changes the Act so that it is clear that a body corporate can be the Nominal Defendant.

Classes of vehicles that may be ineligible for registration

The purpose of this amendment is to ensure that certain classes of vehicles, and in particular, those defined as written-off, cannot be registered in South Australia.

Management of such vehicles is a key element in preventing stolen vehicles from being sold to unsuspecting purchasers and ensuring that only roadworthy vehicles are able to be registered.

A report by the National Motor Vehicle Theft Reduction Council (State and Territory Written-off Vehicle Registers: Development Status and Recommended Best Practice Principles) reported that 'Every year in Australia more than 20 000 vehicles appear to vanish into thin air. While many will be dumped in bushland or waterways and others broken down into parts for sale on the black market, around 5 000 will be on-sold as whole vehicles to unsuspecting consumers.'

In order to on-sell a stolen vehicle, professional thieves require a legitimate Vehicle Identification Number (VIN) to apply to a stolen vehicle of the same age, make and model. Written-off vehicles have traditionally provided the greatest source of legitimate identifiers. More than 2 000 vehicles are 'rebirthed' by this means each year at a cost to the community of more than $30 m'.

Written-off Vehicle Registers that record the details of vehicles declared as write-offs have been promoted as an effective means of reducing rebirthing practices. To again quote the National Motor Vehicle Theft Reduction Council Report 'Car thieves do not recognise state and territory boundaries and are quick to exploit any avenue that allows them to circumvent the procedures of individual jurisdictions'.

South Australia and New South Wales are currently the only jurisdictions that have legislation in place to support the operation of a Written-Off Vehicle Register.

In April 1999, the Australian Transport Council agreed to expedite the linking of State and Territory vehicle databases and the development of a Written-Off Vehicle Register (WOVR). While other jurisdictions have now agreed to establish a WOVR, its effective operation is dependent on all jurisdictions having consistent legislation. This is currently being developed through Austroads, in association with the National Motor Vehicle Theft Reduction Council.

As I have already indicated, legislation for the management of 'written-off' vehicles already exists in South Australia. South Australia commenced recording details of wrecked and written-off vehicles in January 1991 on the basis of a voluntary agreement with insurance companies. In July 1993, notification of wrecked and written-off vehicles by insurance companies, vehicle wreckers, auctioneers, collision repairers and private owners became compulsory under the *Motor Vehicles Act 1959*. The legislation supports the operation of a 'Written-Off Vehicle Register'.

Vehicles that are written-off by insurance companies are usually sold at auctions. A written-off vehicle, purchased at auction, depending on the extent of damage, may be either used for spare parts, or repaired and brought back into service. Where a written-off vehicle is repaired, it is subject to an identity and roadworthiness inspection before it can be registered.

However, certain categories of written-off vehicles in New South Wales are precluded from being registered under New South Wales legislation. Nationally consistent legislation to establish which vehicles should be eligible for registration and which should not be eligible is currently being discussed by Austroads and the National Motor Vehicle Theft Reduction Council. It may be some time before agreement is reached by all jurisdictions and each jurisdiction adopts a common approach.

In the meantime, it is proposed to amend the *Motor Vehicles Act* such that the Registrar may refuse to register a certain class of vehicle. The regulations relating to written-off vehicles will be amended to ensure that, in the first instance, the categories of wrecked vehicles in New South Wales that are precluded from being registered in New South Wales are precluded from being registered in South Australia. The amendment is aimed at ensuring that South Australia does not become the 'dumping ground' for such vehicles. The amendment will cover the eventuality that other States and Territories may introduce similar legislation to New South Wales.

I commend this Bill to Honourable Members.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

These clauses are formal. Note that clause 2(2) removes the application of section 7(5) of the *Acts Interpretation Act 1915* to Part 3. This is because the amendment made by clause 10 may be brought into operation after section 14*(c)* of the *Motor Vehicles (Miscellaneous) Amendment Act 1999* has been brought into operation (section 14*(c)*, and this clause, make different amendments to the same subsection).

PART 2

AMENDMENT OF HARBORS AND NAVIGATION ACT 1993

Clause 4: Amendment of s. 26—Licences for aquatic activities

This clause amends a penalty provision in section 26(4) to remove the reference to divisional penalties.

Clause 5: Amendment of s. 71—Requirement to submit to alcotest or breath analysis

This clause amends section 71—

- to allow the regulations to prescribe the manner in which an alcotest or breath analysis is to be conducted (for example, by requiring the taking of more than one sample of breath and, in such a case, specifying which reading is to be taken to be the result of the test or analysis);
- to provide a defence to a prosecution for an offence of refusing or failing to comply with a requirement or direction where the defendant was not allowed the opportunity to comply with the requirement or direction after having been given the prescribed oral advice in relation to the consequences of refusing or failing

to comply with the requirement or direction and his or her right to request the taking of a blood sample.

Clause 6: Insertion of s. 72C

This clause inserts a new section providing for the conversion of a reading obtained as a result of an alcotest or breath analysis in terms of the alcohol content in a person's breath to a reading in terms of the alcohol content in the person's blood.

Clause 7: Amendment of s. 73—Evidence

This clause makes consequential amendments ensuring that the wording of section 73 is consistent with breath analysing instruments producing a reading in terms of the alcohol content in the breath and with proposed section 71(3a).

Clause 8: Amendment of s. 74—Compulsory blood tests of injured persons including water skiers

This clause inserts an evidentiary provision in section 74 so that if, in proceedings for an offence under the Division, it is proved by the prosecution that a concentration of alcohol was present in the defendant's blood at the time at which a blood sample was taken under this section, it must be conclusively presumed that that concentration of alcohol was present in the defendant's blood throughout the period of two hours immediately preceding the taking of the sample.

Section 72(4) of the principal Act provides that this evidentiary provision will also apply to blood samples taken under that section.

Clause 9: Transitional provision

This clause provides that an amendment does not apply to an offence committed before the commencement of the amendment.

PART 3

AMENDMENT OF MOTOR VEHICLES ACT 1959

Clause 10: Amendment of s. 24—Duty to grant registration

This clause amends section 24 to allow the regulations to prescribe a class of vehicle that the Registrar may refuse to register, either completely or pending investigations. Paragraph *(c)* of this clause makes the same amendment as paragraph *(b)*, but it is necessary because section 14*(c)* of the *Motor Vehicles (Miscellaneous) Amendment Act 1999*, which also amends section 24(3), may be in operation at the time that this amendment is brought into operation.

Clause 11: Amendment of s. 116A—Appointment of nominal defendant

This clause amends section 116A to state that the Minister may appoint as the nominal defendant either a natural person or a body corporate.

Clause 12: Amendment of s. 145—Regulations

This clause strikes out the definition of 'written-off motor vehicle' in section 145(8) and allows the regulations to prescribe the definition of that term.

PART 4

AMENDMENT OF ROAD TRAFFIC ACT 1961

Clause 13: Amendment of s. 47A—Interpretation

This clause substitutes a new definition of 'alcotest' to reflect the fact that the reading that will be obtained from the test apparatus will no longer be expressed in terms of the alcohol content in the person's blood, but rather in the person's breath.

Clause 14: Amendment of s. 47B—Driving whilst having prescribed concentration of alcohol in blood

This clause repeals section 47B(2), which is to be replaced by proposed 47I(13bb).

Clause 15: Amendment of s. 47E—Police may require alcotest or breath analysis

Section 47E of the principal Act is proposed to be amended to—

- provide that an alcotest or breath analysis (whether conducted at a random breath testing station or otherwise) must be commenced within two hours of the person driving, or attempting to drive, the vehicle or being stopped at a random breath testing station;
- to allow the regulations to prescribe the manner in which an alcotest or breath analysis is to be conducted (for example, by requiring the taking of more than one sample of breath and, in such a case, specifying which reading is to be taken to be the result of the test or analysis);
- to provide a defence to a prosecution for an offence of refusing or failing to comply with a requirement or direction where the defendant was not allowed the opportunity to comply with the requirement or direction after having been given the prescribed oral advice in relation to the consequences of refusing or failing to comply with the requirement or direction and his or her right to request the taking of a blood sample.

Clause 16: Insertion of s. 47EA

This clause inserts a new section providing for the conversion of a reading obtained as a result of an alcotest or breath analysis in terms of the alcohol content in a person's breath to a reading in terms of the alcohol content in the person's blood.

Clause 17: Amendment of s. 47G—Evidence, etc.

This clause makes consequential amendments to ensure the wording of section 47G is consistent with breath analysing instruments producing a reading in terms of the alcohol content in the breath and with proposed section 47E(2e).

Clause 18: Amendment of s. 47GA—Breath analysis where drinking occurs after driving

This clause amends section 47GA to update a reference in that section.

Clause 19: Amendment of s. 47I—Compulsory blood tests

This clause inserts an evidentiary provision in section 47I so that if, in proceedings for an offence against section 47(1) or 47B(1), it is proved by the prosecution that a concentration of alcohol was present in the defendant's blood at the time at which a blood sample was taken under this section, it must be conclusively presumed that that concentration of alcohol was present in the defendant's blood throughout the period of two hours immediately preceding the taking of the sample.

Section 47F(3) of the principal Act provides that this evidentiary provision will also apply to blood samples taken under that section.

Clause 20: Amendment of s. 167—Causing or permitting certain offences

This clause amends section 167 to update a reference in that section.

Clause 21: Transitional provision

This clause provides—

- that an approval issued in relation to an alcotest apparatus continues to operate for the purpose of the proposed new definition of 'alcotest'; and
- that an amendment does not apply to an offence committed before the commencement of the amendment.

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

SELECT COMMITTEE ON ADELAIDE CEMETERIES AUTHORITY BILL

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

That the time for bringing up the report of the select committee be extended until Wednesday 25 July 2001.

Motion carried.

STATE DISASTER (STATE DISASTER COMMITTEE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 483.)

The Hon. T.G. ROBERTS: The Labor Party will be supporting the government's bill, which is a fairly straightforward bill and is descriptive of the State Disaster Committee. It sets out the proceedings and functions of the committee, which is a non-controversial body. The only assurance I need from the Attorney is that all relevant parties that have been involved in the creation of the formula in relation to the State Disaster Committee are happy with the outcome. I am assured by some of the parties that that is the case. There is no need to be unnecessarily verbose about the amendments, which we will support.

The Hon. IAN GILFILLAN: I indicate Democrat support for the second reading. The bill seeks to amend the State Disaster Act 1980. The role the act plays is an important one, as follows:

An act to make provision for the protection of life and property in the event of disaster or major emergency and for recovery following the event. . .

The role of the State Disaster Committee in the act is to repair, review and maintain the state disaster plan, to advise the minister and to liaise with organisations regarding the provisions and plans in place in the event of a state disaster or emergency. Currently, the State Disaster Committee has 10 members, those members being: the state coordinator; a representative from each of the police, the State Emergency Services, the Metropolitan Fire Service, the Country Fire Service and the Local Government Association; an appointee from the Minister for Human Services; and three other appointees of the Minister for Emergency Services.

It is interesting to note that the method for selecting the representatives from the police, the SES, the MFS, the CES and the LGA involves the relevant body or person forwarding three nominations to the minister, who then chooses the committee member from those three. The provision will change the make up of the committee, if it is passed in its current form, to include the chief of the Emergency Services Administrative Unit and will provide the minister with the option of appointing a further three members to the committee. On behalf of the Democrats, I raise two questions regarding these changes. First, why is it necessary to have the chief executive of ESAU on the State Disaster Committee? It appears that there is adequate representation of the interests that ESAU comprehends. Secondly, why is there a need to expand the number of members on the committee appointed by the minister? Perhaps we may get a reflection in the summing up as to what has been the minister's practice in appointing these members and what criteria have been used.

The bill also seeks to generally increase the fines for breach of the Act. We see no problem with this. As for the other measures in the bill, they are positive and will increase the level of transparency and accountability in the operation of the act. It is essential in the area of planning that all stakeholders be aware of their roles in the event of a disaster and that they be involved with the precautionary planning. The amendments to the act allow for the creation of such guidelines and make provision for more active consultation with the Local Government Association. We support the second reading.

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

ESSENTIAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 485.)

The Hon. T.G. ROBERTS: I indicate that the Labor Party will support the passage of this bill. The bill sets out to amend the Essential Services Act by replacing the offence and penalty provisions in sections 4 and 9 with new offences and penalties, which draw a distinction between an inadvertent or negligent breach and an intentional or reckless breach. I understand from the briefing I have been given that it does not come from any inadvertent or reckless breaches of the Essential Services Act of South Australia but draws on interstate experiences for breaches of their act, and similar circumstances could arise in this state, given the nature of the problem that emerged in Melbourne in relation to the Esso fires and subsequent restrictions on the use of gas by householders.

A number of the instructions given to householders to refrain from using gas, placing themselves and others in danger, were ignored and people were openly breaching the law. In many cases the breaches were inadvertent and in ignorance, but in other cases there was wide media reporting and advertising by the government, and certainly instructions were given to the public through the media, and people were recklessly disobeying those instructions by wilfully damaging equipment. There could have been major damage to themselves and to anybody within a reasonable vicinity if an explosion or fire had occurred with regard to the use of gas.

I have been asked by the shadow in another place to place on record questions to which the minister can reply. I refer the Attorney to new section 4, in particular subsections (5) and (5a), which creates an offence of strict liability of failing to comply to a direction, even without knowledge of that direction, or otherwise unintentionally breaching a direction. If it does, we will have to consider our position in another place and perhaps seek amendments or discussions on how to deal with those questions if the principles are being violated by those subsections.

The amendment bill imposes large increases in penalties and I guess the other question is whether the lifting of fines and penalties is in line with what other states are doing, given that we are now trying to get some sort of uniformity in all our laws in relation to state competition to try to make more uniform across borders many of our laws. With those few questions, the opposition supports the bill and looks forward to the replies to questions in committee.

The Hon. IAN GILFILLAN: I indicate Democrats support for the second reading of the bill. It arises from the experience of the Victorian government following the explosion and fire at the Longford gas processing plant. It amends the act in three key ways, first, relating to the penalties for not complying with a ministerial direction in relation to essential services during a declared emergency. Currently, the penalty for a natural person is $1 000 and for a body corporate $10 000.

The bill will amend this in two ways. In a case where the non-compliance is inadvertent or negligent, the penalty shall be $5 000 for a natural person and $20 000 for a body corporate. In a case where the non-compliance is proven to be intentional or reckless, the penalty shall be $20 000 for a natural person and $120 000 for a body corporate. Secondly, the bill extends the offence provisions to include company directors who direct their company not to comply with the ministerial directive. Finally, the bill alters the provisions regarding who can investigate and prosecute offences under the act.

I think it is worthwhile to indicate that I am unclear as to exactly what essential services will be embraced by this measure. As I understand it, the essential services are those which are prescribed by regulation. I have not discovered which of those are currently prescribed by regulation, but in his reply the Attorney may indicate how widely the implication of this bill goes and whether it embraces other essential services such as power and water.

The Hon. T.G. Roberts: Breweries?

The Hon. IAN GILFILLAN: That is a good suggestion. It is a wide cast of the net, but it is worthy of consideration. The proposed change would mean that authorised officers under the relevant act (that is, the Electricity Act in the case of an emergency relating to the electricity supply) could,

alone with the police, fill this role. With those observations, I indicate the Democrats' support for the second reading.

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

COMMUNITY TITLES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1021.)

The Hon. IAN GILFILLAN: I again indicate the Democrats support for the second reading of this bill. Community title is a relatively new form of land ownership. It was enacted in South Australia in 1996 under the Community Titles Act. A similar act had previously existed in New South Wales for some time. Community title is similar to strata title in that it permits a number of private property owners to share the title of and responsibility for an area of adjacent joint common property. However, community title is much more flexible than strata title and can be used for a wide variety of property development from residential to commercial.

The Community Titles Act has been in operation for four years and the bill currently before us seeks to make minor technical amendments to it. These changes involve: the vesting of lots on the deposit of a plan to divide a jointly owned allotment; by-laws for exclusive use of common property; amendment of a plan of community division pursuant to a development contract; early lodgement of a plan of community division for examination; issue of new certificates when strata scheme converts to a community scheme; conversion of single storey prescribed building unit schemes; and saving existing statutory encumbrances when prescribed building unit schemes convert. With those remarks, I support the second reading of the bill.

The Hon. T.G. CAMERON: SA First rises to support this legislation. It involves a minor tweaking of the Community Titles Act. The bill proposes minor amendments to the Community Titles Act as part of a review. The government is pleased with the way in which the Community Titles Act, which began a new form of land division, has operated, and this bill merely tweaks that act.

It provides for a vesting of lots on the division of a single allotment that is owned by more than one person, it makes it clear that a developer can include a by-law specifying exclusive use of part of the common property, it provides for consolidation of the common property of a scheme into one title, and it also makes it clear that the registrar can, when making a preliminary examination, look at more than formal matters and approve the plan in preparation for registration. It also contains some transitional provisions.

I think the amendments proposed by the government improve the Community Titles Act and remove some of the difficulties or obstacles which made divisions and the creation of community titles more difficult. SA First supports the legislation.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for this bill. The Leader of the Opposition has queried whether there are any adverse issues which have been raised whilst we have been consulting on the bill. She has referred to an issue identified by the Real Estate Institute of South Australia regarding the legislation.

In relation to the Leader of the Opposition's first query, no adverse issues have been raised in consultation regarding the content of the bill. A large number of proposals for changes to the legislation were received during the course of the review of the Community Titles Act 1996. However, not all proposals were accepted by the government. Only three of the proposals which were not adopted have been further pursued by stakeholders during consultation on the bill.

In addition, the Law Society has expressed general disappointment that its submissions to the review were not reflected in the bill. The first of these was the Insurance Council of Australia's proposal that a minimum amount of other insurance (for example, public liability insurance) should be prescribed for property damage. Currently, the legislation prescribes only a minimum amount of other insurance which must be taken out by a community corporation with respect to bodily injury (namely $10 million).

Due to the varying sizes and purposes of community title schemes, it is difficult to impose minimum levels of property damage coverage. Any such amount would be arbitrary. The requirement in the legislation that a community corporation must take out other insurance for an amount for which a reasonably prudent person would insure is sufficient protection and means that the corporation could not choose not to insure for property damage or take out only nominal coverage.

The second issue, which has been raised with my office only informally, relates to a proposal that larger community title schemes (in particular, commercial schemes) should be able to create by-laws with penalties in the vicinity of $5 000 as distinct from the current maximum penalty of $500. Although no information was provided about the types of offences that it is envisaged should attract such a penalty, the types of offences are likely to be significant behavioural or environmental offences which are better dealt with by legislation other than community titles by-laws. Further, because parliament does not scrutinise the by-laws to ensure that they are reasonable, there would be potential for the imposition of unreasonable offences or penalties for contraventions of by-laws if a maximum penalty in the vicinity of $5 000 were allowed.

Finally, the Association of Consulting Surveyors South Australia Inc. has argued that the legislation should be amended to clarify the obligations of surveyors with respect to the requirement in the legislation to delineate service infrastructure, for example, water pipes and electricity lines on a plan of community division.

This issue is currently receiving further consideration with a view to a possible amendment at the committee stage. After some consultation on that issue tomorrow morning between the Registrar-General of Deeds and the Association of Consulting Surveyors, hopefully I will be able to get an amendment on file very quickly, with a view to dealing with the committee stage tomorrow.

The Leader of the Opposition has referred also to an issue raised by the Real Estate Institute of South Australia regarding insurance obligations under the legislation. The Community Titles Act only imposes insurance obligations with respect to the common property and property that affects multiple lot owners. There is no general insurance obligation on a lot owner to insure his or her property, just as there is no such obligation on an owner of estates in fee simple.

It is argued that lot owners owe a greater responsibility to their neighbours in a community scheme than owners of Torrens titled land. Allegedly, it is in the interests of the whole community that all individual community lots be sufficiently insured because the value of other lots in the scheme may decrease if an uninsured structure remains damaged due to a lack of financing. As a result, it is being proposed that a general obligation be imposed on either a lot owner or the community corporation to insure that all buildings and structures in a community scheme rather than just common property and easements for support and shelter.

There are justifications for insuring property owned by the whole community or where the property is relied on to provide shelter or support, for example, where there is a party wall. However, it is questionable whether restrictions should be imposed on lot owners where fellow lot owners suffer no direct property damage. On this basis, the government does not consider that the changes to the legislation proposed by the REI are necessary.

Bill read a second time.

STATE DISASTER (STATE DISASTER COMMITTEE) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1044.)

The Hon. T.G. CAMERON: This bill reflects the revised administrative arrangements that support emergency management. The Grear report into these administrative arrangements has been accepted and many of the recommended arrangements have been implemented. This bill reflects those changes. It provides that the Chief Executive of the Emergency Services Administrative Unit is a member of the committee; it allows the number of members to be appointed to be increased to 12 and sets a quorum; it allows the government to remove a member for failing to do their duty; and for positions to become vacant. It also brings the powers of the recovery committee and the disaster committee into line; it requires the disaster committee to consult with the Local Government Association and inform it of its responsibilities, it allows the committee to establish subcommittees, delegating powers to them, and it requires the committee to establish guidelines that assist in the understanding of its functions and responsibilities.

It specifies that, where a director or a manager is guilty of an offence under section 22 of the act, they are liable to pay the penalty as a natural person. It also changes divisional penalties into monetary amounts and it makes technical, procedural and, would you believe, grammatical amendments to the act. SA First supports the bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support. This bill makes a number of important amendments to the State Disaster Act to better facilitate the way in which we deal with state disasters. The only issue that needs to be addressed is the question raised by the Hon. Terry Roberts, who asked whether all relevant bodies had been consulted and were happy with the bill.

It has been through the State Disaster Committee (which is a committee of officers); and it has been through the Emergency Management Council (which I chair and which is comprised of predominantly ministers but also some CEOs). I am not aware of any opposition to the propositions in the bill. I think I can say quite confidently that it is an uncontroversial bill and, for that reason, I am hopeful that we will be able to proceed with it fully this afternoon.

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

ESSENTIAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1045.)

The Hon. T.G. CAMERON: This bill seeks to amend the Essential Services Act by creating new offences and new penalties for breaches, and to make arrangements for administrative amendments. The bill allows that a direction given by a minister in a period of emergency can now be done by publishing it in a newspaper; and the reference to service by telex and telegram has been removed—not before time.

New offences of intentionally or recklessly contravening a direction, and also contravening a direction, are established. The bill also provides that a person found guilty of contravening a direction can be found guilty of intentionally or recklessly contravening a direction. It also provides that a person is not liable for an act or omission in compliance with a direction.

It provides that information sought by the minister in operation of this act must be relevant only to its administration or the administration of the State Disaster Act and the State Emergency Services Act, or the assessment of the risks of using the services provided for. It also inserts a confidentiality clause for the minister. It inserts the provision that regulations may proscribe other acts under which authorised officers have the power of enforcement and administration, and that those authorised officers may, during a period of emergency, administer and enforce a principal act. It also clarifies that the powers of the police are not altered by this section.

It also creates the offence of intentionally or recklessly contravening a condition of exemption granted by the minister and a lesser offence of contravening a condition. It also provides that a person found guilty of contravening a condition may also be found guilty of intentionally or recklessly contravening a condition.

The bill provides that an offence under this act is a continuing offence; that a director of a body corporate is guilty of an offence committed by that body corporate; and that it is a defence to a breach of this act if the offence did not take place due to lack of reasonable action by the defendant to prevent it. It specifies the penalties for offences created by this bill and makes minor technical statute law revision amendments. The amendments proposed for this bill are sensible and warrant inclusion. SA First supports the bill.

The Hon. K.T. GRIFFIN (Attorney-General): Again, I thank honourable members for their indications of support for the bill. The Hon. Terry Roberts has raised several issues and identified that there is a new structure of offences distinguishing between those offences where a person intentionally or recklessly contravenes a direction and those where a person contravenes a direction without necessarily doing it intentionally or recklessly in a way that attracts criminal liability.

The Hon. Terry Roberts has raised a question about proposed subsections (5) and (5a) of section 4 in clause 3 of the bill and asked whether these offences, in being created, seek to impose strict liability. My reading of the provisions is that, first, the direction has to be given to the person, and the way in which the direction is given is set out in proposed subsection (4). If the defendant knows of the direction and intentionally contravenes it or ignores it, or recklessly carries it out, that is, with reckless disregard for what should be done, that is a serious criminal offence, and that requires the prosecution to establish intent.

Proposed subsection (5a) relates to a person who contravenes a direction given: the person, under this subsection, is guilty of an offence. Again, there has to be proof first of all that the direction was given to the person, in any of the ways which are identified in proposed subsection (4). If the person is, for example, out in the scrub, with no radio, no telephone and no newspapers and contravenes the direction which has been given publicly, at large, then it is my view that the person is not guilty of an offence. There are some other elaborations which I can give in respect of that, and I will make sure that that is done before the matter is finalised in the House of Assembly.

The Hon. Terry Roberts also raises the question of a substantial increase in penalties and surmises that that was as a result of the review in Victoria. His surmise is correct. What prompted our review, particularly of penalties, was the review in Victoria of its essential services legislation and the experience there, particularly during the Longford gas disaster. I think they are the only questions raised by the honourable member, and if there are any others, we can deal with them in committee.

The Hon. Ian Gilfillan raised questions about authorised officers and enforcement. Obviously, essential services are defined in the principal act as services, whether provided by a public or private undertaking, without which the safety, health or welfare of the community, or a section of the community, would be endangered or seriously prejudiced. That would, in normal terms, extend to petroleum, gas, electricity and water, but it could extend to health services—

The Hon. Ian Gilfillan: Sewerage?

The Hon. K.T. GRIFFIN: Yes, waste water and sewerage. It is intended that, once the bill is passed, we will prescribe various acts and various authorities by regulation. We did give some consideration as to whether the police should be the enforcers, but they have no expertise in relation to the supply of gas or electricity and we took the view that, because some emergency probably would be over a fairly compressed period of time and would relate maybe to gas, the best persons to act as authorised officers would be the compliance officers already engaged by the relevant gas, electricity or water authority because they know what to look for, how to handle it and how to identify owners. That is a much more appropriate responsibility for them than it is for the police.

That is the reason why we decided on the course of action that is now enshrined in the bill, and I think that is the most effective way of dealing with such an emergency situation where an essential service is involved. My recollection is that that was the only major issue that the Hon. Mr Gilfillan raised. If there is any other issue, we can deal with that during the committee consideration of the bill.

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

NETHERBY KINDERGARTEN (VARIATION OF WAITE TRUST) ACT REPEAL BILL

In committee.

Clause 1.

The Hon. R.D. LAWSON: This bill was the subject of consideration by a select committee comprising the Hon. John Dawkins, the Hon. Mike Elliott, the Hon. Carolyn Pickles, the Hon. Carmel Zollo and me. It received a number of written submissions, all of which were in support of the proposal. It also heard evidence from a Ms Julieann Riedstra, Director, Infrastructure, Department of Education, Training and Employment. As I say, there were no objections to the bill and all the submissions strongly supported it. In its report the committee stated that it was of the opinion that the bill was an appropriate measure and recommended that it be passed without amendment.

The Hon. M.J. ELLIOTT: I was a member of the first select committee that looked at the Netherby kindergarten as well as the one that is just now reporting. Other than the end result, it has been an unsatisfactory process: the process in between has been highly unsatisfactory. Prior to the other committee sitting, members in this place were told that there was no other possible site for the Netherby kindergarten. The question was asked, 'What about up at the Waite campus rather than on the Waite trust land where it currently resides?'

At that stage members were told that that was not possible, that it had been explored and so on. When the last committee reported, I indicated that I thought we had little choice and that there did not seem to be anything else available. Also, as I have said in this place on many occasions, I lamented the fact that we had lost some green space and talked about the fact that once green space has been alienated it is almost impossible to get it back.

Following that report I was disappointed when the local member decided to quote selectively from my speech to imply that I actually supported the kindergarten staying where it was. He highlighted a section where I said that I did not think we had any choice and chose not to pick up the fact that I was opposed to it—not that I had any say in it at the time—being on that sort of land. I have consistently opposed the alienation of green space: anyone who knows my record would know that.

I found it very annoying, and frankly very close to dishonest, to try to represent me as supporting the kindergarten having been in that place. But miracle of all miracles, since that time, thanks to the pressure of locals and the people who thought that the Waite trust should count for something, the government suddenly discovered that it was possible for it to go somewhere else. Indeed, the kindergarten has already been relocated, and that appears to be a resounding success.

Clearly, the old kindergarten was run down: that was one of the reasons why the previous select committee was set up—to provide an opportunity to have it refurbished. Since we thought it had nowhere else to go we thought that at least allowing it to be refurbished was reasonable.

We now find that the same local member who decided to have a dig at me—and I suppose by inference other members of this place, including government members who supported the previous report—is bringing in a bill which has the effect of guaranteeing that this land is returned to the Waite trust. Well, it is nice politics. I am not opposed to it and I am glad that the land is now inalienable—although what does 'inalienable' mean? It means until the next time the govern-

ment wants a piece. We only have to look at the Adelaide parklands to see what inalienable actually means. I am more than happy to support the legislation, although very disappointed by the politics that was behind it.

The Hon. CARMEL ZOLLO: As a member of the select committee I rise to make a short contribution. I endorse the committee's findings, namely, that the manner in which to remedy or resolve the breach of the original Peter Waite Trust is by the passing of this bill. Clearly, the site occupied by the kindergarten since 1945 and sanctioned by the Netherby Kindergarten (Variation of Waite Trust) Act 1997 varied the terms of the trust.

Mention has been made of the first select committee and that it perhaps did not hear from all interested parties, and that insufficient time was provided for those parties. For whatever reason, I understand that no objections were received at that time. However, I place on record the concerns that previous committee members had at the time, including those of my colleague, the Hon. Carolyn Pickles, who was a member of the first and second committees.

The community is pleased that the kindergarten has now relocated and that the provisions of the trust can be restored to the terms that existed immediately before the commencement of the 1997 act. I hope that the further development of the Waite Arboretum will prosper for the benefit of all South Australians.

The Hon. R.D. LAWSON: I should place on record that the Hon. Mike Elliott was somewhat churlish in his attack upon the member for Waite, who has been assiduous in his desire to restore the Waite Trust, given the changed circumstances that occurred in relation to the kindergarten. The honourable member described the process as unsatisfactory. I was not a party to the initial select committee but I was a member of the parliament at the time the first bill was passed. There was extensive debate in the community about the bill and about the measures.

I do not consider that the evidence establishes that there was any ill will or conspiracy on the part of those who were the proponents of the original arrangement. It appears now that a satisfactory solution has been found, that land within fairly close proximity to the situation of the original kindergarten has been found, and I have seen the premises that have been erected, and most satisfactory they are.

I think we should applaud this bill. It has restored the Waite Trust. It has mended the fence of encouraging philanthropy and maintained the integrity of the trust. I thank members for their expressions of support, which is in no small measure due to the diligence of the local member.

Clause passed.

Clause 2, preamble and title passed.

Bill read a third time and passed.

FISHERIES (SOUTHERN ZONE ROCK LOBSTER FISHERY RATIONALISATION) ACT REPEAL BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 1013.)

The Hon. IAN GILFILLAN: In discussing our support for this repeal legislation, I indicate that we consulted the *Hansard* record of debate on 10 September 1987 involving my colleague the Hon. Mike Elliott. There is an authority for you! When the Fisheries (Southern Zone Rock Lobster Fishery Rationalisation) Bill was being debated, the Hon. Mike Elliott and I both opposed it. We could see no good reason for it or for the haste with which it was arranged. Although it is not strictly relevant to the bill before us, I note in passing the inconsistent manner in which successive governments, Labor and Liberal, have addressed the southern zone rock lobster fishery as opposed to the Gulf St Vincent prawn fishery.

Those remaining in the southern zone rock lobster fishery throughout the licence buy-back period were obliged to keep funding the buy back until it was completed in 1995. As I remarked recently, the same thing did not happen in respect of the prawn fishery, a sore point to those few who were persuaded to leave the fishery because they did not want to have to pay back such a big debt. Nevertheless, this act has now achieved its objective. The rationalisation scheme has run its course and therefore there is no need for this act to remain on the statute book, so the Democrats support the second reading.

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

LAKE EYRE BASIN (INTERGOVERNMENTAL AGREEMENT) 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.

The Lake Eyre Basin Agreement is a major achievement for the South Australian government and represents the start of a new era in the management of the Basin. It fulfils a South Australian government initiative to cooperate with the commonwealth and Queensland governments to recognise the environmental, economic and social values of the Basin and to work towards integrated catchment management.

The Lake Eyre Basin Agreement was signed on behalf of the South Australian and Queensland governments in Birdsville on Saturday 21 October 2000. The Commonwealth had previously signed the agreement.

Both of South Australia's great river basins—the Murray Darling Basin and the Lake Eyre Basin have their origins in other states. Our geographic position at the receiving end of these river systems makes it imperative that we establish formal cooperative agreements with our upstream neighbours. We have had such arrangements in place for the Murray Darling Basin for some time, and now have developed the Lake Eyre Basin Agreement for the Cooper Creek and Diamantina River systems. The Lake Eyre Basin Agreement establishes a formal and effective way for the South Australian government to engage strategically and constructively with the Queensland and Commonwealth governments for the management of the Basin.

While the Lake Eyre Basin is perhaps less well known than the Murray Darling Basin, it is nevertheless of great importance to South Australia. Lake Eyre Basin rivers have not been substantially altered by major regulation and extraction. They are amongst the few remaining major rivers with near natural flows and have some of the most variable flow regimes in the world. We have an opportunity for good, sustainable environmental management in the Lake Eyre Basin, an opportunity for 'getting it right', an opportunity that we have been slow to recognise in other river systems and are now struggling to correct.

The agreement had its origins in the controversy over a proposal to grow irrigated cotton on Cooper Creek in Queensland. Concern by the community and the South Australian government for the future health of this Australian icon led to the signing in May 1997 of the Heads of Agreement for the Lake Eyre Basin by the South Australian, Queensland and commonwealth governments. This important document provided the basis for developing the Lake Eyre

Basin Agreement. Since the beginning, South Australia has been the driving force behind the agreement.

The agreement requires the preparation and adoption of policies and strategies for the Basin and periodic reporting on the 'state of the rivers'. These should provide a sound basis for long-term management and monitoring of the Basin.

The agreement requires approval and ratification by the parliaments of South Australia and Queensland. The passage of this bill is therefore vital to give effect to the agreement. In introducing this bill so soon after signing the agreement, South Australia is again leading the way.

A comprehensive community consultation process was undertaken and several changes were made to earlier drafts of the agreement in response to community views. During this consultation process and at the signing ceremony in Birdsville, the community has demonstrated its support for the agreement.

The community has also made great strides towards an integrated approach to management of the Lake Eyre Basin. Overcoming the logistic difficulties of a vast area and a small population, the Basin community has made linkages across State borders and has undertaken a range of activities over the past three years, the most significant being identification of management issues, community education and the development of strategic plans which were also launched in Birdsville on 21 October 2000.

The agreement provides an excellent opportunity for the further development of partnerships between government, the local community and other stakeholders.

The Arid Areas Catchment Water Management Board will prepare a catchment water management plan for the South Australian portion of the Lake Eyre Basin rivers and will play an important role in the Basin. The Board is also required to advise the South Australian Minister for Water Resources on activities in other states which are likely to affect the water resources in the Board's area.

The State Water Plan recognises the Lake Eyre Basin as one of South Australia's five key water resources and acknowledges the importance of the agreement to protect South Australia's interests in the Basin.

The water resources of the Lake Eyre Basin in South Australia are valued for the conservation of wetlands and aquatic ecosystems, in particular South Australia's Coongie Lakes wetlands are classified as Wetlands of International Importance under the Ramsar Convention. These 19 800 square kilometre wetlands support 73 species of waterbirds and 13 wetland-dependent species, of which 43 and 9 respectively have been recorded breeding.

The Cooper and Diamantina provide water for stock and flooding is beneficial for floodplain grazing by the pastoral industry.

Floods sustain vast wetlands, support rangeland grazing and are the trigger for breeding activity in many native species. During dry periods, the wetlands of the Lake Eyre Basin are vital drought refuges for wildlife.

The Basin's two major rivers, the Diamantina River and Cooper Creek flow through semi-arid and arid regions of Australia, and paradoxically some of their most significant wetlands coincide with some of the most arid areas of the continent.

The terminal lake of the system is Lake Eyre, a vast ephemeral salina which experiences minor flooding on average every couple of years, mainly from the Diamantina River and occasional extensive floods from both the Diamantina and the Cooper in exceptional years. Both systems support important wetlands.

The agreement and passage of the Lake Eyre Basin (Intergovernmental Agreement) Bill together provide the framework for the protection of these great nationally and internationally important environmental assets.

I commend this bill to the House.

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

EXPLANATION OF CLAUSES

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Interpretation

The relevant agreement for the purposes of the bill is the Lake Eyre Basin Intergovernmental Agreement, a copy of which is included in the schedule to the bill.

Clause 4: Ratification of Agreement

The agreement is to be ratified and approved by the Parliament.

Clause 5: Facilitation of Agreement

The Minister and State agencies are to do anything reasonably necessary to ensure the performance and observance of the agreement.

Schedule

The schedule sets out the intergovernmental agreement.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

ADJOURNMENT

At 6 p.m. the Council adjourned until Thursday 15 March at 11 a.m.