LEGISLATIVE COUNCIL

Wednesday 27 November 2002

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

AUDITOR-GENERAL'S REPORT

The PRESIDENT: I lay on the table the Auditor-General's supplementary report, agency audit reports 2001-2002, pursuant to section 36(3) of the Public Finance and Audit Act 1987.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 15th report of the committee.

Report received and read.

The Hon. J. GAZZOLA: I bring up the 16th report of the committee.

Report received.

QUESTION TIME

GOVERNMENT CONSULTANTS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government, representing the Premier, a question about consultancies.

Leave granted.

The Hon. R.I. LUCAS: On 28 August, I asked a question of the government which highlighted a policy commitment that had been given, and that I claimed had been broken, by the Premier and the government in relation to consultancies. To refresh members' memories, that specific policy commitment given last year by the Premier was as follows:

> From day one of the new Labor government, it is my intention to create a three-person team in cabinet including the Attorney-General, the Treasurer and the Minister for Government Enterprises to check all future contracts and consultancies.

In my explanation I indicated that I had been advised that this was not occurring and that the cabinet committee had not been required to look at future consultancies.

This month the government responded to the question and agreed that the cabinet committee was not looking at all future consultancies and there was, therefore, a breach of the policy commitment that had been given by the Premier in relation to consultancies. Mr President, as you know, the issue of consultancies and the Labor Party's claimed crackdown on consultancies was a significant political issue in the lead-up to the state election campaign, not just in terms of the cost of consultancies but also in terms of the claimed controls the new government said it would impose upon consultants.

A further commitment that was made by the then opposition was included in what some people have described to me as the now discredited Labor Party costings document, 'Labor's Policy Costings and Funding Strategies,' released by the Hon. Kevin Foley, then the shadow treasurer on 11 January 2002. In that document the following commitment is made:

> Labor will introduce new rules for the employment of consultants to contain costs and ensure the taxpayer receives value for money. This will include. . .

And a number of dot points follow, but, in particular, dot point two states:

> · Contracts of $10 001 or more must be signed off jointly by the relevant minister and the Treasurer.

I have been advised by senior officers within at least two government departments that this commitment has not been adhered to by a number of ministers in the signing off of contracts of $10 000 or more. My questions are:

1. Will the minister bring back a list of all contracts of $10 000 or more where the policy commitment given by the then shadow treasurer, that they would be signed off jointly by the relevant minister and the Treasurer, has not been abided by?

2. Will the Premier indicate whether this is a breach of the ministerial code of conduct in terms of the behaviour of the particular ministers?

3. What action does the Premier intend to take against those ministers who have not complied with this particular policy dictate of the new government?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): It really is a bit rich that the treasurer in the former government should be talking about the issue of consultancies. After all, he was the treasurer who authorised spending consultancies worth $110 million in relation to the sale of ETSA. That is $110 million in relation to the sale of one asset alone, the greatest real estate coup in history, for putting up the for sale sign—although under the former treasurer they could not even get that right, but that is another story.

So, indeed, the issue of consultancies was an issue during the previous election campaign, because members of the public in this state were greatly concerned about the gross amount of money that was spent on these matters by the previous government. As I have pointed out on previous occasions, prior to the election, I guess the previous treasurer was reading the public opinion polls that were telling him that members of the public were greatly concerned about the amount of money that the previous government had been misspending on this subject, so they took action to try to curb the spending themselves prior to the election, and we all know that. In relation to the specifics of the question that the honourable leader has raised, I will take that up with the Premier and bring back a reply.

The Hon. R.I. LUCAS: As a supplementary question, will the minister confirm that he has approved contracts of more than $10 000 without adhering to the policy dictate that they must be signed off by the Treasurer?

The Hon. P. HOLLOWAY: I will have to look through what contracts had been signed in relation to that matter—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The previous government's record in relation to consultancies stands by itself. Whatever the new government spends on consultancies, it will go nowhere near even 10 per cent of what was spent by the previous government in one particular sale.

PRISONS, DRUG USE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about drug use in prisons.

Leave granted.

The Hon. R.D. LAWSON: In the course of an answer to a question I asked on this subject yesterday, the minister said:

> One of the accusations is that the government is applying a different set of standards within the prisons than outside the prisons within the broader community.

The minister rejected that charge because he said later:

> The tolerance level in prisons is set at the same standard as those in the broader and general community.

My question is: will the minister agree that the laws relating to the possession or use of illicit drugs should be enforced strictly in prisons, irrespective of any supposed tolerance which might be applied in the wider community?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I really do not need to go back and repeat what I said yesterday, because that is already in *Hansard* but, in answer to the question in relation to community standards and standards inside prisons, I would expect the same standards to be applied to prison management regimes as the community would expect in the community.

CARP FISHERY

The Hon. CAROLINE SCHAEFER: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries a question about the carp fishery.

Leave granted.

The Hon. CAROLINE SCHAEFER: Since the removal of fishing licences in the Murray River, I have received constant correspondence from those 30 fishers, but in particular from those fishers who have registered an interest in continuing their carp fishing activity in the Murray River. They have been assured by the minister, as we have been assured in this place, that a viable carp fishery will be encouraged in the Murray River. As I say, I have received much correspondence on this matter, but I have received a recent email to which I propose to refer extensively because I think it sums up the situation and because the minister will know about whom I am talking and will recognise the credibility of this fisher.

The Hon. T.G. Cameron: We will all be in the dark, will we?

The Hon. CAROLINE SCHAEFER: He has allowed me to refer to his name. I do not make a practice of that, but I am very happy to tell the honourable member afterwards. The email states:

> We were extremely pleased that the Hon. Paul Holloway accepted an invitation to visit our house on the weekend while in the Riverland for a country cabinet meeting.
>
> We appreciate that due to legal proceedings he could not answer a lot of our queries regarding the fishery, but it is extremely important for him to give us some facts and figures before we make another investment into the fishery as our lives have been on hold for long enough already.
>
> We have always shown a sincere interest in continuing in the carp fishery as we have invested every cent into it already.
>
> PIRSA Fisheries proposes a scheme of management for a carp based fishery in South Australia but cannot tell us how it will be possible to compete with other commercial fishers in South Australia, New South Wales and Victoria who are using gill nets to harvest carp. . . no assistance has been given in the development of other methods of capturing carp and no management plan is in place. We do not know how much our licence fees will be, where we can fish for carp or how many nets we can use. . . I have been removing carp from the river system for approximately 11 years.
>
> Our largest customer was a rock lobster company and I supplied approximately 50 plus tonnes of carp and bony bream per year. I believe that, since we have lost this market, they have been forced to consider importing bait from overseas.

The importation of bait brings with it the considerable risk of diseases being brought in. The email continues:

> I also supply a tortoise farmer who has been breeding thousands of tortoises for 30 years for the aquarium trade. . . the tortoises consume up to one tonne of carp per month. He cannot just starve his tortoises, or change their diet which will have an enormous impact on their breeding, while the government decides on a management plan and our future, and his. . . Over the past 11 years I have tried all sorts of marketing of these fish from fertiliser, pet food, leather jacket pots, crayfish pots, tortoise feed and human consumption. Some were viable, some were not. We now use a combination of marketing with top quality fish going to the eastern states' markets with lower quality going to cray or lobster pots and local tortoise farmers.
>
> We spent every cent we had in setting up our carp business and we finally had excellent markets and tripled our income. We never expected the carp fishery to be phased out. We had 100 per cent confidence in putting all our money into our business. We were led to believe that the worst that would happen was that native fishing may be phased out over 10 years, but never in our wildest dreams the carp fishery. . . We believe in July/August/September 2001, 17.014 tonnes of carp was removed from the river by the 30 fishers. July/August/September 2002 just 1.5 tonnes has been removed using drum nets. These figures are a huge concern [to the ecology of the river]. As carp go dormant in the winter months we only have a six-month window of opportunity to catch carp. Over the past 11 years we have learnt the only method to catch large numbers of carp is gill netting.
>
> We explained to the Hon. Paul Holloway that we have never caught a Murray cod in a gill net in the backwaters while targeting carp, as gill nets are species specific. . . I was one of the fishermen who was granted an exemption to use a haul net recently. It took three blokes and a whole day to work the net. We pulled out only three bins of fish. . . The general public are very concerned about the carp taking over the river and we are constantly approached asking what we are doing about it. The general community believes that the government should be paying us to take them out.

Certainly that is the feedback I am getting. While the general public were certainly in favour of the removal of licences for native fishing, they are now beginning to be very concerned about the increase in the carp population along the river. I continue:

> This is a letter I sent to the Hon. Paul Holloway on 18 October.

It follows a number of other letters and attempts to discuss issues. There is also a copy of questions asked on 14 August at Loxton with Jon Presser, who is a PIRSA fisheries officer. The questions that these people require to be answered urgently are:

1. Please clarify where we can fish. . .
2. Will our licences be transferable?
3. When will a management plan be in place?
4. Will there be trials done on the new gear in South Australian waters?
5. When will a commercial viability assessment be done?
6. How do we compete with other commercial fishers in South Australia, New South Wales and Victoria. . .
7. What are our net allocations?
8. How much will our licence fees be?

In spite of meeting with these people personally, receiving a letter from them and having a PIRSA officer meet with them, the minister has still not answered any of these questions. My questions are:

1. Why has the minister not answered their questions and when will he do so?
2. Will he consider reintroducing carp-specific gill nets in backwaters only?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): In relation to the last question, I am certainly prepared to work with the fishers in relation to the introduction of suitable nets within the backwaters that will allow them to effectively target carp, and I discussed the matter with that particular group of river fishers and with

others after the community cabinet meeting we had in the Riverland at the weekend. The government has always stressed the importance of continuing a fishery in the Murray River in relation to carp. We have always believed that that was important. As every member of this chamber would know, most of the river fishers are currently before the courts contesting the right of the government to take away gill nets. That matter is listed before the courts next week, I believe. Until that matter is heard, I am constrained in what I can say on this subject.

Members interjecting:

The PRESIDENT: Order! There are constraints upon all of us here.

The Hon. P. HOLLOWAY: I have been constrained in relation to that subject. As I pointed out to the community forum meeting, the issue of the current legal case and the continuation of a carp fishery are linked to some extent because the government proposed originally that it would make two options available to fishers. One was for those exiting the fishery, and the first half dozen who took the second option, which was effectively the full compensation package minus $10 000, in the second version, would be able to continue in the current fishery until 30 June next year, and they could continue to target European carp, bony bream, yabbies and other exotic species from 30 June next year. We need to work with the half dozen fishers who chose to continue in the fishery, and that is the point that I have stressed.

Currently the fishers are taking legal action, which is their right. The sooner that is resolved, the better for everyone. I have pointed out to the fishers that the half dozen of them who wish to continue in the river fishery should talk to the government so we can work through some ways to ensure that this new fishery will be as viable as possible, and that will involve some work on nets, and so on. I have always made it plain to those fishers that we are committed to making that fishery as viable as possible and that we would look at any reasonable measures in relation to equipment, and so on, to help them make it viable.

At the meeting with the river fisher with whom the shadow minister has talked. A number of issues were discussed. He is one of two river fishers who have applied for a licence for a haul net. Certainly, he is serious. I must say that I appreciated meeting with that particular fisher and his family because it was useful to hear again their perspective. He was one of those fishers given an exemption for a haul net; and he has apparently trialled that net. The net does catch some European carp but there are limitations to its effectiveness.

I understand that, in other areas where haul nets have been used, mechanical hauling devices have been used which, of course, makes the industry much more viable than hand-hauling nets. Those sorts of issues need to be addressed. One undertaking given to the fishers is that the government is presently looking at developing some research projects in relation to the commercial viability of this fishery and the particular equipment that could best target carp. Obviously, in the past, when the fishers had the right to fish for Murray cod and callop (which were the major species and the major economic return to those fishers), clearly, carp were just a by-product.

With respect to the new fishery, which would specifically target carp, obviously more focus needs to be given to equipment that specifically targets those species, and, certainly, the department can assist in that respect. We do not have all the answers. I think that at the meeting to which the shadow minister referred, she expected that the department officials would have all the answers in relation to the best ways of targeting that species. We do not. However, we are prepared to work with those fishers and to use the advice and the expertise available through SARDI and also within the fisheries section of the department to develop that equipment.

Obviously, we can permit some sort of experimentation in relation to that to determine the most viable methods for catching these fish. Of course, as I pointed out to the public meeting held in Berri on Monday, it is very difficult for us to start negotiating with fishers in relation to these matters until we determine exactly who will continue in the fishery; and that, in turn, depends on the legal action which, obviously, we cannot comment on at the moment. In spite of those difficulties, I am very keen to work with those fishers who do wish to remain in the fishery and continue to target carp.

The discussions that I had in the Riverland the other day were very useful. I have taken on board some of the comments made to me. As a matter of fact, I discussed those comments with officers of my department this morning to determine how we might be able to advance this issue. The government is, as it always has been, committed to the success of the carp fishery because, as the shadow minister pointed out and as I have pointed out on a number of occasions, removing carp from the river, as well as providing that economic contribution to the state (somewhere in the vicinity of half a million dollars worth of carp per year could be harvested from the river), also serves a very important environmental function, and that is why we are prepared to look at all reasonable steps to ensure that the fishery is viable.

ANIMAL LIBERATION RAIDS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the recent Animal Liberation Raids.

Leave granted.

The Hon. CARMEL ZOLLO: In relation to its alleged raids on pig and poultry farms, a media release this week by Animal Liberation claimed, 'Full biosecurity precautions as advised by primary industries had been taken during the raids.' Will the minister please clarify any advice provided to animal liberation by the Department of Primary Industries and Resources in relation to biosecurity risks associated with unauthorised entry to livestock farms?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Let me say at the outset that I attended a meeting last week with—I will not name the group, but it is part of an organisation that represents a significant rural industry—and I was warned that they had already heard on the grapevine that there were to be a number of Animal Liberation type raids—and that has proved to be correct. It is quite clear that Animal Liberation has embarked on a campaign against intensive animal production.

Following an illegal raid by members of Animal Liberation on a piggery at Mount Compass earlier this year, the Chief Veterinary Officer wrote to Animal Liberation warning of the risks to biosecurity—that is, sensible procedures for the prevention of the spread of disease caused by such raids. The Chief Veterinary Officer's letter drew the attention of Animal Liberation to the risk of a breach of the Livestock Act in relation to disease spread associated with unauthorised or

uncontrolled movements of people in livestock production plants, and he concluded with the following advice:

I seek your cooperation to ensure that your organisation is not (and is not perceived to be) contributing to the risk of disease spread to and within intensive farming industries by eliminating high-risk activities such as unauthorised entries, as practised by your members in the past.

I seek leave to table a full copy of this letter from the Chief Veterinary Officer of the Department of Primary Industry and Resources.

Leave granted.

The Hon. P. HOLLOWAY: This is an example of what I believe is timely and sensible precautionary advice, especially in the current atmosphere of heightened international biosecurity alert following the outbreaks of serious livestock diseases overseas. The blatant misuse of this advice by Animal Liberation in its media release is mischievous and offensive.

The actions of Animal Liberation this week are similar to those evident in the raid on the Mount Compass piggery in June this year. That case was fully and reasonably investigated by the RSPCA, which found that, despite the claims made by Animal Liberation, there was no evidence of a breach of the Animal Welfare Code of Practice and that the operators of that piggery had no case to answer.

I am concerned that when these sorts of comments are made in press releases by Animal Liberation they completely distort the position that has been taken by my department and the Chief Veterinary Officer, and I am pleased to use this opportunity to set the record straight.

GENETICALLY MODIFIED FISH

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries a question about genetically modified fish.

Leave granted.

The Hon. IAN GILFILLAN: As we know, a select committee is currently looking into the issues surrounding genetically modified organisms in South Australia. The terms of reference of the committee specifically confine the inquiry to the impact of genetically modified plant material. I agree that this is appropriate as there are many issues to be sorted out in regard to GM crops. It does however raise the question of what next will come along the genetically modified road. The most likely GMO that we will have to deal with after plants is fish. Already experiments are being done to genetically modify a range of marine life in North America—and I will comment a little later on the fact that this is also happening in Australia.

Recent concerns about the threat that farmed kingfish pose through unauthorised and unplanned release, the devastation that they are allegedly causing to various fish and squid in Spencer Gulf, and suggestions that they are bred in captivity form a worrying backdrop to the possible introduction of genetically modified aquaculture. It has been calculated that, if genetically modified stock escape, they put at risk of extinction native stocks, such as, in particular, Atlantic salmon.

The American Food and Drug Administration is currently considering an application to market Atlantic salmon which have been genetically engineered to grow twice as fast as salmon raised on fish farms. An article headed 'Transgenic fish' in the *New Scientist* of 14 September 2002 states:

The company's AquAdvantage bred salmon have an extra gene for a growth hormone, making them grow up to six times as fast as normal, though adults are no larger. Other groups in the US, Australia—

and I emphasise in Australia—

Cuba and China are also creating fast-growing super fish.

Other possible genetic modifications currently being developed include increased tolerance to the cold and, although the American application is not expected to be decided for possibly two years, it does, in our view, warrant consideration of the minister and PIRSA. Despite early warnings from many producers and environment organisations, as well as the Democrats, we were and are still caught legislatively unprepared for genetically modified crops. I ask the minister:

1. Is he aware of companies in Australia currently experimenting with genetically modified fish, as indicated in the *New Scientist* article?

2. Does he agree that the Gene Technology Act and the Aquaculture Act are inadequately equipped to properly regulate a commercial release of GM fish?

3. What is the government doing, or what does it intend to do, to prepare for applications to farm genetically modified fish?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): In relation to the first question, I am not aware of any companies that are experimenting with genetically modified fish. I think it was unfortunate that in the preamble to his question the honourable member did not refer to kingfish and some of the quite erroneous and almost scandalous information that is being published in relation to kingfish at the moment. There is absolutely no GM relationship to kingfish or, indeed, other species which are bred for fish farming at the moment: they are all bred in normal ways. Indeed, this country has developed technology in that area that puts it as a world first.

In relation to kingfish, I think it is worth pointing out that in the 1999-2000 year there was no production; in 2000-01, 45 tonnes were produced, with an estimated farm gate value of $900 000. By the year 2005-06, which is not all that far away, according to the recent Aquaculture Industry Market Assessment Report, we could produce 5 000 tonnes of kingfish in this state with an average farm gate price of $8, which would be $40 million of value for this state, and that could totally transform a number of places—not just Port Lincoln but places such as Whyalla and Ceduna, whose economies could benefit enormously from this industry. Not only would the value be achieved by the fishing industry itself but also for each dollar that is spent within aquaculture at least another dollar is spent in the service industries. The aquaculture industry is a very large employer within regional South Australia, and jobs in the service industries to aquaculture, as I said, have transformed many economies, particularly on Eyre Peninsula.

So, I think to make some of these throw-away lines and suggest that somehow or other kingfish are causing a problem at the moment because one lot broke out in June this year because a shark attacked the cage is quite over the top. Many of the reasons this issue has been in the paper are really bogus and entirely self-interested. Wild catch fishers, of course, have some competitive self-interests in opposing aquaculture. Also, of course, some people, for a range of other fairly spurious reasons—such as, for example, not wanting the view from their shack spoilt, and so on—have made all sorts of quite wrong and unfounded allegations in relation to what is

a very significant industry in the state already and could become much greater in the future.

It is absolutely imperative from the start when we consider the rapidly growing fish industry in this state that we remember that the customers for tuna, in particular, and many fish species, are in Japan, which would be absolutely horrified at any suggestion of genetic modification in relation to these fish or their feed. It is irresponsible to make such a suggestion. Market issues determine the position of GMO crops, and that is a matter that we have debated and discussed in this parliament at some length.

Those issues are currently being addressed by industry. In fact, a survey of Farmers Federation members indicated that 80 per cent of its members had concerns about the introduction of GMO crops—not because of health or environmental reasons but because of the impact that they might have on the marketplace. Clearly, that is the basis on which decisions will ultimately be made in relation to the introduction of GM crops and other products. There is no doubt what the market is dictating. It is highly irresponsible to link in any way the farmed seafood in this state with genetically modified organisms. If I have any information in relation to the other specifics of the honourable member's question, I will bring back a reply.

CROWN LAND

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, a question about Crown leases.

Leave granted.

The Hon. A.L. EVANS: On 24 November, an article appeared in the *Sunday Mail* entitled 'Families face $300 a year slug'. The article stated that a report to be tabled in another place this week will recommend that a fee of $300 per annum be paid by lessees of Crown land. I understand that an estimated 8 000 families across the state will be affected. The article went on to quote the minister as follows:

> We would like people with perpetual leases to move to freehold and, in the process, it will fill Treasury coffers.

My questions to the minister are:

1. Did he make this statement?

2. What is his reason for this fee, given the already difficult plight that farmers are facing with drought conditions and the substantial number of families who would be affected by the fee?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Thank you, Mr President.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Only half the question—the first half.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Only the first half—that's what I said. I will refer that question to the Minister for Environment and Conservation in the other place and bring back a reply.

WATER SUPPLY, ERNABELLA

The Hon. T.J. STEPHENS: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about water in Ernabella.

Leave granted.

The Hon. T.J. STEPHENS: Yesterday, I was very pleased to hear the minister's statement in relation to restoring the water supply at the Ernabella community. I commend the minister on his speedy response to what was a very desperate situation, where there was no running water in the community, no working taps and no water supply to the school or the clinic. As a result, last Thursday both the school and the clinic remained closed.

I have spoken to the constituents concerned in Ernabella, and they too are pleased that new pumps have been installed. However, the minister may not be aware that one of the big pumps has already blown due to a power surge (in fact, a lightning strike) through the power station in the early hours of Monday morning. Obviously, that replacement pump strategy is a very short-term fix. The Ernabella residents are pleased that a further bandaid fix is to be applied, and they are counting on the installation of a new stand-alone generator next weekend to power the water pumps. In the meantime, this week Ernabella is again operating on only half of its water-pumping capacity.

The community members in Ernabella and I were very interested in the minister's statement yesterday that described what the minister thought was the water situation in Ernabella. The minister said:

> I am informed that, on Wednesday 20 November 2002, the Department of State Aboriginal Affairs was made aware of problems being experienced with water pumps in the Ernabella community. It was not until the next morning, 21 November 2002, when the full details had become available, that it was realised that three of the six bores were out of action as a result of a lightning strike in the area. I was informed that this meant that the capacity for water flow was approximately 130 kilolitres a day. This volume of water is adequate to maintain water for drinking and other essential functions such as running the clinic.

In fact, the community members were very annoyed, because the water situation as described by the minister has been totally played down. It would have been much more accurate had the minister said that DOSAA had been aware of the water supply problems at Ernabella for months. The biggest pump has been replaced on no fewer than three occasions this year due to high voltage surges and, during an electrical storm last Christmas, three pumps were blown up in one hit. It is quite incorrect to say that DOSAA became aware of water supply problems at Ernabella only last Wednesday, when the community has been requesting assistance to fix the pump problems since last Christmas.

What actually happened last Wednesday evening is that the first electrical storm since last summer hit Ernabella power station and wiped out the three biggest pumps. Again, the minister makes it sound like it was okay because three of the six pumps were still functioning. He said the volume of water was adequate to maintain water for drinking and other essential services. The fact is that all the pumps were blown and all water pumping ceased. Three very small pumps that have surge protection built in were started up again the next morning, but E42, E44 and E45 are very small pumps which in total pump only just on one litre of water a second. The three big pumps that blew up pump between them 7.5 litres per second. So, Ernabella had one-eighth of its pumping capacity which meant that 85 per cent of residents and businesses located on higher ground had no tap water at all. Most of these homes do not have a water tank or reserve supplies.

As for the minister saying that the clinic could still run, community members are very annoyed by this comment when there was no water at all coming out of taps at the clinic

for two days, and there is no water tank for emergency use. Staff at the clinic do not make the decision to close down for the day lightly and they, in particular, are very annoyed that the minister intimated in his statement that water was still available.

I am very concerned that DOSAA officers are not getting their facts right and are misinforming the minister. When it comes to desperate situations such as when there was no water last week, the minister really needs to know the facts and not allow himself to play down what was a very serious situation. Of course, it is vitally important that the minister is not put in a situation of misleading parliament. My questions to the minister are:

1. Will he go back to the department and recheck the veracity of the DOSAA briefing given to him?

2. Will he check with the clinic as to the true situation last Thursday in Ernabella and apologise to the staff who made the right decision to close the premises on that day?

3. Will he report back and correct the parliamentary record as to the real situation in Ernabella?

The PRESIDENT: May I point out that that was getting very long and you actually were starting to debate some of the issues. I ask you to pay attention to your explanations in future.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I do recognise the urgency of the issues about which the honourable member asked his questions, and of the situation that he indicated, that is, the interruption to the power supply, the continuation of blow-outs in the motors of the pumps (the pumps tend to be okay but the motors blow out), and the problems associated with the power surges from the supply that is there.

I have spoken personally to some of the people in the area who told me that their water had ceased completely and that they had no supply. I was advised, as the honourable member has indicated, that there was some water available to the clinic, but the pressure may not have been enough to go through the taps and form what we would regard as a supply of any note.

I will cross-check the information based on what the honourable member has said, because I understand he is in contact with people on the ground. I also understand the problems associated with communications up there, because I have been placed in the same position myself in opposition, in trying to gain accurate information from people in a very isolated region of the state.

The situation is that at the moment there is an assessment being done of the power needs of the communities. I have spoken recently to one individual who lives in a homeland—and the homelands tend to have their water supplies knocked out probably more often than the communities do. When lightning strikes hit some of the homelands, I understand that some of the small communities—while I am not too sure of this information—run on both solar and diesel power, so that they have a dual supply program. I understand that the intention is to build up the solar supply and the single power supplies to make things a little more comfortable for the area, but it will take some time and some investment to do that.

I will follow up the reports that the honourable member has from the ground. I do not consider that they have been exaggerated at all, but the problems that people are experiencing now, caused by the remoteness and particularly with a lot more summer rains feeding down from the monsoons, seem to be more regular. They perhaps were not as regular as they are now and certainly, with the circumstances in which people find themselves, there needs to be a spares policy that is different from the current policy, where it might be possible for spares to be kept in close proximity to the major centres, with improved programming for a continuation of power.

My understanding is that the surges can be engineered to a point where they become less frequent if enough technology is applied to those programs. But certainly lightning tends to overcome anything that man puts in place and overrides a lot of those back-up programs that are put in place. I will certainly get a further report and will endeavour to bring that back as soon as I can in relation to those important issues that face those regional and isolated communities.

BLACK SHIRTS

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, a question about black shirt support.

Leave granted.

The Hon. A.J. REDFORD: I am not referring to the black shirts that you wear, Mr President. There has been considerable publicity over the past few weeks on the issue of the black shirts organisation and its activities in South Australia. Late last week my attention was drawn to a web site. On that web site the following passage occurs in relation to the black shirts:

> So long as their activities are within the bounds of the law, why do we concern ourselves with their activities at all, much less feel that it is our place to condemn their activism?

The author compares their activities and methods with the women's electoral lobby and suggests that the Victorian Attorney-General (Rob Hulls) has behaved more criminally than the black shirts so far. The article finishes by stating:

> I think we need the black shirts like we need all groups in between, extreme or not. Let's not shoot the messenger but lend weight and support to their cause which at the end of the day is our cause in common, in the hope of moderating and engaging, rather than alienating, those elements which we fear most.

The author who refers to 'our cause' is none other than one Matilda Bawdin, a prominent member of the Australian Democrats, and the fourth member on the Legislative Council ticket of the Australian Democrats at the last state election. Indeed, the use of the word 'we' would seem to indicate that the Australian Democrats might support the position of Matilda Bawdin, who supports the role of black shirts and their method of practice. In the light of that, my questions are:

1. Does the Attorney-General agree with the statement that we should not condemn the activities of the black shirts?

2. Does the Attorney-General agree with the comment of the Australian Democrat Matilda Bawdin that the women's electoral lobby and the Victorian Attorney-General (Rob Hulls) have behaved more criminally than the black shirts so far?

3. Will the Attorney-General lend weight and support to the black shirt cause in the same manner as the Australian Democrat Matilda Bawdin?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those eclectic questions to the Attorney-General in another place and bring back a reply.

WOMEN IN BLACK

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Social Justice and the Status of Women, a question about the curbing of the right to protest on the steps of Parliament House.

Leave granted.

The Hon. SANDRA KANCK: Women in Black is an international network of women across barriers of language and distance with the common philosophy of opposition to militarism and violence. According to the Women in Black web site, the Women in Black demonstrations are always women only and usually take the form of women wearing black and standing in a public place in silent, non-violent vigils at regular times and intervals.

These vigils were started in Israel in 1988 by women protesting against Israel's occupation of the West Bank and Gaza, demanding peace between Israel and the Palestinians. Italian women supporters of the Israeli women took the idea to Italy where Women in Black mobilisations have occurred in many cities. Contact between Italian women and the Yugoslav women resulted in the theme being taken up there. The Women in Black demonstrations have now spread around the world to cities such as Ankara, Barcelona, Copenhagen, Derry, London, Mexico City, Montreal, Paris, Stockholm, Toronto, Vienna and Washington DC—and these are just some of them.

This use of silent vigils to protest the horrors of war gained the world wide movement the millennium peace prize in 2001. Since November 2001, my office has made bookings for the Adelaide Women in Black to use the steps of Parliament House for their monthly vigil. These occur on the last Wednesday of the month and last just one hour: women come and go dressed in black; some of us stay 10 minutes, some stay the full hour. In January, I wrote to the Joint Parliamentary Service Committee asking for approval on an ongoing basis for these demonstrations. I received a letter from the Joint Parliamentary Service Committee dated 26 February which says:

> We have approved your request for use of the steps of Parliament House on Wednesday 27 February 2002 between 5 and 7 p.m., subject to acceptance of the conditions of use. We also approve your request for the same time each last Wednesday of the month.

In seeking to slightly alter the booking for November due to daylight saving and for December due to the last Wednesday falling on Christmas Day, my office was informed that the new Speaker did not like repeated bookings. According to the *Advertiser* today, the Speaker of the house said:

> Mr Lewis said yesterday the monthly protest was 'excessive'.

That is a word that Women in Black might use to describe some of the wars and incursions that are occurring around the world. The article continues:

> Mr Lewis said he and Upper House President Ron Roberts had ruled on the issue. 'Regular assembly by one group will result in a plethora of groups seeking to protest at Parliament House and this will ultimately result in confrontation.'

My questions are:

1. What steps will the minister take to ensure that peaceful community groups continue to have access to the steps of Parliament House for legitimate protest?

2. Can the minister assure the Women in Black of the government's support for women who choose to be active in peaceful protest?

The PRESIDENT: That question should be directed to me, because it is not for the minister to determine the practices at Parliament House. By way of some explanation, I can advise the Hon. Sandra Kanck—

The Hon. T.G. Cameron: Are you answering the question for the minister?

The PRESIDENT: I am taking the question. The Speaker did raise the matter with me. We have had discussions in respect of multiple bookings for a whole range of things, including some people wanting to book the Speaker's dining room for six months consecutively. As a result of our discussion, we do not support 12-month bookings, but my understanding is that the honourable member has permission to assemble for at least three months and then she is free to make another booking. The same practice will be used for any group.

In relation to the Women in Black, I particularly support their operations and their motives. I do not think anything is meant in regard to the organisation as such. The government's view of the activities of the Women in Black is something for it to answer, but the bookings are clearly a matter for the presiding members of both houses, that is the Hon. Mr Lewis and me. That is some clarification. If the minister wants to address the question of the government's attitude to the activities of the Women in Black, he can.

STURT HIGHWAY

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, questions on the Sturt Highway.

Leave granted.

The Hon. T.G. CAMERON: Since 1996, 55 people have been killed on the Sturt Highway, with an estimated 485 people injured in more than 1 000 crashes. The road stretching from the Barossa Valley through the Riverland into Victoria has been a major concern for many years. It is the most hazardous section of the national highway in South Australia, with a horrifying crash record. Limited overtaking opportunities are a main contributing factor to the ever-increasing road toll. About half the fatal crashes are head-on collisions. The RAA suggests that more overtaking lanes are needed in the area east of Truro, the 50 kilometre section of highway between Accommodation Hill and Waikerie, between Barmera and Monash, west of Monash and east of Paringa.

The increased traffic volumes between Gawler and Nuriootpa make this a particularly hazardous section of road, not to mention that it is one of our most frequented tourist destinations. The number of crashes is three times that of the Dukes Highway between Melbourne and Adelaide, with twice the number of deaths and injuries. The difference between these roads is that about 25 overtaking lanes have been constructed along the Dukes Highway in recent years, dramatically reducing the crash and fatality rate. The federal government promised that 17 overtaking lanes on the Sturt Highway would be completed by the end of the 2004-05 financial year. Only two were built last year and three more will be built this financial year. The completion date has now been extended to the 2005-06 financial year, putting into serious doubt whether even this date can be met.

Statistics show that another four people could die and another 12 may be seriously injured on this highway before the end of the year alone. The RAA is so concerned that it has

tabled a petition in federal parliament containing over 16 000 signatures asking for the overtaking lanes to be completed. My questions are:

1. As a matter of urgency will the minister now lobby his federal counterpart to ensure that the federal government fulfils its commitment to build 17 overtaking lanes on the Sturt Highway by the end of the 2004-05 financial year?

2. In the meantime, can the minister list what actions the state government has taken to reduce the unacceptable volume of crashes on the Sturt Highway?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Having visited the Riverland recently, I can say that that question is almost identical to one raised by many residents of the Riverland at the public meetings that were held. I will refer those questions to the minister responsible and bring back a reply.

RIVERLAND COMMUNITY CABINET MEETING

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Regional Affairs a question about the Riverland community cabinet meeting.

Leave granted.

The Hon. G.E. GAGO: On Sunday and Monday the Rann ministry and departmental CEOs were in the Riverland community. I understand that there were numerous meetings between individual ministers and community representatives. I also understand that there was a well-attended public meeting where local residents got a chance to quiz cabinet members directly. Can the minister give his assessment of the community cabinet visit to the Riverland and outline some of the activities that ministers were involved in?

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I thank the honourable member for her question and her keen interest in regional affairs. The Riverland community cabinet visit—

Members interjecting:

The PRESIDENT: Order! The honourable minister is attempting to comply with standing orders; others should do the same.

The Hon. T.G. ROBERTS: —followed previous successful visits to regional South Australia. The cabinet visit to the Riverland was another example of this government's commitment to real and meaningful accountability. During the cabinet visit on Sunday and Monday, the government was given an opportunity to meet with local leaders and community members to discuss issues of importance to them.

The duties performed by the Premier included officially opening a new Woolworths shopping centre in Waikerie and switching on the Christmas lights at Loxton where, I understand, around 10 000 people came to see the great fireworks display. I was particularly impressed with the enthusiasm and record of the Riverland Development Corporation, which gave me a personal presentation about its activities in the setting of Banrock Station, which is a very successful setting for a winery. The commitment to finding solutions to long-term problems associated with infrastructure development, water resources and education and training must be commended.

The resulting economic and community development, which has followed a strategic approach, combined with regional unity has been spectacular. Much of that work was done by the previous government, and the Riverland Development Corporation must be congratulated on its professionalism. I must mention that the focus on export market development impressed us greatly, and I express my satisfaction with the arrangements that have been put in place. It was a very professional presentation. The work of the corporation in the Riverland is what governments and oppositions would expect, but it is also working with the Murraylands and the Murray-Mallee—areas that are not as well-endowed with resources as is the Riverland.

The Riverland Development Corporation is carrying along its poorer relations in terms of providing some of the professional services that are required in a very cooperative and quiet way. I would encourage all members, if they can, to avail themselves of a presentation by the Riverland Development Corporation to bring themselves up to speed with what is going on in that area.

MATTERS OF INTEREST

PREMIER'S FOOD AWARDS

The Hon. CARMEL ZOLLO: It was my pleasure to attend the fifth Premier's Food Awards last Friday night to celebrate what has truly been an exceptional year for South Australia's food industry. It is clear that we are dishing up something different to the world! 'Dish' was the theme of the awards dinner, reflecting the multicultural make-up of South Australia's food industry. Our government recognises that the food industry is integral to the future of South Australia—it is the lifeblood of many rural communities. Recently, the Premier opened the Food Export Centre on Greenhill Road, which brings together at one location the export expertise of Food South Australia, Food Adelaide, Flavour SA and the National Food Industry Strategy.

The industry has clearly indicated that this is what it wants. We recognise that with limited local and interstate markets for South Australia's food and beverage products a strong food export development program is essential to drive future growth and to create demand for new products and increasing production. It is also essential that we add value to our precious commodities right here in this state rather than sending them abroad for someone else to reap the financial rewards. Whilst we are understandably proud of the many world-class export focused companies in this state, we must also applaud the huge contribution made by hundreds of small and medium-sized food businesses.

They add the spice, if you like, to our food industry, and without them our dish would not be as tasty. Through Food South Australia and the regional development boards, we are working to establish regional food groups right across the state to work in partnership with the wine and tourism industries. This project is encouraging the development of new, distinctive regional products, which combine food, wine and tourism while at the same time strengthening the capabilities of individuals. The world's taste for South Australian food and beverages was well and truly reflected in this year's ScoreCard, which measures the value of South Australia's food industry from the paddock right through to the plate.

Exceptional growth in recent years has propelled the value of the food industry to a record $9.8 billion—well above the growth level needed to reach the State Food Plan target of $15 billion by 2010. Our food exports have almost doubled in the past two years, with about $3 billion worth of food products now being sold to more than 120 countries. This growth has outperformed all other Australian states and territories. More importantly, South Australia's value added food exports grew by 21 per cent during 2001-02, and processed exports have doubled since the start of the State Food Plan six years ago. Of course, last season was an exceptional year for commodities, but unfortunately this is not always going to be the case, so we must be innovative in our thinking and look for better ways of doing things.

The Premier's Food Awards celebrate the achievements of the women and men who keep the food industry moving forward. I congratulate all the finalists and especially the winners of the 10 awards. They are: Blue Lake Milling, winner of the AWB Ltd field crop industry achievement award; Kangara Foods, winner of the Adelaide Produce Markets horticulture industry achievement award; Holco Fine Meat Suppliers, winner of the VISY Board meat industry award; the Australian Southern Seafood Group, winner of the PIBA seafood industry achievement award; B.-D. Farm Paris Creek, winner of the National Foods dairy industry achievement award; Pacific Asia Express, winner of the Food South Australia leadership award through innovative services to the food industry; the Lenzerheide Restaurant, winner of the Regency Institute of TAFE leadership through training and development award; Australian Hiramasa, winner of the Food Adelaide leadership through new export development award; Ludvigsen Family Farms, winner of the Envestra leadership through innovation award; and Richard Gunner, winner of the Malaysia Airlines young leader of the year award.

I wish the industry continued success and I again congratulate all those people who are involved in the production of food at all levels along the food chain—hard-working, focused, passionate and inspired people, leaders striving for success both here and abroad.

CYPRUS

The Hon. J.F. STEFANI: Today, I wish to speak about a new UNSC plan for Cyprus which has been prepared for consideration by the Republic of Cyprus. This plan is of great interest to many South Australians of Greek Cypriot origin because it affects their country of origin as well as the future of their relatives who are living in Cyprus. We are all aware that the Turkish occupation of Cyprus occurred in 1974 and that since that time Cyprus has been a divided country, with many refugees having to leave behind everything dear to them, having been dispossessed of their homes and their properties.

Over many years, Cypriot negotiations have always been on the basis of the continuity of the Republic of Cyprus. The plan is silent on this issue. Observers say that the absence of a reference to the Republic of Cyprus is not accidental. References to the Republic of Cyprus were a critical element in all major UNSC resolutions that were adopted during the crises of 1964, 1965, 1974 and 1983.

The strength of the Republic of Cyprus has been that the international community (with the exception of Turkey) and all international organisations have recognised the community of the Republic of Cyprus and its government along with its territorial integrity and sovereignty. The new proposal essentially destroys the advantage that the republic has enjoyed until now. If the new plan is adopted we will see the end of the Republic of Cyprus as it is known at the present time.

The proposed plan confirms the succession of the republic into a federation and deals with the issue of settlers and the definition of citizenship which will blackmail the Greek Cypriot people into accepting that the settlers in the occupied areas as a result of the systematic Turkish occupation will alter the demographic character of Cyprus as a country.

The document deals with the transitional provision of the two component states and their political leaders who will become co-presidents. The plan is a dysfunctional approach to important constitutional issues, because it has selectively borrowed some provisions from foreign constitutions. In the past, this procedure has not been successful.

The property provisions in the plan are extremely complex and essentially nullify the Loizidou precedent and introduce concepts of qualified moratoria avoiding displacement, compensation and other exchange measures. Other provisions in the document require Cyprus to support Turkey's membership in the European Union irrespective of whether Turkey meets the membership criteria.

I know that many of my Greek Cypriot friends who are now living in South Australia have an enormous interest in these developments which will affect their divided homeland, which I was privileged to visit in 1995. I am also aware of, and pay tribute to, the on-going work of the Justice of Cyprus Committee for its continuing efforts to seek justice and freedom for Cyprus and its people. Zito ii Kypros che ziot to elinico ethnos.

ADOLESCENT MARKETING

The Hon. J. GAZZOLA: Our idealisation of youthful beauty seems to have taken a turn for the worse where the clamour of the marketplace sees sex appeal and sensuality, as measured by monetary worth, being the essence of youthfulness. This concern over innocent beauty being increasingly seen as a saleable commodity was voiced by Mia Handshin of the *Advertiser* in her recent article on Adelaide schoolgirl Megan, who, at the tender age of 14 years, is fast on track to become the new face of the magazine and modelling world. Mary-Kate and Ashley Olsen, 16 year old US twins, the archangels of the new crusade, recently held a press conference in Sydney to example their wears as 'taste makers for their generation' in their $2 billion a year global industry.

'Adultification', as it is called, is the new corporate buzz word for the iconic portrayal and exploitation of the young. This exploitation, however, is now taking a turn for the worse. Younger people are now at the forefront of these commercial interests and the costs are, according to concerned critics, the desecration of childhood and the diminution of innocent imagination. Sex and sex appeal have always been sure-fire winners, as any *Dolly* magazine or adolescent publication will testify. But the new crusade now has the pre- and early teens firmly in its sights. While adolescent beauty and sex appeal still carry the commercial flag, corporations and their advertisers are now looking to the young to broaden their global congregation. The reification of the young as sexual objects is the new spirit of market adoration.

While the world has become somewhat passé about teen marketing, the focus on pre-teens is starting to cause concern.

The fact that the alarm bells have not rung before is a sad indictment of our casual acceptance of the inroads that capitalistic excesses have made in our moral fabric. But it seems there is something even more unpalatable about this new push. It has been argued that childhood and the concept of childhood innocence are a contemporary phenomenon and that, presumably, we should not be overly protective. But, there is no need to rummage through the lessons of history to feel disquiet about this new push.

It seems to be innately wrong for corporations to exploit those who possess neither the awareness nor the rational ability at this stage in their lives to exercise informed choice about what is in their best interests. We penalise the exploitation of young people by paedophiles and pornographers—and rightly so—but we baulk at censoring or legally challenging these new dream makers. We have usually mumbled about what we see as relatively harmless, but surely there must be a time when we can say: enough is enough.

Groups and individuals are raising concerns over what is now termed the 'hurried child syndrome', whereby children are indoctrinated to prematurely embrace adulthood according to market dictates. Advertising directed at children who have no defence against the appeal of saturation marketing has been described by Freda Briggs, Emeritus Professor of Child Development at the University of South Australia, as a 'nightmare' and 'alarming'. Some manufacturers have gone so far as to completely throw scruples aside by sexualising products, as exampled by the British retailer Argos which recently marketed padded bras and G-string bikinis for children as young as nine years. Such is the concern in the US over this trend that Congressman Martin Foley has introduced a bill into Congress seeking the banning of such advertising on the internet.

In closing, it is to be hoped that corporations and advertisers concerned with the pre-teen market in Australia have the sense and the decency to adopt ethical guidelines. Freedom of expression is a hallmark of a civilised society, but there are rational limits.

MUSIC HOUSE

The Hon. DIANA LAIDLAW: I refer to the media release issued earlier today by the Chairman of the Board of Music House Inc., Mr Steve Riley, which advised:

> Having fully considered the implications of the parliamentary statement made by minister Hill on Tuesday 19 November, the board of Music House Inc. has resolved to place the organisation into voluntary administration.

The statement by Mr Hill announced that Music House Inc. was bust. The statement was made without the prior knowledge of the board or staff of Music Adelaide and, in order to ensure maximum mayhem, it was made only three days before senior representatives of the contemporary music industry from around Australia assembled in Adelaide last weekend to attend the sixth Music Business Adelaide showcase and workshop events.

Further, following questions asked by the shadow minister for the arts (Martin Hamilton-Smith) in the other place last week, it is now clear that Mr Hill's statements were both inaccurate and inflammatory and that at no time since he apparently developed a concern about Music House's finances in July this year did he ever seek to meet with the board or its representatives or even to visit Music House.

Today, Mr Hill has compounded his contempt for the contemporary music sector in this state by informing the other place that tomorrow he will meet with the voluntary administrator. This is a little like not seeing one's mother for eight months but then turning up to the funeral to meet the undertaker.

Music House, which is based at the Lion Arts Centre, is a unique Australian venue; in fact, I understand that it is the only one like it in the southern hemisphere. It has been used as a model for New Zealand's push in contemporary music to support its young people and its audience base. It has been studied around Australia, and Newcastle is the latest city to do so.

Music House was established in 2001 with funding from the federal government, and contemporary music gained a home on North Terrace with other major cultural institutions, such as the Art Gallery. But, unlike the Art Gallery, the library and other institutions, my colleagues supported Music House because it was always intended to be a commercially viable enterprise. According to its business plan, it would take a little time for it to become so, and Music House would need some funding support for capital works to ensure that it would be a venue fit to earn the money for it to become a commercially viable enterprise.

Over the past week we have seen to the everlasting shame of the ALP that it has killed Music House before it even had a fair chance to survive. The *Advertiser* arts editor, Patrick McDonald, highlighted yesterday that this probably comes about because the ALP has no contemporary music policy—and that is true.

In a press statement last Friday, the Hon. Sandra Kanck indicated that Music House does not need megabucks: it needs only a little breathing space. However, in the budget, Labor cut $200 000 from live music initiatives in this state and has not offered Music House any of the $500 000 from gaming taxes that this place and the parliament as a whole voted to be allocated to live music initiatives just three weeks ago. That money would have helped Music Business Adelaide survive. It is now managed by a voluntary administrator.

Music House needed breathing space to trade through the summer, which is the most profitable time of the year. Instead, because it has no contemporary music policy, Labor has killed off Music House. It prefers to invest a lot of money in WOMAD, a little of which could have kept our own local live music industry alive and well at its home at Music House on North Terrace.

We now have another summit to look at live music issues in South Australia. Any summit should have been at Music House, but Music House will not survive after February. The arts summit in July is too late and, if it is like the Drugs Summit, conclusions will not be handed down for another year. However, in the meantime, contemporary music, live music, local music and our young people have been badly served by Labor.

Time expired.

ADELAIDE OVAL

The Hon. IAN GILFILLAN: I remind the chamber of the situation regarding the contentious Adelaide Oval lighting towers. Recently, a study into the engineering assessment of those lights, by Ove Arup and Partners, has become available to me after a two-year freedom of information battle with the Adelaide City Council. Honourable members will remember that the Lord Mayor and the council at the time strenuously argued that there would be no lights erected at Adelaide Oval

unless they were retractable. The then lord mayor (Jane Lomax-Smith) is, of course, the current Minister for Tourism.

As this report and some of the observations I make show, the council stands condemned for not having stuck to its original position. The report, which is dated October 1999, addresses, amongst many other details, two questions: first, are there modifications to the towers or to any component of the current operation necessary to render them safe; and, secondly, what is the estimated cost of any modification? The report states:

> Substantial modifications to the existing towers would be required to render them safe, reliable and able to be maintained. In our opinion, the existing drive system needs to be completely replaced by a new drive system located in an accessible position external to the tower shaft. . . The cost estimate for the modifications is in the region of $5 million to $10 million.

There is more to that answer, but I have abbreviated it. Another question is asked:

> Is a safe system of retractable lighting towers feasible for the oval, and what is the cost of such a system?

The answer is:

> Retractable lighting towers of an alternative design are technically feasible at an estimated cost of $10 million to $20 million. The project would attract high risk due to the unique and unproven nature of retractable lighting towers. There are no experts available in such design, but risk could be minimised by using proven lifting technology where possible.

In its conclusions, the report states:

> Retractable lighting towers of an alternative design are technically feasible, but only at substantial cost.

It is not surprising that the Adelaide City Council fought so hard to keep that report out of the public gaze. When we received the report, the Adelaide Parklands Preservation Association made it available to a consulting civil chartered engineer in Adelaide who is qualified in civil and mechanical engineering, Mr Rick Castle. I want to share some of his assessments with the chamber. He commences:

> Having briefly reviewed the report, I offer the following comments. . . Section 5.3 of the report refers to maintenance requirements. The comment, 'Experience over many years has shown that if easy access to mechanical components is not provided, then they will not be maintained,' is somewhat contentious. Many maintenance routines on mechanical equipment suffer from improperly provided access. (Think about the difficulties we all experience when working on motor cars.) However, the report certainly highlights the difficulty of access to drive units. One wonders what the original specifications were and who approved the structural drawings and mechanical equipment location without regard to maintenance in the first place.

His assessment continues:

> . . . on fatigue life, the report mentions a comprehensive study carried out by BHE/Connell Wagner which was not available to the authors of the report. Again, I find this lack of total information substandard. It deflects from being able to make proper engineering judgments.

He concludes:

> My brief review has given me reason to suggest that making a final decision on the retractable lights' future based on Ove Arup's report was inappropriate. More information should have been sought by council. The towers were a world first and were probably too easily discarded. Similar situations arose many years ago with the West Gate Bridge in Melbourne, when the world's first box-girder bridge suffered from construction problems and loss of life during construction. Now there are many box-girder bridges around the world.

This letter is signed by Rick Castle. It is quite clear that the council ran away from the hard decisions; it ran away from its undertaking to the people of Adelaide that no light towers would be built on the Adelaide Oval unless they were retractable, and we are now left with a legacy of permanent monstrosities which benight the world-recognised Adelaide Cricket Oval and public venue for ever, and shame should rest, I believe, on the Adelaide City Council for it.

ABORIGINAL AFFAIRS PORTFOLIO

The Hon. R.D. LAWSON: It is now eight months since the Minister for Aboriginal Affairs and Reconciliation came into office and, as this year's parliamentary session will end in a few days, it is appropriate to spend some time examining the results of the minister's term of office to date. I am glad that he is in the chamber to hear me. I regret, however, that the minister may not regard the report that I am about to make as overly flattering to him. Accordingly, I will endeavour to begin by reporting on any positive aspects of the minister's term.

On this score, the minister's chairmanship of the select committee on the Pitjantjatjara Land Rights Act has been positive. He has always endeavoured to be responsive to questions in his own inimitable style; and it has been said by more than one person that his heart is in the right place on these issues. Regrettably, however, the tortured path of the past of Aboriginal affairs in Australia is littered with good intentions and heartfelt support. When the minister was appointed, the executive board of the Anangu Pitjantjatjara had resolved to desist from paying the Alice Springs based Pitjantjatjara Council for ongoing legal and anthropological services. Into this dispute the minister weighed and put his strong support behind the Pitjantjatjara Council.

His first efforts were to seek to force the AP Executive to re-engage the Pitjantjatjara Council. His efforts were, with the greatest respect to him, ham-fisted and inappropriate. There was a threat from the minister to cut the funding to the AP Executive. On 13 April this year, the AP Executive had cause to issue a media release expressing want of confidence in the minister for his handling of this matter. Later that same month, Mr Brian Butler, the South Australian Zone ATSIC commissioner, had to write to the Premier seeking his intervention on behalf of the AP Executive in this matter. In a radio interview with Robbie Brechin, the minister referred to the political history of the Pitjantjatjara Council and emphasised that he wished to support it.

In many respects, the minister overlooked the statutory role of the Pitjantjatjara Council. He appointed Dr Mick Dodson to endeavour to broker a deal between the Anangu Pitjantjatjara Executive and the Pit Council, but that was not successful. In August, the minister got rid of David Rathman, the long-standing indigenous chief executive of the State Department of Aboriginal Affairs. This was done quite unceremoniously and Mr Peter Buckskin, who is no doubt a highly qualified person, was put into the seat.

In August, at a meeting at Indulkana, where the minister was present with the Premier's adviser, Mr Randall Ashbourne, certain models for the improved governance of the Pitjantjatjara lands were examined but the matter was not progressed. In September, the coronial inquest into the petrol sniffing deaths published its findings and, whilst I do not suggest for a moment that the minister had any control over the events described in that coronial inquest, and I congratulate him for establishing a task force, however and most regrettably, at the beginning of this month the minister attended the annual general meeting of the AP Council and there he sought to influence the result in a manner which he

himself has described. He has not shown sufficient regard for the democratically elected people on the lands and, unless he does so, there will be little progress in this important area.

AUTISM

The Hon. A.L. EVANS: I would like to speak about a disorder which affects approximately 14 children out of every thousand, that is, autism. There are 30 000 children in South Australia currently suffering from autism. The number of children diagnosed with autism has doubled in the last five years from one in 1000 to one in 500. Geelong has a recorded rate of one in 200 children. Three out of every four children are boys. What is autism? Firstly, let us say that autism is not an emotional disorder that results from family dysfunction. My sister's oldest child is autistic. It is rather a biological disorder related to brain development. A child can be diagnosed with autism under the age of three. Often a child with autism will have problems in communicating and will engage in speech that is repetitive and does not make sense. The child may have delayed or underdeveloped play behaviour and lack spontaneity and variety. Often the child seems to be unresponsive to other people.

A few months ago I was contacted by a person whose six year old nephew suffers from autism. She pointed out to me that, on the whole, these children are not intellectually disadvantaged, however they need specific schooling and curricula that targets their area of disability. There is currently a lack of awareness amongst mainstream educational professionals about autism. As a result, it is difficult to integrate the individual learning programs of these children into mainstream schooling. Educators need to understand the nature of the problem so that they can in turn raise awareness on how to integrate these children into mainstream schooling. These children are severely disadvantaged if they are placed together in one class or school. It is vital that they are integrated into mainstream schooling.

South Australian schools often say that they do not have the necessary resources and cannot cope with children with these disabilities. The problem, of course, is that these children are legally expected to have schooling. Parents in turn experience a lot of frustration and difficulty in obtaining education for their disadvantaged children. There are a number of parents around the world who have successfully implemented an early intervention program for children with autism called Applied Behavioural Analysis or ABA. The program is introduced at age three to any child who has been diagnosed with autism. Early intervention is the key to success and the therapy may continue at school if necessary. ABA is highly individualised. It is a program where the behaviour of a child is modified and it concentrates on overcoming learning difficulties. The person who wrote to me to me told me that ABA has had a very positive outcome for her nephew.

The demand for ABA therapy by interested and concerned South Australian parents is increasing. There is a large number of parents who need this service but are unable to afford the ongoing financial commitment. I understand that many parents are paying for a private ABA service. Some parents are working two jobs and mortgaging their home. Some are paying $40 000 per year over three or four years.

In South Australia, there is a $150 000 grant available from the education department to set up an ABA centre. This is inadequate to fund the centre. The government needs to reconsider the needs of these children and their families and provide adequate funding for an ABA centre, because I believe there is a real need for one in South Australia. The centre could be accessed and utilised by children and their parents. It would be an encouraging step forward because it would provide facilities and programs that maximise the potential of every child who suffers from autism.

CRIMINAL LAW (SENTENCING) (SENTENCING GUIDELINES) AMENDMENT BILL

In committee.

(Continued from 26 November. Page 1478.)

Clause 4.

The CHAIRMAN: When last the committee considered this bill, we had made some progress to the point where the Hon. Mr Lawson had moved his amendment to clause 4, page 4, lines 5 to 18. I understand that he is now seeking leave to amend his amendment. Is that correct?

The Hon. R.D. LAWSON: Yes, Mr Chairman. I seek leave to amend my amendment, as follows:

By inserting after paragraph (c) of proposed new section 29BB:
(ca) the Aboriginal Legal Rights Movement Incorporated.

Leave granted; amendment amended.

The Hon. R.D. LAWSON: After I had moved my amendment and spoken to it briefly, the minister indicated the government's opposition to the amendment. I had contended that this amendment was consequential upon the earlier test amendment which had been carried. However, at that stage the minister was of the view that my amendment was not consequential and, in respect of proposed new subsections (3) and (4), he said:

That is completely in opposition to one of the major policy measures advanced in this bill. That measure is that the bill should provide a code for guideline judgments and that the organisations dealt with in the bill should have a voice in the formulation of sentencing guidelines. If proposed new subsection (3) is passed, that would no longer be the case in an indeterminate number of decisions.

It was certainly not my intention in moving the amendments in the form in which they were moved to have the effect of in any way changing the powers of the full court or the way in which the general procedures for guideline judgments would operate.

As a result of a discussion with parliamentary counsel, I have confirmed that the amendments have not made the change which the minister described. The form of the bill is somewhat changed. However, its effect in this particular respect remains the same and the establishment of the sentencing advisory council does not undermine the thrust of the government's bill. Accordingly, I seek to assure the minister—and I hope that he will accept the assurance—that my amendment does not have the effect which he feared.

In relation to the Aboriginal Legal Rights Movement, a matter which I know the Hon. Andrew Evans raised and, like me, regarded as significant, the committee may recall that there was an error in the printing of the bill that came from the assembly to the council and, as a result, the Aboriginal Legal Rights Movement was inadvertently omitted. However, it has now been reincluded and I seek to have included in my amendments similar provisions for that organisation to participate in the sentencing guideline procedures.

The Hon. T.G. ROBERTS: The government accepts the cut and paste that the opposition has done and thanks the honourable member for the consensual spirit in which we have been able to progress this item. We accept that the

amendment is consequential, after consultation with parliamentary counsel, and have now been persuaded, with the changes made to the amendment from the opposition's original position, that we are moving forward with consensus and an agreed position. I thank the Hon. Mr Evans for his support, and we can now proceed by agreement.

Amendment as amended carried.

The Hon. R.D. LAWSON: I move:

Page 4, lines 20 to 24—Leave out subsections (1) and (2) of new section 29C.

This is a consequential amendment.

The Hon. T.G. ROBERTS: We accept that it is a consequential amendment. We do not agree with it but we understand where the numbers lie.

Amendment carried.

The Hon. R.D. LAWSON: I move:

Clause 4, page 4 after line 32 insert the following new Division:

DIVISION 5—SENTENCING ADVISORY COUNCIL

Establishment of Sentencing Advisory Council

29D. The Sentencing Advisory Council is established.

Functions

29E. The functions of the Sentencing Advisory Council are as follows:

(a) to report in writing to the Full Court on the giving, or review, of a guideline judgment;

(b) to provide statistical information on sentencing, including information on current sentencing practices, to members of the judiciary and other interested persons;

(c) to conduct research, and disseminate information to members of the judiciary and other interested persons, on sentencing matters;

(d) to gauge public opinion on sentencing matters;

(e) to consult, on sentencing matters, with government departments and other interested persons and bodies as well as the general public;

(f) to advise the Attorney-General on sentencing matters.

Composition

29F. The Sentencing Advisory Council is to consist of not less than 7 and not more than 10 members of whom—

(a) 2 must have broad experience of community issues arising from administration of justice in criminal matters by the courts; and

(b) 1 must have experience in issues affecting victims of crime; and

(c) 1 must be a legal practitioner with broad experience in the defence of accused persons; and

(d) 1 must be a legal practitioner with broad experience in the prosecution of accused persons; and

(e) the remainder must be experienced in the operation of the criminal justice system.

(2) The members of the Council are to be appointed by the Governor on the recommendation of the Attorney-General.

(3) A member of the Sentencing Advisory Council is to be appointed by the Governor to chair meetings of the Council.

Conditions of office of members

29G. (1) A member of the Sentencing Advisory Council holds office (subject to this section) for a term (not exceeding 3 years) specified in the member's instrument of appointment.

(2) A member's office becomes vacant—

(a) if the member reaches the end of the member's term of office (unless the member is re-appointed for a further term); or

(b) if the member dies or resigns from office; or

(c) if the member is convicted of an indictable offence or an offence which, if committed in South Australia, would be an indictable offence; or

(d) the member is removed from office by the Governor for misconduct.

Procedures

29H. (1) A meeting of the Sentencing Advisory Council may be convened by—

(a) the Attorney-General; or

(b) the person appointed to chair meetings of the Council.

(2) The member appointed to chair meetings of the Sentencing Advisory Council is to preside at meetings of the Council and, in the absence of that person, the members present are to choose one of their number to preside.

(3) The number of members necessary for a quorum at a meeting of the Sentencing Advisory Council is to be ascertained by dividing the total number of members of the Council by 2, ignoring any fraction resulting from the division, and adding 1.

(4) The Sentencing Advisory Council should act by consensus, if possible, but, if a general consensus of its members is not possible, a decision in which a majority of its members concur or, if they are equally divided in opinion, a decision in which the presiding member concurs, is taken to be a decision of the Council.

Staff

29I. The Sentencing Advisory Council is to have a secretary and any other staff reasonably necessary to enable it to carry out its functions.

This amendment will establish the sentencing advisory council which was foreshadowed and fully debated in connection with the first of the amendments I moved as a test amendment. I am grateful for the expressions of support from the Hon. Andrew Evans and the Hon. Terry Cameron. I note that the government remains opposed to the establishment of a sentencing advisory council.

I note the suggestion that it will be too expensive, and also suggestions that this amendment has not been carefully thought through or consulted upon. However, the fact remains that these councils have been established with considerable success in other jurisdictions. As I say, I am grateful for the expressions of support for the proposal.

The Hon. IAN GILFILLAN: I repeat the Democrats' opposition to the whole principle of sentencing guidelines. The principal debate was on the indicative first amendment, so certainly this is not an occasion to reopen the debate, but I do want it recorded in *Hansard* that it is not only the government but also the Democrats who are opposed to establishing the sentencing advisory council; even more opposed than we are to the government's proposal which we had hoped would have been defeated, but, under the circumstances, we would have preferred that rather than the proposal by the Hon. Robert Lawson.

The Hon. T.G. ROBERTS: We only move to a single negative on this. We oppose it on one basis, but we understand how the numbers are rolling, so we will let it go through on the voices.

Amendment carried; clause as amended passed

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 26 November. Page 1482.)

Clause 24.

The Hon. CAROLINE SCHAEFER: I indicated yesterday that I am quite confused by this amendment, in that my understanding from what Mr Elliott said is that this amendment, put in simple terms, would require someone clearing land on property to produce a certificate of permission or some sort of documentation to say that this was a legal clearance. Yet, the way I read this particular amendment, it applies to a respondent in a court case not being able to take a course of action that does not gain ongoing benefit. I am confused and I would like a second explanation.

The Hon. M.J. ELLIOTT: The honourable member has read the wrong clause.

The Hon. T.G. Cameron: I don't understand it, either.

The Hon. M.J. ELLIOTT: Clause 24, page 16 after line 26.

The Hon. Caroline Schaefer interjecting:

The Hon. M.J. ELLIOTT: The honourable member has the wrong one.

The CHAIRMAN: We are talking about clause 24, page 16, after line 26.

The Hon. M.J. ELLIOTT: What happened is that we debated the third amendment at the time we debated the very first amendment at the top of the page, because they were linked. What we have now done is to move to the second one, which is clause 24, page 16, after line 26. I suppose the confusion arose because we debated that one and when the honourable member looked down she saw the next one. It refers to new paragraph (f). What it does, in simple terms, is allow a copy of the consent or conditions to be placed on the copy of consent and where it might be kept. A way in which it would be most usefully applied, as I said, would be if, when clearance is being carried out, you may require that the consent be with the person who is carrying the clearance out, or the property owner might be present or whatever else.

It does mean that, if a site is visited where clearance is occurring, the consent can be provided there and then on the spot, which would be a most efficient way of doing things. That is what it is about. It is not meant to be a particularly complex or onerous requirement, but I think it makes things more workable.

The Hon. CAROLINE SCHAEFER: I have some sympathy with this amendment, but again it seems to me that we are talking about two quite separate sorts of land clearance. One sort of land clearance tends to be carried out in fairly isolated conditions, for instance, perhaps for the clearance of a fire break in scrub conditions perhaps many miles from where the person who gained a consent actually lives, possibly the landowner, and therefore the person who has permission may even live in another town. This then becomes quite impractical, as opposed to what I think most people debating this bill think of, that is, some clearance of isolated trees perhaps in the Adelaide Hills or a highly built up area.

While I can see the direction towards which the Hon. Mr Elliott is headed, there is another side to this argument and I do not see it as particularly practical in a number of cases. It is not an amendment that I will go to the wall for, but I do not see this as particularly practical. It almost seems to me to be similar to having to produce a driver's licence if you are pulled over by a policeman—and let us not forget that some of these powers are similar to those of police—

The Hon. T.G. Cameron: Worse than that.

The Hon. CAROLINE SCHAEFER: Well, it is.

The Hon. T.G. Cameron: It is producing a driver's licence when you go to renew your driver's licence.

The Hon. CAROLINE SCHAEFER: That's right, but it also seems to me that there is nothing in this amendment that states that seven days or 24 hours will be allowed to produce the licence or that it may be produced later at a local police station, or any of those things. As I say, it is not an amendment that I will go to the wall for, but I do not think it is very practical and therefore we will oppose it.

The Hon. M.J. ELLIOTT: I fail to see where it is impractical in so far as if the owner has negotiated with someone to carry out the clearance and a condition of consent was, for instance, that it be held by the person who is carrying out the clearance, then at the same time as that negotiation takes place, the consent would be given to the person who carries out the clearance. I do not think that is particularly complex or difficult. Whether it is happening in a more isolated part of the country or near the metropolitan area does not make any difference. If the consent requires that the person carrying out the clearance has the consent at the time of carrying it out, the person who negotiates the clearance, the person who owns the land, will at that stage say, 'Here is my consent.' Ultimately that provides levels of protection for the people who carry out the clearance, as well.

The Hon. T.G. Cameron: How?

The Hon. M.J. ELLIOTT: At present, illegal clearance is being carried out, often by a contractor, who ends up getting caught in the middle. If we do not go down a path like this, we will have to go down the path of licensing contractors or the negative licensing of contractors who carry out clearance. At the moment, quite often, the landowners just tell them to do the clearance. Where does the person stand who is carrying out illegal clearance, even though it is not on his own land? It makes a good deal of sense that the person who is carrying out the clearance should also sight and have in their presence the approval. It also means—

The Hon. T.G. Cameron: That is not what your amendment does.

The Hon. M.J. ELLIOTT: No, it allows that to be done. It allows a condition requiring a copy of the consent to be kept in a manner and in a place specified by the council. That is the sort of purpose that I had in mind with the amendment. I did not draft it myself, but it does the job.

The Hon. T.G. Cameron: That doesn't answer my query.

The Hon. M.J. ELLIOTT: What is your query?

The Hon. T.G. Cameron: My query is: what job does it do?

The Hon. M.J. ELLIOTT: I thought I just said what it did.

The Hon. T.G. CAMERON: I listened to what the Hon. Mike Elliott said, and I hope that I did not put his nose too much out of joint when I said 'Hear, hear' when the Hon. Caroline Schaefer was speaking. Unless I am missing something here, and that is quite possible, I cannot see what the amendment moved by the Hon. Mike Elliott does. It provides:

> . . . a condition requiring that a copy of the consent issued by the council be kept in such manner, and in any place, specified by the council.

One would have thought that councils already keep a copy of the consent.

The Hon. M.J. Elliott: The Native Vegetation Council.

The Hon. T.G. CAMERON: Well, the Native Vegetation Council. Is the honourable member suggesting that no copies of any consents given are kept, so we need an amendment forcing the Native Vegetation Council to do so? The honourable member has left it up to the council, anyway. It seems to be an amendment that takes us nowhere. I would have thought that the council keeps a copy of any consent that it has given.

The Hon. M.J. Elliott: It is not to be kept by council. This is a consent that is granted to the landowner.

The Hon. T.G. CAMERON: Yes, it would not be verbal consent but written consent. Obviously, I have not done the homework that the honourable member has done on it. If the Hon. Mike Elliott can assure me that the Native Vegetation Council issues consents to people and then does not keep any

copy or any record, he might go some way to persuading me, but I am trying to fathom what it is that he is trying to do. If the amendment required that a copy of the consent issued by the council must be kept in such a manner and in any place specified by the council and be subject to public inspection or something like that, I could see where we are going with it. To me, it is a bit of a meaningless platitude of an amendment. It says, 'Well, if you want to do something about this yourself later down the track, you now have the power to do so.' I am a bit confused.

The Hon. M.J. ELLIOTT: I do not think that the Hon. Terry Cameron has supported any amendment I have moved in the environmental area since he has been on the cross-benches.

The Hon. T.G. Cameron: If you want to turn this into a bunfight then go for it!

The Hon. M.J. ELLIOTT: Okay. We might as well make these last days as pleasant as possible. That is your record and I stand by that. You have totally missed the point and you will continue to do so because you have made up your mind already.

The Hon. T.G. Cameron: I haven't made up my mind already. Stop being such a sour arsehole!

The CHAIRMAN: Order!

The Hon. T.G. Cameron: Just because you're leaving, stop taking it out on the rest of us.

The CHAIRMAN: Order! The Hon. Mr Cameron knows that he cannot use that language. He will withdraw and apologise.

The Hon. T.G. CAMERON: I withdraw and apologise. I should have just called him sour.

The CHAIRMAN: Order, the Hon. Mr Cameron!

The Hon. T.G. CAMERON: I have withdrawn and apologised.

The CHAIRMAN: Completely.

The Hon. T.G. CAMERON: I have, completely. I should have just called him sour.

The CHAIRMAN: Order! The Hon. Terry Cameron is an experienced politician and he knows that he cannot do that. Just withdraw unreservedly. That is the best process at this stage.

The Hon. T.G. CAMERON: For the third time in a row, I withdraw and apologise.

The CHAIRMAN: Thank you. The Hon. Mr Elliott has the floor.

The Hon. M.J. ELLIOTT: I did not suggest at any stage that consents were not being issued. Of course they are issued. That is what the whole clause is about. Consents have always been issued. At present, clearance is being carried out on a site, often not by the owner of the land but by somebody else. In the first instance they may not have sighted the clearance consent. They would just be called in and asked, 'How much will you charge to knock these trees over? Okay, go for it.' By requiring a consent to be kept in a particular form—

The Hon. T.G. Cameron: Your amendment does not do that.

The Hon. M.J. ELLIOTT: It says it can be kept in a form, and I am describing the sorts of forms. I do not want to specify that it is kept in the glove box, or attached to the bulldozer or kept in the top pocket. In essence, what I am saying is that it gives the Native Vegetation Council the capacity to give an instruction to make a condition that the consent shall be held by the person who is carrying out the clearance at the time the clearance is being carried out. That does a couple of things. It offers protection—

The Hon. T.G. Cameron: Your amendment does not say that.

The Hon. M.J. ELLIOTT: Quite often clauses in bills do not say precisely the way in which the implementation will occur. They enable it to happen, and that is what this does. In the first instance, it provides a protection to those who are carrying out the clearance in so far as they will now be sighting the consent, because it could be required that they hold it. Secondly, it may be useful in the event of a challenge, and I know that these happen from time to time direct to the driver, who may be asked 'What are you doing? Is this authorised?, and the bloke can say, 'I have got the consent right here.' That can clear up a matter very quickly. There is no hidden agenda in this and there are no tricks to it. It is simply a further tidying up, and it makes things work a bit better than they work at the moment, and there are problems.

The Hon. T.G. CAMERON: I thank the Hon. Mike Elliott for his explanation, not that it helped my understanding of what proposed new paragraph (f) means. It has given me some idea as to what the Hon. Mike Elliott intends proposed new paragraph (f) to mean. However, I am afraid that, as it is written, it seems to be quite some way removed from what the Hon. Mike Elliott was just outlining to us. If he were to come back with some specific amendment in relation to the problem that he just outlined, I could have a great deal of sympathy for it.

I recall long before we even had a native vegetation act when I worked as an industrial officer with the Australian Workers Union that often members would ring up and say that they were being hassled by members of the public or a landowner telling them that they were not allowed to be grading a road or that they should not be operating there, or what have you. They had no written information with them and they were unable to respond in any meaningful way. If this is what the Hon. Michael Elliott is on about, if this is the amendment that he is looking at moving, I would have some sympathy for it if it was in the form of a specific amendment: that is, that he actually knew what he was talking about. I appreciate that he did not draft this amendment; I don't draft my amendments—

The Hon. M.J. Elliott: There's nothing wrong with it.

The Hon. T.G. CAMERON: Okay. If he doesn't think there's anything wrong with it, that it's perfect, I will just have to oppose it—it's as simple as that.

The Hon. M.J. ELLIOTT: I ask the Hon. Mr Cameron to look at page 16 of the bill at the clause which I seek to amend.

The Hon. T.G. Cameron: You just made up my mind, sunshine.

The Hon. M.J. ELLIOTT: Well, we can't expect an honest debate in this place.

The Hon. T.G. Cameron: I am looking. Settle down.

The Hon. M.J. ELLIOTT: Look at page 16—substitution of section 30. At about line 15, the clause refers to consents. There is a whole range of different consents that may be granted. Subsection (2) provides:

> Without limiting subsection (1), consent may be subject to one or more of the following conditions:

Paragraph (b) provides:

> A condition requiring the applicant to protect native vegetation growing or situated on specified land.

It does not say how it is going to be protected. It is no more specific or vague than my amendment. It just says that there may be 'a condition requiring the applicant to protect native vegetation growing or situated on specified land'. Paragraph (c) provides:

A condition restricting the purposes for which land referred to in a condition under paragraph (a)(i) or (b) can be used.

That is not specific, and paragraph (d) is the same. My amendment is no less specific than those. They are enabling, they allow the conditions which are relevant to the particular circumstances to be applied, and they may vary from time to time and from place to place. That is what my amendment is about. If the argument is that it is not specific enough, the honourable member will have to oppose the whole clause for exactly the same reason.

The Hon. T.G. Cameron: Exactly! That's what I'm going to do.

The Hon. M.J. ELLIOTT: Well, the opposition has not taken that line, at least.

The Hon. T.G. ROBERTS: I do not think that we are very far away from agreement. We want to put in place a system that is administratively clean and able to be policed and which also protects the interests of the owner of the land and the contractor who may be employed to clear the land. If we can agree to support the amendment, I do not think that we will be far away from what those who have spoken on the clause would find acceptable.

The Hon. Terry Cameron pointed out his role when working with the AWU. Some of my best information has come from contractors employed to clear land who have a conscience about the declarations that are made by some people in relation to the applications that they have made and feel that the instructions that currently operate are going too far and, in some cases, some contractors in terms of how they define their roles and responsibilities go too far as far as the landholders are concerned.

So, I think this is one way of applying an administrative process which provides a check and balance. Someone may have to carry an order in their pocket, but it is not that specific. Administratively that could be part of the process. If we are going to be serious about this, we need to have a system under which if a permit is asked for it can be produced. If a complaint is made and someone from the council asks a contractor whether he has a permit for the clearance that he is carrying out, the matter can be cleared up immediately, otherwise other investigations would have to take place and that tends to put people offside.

The Hon. T.G. CAMERON: I thank the minister for his reasoned, rational and unemotional explanation of precisely what the Hon. Michael Elliott's amendment means and how it might be administratively applied. I can only suggest that the Hon. Michael Elliott take a leaf out of the minister's book. When people ask questions they are not necessarily going to oppose the amendment. I am afraid that the Hon. Michael Elliott's knee-jerk reactions at times leave a little bit to be desired.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: You won't learn that from me, let me tell you. However, I thank the minister for his explanation and I now indicate that I am more than happy to support the Hon. Mike Elliott's amendment. If this is the first one that I have ever supported, then he should remember it.

Amendment carried.

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

Page 17, after line 6—Insert:

Marking or tagging of cleared vegetation

30A. (1) The regulations may establish a scheme for the marking or tagging of any cleared native vegetation of a prescribed kind.

(2) A scheme established under subsection (1) may—

(a) extend to persons who are in possession of native vegetation after it has been cleared;

(b) make provision for the marking of cleared native vegetation in a manner determined by the council, or for the use of tags issued by the council;

(c) prescribe fines (not exceeding $10 000) for contravention of a regulation;

(d) make any other provision that may be necessary or expedient for the purposes of establishing the scheme envisaged by subsection (1).

The CHAIRMAN: As we have already had extensive debate on this amendment, I propose to put that the amendment be agreed to.

Amendment carried; clause as amended passed.

Clause 25.

The Hon. CAROLINE SCHAEFER: I move:

Page 17, lines 20 to 36, and page 18, lines 1 to 6—Leave out all words in these lines.

I think it is worth reading what is to be deleted, as follows:

Any other person who considers that the proceedings should be brought. . . (whether or not any right of that person has been or may be infringed as a consequence of the breach) if—

(i)—

(A) the council has, by written advice to the person, indicated that a period of at least 12 months has elapsed since the council first became aware of the breach; and

(B) the person has, after receiving that written advice, given the council written notice of his or her desire to make an application under this section in relation to the matter; and

(C) the council has not, within three months after receiving the written notice, made application under this section in relation to the matter; or

(ii)—

(A) the person has given the council written notice of his or her desire to make application under this section in relation to the matter; and

(B) the council has, by written advice to the person, indicated that it does not intend to make application under this section in relation to the matter.

I stringently oppose this amendment. It deals with the issue of allowing third parties to take an action against people who have allegedly been involved in illegal clearance, even if the Native Vegetation Council in fact does not consider that it is a matter worthy of action. There is a requirement that this third party notify the Native Vegetation Council, and time is allowed for the Native Vegetation Council to take action. However, if the Native Vegetation Council decides that this is not a matter worthy of action, this third party may take action in its own right. There is no restriction on whom the third party may be. The most likely interested parties would be local environment groups, the Environmental Defenders Office, or the Conservation Council—or some group such as that. But, it could equally be a malicious neighbour or someone driving past. I draw an analogy with another action. It would simply mean that, if I punch someone in the nose, someone watching could take action against me for assault.

I find this both draconian and offensive, and I think it is totally unnecessary. It gives, as I say, the third party the right to sue, even though they have no interest in the land to be cleared. The opposition does not believe that it is appropriate for a third party to have the power to make that judgment about illegal clearance. We believe that parliament has set up a mechanism through the Native Vegetation Council to get

the right balance and to deal with the matter of illegal clearances. As we all know, there is a range of skills and a diversity of interests represented on the Native Vegetation Council, and I do not think the government needs to give third parties the power to take action if the government's appointed group, based on the evidence, decides that it does not warrant action. I vehemently move my amendment, which is to oppose that section of the bill.

The Hon. M.J. ELLIOTT: I do not support the opposition in this move. I have been a long-term supporter of third party rights in the courts. I think there are many cases where members of the public should be in a position to enforce the law—because, at the end of the day, that is all they can do: they can only go to court to enforce the law as it stands. I do not think the honourable member's analogy is fair. You might argue that one person knocking somebody else on the nose is the business of those two people alone, but if you saw an assault on a child you might have quite a different view about whether or not there should be a prosecution.

The Hon. Caroline Schaefer: We are talking about native vegetation clearance.

The Hon. M.J. ELLIOTT: You are the one who gave the analogy of somebody punching someone else in the nose. If you want to wander off into that sort of territory, I would say that I do not think it was a reasonable analogy.

The Hon. T.G. Cameron: What is your position?

The Hon. M.J. ELLIOTT: I do not support the opposition in this. This issue is about whether or not there should be third party standing in terms of being able to enforce the law. The question is: what interests does the public have? The public has an interest through the law itself. The public has an interest in terms of retention of native vegetation, retention of diversity and the impact that clearances may have. There is public interest and, although the trees may be on private property, the clearance of them is of public interest. You cannot simply say, 'This could be someone driving past.' Indeed, someone might drive past, but going to court is not driving past: going to court means you have to be prepared to wear the costs of court proceedings, and there are very few members of the public who would be prepared to do that.

The Hon. T.G. Cameron: But they are there, though.

The Hon. M.J. ELLIOTT: They are there in terms of seeing it, but the reality is that the possibility of an ordinary member of the public saying, 'I don't like this and I'm going to court,' knowing that they face significant costs, is not really in the real world. It may be possible that a group such as the Conservation Council might do it, but they have had enough experience of courts to know that it can also be very expensive if you lose. Nobody goes into a court case lightly, and that includes the government itself.

The Hon. T.G. Cameron: Wendy is still waiting for the cheque!

The Hon. M.J. ELLIOTT: I hope she keeps waiting. I think this is appropriate. There is a public interest in this legislation and there is a public interest in it being enforced. I think that the government has put important protections in the bill so that people do not go into the courts in a ham-fisted manner, in the expectation of a successful prosecution because the Native Vegetation Council is taking the action, but the case failing and subsequently not being able to be prosecuted. I think the chances that a person will initiate a private prosecution, where the Native Vegetation Council has already decided not to do so based on a decision about the prospects of success, will be decreased.

I also note that there have been times in the past when the Native Vegetation Council has chosen not to prosecute and should have, and, frankly, I think the possibility that they could be exposed from time to time for not doing their job by a successful third party prosecution will mean that the Native Vegetation Council will look very carefully at every case and, where there is a reasonable prospect of success, will prosecute and, where there is no reasonable prospect of success, will not prosecute; and there will not be a third party intervening. It is the prospect of a third party intervening which I think will keep the Native Vegetation Council honest in the way that it upholds its end of the arrangement.

The Hon. CAROLINE SCHAEFER: Having listened to the Hon. Mike Elliott, it seems that we are now faced with the prospect of the Conservation Council, which he has named, or the Environmental Defenders Office taking action against the advice of the Native Vegetation Council. So, we would be then faced with one taxpayer-funded group defending itself against another taxpayer-funded group, with the person who is clearing—possibly quite legally—being the jam in the sandwich. The honourable member says that the possibility of this happening is not great. Nevertheless, the possibility of it happening exists, and it is a totally unnecessary and draconian law that would allow a third party to take an interest in what should be something to be decided by the Native Vegetation Council, which is appointed by the government for the specific task of deciding these matters. Not only that, we now have a right of appeal to the ERD Court. So there are already two mechanisms. A third party who is aggrieved can now attach themselves to an action in the ERD Court, yet we want them to have even more specific powers.

The Hon. T.G. ROBERTS: I have had concerns, and we have discussed this in the ERD Committee on many occasions, that vexatious litigants might be able to vent their anger against a neighbour, or whoever. I am told that protection against such vexatious acts is built into the Environment and Resources Development Court's powers.

The Hon. T.G. Cameron: It is very difficult to get a prosecution under that act.

The Hon. T.G. ROBERTS: Yes. The other example I want to give is one in the South-East where hardwood forests were being cleared at nesting time—the worst possible time. Clear felling was carried out on healthy stringy bark plantations in order to plant softwoods. There was little or no action that could have been taken after the windrows had been built and the fires lit to burn off the stringy bark trees. If that case were commenced now, a third party could take action against a government department or a corporation to prevent that from occurring again. We would like some support for that position in order to enable that protective mechanism to remain.

The Hon. A.L. EVANS: Family First has supported the government on all the amendments thus far on this bill. Having listened to all the arguments, we feel that we will support the opposition on this amendment.

The Hon. T.G. CAMERON: I have listened very earnestly and carefully to the contribution made by the Hon. Mike Elliott on this occasion. I am sure that it will come as no surprise to him that, once again, he has not persuaded me of the logic of his argument. I also took the opportunity to listen carefully to what the minister had to say. I do not want to put words in his mouth, but it seemed to me that his contribution was a little tongue-in-cheek. He did not bring the same fire and passion to this amendment as the Hon. Mike

Elliott or the Hon. Caroline Schaefer, who, in her words, said that she was vehemently opposed to this amendment.

I do not want to give the Hon. Mike Elliott too hard a time in the twilight of his career. However, he made some comments with which I cannot agree. He said words to the effect that, because of cost and because of other considerations, it would be highly unusual if any private individual were to take action against anybody. I think that there is some merit in what he says in relation to private individuals. I am not worried about private individuals; I am worried about groups such as the Conservation Council.

The Hon. M.J. Elliott: You hate them!

The Hon. T.G. CAMERON: The honourable member cannot help himself, can he? The Hon. Mike Elliott interjects and says that I hate the Conservation Council. I could ask him to withdraw that comment, but he would not. The Hon. Mike Elliott could not be further from the truth.

The Hon. M.J. Elliott: I take it all back: you love them!

The Hon. T.G. CAMERON: He now interjects and says that I love them.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! The honourable member should ignore the interjections.

The Hon. T.G. CAMERON: It is a typical Democrat position—one minute it is this and the next minute it is that. Do I love them, or do I hate them? I certainly do not hate them, and I would certainly find it difficult to love an inanimate organisation, such as a society.

The Hon. M.J. Elliott: What about tender feelings?

The Hon. T.G. CAMERON: I must confess that there are times when I have had tender feelings towards the Conservation Council, but I am not sure that you would want me to go into the details of that. The Conservation Council has a valuable role to play in our society, but what worries me is when these people become zealots about particular issues. I had some dealings with the Conservation Council and what it got up to in relation to Yumbarra, when it deliberately misinformed its members about my position. I do not have—

The Hon. M.J. Elliott: That's the sort of guy you are!

The Hon. T.G. CAMERON: I never said that I loved them: I said I did not hate them. If you remember what I said, I said that I find it difficult to love an inanimate organisation—

The Hon. M.J. Elliott interjecting:

The ACTING CHAIRMAN: The Hon. Mr Elliott has had his say, and he can speak again in a moment, if he so wishes. The Hon. Mr Cameron has the call.

The Hon. T.G. CAMERON: He is just trying to put me off my track. I would have thought that, after the few years he has seen me in this place, he would realise that that will not work. However, I will not be deterred, despite the interjections from the Hon. Mike Elliott.

My concern is not the concern that the honourable member raised. The honourable member was a little devious with his reply, as he is sometimes wont to be—not always but sometimes. I am worried that we will be putting too much power into the hands of third party organisations, such as the Conservation Council and various other groups that sometimes act as zealots, and one recent case comes to mind. Not that I was ever a fan of the previous lord mayor of Adelaide, Wendy Chapman (I have never met the lady, and I have never had a conversation with her), but I confess that, when I saw her victory in the defamation case, it seemed to me that the little person had won against the big person. The Hon. Mike Elliott may chuckle in his seat, but that is the way it appeared to me.

I certainly do not want to support a resolution that would hand over unnecessary power to an unrepresentative minority who would use that power to then persecute private individuals who may well be going about their daily business. So, on this occasion, I join Family First and the opposition in opposing the Democrats' amendment.

The committee divided on the amendment:

AYES (10)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Laidlaw, D. V.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V. (teller)
Stefani, J. F.	Stephens, T. J.

NOES (8)

Elliott, M. J.	Gago, G. E.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Roberts, T. G. (teller)
Sneath, R. K.	Zollo, C.

PAIR(S)

Lawson, R. D.	Gazzola, J.

Majority of 2 for the ayes.

Amendment thus carried.

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

Page 19, after line 20—Insert:

(i) require the respondent to refrain from an act or course of action, or to undertake an act or course of action, to ensure that the respondent does not gain an ongoing benefit from the breach.

Perhaps if I argue against this amendment it might convince the Hon. Mr Cameron to vote for it.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I am going to argue against it: that way I might get you. This relates to clause 25, page 19 of the bill, which looks at the requirements that might be made by the Environment, Resources and Development Court in relation to when there has been illegal clearance and what should happen as a consequence of it. I have been lobbied by some conservation groups in relation to clearance. If we take the case where clearance of an isolated tree has occurred, and there have been times in the past where a person has quite deliberately flouted the law and removed an isolated tree, knowing that the fine could be factored into the costs. For instance, if you are putting in a vineyard and it costs you $10 000 or $12 000 per hectare at least, to plant it, and you get fined only a couple of hundred dollars for removing a tree, then removing trees—

The ACTING CHAIRMAN: Order! The level of audible conversation is too high.

The Hon. M.J. ELLIOTT: —can just be factored into the business costs. I also know of one occasion where a restaurant decided a few trees were blocking the view. They did not worry about seeking consent: they just went in and lopped them off. Again, it was a business decision and if they got fined, well, okay it was a few hundred dollars.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: They lopped them off quite significantly. It was going to take quite some time for them to recover. The point I am making is that some people are making business decisions that the fines are worth bearing. The whole idea of a fine is to act as a disincentive. If the fine is something that can be factored in as a cost, a business decision, then it is not really acting as a disincentive. The government has already started to address that to some extent

with make-good orders, which could mean that where a tree has been cut down a new one might be planted. If you cut down a 200 year old tree, one of the big gums, and a make-good order is enforced, it takes a little while before the tree is really effective again. In the meantime, a significant benefit might, in fact, accrue from the removal of that original tree.

A simple make-good order may not, in itself, be enough, and the courts could be given some further power, such as being able to make instructions to the person who has made the illegal clearance. The effect of the instruction would be to ensure that the respondent does not gain an ongoing benefit from the breach. It might be that a certain area of land is fenced off: not only does a tree get planted but the area around it gets fenced off as per the further instruction, because it should not be possible for an ongoing benefit to accrue to a person breaching the law. I am seeking to add to what the government has already got there, to make sure that the court has the power to give such an order if it becomes necessary.

The Hon. T.G. CAMERON: Once again I am desperately searching for an amendment by the Hon. Mike Elliott to support, so I am going to have to ask a couple of questions in relation to this. As I understand you, paragraph (i) comes after paragraph (h), so people have to go through (c) to (h), and then they hit (i). Is that correct?

The Hon. M.J. ELLIOTT: The order is not significant: the letters (a) to (h) had been used, so the next one was (i). It is not relevant. The court has a range of choices of things it may do and this is one more choice it has. The order is not important.

The Hon. T.G. CAMERON: My understanding then is that this paragraph would give the court a discretional power to impose a further condition on any granting of a licence.

The Hon. M.J. ELLIOTT: No. This applies where a person has illegally carried out a clearance. The whole new section is about where an illegal clearance has occurred and how the court is going to respond; what sort of penalties etc., it can impose. We know it can impose fines and things like that. One thing that I really like about paragraph (d) is that there is a make-good order, which says that if you cut a tree down you have to replant. But, as I said, in some cases it might take a couple of hundred years for the new tree to actually replace it.

I am saying that might be sufficient, but it also may be that by clearing a very large tree you have also cleared a very large area around it from shade and various other benefits. You might decide you have gained an economic benefit, and having a little tree sitting in the middle of it as part of the make-good order is worth putting up with, and you pay your $100 fine even though you spent $10 000 a hectare in planting up. I am saying it should be possible for the court to rule that, in this circumstance, the person should not benefit from cutting down a tree and simply replacing it with a seedling. It should be possible for the court to make an order which ensures that there is not, in some other way, at the end of the day, a benefit for the person who carried out the illegal clearance. It makes a fool of the law if you can benefit from breaking it and, unfortunately, that is the case at present and that is what we are trying to stop.

The Hon. T.G. CAMERON: Will the Hon. Mike Elliott inform honourable members as to whom he would envisage lodging an application or what the procedural mechanism will be for lodging an application to the court, or is he anticipating that they will do it by their own motion? If the clearance work has already been undertaken, could he outline what the procedure would be for somebody then going back to the court?

The Hon. M.J. ELLIOTT: I would invite the honourable member to go back to page 17 of the bill, which is the start of new section 31A. We are talking about a breach that has occurred. It is not about a person who has applied for a right. New subsection (1) provides:

> The following persons may apply to the ERD Court for an order to remedy or restrain a breach of this act.

We are looking at some of the remedies that are available through the court. I am saying that we could include one additional remedy which at the end of the day provides that the court may make such orders to ensure that a benefit does not accrue to the owner as a result of a breach of the act.

The Hon. CAROLINE SCHAEFER: I really fail to see the necessity for this additional part of the amendment. Not only does this bill include make-good orders, which the Hon. Mike Elliott has spoken about—and any make-good order will be a very expensive operation—but, further to that, new subsection (7)(e) provides:

> require the respondent to pay to any person who has suffered loss or damage as a result of the breach, or incurred costs or expenses as a result of the breach, compensation for the loss or damage. . .

New subsection (7)(f) provides:

> require the respondent to pay into the fund an amount, determined by the court to be appropriate in the circumstances, on account of the financial benefit that the respondent has gained, or can reasonably be expected to gain, by committing this breach;

I would have thought that new paragraph (f) covers exactly the same area as the Hon. Mike Elliott's proposed new paragraph (i). What we are talking about now is the right for the court to require this person who has supposedly lopped or cleared trees for their own benefit to make good, which would be a revegetation exercise, and to pay anyone who may have been offended by that breach—that is, neighbours or those who believe that they have incurred a loss—or to pay into the conservation fund an amount determined appropriate in the circumstances on account of the financial benefit that the respondent has gained. I believe that that provision well and truly covers ensuring that the respondent does not gain an ongoing benefit from the breach.

As the Hon. Mike Elliott has said, we are talking about an area in the law where the breach has been committed already. The trees are already pulled out, chopped down or whatever. All that can happen at that stage is for a significant fine to be imposed—and there is a right to do that in here now—and for the respondent to make good the breach, which would require probably reafforestation or something of that nature. They cannot restore the trees at this stage, and I believe there is already sufficient in this clause to ensure that this person cannot make a profit.

Certainly when we discussed this bill ad nauseam, I might say, in the previous government, examples were given to us of vineyards in particular where deliberate breaches had taken place because it was considered that sufficient profit would be made to make the breach profitable anyway and to pay the fine and get on with it. Let me add that, under this bill, the fines have been doubled anyway, but you could envisage the owner of a vineyard who has deliberately breached this being required to pull out their vines, replant the area to native vegetation, plus pay a fine, plus pay anyone who was offended by the act, and pay money into the fund equal to the amount that they would have gained.

So, they would not only have to pull out their grape vines and replant to native vegetation but they would actually have

to pay a fine as well. I just believe that the Hon. Mike Elliott's proposed amendment is totally superfluous.

The Hon. M.J. ELLIOTT: Let us first look at the 'make good' order. If a single red gum or blue gum has been cut down for a vineyard, a make-good order, I suspect, might be planting another red gum or blue gum. This is not like other parts of the act where clearance is actually approved on the condition that a benefit to the environment at least equivalent to or greater than the loss of the tree is made up.

They might say that it was a very mature tree and they will plant a lot of trees in the corner of the paddock to make up for it. A court's interpretation of this could be quite narrow, to the effect that, 'A blue gum has been cut down; you will plant another one.' Of course, you would put a tree guard around it, but that is 'made good' for a tree that has actually taken 300 years to grow. I do not think it is made good at all. It will take 300 years-

The Hon. T.G. Cameron: Why 300 years?

The Hon. M.J. ELLIOTT: To reach full maturity.

The Hon. Caroline Schaefer: You have also made them rip out the vineyard.

The Hon. M.J. ELLIOTT: Have you? Which clause makes them rip out the vineyard?

The Hon. CAROLINE SCHAEFER: I would ask the minister to clear this up. Clearly it was his adviser who briefed us when we were in government. I understand that make-good orders would include something like that so that, if a vineyard had been planted in breach of the act, this bill could require that that vineyard be removed and replanted to native vegetation. I would ask him to clear that up.

The Hon. T.G. Cameron: Under the bill or in his amendment?

The Hon. CAROLINE SCHAEFER: Under the bill as it is already. That is why I am saying that the amendment is not necessary.

The Hon. T.G. ROBERTS: I am advised that the honourable member's interpretation is correct. The current wording would have that impact.

The Hon. T.G. Cameron: Well, why are you supporting this amendment?

The Hon. T.G. ROBERTS: You support the amendment if you want a fear factor built into the proposition.

Members interjecting:

The ACTING CHAIRMAN: Order! The minister has the call.

The Hon. T.G. ROBERTS: I think we are living at a time when a whole range of clearance applications are being made. It is a very difficult position. We have a very able committee that struggles with this. It is a situation where you cannot win. I think there is a position where governments can try to help to take some of the pressure off when some applications are made where people may look for alternative sites other than ones that they look at now.

If you look at where vines grow best, it is generally where there is the best soil or the most available water. They are now competing in the Adelaide Hills and the South-East with all those areas that have been the last remnants of old native vegetation in the state, including the Clare Valley. Most of us would not like to see any of the advances that have been made to this point made any quicker than they have. If you drive back through the Adelaide Hills, as I did yesterday, you would notice that there are some wineries that are running with public money, and it does not matter what it costs, because they will factor that into their costs. What the amendment would do is—

The Hon. Diana Laidlaw: Which wineries are running on public money?

The Hon. T.G. ROBERTS: There are a lot of publicly-listed wineries. A lot of them are overseas-owned. They have access to unlimited funds. They are different to struggling, small family-owned wineries. If you have a look at the environment in which they operate, in most cases they observe all the natural environmental rules. We have to send signals that, the more difficult it is to build in those cost factors, the more we may be able to protect some of the areas that we would like to see included in the landscape. If members look at how we are promoting our tourism, it is vineyards and gum trees, not just vineyards alone.

The Hon. CAROLINE SCHAEFER: I remind the minister that I merely asked him for an explanation of the clause in the bill as it stands to point out that there are sufficient checks and balances and sufficient deterrents now without the Hon. Mike Elliott's amendment. Frankly, the checks and balances and deterrents that are there now are so strong—and I remind the minister that I am not opposing any of those—

The Hon. Diana Laidlaw: And rightly so.

The Hon. CAROLINE SCHAEFER: And rightly so. I am simply pointing out that I see absolutely no need for the Hon. Mike Elliott's amendment.

The Hon. M.J. ELLIOTT: I understand what the government is trying to achieve with paragraph (d), but I must say that I have seen enough of the Environment, Resources and Development Court to know that sometimes its interpretation can be quite narrow—

The Hon. Caroline Schaefer interjecting:

The Hon. M.J. ELLIOTT: No, I will get to that. How will the court interpret the notion 'make good the breach'? Will the court take a quite narrow interpretation which says, 'A tree was cut down: a tree will be planted to replace it', therefore making it good? It might then think that the only other option it has is to ask for some money to be put into a fund. Now that may be appropriate, but what I am saying is that it might also be appropriate to do what the government has said it hopes paragraph (d) would do, which is to give an order which says that an area equivalent to that occupied by the tree will be fenced off. If the court wishes to seek to impose such an order, it will be able to do so under new paragraph (i), which I am proposing.

I believe that a narrow interpretation of paragraph (d) will not allow what the government says it hopes to achieve. I think that is important. The opposition does not seem to see that as a problem, because, in an earlier response, the Hon. Caroline Schaefer suggested that she thought that paragraph (d) could do that. I am suggesting that a narrow interpretation would be that it could not, and indeed you need something such as paragraph (i) to allow it to happen. Paragraph (e) refers to where someone has carried out an illegal clearance on someone else's land and, in that case, compensation refers to that. I do not think it is relevant to the case I have raised.

Paragraphs (d) and (f) offer one option. They offer an option where the court might decide, 'Yes, the tree will be replaced with a tree, and since the respondent is standing to make a benefit from that, we will put the money into a fund,' but that would be the only option open. I am arguing that there may be other physical options such as basically quarantining the land they cleared, which paragraph (i) would allow and which some interpretation suggests paragraph (d)

would allow, but which I am suggesting a narrow interpretation of paragraph (d) would not allow.

The Hon. T.G. CAMERON: I found myself moving towards the position of supporting the amendment of the Hon. Mike Elliott—

The Hon. D.W. Ridgway: Twice in one day!

The Hon. T.G. CAMERON: —yes, twice in one day—but then I became confused by the Hon. Terry Robert's answer to a question. It seems to me that the opposition is arguing that the paragraph is unnecessary because it is already covered under paragraphs (d) and (f). On the other hand, we have the Democrats arguing that paragraphs (d) and (f) do not quite give a judge the same discretion as would be given under their paragraph (i). You need to be pretty good on the semantic arguments to work out what either side is arguing. However, the Hon. Terry Roberts did not assist in my deliberation on this matter when he said, 'Paragraph (i) really is superfluous because it is already covered under paragraphs (d) and (f).' Yet when I asked the Hon. Terry Roberts: 'Is the government supporting this amendment?', he said 'Yes'.

I have been around a couple of years in politics, I know how deals get done. I used to try to do them with the Hon. Terry Roberts in the old days, but I could never quite get him to the altar, although we did on his pre-selection on one occasion. Be that as it may, I would ask the government—whatever is contemplated being covered under the Hon. Mike Elliott's amendment—if it is already covered under paragraphs (d) and (f), could the minister say so? If it is not fully covered and the Hon. Mike Elliott's amendment does add something in the government's opinion to the bill, could the minister specifically outline to me what it is and I will then make my decision.

The Hon. T.G. ROBERTS: The honourable member's assessment is quite accurate, that is, paragraphs (d) and (f) do indicate exactly what the Hon. Caroline Schaefer said; that is, the protection that is required is in those paragraphs. Paragraph (i), which the honourable member wants to add, gives it a little bit of added weight and extra protection—

The Hon. Caroline Schaefer: You can only hang someone once!

The Hon. T.G. ROBERTS: No, there would be provisions that you would be able to make that would be over and above the inclusion of paragraphs (d) and (f) that—

The Hon. T.G. CAMERON: What is it then specifically that paragraph (i) adds to paragraphs (d) and (f)?

The Hon. T.G. ROBERTS: The example that has been given to me is if someone had an annual crop, say, potatoes—getting away from the vineyard settings and the 300 year old gums—and they accelerated the rate of clearance to ensure that they made some benefit out of the first crop, then they would be dissuaded by the honourable member's amendment because there would be doubt in their mind as to what penalty they would have to pay and a fear factor would be built into it that they may not be able to recoup whatever penalties were to be applied by a court.

The Hon. T.G. CAMERON: Would I be correct in assuming that the government's view of this amendment is that very few prosecutions would take place under this amendment, that it is more to dissuade people?

The Hon. T.G. ROBERTS: Yes, it is a fear factor. I have not been given this as an illustration, but you could expect that the penalty may have to be quarantined and not used, and that would be the ultimate penalty for someone who was intent on building an economic factor into the costing of whatever program they were building in.

The Hon. M.J. ELLIOTT: I think it is important to note that I do not expect that the court will say, 'Okay, you have illegally cleared, I will apply paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i) to all of it.' What will happen is the court will say that a range of things might be possible: what is the best combination of things that the court does to ensure that ultimately justice is done? I think it is important to note that, at the end of the day, it is to ensure that the respondent does not gain an ongoing benefit from the breach. It is not trying to get a penalty system that adds a massive extra penalty, it just says, 'at the end of the day'—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Under paragraph (f), it is a financial penalty. Under paragraph (i), the penalty might be fencing off an area of land, quarantining it, or whatever else.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: It says before that 'the court may, by order, exercise one or more of the following powers'. A range of options is available to the court and what we are saying is that, at the end of the day, whether it is a financial penalty, quarantining or whatever, there should not be a net benefit. At the moment the only clause that says there should be no net benefit is one that imposes a financial penalty, but the court might decide that the financial penalty is not the appropriate one to use. That is what paragraph (i) allows for.

Members interjecting:

The Hon. CAROLINE SCHAEFER: The Hon. Terry Cameron is not here, but in response to the minister's statement about allowing the quarantining of land, I point out that paragraph (c) provides:

> require the respondent to refrain, either temporarily or permanently, from the act or course of action that constitutes the breach.

If we are talking about an annual crop, that means quarantining the land from that crop. I point out also, as an aside, that there is no way that you would plant a potato crop in a freshly cleared paddock.

The Hon. T.G. ROBERTS: The explanation of that paragraph is that it is to stop them from carrying out the act. It may be something that they are doing to bring about an irreversible impact on the land.

The Hon. CAROLINE SCHAEFER: We are really arguing semantics here, but I point out again that paragraph (c) covers that response.

The Hon. T.G. Roberts: That's clearance.

The Hon. CAROLINE SCHAEFER: No. It would require the respondent to refrain either temporarily or permanently from the act or course of action that constitutes the breach. Clearly we are talking about clearance that has already taken place. We are talking about a system that would require the person who has already committed the breach to pay compensation in some way, either to make good and/or pay any person who has suffered loss and pay into a fund, plus refrain either temporarily or permanently. To me, that covers the quarantining part of this.

The Hon. M.J. ELLIOTT: I do not think that paragraph (c) does what the member suggests it does. It asks the respondent to refrain temporarily or permanently from the act or cause of action that constitutes the breach. Growing potatoes is not the breach. Clearing vegetation is the breach.

The Hon. Caroline Schaefer interjecting:

The Hon. M.J. ELLIOTT: Let me finish. An ongoing activity might be grazing stock through a patch of scrub, and

an order could be made that they stop grazing cattle in the scrub. That is a course of action that is ongoing. They could also be regularly burning it off, and there are cases in the South-East where people have been degrading vegetation by burning it off much more frequently than is part of the natural cycle. That is the sort of thing that paragraph (c) is referring to. It is not the act of growing vines or potatoes. It is the act of clearance that is referred to in paragraph (c). They seem to be ongoing actions, like grazing and burning off, so it does not cover the situation suggested by the member.

The Hon. T.G. CAMERON: We could debate this matter all afternoon and we have now got to a point where it is almost a semantic, technical argument about whether or not the existing provisions in the bill cover what the Hon. Mike Elliott indicates in the amendment that he has moved. I am no lawyer and, whilst I listened to the explanation from the Hon. Terry Roberts, it did not assist me a great deal in trying to ascertain precisely what the difference is under paragraph (i) compared with paragraphs (c), (d) and (f).

This might surprise the Hon. Mike Elliott, but I was eventually persuaded by his argument that the words 'or to undertake an act or course of action,' followed by the words 'to ensure that the respondent does not gain an ongoing benefit from the breach', does put a further impediment or another obstacle in the path of an individual who was deliberately and maliciously going out of their way to try to breach the intent of the legislation. I do not anticipate that we are going to see too many prosecutions or magistrates relying on paragraph (i).

However, if a breach has occurred, if the breach is ongoing, and if it is malicious, and people are determined that it is cheaper for them to pay the fine and to continue the breach, those words, 'or to undertake an act or course of action' would make me wonder, if I were a landowner, precisely what the judge might be able to do to me under those circumstances. So I have been persuaded—it had to happen before he left, I suppose—to support the Hon. Mike Elliott's amendment.

The Hon. A.L. EVANS: I will be giving my support to Mr Elliott, too, on this amendment. Environment is such an important issue and, even though it may not add substantially to the bill, it will be another statement to say we are going to protect our environment.

Amendment carried; clause as amended passed.

Clauses 26 and 27 passed.

Clause 28.

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

Page 26, after line 6—Insert:

(fa) dig up any land by the use of hand-held equipment for the purpose of taking samples; and

The Hon. CAROLINE SCHAEFER: The opposition supports the amendment.

The Hon. T.G. CAMERON: I indicate support.

Amendment carried.

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

Page 26, lines 7 and 8—Leave out 'where an authorised officer reasonably suspects that a person has committed a breach of this Act' and insert:

with the authority of a warrant issued under section 33C

The Hon. CAROLINE SCHAEFER: The opposition supports this amendment.

The Hon. T.G. CAMERON: I support the amendment.

Amendment carried.

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

Page 26, line 8—After 'take' insert:

mechanical

The Hon. CAROLINE SCHAEFER: The opposition supports this amendment.

Amendment carried.

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

Page 26, line 11—Leave out 'the breach' and insert:

a breach of this act

The Hon. CAROLINE SCHAEFER: The opposition supports this amendment.

Amendment carried.

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

Page 26, line 12—Leave out 'under paragraph (g)' and insert:

under a preceding paragraph

The Hon. CAROLINE SCHAEFER: The opposition supports this amendment.

Amendment carried.

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

Page 28, after line 9—Insert:

(1a) Where, on the application of an authorised officer, a magistrate is satisfied that there are reasonable grounds to believe that a person may have committed a breach of this act, the magistrate may issue a warrant authorising an authorised officer to take action under section 33B(1)(g).

This is a consequential amendment.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 30, after line 31—Insert:

Offences by authorised officers, etc.

33EA. An authorised officer, or a person assisting an authorised officer, who—

(a) addresses offensive language to any other person; or

(b) without lawful authority, hinders or obstructs or uses or threatens to use force in relation to any other person,

is guilty of an offence.

Maximum penalty: $5 000.

This amendment relates to the powers of authorised officers and the offences committed by hindering an authorised officer. One of those offences is covered by new section 33E(1)(b), which provides:

[A person who] uses abusive, threatening or insulting language to an authorised officer, or a person assisting an authorised officer;

That offence can incur a maximum penalty of $5 000. This amendment proposes that an authorised officer may similarly not address offensive language to any other person or without legal authority hinder, obstruct or threaten to use force in relation to another person, with a similar penalty of $5 000. This amendment merely outlines the fact that, if it is fair for one side not to use abusive language and threatening behaviour, the same should apply to the other side.

The Hon. Diana Laidlaw: Is this the Gunn amendment?

The Hon. CAROLINE SCHAEFER: This is commonly known as the Gunn amendment, yes.

The Hon. T.G. CAMERON: One can only agree with the comments made by the previous speaker. Can the government advise me whether the intent set out under proposed new section 33EA is covered elsewhere under any other government act, such as the Public Service Act or the Public Sector Management Act?

The Hon. T.G. ROBERTS: I can inform the honourable member that the penalties can be dealt with administratively under an act, but I am seeking advice as to which act.

The Hon. M.J. ELLIOTT: It certainly could be called the Gunn amendment, which has me looking back at the original provision. Can the minister advise the committee

whether or not new section 33E might apply to some MPs who have, in relation to this act, from time to time, abused officers more than once?

The Hon. A.L. EVANS: I support the amendment.

The CHAIRMAN: Are there any other contributions?

The Hon. T.G. ROBERTS: I did offer an explanation.

The Hon. T.G. CAMERON: I just asked whether it is covered anywhere else.

The Hon. T.G. ROBERTS: Administrative steps can be taken depending on the degree of abuse. Some are covered by the criminal law code if the abuse is bad enough. Other administrative actions can be taken depending on the degree of abuse. As members know, national parks and wildlife officers have dealings with people who breach some of the legislative protections in national parks. They encounter individuals who are affected by alcohol, who exhibit aggressive behaviour or who may be carrying firearms. It is very difficult for those officers to deal with those situations in a reasonable way. Sometimes they must withdraw from the situation.

Pressures are placed on officers who are designated to protect the environment on our behalf but, from time to time, some officers have acted very aggressively towards individuals. They have used unnecessary language when approaching people and have been regarded by honourable and reasonable people to be carrying out a reasonable act in an unreasonable manner. Generally, those issues can be resolved when the national parks and wildlife officers report the acts. Administrative action can be taken against those officers who have a history of unreasonable abuse.

I would not like to see someone lose their job, but certainly people can be trained to deal with the public in relation to those sorts of issues. A lot can be done administratively in terms of degrees of consultation and degrees of interaction with the public.

The Hon. T.G. CAMERON: I have a number of queries in relation to this amendment. Does this amendment in anyway inhibit or prohibit the government's taking any other action against an employee if he commits an offence as set out under either proposed new paragraphs (a) or (b)? In other words, the carriage of this provision does not limit the government's using only this new section. The minister said that other administrative actions are open to the government which, I assume, are set out in the Public Sector Management Act and the Public Service Act. I am not au fait with all the provisions of those acts, but I do not like to see unnecessary duplication.

The Hon. Diana Laidlaw: I could remind the honourable member that he supported a similar provision in the Road Traffic Act and other legislation that includes an inspector.

The Hon. T.G. CAMERON: Yes, I thank the Hon. Di Laidlaw for her interjection. I am well aware of the fact that, on two or three previous occasions, I have supported this type of provision, but this has been brought to my attention since I last supported such a measure. The offences set out here in respect of authorised officers are adequately covered under the Public Sector Management Act and the Public Service Act. I do not want members to be in any way confused about my position on this. I can recall an incident that occurred a few years ago at Noarlunga beach when a couple of individuals were stripping shellfish from the reef as the tide was going out.

They were getting quite a few bucketfuls of various types of seafood when they were warned by an officer that they could not do it. They were about to get stuck into him until a couple of us intervened. The officer produced his identification which showed that he was with maritime protection or some state government group. He was an officer and he had lawful authority. He was given some assistance to let the other people go on their way. This was a public servant doing his lawful duty. He did not swear or act in an abusive manner, but when the people were confronted they said that this authorised officer had sworn at them. We were within earshot of the entire conversation. They were just trying to steal all the molluscs and shellfish.

I have supported this on two or three occasions in the past, but I do not like duplication if it is not necessary. I am not sure whether your answer has provided me with what I need. You have said that there are administrative courses of action open to the government, but I am not sure what those are. This is a bit like the Hon. Michael Elliott's amendment. My question is: if the matter is adequately dealt with elsewhere and this does amount to unnecessary duplication, I will oppose it, but if the government is saying that this clause does or might add a further disincentive (it is very similar to the previous amendment) and in some way might act as an impediment towards someone, I would be inclined to support it. The last thing we want is authorised officers running around using offensive language and abusing people. Can you see where I am coming from?

The Hon. T.G. Roberts: Yes.

The Hon. T.G. CAMERON: It is very similar. If your answer is that it adds nothing, I will not support it, but if your answer is similar to what it was in the case of the Hon. Michael Elliott's amendment that it does act as a further disincentive, then you have got me.

The Hon. T.G. ROBERTS: I do not think that I can say that it adds nothing, but it is duplication.

The Hon. CAROLINE SCHAEFER: Again, we are getting bogged down. This amendment merely seeks to make it a similar offence for an authorised officer to abuse a person as it is for a person to abuse an authorised officer. In both cases, there would be some difficulty in proving such an offence because in most cases the exchange would take place simply between the two parties. So, very often, there would be difficulty in proving the offence in either case. To put it as concisely as I can, this is a case of what's good for the goose is good for the gander.

The Hon. T.G. ROBERTS: Another issue is the onus of proof and finding witnesses. If it is an exchange between two individuals, it is a bit like a tree that falls over in the forest—you hear it fall. They will both hear what they have said to each other, but gathering evidence to get a prosecution would be almost impossible. The government opposes it. We will not die in the ditch on it, but it is a form of declaration that we think is unnecessary. I am not saying that it indicates that we have a lot of aggressive officers who regularly abuse people—

The Hon. Caroline Schaefer: Or landowners.

The Hon. T.G. ROBERTS: Or landowners, yes. We would prefer other methods of addressing the issue if there was a confrontation between individuals, the individual who—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: Well, an officer who is brought before a disciplinary body for abusing a member of the public may be fighting for his job. An individual who brings a case forward will not have the same sanction imposed on him or her.

The Hon. Diana Laidlaw: They may see it as relevant to their livelihood.

The Hon. T.G. ROBERTS: The other thing is the vexatious issue which the Hon. Mr Cameron raises. If those people had not been confronted, if there had not been witnesses there, they would have collected their molluscs and defied the officer and perhaps made a case against him. If he took down their number and imposed his right to enter their home to look in their fridge for the bounty, I think there would be a fear factor built into pursuing that. Again, I think it needs to be a practical solution. We do not want to draw too much attention to the issue. We would prefer to deal with it administratively in another way.

The Hon. T.G. CAMERON: I am not trying to hold up this matter, but who would initiate a prosecution in such a case? My understanding is that, despite this section being in a number of government acts for a number of years, no one has ever been prosecuted under it. So, my question is: who would actually instigate a prosecution?

The Hon. T.G. ROBERTS: Using your example, it would be you as a third party and the person who felt aggrieved (the person who was being abused) could do so as well.

The Hon. T.G. Cameron: They could launch a private action at their own cost?

The Hon. T.G. ROBERTS: Yes.

The Hon. T.G. CAMERON: I thank the minister for his answer. I support the amendment.

Amendment carried; clause as amended passed.

Clause 29.

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

Page 31, after line 36—Insert new subsection as follows:

(7) Despite subsection (1) of section 17 of the Environment, Resources and Development Court Act 1993, a person cannot be joined under that subsection as a party to proceedings on an appeal under subsection (1) of this section but the court may, if it is of the opinion that there is some good reason for doing so, allow a person who is not a party to the proceedings to appear or be represented in the proceedings and, in so doing—

(a) produce documents and other materials; and

(b) make representations and submissions.

I have had discussions with the minister regarding clause 29—administrative appeals. My position is that I was not prepared to go as far as the government wanted in relation to this matter. I do accept that, if the court is of the opinion that there is good reason to allow the party who seeks to appear or to be represented at the proceedings, it can do so.

The Hon. CAROLINE SCHAEFER: The opposition supports this amendment. It is a compromise between our amendment for such disputes to be handled in the District Court and what is now part of the bill which is for disputes to be handled in the Environment, Resources and Development Court and, as such, we support it.

The Hon. T.G. ROBERTS: Without any risk at all of being accused of shaking hands with the devil, we will support this as well.

Amendment carried; clause as amended passed.

Remaining clauses (30 to 37) and schedule passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

EDUCATION (CHARGES) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): 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 purpose of this Bill is to extend the sunset clause associated with the fee charging provisions of the Education Act for a further year to 1 December 2003.

This will allow a comprehensive investigation of the most appropriate mechanism for levying of the materials and services charge in South Australian public schools to be canvassed alongside the announced consultation on the potential changes to the South Australian system of local school management.

School fees in South Australia arose during the 1960s, when some Government schools initiated a voluntary 'materials charge'. This charge provided an alternative to the individual purchase by parents of books, stationery and other materials for their children's use during the school year.

This took advantage of schools' bulk purchasing power, allowing families to buy an affordable pack of materials directly from the school at enrolment time.

Over time, most schools introduced some type of voluntary fee to help cover the cost of materials purchased on behalf of parents. Eventually, these voluntary fees also covered extra services, such as school excursions and other extra-curricular activities which government taxes do not provide for as part of compulsory education.

In 1996 the previous Government decided to introduce a broader, compulsory 'materials and services charge' to legitimise the varying types of school fees being charged.

The compulsory materials and services charge is limited to course materials such as stationery,
books, apparatus, equipment, and organised activities which are provided in connection with the State's curriculum.

In addition, many schools ask parents to contribute a voluntary fee to cover other materials and broader extra-curricular activities, eg non-compulsory performing arts, school year books and the like.

The compulsory materials and services charge was inserted into the Education Act along with other fee charging provisions in December 2000.

Section 106D of the Education Act provides a review and sunset clause governing the fee charging provisions.

Section 106D(1), the review clause, required the former Minister for Education and Children's Services:

- to review the fee charging provisions in the light of the report of the Parliamentary Select Committee on DETE Funded Schools chaired by the Hon Dr Bob Such MP
- to lay a written report of his review before Parliament within three months of the Select Committee's making its own report.

But before the Select Committee could complete its report the State election campaign intervened and Parliament was prorogued. Consequently the Select Committee ceased to exist.

Accordingly the review clause—Section 106D(1)—is now redundant. This Bill seeks to remove it from the Education Act.

The effect of the sunset clause—Section 106D(2)—is that all the fee charging provisions in the 1972 Education Act expire on 1 December this year. This Bill would allow those provisions to continue in force until December 1 2003.

The rationale for this one-year extension is to enable schools to raise compulsory materials and services charges for the 2003 school year. The Government has made separate provision for the other main charge covered by Section 106—overseas student fees—through regulations under the Fees Regulation Act.

This arrangement for materials and services charges is consistent with the global budget arrangements for 2003. It also provides continuity for schools while we evolve new funding arrangements in the light of Professor Cox's report on the Partnerships 21 scheme which the Government recently released.

The Government has stated that 2003 will be a transition year for the State's Global Budget for schools. School budgets next year will be the same as 2002 budgets, only adjusted for enrolment variation, inflation and extra education resources announced by this Government in its 2002-03 State Budget.

Unlike the Global Budget resources, school fees are raised by the schools themselves and do not form part of the State Budget. But they are of course part of the total resources available to schools.

The one year extension will give stability to the schools, and it will give the government time to conduct a review of the various options for school fees and what place they might take within a unified system of school financing. The review will take a broad canvas, looking at the options for both compulsory and voluntary contributions, and the boundary between what schools, and what parents, supply as materials and services incidental to education.

This review will form part of the task of developing a single robust financial system for schools to which the Government gave a commitment when releasing the Cox review.

We also have had the timing very much in mind. Schools are now busy setting their 2003 budgets in the light of the Global Budget which the DECS Chief Executive has released to them.

To give schools a further element of certainty, subject to the passage of the Bill, the Government will maintain the current caps on the materials and services charge for 2003: that is $161 for a primary school and $215 for a high school.

I commend this Bill to honourable members.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 106D—Review and expiry

This clause removes subsection (1) which is otiose. The subsection required a review of Part 8 and sections 106A to 106C to be conducted in light of the Report of the Parliamentary Select Committee on DETE Funded Schools established on 9 November 2000. The committee was to report in relation to school fees, amongst other matters. The committee met a number of times but was unable to produce its report before the State election campaign intervened and Parliament was prorogued.

The amendment to subsection (2) means that sections 106A to 106C of the Act will expire on 1 December 2003 rather than 1 December 2002.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

STATUTES AMENDMENT (ROAD SAFETY REFORMS) BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): 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.

On 17 July 2002, the Minister for Transport foreshadowed the Government's intention to bring forward a package of road safety measures designed to produce sustained improvements in road safety and reductions in the South Australian road toll. A number of these measures require legislative amendment, and are now set out in this Bill.

Based on Bureau of Transport Economics estimates, road crashes cost the taxpayers of South Australia over one billion dollars per year, of which over 70 per cent is attributable to crashes involving fatalities or serious injuries. Apart from the significant impost on the medical and hospital resources of the State, there is a huge social and personal cost involved.

South Australia's fatality rate in 2001 was 10.2 per 100 000 population which, when compared with the national average of 9.1, was about 10 per cent worse. During the 1970s South Australia fatality rate was worse than the national average in only 2 years out of 10, during the 1980s our performance was worse than the national average 3 years out of 10, but in the 1990s our performance slipped behind and we were worse than the national average 9 years out of 10.

This deterioration in SA's performance relative to most other states has been exacerbated—if not caused—by a system of road safety regulation that is the least stringent in Australia. There is not one significant piece of road safety law where South Australian penalties are higher than those applied in any other State.

This Government is committed to the implementation of the *National Road Safety Action Plan* that sets the target of reducing the number of road fatalities to an average of about 5 per 100 000 population by 2010. This target presents a major challenge for all Australian States and Territories, with South Australia needing to reduce the number of fatalities from 154 in 2001 to less than 86 by 2010—a reduction of about 55 per cent in the number of fatalities.

Achieving this target represents a serious challenge, one which this Government has accepted and will confront.

It will mean changes to our laws, changes to the way we expect people to drive and behave on the roads and serious increases in the amount of law enforcement, particularly for the most serious and dangerous driving practices of speeding, drink-driving and seat belt and child restraint use. It will also mean targeted spending on road safety infrastructure and road crash black spots.

The benefits will be shared by our families and our communities, with reduced fatalities and road trauma, lower health system costs, reduced insurance costs and reduced social and emotional costs.

The Bill contains amendments to the *Harbors and Navigation Act 1993*, *Road Traffic Act 1961* and the *Motor Vehicles Act 1959* to implement the following road safety measures:

- the introduction of loss of licence for drivers who commit an offence of exceeding the prescribed concentration of alcohol of more than 0.05 and less than 0.079;
- the introduction of mobile random breath testing;
- the use of red light cameras to detect speeding offences;
- the allocation of demerit points for camera detected speeding offences;
- sanctions for breaches of road traffic laws by holders of either a learner's permit or a provisional licence;
- the strengthening of both theoretical and practical testing of learner drivers; and
- an increase in the minimum period for which persons are to hold a learner's permit and provisional licence.

Some of the road safety initiatives the Minister for Transport foreshadowed in July are not covered in this Bill. They will be dealt with separately by changes to the regulations and in the second stage of this program. One particularly important initiative that will be accomplished by regulation rather than by this Bill is lowering the State urban default speed limit to 50 kilometres per hour. In addition, changes to the questions asked during theoretical testing of applicants for a learner's permit will also be covered by regulations.

The reduction of the open road speed limit to 100 kilometres per hour or less does not require any regulatory change but can be dealt with administratively following a careful assessment of the unique condition and traffic load of each road.

Illegal concentrations of blood alcohol are involved in about 30 per cent of fatal road crashes in South Australia—about 47 people died last year because of illegal alcohol levels. About 15 per cent of serious injury crashes—which caused serious injuries to about 235 people last year—involved illegal concentrations of alcohol. The likelihood of having a crash doubles for every 0.05 per cent increase in blood alcohol concentration (BAC). Except for the Northern Territory, every other jurisdiction has licence disqualification as part of the penalty for drink driving offences of 0.05 BAC or more, whereas South Australia presently only imposes licence removal for offences of 0.08 or more.

Drink driving cannot be condoned. There is no acceptable reason for driving while affected by alcohol. The link between the road toll and drink driving has been vividly demonstrated over many years. The recent plateau in the number of drink driving offences detected and the ever escalating number of crashes involving alcohol affected drivers clearly reveals that a new approach is needed.

The Bill therefore provides for the mandatory loss of licence for persons caught driving a motor vehicle with a blood alcohol concentration of between 0.05 and 0.079. The first offence will involve a loss of licence for 3 months, the second for 6 months and the third for 12 months. The maximum fine of $700 will remain unchanged and will apply to a first, second or subsequent offence. The decision not to increase the monetary penalty has been taken to demonstrate that this initiative is totally about road safety.

To minimise the impact on the courts, the Bill proposes that a person with a BAC of 0.05 to 0.079 will still be able to expiate the offence upon payment of an expiation fee, currently $134. However payment of the expiation fee will now lead to an automatic licence disqualification for 3 months. Alternatively, the person may elect to have the matter determined by a court. If convicted, the maximum penalty of $700 will apply, as will the mandatory licence disqualification. The length of disqualification will vary for a first, second or subsequent offence.

The new legislative arrangements will not affect the requirement that drivers of prescribed vehicles (for example heavy vehicles, taxis

and buses) are required to have zero BAC. These drivers will continue to expiate the offence where they have a BAC under 0.05 with no loss of licence. However, where the driver of a prescribed vehicle has a BAC of 0.05 or more, they will be subject to the penalties outlined above.

The Bill also enables the alcohol interlock scheme (AIS) to be available to persons who are convicted of or expiate a second or subsequent offence between 0.05 and 0.079 BAC.

These measures will bring South Australia broadly into line with all other States. The reduction of the threshold for loss of licence from 0.08 to 0.05 in Queensland and the ACT, combined with the mandatory loss of licence, resulted in a significant reduction in drink driving at all levels of BAC.

The present random breath testing (RBT) procedures which utilise fixed RBT stations have been very effective in promoting the anti drink-driving message but are not an efficient use of police resources due to their visibility and size. Their presence, particularly in rural areas, is often communicated to drink drivers by the 'bush telegraph' and other networks, seriously impacting upon their effectiveness. Additionally, random breath test stations established on multi-lane roads require that one lane be closed to traffic. This creates a traffic hazard and unnecessarily interferes with the free flow of vehicles not identified for testing.

Mobile random breath testing is used in all other Australian jurisdictions and has been shown to be an efficient and effective tool in combating drink-driving offences and, when used in conjunction with ordinary RBT stations, will address the traffic management issues.

According to Police figures, the current rate of fixed RBT in South Australia is about 600 000 tests each year. By comparison Queensland conducts 2.3 million fixed RBT and mobile tests annually, Victoria conducts 1.1 million fixed RBT and 1.1 million Mobile breath tests annually, Western Australia conducts 400 000 fixed RBT and 600 000 mobile breath tests. NSW conducts more than 2 million fixed RBT—figures for mobile RBT were not available.

The Road Traffic Act presently provides that a member of the police force may require the driver of a motor vehicle who approaches a breath testing station to submit to an alcotest. In all other situations, police must establish 'reasonable grounds' for making a request of a driver to submit to an alcotest or breath analysis.

This Bill will amend the Road Traffic Act to allow police to stop a person for the purposes of conducting an alcotest or breath test. In order to ensure that mobile random breath testing does not adversely discriminate against any sectors of the community, the Bill requires the Commissioner of Police to establish procedural guidelines, which must be approved by the Minister for Police, for the proper conduct of mobile random breath testing. These procedures are to be published in the Government Gazette and the Commissioner is to report against these guidelines to Parliament annually.

In order that fixed housing speed cameras can be introduced into this State—for example at accident black spots—the Bill amends the Road Traffic Act to require that fixed housing speed cameras will be tested in the same way that red light cameras are tested and calibrated. Regulations will be made to require that the cameras be tested every 7 days unless the film or electronic record is removed or the camera itself is moved.

Let me share some frightening statistics with you:

- 21 per cent of all drivers involved in crashes are aged from 16-24 years BUT 16-24 year olds are only 14 per cent of the total number of licensed drivers.
- 16–24 year olds are the largest of all age groups in all speed offences and alcohol offences.
- more than 5 per cent of 16—24 year olds are involved in crashes, compared with only 2 per cent of other age groups.
- approximately 1 000, 16–24 year old males were detected drink driving in 1995 compared with less than 200, 50—60 year old males.

Longer periods on a provisional licence have been shown to lead to fewer road crashes, and longer periods of driving under careful supervision has been shown to establish better driving behaviour in young drivers.

In June of this year, the Premier announced changes to the provisional licence arrangements which will mean that novice drivers will be required to remain on a provisional licence for two years or until they are 20 years of age, whichever is the longer. The Bill amends the Motor Vehicles Act to implement this change.

The Bill also creates a requirement that a provisional licence cannot be issued unless the learner's permit holder is aged 16 years and 6 months and has completed a minimum total period of 6 months on a learner's permit. Any period of disqualification while on the learner's permit will not count for the purposes of determining when a person can progress from a learner's permit to a provisional licence.

Additionally, we need to ensure that this extra time on a learner's permit or provisional licence is backed up with actions to ensure drivers have knowledge of road safe and good driving habits. For this reason, the Bill includes an amendment which will enable regulations to be made stipulating the number and nature of the questions for a learner's permit theoretical test. These regulations will also determine the pass mark to be achieved overall, or in any component of the test. It is intended that the regulations will broaden the questions set in the examination to include questions on road safety matters, such as the effects of alcohol and speed, stopping distances, effects of road surface and weather, and the additional care required when dealing with certain groups of road users such as cyclists and heavy vehicles. The pass mark for the theoretical examination will be increased from the present 75 per cent to 80 per cent.

The Bill includes an amendment enabling regulations to be made stipulating the minimum time between failing a practical on road driving test and attempting another driving test. This will encourage the learner to obtain further supervised driving instruction and practice before undertaking another driving test. The Government's intention is that the regulations will stipulate a minimum period of 2 weeks between tests.

Currently the Motor Vehicles Act provides for a person who has been convicted by a court for driving with a blood alcohol concentration of between 0.08 and 0.15 (a category 2 offence) or above 0.15 (a category 3 offence), upon return from licence disqualification, to be subject to a probationary licence and conditions for a period of at least one year.

To give greater recognition to the seriousness of drink-driving, the Bill proposes to extend this regime and introduce, in the case of a first offence between 0.05 and 0.079 BAC, a probationary period of 6 months following the disqualification period. This probationary period would be imposed irrespective of whether or not the disqualification was ordered by the court. The probationary period would also apply if the offence was expiated. Second or subsequent offences would be followed by a probationary period of 12 months.

The Bill provides for demerit points to be incurred for camera detected speed offences. While demerit points are incurred for offences detected by members of the police force, they presently do not apply in respect of camera-detected offences. The present expiation fees currently ranging between $126 and $312 are not accompanied by a risk of licence loss for repeated offences. The incurment of demerit points and eventual loss of licence will be a much more significant deterrent to speeding than expiation fees alone.

Apart from the Northern Territory, South Australia is the only jurisdiction not to apply demerit points for camera-detected offences.

The Motor Vehicles Act has already been amended to enable the introduction of demerit points for red light offences detected by camera. As the previous amendments have established the framework for the application of demerit points to camera-detected offences, this Bill extends those provisions to encompass speeding offences.

Running red lights is one of the most dangerous traffic offences, and even more so when it is associated with speeding. It is a major cause of crashes, yet the speeding motorist running a red light is penalised only for the red light offence.

Where they are able to, red light cameras will also be used to detect speeding offences. Drivers detected disobeying a red light and speeding will be prosecuted for both offences, will pay the penalty for both offences and will incur demerit points for both offences. This will apply regardless of whether the driver pays the expiation fees for the offences or has the matter determined by a court.

To ensure that red light cameras operating as speed cameras are used to achieve road safety outcomes rather than be perceived as being for the purpose of raising revenue, the Bill provides that the Minister for Transport will determine the intersections at which the combined red light and speed detection functions will operate. These sites will be notified in the Government Gazette.

Should the owner of the vehicle be a body corporate that chooses not to identify the driver or has not furnished the Commissioner of Police with a statutory declaration stating why the identity of the driver is not known and the inquiries (if any) made to identify the driver, the maximum penalty will be $4000 if both a red light offence and speeding offence are involved. If the offence of being the owner

of a vehicle that appears to have been involved in those two offences is expiated, then the body corporate will have to pay the expiation fees for both offences and an additional $300 for each offence.

The higher penalties for bodies corporate are intended to dissuade companies from expiating offences on behalf of their employees with the intent of shielding the drivers of company cars from incurring the demerit points associated with an offence they have committed.

The drink-driving provisions of the Road Traffic Act are mirrored in the Harbors and Navigation Act so that a consistent set of laws and penalties apply to both driving a vehicle and operating a vessel while under the influence of alcohol. The Bill makes amendments to the Harbors and Navigation Act in order to maintain consistency in the corresponding alcohol provisions of that Act and the proposed drink-driving amendments.

Lastly, the Bill makes minor amendments to both the Road Traffic Act and Harbors and Navigation Act to correct references to the Nurses Act 1999. The Acts presently refer to the repealed 1984 Act.

The Minister for Transport has agreed that a number of matters raised during the Committee stage in another place will be the subject of discussion between the Houses. The outcome of these discussions will be reported to this House at the appropriate time during debate on this Bill.

I commend the Bill to the House.

Explanation of clauses

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

These clauses are formal.

PART 2

AMENDMENT OF HARBORS AND NAVIGATION ACT 1993

Clause 4: Amendment of s. 70—Alcohol and other drugs

This clause amends section 70 of the principal Act so that a category 1 first offence must be taken into account by a court convicting a person of a second or subsequent offence against the section in determining the applicable maximum penalty.

Clause 5: Amendment of s. 72B—Blood tests by nurses where breath analysis taken outside Metropolitan Adelaide

This clause amends section 72B of the principal Act to update the definition of 'registered nurse' for the purposes of the section.

Clause 6: Amendment of s. 74—Compulsory blood tests of injured persons including water skiers

This clause amends section 74 of the principal Act so that a category 1 first offence must be taken into account by a court convicting a person of a second or subsequent offence against the section in determining the applicable maximum penalty.

PART 3

AMENDMENT OF MOTOR VEHICLES ACT 1959

Clause 7: Amendment of s. 5—Interpretation

This clause amends section 5 of the principal Act to insert definitions of 'alcohol interlock scheme conditions' and 'photographic detection devices' for the purposes of the Act.

Clause 8: Amendment of s. 75A—Learner's permit

The amendment to section 75A of the principal Act made by this clause is consequential on proposed new section 79.

Clause 9: Substitution of s. 79

Currently section 79 of the principal Act requires an applicant for a driver's licence or learner's permit who has not held a licence at some time during the period of 5 years immediately the date of the application to produce to the Registrar a certificate signed by an examiner certifying that the applicant has passed an examination conducted by the examiner, in the rules of law to be observed by drivers of motor vehicles or to satisfy the Registrar that, within that period of 5 years, the applicant held a driver's licence in another State or Territory. The section provides that a person will not be regarded as having passed an examination for the purposes of the section unless the person has answered correctly at least three-quarters of the questions asked in the examination, but the Registrar may treat the person as having failed if an incorrect answer has been given to a question dealing with any rule which in the Registrar's opinion is one of special importance.

79. Examination of applicant for licence or learner's permit

Proposed section 79 requires the examination to be passed by an applicant to be the theoretical examination that is prescribed by the regulations and conducted in the prescribed manner. The regulations may provide that, for the purposes of the Act, a person will not be regarded as having passed an examination unless the person has answered correctly not less than a prescribed number of questions asked in the examination (but, despite such a regulation, the Registrar may treat a person as not having passed an examination for the purposes of this Act if an incorrect answer has been given to a question dealing with a matter that, in the Registrar's opinion, is of special importance).

Clause 10: Amendment of s. 79A—Practical driving tests

Currently section 79A of the principal Act requires an applicant for a driver's licence who has not held a licence at some time during the period of 5 years immediately preceding the date of application to produce to the Registrar a certificate that the applicant has passed a practical driving test appropriate to the class of vehicle for which application is made or to satisfy the Registrar that at some time during that period of 5 years the applicant held a driver's licence in another State or Territory and has experience such that the Registrar should issue a licence without requiring a practical driving test.

The clause amends the section to impose a requirement that an applicant who passes a practical driving test must have held a learner's permit for a period of at least 6 months or periods totalling at least 6 months.

Clause 11: Amendment of s. 81—Restricted licences and learner's permits

The amendment to section 81 of the principal Act made by this clause is consequential on proposed new section 79.

Clause 12: Amendment of s. 81A—Provisional licences

Currently section 81A of the principal Act provides that provisional licence conditions are effective for a period of one year or, in the case of a person aged under 18 years when applying for a licence, until the person turns 19. The clause amends the section to provide for conditions to be effective for 2 years or, in the case of a person aged under 20 when applying for a licence, until the person turns 20. The clause also provides that if a provisional licence is issued to an applicant following a period of disqualification, the period for which provisional licence conditions is effective is extended by 6 months.

Clause 13: Amendment of s. 81AB—Probationary licences

Currently section 81AB of the principal Act provides that probationary licence conditions are effective for one year unless a court has ordered that they be effective for a greater period. A probationary licence is issued following a period of disqualification. The clause amends the section to provide for the conditions to be effective for a period of 6 months if the offence that led to the disqualification was a first offence against section 47B(1) of the *Road Traffic Act 1961* that was a category 1 offence.

Clause 14: Amendment of s. 81B—Consequences of holder of learner's permit, provisional licence or probationary licence contravening conditions, etc.

The amendments made to section 81B of the principal Act by this clause are consequential on the amendments to section 81A.

Clause 15: Insertion of s. 81C

81C. Disqualification for certain drink driving offences

Proposed section 81C requires the Registrar to give a person who expiates an alleged offence against section 47B(1) of the Road Traffic Act that is a category 1 offence a notice that the person is disqualified from holding or obtaining a licence or learner's permit for—

- in the case of a first offence—3 months; or
- in the case of a second offence—6 months; or
- in the case of a subsequent offence—12 months,

and that any licence or permit held by the person is cancelled.

A person who expiates a second or subsequent offence will be entitled, after the half-way point in the period of disqualification, to be issued with a licence or learner's permit subject to the alcohol interlock scheme conditions for the required period (ie, a number of days equal to twice the number of days remaining in the period of disqualification immediately before the issuing of the licence or permit).

The proposed section is not to apply where a person expiates an offence if the vehicle involved is alleged to have been a prescribed vehicle within the meaning of section 47A of the Road Traffic Act and the concentration of alcohol in the blood of the person is alleged to have been less than .05 grams in 100 millilitres of blood.

Clause 16: Amendment of s. 98A—Instructors' licences

This clause amends section 98A of the principal Act to require an applicant for a motor driving instructor's licence to have held an unconditional driver's licence for a continuous period of at least 12 months immediately preceding the date of the application.

Clause 17: Amendment of s. 98B—Demerit points for offences in this State

Currently section 98B of the principal Act provides that if a person is convicted of or expiates two or more offences arising out of the same incident, demerit points are incurred only in respect of the offence (or one of the offences) that attracts the most demerit points. This clause amends the section so that if a person is convicted of or expiates two or more offences arising out of the same incident and one of the offences is a red light offence and another is a speeding offence, the person incurs demerit points in respect of both those offences.

The clause further amends the section so that if a person is convicted of or expiates an offence against section 79B(2) of the Road Traffic Act constituted of being the owner of a vehicle that appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of a red light offence and a speeding offence arising out of the same incident, the person incurs the same number of demerit points as a person who is convicted of or expiates both a red light offence and a speeding offence arising out of the same incident.

Clause 18: Amendment of s. 145—Regulations

This clause amends section 145 of the principal Act to empower the Governor to make regulations preventing a person who fails a theoretical examination or practical driving test from taking a subsequent examination or test within the prescribed period.

PART 4

AMENDMENT OF ROAD TRAFFIC ACT 1961

Clause 19: Amendment of s. 5—Interpretation

This clause amends section 5 of the principal Act to insert definitions of 'accident', 'photographic detection device' (currently defined in section 79B) and 'photograph' for the purposes of the Act.

Clause 20: Amendment of s. 43—Duty to stop and give assistance where person killed or injured

The amendments made to section 43 of the principal Act by this clause are consequential on the definition of 'accident'.

Clause 21: Amendment of s. 47—Driving under influence

This clause amends section 47 of the principal Act so that a category 1 first offence must be taken into account by a court convicting a person of a second or subsequent offence against the section in determining the applicable maximum penalty and minimum period of licence disqualification.

Clause 22: Amendment of s. 47A—Interpretation

The amendments made to section 47A of the principal Act by this clause are consequential on the amendments to section 47E.

Clause 23: Amendment of s. 47B—Driving while having prescribed concentration of alcohol in blood

This clause amends section 47B of the principal act to require a court that convicts a person of a category 1 offence against the section to disqualify the person from holding or obtaining a driver's licence or learner's permit for a period not less than—

- in the case of a first offence—3 months;
- in the case of a second offence—6 months;
- in the case of a subsequent offence—12 months.

The clause also amends the section so that a category 1 first offence must be taken into account by a court convicting a person of a second or subsequent offence against the section in determining the applicable maximum penalty and minimum period of disqualification. The section is also amended so that the requirement to give an expiation notice to an alleged offender and allow him or her an opportunity to expiate the alleged offence before commencing a prosecution applies only if the alleged offence is a category 1 first offence and the alleged offender is aged 16 years or more.

Clause 24: Repeal of s. 47DA

This clause repeals section 47DA of the principal Act. This is consequential on the amendments to section 47E.

Clause 25: Amendment of s. 47E—Police may require alcotest or breath analysis

Currently section 47E of the principal Act provides that a member of the police force may require a person to submit to an alcotest or a breath analysis, or both, if the member believes on reasonable grounds that the person, while driving a motor vehicle or attempting to put a motor vehicle in motion—

- has committed an offence of contravening, or failing to comply with, a provision of Part 3 of the Act of which the driving of a motor vehicle is an element (excluding an offence of a prescribed class); or
- has behaved in a manner that indicates the person's ability to drive the vehicle is impaired; or
- has been involved in an accident.

Performance of the alcotest or breath analysis must be commenced within 2 hours of the event giving rise to the member's belief. A member of the police force may also require an alcotest of a driver of a motor vehicle approaching a breath testing station. If the alcotest indicates the prescribed concentration of alcohol may be present, a member of the police force may, within 2 hours after the vehicle is stopped for the purpose of the alcotest, require and perform a breath analysis.

The clause amends the section so that a member of the police force may require a person to submit to an alcotest or breath analysis, or both, if the member believes on reasonable grounds that a person—

- is driving, or has driven, a motor vehicle; or
- is attempting, or has attempted, to put a motor vehicle in motion; or
- is acting, or has acted, as a qualified passenger for a learner driver.

The section is amended to provide that the powers conferred by the section may not be exercised unless—

- the Commissioner of Police has devised procedures to be followed by members of the police force in connection with the conduct of alcotests and breath analyses under this section, being procedures designed—
  - to ensure that the powers conferred under this section are exercised only for proper purposes and without unfair discrimination against any person or group of persons; and
  - to prevent, as far as reasonably practicable, any undue delay or inconvenience to a person stopped only for the purpose of a requirement being made that the person submit to an alcotest or a breath analysis; and
  - the procedures have been approved by the Minister responsible for the administration of the *Police Act 1998*; and
  - the procedures, as approved, have been published in the *Gazette*.

The section is amended to provide that an alcotest or a breath analysis may not, in any event, be commenced more than 2 hours of the conduct of the person giving rise to the making of the requirement.

The clause also amends the section to empower a member of the police force to direct a person driving a motor vehicle to stop the vehicle and give other reasonable directions for the purpose of making a requirement that the person submit to an alcotest or a breath analysis.

It also requires the Commissioner of Police to include, in his or her annual report to the Minister under the *Police Act 1998*, the following information in relation to the administration of section 47E during the period of 12 months ending on the preceding 30 June:

- the places and times at which the alcotests and breath analyses were conducted;
- the numbers of drivers required to submit to alcotests and breath analyses, respectively, and the results of those alcotests and breath analyses;
- a report on the operation of procedures approved by the Minister under the section.

The clause also amends section 47E so that a category 1 first offence must be taken into account by a court convicting a person of a second or subsequent offence against the section in determining the applicable maximum penalty and minimum period of licence disqualification.

Clause 26: Amendment of s. 47FB—Blood tests by nurses where breath analysis taken outside Metropolitan Adelaide

This clause amends section 47FB of the principal Act to update the definition of 'registered nurse' for the purposes of the section.

Clause 27: Amendment of s. 47G—Evidence, etc.

This clause removes an evidentiary provision. The removal is consequential on the repeal of section 47DA and the amendments to section 47E. A new evidentiary provision is inserted to assist in proving that the procedures approved under section 47E(2b) have been complied with in relation to a requirement made of a particular person to submit to an alcotest or a breath analysis, or both, on a particular day and at a particular time.

Clause 28: Amendment of s. 47GA—Breath analysis where drinking occurs after driving

The amendment made to section 47GA of the principal Act by this clause is consequential on the amendments made to section 47E.

Clause 29: Amendment of s. 47I—Compulsory blood tests

This clause amends section 47I of the principal Act so that a category 1 first offence must be taken into account by a court convicting a person of a second or subsequent offence against the section in determining the applicable maximum penalty and minimum period of disqualification.

Clause 30: Amendment of s. 47IA—Certain offenders to attend lectures

This clause amends section 47IA of the principal Act to require a court by which a person is convicted or found guilty of an offence against section 47B(1) that is a category 1 first offence to attend a lecture conducted pursuant to the regulations unless proper cause for not doing so is shown.

Clause 31: Amendment of s. 49—Cases where Division applies

This clause amends section 49 of the principal Act so that Division 5A of Part 3 of the Act (the alcohol interlock scheme) applies in relation to category 1 offences where the court orders a disqualification period of 6 months or more.

Clause 32: Amendment of s. 79B—Provisions applying where certain offences are detected by photographic detection devices

Currently the maximum penalty for an offence against section 79B of the principal Act constituted of being the owner of a vehicle that appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of a prescribed offence is $2 000 where the owner is a body corporate and the offence in which the vehicle appears to have been involved is a red light offence or $1 250 in any other case. The expiation fee where the owner is a body corporate and the offence in which the vehicle appears to have been involved is a red light offence is an amount equal to the sum of the amount of the expiation fee for such an alleged offence where the owner is a natural person and $300.

This clause amends section 79B so that where the vehicle is involved in a red light offence and a speeding offence arising out of the same incident the maximum penalty is $4 000 where the owner is a body corporate or $2 500 where the owner is a natural person. The clause increases the maximum penalty in other cases to $2 000 where the owner is a body corporate.

The clause also amends the section so that the expiation fee where the vehicle appears to have been involved in a red light offence and a speeding offence arising out of the same incident where the owner is a body corporate is an amount equal to the sum of the amount of the expiation fees for such alleged offences where the owner is a natural person and $600 or where the owner is a natural person the expiation fee is an amount equal to the sum of the amount of the expiation fees fixed by the regulations for such alleged offences.

Currently section 79B provides that a prosecution for an offence against the section can be commenced against a body corporate without the need to give an expiation notice if the prescribed offence in which the vehicle appears to have been involved is a red light offence. The clause amends the section to allow a body corporate to be prosecuted without the need to give an expiation notice regardless of the nature of the prescribed offence in which the vehicle appears to have been involved.

The clause also amends the section to make it clear that there is no bar to the prosecution or expiation of more than one prescribed offence where the offences arise out of the same incident.

The clause inserts a provision preventing the use of photographic detection devices for the purpose of obtaining evidence of the commission of a red light offence and a speeding offence arising out of the same incident except at locations approved by the Minister for Transport from time to time and notified in the *Gazette*.

Amendments are made to the evidentiary provisions of the section so that images produced by use of digital photographic detection devices are admissible in proceedings for offences against the section or prescribed offences.

Clause 33: Amendment of s. 175—Evidence

This clause amends section 175 of the principal Act to provide that a certificate tendered in proceedings certifying that a traffic speed analyser had been tested on a specified day and was shown by the test to be accurate constitutes, in the absence of proof to the contrary, proof of the facts certified and that the traffic speed analyser was accurate to that extent not only on the day it was tested but also on the day following the day of testing or, in the case of a traffic speed analyser that was, at the time of measurement, mounted in a fixed housing, during the period of 6 days immediately following that day.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

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

LEGISLATIVE REVIEW COMMITTEE: PASSENGER TRANSPORT ACT

The Hon. CARMEL ZOLLO: I move:

That the report of the committee, on regulations under the Passenger Transport Act 1994, be noted.

In relation to the background to this report, the Legislative Review Committee first considered the Passenger Transport General Regulations 1994 in May 2002. The regulations increased taxi fares by 4.23 per cent from 3 December 2001.

Whilst the 4.23 per cent increase in taxi fares is a different issue from the 1 per cent security levy, the committee queried whether the increase was excessive, given the speculation that the taxi industry had pocketed a 1 per cent security levy that was introduced in 1997. Consequently, the committee also inquired into the administration of the levy. The committee found that the 4.23 per cent increase was necessary to offset increased LPG fuel prices and other costs of running a taxi. However, the majority of the committee concluded that the 1 per cent security levy was not effectively administered and provided an unintended financial advantage for the taxi industry.

To assist with its inquiries, the committee called representatives from the Passenger Transport Board (PTB) and the taxi industry, including the Chair of the Taxi Industry Advisory Panel, Mr Norm Cooper, and the President of the South Australian Taxi Association, Mr Ken Mason. It also obtained additional information from the Minister for Transport and the Executive Director of the Passenger Transport Board.

From the evidence, the committee noted the following facts: the 1 per cent security levy was intended to pay for the implementation of the security measures; its administration, that is, the collecting of the levy through the meter and reserving the funds, was left to the taxi industry; and the taxi industry was encouraged by the PTB to identify the most appropriate security measures. To this end, the Taxi Safety Task Force was established, and in 1998 it reported that digital cameras were a cost-effective means of improving camera security.

In 1999, the government announced that the levy should be used to pay for security cameras; in August 2001, it introduced regulations mandating their installation. After taking evidence earlier this year, the committee learned that as of 29 May 2002, 68 cameras had been installed and a further 103 were on order. There are currently 991 full-time taxi licences for the Adelaide metropolitan area. The cameras must be installed by 1 December 2002. The average cost for the cameras is $2 000. The committee noted a PTB calculation in January 2002 that a taxi operator would have collected approximately $4 000 since the levy was introduced in 1997.

Members will no doubt have noted that this inquiry produced a majority report and a dissenting statement. The majority members comprised: myself, as presiding member; the Hon. Ian Gilfillan in this chamber; Kris Hanna MP in the other place; and Robyn Geraghty MP in the other place. The dissenting statement was brought down by the Hon. Angus Redford in this chamber and the Hon. Dorothy Kotz in the other place.

The committee finalised its report on 20 November 2002. All members supported recommendations which stated that there should be no action on the regulation; that the 1 per cent security levy should be discontinued immediately; and that the capital costs of installing security cameras should only be

incorporated into the taxi costs index if it could be demonstrated that the amount collected through the 1 per cent security levy was insufficient.

However, as mentioned, despite the unanimous report, there was a dissenting report by the two members I have mentioned. The dissent reflected disagreement over the role of the PTB in the administration of the levy. The majority believed that the PTB had overall responsibility to ensure that moneys collected from the public were spent on taxi driver safety. The minority believed that the taxi industry was responsible.

The majority characterised the administration of the levy as a failed partnership between the taxi industry and the PTB. It noted that some taxi operators used the levy to pay for global positioning systems, therefore indicating that the administrative arrangements could work. However, most operators used it for other purposes and did not contribute positively to the partnership.

The majority of the committee noted warning signs that the levy was not being correctly administered. For example, the Taxi Safety Task Force stated in as early as 1998 that one half of the amount raised went into the pockets of drivers. In addition, the cost of security devices was not reflected or incorporated into transactions for the sale of taxi licences. Consequently, when operators left the industry, they took the levy with them. However, the majority of the committee believed that warnings did not draw an effective response from the PTB, which continued to leave the administration of the levy to the taxi industry. The majority noted the role of the PTB to enforce and audit safety in taxis and that it failed in its statutory role. Specifically, section 20(1)(g) of the Passenger Transport Act 1994 gives it the following function which is to be exercised in the public interest. The PTB is to:

> (g) establish, audit and, if necessary, enforce safety, service, equipment and comfort standards for passenger transport within the state.

Consequently, the majority of the committee considered that the PTB should have exercised its statutory powers to enforce the safety measures. It is likely that, had the PTB been more proactive, it would have taken less than five and a half years to install security cameras, since the levy was introduced in early 1997. More importantly, the safety of taxi drivers would have been more effectively promoted. In addition, given that the levy was collected from the public, it was owed a duty by the government to ensure that the monies were applied for their intended purpose, that is, for the funding of safety initiatives as were announced by the PTB in 1997. By leaving the administration to the taxi industry and not responding in a timely manner to the warnings, the government abdicated from this important duty.

The majority also noted that there was little evidence that the PTB fully considered alternatives and possibly more suitable administrative models for collecting the levy. These included upfront payments, that could then be recovered through the taxi meter. The majority noted initiatives for improved taxi security that have been implemented by the current government. On 16 May 2002, the Hon. Mike Rann MP announced the establishment of the Premier's Taxi Council, which is more representative of the taxi industry than the Taxi Industry Advisory Panel. The majority also noted that the taxi offender blitz, launched by the Minister for Transport on 10 July 2002, and recent safety initiatives such as signage inside and outside taxis indicating that video surveillance and satellite tracking systems are in place, and television commercials that encourage people to assist taxi drivers by leaving porch lights on at night.

To summarise, the majority and the minority of the committee reached common ground on a number of matters. The committee was unanimous in its support for the final recommendations, and all members noted the failure of the taxi industry to effectively promote the safety of its own drivers. However, the majority noted that the PTB was ultimately responsible for taxi security, and has been provided with relevant statutory powers under the Passenger Transport Act 1994. It failed to exercise these powers in a timely manner and, consequently, the safety of taxi drivers was compromised, and monies collected from the public were not effectively applied for the funding of safety initiatives.

In conclusion, I think it would be fair to say that while events often occur outside the control of government, it was the majority committee's view that it was still up to the government of the day to have that responsibility, to put in place measures that would have addressed any failures; in this case, the failure of the partnership between the taxi industry and the PTB. Again, the reason that the partnership had to be addressed is that the money was collected from the public. As such, the public was owed a duty by the government to ensure that monies were applied for their intended purpose. The majority of members saw this lack of intervention by the PTB, as I said earlier, as an abdication of responsibility in exercising its statutory authority, and reported accordingly.

As I resigned from the committee yesterday, I take this earliest opportunity to place on record my thanks to Mr Peter Blencowe, the secretary of the committee, and to Mr George Kosmas, the research officer. In particular, I acknowledge the assistance of Mr Kosmas in the preparation and tabling of this report before us. Both officers made my position as the presiding officer an easier one, and I thank them both for all their assistance.

I wish the members of the committee well in their deliberations. In this chamber, I particularly acknowledge the considered contribution of the Hon. Ian Gilfillan during my time as a member of the committee. The Hon. John Gazzola, I congratulate on his appointment, first as a member and then as the presiding officer. The scrutiny of delegated legislation is a most responsible task, and I certainly found my time on the committee to be most rewarding and interesting, and I wish the Hon. John Gazzola the same.

The Hon. A.J. REDFORD: I was told before dinner that this was not coming on until much later, so this will be a bit more discursive than I would have liked had I had more time to prepare.

The Hon. Carmel Zollo: Do you want to adjourn it on motion?

The Hon. A.J. REDFORD: No; I will get it over and done with. Can I say at the outset that I note the comment from the presiding member, the Hon. Carmel Zollo, towards the end of her contribution, where she said that, irrespective of the circumstances, the responsibility fell on the PTB to ensure that this was properly administered, effectively administered, without controversy, to ensure that cameras were properly installed. That is one of the more cute comments I have heard in this place in the nine years that I have been here.

The first 20 or so pages of the majority report set out the background to this rather convoluted process of installing security cameras and other security devices in taxis in South Australia. First, I note that the taxi increase regulations—and

these were merely designed to increase taxi fares—were unanimously agreed to. Secondly, as you would no doubt be aware, Mr President, the committee was also unanimous in the view that these regulations did not offend any of the long-standing principles that have been adopted by both the former Legislative Review Committee and the current Legislative Review Committee in considering regulations.

Notwithstanding that, the committee resolved that it would take evidence in relation to this issue, for two reasons. Firstly, that there had been substantial comment in the media, both prior to the last election and following the last election, in relation to the installation of taxi security cameras and the process that was adopted in leading up to that and, secondly, that it was important to ensure that an appropriate response to the situation the government found itself in, back in May when evidence was first taken in this matter, was reflected in future decision-making made on the part of this government.

Without boring people too much with the background facts of this, the fact of the matter is that this whole security issue has been politicised in a number of different respects since the former minister, in conjunction with the industry and through the Passenger Transport Board, decided that it was imperative for the industry to upgrade the security and safety that existed in taxis for the benefit of working class people who work in taxis, both for long hours and, in most respects, not for a substantial reward.

Members who are interested should look at the report and note the toing-and-froing that went on between the industry and the Passenger Transport Board in relation to the installation of security cameras. In very simple terms, what the dissenting statement does is to confirm that it is the responsibility of an employer or an owner to provide a safe working environment for employees. I have absolutely no doubt, Mr President, other than for a couple of people on your side of politics in this parliament, that just about everyone would agree with that proposition, except, I have to say, a number of members in the majority report who seem to have come to the conclusion that the responsibility for providing a safe system of work now lies with a government agency and/or a minister.

It is important to understand that all governments or regulatory authorities can do in these circumstances is to provide a regulatory framework within which an industry must operate. It is not for the government to provide safety helmets for workers at BHP, safety boots in terms of working at abattoirs or stockyards or a whole range of safety equipment that you, Mr President, worked so long in your years in the trade union movement to secure for workers. Traditionally, it has always been agreed, generally speaking, between both sides of politics, that it is the employer, the person providing the business, who is responsible for that.

The first point about the majority report in this particular case is that it turns that basic principle right upon its head. One must question the understanding and the capacity of those who formed the majority to understand that very simple principle. The second thing that the minority was very concerned about was that there was an aspect of recent invention in relation to the majority report. I think a good example of that was an exchange that took place between the member for Mitchell and Mr Potts from the Passenger Transport Board. I refer to page 25 of the report so that members can understand. Mr Hanna, in putting a proposition to Mr Gary Potts, an officer—

The Hon. Diana Laidlaw: David Potts.

The Hon. A.J. REDFORD: Mr David Potts, I am sorry, an officer of the Passenger Transport Board. Mr Hanna asked:

> What I am suggesting is that, going back to the time before the levy was introduced, there were at least two alternatives: one being that a levy be introduced and that, in time, the money collected would go towards paying for safety mechanisms; the other alternative I am putting to you is that the government of the day would say, 'There are certain safety mechanisms which should be installed. They should be installed forthwith and, over time through increased fares, you will be able to pay for them.' Now, did not anyone in a government agency at that time propose that second alternative, rather than what the taxi industry put forward?

Mr Potts answered:

> I cannot categorically say because I am not sure of all the different people involved at that time. However, to my understanding—and I think it is a fair assessment of the taxi industry—the hardship argument was pushed: that it would create undue hardship, and that was recognised by the government and, hence, the introduction of the levy. It is fair to say that taxi driving is not the most lucrative profession, and that can be substantiated by industry studies.

Mr Hanna further said:

> It sounds like that alternative I was mentioning of forcing the industry to install appropriate safety mechanisms and then allowing the drivers to pay for it over time through increased fares was not seriously considered.

Mr Potts replied:

> I think that it was, but the hardship issue was seen as being an unfair constraint on the taxi industry.

If I can put a really fine point on this: where were the member for Mitchell and the presiding member of this committee in 1995, 1996, 1997 and 1998? They were not demanding the installation of these cameras before the security levy was introduced. No-one was suggesting that that ought to be the case, but the majority, for a pure and simple political purpose—and the political purpose was to criticise the minister—came up with this recent invention that no-one at that time properly considered.

It is exceedingly unfortunate that parliamentary committees can second guess history, come up with a new theory, and then say that that is what a minister ought to do. Quite frankly, that sort of thing has never happened on a committee on which I have served until this particular report, which is grossly unfair and which seeks to rewrite history. I also invite members to read another part of the report because it is an interesting approach to how committee work ought to be undertaken and, frankly, if it continues, I have to say that two can play that game and two can become extraordinarily political in relation to dealing with these issues—

The Hon. Diana Laidlaw: You have a new chair now; I think she will be better.

The Hon. A.J. REDFORD: I accept that and I will give her some benefit of the doubt, but not if she does this. At page 21 of the report there is nothing more than a party-political statement setting out what a wonderful job this government is doing. I will take members back through the history of this in very brief terms. The former minister said that taxi cameras had to be fully installed at some time—I think, first, it was in October last year—having collected the levy for a number of years. Some elements within the industry, led by the former president of the South Australian Taxi Association, conducted a campaign and said that that was unfair and that it ought to be delayed because things are tough. The then opposition, the now government, ignoring its responsibility towards the safety of workers and ignoring the fact that these people had been collecting the levy for a

number of years, joined in the campaign and said, 'Yes, we think the minister should delay the installation of these security cameras'. They put politics before the safety of workers—

The Hon. Diana Laidlaw: Or customers.

The Hon. A.J. REDFORD: Or customers. It is there for everyone to see. They conducted this campaign, aided and abetted by the now transport minister, and they managed to secure a three month delay. Once that was secured, there was not much debate until about three months later. As the deadline approached, up jumped the then president of the South Australian Taxi Association and said that he wanted more time. Naively—and that is the kindest way I can put it—the then shadow minister said, 'I will release a policy and that policy will mean that security cameras do not have to be installed until some time in the year 2003'.

One could characterise that as saying, 'I am prepared to put votes before the safety of the public and before the safety of drivers.' I am a politician and sometimes it is easy to succumb to that, and I am not criticising the Minister for Transport as much as I am criticising the majority of this committee, because they cannot see these things when they stand up and hit them in the face.

During the course of that campaign the election intervened and the minister said, quite rightly, 'I will defer this until after the election, and we will not enforce the installation of these security cameras until after that time.' Immediately after the Hon. Michael Wright was sworn in, he announced that these cameras would not need to be installed until the middle of 2003, consistent with an election promise. Immediately after that, there was a savage assault on a taxidriver and a public uproar followed. The *Advertiser*, quite correctly, observed (to paraphrase the article) that politics had been played at the expense of the safety generally of taxidrivers and, in particular, the health and wellbeing of the taxidriver who was savagely attacked earlier this year.

The Hon. R.K. Sneath: You wouldn't have had them installed anyway. If you had been returned to government, you wouldn't have had them installed.

The Hon. A.J. REDFORD: We didn't get any assistance from your side, did we?

Members interjecting:

The Hon. A.J. REDFORD: It's in your policy.

Members interjecting:

The Hon. A.J. REDFORD: You read the report.

The PRESIDENT: Order! The Hon. Ms Laidlaw and the Hon. Mr Sneath will come to order.

The Hon. A.J. REDFORD: Immediately following that tragic incident the minister suddenly took a responsibility pill and brought forward quite substantially the time within which these cameras were to be installed. For the very first time we see the minister respond to the primary requirement of ensuring the safety of workers within the taxi industry. Notwithstanding that, I will take members through what page 21 of this report states in relation to this extraordinarily 'good' response on the part of the government. The first thing the majority of the committee pointed to was the establishment of a taxi council. What on earth has a taxi council got to do with the fact that this industry was required to install these cameras by midway through last year but, aided and abetted by the opposition, they managed to secure delays of significant periods, thereby putting the safety of other workers at risk.

That is the first thing the majority points to. The second thing is a media release from the minister saying that taxi security is a priority. Whoop-de-do! He put out a press release saying that he was bringing forward a mid-2003 deadline to a December 2002 deadline. I am sure that workers around South Australia would have rejoiced at this newfound embracing of workplace safety on the part of this minister.

The Hon. R.K. Sneath: Your minister had it for nearly 10 years and didn't introduce it.

The Hon. A.J. REDFORD: The minister attempted to introduce it on a number of occasions and on every occasion—

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: The honourable member is not listening. On every occasion, the shadow minister for transport sought to delay the introduction of the regulations. I invite the honourable member who is interjecting to point to one statement leading up to the last state election where he put the safety of workers before the securing of votes. I will buy him a beer for every single statement that he can point to. The magnificent response in this majority report, a political report, pointed to a 7 July media release which talks about a state government campaign to respond to safety concerns. Now we have a taxi council, a press release, a campaign and an offender blitz, and I would be interested to know how many offenders this blitz has caught. The report then goes on to talk about some television commercials.

None of that has anything to do with the fact that the 1 per cent safety levy was collected and the installation of cameras was delayed as a consequence of the political games played by the shadow minister for transport, a game where he put votes and political influence ahead of the safety of workers. The Minister for Transport, in terms of looking after the health and safety of workers, is an abysmal failure because he will put politics before the safety of workers every single time.

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: The honourable member interjects, and I look forward to seeing the minister's industrial relations legislation. I know there is a report but it has absolutely nothing to do with occupational health and safety. It has a lot to do with industrial relations in a general sense but little to do with occupational health and safety.

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: If the honourable member who is so quick with his interjections again wants to point out the error of my ways, I invite him to do so. I would like to refer to a number of other aspects. First, the majority of the committee have come up with a rather remarkable, I would have to say 1930s, model for the administration of this sort of fund. My understanding is that they are critical of the Passenger Transport Board for not ensuring that the safety levy was spent on safety, but they are a bit short on detail as to how they would have done it if they had been administering it.

The minority say that the government and the PTB told the industry that they understand that the taxi fare does not take into account the cost of acquiring certain safety items. They negotiated with them, a whole range of discussions were held, and a report was provided to the minister, and they said that, after a period of time they believed the taxidrivers would be in a reasonable financial position and would be required by regulation to install the cameras. What the majority is saying is that in some way, shape or form the PTB should have collected this 1 per cent, put it in a separate bank account, administered it, and then bought the cameras. I think that is the effect of what they are saying, although it is not entirely

clear. I would be very interested to know what the cost of that would have been and, apart from Jan McMahon and the Public Service Association, I would like to know who would have won out of that expensive process.

These people are business people. The taxi owner pays somewhere between $130 000 and $200 000 for a taxi and a licence. He is a business person. We all know that, in every other field of endeavour, when there is responsibility to provide something by way of legislation, whether it is payment of income tax, provision of a safety standard or, if you are in the food business, the provision of a food standard, or compliance requirements in terms of taxation or other regulatory requirements, they pay for it themselves. The government does not run around on behalf of business setting up separate funds or separate accounts, yet that is what the government did in this case. That is what the PTB did. The majority, in its recent invention, said that moneys ought to be put aside.

The Hon. R.K. Sneath: Didn't some taxi operators think that that was the case?

The Hon. A.J. REDFORD: No. I am throwing around these views, and I am happy because the evidence has been tabled. The honourable member interjects, but not one piece of evidence suggested that. What was said—

The Hon. R.K. Sneath: I thought that someone said that they didn't know who was collecting the levy.

The Hon. A.J. REDFORD: No; the owner was collecting the levy. I will tell the honourable member how silly it was and how silly this industry is.

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: Yes. I will tell the honourable member how silly this industry was. The industry has an arrangement whereby the driver keeps half the money and the owner keeps the other half. The driver would collect the 1 per cent levy and, because no adjustment had been made in the arrangement between the driver and the owner, the driver was keeping half the levy.

The Hon. R.K. Sneath: Maybe it would have been cheaper for the PTB to collect it after all.

The Hon. A.J. REDFORD: No, it is an industry responsibility.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: These are the sorts of policies that we would be expecting a Labor government to introduce. From a Liberal perspective, I hope that people such as the member for Mitchell and the Hon. Carmel Zollo find their way into cabinet and start making decisions because we will find ourselves over that side of the chamber just that much quicker. We believe that some of these ideas were thrown out with the bath water back in the 1930s. They are just so silly as to beggar belief. We point out that a media release dated January 1997 stated that the 1 per cent security levy was introduced 'at the request of the South Australian Taxi Association'.

Imagine if, despite the South Australian Taxi Association's request, the government had said, 'Look, we're going to do it a different way.' The opposition would have been screaming about that. It would have said, 'No, you can't do it the way you did it. You can't do it the way that you want to do it. You've got to do it another way.' At the end of the day, the government agreed to what the industry wanted. It took the money, and then when it had to expend it on the safety of the workers it said, 'No, we don't want to do that.' It then looked for allies, and who did it find? The Australian Labor Party in the guise of the then shadow minister for transport, Michael Wright.

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: No, but he released the policy.

The Hon. Diana Laidlaw: No, he did not.

The Hon. A.J. REDFORD: Yes, he did.

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: The honourable member corrects me and says that it was Tom Koutsantonis (the then member for Peake), the former leader of the opposition in this place and the Premier.

The Hon. R.K. Sneath: He was not the shadow minister for transport, either.

The Hon. A.J. REDFORD: I will happily withdraw and correct any criticism of his conduct in that respect. I am sure that his late father would not be disturbed at his conduct, but he certainly would be disturbed at the conduct of his colleagues in ignoring a primary responsibility for the safety of ordinary working people, which happened in this case. In the *Advertiser* earlier this year the then taxi association's president, Mr Mason, said that the levy for the system of cameras was introduced without an operating plan on how it would be collected, distributed and spent. I put that to Mr Potts, who said:

> I dispute that. I would argue the industry has been well aware. The levy was initially requested by the South Australian Taxi Association following the murder of Andrew Mordowicz. The minister announced that the levy would be introduced to assist because at that stage we were looking at a range of safety initiatives, including video cameras, which were big ticket items. The sum of $2 000 was a significant amount. It was considered that a levy, which would go on the fare box, a relatively small amount on individual fares, would help to build up sufficient funds to make that initial purchase, which I suppose we are now calling in. Since that time, on a regular basis, there have been ministerial statements with the release of the taxi safety task force report and on a number of other occasions throughout the time since 1997. That has been reiterated, and comments have been said that this money is for taxi safety initiatives, for example, the cameras.

Mr Potts further said:

> Certainly, in all my discussions with the taxi industry I have encouraged them to put away the money. . . In dealing with the taxi industry I have told them, 'You need to put away this money for the time when it will be called upon.' We did not force them to do that. We said, 'You are being given the money for this purpose.' How they managed it was up to them.

The South Australian taxi industry was so negligent at the time that it did not even have a system for making adjustments when a taxi licence was sold. Mr President, you would know that when one buys or sells a house one makes adjustments for one's rates and taxes, land tax, EWS rates and for any other property tax, including the emergency services levy. One also knows that the same applies when one transfers a business. If I happen to be the vendor of a business and I have paid my licence fee to the end of the year, an adjustment is to be made because the purchaser would be taking the benefit of that payment for that period of time.

The South Australian Taxi Association did not even have the wit to advise its members that that ought to be taken into account; that when they transferred the licence the collection of the levy ought to be adjusted. It did not have the wit to do that because it thought that, looking at the former opposition, 'No, there are easier ways to do this. We will go and play politics'. Rather than providing a service to its members, rather than advising them of the importance of safety and security, rather than, perhaps, assisting them (like a lot of

other employer organisations might do—advise them and set out standard agreements and assist them in terms of adjusting these things) it played politics.

That period of the taxi association's administration can only be described as reprehensible—politics before the interests of the safety of ordinary people—and that was disappointing. I know that other safety initiatives came along during the course of all this, but I will not go into all the details because it is pretty well set out in the report. I point out that the minority rejected the assertion of the PTB, and the industry gave minimal consideration to the up-front payment option. Whilst hardship was an important and critical factor, the attitude of the then opposition was also important, particularly when its calls for a delay in the promulgation of regulatory enforcement is taken into account.

I also draw the attention of members to the fact that some taxi owners did comply with the timetable. Some taxi owners had the wit, the capacity and the care for their employees or contractors to provide that safe system of work. They complied with the initial timetable set out by the former minister. If they were able to comply with the law to provide a safe system of work, why could not the rest of them? I think this, by itself, exposes the silly political games that were played during this process by the majority of the members of this committee. A very important lesson could have been learnt from this—if this government acknowledges it, it will certainly not do so publicly—and that is that it is grossly irresponsible for politicians or political parties to put politics before the safety of ordinary people. One person earlier this year suffered as a consequence of that—and that is the tragedy of this.

It is disappointing that the government (based upon the majority report) has not learnt one thing from this; it has simply announced a series of committees, issued a series of press releases, come up with a new idea or reinvented history and said, 'We're not going to take any responsibility for this, it is all the others' fault.' It is about time with regard to some of these issues that the government had a good hard look at itself. All I can say is that there are a couple of members on this committee who ought to be elevated to the ministry, because I suspect that we will be on the government benches a heck of a lot quicker than other people might anticipate.

The Hon. DIANA LAIDLAW: I, too, wish to note the committee's report. I also want to highlight that, having served the Legislative Council for 20 years and as a member of various select committees and standing committees of the parliament, I do not recall once being a member of a committee that brought down a minority report when the committee as a whole (with the encouragement of the chair and the goodwill of members generally) could not reach a consensus opinion. I think it is worth while noting that, in terms of the administration of taxis, it would again appear that politics have had some say in the operation of this important industry in this state. To me, that is a big disappointment, because it is something that I have tried to deal with and rise above for many years as both shadow minister and (for the last eight years until February this year) as minister.

There are many good things that the PTB (once established and with my encouragement) and the taxi industry achieved, such as a much better presentation of drivers and their vehicles, and I commend the cooperation between the PTB and owners and drivers in realising those positive reforms. The maximum age of a taxi was reduced considerably thereby producing a much younger, cleaner and better presented fleet—that is important in terms of customer service—and uniforms for all drivers, no smoking in vehicles and a uniform colour of white for vehicles were introduced.

There is one thing that I readily admit I failed to do, notwithstanding the fact that on every occasion when I met with representatives of the industry I urged them to show leadership in the industry. I harked back many times to my experience in the wine industry. Looking back just 15 years, there was marketing by every company with enormous suspicion between companies, and little profile and positiveness about what collectively that industry could achieve. I suspect today that you see the same sort of circumstances in the tertiary sector. The need to work together has been commented on by the Economic Development Committee established by this government, and I sought this time and time again in the taxi industry.

After the task force on safety brought down its report indicating unanimously that it wanted a levy, that it was prepared to administer it, and that the levy would be used for the provision of safety measures, I grabbed at that opportunity believing that the industry (owners, radio cabs and drivers) could now work together with a focus to do something of benefit across the whole industry. Again I repeat that not only was I let down by the way in which the taxi industry grabbed this opportunity and failed but more so the drivers in terms of the recruitment of better drivers and support for them and particularly their families.

Keeping good drivers in the taxi industry is hard work, and that is not surprisingly when one considers the hours they work and the income they receive. Often families do not want them to be driving at night under certain conditions. I pleaded with the companies to get behind this, to do it properly and to do it in the interests of keeping their very best drivers. If these security measures had been put in place it was more likely that families would continue to support drivers staying in the industry and there would have been a more stable work force which would be good in terms of the corporate knowledge of drivers who know our streets, who know the city, and who have a service culture.

That is why I say absolutely without qualification that if I had had an opportunity to appear before this committee I would have left it in no doubt at all that this was always to be an industry responsibility. Never would I have entertained or tolerated its being run by the PTB, and never from the very earliest days did the industry want that. I speak now because I did not know that this report was going to come down in this form. I did not know that the majority would suggest that there should be a government run bureaucracy to provide safety measures and take the responsibility for safety away from the industry and its leaders or that they would also do the administrative work for the taxi industry. I know of no other industry in South Australia or Australia where the government takes responsibility for managing the safety of the employees and in addition does the administrative work in terms of the operation of the safety fund. It is a very surprising notion, one which I would never have accepted, and I could have left the committee in no doubt that that was my view.

I would like to pick up two points made by the Hon. Carmel Zollo. The honourable member made an error when she said that it was the committee's recommendation that the government immediately remove the levy. That would be an ideal recommendation, but that is not what the committee said—it recommended that this be done as soon as possible. I highlight also that the honourable member misrepresented

the functions of the Passenger Transport Board when referring to section 20(1)(g), which provides that the function of the PTB is to establish, audit and, if necessary, service equipment and enforce safety and comfort standards for passenger transport throughout the state.

I emphasise that it is not a requirement that the PTB do so. It does not say 'must': it says 'if necessary', enforce safety. The PTB announced the establishment of the task force initially, then made recommendations to me, and I announced the levy. They worked on the regulations and worked with the industry to look at how they would collect and monitor the information received through the security cameras. They were there to facilitate and support the taxi industry at all times, but it was never necessary to enforce this system: it was the duty of the industry. Many in the industry have done the right thing. Some, as always in the taxi industry—and it may apply in other industries, but it tends to be prominent in the taxi industry—will never do the right thing because they are not there to provide a service—they are there for a quick dollar—and the changeover is rapid and you do not get a good service culture in such an environment.

Some speakers have mentioned that there is an odd system in terms of the collection of the levy, as with fares, where it is shared between the owner and the driver. It seemed to me absolutely sensible that the taxi levy should be collected through the meter box and shared between the owner and the driver. The owner of the vehicle provided the camera and they would accumulate the funds to pay the levy. The driver would lease the taxi and, in turn, pay a slightly higher lease rate to cover the camera, and their share of the levy enabled them to fulfil that higher commitment as well.

I make one last point. Some in the taxi industry—and it was led by Mr Mason and some of his friends in the South Australian Taxi Industry Association—never wanted this system to work, and I think they deliberately spread rumours to undermine the system and look as though they were doing a favour to drivers. They did not do a favour to anybody by seeking delay after delay and encouraging the drivers and owners not to make a commitment towards these cameras, because they always believed that if they made it difficult enough for the government of the day, it would feel pressured to pay for the cameras on top of the levy that had been collected to date.

I note that the minister did not, ultimately, bow to this pressure from the Taxi Industry Association. Certainly, when I was minister, I always resisted it, which is why Mr Mason worked so hard to see that the Labor Party got into government. But, it did not serve his members well. The current minister started to appreciate that, in fact, it was probably Labor Party policy that meant that cameras were not in place at the time of the last violent incident in the Pennington area when a cab driver and his taxi were burnt. Otherwise, the cameras would have been installed and would have met the former government's earlier deadline.

I commend the minister for resisting the pressure from some sections of the industry; for changing Labor Party policy and bringing back the deadline from February next year to the end of this year; and for not bowing to tactics to pressure the government to pay up-front, on top of the levy, from taxpayers' funds.

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: No, Kris Hanna would be out there alone, and I do not think for one minute that minister Wright would entertain what is proposed in this report by Mr Hanna. It is simply there to try to paint the PTB in a bad light and to serve Labor's purposes of getting rid of the PTB under any pretext and not acknowledging its strengths. I note the report and urge the government to get rid of this levy as soon as possible, and urge it to be vigilant in ensuring that cameras are installed, albeit belatedly.

The Hon. IAN GILFILLAN: I support the motion to note the report. It has not been a surprise to me to sit on a committee which has made a minority report. In fact, quite often, I have been part of the minority and, at times, a minority of one. It appears to have been a reasonable process and, in fact, gives the report an opportunity to express two points of view. From that perspective, I have no criticism of it. In fact, I think it is enhanced by the fact that all members were able to ensure that their views on the issue, contentious as it was at times, are encapsulated in the report.

I refute the implication of the Hon. Angus Redford that my support for the majority opinion is based on what I think he assumes is party politics. There is no party political advantage to me or the Democrats, so I certainly reject it on my own behalf. I also—

The Hon. A.J. Redford: I never said it.

The Hon. IAN GILFILLAN: I think if you check *Hansard* you will find the imputation is there. If the member did not say it, that is fine, in which case my remarks do not have any particular relevance. But I want to acknowledge that all members of the committee, in my view, contributed in a genuine way, from a genuine basis of concern and interest—and I include the Hon. Angus Redford, who feels passionately about issues before the committee. In the time that I have served on the committee, both under his presiding and under the recently retired Carmel Zollo's presiding, the Hon. Angus Redford has often felt strongly on issues and expressed himself strongly. I believe that is his right and it enhances the character of the committee. However, it does not necessarily make it an easy committee to chair, and I believe that all members of any committee must be prepared, from time to time, to be defeated by a majority if the majority opinion is against their own wishes, and take it in good part. I am sorry that, in some instances at least—and I do not wish to labour this point and I would not ordinarily have raised it—a large amount of the contribution of the Hon. Angus Redford to this report has been personal criticism of the people who constitute the majority who support the position that he does not support.

However, I feel there is one other remark I should make, and that is that the taxi industry is a very important part of the public transport service to the community in this state. It is a government responsibility to ensure both the safety of the drivers and the passengers of that service, and that is the principle upon which I felt the majority report was soundly based. I conclude my remarks on the report by expressing publicly my admiration for the contribution of the now retired previous presiding officer, Carmel Zollo. It was a challenging task, and I would like to have—

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: Mr President, I would like to have the attention of the chamber while I say this.

The PRESIDENT: Order!

The Hon. IAN GILFILLAN: I would like to record the fact that I believe the Hon. Carmel Zollo executed her duties as chair in an exemplary fashion, and I thank and congratulate her.

The Hon. CARMEL ZOLLO: I thank all honourable members for their contribution. I thank the Hon. Ian Gilfillan for his remarks, and I agree with the honourable member that the majority report stands on its own. There is no need to repeat the obvious before voting on the motion that the report be noted. I note that both the Hon. Angus Redford and the Hon. Diana Laidlaw talked about the committee playing party politics. I place on record that, like the Hon. Ian Gilfillan, I certainly defend the right of both the Hon. Angus Redford and the Hon. Dorothy Kotz to disagree. In particular, I commend them for their loyalty to their party and their former minister of transport.

Motion carried.

SELECT COMMITTEE ON PITJANTJATJARA LAND RIGHTS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That it be an instruction to the Select Committee on Pitjantjatjara Land Rights for the quorum of members necessary to be present at all meetings of the committee be fixed at three during the unavailability of the Hon. N. Xenophon due to illness or until the resumption of the sitting of the council on Monday, 17 February 2003.

The select committee has found it necessary to move this motion and to bring it to the council because of the unfortunate illness of the Hon. Nick Xenophon. At the time that the committee was appointed, the seriousness of Nick's illness was not known to us. We knew that he was ill. We certainly knew that he was not able to take his place in the early days of the formation of the select committee, but we thought that perhaps, as the committee progressed, so, too, may his health.

Unfortunately that was not the case: the longer the select committee went, the worse Nick's health seemed to be. Nick was doing what he could, which was reading some of the *Hansard* evidence, but at that point we realised that it would not be adequate for the committee nor would it do Nick's health any good for him to be put under any more pressure than necessary by loading him up with work at home.

So, being the humanitarians that we are on the committee, we send our regards to Nick in his time of illness. I understand that he is still not capable of carrying out his responsibilities. We wish him all the best, and we hope to see him back on 17 February. However, in the meantime, the committee has witnesses to examine, and there are witnesses who want to give evidence if we are able to get a quorum. Unfortunately, at the end of sessions, members are busy with multiple responsibilities, and we have not been able, on the occasions that we would have liked, to match the witnesses' requirements with the members' requirements.

So, we have found it necessary to do one of two things: first, we could replace Nick with another member; or, secondly, we could reduce the number required for a quorum to three. This issue was discussed in the form of a motion before the committee, and it was decided that that number would be adequate to take evidence as long as all parties were represented at those meetings. This motion has the support of all parties. I thank all members for their cooperation, and I hope that we are able to send our contributions to Nick. We wish him all the best for a speedy recovery, and we hope to see him here on 17 February.

The Hon. CAROLINE SCHAEFER: I rise to speak on behalf of my colleague the Hon. Robert Lawson. Both he and I are represented on this committee and, of course, he is the shadow minister for Aboriginal affairs. It was agreed at our last meeting that a quorum could consist of three instead of four people, provided (unofficially) that those three comprise a member of the government, the Liberal Party and the Democrats. Hopefully, that will facilitate the continuation of the hearings and the taking of evidence over this long period. Under the circumstances, it is difficult enough to get three people as part of the committee.

I, too, extend my best wishes to the Hon. Nick Xenophon, whom I know had a great personal interest in this committee and would very much like to have been an active participant. We support this motion. Apparently, it was not appropriate for this to be included in the motion formally, but I would like it noted that we want the quorum to consist of a member of the government, a member of the opposition and a member of the Democrats.

The Hon. SANDRA KANCK: I, too, support this motion. I believe that this select committee is one of the most important on which I have served in the time that I have been in the parliament. The absence of the Hon. Nick Xenophon has, on occasions, made it somewhat difficult for us to get a quorum. That is no criticism of Nick, and I hope that he does not have any conniptions when he reads this in *Hansard*. We certainly look forward to his return next year.

However, in the meantime, in the period from December through to January, members may have other commitments, and it may be difficult, on occasions, to get the necessary quorum of four members. This motion was agreed by us unanimously, with a second motion passed, to which the Hon. Caroline Schaefer has referred.

We understand that with that quorum of three members we will not be making any deliberative decisions; it will simply be for the purpose of hearing witnesses, which is very important to progress the business of the committee. So, I am very pleased to support this motion, and I hope that it can be carried forthwith.

The Hon. DIANA LAIDLAW: I am seeking your guidance, Mr President. When the minister spoke to this motion, there were about 12 references to 'Nick' and not 'the Hon. Nick Xenophon', or 'Mr Xenophon'. I am seeking your guidance as to whether we are setting a new standard that will be tolerated, or will *Hansard* change the record to reflect the respect I think that the member is due? I am seeking your guidance.

The PRESIDENT: The honourable member is absolutely correct to seek that guidance. The ruling is that honourable members will address members of this council as 'the Hon. Nick Xenophon'. I know that everybody is doing it in a pleasant way tonight. I did make the comment a couple of times that it was 'the Hon. Nick Xenophon'. I ask that all honourable members pay particular attention to the protocols of the council when addressing members, and they should use the correct title. I thank the Hon. Diana Laidlaw for drawing it to the attention of the council. The question is that the motion be agreed to. The Hon. Terry Roberts, did you need to conclude?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I apologise to the council for my unruly behaviour and the unparliamentary way I addressed my friend and colleague, the Hon. Mr Xenophon: I stand admonished and I hope the council goes lightly on me

when it seeks a penalty. With those few words, and with the cooperation of all sides of the chamber, I hope the motion is put quickly and carried.

Motion carried.

EMERGENCY SERVICES ADMINISTRATIVE UNIT

Adjourned debate on motion of Hon. Ian Gilfillan:

1. That this council express its deep concern at the drain that the Emergency Services Administrative Unit is on this state's emergency services; and

2. Further, this council calls on the Minister for Emergency Services to dismantle the Emergency Services Administrative Unit.

(Continued from 13 November. Page 1291.)

The Hon. A.L. EVANS: I realise that the government and the opposition are both opposing the motion. Nevertheless, I would like to put on record that the reasons raised by the Hon. Mr Gilfillan for dismantling the Emergency Services Administrative Unit are valid ones. The debate so far has not convinced me that the unit is worth the millions of dollars that have thus far been spent on it. Enquires made by my office have not allayed my concerns. I have been told that money already allocated to the unit has not achieved results.

For a unit not getting good results, I cannot understand why money spent is not simply redirected back to units that are getting results such as the Country Fire Service, State Emergency Service and the South Australia Metropolitan Fire Service. We have been told that the Minister for Emergency Services formally initiated a review of the management of emergency services in South Australia. I note that the review does not include specific consideration of dismantling the unit. The terms of reference ask the crucial questions on the efficiency of the unit, the adequacy of the current arrangements and enhancement of arrangements to improve efficiency. Presumably, if ESAU was found to be inefficient and inadequate, in other words, a big waste of money, then the committee may recommend that ESAU be dismantled. I trust that is not simply wishful thinking.

My preference would have been for the terms of reference to contain specific considerations of the possible dismantling of the unit. After all, it is the obvious inefficiencies of ESAU that have prompted the review in the first place. Given that it does not, I am supporting the motion brought by the Hon. Mr Gilfillan.

The Hon. IAN GILFILLAN: Thank you to all honourable members for their contributions to the debate and, in particular, if I may specially mention, the Hon. Andrew Evans, who has, I think, very succinctly summarised the position. I remind honourable members that the motion is:

1. That this council express its deep concern at the drain that the Emergency Services Administrative Unit is on this state's emergency services; and

2. Further, this council calls on the Minister for Emergency Services to dismantle the Emergency Services Administrative Unit.

The review is a good initiative. I think that it may well stretch sideways to have a more detailed look at the impact of ESAU, however, we have no guarantee of that and I do believe it is incumbent upon this chamber to assess the impact that ESAU is having, and to express its view so that there can be a clear message given to the government and to members of the other place.

Since the formation of ESAU, we have seen the resignation/retirement/pseudo-sacking, if you like, of the then chief executive officer of the CFS, Stuart Ellis. He and other people in the CFS kept a discreet silence for a considerable amount of time, as far as any critical comment of ESAU was concerned. I think there have been some notable exceptions. One of my fellow Kangaroo Islanders, Michael Pengilly, was always prompt to indicate his area of criticism where he saw it.

I have recently had communication with Stuart Ellis, the former CEO of the Country Fire Service. He sent me an email which he has authorised me to read to the chamber. It is dated 26 November, Tuesday, that is, yesterday. He states:

Ian, as discussed, I'm happy for you to use the attached.

I will now read it:

ESAU was introduced with no consultation and a hidden agenda.

I remind honourable members that this is the opinion of the former CEO of the Country Fire Service.

The Hon. Sandra Kanck: They are not listening

The Hon. IAN GILFILLAN: No, they are not.

The PRESIDENT: Order! There are too many audible conversations. I cannot hear the Hon. Mr Gilfillan and I am quite interested in what he has to say.

The Hon. IAN GILFILLAN: That is serious, Mr President. I will now repeat, so that you do hear. I am reading the email sent to me by Stuart Ellis who is the former chief executive officer of the Country Fire Service, and the date of the email is yesterday, Tuesday 26 November, and he has said, as I quoted, that he is happy for me to use this email in this chamber. The email goes on as follows:

ESAU was introduced with no consultation and a hidden agenda. As a result, the structure created was ill-conceived and has never satisfied anyone. The costs to the agencies involved could never be justified. In my experience, despite the best efforts of the staff involved, ESAU has struggled to serve the agencies. ESAU lacks a culture of service and is pursuing its own agendas to the detriment of the agencies. I have rarely seen a model where the administrative support is removed from the operational structure and the service or the outcomes are improved. To my knowledge, most public and private sector organisations are striving to bring the administrative and operational arms closer together, not separate them in different organisations creating different cultures with different executives. Having worked . . .

I remind the chamber that this is the former CEO of the Country Fire Service, highly respected in that role but virtually pushed out of it for reasons that I will not go into now. I will carry on with what he sent me in the email:

. . . with senior personnel from all Australian fire agencies since leaving the CFS, I can confirm what I knew as CEO: no other Australian fire agency supports the ESAU model and most hold it up as the approach to avoid. The question we face is do we have the courage to admit our mistakes and make the required changes so that the members of all emergency services in South Australia receive the best possible support. Stuart Ellis.

It is very hard not to conclude from that contribution that it is long overdue that we dismantle ESAU, except that maybe it was initiated with some good motives, although Stuart Ellis questions even that. However, let us cut our losses, dismantle it and send the folk on to do other worthwhile tasks—if they can find them—and let the individual agencies conduct their own affairs, as they did previously, with high morale and high efficiency. It is long overdue that we dismantle ESAU, and I urge the chamber to support my motion.

The council divided on the motion:

AYES (5)

Elliott, M. J.	Evans, A. L.
Gilfillan, I. (teller)	Kanck, S. M.
Stefani, J. F.	

NOES (13)

Dawkins, J. S. L. (teller)	Gago, G. E.
Holloway, P.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stephens, T. J.
Zollo, C.	

Majority of 8 for the noes.

Motion thus negatived.

TAXI FARES

Order of the Day, Private Business, No. 13: Hon. C. Zollo to move:

That the regulations under the Passenger Transport Act 1994 concerning taxi fares, made on 15 November 2001 and laid on the table of this council on 27 November 2001, be disallowed.

The Hon. CARMEL ZOLLO: I move:

That this order of the day be discharged.

Motion carried.

UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 1474.)

The Hon. D.W. RIDGWAY: I support this bill in relation to the Upper South-East dryland salinity drainage scheme in an amended form. First, I declare that I have an interest in that I am a levy payer in zone C of the levy collection scheme. A very large percentage of the land that is to be drained was very good grazing land which produced excellent pastures, and typically in the spring and early summer magnificent strawberry clover. It always had a relatively high watertable. Over time, gradually there has been a decline in the quality of that pasture with the rising watertable and, of course, rising salinity. Of course, that decline resulted in a drop in carrying capacity and greater grazing pressure was placed upon that land. Over the past 20 or so years, the problems have compounded, especially in recent times with poor wool prices and poor livestock prices: the grazing pressure became greater as farmers tried to get more production out of their properties.

With the rising watertable and the salinity, cropping was never an option in this area. It is interesting to note that, as a result of some of the drains having been dug, there are now canola and wheat crops growing on land where once it was never thought they could grow. I am sure that, when this scheme is completed, we will see a much more diverse range of agricultural pursuits on that land. I have some sympathy for the largest landowner in the area, Mr Tom Brinkworth. Being the largest landowner, of course he is the largest levy payer and constructor of the largest number of private drains. To give members an indication, I think Mr Brinkworth has some 100 000 hectares and pays an annual levy of some $250 000.

I am very fortunate in that I am in zone C and I pay a levy of 54¢ per hectare, which is about $156 a year for my small property. My neighbour, who has a larger property and to whom I spoke today, also pays 54¢ per hectare. He pays approximately $1 000 a year. The two of us will never see any significant benefit to our properties from this drainage scheme because we are some 120 kilometres from the northern outlet drain, which is often referred to. However, it is viewed by all of us as our contribution to a scheme for the greater good of the South-East region. In my view, it is of the utmost importance that this scheme is completed. Today it was interesting to note that I received a couple of phone calls from people concerned about Mr Brinkworth and the commitment he has given to the drains, but congratulating the Hon. Caroline Schaefer for the excellent compromise position that she is suggesting through some of her amendments about which they heard in an interview on radio.

There is a common held view in zone C that we must complete the scheme. However, there has also been a need to protect private property, and I think the Hon. Caroline Schaefer's suggested amendment regarding land acquisition without compensation, unless there is a demonstrated net loss to the property owner, covers that extremely well. I support the bill with the amendments agreed to by our party room and as foreshadowed by the Hon. Caroline Schaefer yesterday.

The Hon. R.K. SNEATH secured the adjournment of the debate.

TRAINING AND SKILLS DEVELOPMENT BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 1476.)

The Hon. M.J. ELLIOTT: I will make a brief contribution. Others have gone through the bill chapter and verse and, for the greater part, this reflects a bill that was introduced by the previous government not long before the last election, so there is not a great deal of debate about much of it. The one issue that appears to have been raised concerns AWAs, and only today I received a letter from Peter Vaughan, of Business SA, on that matter. He included a letter that Tony Abbott sent to the Premier and several other ministers, as well. I note that he said that he would send a letter to all other parties on this issue. He did not do that because this is the first that I have seen of the letter. I do not know who Tony Abbott wrote to, but he certainly did not write to us.

The bill is fairly predictable. The one issue that has been raised is AWAs. I have in this place consistently opposed individual workplace agreements in state legislation. I argued with the previous government that all the supposed benefits of an AWA were achievable through enterprise agreements. I also argued that the system that the previous state government used in relation to enterprise agreements, particularly in small business, was very cumbersome and they were not doing much to help. Frankly, Business SA has been very disappointing in that area, as well. Unfortunately, some people keep looking for the easy way out, which AWAs appear to be, but that is because they suit other agendas.

As I see it, the enterprise agreement system contains a lot of checks and balances that protect workers. AWAs do not have checks and balances that are in any way credible and they expose individuals to significant exploitation. I have not changed my view about individual workplace agreements in terms of their capacity to be abused by some employers. Some employers will use them with goodwill, and they can work extremely well, but they do not offer any real protection. I am not going to change my position just because

Abbott, of the famous pairing of Abbott and Costello, starts jumping up and down saying that he does not like it.

I am not surprised that Business SA has taken its view because, when we debated the industrial relations legislation under the previous government, it wanted individual workplace agreements. It is being consistent and so am I. Nothing has happened in the meantime to make me change my mind. What I have seen of AWAs has convinced me more than ever that they were a mistake at the federal level and I am sure that at some time in the future they will be removed. As I said, it is about time that people found a system that works for everybody.

It reminds me of the major debates we had in this place over both industrial relations legislation and also workers compensation and occupational health and safety legislation, where the government came in with extreme legislation yet we ended up with something that has worked for everybody, and has worked well for a long time. It is time people got out of their extreme positions and started looking for something that works for employers and employees equally, not just for one side, sometimes pretending that it works for others when in many cases it simply does not. My view has not changed and I will not be supporting amendments to reinsert into this legislation the use of AWAs in relation to this bill.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I remind members that earlier this evening the President asked members to observe protocols when referring to members of this place. I ask members also to observe those protocols when referring to members not only of another place but of other parliaments, and I note that we have had reference to federal ministers without the use of their proper titles.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

CRIMINAL LAW (FORENSIC PROCEDURES) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 November. Page 1456.)

The Hon. CAROLINE SCHAEFER: Mr Acting President, I draw your attention to the state of the council:

A quorum having been called:

The Hon. R.D. LAWSON: I indicate support on behalf of the Liberal opposition for the second reading of this bill. The Liberal Party is an enthusiastic supporter of providing our police with all necessary appropriate tools to undertake the important fight on behalf of the community against crime and also to meet their responsibilities to provide an appropriate force which is a deterrent to crime. The proposed national DNA database is an important element in the deterrence of crime in our community. We commend the government for bringing forward this bill. We also commend the government for adopting suggestions pushed by the Liberal Party in improving the measure that was initially introduced into the parliament.

It is interesting that the government, having initially indicated opposition to any of the proposals made by the Liberal Party, soon changed its mind as a result of the persuasive arguments that the opposition was advancing for extending the police powers to test for DNA. The chronology of events is interesting. It is true, of course, that the government proposed during the election campaign, as did the Liberal Party, that all persons sentenced to a term of imprisonment in South Australian gaols would be required to submit to a DNA sampling procedure.

On 9 July, the Premier made a ministerial statement in which he indicated that the justice portfolio had been allocated $1.9 million over four years. The government was prepared to allocate, and did allocate, $72 000 to be spent in each year over four years to DNA test about 3 000 convicted criminals in our state's prisons. This was not a significant contribution by the government to DNA testing—$72 000 per annum was not a significant contribution.

Indeed, it was a paltry contribution, bearing in mind the benefits that any community can receive from extensive DNA testing. The experience in the United Kingdom is important and cannot be ignored. In the United Kingdom the policy has been adopted of extensively taking DNA samples. In fact, a DNA sample is taken from every person who is arrested and charged with an offence in the United Kingdom. When you are taken into custody in the United Kingdom, a DNA sample is taken as a matter of course in just the same way as, under section 81 of the South Australian Summary Procedure Act, a fingerprint and a photograph is taken of everyone who is brought into custody and charged in South Australia.

That is done in South Australia for the purpose of identification. It has been done for many years, and that procedure is quite unaffected by the forensic procedures legislation. However, the Liberal Party takes the view that we in South Australia, and, indeed, in Australia generally should be adopting the United Kingdom model. Australian policy makers about 10 years ago decided to go down a different route to that adopted by the United Kingdom. They decided, in their wisdom at that time, that we would adopt a far more restrictive regime: that rather than testing as many people as possible that we would test very few people, namely, those convicted or charged with the very most serious offences.

It is difficult to know now precisely why Australian policy makers went down that route. They were very clearly concerned about the civil liberty implications of widespread testing. They were, no doubt, concerned about the possibility of misuse of DNA technology, but I think that, above all, they were concerned about the DNA technology itself. At that time they were not convinced that DNA would provide the benefits that it ultimately proved to provide. In the United Kingdom the results from widespread DNA testing have been amazing. The number of crimes (many of which were 30 and 35 years unsolved) that have now been solved as a result of the use of DNA is quite spectacular.

Indeed, in the very first case in which DNA evidence was extensively used the innocence of a person previously convicted and wrongly convicted was established by the use of this technology. I do not think that we should ever lose sight of the fact that, whilst DNA has the capacity to establish guilt, in many other cases it clears people and moves suspicion away from individuals upon whom suspicion might have been cast by virtue of other evidence. I think that it is very important to remember, of course, that, of itself, DNA evidence will be insufficient to convict anyone.

Fears have been expressed that the mere fact that a DNA sample is found at a crime scene might be used to convict a person, when that might have been improperly planted at the scene, either by the true offender seeking to divert attention from himself or herself, by some criminal associate of another, or by the corrupt activity of some law enforcement officer, and these are very real fears. Any one who sees cops

and robbers shows on the television will know that it is a common enough theme and plot for evidence to be planted.

Accordingly, when Australian policy makers established the first model of the forensic procedures legislation, they were astute to ensure that appropriate protections were put in place, and those protections remain in place. There are legislative protections, such as the destruction of DNA if no person is either charged or convicted within two years. There are confidentiality provisions, and very severe penalties apply to the misuse of the DNA database. There are legislative provisions. Administrative provisions are put in place to ensure that the laboratories in which DNA profiling takes place are not located on police premises—they are not under the control of the police.

In South Australia the forensic science service provides an outstanding independent forensic service to the state. It is a service the police use and use very extensively, but the service is also available to defence lawyers, for example. Another legislative protection is the fact that a person from whom a DNA sample is taken must be given a copy of the material so that it can be independently tested. These are legislative and administrative restrictions. But also within the court system itself the judges have laid down that a jury must be directed that it is unsafe to convict on DNA evidence alone, and that the jury must take into account other evidence, such as motive, opportunity, alibis and all of the totality of evidence that is presented in the criminal case.

The mere fact that a DNA sample is found at a criminal site is insufficient of itself to convict anyone of an offence. There must be other evidence, and that principle shines through the judicial decisions that have now been laid down in relation to DNA testing. I mentioned that Australian policy makers were initially sceptical—perhaps suspicious, perhaps unwilling—to embrace the new technology before it could be finally established to the satisfaction of the most sceptical. In South Australia, the case of the Queen v Karger was heard over a period of time, culminating last year in the decision of Justice Mullighan (a most careful judge) who, after many months of hearing, ruled that it was appropriate for the DNA evidence in that particular case to go to the jury.

That required the presentation to the South Australian court of all the experts who had devised the system that is used in this state in relation to DNA to provide a very thorough analysis and description of the process from the very taking of the DNA to the process by which it is tested and profiled, to the process itself of profiling, to the mathematics that is presented to the jury in relation to the likelihood that the DNA presented—for example, at the crime scene—was by an order of millions to one also the DNA of the person who was accused, of elements such as the prosecutor's error, which is a tendency of prosecutors to seek to demonstrate to a jury that the likelihood of the accused as the offender is of the order of one billion to one, or some other figure.

Likewise, there is the defender's error, whereby, for example, five or six people in the human race could statistically have the same DNA, so it is possible that they might be the offender in a particular case. All of these issues which have been thoroughly examined in a number of decisions by the courts not only in this state but elsewhere form part of the jigsaw which we now face in relation to DNA.

The important point that I seek to make from this is that in 2002 we are now in a far better position to make a reasonable assessment of forensic procedures measures in relation to DNA. That is why at this stage we think it would be appropriate for Australian governments (including the South Australian government) to embrace the system that has been adopted in the United Kingdom, namely, mass testing. We do not favour the testing of people who are not charged, who are not under suspicion and who are not convicted, but we do favour widespread testing. We are glad to see that in this case the government has considerably extended the class of persons who can be tested under our forensic procedures legislation.

We think it is also important that we in this state be part of the national CrimTrac database. In order to be part of that database it is necessary that we are able to establish what are called matching rules which enable the matching of DNA samples from various sources with DNA samples from other sources. South Australian parliamentary counsel have done a very good job of identifying and classifying four categories of persons from whom DNA samples could be taken and entered on the database and be capable of being matched.

Those classes are described as category 1, which I think can probably be described more easily as victims of crime, persons who are not under suspicion who consent to the process, and where the DNA is not to be stored on the database. In those cases, the person must consent to the process, or a magistrate must authorise the taking of the samples. We agree with those safeguards.

Category 2 is the taking of samples from volunteers, that is, citizens who are prepared voluntarily to submit their DNA. I refer to the very well-known case in New South Wales at Wee Waa where most of the citizens agreed voluntarily to submit their DNA to solve a horrendous crime against an elderly woman. They were volunteers, there was no requirement on the people in those circumstances to submit their DNA, and a number of them refused. The safeguard that is laid down in this legislation is important so that, if consent is given by someone, their consent can limit the use to which the DNA can be put. It might be only for the purpose of the investigation of a particular crime and after the solution of that crime the DNA will be destroyed or returned. That is entirely appropriate. We support the measures in this bill for the protection of people who volunteer their DNA.

The third category is the taking of samples from people who are described as suspects, that is, persons who are under suspicion where there are reasonable grounds to suspect that the forensic procedure might provide evidence of value to the investigation of the offence. The way in which this category was dealt with in the government's initial bill was that it was necessary to obtain an order from a magistrate or the person must give informed consent before that sample was submitted.

There are other requirements such as the necessity to have an interpreter and the opportunity for a legal adviser to be provided and an audiovisual record to be made of any consent that is given. There was a restriction that if consent was not given a senior police officer could make an interim or final order for certain non-intrusive procedures, and only a magistrate could order an intrusive procedure.

However, the offences in respect of which these tests could be taken were limited to the most serious offences in the criminal calendar. It is important to note that DNA can be taken for these purposes only in respect of a specific offence. This is quite unlike the position in the United Kingdom where DNA can be taken from a person who, for example, has been arrested for drink driving. The DNA can be entered on the database and used for the purpose of presenting not the particular offence of which the person is charged or suspected

but to match it against the DNA database to see whether there is any record of similar DNA. By this means in the United Kingdom they have solved murders, rapes and similar crimes using the DNA of people who have been brought in on very minor offences and are not even suspects for the particular offence of which they are subsequently convicted.

The government has changed its position considerably in relation to suspects. We support the changes that have been made, but we believe there can be some additional measures to ensure that they are effective. The fourth category of persons from whom a DNA sample can be taken is an offender. The original proposal in the government's bill was that offenders be defined only as the most serious offenders: those people who were convicted of offences which carried a penalty of five years or more.

We acknowledged a deficiency in the existing legislation where it was not possible to take a DNA sample from anyone who had been convicted of a crime before the 1998 legislation came into force. We have supported all along the inclusion on the DNA database of DNA samples from prisoners who are convicted whether before or after this legislation. We also believe that it is appropriate that any person who is convicted and sentenced to a term of imprisonment should be required to provide a DNA sample—if they have not already provided such a sample—and that that sample will go onto the database and be used in the matching rules.

The Commissioner of Police was a strong advocate for the adoption in South Australia of the regime that applies in Tasmania. In his annual report for the year ended 2000-01 he quite properly drew attention to the deficiencies in the South Australian legislation and pointed to the fact that in Tasmania a large number of DNA samples had been taken and that as a result there had been a number of matches of crime scenes to persons.

The government resisted suggestions that we could adopt the Tasmanian solution on the basis initially that we would not be eligible for CrimTrac if we followed that route. However, that was soon proven to be a fallacious excuse, because Tasmania itself had been admitted to CrimTrac. It is simply not credible to suggest that Tasmania is capable of finding the resources necessary to provide DNA profiling but South Australia is not. As everyone in the chamber would know, the situation of Tasmania in an economic and budgetary sense is certainly no better than that of South Australia. We do not accept the suggestions made from time to time by the government that there are simply insufficient resources, either in monetary terms or in terms of trained personnel, to meet the requirements of a well-targeted but extensive DNA testing program.

The government, stung by the report from the Police Commissioner; stung by the active support of the Police Association and its president, Mr Peter Alexander; stung by media comments from Rex Jory, Geoff Roach and other commentators; and stung by Leon Byner and Bob Francis, decided that they would look again at their policy in relation to DNA. And, I add, the government was stung by the effective barbs of an opposition that was strongly promoting the proposition that we should have a widespread DNA testing program in this state. They have finally—albeit reluctantly—come to see the error of their initial ways.

In doing that, they have not sacrificed—and we would not ask them to sacrifice—the protections that are contained in the legislation. These are important protections. They have been adopted by the commonwealth parliament and in most states of Australia. It is interesting to note that in the Northern Territory these protections were not similarly adopted, nor were they adopted in the state of Queensland. Those states decided to go a different route and, according to the advice which we have received, their regime is not accepted for CrimTrac purposes. We have not advocated going down that route. We do advocate, and will continue to advocate, that we should, as a nation, adopt a wider DNA profiling scheme, and we will certainly argue in national forums and in this state for the adoption of a wider scope.

Just as the Police Offences Act provides in section 81 that every person who is arrested in South Australia should be fingerprinted and photographed as a matter of course, we believe it will be appropriate to take a buccal swab at that stage. We are not seeking, however, in this legislation to move that amendment. In the fullness of time, we will develop that proposal because we recognise that it is important that we have our DNA legislation in place quickly. We recognise that it is important, also, that we be part of the national CrimTrac scheme.

As I indicated at the very beginning of my remarks, we will support the proposals contained in the bill in general. We will move some amendments. We regard it as a badge of honour—I certainly do, personally—that the Premier chose to castigate us for exposing to the community the weakness of the government's initial proposals. I cannot lay my hands on the particular accusation of the Premier: he made a ministerial statement on 17 October in which he accused the opposition of creating misconceptions about his government's position on DNA testing. There was no misconception about the government's initial position on DNA testing. It was exposed by the Police Association; it was exposed by the Police Commissioner; it was exposed by the opposition; and, as well, it was exposed by journalists who had been listening to what we had to say.

The Premier said on that occasion that some sections of the media, assisted by the shadow attorney-general, had not been giving the full story. We were giving the full story. The Premier then adopted the language of 'DNA testing being the fingerprinting of the 21st century', but he was not prepared to take the step necessary to implement that. The Premier said at the end of this ministerial statement, 'DNA testing is the fingerprinting of the 21st century', but he was not, and his government is not, prepared to say, 'Very well, just as we fingerprint every person who is arrested in this state, we will take a DNA sample by the simple process of a buccal swab.' After acknowledging that it was the fingerprinting of the 21st century, he was not prepared to adopt the logic of his own position. He has adopted a lesser position.

It is quite surprising that the government would have adopted the lesser position, which is that they will enable the testing of suspects. This includes not only suspects who are arrested, but suspects who are not arrested. People who are out in the street, walking around, not charged with any offence can, under this government's proposal, be called into a station and be required to give a DNA sample. That is not the model we would have preferred: we would have preferred the model whereby everyone who is arrested and charged comes into the station and provides a sample. However, to meet the model that has been adopted in this legislation, the government has decided that it is appropriate to test suspects, and these are suspects who are suspects in relation to what are now defined as serious offences. 'Serious offences' include not only indictable offences—and that means, speaking very

loosely, offences for which there is a two-year prison term—but also certain summary offences.

The Hon. Carmel Zollo: Wouldn't that mean more people will be tested?

The Hon. R.D. LAWSON: Theoretically more people; theoretically, 'suspects' will mean more people, but the difficulty is that these are only suspects in relation to certain serious offences in respect of which it can be demonstrated that the taking of a DNA sample will be of use in relation to the particular offence of which the person is suspected. The model in the United Kingdom is not to take DNA simply from people in respect of the particular offence in respect of which they are suspected, but to take the sample to be used in relation to offences generally. There is a very important distinction, and that is why we will continue to argue that we should be adopting the United Kingdom model.

In the United Kingdom you cannot be DNA tested unless you are arrested and charged; under the model that has been adopted here, you can. A policeman can form a suspicion; he is not required to charge the individual, but that individual is required to submit a DNA sample. I do not believe that the government has been clear in its description of this measure, either to the Labor caucus or to the community, and I think that it should be put clearly on the record that that is what is intended. We support this measure because it is certainly better than the current regime and because those measures that are in place are designed to ensure the integrity of the DNA system.

The government has also decided to make not only the taking of a buccal swab (a simple mouth swab procedure) 'non-intrusive' but also the taking of a sample of blood by finger prick. Both of those procedures were previously regarded as intrusive and accordingly required not only special authorisation but also special procedures for the manner in which the test was taken.

In order to increase the range of offences, the government has not adopted the definition of 'criminal offence' that applied in the original act, where the definition of criminal offence is:

> . . . any offence for which imprisonment can be ordered, provided that the offence is not one that is expiable.

Under the existing act, the grounds of suspicion that are an essential element of obtaining a DNA sample from a suspect are that the suspect is someone whom a police officer, on reasonable grounds, suspects has committed one of those offences. The government has seen fit not to adopt that definition but to adopt the more restrictive definition of all indictable offences, together with what might be termed a 'ragbag' of 11 summary offences.

As far as I can see from the Attorney's explanation (although I may be wrong), he has not described how these 11 additional summary offences were selected. It is an odd assortment, as follows:

- using a motor vehicle without consent as a first offence;
- certain firearms offences;
- the possession of body armour, for example, is an offence against section 15A of the Summary Offences Act, which is a pretty rare offence, in my experience and in looking at the criminal statistics; but that has been selected as one of these additional offences for which DNA can be taken if a person is suspected;
- indecent behaviour and gross indecency;
- unlawful possession of personal property;
- making false report to the police; and
- creating a false belief as to events calling for police action.

This general ragbag of offences has been selected not only from the Summary Offences Act but also from the Firearms Act and the Criminal Law Consolidation Act to bolster the class of offences in respect of which a DNA sample can be taken under the authority of proposed section 15 of the forensic procedures legislation.

One of the weaknesses that we see in the current regime, which does not exist in the United Kingdom model, is that here it will be necessary for police officers to make an assessment as to whether or not the particular offence is one of those in respect of which the police officer is authorised to take a DNA sample. In the United Kingdom, no such decision has to be made: if a person is arrested, as part of the ordinary processing procedure a DNA sample is taken. I can envisage (and I am so advised by the police) that it will be difficult to administer this current scheme, because they will have to make a conscious decision in relation to every person who comes into the station as to whether or not DNA will be taken.

A similar judgment does not have to be exercised in relation to fingerprinting or photographing an individual. Everybody who comes in who has been arrested is processed, their fingerprints are taken, and it is a simple procedure for all concerned. However, the government has chosen on this occasion not to go down that path. So, we are saddled with a system that has complexities, and it is not the best system.

In the second reading debate in the other place, the Attorney-General made a number of points in which he sought to attack the Liberal opposition's position on forensic testing. For example, he said that the attitude adopted by the Liberal opposition was jeopardising our capacity to participate in CrimTrac. By way of interjection at one time, the Attorney said, 'What about Falconio?' He was referring to the case in which a DNA sample was taken in South Australia at the request of the Northern Territory police officers who were investigating the murder of the British backpacker Mr Falconio.

The important point to make in relation to that case (and I refer to page 1864) is that Falconio involves an offence committed in the Northern Territory, where the crime scene is in the Northern Territory, and where the Northern Territory is not a member of the CrimTrac scheme. Even though CrimTrac is not yet up and running, and even though the Northern Territory is not and will not be a member of CrimTrac, it was possible under the existing legislation, under the authority of a magistrate, for us to take a DNA sample from the person under some suspicion here, and transmit it to the Northern Territory.

It was necessary to make a specific regulation for that purpose, and a question which I direct to the minister, and I will seek an answer during the committee stage, is whether the regulation that was made in relation to the Falconio matter (a regulation which was the subject of a motion on the *Notice Paper* in the other place today) was satisfactory; whether, in particular, the provisions of section 49, under which that regulation was made, were satisfactory in practice; and whether or not some better legislative authority ought be provided for situations of that kind.

The Hon. Carmel Zollo: I believe it would.

The Hon. R.D. LAWSON: The Hon. Carmel Zollo, as a former presiding member of the Legislative Review Committee, indicates that, from the point of view of that committee, the situation was deemed to be satisfactory. However, looking at the report from the Legislative Review

Committee it would appear that there was quite some uncertainty in relation to that matter, and there were also quite some delays.

The Hon. Carmel Zollo interjecting:

The Hon. R.D. LAWSON: No, not delays in the Legislative Review Committee, but delays in the police and Attorney-General's Department. The issue is whether or not we can provide, by legislation, a more streamlined system to ensure that a DNA profile can be readily taken and transmitted. When one thinks, for example, of the recent Bali incident, it is quite possible that we will not be dealing only with other state or territorial jurisdictions: we might be dealing with overseas jurisdictions where it would be entirely appropriate for us to be submitting forensic samples to those jurisdictions, notwithstanding the fact that they are not signatories to, or even agree with, the sort of approach we have adopted in Australia in relation to DNA.

The Attorney-General in his reply to the second reading contributions in the other place, made a rather long and discursive analysis of DNA evidence, in which he tended to undermine the strength of the evidence. He said, and I think I am correctly summarising him, that DNA evidence is not as good as fingerprinting evidence. Frankly, I was surprised that the Attorney, who certainly on the airwaves has been a great champion of DNA legislation was there, in the parliament, casting doubt upon its effectiveness. It is extraordinary and worthy of note that we should have here an Attorney-General, who has reluctantly been dragged to supporting a modern piece of legislation, one that is reasonably up-to-date, at the same time throwing cold water on the effectiveness of it.

The Attorney alleges that this is a case of whatever the government says, the opposition is saying it will go further. It is not that at all. What we sought to do was argue in a principled way for a DNA mechanism that met the community's expectations and demands for the solution of crime, but which also appropriately ensured that innocent citizens should have their lives interfered with to the minimum possible extent. We have behaved throughout in a principled way; we have sought to argue the case in a principled way. The Attorney, if he looks at the facts, will see that it was he who jumped and sought to jump ahead of an opposition position for what he deemed to be a political advantage.

The Attorney has also sought to hide behind the cost of providing additional DNA resources. I mentioned earlier that the government had, in its budget, allowed only a paltry $72 000 a year for additional DNA testing, at a time when the Attorney had been spruiking for months that we had simply not been—

The Hon. Ian Gilfillan: Is this a cyclical effect? Are we just going around and around?

The Hon. R.D. LAWSON: I am grateful to the Hon. Ian Gilfillan for his interjection. I am, at this stage, addressing the arguments in sequence that were addressed by the Attorney-General in his second reading summation in the other place. The Attorney-General sought to claim that the expense was a reason why the government was not prepared to extend the class of persons from whom DNA samples should be taken. We reject that approach. The issue is whether or not one gives the police the power to take these samples. If they do not have the resources now to take samples from everyone, then presumably they will take samples from some people. The issue is not whether they take samples from everyone or no-one: the issue is that they will take samples from as many people as their resources allow. Our position has always been that we will give them the tools and power to take these samples, as their resources allow.

It is probably unnecessary at this juncture to descend into further detail from the Attorney's second reading summation. Once again, I indicate support for the second reading. I indicate that during the committee stage of the bill, we will be introducing amendments to address a couple of issues. I mention what they are in general terms. First, the government's bill, by enacting a new section 13, seeks to prevent the taking of DNA samples from hair, unless the person from whom the hair is taken specifically requests that a DNA profile be obtained in this way. True it is that hair, particularly the root of the hair which is necessary for the taking of a DNA sample, is not the best way of obtaining DNA. However, it is one way of taking it, and we do not believe that we should by statute preclude the taking of a DNA profile from this particular source. There may well be cases in which it is appropriate to do so. There is, so far as I have been able to see, no similar prohibition in any other state jurisdiction for the use of hair for taking a DNA profile, and we cannot see why it is necessary to do so in this state.

The Hon. T.G. Roberts: Are you going to move the Kojak amendment?

The Hon. R.D. LAWSON: The minister asks whether we are going to move the Kojak amendment. We are going to move an amendment which will enable the use of hair, taken in a humane way, for DNA purposes.

The Hon. Diana Laidlaw: From anywhere?

The Hon. Carmel Zollo: How can you take it unless you pull it out?

The Hon. T.G. Roberts: What, anaesthetic? Local?

The Hon. R.D. LAWSON: No, it is interesting—

Members interjecting:

The Hon. R.D. LAWSON: Well, let me say, hair from non-intimate regions, for the more sensitive members of the council. There are mechanisms in the commonwealth, and also in the Tasmanian legislation on which ours is now largely based, by which hair must be removed singly and in as painless a way as possible: singly rather than by the handful.

The legislation proposed by the government will enable the taking of a DNA sample from a person who is not in custody and not arrested or under any charge, therefore, in our view, it will be necessary to provide some assurance that there will be appropriately recorded the purpose for which such DNA sample is taken. The government's present bill contains no protection in relation to those situations where a DNA sample is taken on the say so of a police officer and a person is required (under pain of imprisonment) to present himself or herself for DNA sampling. We think that procedure should be improved consistently with the other protections in the bill.

We also believe that it will be appropriate to enable South Australian DNA to be exchanged with not only other states but also, if situations arise, DNA sought from other jurisdictions outside of Australia. The current bill is too restrictive in that regard. We will be supporting the second reading.

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

FLINDERS CHASE NATIONAL PARK

Adjourned debate on motion of Hon. T.G. Roberts:

That his council requests Her Excellency the Governor to make a proclamation under section 43(4) of the National Parks and Wildlife Act 1972 to vary the proclamation made under part 3 of that act on 14 August 1997 so as to remove the ability to acquire or exercise pursuant to that proclamation pipeline rights under the Petroleum Act 1940 (or its successor) over the portion of the Flinders Chase National Park described as section 53, Hundred of Borda, County of Carnarvon.

(Continued from 26 November. Page 1466.)

The Hon. A.J. REDFORD: On behalf of the opposition, we support this motion and note that obviously that will lead to the inevitable demise of the motion which I moved some three or four months before the minister's motion in precisely the same words. What I said in moving that motion in May this year is equally applicable to supporting the government's motion, and I will not repeat it. I must say the only observation I will make is that in the lower house where the Liberal members of parliament are in a minority, their motion got up; and in the upper house where we have the greater numbers (that is, the Liberals), our motion does not get up, and that is probably suggestive of the perverse nature of our political system and the unpredictability of it. I commend the motion and I commend the minister.

The Hon. M.J. ELLIOTT: I support the motion on behalf of the Democrats. I think this goes to show how, over time, attitudes change, particularly in relation to conservation. There was a time when it was considered reasonable that a pipeline might have been built through a conservation park on the western end of Kangaroo Island. Clearly, Kangaroo Island is building its profile by the day as a place of great natural beauty. That is the cornerstone of its economy and will be the cornerstone potentially of that economy for a very long time to come. We know that any gas or oil fields that are found may have a lifetime of 30 or 40 years, if you are lucky, and then be gone. Clearly, the view has now been formed that Kangaroo Island is so valuable that we just simply would not consider a pipeline going into that area—

The Hon. T.G. Roberts: And its residents.

The Hon. M.J. ELLIOTT: And its residents. I think that it would be appropriate at this time for the government to take a very close look at all other national parks, and other areas even outside of national parks, where someone with just half an ounce of foresight can see that the value can continue for a very long time. I can think of another example that is before me right now: people are increasingly concerned about magnesite deposits that are being explored in the southern Flinders Ranges. The magnesite deposits run right along the western escarpment of the Flinders Ranges. When one considers that there is another magnesite deposit of significant size and of good quality near Leigh Creek to which no-one has raised any objections and are not likely to, I find it extraordinary that it could even be considered that we would explore, and then, obviously later on, mine along the western escarpment of the Flinders Ranges.

I think that people are lacking the foresight that perhaps was lacking when originally it was allowed for pipelines to run through the Flinders Chase National Park. I only hope that governments are increasingly becoming aware of longer term consequences and looking for other ways of tackling important issues of resources. No-one is saying that, if there is a mineral resource—in this case a gas resource off the island—that it should not necessarily be explored and perhaps even tapped, but that, in the process, we will not sacrifice areas of what obviously will be of ongoing importance for what is only a generational gain. I would hope that we are getting past that sort of short-sightedness, but I can still see it happening in other parts of the state and that is a great disappointment.

We have now seen, after a great battle, the Gammon Ranges National Park being protected in relation to development of a particular magnesite resource, although the park is still not protected from any future mineral searches, and we do know that there are significant radioactive materials in the Gammon Ranges National Park. I invite the minister to take a close look at all national parks and make the same sort of sensible decision that has been made in relation to this one.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank all members for their contribution. I do not think the item needs to be adjourned; I think we can vote today. I thank members for their cooperation and giving it a speedy passage.

Motion carried.

CONSTITUTION (MINISTERIAL OFFICES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 1465.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak with—

The Hon. T.G. Roberts: Lack of enthusiasm.

The Hon. R.I. LUCAS: No, I look forward to speaking to the second reading of this piece of legislation. This legislation represents another clear and explicit broken promise by new Premier Rann and the new Rann government. Explicit commitments were given by Premier Rann, Mr President, which I am sure you would fondly remember, in the period leading up to the election campaign about the new Premier and the prospective Labor government being a government that believed in smallness, if I can put it in that way. The Premier was wanting to see fewer members of parliament. He was a Premier who made it quite clear and explicit that he would not be increasing the numbers of ministers, and indeed made those commitments explicit on a number of occasions in the period leading up to the election campaign.

We therefore see in this legislation, as I said, a clear and explicit broken promise by Premier Rann and the new government. There are plenty of broken promises that we can choose from. Each and every piece of legislation that comes through the parliament seems to give the opposition and the parliament the opportunity to record the fact that this government made many promises in the period leading up to the election and has broken most of the important promises it made during the campaign period.

One of the great joys, as I am sure you are experiencing in your lofty position, Mr President, is that what goes around comes around, and if one lasts long enough in this parliament, in this wonderful occupation that we enjoy, one can recall what members of political parties said when issues like this were visited upon the parliament in the not-too-distant past. It is interesting to look at the history of increases in the number of ministers, and I am indebted to the former shadow attorney-general who, when this was last debated in 1997, was good enough to look at the history of the increases in the number of ministers in South Australia.

The honourable member noted that in 1965 the number of ministers was increased from eight to nine, and my recollection is that that coincided with the election of a new Labor government in or around 1965, and the name Walsh springs to mind. In 1970, the number of ministers increased from nine to 10, and my ever-fading memory recalls that that coincided, too, with the election of a new Labor government, the Dunstan government. In 1973, it went from 10 to 11, and again my ever-fading memory seems to recall that that coincided with another election victory by the then premier, Don Dunstan. In 1975, it went from 11 to 12, and that coincided with the 1975 state election, the railways election, which was held in the middle of winter, one of the few times ever, and that meant that there needed to be another cabinet minister under a Labor administration.

The Hon. J.F. Stefani: All under Labor?

The Hon. R.I. LUCAS: So far, yes. There seems to be a remarkable consistency in all this. I must confess that there is the odd example from the Liberal Party, but there seems to be some consistency in this. In 1978, there was a further increase to 13, and members will recall that in that year there was still a Labor government, and that additional position was generated for John Bannon to take it through to the 1979 election. So, we had a period from 1965 to 1978 where, in steady increments as they happened to be elected every three years or so, the number of ministers went from eight to nine to 10 to 11 to 12 to 13 in pretty rapid succession.

As I said, there was an increase of five in the space of just over a decade under Labor governments and, almost 20 years later, for a period under a Liberal government, there was the next increase from 13 to 15, and that was in 1997—19 years after the increase to 13 in 1978. Under premier Kerin at the end of 2001, the number returned to 13, which had been the number in 1978. It is useful to look at the history of where the numbers have come from, when the increases have occurred and who has been responsible for them. On this occasion, we are being asked to support a proposal from this government, which promised not to increase the number of ministers, to increase them again from 13 to 14.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: As the Leader of the Government says, at least the Labor Party is consistent. When you are in government, increase the number of ministers by one. I remind the Leader of the Government of some of the lofty words that were used by him when in opposition, which are not as good, I must say, as the words that were used in another place by the then shadow treasurer, the member for Port Adelaide, who said:

> But I know one thing as well as any: 13 Ministers in a cabinet is enough. It could be argued that it is more than enough, but in a small state, in an executive government, 13 government ministers is more than enough.

That was in 1997. The then leader of the opposition weighed in to that second reading debate and said that the increase in the number of ministers from 13 to 15 by the then Olsen government was, in essence, only about jobs for the boys and girls.

I will not delay the chamber tonight, because there is much meatier material that I would like to engage in, and the committee stage will allow us to explore in greater detail the issues that were raised eloquently by some members of the then opposition, including the Leader of the Government and the former leader of the opposition in the Legislative Council, the Hon. Carolyn Pickles, during the debate in 1997. Indeed you, Mr President—

The PRESIDENT: I was afraid you were going to say that.

The Hon. J.F. Stefani: I can remember it very well.

The Hon. R.I. LUCAS: The Hon. Julian Stefani may well refer to some aspects of material that you raised, Mr President, about parliamentary secretaries.

The Hon. J.F. Stefani: I was even called a flower girl.

The PRESIDENT: Order! That is unparliamentary.

The Hon. R.I. LUCAS: Not by the President.

The Hon. J.F. Stefani: No, by the Premier.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: By the then leader of the opposition, now Premier.

The Hon. T.G. ROBERTS: I rise on a point of order, Mr President. The honourable member is reflecting on the chair.

The PRESIDENT: I did not hear the interjection.

The Hon. R.I. LUCAS: I have not yet reflected on the chair, and I would never do so. It makes interesting reading. In the eloquent contribution that you made, Mr President, as a member of the then opposition, you forensically explored the detail of the legislation, and as with some other members, in particular the Hon. Mr Elliott, you wanted to know the detail of the costs of an additional minister. I am sure that, without wishing to refer to your contribution, sir, you may well be interested in the committee stage to hear similar questions asked, taking your wonderful lead, about the costs of the additional minister who is to be imposed on the community in South Australia.

The Hon. Carolyn Pickles said that the opposition opposed the second reading of the bill. As you know, Mr President, obviously the views were very strong in the caucus about any increase in ministers, because usually the second reading goes through and there is opposition at the third reading, but the leader of the opposition made it quite clear that the views in the Labor caucus about additional ministers were so strong that the Labor Party was intent on opposing the second reading of the legislation in the Legislative Council.

The Hon. T.G. Roberts: It might have had more to do with the tactics employed by the leader at the time.

The Hon. R.I. LUCAS: The leader being Carolyn Pickles or Mr Rann? We have seen some disharmony from backbenchers in another place about this legislation, but such disharmony from a minister in this chamber to the then leader of the opposition, Mr Rann, the now Premier, is surprising, to say the least. I will not be diverted by those disloyal interjections from a minister in the Rann government, tempting as they are and disloyal as they are.

Again, time does not permit and I do not want to waste time in the second reading, but just one headline in the *Sunday Mail* is an indication of how strongly the Labor Party felt about this issue. The headline in the *Sunday Mail*—nicely understated in block capitals, as one would imagine—reads, 'Rann's Blockade Threat to Olsen.' The article, by political editor Mike Duffy, states:

> The Olsen government will plunge into crisis early next week when the state opposition moves to block a bill to expand the ministry from 13 to 15.

As I said, at the time many other media transcripts and press reports indicated the strength of feeling of the then Labor caucus to oppose the then government's proposal to increase the number of ministers. That is the record. I now turn to this proposal from the new government to increase the number of ministers. In the first instance, I can understand the disloyal interjection from the Hon. Terry Roberts when one looks at the comments that his own Premier has made about him by

way of media interviews. I have some degree of sympathy with the Hon. Terry Roberts when his own leader, on the David Bevan and Matthew Abraham show, said:

> Here is, for the first time, an opportunity to bring the regions and also the country to the cabinet table, and I think there will be significant support for that.

I have a degree of sympathy for the Hon. Terry Roberts because his own leader thinks so little of his contribution over the last nine months that he says about this new minister that, for the first time, here is an opportunity to bring the regions and the country to the cabinet table. After that, I am not sure how the Hon. Terry Roberts has the temerity to put his hand out and take his pay packet at the end of the month as the Minister for Regional Affairs.

The Hon. J.S.L. Dawkins: I am sure he does.

The Hon. R.I. LUCAS: I am sure he does. I think we deserve a rebate, Mr President.

The PRESIDENT: I think it is an electronic transfer.

The Hon. R.I. LUCAS: The President advises that he thinks that it might be an electronic transfer. I can understand why the Hon. Terry Roberts interjected this evening because his own Premier thought so little of his contribution over nine months. I am sure that the Hon. Terry Roberts thought that it was a lot of hard work. He was travelling around the country, not answering questions in the parliament, filibustering to the—

The Hon. Caroline Schaefer: Well, not answering them often.

The Hon. R.I. LUCAS: —not answering them often—and trying to defend someone he does not like very much, anyway, and he has done that to the greatest extent possible.

The Hon. T.G. Roberts: Who is that?

The Hon. R.I. LUCAS: No, we are not talking about Randall Ashbourne: we are talking about the Premier. How would you feel when your own leader sticks the knife in between your second and third ribs during an interview with Matthew Abraham and David Bevan and, basically, says that you have been doing nothing for nine months and that we have to bring in a conservative Independent from the South-East—

Members interjecting:

The Hon. R.I. LUCAS: He is not even one of your own backbenchers. He is not even someone from the machine—from the left or right faction. The Hon. Terry Roberts is enough on the outer, I suppose, being a member of the PLO or, sorry, the PLA, or whatever it is—

The Hon. J.S.L. Dawkins: No, it's the Roberts left.

The Hon. R.I. LUCAS: The Roberts left.

The Hon. Caroline Schaefer: Well, nearly.

The Hon. R.I. LUCAS: Nearly left, or the left right out, whatever they are called. Bad enough that he is in that position, but then for the new cabinet minister who is going to take his position to be not one of his own backbenchers but a conservative Independent from the South-East as the only person capable—

The Hon. J.F. Stefani interjecting:

The Hon. R.I. LUCAS: Having had some discussion with the Hon. Mr Stefani, I know that he has some very strong views on this, and I am looking forward immensely to his contribution, either this evening or in the morning. I can understand the feeling expressed by the Hon. Terry Roberts. We saw only last week the feeling from some members of the backbench in relation to this issue. In an unprecedented way, the member for Mitchell, Mr Hanna, stood up in the parliament and made critical comment of this issue which, of course, attracted much publicity.

Basically, he was indicating not only his own discontent but also that of the member for Enfield. Mr Rau spoke afterwards, but what is said publicly by those two members pales into insignificance when one listens to other members: the member for West Torrens and the member for Colton, who was threatening to go on strike—not speak on bills and ask questions. I have heard of some silly strikes but you can just imagine the people of South Australia sort of gnashing their teeth and wiping their brow when the member for Colton says that he is not going to speak to bills and ask questions. They would have been traumatised by the member for Colton's striking in that way. The feeling of discontent—I am sure, you know, Mr President, but you are too wise to make any comment about it—amongst the—

The Hon. T.G. Roberts: Standing orders prevent him.

The Hon. R.I. LUCAS: Standing orders prevent his doing that, I acknowledge that, but that knowing smile can sometimes say a lot. The President knows, as indeed all members in this chamber know, the feeling of discontent on the Labor back bench.

The Hon. Diana Laidlaw: And the Labor front bench.

The Hon. R.I. LUCAS: And the front bench. Labor members will laugh about it this evening, as they are, but they do so at their own cost, because they have under-estimated the strength of feeling from their own party members, their caucus, their backbenchers and those who want to see a position of higher office, whether it be in cabinet or as a presiding member of a committee. They have been sold out by this agreement. They have been sold out because, as with the criticism of the Hon. Terry Roberts by his own leader, this is indirect criticism of each of them that none was worthy enough to be the fourteenth minister in a Rann government. They were not good enough.

The only person who could measure up was a conservative Independent member from the South-East of South Australia. This discontent is there, it is palpable, it is real. For the first time we see and hear openly in the corridors—and I certainly will not reveal the nature of those discussions that discontented backbenchers have with either me or other members—

The Hon. J.F. Stefani: And at public functions. I can confirm that—on Sunday.

The Hon. R.I. LUCAS: At public functions, as the Hon. Mr Stefani said. What I can put on the public record is that it is real and it is palpable; and that, for the first time, after just nine months, members are openly and disloyally speaking of the Premier in the corridors. They are certainly openly critical of this decision that has been taken by the small group at the top. As caucus members said, they were really given no opportunity at all to put a point of view on this issue. I turn now to the cost of the new minister because, again, this was an issue that you, Mr President, and others, wanted to explore in great detail back in 1997.

It is important because the views of members other than yourself, Mr President, were significantly impacted by the responses in relation to costs. I note that, in his contribution, the Hon. Mr Elliott said:

> At the time I said that I had no particular view on the structure of cabinet, but that I would be gravely concerned if there were any significant cost implications. . . The Premier gave an undertaking—and it is shown within this bill—that the salary bill of the total ministry will be no greater than it is at present.

Later, the Hon. Mr Elliott went on to say—because this was a critical issue to him:

In discussions with the Premier in relation to costs, I also talked not just about the salary implications but about other resource implications, and the Premier gave an undertaking—publicly and also in writing—that the assistant ministers would not be getting the white cars, chauffeurs and some of those other self-important things that perhaps some people might pick up.

I will not go through all the details of the Hon. Mr Elliott's contribution, but he also made a number of public utterances at the time which indicated that his position ultimately to support the bill was almost completely on the basis that it was not going to cost the people of South Australia any more and that he had been convinced by the then Premier that there were no significant cost implications for the people of South Australia.

There are varying estimates as to what a minister costs in terms of additional moneys. I think a reasonable estimate would be somewhere between $1.5 million and perhaps as high as $2 million—perhaps closer to the $1.5 million figure. The opposition has used a figure of approximately $1.8 million, which is certainly within that range. I note that the Treasurer uses a figure of $1 million. I can assure the Treasurer that no-one will fall for that figure.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: No. I had a quick look at the budget papers before this evening's speech for the Hon. Mr Holloway's ministerial office—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway says that he is cheap. I do not want to comment on his own values or personal predilections, but the total cost estimate for the minister's office in the budget papers is just under $1 million—about $900 000. One needs to look at a significant number of other additional costs in relation to the costs of the minister, including access to travel costs that some ministers have and other costs that are met by the department and not charged against the minister's office. They include, of course, the costs of the government car, its maintenance and operation. They also include, in many cases, the costs of ministerial liaison officers who work out of ministers' offices but are paid their salary by the departments that are serviced by them. As a former treasurer I can assure the Leader of the Government in this place that there are many additional costs over and above the $900 000 or so that are formally listed by the minister's office as the cost of his office.

The Hon. J.F. Stefani: What about the additional incremental costs of superannuation?

The Hon. R.I. LUCAS: The Hon. Mr Stefani points out that those costs are not brought to account in the budget papers, but they are additional costs. I think a figure somewhere in the order of $1.5 million to $1.8 million is a reasonable estimate of the additional costs of a minister. I will not take all my time this evening on this issue, but the Leader of the Opposition (Rob Kerin) has highlighted that that number very closely matches the cuts that this government has made to the Julia Farr Centre in terms of its operations. The costs that we are talking about for an extra minister are ongoing and recurrent and will continue to be incurred by the people as long as we have 14 ministers. The issue of cost will be explored in committee.

With any contract or agreement there are always two parties—it takes two to tango. I will now address some comments to the member for Mount Gambier who is the other party to this agreement. I note that the member for Mount Gambier's views, values and principles are flexible enough to allow him, one month, to be able to reach agreement to serve in a conservative Liberal government but soon after to arrive at the agreement that we are about to debate this evening to serve in a Labor government under the leadership of Mike Rann.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: Well, as I said, his views, values and principles are flexible enough to allow that. I have to say that my views, values and principles are not that flexible that I could ever envisage a set of circumstances where I could do that, but I note that he has found himself in that position and that is ultimately something which he has to answer for—and will continue to answer for—to his electorate and the broader South Australian community. Ultimately, it is a decision for individuals. I acknowledge and understand that that is his decision, and I will not be any more critical than that.

I think it is important that as we look at this agreement we look at the Hon. Mr McEwen's and the government's understanding of it. This is an issue on which the Hon. Mr Stefani has strong views, and I share a number of those views as to how in practice one can be a conservative Independent and a member of a Labor cabinet. My view is very strongly that you cannot be a conservative Independent and a member of a Labor cabinet. It has been said that this has occurred before with the Hon. Mr Groom (the former member for Hartley) and the Hon. Mr Evans (the former member for Elizabeth) who served in a cabinet.

I do not believe that that is a precedent for what we are exploring at the moment because the Hon. Mr Groom and the Hon. Mr Evans were Labor people. They had varying flavours and views depending on what you thought of them, but they were Labor people who had had a disagreement with the Labor Party over preselections or whatever. The Hon. Mr Groom had been done in the eye by Labor Party headquarters. I detected a touch of the Terry Camerons in the redrawing of the electorate of Hartley at the time in one of the redistributions, and the Hon. Mr Cameron may or may not wish to comment on that if he speaks to this legislation.

They fell out with their Labor friends, colleagues and acquaintances but ultimately a deal was negotiated. That deal was not like the deal that we are discussing here. The deal that they negotiated was that, in essence, they were not given the freedom to publicly criticise the decisions of the cabinet; they were bound by cabinet confidentiality and collective cabinet responsibility. To all intents and purposes, they had to serve as members of a Labor cabinet. There was some flexibility at the margin but nothing like what is being claimed in this agreement with the member for Mount Gambier.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: I think the Hon. Ms Laidlaw raises an interesting question. In committee we might have an opportunity to explore it, but the only point I want to make at the moment is that it is not accurate to claim that the Groom-Evans deal with the former Labor government is a precedent for this particular deal. This is a completely different set of arrangements and it needs to be explored by this parliament.

I refer to the Ministerial Code of Conduct, which all cabinet ministers are required to follow under the new government. I will quote from two sections: cabinet collective responsibility and cabinet confidentiality. At page 4, it states:

2.8 Cabinet Collective Responsibility.

Ministers are responsible, with all other ministers, for the decisions of cabinet.

The ethical and effective working of Executive Government in South Australia depends on Ministers having the trust and confidence of all ministerial colleagues in their official dealings and in the manner in which they discharge their official responsibilities.

The collective decisions of Cabinet are binding on all Ministers individually. If a Minister is unable to support a Cabinet decision publicly,—

and I want to return to that, because it is an important point—

the Minister should resign from Cabinet. This convention is based on the proceedings of Cabinet ordinarily being secret and Ministers providing to their colleagues adequate notice of matters to be raised in cabinet.

2.9 Cabinet Confidentiality.

A Minister must maintain the confidence of Cabinet decisions, documents and deliberations.

The principal of collective responsibility for the decisions that are taken in Cabinet is fundamental to effective Cabinet government. From this principle flows the convention that what is discussed in Cabinet and in particular, the views of individual Ministers on issues before the Cabinet, are to remain entirely within the confidence of the members of Cabinet.

Similarly, the papers considered by Cabinet and any record of the outcome of Cabinet's deliberations are confidential to the government of the day. Separate procedures apply to the handling of Cabinet documents. The convention has been adopted by successive governments that the Cabinet papers (and deliberative documents generally) of a government are not available to its successors.

It follows that Ministers and their ministerial staff may not disclose to anyone else what is discussed in Cabinet, the views of individual Ministers expressed in cabinet, votes taken in Cabinet, or anything about material provided to Cabinet in Cabinet submissions.

A Minister who deliberately or recklessly breaches Cabinet confidentiality, should resign from the Ministry. The Premier may ask a Minister to resign in any case.

I wanted to read in full those important provisions of the Ministerial Code of Conduct. The cabinet collective responsibility provisions strike at the heart of the agreement that has been struck with the member for Mount Gambier and, in particular, that member's and some ministers' views of how this agreement, they believe, in practice will operate. I repeat that under cabinet collective responsibility all ministers, including the member for Mount Gambier, if they are unable to support a cabinet decision publicly, should resign from cabinet. So it is not just a question of silent and sullen support.

The Hon. J.F. Stefani: And handing back the papers that he has read!

The Hon. R.I. LUCAS: Indeed, as the Hon. Mr Stefani points out. It is not just a question of silent and sullen support: it is not just a question of going to ground if there is a decision in cabinet that you voted against, you did not like and you still do not like. You are required, under the ministerial code, under the threat of being sacked by your Premier, to publicly support the cabinet decision. It is that area and a number of other areas that I want to highlight in the second reading that demonstrate that this particular document, hastily cobbled together by the government and the member for Mount Gambier, is fraught with danger and difficulty to our form of government.

The Hon. J.F. Stefani: It's a political stunt!

The Hon. R.I. LUCAS: As the Hon. Mr Stefani says, it is a political stunt. But it is fraught with difficulty in terms of the operation of our form of government in South Australia and what we have known as cabinet collective responsibility and cabinet confidentiality.

Let us look at what the agreement says in relation to the operations of cabinet:

3. Attendance at Cabinet

3.1 The Minister will be provided with the same Cabinet papers as every other Minister.

3.2 The Minister will peruse those Cabinet documents at his earliest opportunity.

3.3 If, after reading a Cabinet document, in the opinion of the Minister, it would be inconsistent with the Minister's independence for the Minister to be bound by a Cabinet decision in relation to an Issue, the Minister must immediately upon reaching that opinion, inform the Premier of that fact, together with his reasons, and will meet with the Premier as soon as may be convenient in order to seek some accommodation between them in relation to the policy and/or procedure to be followed.

3.4 The Minister must make every effort to provide the Premier with as much notice as possible when the Minister believes a matter for decision in Cabinet will be inconsistent with the Minister's independence.

3.5 The Minister agrees that in this Agreement, the Issues will be limited to:

3.5.1 issues with direct and immediate effect upon the Minister's electorate;—

that could be anything—

3.5.2. significant business matters affecting the business community;—

that could be anything—

3.5.3 such other matters as the Minister has advised the Premier from time to time in writing.

that, clearly, could be anything in relation to the issues—

3.6 If, after the meeting referred to in clause 3.3 of this Agreement, no other accommodation can be reached then the Minister will:

3.6.1 immediately return to the Cabinet office all copies of the Cabinet documents and all notes or other records relating to the Cabinet documents or copies; and

3.6.2 absent himself from that part of the Cabinet discussion where the relevant matter will be or is being discussed.

3.7 Even where the Minister has absented himself from Cabinet in accordance with this clause, the Minister agrees he will not criticise, comment on or disclose the relevant policy until the policy has been publicly announced by the Government.

3.8 The Premier agrees that the Minister, having complied with the arrangements in this Agreement, is not subject to the usual rules of Cabinet solidarity in respect of that particular matter. In particular, the Minister, whilst remaining a member of the Cabinet, may criticise the particular Government policy in relation to which the Minister absented himself from Cabinet after the policy has been publicly announced.

There are a number of other clauses which at this stage I will not refer to.

The member for Mount Gambier has, in a number of public interviews, most recently in an interview that he and I did on Father John Fleming's program on Sunday evening but earlier last week on FiveAA and on the ABC, given his explanation of how in practical terms this agreement will operate. I will summarise the member for Mount Gambier's argument, which goes something like this. He has, basically, two opportunities prior to a cabinet discussion to use this opt-out provision that I have just talked about. He indicated that he would meet not just with the Premier but also with the Deputy Premier—the agreement only talks about the Premier. So, he would meet in a subcommittee of three—with the Premier and the Deputy Premier—to try to sort out any particular issue that he might have concerns with. He could either opt out at that first stage or try to work his way through a process with those two members of the cabinet.

If those three members out of a cabinet of 14 agree, he can then enter into the cabinet discussion. But he made it quite clear that, once he was in the cabinet discussion, irrespective of the decision, he was then bound by cabinet confidentiality.

So, he had the two opportunities beforehand, as broadly outlined by the agreement clauses that I have read out, to avail himself of the opportunity of the opt-out provisions, but once he had gone beyond those two stages and went into the cabinet he said he was then bound by the process.

The Hon. Diana Laidlaw: So he can't go and argue a case that he would like to argue.

The Hon. R.I. LUCAS: The Hon. Diana Laidlaw raises an issue that I want to explore. Let me quote what I think is a naive view, if I can put it kindly, of the member for Mount Gambier—and I can understand it is naive because he has never been a member of a cabinet or of the ministerial process, so I am not overly critical of what I describe as a naive view. This is what he said on FiveAA, and on a number of other occasions:

> . . . well. . . if you want to be part of that process then you've also gotta be part of the outcome. . . but you'll always know in advance what the recommendation is. . . what papers are available leading up to a decision. . . or you'll know what legislation is been proposed etc.

So the view of the member for Mount Gambier is that he will always know what the recommendation is and, therefore, he will be able to see from the agenda and the cabinet papers the position of the cabinet and know whether or not he is going to have a problem with it. I will highlight the practical way that the cabinet operates. It is possible—

The Hon. J.F. Stefani: Can you explain to the council when a minister gets the papers before the cabinet meeting? That is a very important issue.

The Hon. R.I. LUCAS: The Hon. Mr Stefani raises an important issue and I will try to address that as well. But can I address this issue in terms of the practical way that a cabinet operates? It is not uncommon—perhaps I can use that phrase—for the recommendation of an individual minister to not be the recommendation ultimately of cabinet after the cabinet process. So an individual minister says that he or she wants to achieve a particular policy goal. The cabinet paper goes out, the member for Mount Gambier looks at the cabinet paper and says, 'I am comfortable with that; there is not a problem with that particular issue,' and he does not avail himself of the opt-out provisions and goes into the cabinet.

The cabinet then changes it completely, partially, or whatever. As my ministerial colleagues will know, that is not uncommon. We have all had the experience of taking recommendations to cabinet and having them either completely reversed or, certainly much more commonly, significant changes or amendments made to that provision. It is not beyond wit or wisdom to envisage a set of circumstances where that is not deliberately intended by the Labor ministers in the cabinet. However, under the current arrangement, it is entirely possible for Labor ministers to make a recommendation that they know to be entirely consistent with the member for Mount Gambier's views.

Not availing himself of the opt-out provision, the member goes into cabinet, and the majority in the cabinet can cleverly, quickly and ruthlessly lock the member for Mount Gambier into the position that the majority in the caucus, which, of course, the member for Mount Gambier does not attend, may well support. That is an example of deliberate intent. Let me say to the member for Mount Gambier that I have been in this place long enough to have seen how the members for Ramsay, Port Adelaide and Elder operate and, believe me, I would be wary of that possibility.

The other set of circumstances when it is not a deliberate intent will be when a minister will go with a strongly held view to the collective wisdom of 13 or 14 people sitting around the cabinet table, but he or she may be the only person (or a very small minority of the cabinet) who has that view, and the overwhelming majority says, 'We are not going to support that and, for these reasons, we will not support it.'

The Hon. J.F. Stefani: And that's the end of Rory McEwen.

The Hon. R.I. LUCAS: Exactly—it could be the same case with the cabinet submissions of the member for Mount Gambier, who might take those submissions into the cabinet and have them completely reversed. Under this particular agreement, he must publicly support these issues. How does one retain the position, as he is seeking to claim under his agreement, that on 'issues with direct and immediate effect upon the minister's electorate' he will continue to be a conservative Independent serving the views of his community in Mount Gambier with the arrangement in practical terms of this agreement? Having a conservative Independent working in a Labor cabinet cannot work. The conservative Independent may well become a Labor Independent, and that may be, ultimately, how it works, that is, the conservative Independent, in essence, other than the occasional organised Independent view—

The Hon. R.K. Sneath: He can take out union membership.

The Hon. R.I. LUCAS: The Hon. Bob Sneath says that he can take out union membership. I will leave that for the honourable member to organise with the member for Mount Gambier. It cannot work that a conservative Independent can be an effective member of a Labor cabinet. Whilst the agreement purports to provide the opportunity for the member for Mount Gambier to be independent on issues with direct and immediate effect upon the minister's electorate, it cannot work.

One only has to look at the budget cuts from other government departments and agencies; most of them do not go to the cabinet for authority and approval under the new government's arrangements. The member for Mount Gambier will not be aware of the cuts, for example, that the Leader of the Government in the Council might be imposing on Primary Industries in the electorate of Mount Gambier, or that the Minister for Education and Children's Services will impose on schools and other facilities within the electorate of Mount Gambier.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: I will turn to voting in parliament in a moment, but that is an interesting question. I can assure the member for Mount Gambier that the local newspaper (if not the local newspaper, then certainly the opposition) will be saying to him, 'Do you support the cut by the Minister for Education and Children's Services to Mount Gambier East, or to Mount Gambier North, or to Grant High School?' or to whatever school in the electorate of Mount Gambier. If the member for Mount Gambier does not publicly support those decisions of the government, under the Ministerial Code of Conduct he should resign or be sacked by this Labor Premier. That will be the test of the agreement that we are talking about now.

The Hon. J.F. Stefani: What about the next election? How is he going to campaign? Is he going to campaign on Labor Party policy down in his electorate?

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The Hon. Mr Stefani will have an opportunity to explore that issue. Time is getting away from me, but I will leave enough time for him tonight or tomorrow to explore some of those issues. However, earlier,

the Hon. Mr Stefani raised the most important issue of cabinet papers. As I read earlier from the Ministerial Code of Conduct, the critical notion of collective cabinet responsibility hinges on the confidentiality of cabinet documents. The processes that the Hon. Mr Stefani is alluding to are that these cabinet documents are either in hard copy or email, whatever the current processes are, and are circulated to all ministers. In some cases, they are shared with trusted ministerial advisers for their views on a particular issue. That is a judgment call for the individual ministers in that case.

In the circumstances that we are talking about here, whilst the agreement talks about documents and notes and so on being returned, the knowledge remains in the head of the member for Mount Gambier that, as soon as a decision is announced publicly, he is able to criticise publicly the decision that the Labor government and the Labor cabinet have taken. He has the knowledge from the cabinet documents. He has the knowledge from the discussions that he may have had with the Premier and the Deputy Premier at the committee before he chose the opt-out provisions of this agreement. He has the knowledge of all those discussions, and he has the right to publicly criticise the position of the Labor government.

I have highlighted some of the problems from the opposition's viewpoint, and we will highlight many others at the committee stage. It would be easy for us not to try to highlight these in the parliamentary debate because, as the opposition, we can sit back and look at an agreement that is fraught with difficulty and that has the potential to blow up in the face of the new government.

Certainly, those who have been in cabinet before, who have studied the operations of the cabinet and who have read about the processes of cabinet, have a view in this council that we should publicly warn this government that the course that it has chosen is one that is fraught with difficulty and that is a danger to our system of government. It remains my view and that of the opposition that it is not possible to have a conservative Independent serve as an Independent member of a Labor cabinet.

The last provision of the compact that I want to refer to is clause 5, which talks about voting in parliament. 5.1 provides:

> Save for a matter on which the minister has absented himself from cabinet in accordance with clause 3 of this agreement, the minister agrees to support the government in the parliament and to vote with the government on any matter raised in the parliament which has received the prior approval of cabinet.

I note that on this issue the words explicitly refer to issues which have received the prior approval of cabinet. Clearly, this clause seems to make no provision at all for the conservative Independent member of the cabinet voting on procedural issues in the parliament against the cabinet of the day.

Mr President, you would know better than most that, when one is talking about a government, it is not just the issues of confidence which are covered under 5.3 and it is not just the issues covered under 5.1, which are decisions that have had the prior approval of cabinet, but, in terms of the operation of a parliament and a government, the issues in relation to procedural matters in the parliament are important to the government of the day.

We seek from the Leader of the Government an explanation as to whether or not this has been deliberately excluded from the written agreement between the member for Mount Gambier and the Premier at the request of the member for Mount Gambier, and what, in practical terms, will be the consequences of the member for Mount Gambier exercising his right, as I see it under this contract, to vote procedurally against the government of the day. Does the Premier accept that that is an issue which does not impinge on collective cabinet responsibility? Does he accept that the member for Mount Gambier has complete freedom to vote procedurally in terms of the operations of the parliament?

As I said, much more will need to be explored in the committee stage. I conclude my second reading contribution by indicating that the Liberal Party will not vote against the second or third reading of the legislation. It is our view that this government, rightly or wrongly—and we think there are significant problems with the structure that it is adopting—is entitled to make those decisions. Whilst we have expressed, and will continue to express, grave concerns about the implications of this agreement for our system of government and, in practical terms, for the operations of this government and parliament, we believe, as I said at the outset, that this has the potential to cause great grief to our system of government, but we will not vote against the second reading.

The Hon. CAROLINE SCHAEFER: I rise to speak briefly in support of my colleague, the Hon. Rob Lucas, who has, as always, more than adequately covered all aspects of what is indeed a very strange decision by the government of the day. My contribution is more by way of a series of ponderings as to how the rest of the Labor Party must be feeling at this time. Certainly, the now Treasurer and then deputy leader of the opposition was loud and fulsome in his condemnation of our government in attempting to implement 15 ministers, even though a number of them were to be junior ministers. We now see that same Treasurer courting—I think that is the word that was used, and the Hon. Julian Stefani has said 'seducing'—the member for Mount Gambier to join his cabinet, just some two years later.

I believe that his seduction took the form of inviting the member for Mount Gambier out to dinner and then asking him to pay for his own meal. I can only suggest that in the long term he may have to sing for his supper. I remember well the condemnation that was suffered by our government when it attempted to bring in some junior ministries. It was said then that it was only about jobs for the boys. It is interesting now, if this is about jobs for the boys, because the member for Mount Gambier—the soon to be usurper of the role of my honourable colleague across the chamber—is indeed a boy, whatever else.

The Hon. J.F. Stefani: That's all right. I was called a flower-girl.

The Hon. CAROLINE SCHAEFER: The Hon. Julian Stefani remarks that he was called a flower-girl. Just who the new minister is to be flower-girl to, in itself, raises a number of interesting questions. How indeed must the caucus feel? How must my friend and colleague, the Hon. Terry Roberts, feel? I have certainly criticised his performance. I have criticised the fact that, try as he might, he has not adequately filled the role of a regional affairs minister. But, to say that for the first time regional affairs will be represented in the cabinet is indeed an insult to anyone and particularly to the Hon. Terry Roberts who, I am sure, tried his best. What about the new minister who was touted as one of the bright young lights, the Hon. Jay Weatherill? He obviously has not shaped up too well because he too is to be replaced.

What of the other young, bright people? We keep reading in the paper about how the Labor Party has reinvented itself with all of this young, bright talent. They now have to sit on the backbench for the next four years, although it is possible

that one of them has a chance because, in fact, this bill allows for 15 ministers—not 14. We can but speculate as to who else is out there to be bought. These people will have to sit around for four years watching, as my colleague has said, a conservative independent, someone who sought pre-selection for the Liberal Party, who is protected beyond belief from the rigours and disciplines of the Labor Party and, indeed, of normal cabinet practice.

I believe part of the agreement with Mr McEwen is that he is guaranteed two terms in the cabinet, if the ALP is returned at the next election. No-one else, I think, in history has enjoyed such luxury. Every other member of cabinet is subject to the threat of a reshuffle. Every other minister knows that, if they do not perform, the Premier of the day has the right to dump them for someone who can be expected to perform. The only performance asked of Mr McEwen is that he join the cabinet ranks. He can be the worst performing minister in history and he is protected from a reshuffle. How, I wonder, does that make the other lucky 13 feel? Not to mention the fact that no-one else has an opportunity.

How must it make the caucus feel? There have been times in my career when I have envied the discipline of the Labor Party and its caucus; the fact that once a vote is taken within that caucus they are locked and locked solid. We have witnessed, during my time here, what happened to the Hon. Terry Cameron when he broke that solidarity. Yet now we actually have someone outside the caucus who may come in, I suppose, and answer questions, if the caucus asks him to do so, but he does not have to. He does not have to stay and, as a minister, he does not have to present any of his policies to caucus. I guess he sends in some notes with others, or does he sit there and listen to them all and then have the privilege of voting against them? Does he have to indicate whether he is supporting the caucus or not? What feedback will the rest of the ALP have in respect of the performance of this man?

Why have they done this? They say for security of government, and yet no compact was required such as that demanded by the now Speaker. This was simply a matter of, 'Yes. You give me a white car and a privileged position padded from any sort of dissent, discussion or consultation with caucus and I will join you.'

No compact and no demands for the people of Mount Gambier, but apparently for security of government, which leads me to speculate again, briefly, as to how the Speaker must feel. He went through some agonies reaching the decision that he did, if we can judge by the press reports at the time. He now finds himself superfluous. Is he the next one for the chop? What happens from now on? What training period do the rest of the ambitious backbench (as have been mentioned) have to undergo? Is it four years? If they are returned, indeed is it eight years? There will be someone not within that cabinet who possibly could be.

What other message does it give to these people? The message it seems to give to me is that there is insufficient talent on the government side to fill 14 places, if 14 places are needed, in a cabinet. We have ministers assisting ministers assisting ministers. No-one seems to know what their particular portfolio is and now we have the member for Mount Gambier to save them all. To paraphrase a famous ex-Labor Prime Minister, 'God help the government because nothing can help some of them'.

The Hon. DIANA LAIDLAW: I want to add a few comments to complement the comments made earlier this evening by my colleagues the Hon. Robert Lucas and the Hon. Caroline Schaefer. I note that the Treasurer did say in 1997 that 13 ministers was more than enough. I happened privately to hold that view at that time and I still hold it today. The Treasurer now indicates that he regrets having made those statements and that he was wrong. I think one interesting aspect about the Treasurer is the regularity with which he is able to accommodate neatly in government—

The Hon. Caroline Schaefer interjecting:

The Hon. DIANA LAIDLAW: —yes, that is what I say—a change of heart on so many accounts of so-called principle that he held when he was in opposition. It amuses me that he has such a dislike for the arts because he seems to be South Australia's best acrobat in flipping and flopping and changing his mind as the circumstance suits him. We have a government that did not like the fact that the Liberal Party in government increased the number of ministers. It made a very strong commitment to the electorate that it would be a smaller, neater, more compact government. We have before us now a government awash with ministers, assistant ministers and parliamentary secretaries. We are grossly over-governed. We have a situation that I hope the Economic Development Committee in its recommendations to government will comment upon, because we have a highly over-governed but highly inefficient form of government compounding the problems that this state will face in making some of the decisions that it must in the future.

The Economic Development Committee headed by Mr De Crespigny has called strongly for streamlining of processes in the public sector, yet within a week of receiving this report from the Economic Development Committee, the Premier has appointed another minister and he has sought to rearrange his ministry by appointing further assistant ministers. One streamlining that the Premier could easily make is dropping the arts portfolio, because his claim to bring clout to the arts has not been demonstrated. We saw yet another sad example just today with Music House being forced into voluntary administration because of a delegate minister or assistant minister to the Minister for the Arts unwilling and unable and without the time to take the time and care needed. So a unique South Australian structure so early in its days of operation now closes.

That has occurred because the Minister for the Arts is not prepared to be fully in charge and responsible for his portfolios. He has delegated half of them—the ones that he does not really like, the ones that are now seen or believe that they are seen by this government as second rank—to the Hon. John Hill, the Minister for Environment and Conservation. In turn, the Hon. Mr Hill, who has admitted to me that the arts is a more demanding portfolio in time and issues than he had been led to believe, finds that, because he is assisting the Premier—who is not prepared to do the whole of the arts—in turn, he must delegate his responsibilities to another minister, and conveniently that will be the minister in this place the Hon. Terry Roberts.

How much better it would have been in terms of streamlining this government to take away some of these assistant flow-down ministers and consolidate responsibility with the minister so that they take full accountability for the oversight and monitoring of their portfolios, instead of doubling up with organisations offended in turn by being shovelled between a real minister and an assistant minister. In addition, we see that it is the left of the Labor Party who have had parts of their portfolios, that they were sworn into just eight months ago, shaved from them at this time, and I refer to the Hon. Terry Roberts and the Hon. Jay Weatherill. The left has not

only been the losers from this shake up but they now find that there is an additional minister in cabinet and the numbers, in terms of voting, change, and that minister happens to be a right-wing conservative and supposedly Independent minister. It is a situation fraught with danger and made for mishap.

My other colleagues have made the point that all ALP members are bound. They are doubly bound when it comes to cabinet, but the Liberal Party, unlike the Labor Party, does have flexibility in terms of how they vote from time to time. In fact, I could never be part of the Labor Party, where I could not exercise votes where I strongly held an opinion and I was simply bound by the Labor Party. I have strong beliefs about a whole lot of issues beyond conscience votes, but they are not always the beliefs of the majority of my party, yet I am able to express those views and my colleagues are prepared to accept that. It will be very interesting because not only will cabinet have to maintain cabinet solidarity but caucus will have to maintain ALP solidarity; yet we are not sure whether or not the new minister will attend caucus meetings, but he will be—

The Hon. J.F. Stefani interjecting:

The Hon. DIANA LAIDLAW: He is not attending caucus meetings? So where will he get his instructions from? Where will he argue his case? Where will he get his endorsement to take issues forward, because the Labor Party did not issue a policy before the election so it has no base to give the minister guidance on how he will manage the portfolio to reflect the Labor platform or agenda. If he is not attending caucus and arguing his case, it will be interesting to see how he will operate. I feel for him because it will not be easy. I hope that he is not set up to fail by the manoeuvrings within the Labor Party because, as many would say, both those within the party and those who have left, it is a hostile environment.

I want to mention, too, that this new structure not only will mean a change in other portfolios across government but it will also mean a change in committee structure, and I was interested to hear at the Environment, Resources and Development Committee meeting today that, because Rory McEwen is a member, he will be retiring if and when he becomes a minister, and the ALP will be looking at nominating Mr Tom Koutsantonis. Apparently, Mr Koutsantonis already has another committee position and the ERD Committee is now being asked to rearrange its sitting times, notwithstanding the fact that it has country members who come some distance, including the Presiding Member.

I think it is quite extraordinary that the Labor Party does not have the strength or the depth to find another member other than Mr Koutsantonis to share these important committee positions around, and that might be another reason that it has gone to Rory McEwen. Because of that lack of strength or depth, the Labor Party must give Mr Koutsantonis two positions and, in turn, seek to rearrange meetings of the committee, no matter how inconvenient for its chair or the country members. The Labor Party has so few country members, and that is why it is going to an Independent, right-wing member to represent regional interests in the cabinet. When it comes to the ERD Committee, it is not even prepared to accommodate the Presiding Member's needs to represent her vast electorate by possibly appointing Mr Koutsantonis, who wants to rearrange the meetings of that committee.

Finally, I mention the Legislative Council. This government's arrangement of having 13 ministers, of whom only two are in the Legislative Council, is offensive. For this government to increase the ministry to 14 and still have only two ministers in this place is absolutely unacceptable, in my view, while we have an arrangement where there are ministers in this place. If it were determined that there be no ministers, that would be a different matter, but the workload is important and the quality of debate is constrained by having only two ministers. They do not have time, as we have seen in the quality of debates so far, to be fully briefed and to understand the issues of the broad portfolios that they must not only represent in their own right but represent on behalf of ministers in the other place.

The debate, the quality of decision making and just the workings of this place would be improved immeasurably, and so would the government's regard for this place, if there was another minister here, but clearly Mr Rann and others do not think either this place is worth it or the quality of Labor's representation is sufficient, and again they have gone to an Independent. It is a sad day for the Labor Party, it is a sad day for the Legislative Council and I believe it is a sad reflection on the Premier and his management that, first, he was not prepared to keep to 13 ministers and rid himself of one who was underperforming, if he really did want Mr McEwen.

Secondly, it is an enormous disappointment that this government, which had an opportunity to set an example by streamlining processes in government and set an example to the public sector at large by streamlining the government's and cabinet's processes, has instead complicated them further. With ministers, new ministers, assistant ministers, parliamentary secretaries and many ministers dealing with various departments, it is a complicated, bureaucratic mess, and the government is compounding that rather than setting an example of streamlining, at a time when streamlining and cost effectiveness should be the order of the day.

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

RESIDENTIAL TENANCIES ACT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on the review of the Residential Tenancies Act made by the Hon. Michael Atkinson in another place.

MUSIC HOUSE

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on Music House made by the Hon. John Hill in another place.

WEST BEACH RECREATION RESERVE

Adjourned debate on motion of Hon. T.G. Roberts:

That this council, pursuant to section 13(7) of the West Beach Recreation Reserve Act 1987, grants its approval to the West Beach Trust granting a lease or licence for a term of up to 50 years over each of the areas within the reserve within the meaning of the act identified as 'BB', 'Y' and 'Z' respectively in the plan deposited in the General Registry Office numbered GP 496/1999.

(Continued from 20 November. Page 1428.)

The Hon. DIANA LAIDLAW: This motion seeks the approval of the Legislative Council for the West Beach Trust to grant a lease or licence for a term of 50 years over three areas of land for which it is responsible in the West Beach area. The land that is the subject of this motion adjoins

Military Road and the new road going west towards the boat harbour. I note that the same motion has been moved in the other place. This motion arises from amendments to the West Beach Reserve Act, which parliament passed last year, following a select committee report. In part, the select committee recommended and the parliament adopted a new process for approvals of leases according to the length of time of the lease.

For instance, if it were a short-term lease not exceeding 10 years there would be approval of the minister only, but if there were a lease for any period exceeding 20 years or, as in the motion before us, 50 years, the trust must seek not only ministerial support but, in turn, the minister must place the proposal before both houses of parliament for consideration, and there must be 14 sitting days between the moving of the motion and its passage. I note that, in clause 13(5) subparagraphs (d) and (e) of the act in relation to such licences and leases for 20 years and above, as is before us at the moment, the minister must, first, give notice of the proposed transaction in the gazette and in newspapers circulating generally throughout the state; and, secondly, must provide a written report on the proposed transaction to the Economic and Finance Committee of the parliament.

I would like to know whether both actions were undertaken by the minister and what response, if any, was received in each circumstance. If this motion is to go through tonight, I am prepared to receive the answers to those questions in writing at a later stage or just provided to the parliament in the form of a statement. I do not intend to delay the matter here this evening if there are no other speakers. I also indicate that one reason why any leases above 20 years must come to the parliament is that, first, the minister and then the parliament must be confident that the licence or lease is compatible with the master plan and business or strategic plans, which the trust has earlier resolved for business and planning purposes over the West Beach Reserve Trust area.

I am confident, having earlier been part of that master-planning process by the trust, that the proposals that are being negotiated at the present time by the trust for voting-related enterprises at one of the sites to be leased is compatible with the master plan. Negotiations on the other two parts of the lease or licence have not yet been determined. However, I remind the minister and the trust that, in advancing those leases, they must have regard to the trust master-planning process that has been through a very intensive public consultation process to date. That public input must be respected in terms of the future administration and use of this land. The Liberal Party supports the motion.

The Hon. R.K. SNEATH secured the adjournment of the debate.

TERRORISM (COMMONWEALTH POWERS) BILL

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

CRIMINAL LAW (SENTENCING) (SENTENCING GUIDELINES) AMENDMENT BILL

The House of Assembly disagreed to the amendments made by the Legislative Council for the reasons indicated in the following schedule:

Schedule of the amendments made by the Legislative Council to which the House of Assembly has disagreed

No. 1. Page 3, line 14 (clause 4)—Leave out proposed subsection (1) of new section 29A and insert:

(1) The Full Court may, by declaratory judgment (a guideline judgment), establish, vary or revoke sentencing guidelines.

No. 2. Page 4, lines 5 to 18 (clause 4)—Leave out proposed new section 29B and insert:

Initiation of proceedings for guideline judgment

29B. (1) Proceedings for a guideline judgment may be commenced—

(a) on the Full Court's own initiative; or

(b) on application by the Director of Public Prosecutions; or

(c) on application by the Attorney-General; or

(d) on application by the Legal Services Commission.

(2) An application for a guideline judgment must be accompanied by the applicant's proposal as to the terms in which the judgment should be given.

(3) The Full Court may, if it thinks appropriate, give a guideline judgment in the course of determining an appeal against sentence.

(4) However, if the Attorney-General has applied for a guideline judgment, the proceedings must be separate from other proceedings in the Full Court.

Sentencing Advisory Council to be given opportunity to make written report on proposal for guideline judgment

29BA. (1) If proceedings for a guideline judgment are commenced by application to the Full Court, or the Full Court itself initiates such proceedings, the Registrar must—

(a) notify the Sentencing Advisory Council of the Court's intention to hear and determine the proceedings; and

(b) request the Council to make a written report to the Court, within a reasonable time stated in the request, on the questions to be considered by the Court in the proceedings.

(2) If the proceedings have been initiated by an application, the notification and request must be accompanied by a copy of the applicant's proposal as to the terms in which the judgment should (in the applicant's opinion) be given.

Representation at proceedings

29BB. (1) Each of the following is entitled to appear and be heard in proceedings for a guideline judgment:

(a) the Director of Public Prosecutions;

(b) the Attorney-General;

(c) the Legal Services Commission;

(d) the Aboriginal Legal Rights Movement Inc.;

(e) an organisation representing the interests of offenders or victims of crime that has, in the opinion of the Full Court, a proper interest in the proceedings.

(2) The Sentencing Advisory Council may appear in the proceedings and, if the Full Court requires assistance from the Council (beyond its written report), must appear in the proceedings.

(3) If the Sentencing Advisory Council appears in the proceedings, it is to be represented by one of its members who is a legal practitioner or by independent counsel instructed by the Council to represent it.

No. 3. Page 4, lines 20 to 24 (clause 4)—Leave out subsections (1) and (2) of new section 29C.

No. 4. Page 4 (clause 4)—After line 32 insert the following new Division:

DIVISION 5—SENTENCING ADVISORY COUNCIL

Establishment of Sentencing Advisory Council

29D. The Sentencing Advisory Council is established.

Functions

29E. The functions of the Sentencing Advisory Council are as follows:

(a) to report in writing to the Full Court on the giving, or review, of a guideline judgment;

(b) to provide statistical information on sentencing, including information on current sentencing practices, to members of the judiciary and other interested persons;

(c) to conduct research, and disseminate information to members of the judiciary and other interested persons, on sentencing matters;

(d) to gauge public opinion on sentencing matters;

(e) to consult, on sentencing matters, with government departments and other interested persons and bodies as well as the general public;

(f) to advise the Attorney-General on sentencing matters.

Composition

29F. The Sentencing Advisory Council is to consist of not less than 7 and not more than 10 members of whom—

(a) 2 must have broad experience of community issues arising from administration of justice in criminal matters by the courts; and

(b) 1 must have experience in issues affecting victims of crime; and

(c) 1 must be a legal practitioner with broad experience in the defence of accused persons; and

(d) 1 must be a legal practitioner with broad experience in the prosecution of accused persons; and

(e) the remainder must be experienced in the operation of the criminal justice system.

(2) The members of the Council are to be appointed by the Governor on the recommendation of the Attorney-General.

(3) A member of the Sentencing Advisory Council is to be appointed by the Governor to chair meetings of the Council.

Conditions of office of members

29G. (1) A member of the Sentencing Advisory Council holds office (subject to this section) for a term (not exceeding 3 years) specified in the member's instrument of appointment.

(2) A member's office becomes vacant—

(a) if the member reaches the end of the member's term of office (unless the member is re-appointed for a further term); or

(b) if the member dies or resigns from office; or

(c) if the member is convicted of an indictable offence or an offence which, if committed in South Australia, would be an indictable offence; or

(d) the member is removed from office by the Governor for misconduct.

Procedures

29H. (1) A meeting of the Sentencing Advisory Council may be convened by—

(a) the Attorney-General; or

(b) the person appointed to chair meetings of the Council.

(2) The member appointed to chair meetings of the Sentencing Advisory Council is to preside at meetings of the Council and, in the absence of that person, the members present are to choose one of their number to preside.

(3) The number of members necessary for a quorum at a meeting of the Sentencing Advisory Council is to be ascertained by dividing the total number of members of the Council by 2, ignoring any fraction resulting from the division, and adding 1.

(4) The Sentencing Advisory Council should act by consensus, if possible, but, if a general consensus of its members is not possible, a decision in which a majority of its members concur or, if they are equally divided in opinion, a decision in which the presiding member concurs, is taken to be a decision of the Council.

Staff

29I. The Sentencing Advisory Council is to have a secretary and any other staff reasonably necessary to enable it to carry out its functions.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ADJOURNMENT

At 12.02 a.m. the council adjourned until Thursday 28 November at 11 a.m.