## HOUSE OF ASSEMBLY

Tuesday 9 April 1991

**The SPEAKER (Hon. N.T. Peterson)** took the Chair at 2 p.m. and read prayers.

### ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Pharmacists,

Physiotherapists,

Road Traffic Act Amendment (No. 3),

Workers Rehabilitation and Compensation Act Amendment (No. 2).

### PETITION: GRAFFITI

A petition signed by 1 677 residents of South Australia requesting that the House urge the Government to restrict juvenile access to materials used for graffiti, restrict free student travel on public transport and increase penalties for repeat juvenile offenders was presented by Mr S.G. Evans.

Petition received.

## QUESTIONS

**The SPEAKER:** I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 383, 488, 497, 502, 512, 516, 518, 523, 538, 554, 555, 559, 562 and 563; and I direct that the following answers to questions without notice be distributed and printed in *Hansard*.

### TRAFFIC INFRINGEMENT NOTICES

In reply to **Mr VENNING (Custance)** 14 March.

**The Hon. J.H.C. KLUNDER:** In reply to the honourable member's question, asked on 14 March 1991 concerning traffic infringement notices, I offer the following advice. The Deputy Commissioner of Police advises that it is against departmental policy to set quotas. The Deputy Commissioner has no knowledge of any such directive having been given.

### ILLEGAL FRUIT IMPORTS

In reply to **Hon. P.B. ARNOLD (Chaffey)** 19 March.

**The Hon. LYNN ARNOLD:** The Government released a green paper on the Fruit and Plant Protection Act 1968 in December 1991. The closing date for comments on this green paper was 31 March 1991. This Act provides the power for plant quarantine in South Australia including the control of movement of fruit into the State for the control of spread of fruit-flies. The Government has already indicated in the green paper the intention to increase penalties for severe contraventions of the Act. The following is a quote from the green paper:

> The current penalty levels do not mirror the potential damage posed by infringements of the legislation or constitute adequate deterrents to this type of offence.

The green paper also proposes that the use of on-the-spot fines combined with the destruction of produce for small consignments be investigated. The powers of inspectors under the Act are also being reviewed.

The current Act provides penalties of up to $5 000 or imprisonment of up to three months. It is correct that in the case of organised infringement of the Act with large consignments these penalties are insignificant when compared to the value of a large consignment and the potential damage that can be done to the Riverland industries. In more commonly seen cases, these are not insignificant penalties but the honourable member's comments included the suggestion that these penalties should be prominently displayed at all entrance points into South Australia. They are certainly displayed at some points of entry, for example, Yamba and Ceduna, and trials of new signs have indicated that motorists are taking more notice of the new signs.

There are at least 20 sites of entry to the State involved with general quarantine and, in some cases, fruit-fly signs so the changing, installation and maintenance of signs is costly, but I will follow up the suggestion and take action if necessary to have the penalties displayed at as many sites as practical. The honourable member was under the impression that no prison term was currently provided for in the Act, but this is not the case and a three month imprisonment is possible.

The matter of suspected import of table grapes from Sunraysia for marketing in Adelaide or elsewhere has been investigated by the Department of Agriculture's Inspection Service. This is a serious situation in which it is suspected that grapes packed in the Sunraysia area for export to Tasmania were being routed through the Riverland and labelled as Riverland fruit. Inspectors have stopped issuing certificates for suspect consignments which has resulted in threats of legal action from the consignee.

Tasmania is free of fruit-fly but will accept produce treated in a manner approved by the Tasmanian Department of Agriculture and with a certificate issued by the exporting State Department of Agriculture. It appears that this case would have contravened both the Tasmanian requirements and the requirements for movement of fruit under the South Australian Fruit and Plant Protection Act. It is a good example of the difficulty which faces the Inspection Service in trying to catch offenders and collect the evidence needed for prosecution. In this case it is unlikely that there will be sufficient evidence to proceed with a court case.

On the issue of Federal Government assistance for fruit growers affected by the outbreak, I spoke with John Kerin concerning this on Wednesday 21 February. He advised that, although the Federal Government was not, at this stage, prepared to offer specific assistance over and above the rural assistance programs currently in place, it would continue to monitor the situation. He indicated that, should the outbreak worsen, he would reconsider this position.

### STATE BANK

In reply to **Dr ARMITAGE (Adelaide)** 20 March.

**The Hon. J.C. BANNON:** I have been informed by the bank that the three executives whose services were terminated were paid in accordance with the bank's redundancy agreement which applies to all staff.

### POLICE DEPARTMENT COMPUTER

In reply to **Mrs KOTZ (Newland)** 13 March.

**The Hon. J.H.C. KLUNDER:** In reply to the honourable member's question, asked on 13 March 1991 concerning

the Police Department computer, I offer the following advice. The Commissioner of Police advises that there was a period when a data transfer problem existed between the Motor Registration Division of the Department of Road Transport and the Police Department which caused a number of ownership transfers to be inaccurately recorded. The problem has been overcome and the errors made known to the Police Department at that time corrected. This information is currently transferred between the two departments on a weekly basis. However, the Police Department plans to implement a new system within the next three months which will provide daily synchronisation between the Police Department and the Motor Registration Division databases.

## NATIONAL COMPETITION REQUIREMENTS

In reply to **Hon. J.P. TRAINER (Walsh)** 12 February.

**The Hon. G.J. CRAFTER:** The Trading Stamp Act 1980 was repealed in 1987 when the Fair Trading Act 1987 came into operation. Part IX of the Fair Trading Act is now the relevant legislation relating to trading stamps in South Australia. Under the Fair Trading Act a trading stamp is defined as:

a stamp, coupon, token, voucher, ticket or other thing—

*(a)* that is provided or intended to be provided in connection with the sale of, or for the purposes of promoting the sale of, goods or services;

or

*(b)* by virtue of which the purchaser or any other person may become entitled to, or may qualify for, a prize, gift or other benefit (whether the trading stamp constitutes an absolute or conditional entitlement or qualification).

A third-party trading stamp is defined as:

a trading stamp which is redeemable by a person who is not the manufacturer or a vendor of the goods or services to which the trading stamp relates.

Finally a prohibited trading stamp is defined as:

*(a)* a third-party trading stamp;

or

*(b)* a trading stamp which is provided or intended to be provided in connection with the sale of, or for the purpose of promoting the sale of, tobacco, cigarettes, cigars or other tobacco products.

Section 45 of the Fair Trading Act provides that the following persons are guilty of an offence:

(1) A person who provides, or offers to provide, a prohibited trading stamp in connection with the sale of goods or services.

(2) A person who redeems a prohibited trading stamp.

(3) A person who publishes, or causes to be published, an advertisement relating to prohibited trading stamps.

There is no provision in the Fair Trading Act that prohibits a person from issuing trading stamps (other than the prohibited trading stamps) conditional upon the purchase of goods or services or that requires a person who is conducting a trading stamp promotion to accept facsimiles from residents of South Australia. However, it is understood that the Trade Promotion Lotteries regulations under the Lottery and Gaming Act 1936 preclude the requirement to purchase goods or services or to produce evidence of the purchase of goods or services as a condition of entry to a trade promotion or competition.

Simply this means that consumers are not forced to purchase the goods or services just to enter the competition and they are not prohibited from entering simply because they did not wish to purchase such goods or services. Should they decide to purchase the goods or services they can enter under the conditions which apply in these circumstances. The Lottery and Gaming Act is administered by the Lotteries Commission and I understand that it is proposed to review the Trade Promotion Lotteries regulations later this year.

## STATE GOVERNMENT INSURANCE COMMISSION

In reply to **Dr ARMITAGE (Adelaide)** 13 March.

**The Hon. J.C. BANNON:** As the member for Adelaide would be aware, the Government Management Board is conducting a review of the State Government Insurance Commission. SGIC's compliance with the requirements of the Commonwealth Insurance and Superannuation Commission, the Life Insurance Act and ISC circulars is a matter which will be considered by this review.

## AUDITOR-GENERAL'S REPORT

**The SPEAKER** laid on the table the supplementary report of the Auditor-General for the financial year ended 30 June 1990.

Ordered that report be printed.

## PAPERS TABLED

The following papers were laid on the table:

By the Minister of Education (Hon. G.J. Crafter)—
- Senior Secondary Assessment Board of South Australia—Report, 1990.
- Supreme Court Act 1935—Supreme Court Rules—Costs.

By the Minister of Transport (Hon. Frank Blevins)—
- Metropolitan Taxi-Cab Act 1956—Issue of Licences, 20 March 1991.

By the Minister of Employment and Further Education (Hon. M.D. Rann)—
- Corporation By-laws—Renmark—
  - No. 1—Permits and Penalties.
  - No. 4—Inflammable Undergrowth.
  - No. 8—Park Lands.
  - No. 13—Garbage Containers.
  - No. 15—Repeal and Renumbering of By-laws.

## MINISTERIAL STATEMENT: MOBILONG PRISON ESCAPES

**The Hon. FRANK BLEVINS (Minister of Correctional Services):** I seek leave to make a statement.

Leave granted.

**The Hon. FRANK BLEVINS:** Mobilong Prison was officially opened in October 1987 and from that time until February 1991, some 3¼ years, there were no escapes. This is a record of which the Government and the Department of Correctional Services have been proud. However, it is of grave concern that, since 5 February this year, five prisoners in three separate incidents have escaped from Mobilong Prison.

The first prisoner to escape, prisoner Czubak, was able to effect his escape on 5 February by gaining access to the walkway roof and from there to the roof of the gatehouse. He then crossed this roof and dropped to the ground outside of the prison perimeter. The fact that prisoner Czubak could escape in such a manner highlighted a deficiency in the perimeter security. As a result, additional razor wire was installed on visitors' walkways. It is now unlikely that any prisoner who gains access to the top of the visitors' walkway can, with or without help, scale the wall. In addition, the razor wire was extended across the entire rear of the gatehouse building. Prisoner Czubak has since been recaptured.

The next prisoner to escape was prisoner Curren on 3 April 1991. This prisoner was the garden worker and had responsibility for maintaining the garden area outside normal hours, that is, weekends and public holidays. As such, he was in possession of a key for the shadehouse and other garden buildings. Two ladders were inadvertently left by an officer, unsecured overnight in the shadehouse. Prisoner Curren removed both ladders from the shadehouse and, once the mobile patrol had passed, he crossed the 60 metres of open ground to the inner fence, scaled this, crossed the sterile zone and used both ladders to scale the security mesh fence and razor wire capping. He was seen by the external patrol but managed to escape.

The electronic security system functioned effectively and custodial staff immediately responded to the escape. However, it appears that correct security procedures were not followed earlier. Ladders are recognised as having the potential to breach the prison's security perimeter and should have been secured. A formal investigation into this escape is being conducted by Department of Correctional Services investigation officers. Prisoner Curren was apprehended by the police at Blanchetown on 4 April 1991. He has been charged with escape custody and it is anticipated that further charges will be laid in the near future.

On the evening following Curren's escape, officers in the control room were alerted that three prisoners, later identified as prisoners Taylor, Young and Collini, were attempting to scale the perimeter security fence. It appears that during the evening the three prisoners left the recreation area and headed to the northern side of the prison compound. They then picked up a wooden garden bed frame, approximately four metres long, and carried this to the inner perimeter fence. This fence was then cut. The prisoners crossed the sterile zone, activating the detection system, placed the garden frame against the external mesh security fence and used a cell mat to cover the razor wire capping. Prisoner Collini was injured when he dropped to the ground after scaling the makeshift ladder. The other two prisoners, Taylor and Young, succeeded in their escape, before the mobile patrol reached the area.

As a result of the escapes over two successive days, the management at Mobilong Prison instigated a review of security procedures. During the review, prisoners remained secured in their cells while officers conducted a security check of the prison compound to remove all items which may conceivably be used in an attempt to scale the perimeter security mesh fence. The Manager at Mobilong Prison also conducted a review of escape procedures and staff duty statements to ascertain their current effectiveness. Officers have been and will continue to be instructed, reminded and questioned on implications of security on a regular basis. The escapes of 3 and 4 April 1991 also highlight the need for officers to ensure that any implement that could possibly be used in an escape by a prisoner must be secured.

It is of no secret to this House that one of the proposals placed before the Government Agency Review Group (GARG) by the Department of Correctional Services is the replacement of the mobile security patrol with upgraded electronic security. The mobile security patrol did not prevent any of the five escapes from Mobilong Prison.

In the case of prisoner Czubak, the mobile security patrol failed to make any sighting of the prisoner. Prisoner Curren was seen by the patrolling officers as he jumped from the razor wire fence. The mobile security patrol car did hit the prisoner, but he then ran away. In the third incident, prisoners Young and Taylor were able to escape prior to the mobile patrol arriving at the area. Prisoner Collini, who suffered leg injuries during the attempt, was subsequently apprehended by the patrol.

Prior to disbanding the mobile security patrol, the perimeter security will be strengthened with the installation of an additional electronic security system. The Department of Correctional Services is also considering other options to strengthen perimeter security including the upgrading of lighting and fencing.

For the past three financial years South Australia has consistently had the lowest escape rate of any State in Australia. Since the recent escape, there has been considerable comment about the placement of the five prisoners concerned at Mobilong Prison. The Prisoner Assessment Committee is responsible for approving security ratings and prisoner transfers. In some cases of high notoriety or prisoners with past escapes, the approval of the Executive Director, Department of Correctional Services, must be obtained before lowering the security rating of a prisoner. In each case of the five prisoners involved in the escapes, there was careful consideration at both prison level and head office level of the prisoners' conduct, behaviour and length of time to serve in determining security ratings and placements.

Based on the information available, I am satisfied that the assessment, local review process and transfer procedures for the five prisoners was appropriate. I must also point out that the Department of Correctional Services has been under considerable pressure to find accommodation and to have spaces available at Yatala Labour Prison for reception prisoners. It is imperative that prisoners be transferred when appropriate and, with the commissioning of F Division at Yatala Labour Prison, some of this pressure will be eased. An important responsibility that the Department of Correctional Services must bear is not only to administer sentences but also to prepare prisoners for their eventual release. This requires a progressive reduction in security ratings and change of institution as prisoners work their way through the system.

I would like to take this opportunity to express my deep regret to the Murray Bridge community about the recent escapes. At the same time I would also like to point out that Mobilong is one of the best run prisons in Australia and has had overall a very positive impact on the local community.

## MINISTERIAL STATEMENT: CONSTABLE GORDON LOFT

**The Hon. J.H.C. KLUNDER (Minister of Emergency Services):** I seek leave to make a statement.

Leave granted.

**The Hon. J.H.C. KLUNDER:** As all members would be aware, a member of the South Australian Police Force—Senior Constable Gordon James Loft—died on Sunday after being struck by a car while on duty with a traffic unit on Gorge Road, Athelstone. Senior Constable Loft who joined the Police Force at the age of 19 years was 35 years old at the time of his death. He leaves a wife, Pauline, and a six year old daughter, Melissa.

I wish to offer the condolences of the Government—supported I am certain by all members of this Parliament—to Senior Constable Loft's family and to his police colleagues at this difficult and distressing time. To all of them, we extend our deepest sympathy.

## PUBLIC WORKS COMMITTEE REPORTS

**The SPEAKER** laid on the table the following reports by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Aldinga Beach-Port Willunga Limited Sewerage Scheme,

International Standard Velodrome at State Sports Park.

Ordered that reports be printed.

## QUESTION TIME

### STATE BANK

**Mr D.S. BAKER (Leader of the Opposition):** Was the Treasurer, as Minister responsible for the State Bank, aware that meetings of the State Bank Board in 1990 and early 1991 were taped by senior bank executives without the knowledge of the board, when was he advised of this fact and how does he justify the action of the executives concerned? This afternoon I contacted the Auditor-General after being reliably informed by two sources that this action had taken place without the knowledge of board members until early February. I wanted to ensure that all tapes were in the possession of the Auditor-General before asking this question. While I have received this assurance, I believe that the covert taping without board knowledge requires a full explanation as to the originally intended use of the tapes.

**The Hon. J.C. BANNON:** Certainly, there are tapes in existence. I am not aware of the period over which those tapes were made nor the specific meetings, nor the extent of the coverage of any particular meetings, nor, indeed, the extent of knowledge. It is that sort of thing that would be proper for inquiry, I imagine, in the course of both the royal commission and the Auditor-General's inquiry. I am aware that those tapes are held by the Auditor-General; he has advised me of that fact. I guess they will provide a very useful supplement to any information or inquiries that he wishes to undertake.

*Members interjecting:*

**The SPEAKER:** Order! The member for Albert Park.

*Members interjecting:*

**The SPEAKER:** Order! The Deputy Leader is out of order.

### W.A. INC.

**Mr HAMILTON (Albert Park):** Will the Premier tell the House whether the South Australian Government provided interim finance to the Western Australian Government for the construction of a petrochemical plant? In an article in the Adelaide *Advertiser* yesterday, it was reported that the Premier had told Parliament in 1989 that 'the South Australian Financing Authority had provided between $50 million and $100 million in interim finance to the Western Australian Government for a petrochemical plant'.

**The Hon. J.C. BANNON:** The answer in brief to the honourable member is that neither the South Australian Government nor the South Australian Government Financing Authority provided what one might call interim finance to the Western Australian Government. In fact, that expression in relation to the matter that was adverted to in the article was only used, as I am aware, by the Leader of the Opposition here and in Western Australia in 1989 when attempting to characterise the transaction as some sort of sinister Western Australia Inc. link with South Australia. That is absolute nonsense and I was very surprised to read it repeated, with all the innuendo and the description applied to it by the then Opposition, in a recent edition of the newspaper. In fact, on 14 September, that paper reported the facts. Perhaps they should have looked at their files before reproducing it.

What occurred in this case is that SAFA purchased promissory notes worth $75 million from Western Australian Government holdings. These notes were purchased as part of the normal day-to-day transactions that the authority undertakes and because they were an attractive instrument in the marketplace at that time. The decision to purchase was made by SAFA as part of its normal operations. It was not one of those things that needed to be or was appropriate to be referred either to me as Treasurer or the Government generally. SAFA operates in this area under established guidelines, and this purchase conformed with them.

It is equally true that they were not purchased from the Western Australian Government, as implied, in some sort of Government to Government deal. They were, in fact, purchased from a third party, the Boston First National, as part of the normal transactions. The notes were purchased in February and March of 1989 and were sold in May 1989. So, in fact, when the matter was raised, it was in the past.

Incidentally, it caused those on the other side who wished to raise it as a matter of political concern some considerable embarrassment to discover that at about the same time the New South Wales Treasury Corporation, under the Greiner Government, of course, purchased $125 million worth of notes from Western Australian Government Holdings, for the same reason that SAFA would have done. Because the New South Wales Treasury purchased these notes does not mean that Premier Nick Greiner is linked to WA Inc. and, as I say, members opposite scuttled for cover very rapidly when they discovered what company they were keeping. They were commercial transactions, properly made to get the best return on funds, and to imply that the purchase was part of some deal is absolute nonsense.

### STATE BANK

**Mr S.J. BAKER (Deputy Leader of the Opposition):** My question is to the Treasurer. Exactly when was the Treasurer informed of the existence of those tapes, and who was involved in the taping of those meetings?

**The Hon. J.C. BANNON:** I cannot answer that question off the cuff. I simply advise, as I have done to the—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. J.C. BANNON:** I have already said that this matter in relation to tapes will be fully covered in the inquiries that will take place.

*Members interjecting:*

**The SPEAKER:** Order!

*The Hon. Ted Chapman interjecting:*

**The SPEAKER:** Order! The member for Alexandra is out of order.

**The Hon. J.C. BANNON:** I come back to the question asked by the Leader of the Opposition, which I answered directly and correctly. He knows, because the Auditor-General has advised him, that the Auditor-General holds any such tapes, and the Auditor-General has assured me that he has those tapes. He has told me he has not examined them or their content. He cannot advise—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. J.C. BANNON:** —on the period on which they were undertaken. While they are in the hands of the Auditor-General, it is quite improper for me to make further inquiries or, indeed, provide further information.

## PORT AUGUSTA HOSPITAL REDEVELOPMENT

**Mrs HUTCHISON (Stuart):** Will the Minister of Health indicate what is the time frame for the Port Augusta Hospital redevelopment?

**The Hon. D.J. HOPGOOD:** I am aware of the honourable member's enthusiasm to get this project up and running, because it will provide some much needed renewed facilities to Port Augusta and to the Upper Spencer Gulf area. The facility will provide for a new day surgery unit and a new casualty department and maternity ward. Planning and documentation for the design work of the redevelopment will commence next week. A planning committee is to be established, and a project officer has already been appointed to see the whole matter through.

It is anticipated that construction work on the redevelopment will commence in the 1992-93 financial year, and the project will include the facilities that I have already indicated. We look forward to this renewal of the hospital. I have visited the Port Augusta Hospital on a number of occasions. It is a good hospital, servicing a region, and it will be an even better hospital with the upgrading to which I have referred.

## STATE BANK

**The Hon. D.C. WOTTON (Heysen):** Will the Treasurer, as Minister responsible for the State Bank, confirm that, of the many loans for real estate and other purposes made through the State Bank's London office, at least one large loan was in relation to an interest in Turkey?

**The Hon. J.C. BANNON:** I will take the question on notice and refer it to the bank board.

*Members interjecting:*

**The SPEAKER:** Order!

*The Hon. D.C. Wotton interjecting:*

**The SPEAKER:** Order! The member for Heysen is out of order.

*Members interjecting:*

**The SPEAKER:** Order! The member for Murray-Mallee is out of order.

**Mr FERGUSON (Henley Beach):** I direct my question to the Premier.

*Members interjecting:*

**The SPEAKER:** Order! The member for Heysen is out of order.

**Mr FERGUSON:** Will the Premier advise the House whether the State Bank, as one of the 44 banks reported to have exposure to the Adsteam Group, has agreed to loan rescheduling arrangements as part of the restructuring of the group? The financial press has carried reports of negotiations between the Adsteam Group and its bankers for rescheduling of loans. Reports indicate that 42 of the 44 banks, representing 97.9 per cent of the group's borrowings, have either signed the loan rescheduling documents or agreed to sign them.

**The Hon. J.C. BANNON:** I appreciate the question from the honourable member and advise that the State Bank, as he has already explained, is part of that large group of banks exposed to Adsteam through the issuing of loans to it, but they are also part of the agreement for the rescheduling of loans to Adsteam. From all the reports I have seen in the press, it would seem that a majority of the banks which are part of that group with the State Bank that provided loans to the Adsteam Group are willing to accept the rescheduling of those loans. It would seem also that, of the two banks still standing out of the 44 required to be part of the group, it is a technical rather than a substantive matter that prevents it being resolved.

I am not sure of the precise relations because obviously that would be a matter privy to each bank but, as far as the State Bank is concerned, it is part of the restructuring agreement. It has made the judgment, along with other major institutions, that the restructuring of the loans and the group itself represents the best option for recovering funds and minimising exposure. Many of the banks that have lent money to the group—the number, one way or another, is over 100—are among the leading banks in Australia and, by all accounts, the banks involved in these negotiations have significant exposures to the Adsteam Group.

In the recent issue of *Australian Business* I noted that major exposures relate to the National Australia Bank of $1.3 billion, Westpac $900 million, ANZ $800 million, Commonwealth Bank $550 million and Bank of America $550 million. These were singled out as the largest loan involvements by these banks. They are the household names of banking in Australia. In other words, the State Bank was in very good company when it agreed to lend money to that group.

The difficulties faced by many Australian and international lenders to the Adsteam Group are, I suggest, symptomatic of the problems facing the banking industry generally. For example, Westpac, which has the second largest exposure to the group, is reported today to have published figures which show non-performing loans and loans considered at risk to represent about 75 per cent of shareholders' funds. That result is attributed in turn to a slump in the property market which Westpac's Chief Financial Officer described as being akin to the black hole and the deepening recession. According to the article, the figures show the deep effects in the banking industry and suggest that 'other nationally operating trading banks may also have some nasty surprises in store for their shareholders'.

I put those matters on the record no more than to make the point that the State Bank of South Australia and its financial position must be looked at in a proper perspective. There are those who wish to tear the whole house of this State down, to have it crashing around their ears, by singling out and highlighting the problems of a particular financial institution. I am not underestimating or underrating those problems: they are severe and they are going to require much dealing with, but they must be considered in a proper and appropriate context, and in the context of the performance of the banking sector as a whole.

*Mr D.S. Baker interjecting:*

**The SPEAKER:** Order!

**The Hon. J.C. BANNON:** The Leader, who has been in the forefront of this—a man who extols free enterprise and capitalism at every opportunity—no doubt, in the course of his business dealings, is aware of the problems that private sector banks are having—that all banks are having—in relation to property devaluation, recession and other factors.

When we see these reports day after day—and yet all we hear in this House are particular and concerted attacks on our own State Bank—you really wonder what members opposite are on about. Are they seeking to support South Australia or are they, in fact, trying to punish this State and

its institutions and, by so doing, create such a difficult situation that they believe they will be bound to get into office, that they will just fall into office? Well, I have news for them. They will not fall into office and, no matter how much they try to worsen the situation, this Government is determined to see it through and present itself to the people at the next election on the basis of that record. It is about time that we had a bit of perspective on this matter and that, in their ongoing and incessant attacks on the State's financial institutions, a bit of attention was paid by those members opposite to the predicament and problems of others.

**Mr INGERSON (Bragg):** My question is to the Treasurer. I will read it slowly so that we might get an answer.

**The SPEAKER:** Order! The honourable member is well aware of the rules pertaining to comment. A couple of comments have slipped through today. I will be listening very closely and leave will be withdrawn if comment comes into questions again today.

**Mr INGERSON:** As Minister responsible for the State Bank—

*The Hon. J.C. Bannon interjecting:*

**Mr INGERSON:** I didn't say you were in charge; I said you were responsible.

**The SPEAKER:** Order!

**Mr INGERSON:** As Minister responsible for the State Bank, can the Treasurer assure the House that no losses on the State Bank Group's New Zealand operations have been concealed within subsidiaries of United Bank and that, before the Treasurer approved the United acquisition, a due diligence report was conducted at arm's length from the group?

**The Hon. J.C. BANNON:** The pretender to the Liberal Party leadership displays—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. J.C. BANNON:** Despite that, the honourable member's very childish and petulant way of asking his question hardly deserves an answer. In fact, I will take the question on notice and refer it to the bank's board.

## POPULATION TREND

**Mr McKEE (Gilles):** Based on population statistics released last week, can the Minister of Industry, Trade and Technology inform the House whether South Australia has experienced an influx of people from other States, or whether people are leaving South Australia? Is the Minister able to explain this population trend?

**The Hon. LYNN ARNOLD:** I thank the honourable member for his question. I can advise that South Australia has experienced an influx of people, the like of which it has not seen since the 1970s. Indeed, in terms of population figures for State to State moves, in the year ending September 1990 South Australia recorded a net inflow from other States of 1 435 people. This was an increase of 56 per cent on the previous 12 months.

*The Hon. Jennifer Cashmore interjecting:*

**The Hon. LYNN ARNOLD:** I hear the member for Coles say, 'What an influx.' What happened to the population of this State the last full year that her Party was in Government? I have to inform the House that in that year the figure was greater than 1 435—that much I acknowledge—but the key difference was that there was not a plus sign in front of it; there was a minus sign in front of it. In fact, the figure was 4 875—a figure way in excess of the figure about which I am now talking. In fact, it is 3½ times in excess, but it is in the wrong direction. That was the track record of the Tonkin Government for the three years that it was in office: a bleeding away of people from South Australia. The population of this State bled away to other States.

In the 1980s we worked hard on the economic fundamentals of this State to reverse this trend. That is why we can now say that the figure for the past year shows that South Australia has the third highest growth rate of any State in Australia in terms of population movements from State to State. What are the figures that apply to the other States? Victoria had a loss of 8 373, and New South Wales had a loss of 31 848 people. The States which showed growth, alongside South Australia, were Queensland and Western Australia.

**The Hon. T.H. Hemmings:** Wayne Goss is up there.

**The Hon. LYNN ARNOLD:** Yes, it is Wayne Goss in Queensland.

**The SPEAKER:** Order! The member for Napier is out of order.

**The Hon. LYNN ARNOLD:** The member for Gilles asked about the reasons for this trend. It is always difficult to ascertain exact reasons why people choose to move from State to State. Much speculation can take place, but nonetheless some points are worth noting. Of course, there are the qualitative factors as to why people move from State to State. It is interesting to note that, while EPAC has assessed Victoria and New South Wales as ranking higher than South Australia in quality of life indicators, it appears that people have voted with their feet on that question and assessed South Australia as being a much higher quality of life place than either of those two States. Certainly for those who live here—and I am certain that the Opposition would agree with this—South Australia is the place in which people can happily choose to live as it has the best quality of life in the country.

Along with the qualitative issues there are the quantitative issues as to why people move from State to State. One of the significant reasons that people choose to live in this State is that South Australia has a substantially lower cost of living than other States in this country. The ABS statistics released last week show that, for average prices on selected retail items in the December quarter for the year ending 1990, Adelaide had the cheapest prices overall and was the cheapest or equal cheapest city for 19 of the 53 items surveyed and the second cheapest city for petrol. Adelaide is the cheapest city in which to buy food.

The items in which Adelaide was cheapest or equal cheapest included many essential household items such as milk, bread, baby food, lamb, tea, coffee and detergent. The interstate movement of people is an important factor in a State's population. We recognised that point when we first came to Government, and on many occasions the Premier has commented on that issue. It was an issue that the then Tonkin Government refused to acknowledge as being important. We believe that interstate movements are a key part of a population base, along with overseas migration figures.

*Members interjecting:*

**The SPEAKER:** Order! The Leader is out of order.

## STATE BANK

**Mr MATTHEW (Bright):** Will the Treasurer, as Minister responsible for the State Bank, inform the House of what assets secure $70 million in loans by the State Bank Group to the Pegasus Group and whether he is still satisfied with

the propriety of the involvement of past and present Beneficial executives? When asked on 13 December about the State Bank's exposure to Pegasus, the Treasurer said that he was 'expecting the fullest possible briefing and indeed would be willing to provide whatever information I can to the House in consequence'. However, no detailed report has yet been made to the House.

In early January Mr Steve Paddison told the *Advertiser* that the Pegasus security money was 'out there on the backs of some horses'. However, I have been informed that most of the horses which backed the loans have gone and that some may have been transferred to other companies in which present and former Beneficial executives have an interest. GEP Thoroughbreds and Golden Turf Thoroughbreds include as directors former Beneficial senior executives John Baker and Erick Reichert and current Beneficial employee Gary Martin.

**The Hon J.C. BANNON:** Nothing is to be gained by canvassing these matters in this place when full inquiries, which will cost the State a lot of money, have been established in order to get to the truth. Along with his colleagues the honourable member is simply playing games as members opposite have done consistently since the announcement of those inquiries. Either members opposite will say whether they are behind the inquiries and support them, or they are not. I wonder: is this one of the questions in relation to which the Leader of the Opposition says 'We have the answers in our bottom drawer as well'? Is this one of the things that in fact—

*Members interjecting:*

**The Hon. J.C. BANNON:** Well, the honourable member grimaces because he does not know, and I can understand that. He has just been given a sheet of paper with a question and explanation on it. I suggest that, instead of asking me, he should go and ask his Leader, because his Leader says that he has the answer to every question asked in this place. I suggest that the honourable member would better represent his constituents by not playing the games that are going on and by asking a few questions on substance of matters that concern him and his constituents directly.

## CAREERS SHOW

**The Hon. J.P. TRAINER (Walsh):** Will the Minister of Employment and Further Education advise whether the 1991 Careers Show (held at the Convention Centre's Exhibition Hall on Thursday, Friday and Saturday last week) was in any way associated with his department, and is it normal practice with exhibitions of this nature for entry to be refused to any member of the public who declines to fill out a questionnaire?

On Saturday afternoon I accompanied my son, who is a matriculation student, to the Careers Show. Signs at the entrance indicated an admission fee of $5, although an item in Thursday's *Advertiser* had referred to a $3 entry fee. However, before being provided with a folder of literature, entrants were told to provide their name, address, school or university, and similar information on a questionnaire which carried the instruction: 'This form must be completed and presented at Careers Show entrance to gain admission.'

I indicated that it would be a pointless waste of paper and printing to present me with a second bundle of literature additional to that which my son was getting and, likewise, I felt it was a waste of time my filling out the questionnaire, as I have no current interest in a change of career, and merely wished to accompany my son so that we could discuss his aspirations and interests. I was then refused admission because I declined to complete the questionnaire.

**The Hon. M.D. RANN:** Along with Career Link, which is being held this week at Centennial Hall, the Careers Show is organised by a private enterprise organisation called 'Expo Oz' and is being held at the Convention Centre. The Careers Show is co-sponsored by the *Advertiser* and Channel 7. The exhibition provides opportunities for young people to link with potential employers and training organisations, including a number of universities.

The Careers Show does not directly receive State Government funding. However, a range of Government employers and training providers do purchase exhibition space as they see it as an invaluable way to reach prospective employees and clients. I must say I was somewhat puzzled by the honourable member's complaint when he telephoned me at the weekend about this. The insistence that a registration form be filled out certainly appears to be a bit of a big brother approach to this area of careers education rather than the offer of a helping hand. I can understand that a number of young people would be extremely reluctant to fill in forms with their name and address without being assured as to what purpose those forms are to be used. I know that, often, when we are asked to fill in our name and address on forms, we end up being the recipient of direct mail that we might not want to receive. I was concerned about this and one of my officers rang Expo Oz today to find out more details about this rigid entrance policy because, quite simply, the feedback we have received is that, if people did not put down their name and address when they paid the $5 (even though the fee was advertised as being $3), they were not admitted, and that seems rather a heavy-handed way of conducting market research.

It was declared that the filling out of the registration form was for market research purposes—to satisfy exhibitors that they were reaching the right target audience. This does not answer the question why names and addresses are required—this would not be considered normal in terms of market research. It was also said that the staff at the entrance were instructed to use their discretion whether to allow entry to people who had not filled out a form. The staff were employed on a casual basis and, in this instance, appeared to have forgotten this instruction when they took exception to the member for Walsh. Just before Question Time, Expo Oz apologised for any inconvenience caused to the honourable member. Nevertheless, I must express again my concern, and we will certainly keep an eye on this matter and follow up if there are further complaints.

## STATE BANK

**The Hon. JENNIFER CASHMORE (Coles):** When was the Treasurer made aware that, in addition to their official State Bank director's fees, most bank directors were placed by Mr Marcus Clark on a number of internal bank and other boards through which they received other large fees, and will he release a list of all fees paid to individual directors, by name, including those paid through off balance sheet entities, within seven days? I have been informed by former senior State Bank sources that at least one State Bank director, former Under Treasurer Mr Bert Prowse, would have received three times his official State Bank director's fees by virtue of these other board positions.

**The Hon. J.C. BANNON:** I would be interested to know who the senior State Bank sources are. If the honourable member wishes to put this information before us, instead of peddling innuendo about it, it would be reasonable, I would suggest, unless this is another matter that is in the Leader's bottom drawer, in which case one wonders why

she is wasting the time of this House when she should just be issuing it—

*Members interjecting:*

**The Hon. J.C. BANNON:** It is a fact that directors on subsidiary boards receive fees on those subsidiary boards for the work they are doing on those boards, but progressively those directors who came from outside the bank, after the bank had acquired them, were phased out and replaced by directors of the main board. I will take the rest of the question on notice.

*Members interjecting:*

**The SPEAKER:** Order! The Deputy Leader is out of order.

## FRUIT-FLY ERADICATION

**Mr ATKINSON (Spence):** Can the Minister of Agriculture inform the House of the progress of fruit-fly eradicatiton in the Riverland after the outbreak at Loxton North in March?

**The Hon. LYNN ARNOLD:** I thank the honourable member for his question. I can advise that to this stage we have not found any more fruit-fly in the Riverland area since I last reported to this place. This means that it appears we will go through the 12-week period that is necessary to be free of fruit-fly identification, and that will then enable us to enter the 12-month period that will still enforce market restrictions on the area. Of course, if a fruit-fly is discovered, for example, today, there will be an extension of the period for which the area will have market restrictions placed upon it, with the consequent cost impediment that growers will have to face with the extra treating of their produce, and also with any other implications in terms of lost sales to certain interstate or overseas markets.

At this stage, I can advise that we are still treating the problem with the same seriousness as we always have, and the eradication program is being conducted with the full professionalism for which the Department of Agriculture is noted in its fruit-fly campaigns. In terms of the commercial horticultural areas that are related to interstate or overseas markets, it is probably worth noting that the Clare Valley, the South-East and the river area from Swan Reach to Cadell are the only areas that have not yet been affected by fruit-fly outbreaks.

It is also an opportune time to inform the House of exactly what has been the situation in 1990-91 with respect to outbreaks of fruit-fly in South Australia. There have been outbreaks of fruit-fly in Beulah Park, Strathalbyn, Gilles Plains and Port Pirie, and in each case an eradication program has been undertaken and successfully completed. Three of those outbreaks involved Queensland fruit-fly, and in Port Pirie there was a Mediterranean fruit-fly outbreak. We are presently in the process of eradication campaigns in three locations. One is based around what could be called an epicentre of Loxton North in the Riverland, where we are dealing with the Queensland fruit-fly eradication program. In the other two cases—Port Augusta and Netley/Black Forest—we are dealing with the Mediterranean fruit-fly. The Port Augusta situation was announced just this morning.

I take this opportunity once again to remind members that, while the Department of Agriculture is very professional in the way it goes about its eradication campaigns, ultimately it relies for its success upon the goodwill of local residents and upon the community in general. We have successfully tackled four other outbreaks in South Australia this year. I am confident we can deal with the other three, but the community must stay with us in working on this.

## RURAL INTEREST RATES

**The Hon. TED CHAPMAN (Alexandra):** How does the Minister of Agriculture justify his public call on the banks to show compassion and refrain from forcing the sale of rural properties in South Australia when, at the same time, he turns up the heat on his own long-term and loyal clients of the Rural Industry Assistance Division in his own department by increasing their interest rates instead of lowering them? Information today from a Kangaroo Island farming family (the names are available to the Minister) reveals details of a long-term rural industry assistance loan, which they have regularly serviced according to their contract with the Government.

From a signed declaration and the relevant documents provided, it seems that this particular rural loan interest rate has risen progressively from 8 per cent at its commencement in 1982 to 14 per cent last year. While under periodical pressure, the family have never complained nor failed to meet their commitment. This year, when all farmers have their backs to the wall and commercial and housing interest rates are falling rapidly, the Rural Industry Assistance Division of the Agriculture Department has jacked up its rates from 14 to 15 per cent. Advice of this interest jack-up was received last week by the Kangaroo Island farming family to whom I have referred.

**The Hon. LYNN ARNOLD:** I will have this matter investigated. The honourable member has promised that he will supply the names of the constituents concerned, and I take it that he will honour that promise and I will therefore make full inquiry of the episode. Given my lack of knowledge of the case, my answer is based on a general understanding of what has been happening with interest rates in the rural industry adjustment area. Over the years there have been increases in interest rates for rural assistance loans, and those interest rates have gone up from either 8 or 10 per cent or, more recently, from a 12 per cent base to what is defined as the commercial rate that is being charged by the Rural Finance and Development Division. That commercial rate is always significantly lower than the commercial rate that is available from banks and other lending institutions, as can be attested by farmers who have loans from that area.

That increase is made known to people who borrow under those schemes when they sign up for those loans. They are also advised that, at the end of three years, a review process takes place and they have an opportunity to appeal hardship, indicating that an increase from an 8 or 10 per cent base, depending on where and when their loan was undertaken, would be particularly harsh and should not happen at that time. I have to say that the evidence available to me is that the division handles those applications of hardship with great sensitivity. In the context of this year's very difficult conditions, we are looking at that situation very closely.

One other point I should make is that this matter may refer to the commercial rural loans section of the Rural Finance and Development Division and, again, that division issues its loans at what is defined as a commercial rate, which amounts to the SAFA borrowing rate plus a margin for administration, which I understand is about 1.75 per cent. That means that new loans under the Commercial Rural Loans Division are presently available for a touch under 14 per cent. My figures might be slightly out, but

they are ballpark figures. When the Premier and I visited Eyre Peninsula and Yorke Peninsula recently, we were advised by one farmer who had a loan with a commercial lending institution that the interest rate fluctuated between 18 and 23 per cent. At all times—

*The Hon. Frank Blevins interjecting:*

**The Hon. LYNN ARNOLD:** Yes, private enterprise. In all instances, his loan represented a 2 to 3 per cent risk margin above what was available to other business enterprises. We take strong exception to the fact that a risk margin, which is applied to so many rural loans, is not put on loans for other business and small business enterprises. I anticipate that the honourable member will give me more information, and I will make further inquiries and advise him accordingly.

## STORMWATER MANAGEMENT

**Mr HOLLOWAY (Mitchell):** Will the Minister for Environment and Planning advise the House of any work being undertaken by her departments to examine how stormwater collected throughout the metropolitan area might be better used and managed? The Sturt River, which flows through part of my electorate, was straightened and lined with concrete in 1966 as part of the south-western suburbs drainage scheme. Other local streams were also replaced with pipes to cope with increased stormwater run-off. Many of my constituents have informed me that they welcome the removal of the threat of flooding, which regularly occurred in the area prior to the drainage scheme, but they regret the loss of environmentally sensitive and visually attractive areas.

**The Hon. S.M. LENEHAN:** I acknowledge that the member has put this matter on the public agenda in a number of areas and has done so for a number of years. It is important to acknowledge that, while with hindsight we can all say—and indeed I am saying—that it was the wrong decision to remove as quickly as possible stormwater along sealed concrete channels into the marine environment, we must acknowledge that at the time the people making those decisions were not aware of the severe implications for the marine environment and, indeed, were not aware of the need to look at re-using stormwater as a valuable and precious resource for future generations of South Australians.

I am delighted to indicate that I have initiated through the E&WS Department an investigation into two things: first, the potential re-use of stormwater; and, secondly, a delineation of the options available to improve the quality of stormwater. This study will be undertaken not by the E&WS Department but by consultants it has engaged for the purpose. The reason why this matter is important is twofold. Historically, stormwater has been moved as quickly as possible from one council area to the next and into the marine environment. Indeed, by so doing, it has been shown that we have added to the destruction of seagrasses off the coast of Adelaide. We have available to us a number of options for providing Adelaide with its future water supplies, including a dual pipeline from the Murray, a pipeline from the far north of Western Australia and other options such as towing icebergs from the South Pole.

Whilst 150 megalitres of water a year is put into the marine environment, which is almost the equivalent of what we use in Adelaide, we have the opportunity to look at better management and re-use of this water. Secondly, by implementing such things as wetlands, wet and dry retention basins, gross pollution traps and trash racks, aquifer recharge schemes, stormwater re-use schemes and a process of community education, we have the opportunity of having cleaner stormwater when it does enter the marine environment, and the potential of being able to use that water for future generations of South Australians. This report, which has been commissioned, will look at all those aspects that I have delineated. I thank the honourable member for his ongoing interest in such a visionary approach to the use and management of stormwater.

## MOBILONG PRISONER

**Mr LEWIS (Murray-Mallee):** Will the Minister of Correctional Services confirm that one of the hardened criminals who escaped from Mobilong during the past week was recently transferred there because he was a leading troublemaker at Yatala; and, if so, will he explain why South Australians, particularly those living in the vicinity of Mobilong, should be exposed to serious risk from his escape because the department is unable to control inmates—a failure exacerbated by the continuing industrial dispute which leaves F Division at Yatala unable to function more than three months after its completion?

**The Hon. FRANK BLEVINS:** I thank the member for Murray-Mallee for his question, although I actually expected a more substantial question. No doubt the debates that have occurred through the media between the member for Murray-Mallee and me have changed his mind on one or two points.

*Members interjecting:*

**The Hon. FRANK BLEVINS:** I am only setting the scene. To my knowledge no prisoner has been sent to Mobilong because he is a troublemaker. In fact, the reverse occurs: anyone who plays up too much in Mobilong goes straight back to Yatala.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. FRANK BLEVINS:** If the member for Murray-Mallee wishes to examine the records of the Department of Correctional Services on that matter to satisfy himself of the truth of my statement, the records are available to him. As I have mentioned many times in this House, we have no secrets in Correctional Services: we always err on the side of public disclosure. The only problem is that, when I make these offers, members opposite never take them up. At the moment F Division is something of a vexed question, and I make no bones about the fact that I would have liked to see F Division open when it was ready about seven or eight weeks ago.

The Public Service Association is engaged in negotiations with the Department of Correctional Services and the occasional intervention of the Minister to arrive at a formula for staffing F Division as soon as possible. I am assured constantly by the PSA that agreement is close. However, I have been given those assurances on numerous occasions over the past eight weeks and the story is wearing a little thin. There is no doubt that the taxpayers of this State, having spent about $10 million on F Division, are entitled to have it open as soon as possible—and 'as soon as possible' means very soon indeed.

F Division is a new concept involving a greater mixing of prison officers with prisoners, something which I believe has been lacking in the past in some of our institutions. Prison officers see some problem with that, but we are working through these problems with them. I would also point out that a prison officer appeared before the Public Works Standing Committee and, having seen the plans and

models of F Division, supported the concept before the committee. That is on record.

To its credit, the PSA has made several recommendations to the prison officers but, unfortunately, the prison officers have not yet agreed with their union's recommendations. I also point out that, in dealing with these prison officers, this is the third union with which I have had to deal concerning the same prison officers. They hop out of one union and into another fairly frequently, and each union seems to bare its chest to show that it has a hairier chest than the union that previously covered the prison officers. Each union has to demonstrate that apparently as soon as it takes over those prison officers. Nevertheless, the issue has to be resolved quickly. If we cannot resolve this amicably and we are forced to take strong action against prison officers who are preventing our opening F Division, I will look forward to the full unqualified support of the Opposition when and if any such action is taken.

## BURBRIDGE ROAD

**Mr HERON (Peake):** Will the Minister for Environment and Planning advise the House of plans for the development of Burbridge Road into a tourist gateway? Burbridge Road is the major road used by tourists arriving in Adelaide by air and rail. Adelaide is the only city in Australia to have such a short route to the city for air and rail travellers, and we should capitalise on that asset.

**The Hon. S.M. LENEHAN:** I thank the honourable member and I remind the House that, in fact, a large section of Burbridge Road is, of course, in the honourable member's electorate. Indeed, this very morning I launched a study that will look at making Burbridge Road a tourist boulevard or, if you like, a gateway that will leave a lasting memory, an impression, on tourists and visitors. I would like to acknowledge the fact that other members of this Parliament attended the launch, and I refer to the member for Morphett (who represents, I think, the end part of Burbridge Road) and the shadow Minister, the member for Heysen.

I think it would have to be acknowledged that this is an exciting and visionary concept that was initiated by the West Torrens council, and subsequently picked up on a share basis by my department. Both the council and my department are sharing the cost of the 26 weeks study. I think members will agree that the study has a very catchy title; it is entitled 'Adelaide Arrive' (and I suppose I do not have to talk about the play on words with respect to the well-publicised 'Adelaide Alive').

*Members interjecting:*

**The Hon. S.M. LENEHAN:** No, I will not explain it to my backbench colleagues; I am sure that they are quite intelligent enough to work it out themselves. The 'Adelaide Arrive' study will look at such things as a balanced redevelopment of both sides of Burbridge Road, the undergrounding of power lines, road widening and, I suppose, a beautification program with respect to the greening of Burbridge Road. The study also has the potential to provide an opportunity for art in public places and, indeed, for pedestrian and cycling paths.

As we move into the twenty-first century, I would like to acknowledge the work of this Government in looking very closely at the visionary future of Adelaide, particularly through the planning review. I think the Premier must receive credit for the fact that he has certainly—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. S.M. LENEHAN:** —provided the leadership with respect to the planning review, and this is one of the aspects for which I think we should see bipartisan support. The 1998 Commonwealth Games is certainly another very good reason to target Burbridge Road. As I said, the study was initiated by West Torrens council, and I am hoping that, in six months when the study is completed, we will have a master plan for the future development of what we will see in South Australia as a truly unique boulevard.

## NAIRNE PRIMARY SCHOOL

**Mr BRINDAL (Hayward):** My question is to the Minister of Education. Did he, or any person acting on his behalf or with his knowledge, make to any employee or agent of the Education Department representations in respect of the appointment of Ms Kathleen Cotter to the position of Acting Principal of the Nairne Primary School? Were the normal procedures followed in this case for making appointments and, if not, why not?

*Members interjecting:*

**The SPEAKER:** Order!

**Mr BRINDAL:** I understand that at the end of 1990 Ms Cotter was a ministerial assistant employed in the Minister's office. I have been further advised that Ms Cotter has been appointed Acting Principal of the Nairne Primary School. I believe that her background is in classroom teaching rather than educational administration, and I therefore seek clarification as to the processes involved in her sudden elevation.

**The Hon. G.J. CRAFTER:** When I saw that the honourable member was wearing a tie with the Norwood colours, I assumed that he had more nous than he has displayed. I do not have all the precise details in the form that the honourable member has asked of me. I can say that Ms Cotter has been appointed to that school for a limited period in the position of Acting Principal in the absence of the substantive principal at that school.

I understand that all the arrangements entered into were in accordance with accepted practices within the Education Department. Miss Cotter is a very competent officer of the Education Department and has had long service in leadership positions within the department, more recently as an adviser to teachers and schools working specifically with principals in the development of professional development programs, curriculum and so on. I understand that her appointment has been well received within that school community and indeed within the Education Department. I am rather surprised that the honourable member would want to raise the matter in the context that he does, other than to try to make some political capital from it.

## ANTI-EVAPORATION VALVE

**Mr De LAINE (Price:):** Will the Minister of Labour inform the House of the current situation in relation to the safety aspects of the Masterflo valve—formerly called the Broer underground fuel tank anti-evaporation valve? This unique locally developed and manufactured valve is currently being sold in more than 30 countries yet is not being used by oil companies in Australia. I asked this question in the House in August 1988 and was told by the Minister that developmental work and assessments were being undertaken before approval would be given.

**The Hon. R.J. GREGORY:** The valve to which the honourable member refers is designed to hold a slight over-

pressure or slight vacuum in a petrol storage tank. Its use in South Australia is controlled by regulations under the Dangerous Substances Act which apply the Australian standards. The Australian standards at this stage do not allow the use of pressure vacuum valves without special considerations, and this effectively prevents the use of the Masterflo valve in Australia. The South Australian Department of Labour has made extensive submissions to Standards Australia to amend the standards and allow the use of these valves in a safe manner. It is expected that the submission will be dealt with during the next 12 months.

The Department of Labour is willing to consider individual requests to fit pressure vacuum valves and exemption under the Act is required. I advise the House that the first exemption has already been granted. The future decision of Standards Australia will be considered binding in this State. In the meantime, various Government agencies will be assisting Masterflo to test the valve. I have been advised that Amdel will be supplying some technical assistance in that evaluation.

## MYER REMM SITE

**Mrs KOTZ (Newland):** Is the Minister of Labour aware that workers on the Remm site are being paid $1 an hour extra not to whistle at women in Rundle Mall?

*Members interjecting:*

**The SPEAKER:** Order! The member for Napier is out of order.

**Mrs KOTZ:** I am reliably informed that, following complaints from women being whistled at by site workers, an agreement was reached that all site employees would be allowed their 'compliance' allowance of $1 an hour provided they refrained from wolf whistling and other devices to attract attention. I point out to the Minister that, while this may be a source of mirth to some, it is yet another example of questionable and expensive costs added to an important building site.

**The SPEAKER:** Order! Before calling on the Minister, I point out that this is not a responsibility that comes under the Minister's portfolio but, if he cares to respond, I give him the call.

**The Hon. R.J. GREGORY:** I thank the honourable member for her question. I believe that sexist behaviour in any form is objectionable and I am surprised that I have received such a question from the Opposition which, during the last debate on industrial relations, was trumpeting the value of negotiated agreements between employers and employees. I would have thought that any arrangement negotiated freely between employer and employee anywhere in South Australia would be approved by members opposite and that they would not come into this House whingeing about the amounts of money that workers were able to extract from their employers through the negotiation process.

## MINISTERIAL STATEMENT: MEMORANDUM OF UNDERSTANDING

**The Hon. M.D. RANN (Minister of Employment and Further Education):** I table a ministerial statement made by my colleague in another place, the Minister of Local Government, and associated material connected with the memorandum of understanding between the Premier and the President of the Local Government Association.

## CITRUS INDUSTRY BILL

Adjourned debate on second reading.

(Continued from 21 March. Page 3894.)

**Mr MEIER (Goyder):** The Opposition supports the Bill and is pleased that it has come before the Parliament before its rising. The Bill has certainly had many preliminaries in the form of both a green and a white paper and much discussion with industry and, in the final analysis, there has been much compromise. As members would be aware, the review of the Citrus Industry Organisation Act from 1965 to 1984—the white paper which came out in May last year—clearly indicated that some of the current functions and powers of the Citrus Board were outdated and should be phased out or not included in the new legislation.

The Minister indicated, amongst other things, that the following powers would be phased out: the setting of fresh fruit prices and processing fruit prices; the fixing of quantities of fruit that growers may deliver or sell; the prohibiting of harvesting; and the ability of the board to buy and sell citrus fruit. The licensing of packers, processors and wholesalers was to be replaced with a system of registering growers, packers, processors and wholesalers for the purposes of collecting and disseminating statistical information, collecting levies and achieving local and export standards for fruit handling and quality. It is interesting that now that the Bill is before us we see that most of those items have been incorporated, but there is one significant change, namely, that the board, with the Minister's permission, still has the power to set processing fruit prices.

As members would be aware, the Liberal Party certainly supports this move. Soon after the white paper came out, the Liberal Party considered this very question and it was not difficult for us to determine as the State Liberal Party, for countless years, has adhered to a policy of orderly marketing. Whether or not we like it, a minimum price is still necessary for orderly marketing in this State. There has been much talk in recent months and years about deregulation and the abolition of minimum prices. All of that is fine as long as it goes hand in hand with deregulation of other areas.

Particularly, we need to refer to the deregulation of the labour market, the transport system, the waterfront and so on. One cannot be done effectively without the other. The Opposition is pleased that the minimum price for processing fruit is to be retained. I guess it shows democracy in action when we see the white paper of last year in comparison with the Bill before us today.

In fact, several press releases have come to my attention. I will not refer to them all, but one from the Murray Citrus Growers Cooperative Association (MCGCA) indicated quite clearly in August 1990 that the Government had to compromise on the citrus white paper. Part of that release states:

> The Australian Democrats and Liberal Parties have foreshadowed their willingness to oppose the proposed Government legislation on the citrus industry.
>
> Murray Citrus Growers Secretary, Peter McFarlane, said the failure of the proposed legislation to provide reasonable terms of payment to growers was in itself sufficient reason to throw out the legislation.
>
> There is little in the citrus white paper that would allow the Citrus Board to do anything more, or better, than it can already do under the existing Act.
>
> On the other hand Agriculture Minister, Lynn Arnold, has proposed that a number of vital powers will be removed. This will seriously curtail the bargaining power of growers, and enhance the position of processors.
>
> Murray Citrus Growers and the Australian Citrus Growers Federation have now held several meetings with Minister Arnold. We have impressed upon the Minister the reasons why the industry in South Australia, and the national citrus industry, want

South Australia to retain the powers to set minimum juice prices, and set terms of payment to growers.

MCGCA is still hopeful that the Minister will see fit to accommodate the view of the citrus industry.

If the Minister is not convinced that the South Australian industry wants to retain these powers, he should arrange for the Citrus Board to conduct a referendum of all citrus growers on this question.

Perhaps the press release overstates the situation in some cases, for instance, when it states that the Liberal Party would oppose the legislation. I do not know that we ever went quite that far. We indicated we were disturbed about some factors. It is pleasing that so many of those factors have been corrected, or there has been compromise, to bring the Bill before us.

Before considering the specific aspects of the Bill, it is important to consider what stage the citrus industry in South Australia is at. One could easily broaden that to include the citrus industry in Australia. As most members would recall, towards the end of last year things looked anything but positive for the Riverland and the citrus industry generally. In fact, we saw comment after comment about the crisis that was facing the Riverland. In a sense, it went hand in hand with the crisis that was starting in the rural areas already at that stage, heralded by the collapse of the wool market, the live sheep export market and the sheep industry generally.

Perhaps the citrus people were not identified as facing troubled times to the extent that should have been recognised. Therefore, it was not surprising that, in the end, we saw a significant rally on the steps of Parliament House towards the end of last year arranged purely by the Riverland fruitgrowers, as well as other rallies to a greater or lesser extent where the problems were put forward. We saw the Riverland citrus growers form a 'fight committee' in response to the critical situation that was confronting them at that stage. We saw two groups, the MCGCA and the Riverland Growers Unity Association, work hand in glove to ensure that the needs and concerns of the Riverland were highlighted. We also saw the third group that represents growers, namely, the citrus section of the United Farmers and Stockowners, take the concerns of the Riverland forward in the way that it thought appropriate.

Many areas were considered unsatisfactory and requiring attention, and I will highlight a few, the first being the issuing of developing country status to Brazil. Brazil is the world leader in citrus production, and in the past has been able, and undoubtedly in the future will be able, to flood the market with citrus orange concentrate. Apparently its production methods are well in advance of Australia's production methods in many ways, yet we give Brazil developing country status. Other countries such as Turkey, Argentina, Mexico and Chile have important horticultural industries, not necessarily citrus industries, which affect the Riverland, in such areas as dried fruit production and the like. Another problem has been the continuing reduction in tariff protection in relation to orange juice from Brazil. It is anticipated that the level will reduce to 10 per cent in 1992, if my memory serves me correctly. I will refer to statistics in more detail later.

The fact that we have to lower our protection levels is acknowledged if we want to remain competitive on the world market, but at what cost, and when should it be done? It was extremely distressing to the growers that the Federal Government was determined to press ahead with tariff reduction at a time when growers were having to walk off their land. It seemed the most inappropriate time for such action to occur. I well remember attending an Australian Citrus Growers Association meeting in Adelaide last year when it was pointed out clearly that, if we are to have an across the board tariff reduction, if we are to have the abolition of minimum prices, and if we are to have deregulation of the citrus industry and the horticultural industry generally, let us have full deregulation.

The question was asked: why should growers not be able to bring in their own labour supply? It was said that they should be able to bring in employees from outside this country, for example from Asia, whose pay rates would be far, far lower than those which obtain here. Whilst it was said, I guess, in a sense with tongue in cheek—and it is realised that that will not occur in reality—at the same time I felt that the organisation hit the nail right on the head. Our labour costs are so high; our labour market is protected; in its own way it has tariff protection and is looked after by the unions and by the Government so that no-one can touch it.

**The Hon. Ted Chapman:** And the Industrial Court.

**Mr MEIER:** Indeed, as the member for Alexandra says, and by the Industrial Court. That is where our rural protection is centred. That is where the real tariff issue comes to the fore. Unless we tackle that, it is wrong, in my opinion, to try to lower tariffs, with growers having to walk off their land as a result and, of course, more importantly, employees not being able to get work in the Riverland, because in the end it is the employees who are affected just as much as the employers.

I guess we could refer to a classic case that has only occurred in the last six months or so. The SPC canning operation interstate had a big blow-up with its employees towards the end of last year and told its employees, 'If you want to continue processing fruit in this country, you're going to have to take cuts somewhere.' You will remember, Mr Deputy Speaker, that there were strikes, and the canning operation closed for a period, but what happened in the end? Thank goodness, commonsense did prevail, negotiations occurred and a new agreement was drawn up. What we would refer to as an enterprise agreement was drawn up with SPC cannery—

**An honourable member:** It was with the unions.

**Mr MEIER:** —and the unions, exactly—to enable a restructured set of conditions to apply. The old conditions, which were bringing that cannery to its knees, were no longer to apply. How effective have the new arrangements been? How effective has that enterprise agreement with SPC and its employees been? Only the other day I was informed that SPC has seen a productivity increase of 47 per cent—a 47 per cent increase in productivity since that new agreement! What does that mean in real terms? It means that if we had had a 47 per cent tariff protection for that industry we could have cut the tariff by 47 per cent and the company would have been in exactly the same situation as it was before that enterprise agreement was drawn up with its employees. That is the way we have to go if we want to see competition coming back into this country, to ensure that Australia again becomes a viable manufacturing centre, that we can produce goods as we should be able to do, but that we do not do so at the expense of protection of employees.

Only the other week, in a completely different scenario, I was advised of a case of a surveying firm telling its surveyors—I think somewhere between 20 and 30 were employed—that either 20 per cent of the staff would be lost or the employees could take a 20 per cent pay cut. Do you know what the employees chose? They chose a 20 per cent pay cut. That was a few weeks ago. It shows quite clearly that this country, in many areas, has been living beyond its means.

So, the citrus industry is in a situation where it needs help to get out of its current crisis. Presently, the price of

citrus juice, or the price for processed oranges, has improved marginally on what it was towards the end of last year. That is perhaps why we have not seen the same rallies occurring, but it is only marginally better. It is simply keeping the people afloat for a while longer. The real issue comes back to the fact that Brazil, when it sees the opportunity, will flood us again with orange concentrate. In fact, there have been rumours in the past few weeks that a tanker was in our waters, or headed towards our waters, and could easily disrupt our processing operations.

This Bill, which gives the board considerable new powers, provides for the establishment of a new, restructured Citrus Board to organise and develop the citrus industry and the marketing of citrus fruit, to reregulate the movement of citrus fruit from growers to wholesalers, set grade and quality standards for fruit, for powers to be used to set prices and terms of payment for processing fruit in the event of market failure, and to increase the flow of production and marketing information throughout the industry. I believe that those provisions should see the Citrus Board and the industry advance in a much more positive fashion. We will see in Committee details of how this will work, and I am quite happy to wait until that time.

It is interesting to note, though, that there has been a significant change in the way the board is established and it will no longer be elected by the growers but is to be selected through a selection committee. I must admit that I did expect the growers might object to such a change, but it appears that they are quite happy to give it a go. In the press release that I read out earlier, we saw that it was felt that, if a compromise situation was not arrived at and an appropriate Bill was not forthcoming, it would be necessary to go to the people: in other words, to have a poll of the growers. That has not been necessary, thanks to appropriate discussions occurring. I will give the Minister full acknowledgement in that respect and indicate that he has been good enough to listen to what the people have had to say. He has changed his emphasis from the initial statements, and it augurs well for the future of the industry.

In connection with citrus production in this State, it is interesting to note how things have changed over time. Citrus production in South Australia increased from some 34 000 tonnes in 1960 to 89 000 tonnes in 1968. Since then annual production has more than doubled to over 200 000 tonnes. That, of course, is part of the reason why problems are increasing. Hopefully, we can go on *ad infinitum* with new citrus plantations, but I question it very much. In fact, at present we are seeing not only a stabilising of the number of plantations but actually a decrease in production.

We note how citrus has become a more important industry in this State and, I guess, in Australia as a whole. I am never convinced of the argument put forward by some people to the effect that, 'Citrus is such a small industry in this country, can we afford to give it appropriate protection, and wouldn't it be better to let countries that can do it on a larger scale do so?' I will never adhere to that argument. I believe that we in this State and this country should seek to promote and develop every possible enterprise that we can and, given the appropriate conditions, we can do just that.

It should also be noted that the industry comprises approximately 950 properties, covering 8 000 hectares, with over two million citrus trees. There has been a trend in recent years involving the amalgamation of properties and higher density plantings, although the total area of citrus orchards has not changed markedly over the last decade. Industry estimates, based on numbers of young trees not in production, indicate that production will increase in South Australia by 22 per cent between 1988 and 1993.

This will result from increased yields following changes in cultural practices and greater production per hectare with closer plantings. As I said a little earlier, it is questionable whether that 22 per cent increase will eventuate because of the current rural conditions. Nevertheless, let us hope that at the very least we are stabilising and not going backwards.

When we consider that so much of our citrus production is orientated towards the juice market, we recognise only too well that we are at the mercy of other concentrate-producing countries. In that respect, it is very pleasing to see in this Bill that there is to be more emphasis on fresh fruit and the development of that fruit. In his second reading explanation, the Minister stated:

> The board will have the challenging task of guiding the industry in its adjustment from being predominantly oriented to the production of fruit for processing to more emphasis on producing a high quality product for fresh consumption in our domestic and export markets. It will be well placed to cooperate with the Australian Horticultural Corporation in the development of markets and to ensure that initiatives taken in South Australia are coordinated with those taken in other States and by the corporation. The Bill provides for the board to determine and set the standards for production, packing and marketing of high quality fruit in South Australia to meet the requirements of new markets such as in Japan and the USA.

That is to be applauded; it is great to see that emphasis. In my opinion and in the Opposition's opinion, that is the way to go. There is no doubt that we have to work flat out at getting and maintaining high quality. Having been through some packing sheds, I believe that Australia can hold its head up very high and I am sure that we will hear other details about the citrus industry from the member for Chaffey. There would be no person better qualified and better equipped than the honourable member to comment on this piece of legislation, seeing that he lives and breathes the air of the citrus industry and of the Riverland as a whole.

I compliment the Minister for realising that it is essential that initiatives taken in South Australia are coordinated with those taken in other States. Along with the retention of the minimum price setting mechanism, that is one of the key issues because, as the Minister and other members would know, the other States did not follow this line until fairly recently, and apparently it came out as a result of discussions between the States that a more coordinated approach was necessary. I well remember that at last year's AGM, to which I referred earlier, the South Australian sector was so disappointed and discouraged that it looked as though we would be the odd ones out and there would be little use in a tri-State agreement. Once again, this Bill will ensure that we are heading in the right direction and, the closer the cooperation between South Australia, Victoria and New South Wales, the better it will be not only for Australia as a whole but most importantly for South Australia. After all, that is what we are here to promote to the nth degree.

I have already mentioned orderly marketing. The licensing of packers, wholesalers and processors probably does not change a great deal but there is no doubt that it is necessary to keep a close watch over those bodies so that the appropriate standards are maintained. Those organisations that do not cooperate or do not adhere to the standards that are set will disappear. They will not be able to exist. This controlling body will also ensure to some extent that there is not a glut in any one area. I hope that will be the case although, as a believer in free market forces within ordinary limits, I do not feel that we should impose unnecessary conditions in relation to the licensing procedures.

Finally, I should like to look at two or three areas that will be highlighted later. It is interesting to note the setting up of a panel which, through the Minister, will eventuate in a selection committee, which in turn will appoint a board. When I first saw this provision, I thought it was going the long way round to achieve a board, and it has its drawbacks. For a start, a person cannot be a member of both the selection committee and the board. From my discussions with the three groups representing this area, I can see that they are all intent on getting good people onto the panel which, in turn, will see the selection committee appointed, so A1 people will be sought for those positions. We all realise that it is imperative to have the best people possible on this seven member board. Therefore, I hope there will not be a problem with people wanting to get on the selection committee, but then realising that they cannot get onto the board. I guess that we will find out shortly how successfully it works.

Likewise, my comments apply to the issuing of permits to growers to sell by retail. The Minister would know only too well the extent to which this issue flared last year at a time when the Riverland was starting to suffer its severe recession. Many growers said, 'Please let us sell to the public in the metropolitan area at the very least.' I believe the Minister and the board did the right thing in giving it a trial period, because why should we restrict where and how people can sell their produce? I am pleased this measure has been included in the legislation, but I recognise that it has to be policed carefully and effectively, otherwise the growers—the sellers—could ruin their own future. It is most important that they do not take advantage of the situation and expand their operations to an extent that was never considered to be included.

As members would be aware, on occasions at roadside stalls, not only is citrus fruit offered for sale but also carrots and lettuces, etc. I do not believe that this legislation can control that. That is a matter for local government to control, and most have been policing these stalls effectively. This Bill provides that the customer can ensure the quantity and quality of the goods being offered. On several occasions I have bought oranges and I must admit that I have been satisfied in all but one case, and that disappointment sticks in the back of my mind and makes me a little wary of stopping next time. However, in the main, the quality has been there, and I assume that the quantity was there, although I did not check to see whether that was the case. I know that other members on this side want to make a contribution—

**The Hon. T.H. Hemmings:** And on the Government side.

**Mr MEIER:** That is very pleasing to hear. As I stated at the beginning, the Opposition is pleased to support this legislation.

**The Hon. P.B. ARNOLD (Chaffey):** A stable environment is probably the key to this whole business. We have seen industry after industry, whether it be the citrus, wine grape, or any other industry (particularly in the horticultural region, which has an enormous establishment cost), flounder through lack of a stable environment in which to live and operate. We have seen this so many times that we wonder when on earth it will stop. The truth of the matter is that this legislation will not solve the problem in South Australia. Many of the problems encountered in our horticultural industries are the subject of action in the Federal arena.

The paper that was put forward by the Government over the past year or so has been an exercise of some value. We can quote numerous other examples where the Government has put forward white papers in relation to other industries where it has no intention whatsoever of accepting the recommendations or views of the public or members of the community involved in the industry concerned. The public at large and the various industries tend to become somewhat cynical when green papers and white papers are put forward for discussion. In this instance, a great deal of agreement has been achieved as a result of that process. The member for Goyder largely explained the attitude of the Liberal Party in relation to this Bill and covered the role of the board, the constitution of the board, the manner in which the board will be selected, the establishment of a selection committee to make recommendations to the Minister, and so on; he also referred to key elements that were of significant discussion at the time of the white paper, such as the retention of a minimum price.

I would like to discuss problems with which we are confronted and which are not within the control of this Parliament, that is, the action of the Federal Government in relation to tariffs, dumping and truth in labelling. A Parliament has certain powers in relation to truth in labelling. Unfortunately, regulations introduced into this Parliament relating to labelling laws in this State have really been watered down somewhat on the views that were expressed last year at the time of the demonstrations on the steps of Parliament House. This has occurred for one reason or another. The public must realise and appreciate that members of Parliament have two options in relation to regulations that are introduced into Parliament: they can either accept them or reject them.

The regulations that have been introduced do improve the situation, but they certainly do not go as far as the statements and commitments that were given at that time. Members are in the difficult situation of not being able to amend the regulations to tighten them up: they can only accept them or reject them. Consequently, I have no alternative but to accept them, even though they do not go as far as we would like. We are hoping that, in the Federal arena, the Minister responsible will bring in Federal regulations that will be in line with the commitments that were given at that time.

I refer to the annual report of last year of the Australian Citrus Growers Federation, in which the President made a number of points in relation to tariffs. In part, the President said:

> USA does not recognise Brazil as a developing country with regard to citrus products.

That is an interesting point because the Australian Government recognises Brazil as a developing country. Tariff advantages are afforded to that country by the Australian Government because of its so-called developing country status. The reality is—and everyone knows it—that Brazil is by far the largest citrus producing nation in the world. We have only to look at the overall world production figures to find that Brazil alone produces 26.66 per cent of the world's citrus. The United States produces 24.19 per cent and Australia produces 1.26 per cent, so we must realise and accept that we have no impact on the world scene whatsoever.

It might be of interest to members to realise that a country such as Japan—and many Australians would be of the view that it did not produce any citrus at all—produces 5.44 per cent of the world's production. So, it produces almost five times as much citrus than Australia. Whether it be citrus or other products, at times we tend to believe that we have an influence on the world scene. Further, the President states:

> Countervailing duties are another course of action open to industries believing they are at a disadvantage from unfair trading practices. Whilst I believe the Australian Citrus Growers Feder-

ation is very good at investigations, it is far beyond our power or resources to properly ascertain such data, even though we may suspect it to be true.

That is one of the very real problems in relation to dumping. Just recently before the Senate committee on this subject I supported strongly the view that the Federal Government should look closely at the reverse onus of proof approach to dumping.

If we are confronted with 240 days to get a hearing, any country has the ability to dump whatever they like in that period. It can be argued that the reverse onus of proof approach could be used in a manner which would totally disadvantage exporting countries. However, safeguards could be built into that approach whereby, in the event of a hearing concluding that there was no dumping on the part of the country concerned, the appropriate recompense could be made to that country. The way things are going at the moment, with the manner in which the Federal Government operates in this country, and the speed of transport today, frozen concentrate orange juice could be brought into this country in large quantities in a short period, which could result in a 12 month or two-year supply of frozen concentrate on hand.

The anti-dumping mechanisms that exist in this country now are totally inadequate. I only hope that the Senate select committee will come to some conclusions and make recommendations to the Federal Government that will improve this situation dramatically. So long as we have this unstable environment, particularly in the horticultural industries, we will never see the development of those industries to a worthwhile size on the world scene.

As I have stated, Australia produces only 1.26 per cent of the world's citrus. We have the climate, soils, water and everything required in this country to be a major producer of many agricultural and horticultural products but, unless there is a stable environment in which producers can feel confident to expand, develop and invest, our industries in agriculture and horticulture will never get off the ground to any real extent. One need only look at the percentage of the world market that we command in many of these products to see that we are only infants on the world scene.

The scene will not change. Erratic policies have come out of successive Federal Governments over the years, and that has been to the detriment of the whole of Australia. We will never have stable horticultural industries in Australia until such time as a major proportion of our production is exported. If we are confined to trying to produce for only our own needs, such industries will remain extremely unstable. It is the policies that the Federal Government has adopted over the years in respect of taxes, excises and tariffs that have created a situation where horticulturalists cannot run the risk of investing in the wine-grapegrowing industry and the citrus industry, to name but two. In the case of wine grapes, we are talking about an investment of $15 000 an acre (or more than $30 000 a hectare) to bring wine grapes into production.

When one talks about loss of production for three years, the root stock cost, water rates and so forth, including the costs of posts and wire, one soon runs up a figure like $30 000 a hectare before the land is in production. With citrus, a crop that takes even longer to get into full production, the costs would be even higher again. One could not expect any primary producer to invest that sort of money, given the situation that has existed in Australia for the past 20 or 30 years. If producers have any money, they will put it elsewhere. That is a tragedy, because Australia is ideally suited to producing most of the major horticultural crops consumed around the world, yet in most instances we are on the bottom rung of world production. We find countries much smaller than Australia operating under much more difficult conditions than we do and being producers many times greater than the the size of Australia. That in itself must speak for something.

I support the legislation. As I said, I support the remarks of the member for Goyder, who has covered most aspects of the Bill. It is very much up to the Ministers of Agriculture in the States concerned to do battle with the Federal Government, whomever the Federal Government might be, because we will never have stable horticultural industries—whether it is citrus or anything else—unless we can get some commonsense out of the Federal Government in respect of tariffs and dumping. Certainly, I support the concept of phasing out tariffs so long as they are phased out around the world on an even scale.

However, when any Government suggests that we phase out all of the protections in Australia when the US and other countries still maintain significant tariff barriers against offshore production in Brazil going to the US and upsetting its producers in Florida and California, and when we look at the size of Australia and our production and think that we will have an impact on making America change its mind, the whole situation is just a joke. It is about time that the Federal Government woke up to itself. As I said, it is not just an attitude that has existed with the present Federal Government: it is a problem that we have seen in Australia under successive Federal Governments over a long period. I hope that the Minister of Agriculture, along with his colleagues in Victoria and New South Wales, will try to have some impact on their Federal colleague in Canberra. I support the Bill.

**Mr GUNN (Eyre):** I do not want to take up a great deal of the House's time, but I want to support strongly the remarks of my colleagues the members for Goyder and Chaffey, particularly the member for Chaffey, who has had wide experience and knowledge in this area. I want to address one or two matters that affect not only the citrus industry but other industries. This legislation is important to the future operations of the citrus industry, and let me say from the outset that I support strongly orderly marketing of primary products. I strongly support the ability of those industries to have the protection of guaranteed prices. Certainly, I have no difficulty with the Government's giving special assistance or protection to that or any other section of agriculture.

I want to follow up what the member for Chaffey has said. I refer to the nonsense policies currently emanating from those so-called enlightened people in Canberra. They advocate that we should take down the barriers in this country. The question I would ask is: what do such people think we will do with all the unemployed Australians, whether it is in the citrus or wheat industries?

*The Hon. Jennifer Cashmore interjecting:*

**Mr GUNN:** Or the motor vehicle industry, as my colleague the member for Coles rightly points out. It is all very well to have this pure and holy policy, which some of these people advocate, but at the end of the day the Australian Government has a responsibility to look after the citizens of this country. That is why we are elected to Parliament. I, for one, will not be party to the nonsense and economic theory that many of these people might have learned at university or other places specialising in theoretical knowledge. Unfortunately, in reality such ideas are not practical or in the interests of those industries. The member for Chaffey to his credit, since he has been in this House, has strongly supported the citrus and other industries in his part

of the world and he has indicated how detrimental some of these ill thought out policies have been.

For many years other sectors of the agriculture industry have escaped these difficulties and not been affected. Unfortunately, they are all involved now. All sectors of agriculture are seeing the impact of this broad brush approach that has been inflicted on the nation as a whole. Therefore, I hope sincerely that this Minister will stand up strongly to those people who want to throw open our industries to unfair competition, whether it be the United States or anywhere else. Our own producers should come first. Nowhere else in the world do Governments so foolishly remove barriers and expose their own producers to the sorts of exposure that the member for Chaffey's constituents have had to put up with.

Those people are facing economic ruin, as are most rural producers across the nation. We have had a clear example of this free trade deregulation nonsense with the banking industry. The only people who have benefited have been a few wheelers and dealers, most of them scoundrels and villains, who have defrauded the people who have lent them money; the rest of us are now paying for it and, at this stage, I do not believe there has been any real benefit to the nation as a whole. There have certainly been no benefits to my constituents: they have had their pockets plundered. The homeowners have had their pockets plundered; and the honourable member's constituents, many of whom like my constituents, are being driven off their farms.

So, in my view, legislation of this nature is very important. I am concerned that the method of the election of the board has been changed. That is not only unfortunate but unwise and unnecessary. On another occasion we will have a real debate in this House. The Minister will lose it upstairs if he persists with that nonsense that the UF&S has been putting to him, because it certainly does not have growers' support. It is an unwise way to select people because, in my view, certain people see themselves as future board members who could not win a ballot amongst growers. That is the reason, and I do not think that is a wise course. However, if the growers in that area have not objected to it, I will not object by way of calling for a division on the clause. Let me say that, on another occasion, the Minister will lose a bit of time when he tries to bring it on.

In relation to nearly every other Bill that has come before the House, I have gone to the trouble of providing protection in terms of the responsibilities for inspectors. I am sorry to see that that has not been provided in this legislation. I suggest that the Minister insert that provision. I would have thought that, at this stage, the Government would accept that it is necessary to reverse the conditions regarding inspectors as well. I do not intend to move that provision, because this legislation does not actually affect my constituents, but I believe that I should make those comments, because I am particularly concerned that all sections of agriculture and commerce in this country are given sufficient protection to guarantee their survival. In my judgment, orderly marketing and the operation of statutory marketing boards in this country have basically served the producers and the nation very well.

On occasion there have been one or two problems, but I do not believe that the problems in the wool industry are any reason or excuse why we should not continue to support these marketing authorities. I agree that they should come under scrutiny and examination on a regular basis, but I do not believe that the abolition of the Potato Board has benefited growers; I do not believe that it has benefited the consumers; but I believe that the quality has dropped. With a marketing authority of this nature, we can guarantee quality and ensure, wherever possible, a high quality product on the market. That is why, under tremendous pressure, the Australian Wheat Board has always been able to have a fair share of the market—because it can guarantee a high quality product. That is very important, particularly in terms of international commodity arrangements.

I firmly believe that Governments should take heed of the remarks made consistently by the member for Chaffey, because I do not believe that the average Australian wants to see the citrus industry, or any other industry, destroyed by unfair, unreasonable competition from other parts of the world. I am appalled at what has taken place across Australia, and I am also appalled that the Commonwealth Government still appears to be going down the track whereby we must be the pacesetters in deregulating and taking away protection from our industries. I do not believe that that is in our long-term best interest or that it will solve our problems. Recently I attended the 40th Westminster Seminar in the United Kingdom, where I had the opportunity to sit next to two members of the Canadian Federal Parliament who explained to me in great detail how their Government had just provided about $1 000 million to support their wheat industry. Obviously, they were doing that for other industries in Canada. Therefore, if they are going to do it, we have a responsibility to do it.

In conclusion, I do not believe that we should act in a manner that will throw thousands of Australians out of jobs, whether it be people employed in the motor car or the footwear industries, or in the citrus or the grain industries. I therefore support the Bill.

**The Hon. JENNIFER CASHMORE (Coles):** I support the Bill and commend the remarks of my colleagues, particularly those of the member for Chaffey who represents the area in which citrus is grown. My colleagues from rural electorates invariably speak on Bills relating to marketing boards and authorities because of the interest of their constituents. As a member representing a city electorate I have tended to speak on such Bills from the viewpoint of a consumer and I believe that my approach and that of the Liberals to marketing boards is, unlike that of the Labor Party, a consistent one. I contrast the Minister's second reading explanation on this Bill to establish the Citrus Board with the approach of his colleague and predecessor as Minister of Agriculture on the repeal of the Potato Board legislation.

I can only endorse the remarks of the member for Eyre that my predictions at the time of that debate have certainly been fulfilled. The price of potatoes has gone up whilst the quality has deteriorated markedly. It is extremely annoying week after week, to go to the greengrocer and see these wrinkled geriatric objects, filled with eyes, which are supposed to represent a quality potato but which sprout furiously when taken home. They must be kept in the refrigerator, which is no place for a raw potato, if they are not to deteriorate quickly indeed.

The debate on the Potato Board, which is relevant to this Bill by way of a contrast with the Minister's second reading explanation on this Bill, saw the Government deriding what was described at that time as the Liberal Party's anti-deregulation stance. The Government was supposed to be engaged in deregulation and allegedly fulfilling Liberal policy. I point out that the philosophy of liberalism is based fundamentally on the need to distribute power so that no undue amount of power, whether political, economic or personal, resides in any one sector of the community. That is essentially the purpose of marketing boards: to ensure that the economic power of the growers and producers is not overridden by

monopolies and that each producer has a relatively fair chance of getting a fair price for his or her produce. That is why the Liberal Party is consistent in its support for the philosophy of orderly marketing, recognising that it needs to be undertaken with reasonable guidelines and under continuous scrutiny.

I warmly support the remarks of the member for Chaffey and the member for Eyre on tariffs. I refer to page 4 of the Government's white paper on citrus marketing, the comments wherein were repeated in the Minister's second reading explanation as follows:

> Tariff protection to the Australian industry is being phased down and anti-dumping protection has been invoked against imports of frozen concentrated orange juice from Brasil.

There is little point in anti-dumping protection that is not effective in a practical sense because it takes so long to invoke; the produce is on the market at a cheap price in Australia before the relevant legislation can be put into effect. It annoys me intensely to find extremely cheap products—be they citrus, dried apricots or any other perishable consumer primary product—in retail outlets at a much lower price than the Australian product and invariably of a much inferior quality. I am thinking particularly of the Turkish dried apricots that I see in my own greengrocer's shop. They look like a bunch of dried up earlobes.

**The Hon. E.R. Goldsworthy:** What do they taste like?

**The Hon. JENNIFER CASHMORE:** I do not buy them, so I cannot answer the honourable member's question. I refuse to buy them on principle and I cannot see why the Government permits them to be dumped in this country thereby putting our own producers at risk.

In that regard I refer members to some remarks in the *Weekend Australian* of 23/24 March this year by B.A. Santamaria in his column under the heading 'The secret rulers who are ruining us'. He was referring to the economists employed as public servants by the Government who largely determine policy. He states:

> A strong theoretical argument can be made for the progressive elimination of tariffs. In practice, however, Australian's excessively high labour unit costs—when compared with the rest of the world—will ensure that the abolition of tariffs will lead to the practical elimination of the greater part of our manufacturing industy, and consequent further unemployment.

To that one could add 'to the practical elimination of parts of not only our manufacturing industry but also our primary industry'. I do not believe that we want that. It does not strengthen this country but rather weakens it. None of us are arguing for a system of protection that is punitive to Australian citizens in any one group through the benefits that are given to any other group, but we do argue that we must protect our own industries against the demonstrably corrupt practices of other countries in subsidising their primary produce and indeed their manufactured goods.

I specifically support the provisions of the Bill that refer to the role of the board, that is, the maintenance of a register of growers, process and volume retailers and the collection of statistical returns to ensure that this information and similar information about Australian and world production and marketing is regularly received by growers. An individual citrus grower is in no position to make judgments about future plantings unless that grower is aware of State, national and world trends. The most practical and effective way that that information can be coordinated and disseminated is through a marketing board.

The board's requirement to develop a rolling five year plan and present it to industry meetings is a very worthwhile one and I hope that that plan is formulated in close consultation with producers and converters. The board's role in assisting South Australian exporters to work together for generic promotion and coordinated marketing in export markets is another extremely important, in fact critical, role for the industry. Having spoken to the Minister and having heard him speak in public, I believe that he is of the same opinion.

Page 6 of the white paper refers to the need to achieve the quality standards and commercial performance required for fresh fruit marketing in export markets in South-East Asia, Japan, North America, the Middle East and Europe. One only has to go into those markets as a consumer to see that, if our produce is not delivered on time and in perfect condition, it suffers and there will be no repeat orders. Consumers in those markets are highly discriminatory and determined to obtain value for money. The board's function in advising, informing and educating growers on how to achieve and maintain quality in export markets would obviously be a critical one and one that very few growers could fulfil on their own behalf. I support the Bill.

**Mr LEWIS (Murray-Mallee):** The current debate being undertaken nationally at present on the necessity for tariffs and/or other protections for a variety of industries in Australia could have been avoided had Governments of more recent standing recognised the need for an honest approach to basic fundamental policy in this country as it relates to the cost of producing goods here compared with that of our trading partners.

What we need to remember is that, as South Australia is to Australia, Australia is to the rest of the world. Once we have finished producing something here and have prepared it for sale, we still have a substantial freight cost disadvantage to get the goods from their point of production to their point of sale. With that in mind, labour costs ought to be the first point addressed by any Federal Government in trying to get it right.

Given that we have a freight disadvantage at present, and given that we are in a parlous position with respect to our balance of trade figures, we have to review the cost of labour as an input, not just the hourly cost of work done but the hourly cost with all on-costs added to it, to ensure that we can compete and continue to survive. If we continue the way we are with the citrus industry, or any other industry, we will not only lose those industries but we will collapse as a nation. Therefore, it is important for us to address our problems in our labour market and get rid of the inelasticities and make it possible for people to be paid what the world is prepared to pay for that labour, inferred by the price they are prepared to pay for the goods and services produced by that labour, and to correct the kilter in the costs of labour between one sector and another, where it is out of kilter at present.

There is far too much spending power and far too much consumption demand taken up in the economy from people in the service industries. Far too little has been left as it has been whittled away from them by those employed in export industries and by those who could be employed in import substitution industries. The other fundamental problem involves the dirty flow, being the consequence of a policy of high interest rates, which bring in hot cash from all around the world, chasing the high interest rate, buying up our dollar and driving up its value against other world currencies. It ought to be allowed to fall and, indeed, it ought to be managed to fall, not too quickly because that will be too inflationary and stoke up too much demand.

In the first instance we need to address the labour market cost problem, then let interest rates find their own level and get the Reserve Bank out of the market where it presently operates at the direction of the Federal Treasurer, the one

we do not need who has given us the recession he said we had to have. By that mechanism, the cost of our goods to our overseas customers will fall because, if the cost of our production falls in terms of their currencies, we will be able to sell in competition with our competitors on the international market much more easily than now, and we will not need a subsidy. The value of our dollar will go down. That means that prices for our produce at the farm gate and factory door, when we export them, will go up. They will go up because the price which can be paid by overseas buyers in their own currency remains the same. We will get more Australian dollars for our exports.

Moreover, compared to imports, our import substitution industries will also become more viable. The other benefit of allowing this process to occur is that the reduced interest rates in the money market will enable our export industries to recapitalise and improve their equipment and technologies, based on their export income. That will make them even more efficient and capable of sustaining their competitive positions for a far greater time into the future and enable them to take decisions with greater confidence about the future, knowing that they have then achieved an advanced state of technology comparable with the rest of their competitors in the international market.

Here we have an industry that desperately needs some honest and sane economic management, just like any other rural industry in Australia. In this instance, it suffers in consequence of the unfair competition it gets on its playing field from subsidised production overseas, and no tariff protection from those imports that presently destroy the market for the goods it has produced. Indeed, it was the local growers who took the stand of developing the industry and the demand for the commodity here. They met the cost of market development, albeit their organisations established by statute, such as the board. That was to our benefit, not only because we were able to obtain more wholesome food locally but also because it was a value-added industry which was able to use up fruit which otherwise appeared imperfect and incapable of sale at prices which would make the production cycle profitable.

To engage in citrus production is not just to produce fruit all of which is 100 per cent perfect, both in substance and appearance—that is just not possible in the nature of things. You can do your best, but you will always end up with some uglies, no matter what it is you are producing. Such fruit can be juiced or otherwise processed, and that would mean that any need for subsidy or tariff, as is the case in this industry now, would be addressed by the simple, sane economic policies of allowing market forces to take their way. However, you cannot establish a tree that produces oranges in 12 months. It is a longer cycle in production than most things for that and other reasons, including the higher cost of capital equipment and the very low capital to turnover ratio in the industry.

We need to keep the industry in check. Therefore, some short run variations have to be made now because we have a Government in Canberra which is stupid and unable to address the hard decisions that have to be addressed in the labour market and which is unable to address problems involving transport and the waterfront. It is unfortunate that the present Government finds itself paralysed when it comes to addressing those hard issues and it has stayed well beyond the term it should have been there—if it ought ever to have been there, anyway.

This Minister deserves a measure of commendation, the like of which I have given him before and I am sure will give him again, none the least because he seems to be able to get his colleagues to understand things—not as well or as clearly as we on this side of the Chamber would like, but at least he seems to go in the right direction more often than not. He does a good job of defending their inanities to the public arena, and to that extent he deserves commendation.

The Government, on the other hand, while the Minister deserves commendation, equally deserves condemnation. I am not getting into that, although other members have drawn attention to it. The Bill enables us to provide a structure for the continued so-called orderly marketing of our produce within the framework of the euphemistically described deregulated marketing arrangements. The Labor Party has put together a real hotch-potch of marketing arrangements for rural commodities, or indeed any commodity, in recent years. Those things have reregulated in a different way many of the markets that the Party in Government has claimed that it has deregulated. They have simply changed the kind of regulation; while claiming it to be deregulation, they have merely rearranged those controls.

In relation to the membership of the board, I trust that the Government and the industry will remember that not all citrus growers live and, in fact, produce their crops upstream from Morgan. I acknowledge the importance of the constituents of the member for Chaffey and the good work he does on their behalf to ensure that their interests are protected and well represented. The speech he made on this measure earlier today demonstrates that point. However, there are citrus growers elsewhere, a good number of them in the electorate that I have the honour and responsibility to represent, to be found particularly at Greenways, Nildottie and in the Mypolonga irrigation area.

Because of their earlier closer proximity to the Adelaide market, they have been specialist producers of not just citrus but other commodities; and, in addition, they have produced citrus for the market in forms—packaging and the like—which more readily meet the needs of the niche markets that are offering. These must not be overlooked. Their interests, attitudes and approaches must not be overlooked in determining the policy to be recommended by the industry for legislation and other types of Government assistance, whether it involves extension through the Department of Agriculture, and so on. Presently, they feel somewhat alienated from that entire process.

Too often in the past industries like the citrus industry have sought to make recommendations which are least painful to all their members, something about which they can all agree. So, they cobble together a consensus view of what can be done to retain the existing positions, with least possible disturbance, applying bandaids wherever it seems appropriate to hold them together, without addressing the fundamental malaise. They could have done that in the past on two fronts. They could have looked at it dispassionately and objectively, as though they were creating afresh the industry and its marketing approach from the ground up, and done that exercise without regard for the particular positions which they might seek to protect, their sacred cows.

Whether that might have been for parochial reasons in terms of geographic location or involvement in the industry is beside the point; it has been nonetheless parochial—packers as against processors, packers as against growers, and so on; or people in Renmark as growers, against other growers further downstream. That has all too often been the obvious approach the industry has taken in arriving at a position it has sought to advocate, whereas it would have done itself and the market a greater service if, as I have suggested, the people concerned had thought afresh, as though there was no existing industry and they were building a new

one from the ground up. They might have come up with some models of management for the different functions within the industry that would have served its interests much better in the longer term.

Altogether, then, I support the position that has been taken by the Opposition and I wish the industry well. I will not say I hope things get better, because I know 'hope' is not a method. However, we need the best goodwill in the world for the industry to continue functioning as an industry, speaking as it does, more so now than at other times perhaps, with one voice. The tin cans have had their day, and a more rational and reasoned opinion seems to be coming from the industry at present, and will have to continue to come from it if it is to retain its cohesion while we await the opportunity of dispatching, particularly the Labor Government in Canberra, under the leadership of Prime Minister Hawke and Treasurer Keating, to the history books where it belongs. The sooner the better, but not soon enough for this industry to avoid some additional, unnecessary pain before it succeeds.

**The Hon. LYNN ARNOLD (Minister of Agriculture):** I thank members opposite for their contributions to the debate this afternoon, and I certainly note with interest a number of the comments they have made about not only the citrus industry but various industries in South Australia and their relationship to international trade.

I have on many occasions expressed my personal view that what we are dealing with in the international arena is not a desire to seek a free trading environment but, rather, a fair trading environment, and that to have a level playing field concept and be besotted with that while looking in the face of massive subsidies from the European and American Governments, as well as other non-free market activities by many other countries, is to be myopic.

I saw in a recent edition of a country newspaper a reference to a leading official of the American Embassy who was reported as saying that subsidies benefit Australian agriculture. I do not have the article with me at the moment, so the figures I quote may well not be those contained in that article, but as I recall he said that Australian agriculture benefited to the tune of $US1 billion a year from subsidies. In relation to American agriculture, he said that there had been a reduction in subsidies from $US10 billion to $US6 billion, and that European Governments paid $US48 billion in subsidies for their agriculture.

I have little doubt that the European figure is probably a correct reporting. I would have some question marks over the US figures reported in the newspaper article, and I certainly have some question marks over the Australian figure quoted. I do, of course, acknowledge that there is an arrangement whereby I guess we can effectively say that support for dairy industry exports is a *de facto* subsidy situation, but I really cannot think of any other example quite like that in Australian commodities, except by the most creative interpretation of the mechanisms we may have. I say the 'most creative interpretation', because there have been those who have interpreted the floor price scheme for wool as a subsidy situation. Of course, in its decline, in its final demise, it has effectively become such, as the taxpayer has paid a cost (until 30 June this year) involving the difference between a 700c price, less tax, and the price actually achieved in the marketplace. However, the whole emphasis of the floor price scheme for wool, from its inception in the early 1970s, effectively until about 1987 when the scheme went very severely haywire, was not a subsidy scheme at all.

It was simply a very sensible marketing arrangement, the like of which is seen in many other commodities in many other countries without accusation of a subsidy element being thrown against them. Having read the article in the country newspaper, I am in the process of writing to this American official, saying that I am intrigued by his comments and asking him for clarification of the remarks attributed to him. Certainly I would like some evidence of the figures that he used because it is important that, if we are to make any progress in this international debate, we have to continue to stand up for the fact that Australia has played a very credible part in the international trading arena.

Australia has not sought to commit the marketing outrages that are committed by other countries. What we have been talking about in some industries are, more than anything, reactive responses to marketing outrages that take place in other arenas. The fact that there is any debate at all on the need for a base price in the wheat industry is precisely because it is a reactive response to an international situation. The fact that there is any talk at all of a minimum price in the citrus industry is a reactive response.

It is fitting that I return to the legislation before the House. I note that, in substance, the Bill is to be supported by the Opposition, although there is an amendment on file to be dealt with at the Committee stage. However, I want to make some comments on the points that have been made by members opposite. First, the shadow Minister made the comment that we must promote every industry we can. I do not want to be extreme in my interpretation of his comments, but it sounded to me as though he was saying that any industry that has been established should be supported, just by virtue of its establishment. I suspect that, if he did say that and he then thought the issue through, he would understand that that could not be the case, but he may not have meant what I heard.

Not every industry in this country can be sustained and, even if it is established, that does not mean that it should be supported artificially to survive. There are some things that this country and, indeed, this State do very well, but it would be ludicrous for us to believe that, because someone sought to plant pineapple plantations near Mount Gambier, come what may we should do what we can to support that venture. Logic must be taken into account. The honourable member exhibits a degree of frustration by his nonverbal comments but it is a point worth making because, putting aside the European and American marketing outrages, one of the problems faced by the wheat industry in this country is that Saudi Arabia irrigates wheat at a vastly greater cost than our Australian farmers do to produce wheat. Saudi Arabia subsidises it, as well, so it not only supplies its own domestic market but also exports wheat, and it does so by an entire set of circumstances—

**The Hon. P.B. Arnold:** Like Japanese rice.

**The Hon. LYNN ARNOLD:** Yes, but that is not inconsistent with Japan's history. Irrigated wheat is certainly inconsistent with the agricultural traditions of Saudi Arabia, and that is the point that I was making: I do not believe in supporting any industry just by virtue of its having been set up by someone. We have to look with logic at what is appropriate for our circumstances. I want to correct an understanding that the shadow Minister might have. He speaks as if, after the many discussions we have had with the industry about the minimum price concept, we have effectively retained that concept. I draw the honourable member's attention to comments I made in Parliament in a debate on a private member's motion. I indicated that I was looking at an emergency pricing mechanism when

exceptional circumstances that affect the citrus producers in this country take place in the market.

This legislation allows us to do precisely that, and I do not believe it would be proper for us to go into a long-term minimum pricing arrangement when exceptional circumstances do not apply. The provisions of the legislation are of sufficient short-term nature for each act that the Minister may undertake to indicate that they are meant for emergency references.

I also want to correct another misunderstanding that I believe exists among some members of the citrus industry of this State. I have not only heard it mentioned, I have had it said to me, 'Why don't you do the same as the Victorian and New South Wales Governments by introducing minimum price legislation for citrus? You are running against the stream.' I have spoken with both Ian Armstrong and Barry Rowe, the former Victorian Minister, but I have not yet had a chance to speak to Ian Baker, the present Minister. Barry Rowe and Ian Armstrong confirmed with me that the view I have been expressing is entirely consistent with their view and that their legislation, likewise, gives emergency capacity to put a minimum price in place. However, neither of them intends to have an ongoing minimum price situation apply in the citrus industry.

Under legislation in those States, the respective citrus marketing arrangements, boards or authorities are required to seek ministerial approval for any minimum price that might be set in place. It is their intention that that would be administered by the Minister with the same degree of understanding of an emergency situation rather than an ongoing minimum price scheme. So it is important to record that it means that what we are doing in South Australia is not totally at odds with the philosophy that has been built up in the other two States, which are key players in the citrus industry; rather, we are moving on a similar line. After I heard that at a meeting with Barry Rowe, John Kerin and, by teleconference, Ian Armstrong, I indicated that I would be more than happy, after this legislation is up and running, to look at a tri-State marketing or board arrangement. In the longer term that is a good direction in which to head but, first things first, let us put our own house in order, see that the system works, see that their systems are working, and slowly draw together.

The tri-State advisory group (the Commonwealth/State Citrus Advisory Group), which arose out of that meeting, was designed to help the industry move in that direction. It is worth noting that the group has met on a number of occasions. It consists of representatives of the Department of Primary Industries and Energy, ABARE, the Australian Citrus Growers Federation, packers and the processing/converting sector, as well as representatives of the respective State Governments. Barry Windle is the representative from the South Australian Government. The group has had a number of meetings and has looked at a number of issues. It has acknowledged that the citrus industry is already facing serious oversupply problems based on the current level of imports and the projected increase in production. It has expressed the view that the removal of the local content rule will aggravate the downturn, especially given the short lead time since it was announced in October 1990, notwithstanding that it was flagged in the 1988 IAC report. We all acknowledge that it has left the industry with an extra pressure point that it could have done without.

The industry has seen a 20 per cent reduction in returns to all growers as a result of the removal of the LCR in July, and the long-term outlook is for processing prices to be at or below the cost of production or, if processors are forced to pay higher than prices based on world parity, a collapse of the processing sector. That brings us back to the point about a minimum pricing regime and whether or not minimum pricing is an effective tool in terms of trying to assist the citrus industry. That body has also had the view expressed that the majority of the crop needs to be directed to fresh fruit sales, assuming that export and domestic fresh fruit returns can be held above the cost of production. The group has looked at a number of issues that will be made more public at a later time.

Reference was made this afternoon to anti-dumping procedures, and the shadow Minister expressed his views on that matter. I advise that the South Australian Government has made a submission to the Senate Standing Committee on Industry, Science and Technology Inquiry into Anti-Dumping and Countervailing Actions. I do not intend to read all that five page document into *Hansard* by any manner of means, but I will highlight a few points made in it. The document begins:

> The purpose of an anti-dumping/countervailing system is to combat unfair trading practices. There is little doubt that unfair trading practices—both nationally and internationally—command widespread Australian community condemnation. The South Australian Government endorses anti-dumping/countervailing duty legislation to safeguard the interests of local producers and manufacturers against unfair competition.

Some reference is made to the anti-dumping code, which is article 6 of the General Agreement on Tariffs and Trade. That is a plus inasmuch as it acknowledges that anti-dumping is there and needs to be controlled, but it is also a minus in that it puts somewhat of a straitjacket on countries in terms of trying to define or improve their own domestic anti-dumping codes.

We have looked at the matter in relation to the speed—speed is not the operative word; in fact it is quite the opposite—of dumping procedures. Notwithstanding that the Federal Government has now indicated that it will reduce the time taken for anti-dumping cases by 40 days to a maximum of 255 days, we are still dealing with an excessively long period.

*The Hon. P.B. Arnold interjecting:*

**The Hon. LYNN ARNOLD:** The member for Chaffey says, 'It is hopeless'. I quite agree: it is hopeless. The industry itself certainly has made that comment. The GATT code provides a straitjacket that makes it difficult for the Federal Government to go much further than that. Therefore, we must get GATT to make changes at its end as well as any other changes that we might need at our end. Indeed, one of the points that the South Australian Government has made to the Federal Government is precisely on that point. The document continues:

> If possible, 'fast track' provisions should be available, especially for industries which may have in the recent past successfully instituted action for dumping or countervailing duties. It would seem appropriate to impose duties on importers whenever a positive preliminary finding results. Refunding duties, plus interest, in those cases where a positive preliminary finding was subsequently overturned should minimise any adverse effects on the importers. When a dumping or countervailing duty case is proven, provision should exist for duties to be levied from the day of application by the injured party for the investigation.

It will be interesting to see whether that is picked up by the Senate committee. There has been some concern in relation to how values are set. It would seem more appropriate to base normal values on market prices, rather than construct it on the basis of full cost recovery plus profit. The preferred approach is for a price determined in the domestic market of the producing country.

Proving injury has been a difficult area. The General Agreement on Tariffs and Trade requires that complaints be initiated by producers of the same goods as those being imported, and requires evidence of injury to those produc-

ers. It is not possible, consistent with GATT, to take action on the basis of injury to primary producers themselves where they are not producers of the like product in terms of the GATT definition. This has been a major problem for us because this aspect of GATT appears to discriminate against primary producers. It is an area where the Senate committee is urged to make recommendations to the Government to have this issue addressed within GATT.

We think there should be some modification to the sunset provision. The Government viewpoint has been one possible alternative to the three-year sunset provision and the need for a new full investigation, that is a rolling mid-term review to replace the automatic sunset provision. In that model the findings of the mid-term review would be instituted for the next period or until a subsequent review indicated finetuning or lapse of those provisions was appropriate.

The shadow Minister referred to the issue of reverse onus, namely to which party the cost would go as a result of an application for an inquiry. The Government's submission continues:

> The South Australian Government invites the committee to consider whether the costs of application could be levied against the importer in cases where a dumping case is proven. Also, the committee is invited to consider the merit of a dedicated advisory service—for agricultural industries such a service might be part of the Department of Primary Industries and Energy—which would monitor imports and provide expert advice and assistance to potential applicants for a dumping inquiry. Such a service might be instrumental in limiting the cost of making application.

*The Hon. P.B. Arnold interjecting:*

**The SPEAKER:** Order!

**The Hon. LYNN ARNOLD:** It would be inappropriate to respond, but I certainly note the point. I think that that is perhaps worthy of further consideration. I respond no further to the interjection. The member for Chaffey commented on the labelling issue, which is, of course, an issue that my colleague the Deputy Premier has pursued aggressively in the national arena. As I understand it, we in South Australia ran ahead of the field and instituted our own proposals. That issue has now been advanced further with national regulations. From my advice it is the national regulations and not the State regulations that are of some concern to the industry as not being adequate. I was not sure whether I picked up from the honourable member's comments that he was making a criticism of what we have at the State level. Certainly, I will have a closer examination of his comments, and I will refer that matter to my colleague the Deputy Premier for his further consideration. I understood that it was the national wording that was not considered fully satisfactory.

The member for Chaffey also made the comment that we will not have a stable horticultural industry until there is a significant export component, and I agree with that. It is quite clear that, so long as we are bobbing like a cork on the ocean entirely vulnerable to waves of imports beyond our control, the industry will be remarkably unstable. We can either enormously increase the domestic consumption of oranges or any horticultural product (and there is a finite capacity there; 17 million people can consume only so much) or try to get more mouths to eat the produce.

While I certainly commend any efforts to increase domestic consumption of Australian horticultural products, because they are certainly worth consuming, it is essential that we try to find other buying mouths. I think there are enormous opportunities there. While the industry has done very well in recent years with rapid growth rates in horticultural exports, there is a lot of room to move because we have started from a low base for most horticultural products. Therefore, a lot of growth opportunity is still available, certainly in South-East and East Asia but also in other parts of the world. The Australian Horticultural Development Corporation is part of that process. At the State Government level we are certainly trying to do our work to support the industry there; for example, by the work of the marketing and development section of the Department of Agriculture. That hones in on one of the key points in this legislation.

A previous charter of the Citrus Board that is firmly picked up in this legislation is precisely that: to promote the sector, to promote the commodity and to seek more marketing opportunities. I congratulate the board, because it was moving in that direction long before the green paper was issued. It has been involved in a number of activities, including, for example, a seminar, in the Riverland which I think it commissioned AACM to organise, to start opening up these issues for more debate. We have seen a lot happen since then. For example, there was a seminar that I had the privilege to be invited to open last year on precisely the same issue, and I know that more activities will take place later.

I was particularly heartened by the member for Eyre's comments as he looked at the effect on industries in this country. It was almost a direct paraphrase of my comments and those of the Premier in his response to the Federal Government's industry statement. We posed that very same question: if you are going to put in place certain national models that see thousands of jobs wiped out in various sectors and put the blithe statement that they will be picked up in another way, the legitimate question that any community can ask is 'How are they going to be picked up?' The South Australian regional community—and we are a regional community, a regional economy—has every right to ask that question. How will the tens of thousands of jobs that will disappear under the massive restructuring that is proposed in certain areas be picked up? What industries, primary or secondary, will provide the extra job opportunities?

It is a major flaw in what is referred to as the ORANI model upon which much of the Federal industry statement is based that it is so insensitive both to the regional impacts at any one point in time but also to the rate of change over time of new employment opportunities picking them up. So, the member for Eyre really hit the nail on the head with those comments and I was certainly appreciative of his reference to the secondary industries that are likewise affected (not just the primary industries). Certainly, I would refer his comments to the member for Bragg for close attention. I have called on the member for Bragg for some time to give us a clear understanding of where his Party stands on those issues. He has now been given a lead by the member for Eyre and I hope that that lead is picked up.

Turning to the election mechanism of the board, the member for Eyre commented about a Bill which is not even before the House but about which there will be and already is community debate. I understand that. I have spoken to the barley growers about the issue and I understand that we will have much discussion about that matter, but that will be for another place at another time.

In this instance the proposal that we are making about the selection mechanism of the board is entirely appropriate. We want the industry to feel confident that it has a team of people, a team that will lead them and provide what they want in terms of getting the industry to access more opportunities in the future. It may sound ironic, or a contradiction, to say that it should not be an elected team, but individuals are elected more often than not rather than teams of people.

We want a group of people, the mix of whose abilities will provide the best opportunities, and we are not confident that that will be addressed by the model that we had previously. Certainly, that is not to reflect upon the board or its officers who have been in place before. This would be the appropriate time for me to pay tribute to the board under the chairpersonship of John Carnie and David Cain, the Executive Officer.

I think that the board has performed well in what have been difficult circumstances. It has tried to reach out and succeeded in reaching out into new areas of promoting the product with which it deals. So, it has worked well, but it is the considered advice as a result of the green paper that was released that we can take that another major step forward through the new proposals concerning the selection method of the board. I note the comments of the member for Goyder about the size of the selection panel and we will deal with that in Committee.

The member for Eyre says that he does not have any citrus in his area. That is a small point, but it is worthy of correction: he does have some stands of native citrus in his electorate. They exist outside Port Augusta, but I understand that they are far enough outside Port Augusta as to be in the district of Eyre. The member for Murray-Mallee would probably know the exact figure, but they would be one of about 10 species of native citrus that exist in this country. It is interesting to note that the CSIRO in Adelaide is working on whether or not some of these species can provide good root stock for transplanting in order to get the best of both worlds. In fact, native citrus is more salt tolerant and wet feet tolerant than imported citrus and native citrus may give us some opportunity to handle certain change in land conditions. Also, I have had the chance to taste marmalade made from native lime and that is to be commended as it is very tasty.

That brings me to another side point. Many members will not realise the relationship that their area has with citrus. I am the member for Ramsay, erstwhile the member for Salisbury. The first citrus producing area in the State was the City of Salisbury and to this day the orange still appears on the emblem of the City of Salisbury. One commercial orchard is still left in Salisbury, although the heyday of the industry has passed: the golden age of Salisbury citrus has passed, one has to admit, and we defer to the Riverland in all essentials. The member for Coles referred to fair trading conditions and I agree with many of her comments, although not all of them. She referred to Turkish dried apricots and I understood many of her comments. Certainly, I would have appreciated her paying tribute to what has happened with respect to dried apricots, where South Australia took the lead.

The Dried Fruits Board and the South Australian Government took the lead in terms of encouraging wholesalers and retailers to require of all imported apricots the same standards that are required by regulation of domestic producers. I understand that that system is working quite well with respect to major retailers. If the member for Coles has recently come across products contaminated with grit and other elements that would not be allowed in an Australian apricot, I urge her to make the name of that retailing outlet available to the Dried Fruits Board so it can discuss the matter with that outlet and find out who is the supplier and try to have these matters further addressed. But it was South Australia that took the lead in this area.

*The Hon. P.B. Arnold interjecting:*

**The Hon. LYNN ARNOLD:** Certainly with respect to some very unfair practices in labelling that have taken place here. I have spoken with a number of Turkish officials, including the Turkish Minister for Agriculture, about this matter and I have made the point that I am not about creating a restrictive trade environment concerning apricots. I believe in a fair trading environment where it is entirely fair to expect of the imported product the same standards that we expect of domestic produce. If the Turkish or any other imported product meets the standard that Australia's producers are required to meet, and does so with fair marketing conditions, without dumping, it is a matter for a fair trading environment to take place.

*The Hon. P.B. Arnold interjecting:*

**The Hon. LYNN ARNOLD:** Yes. I thank members for their contributions. I look forward to the Committee debate on this matter. I hope that we can get this Bill to another place tonight.

*The Hon. E.R. Goldsworthy interjecting:*

**The Hon. LYNN ARNOLD:** I hope that another place might be able to advance this Bill before the Parliament rises before the August sitting.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

**Mr MEIER:** 'Inspector' is defined as follows:

*(b)* person authorised by the board to exercise the powers of an inspector under this Act.

Can the Minister give an example of what type of person the board would employ as such a person, other than a member of the police, as authorised in paragraph *(a)*?

**The Hon. LYNN ARNOLD:** Essentially it would be the same as under existing legislation; people who have expertise in this area from other activities, either under Commonwealth legislation or related State legislation for other commodities, would be employed. It would be required that they have some knowledge of the citrus industry and of the act of inspection and what that requires in terms of the relationship between inspector and inspectee. In that respect I note the comments made by the member for Eyre. It would be the board's intention that at all times inspectors operated with due authority and in a proper manner, and not abuse their authority. Certainly, attention is taken to employ people who will do just that.

**Mr MEIER:** There is no definition of 'merchant' or 'converter', I suppose because those terms are not specifically referred to in the Bill. Merchants can be tied up with the industry, and I believe that converters are currently operating primarily to buy orange concentrate. They may not be established in the Riverland or anywhere near it: they could be established in Adelaide or some other rural centre, yet they market their product as orange juice or a derivative of it.

We could see a situation where converters might benefit more than most others by importing Brazilian concentrate, as they would not be located in the Riverland, and growers and others associated with the citrus industry might not be aware that they were importing their juice. Does the Minister see any need for the inclusion of either of those definitions?

**The Hon. LYNN ARNOLD:** For all intents and purposes, the definition of 'wholesaler' covers the activities of a merchant relevant to this legislation and the industry. With respect to 'converter', we are not concerned in this legislation with providing those who are nothing other than converters of imported concentrate with the opportunity to be members of the new board or to have any direct relevance to this legislation. Our view is that we should be more concerned about the consequences of the actions of a converter on the industry. In other words, if a converter pur-

chases a large volume of concentrate from Brazil and brings it onto the Australian market, suddenly we have a marketing effect with which this legislation deals.

This clause provides the appropriate definition of those who are dealing with it, for example, processor, packer, wholesaler, volume retailer, grower, and so on. Therefore, I cannot see how, by just defining 'converter' *per se*, we pick up an area that is not addressed in this legislation, because we really do not care about the converter *per se*: what we care about are the consequences of what a converter is doing, and I believe that that is picked up here.

Clause passed.

Clauses 4 and 5 passed.

Clause 6—'Terms and conditions of office.'

**Mr MEIER:** It has been put to me that consideration could be given to a continuing system of, say, two years for a term on the board, in other words, a broken system whereby board members would serve for two years, with the term of half the number then expiring, the other half continuing on. There would not be a drastic break in the membership or board decisions in the case of a controversial decision having been made earlier where the selection committee felt that it was time to get rid of the entire board. Has the Minister any comment in relation to that system of continuity?

**The Hon. LYNN ARNOLD:** I acknowledge that nowhere in the Bill before us is there a specific reference to the fact that there shall be a staggering of reappointments, notwithstanding that the board, in its first instance, will be appointed *en masse*. But clause 6 (1) provides for a term 'not exceeding three years' and it is the Government's intention that that is precisely the way we shall treat the appointment of board members. Indeed, in the first phase of appointment, from day one, we shall so advise a break up of some members who will serve longer than others to allow for the continuity element to which the honourable member referred. Indeed, when the selection committee is appointed after the passage of this legislation, I believe that it would be appropriate to make recommendations to the Government about how, precisely, that phasing could best be organised.

**Mr MEIER:** The way I read the Minister's reply, one or possibly more persons would be appointed for two years initially, for example, and their term would expire with new people coming in during the first three years.

**The Hon. LYNN ARNOLD:** Yes.

Clause passed.

Clause 7 passed.

Clause 8—'Conflict of interest.'

**Mr MEIER:** This clause clearly provides that a member of the board who has an interest in a matter before the board must disclose the existence of that interest before the board. A division 6 fine or division 6 imprisonment applies which equates to up to a $4 000 fine and one year's imprisonment. It is acknowledged that that condition would apply to any board. However, subclause (2) provides:

> (2) A member of the board has an interest in a matter before the board if—
>
> *(a)* the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, receive or have a reasonable expectation of resolving a direct or indirect pecuniary benefit or suffer or have a reasonable expectation of suffering a direct or indirect pecuniary detriment;
>
> or
>
> *(b)* the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, obtain or have a reasonable expectation of obtaining a non-pecuniary benefit or suffer or have a reasonable expectation of suffering non-pecuniary detriment,

Subclause (3) then identifies who could be closely associated. Will the Minister give a specific example of a person closely associated who might benefit? It worries me that a board member could quite inadvertently be making decisions without perhaps realising that he or she is closely associated with someone who will benefit from the decision. The restrictive nature of the clause worries me.

**The Hon. LYNN ARNOLD:** Subclause (2) is an amplification of the phrase 'has an interest' as it appears in this clause. It helps to identify for the reader what 'has an interest' means, and subclause (3) amplifies the phrase 'closely associated' as it appears in subclause (2). It defines the meaning, and one is consequential upon the other: they are not separate issues but follow in sequence. As I am not a laywer I cannot give a legal answer, but my view is that it would be a reasonable defence for anyone who has acted in good faith at a board meeting but had failed to declare an interest to assert that they did not know that a person with whom they were closely associated had an interest as set out in subclause (3) paragraphs *(a)* to *(f)*. In putting that defence, evidence would be required that the person did not legitimately know or could not be reasonably expected to know. That is a bush laywer's interpretation. Subclause (6) states what I have just said. It is a standard clause that exists in other legislation and has proved to be satisfactory and not unnecessarily irksome to prospective members of boards.

Clause passed.

Clause 9—'Establishment and membership of selection committee.'

**Mr MEIER:** I move:

Page 6, line 10—leave out 'eight' and insert 'ten'.

My amendment seeks to increase the size of the panel, from which a selection committee will be made, from eight to 10 persons. I believe that I am right in saying that all groups which whom I have spoken have expressed some concern at the number of eight, and figures of up to 12 have been put to me. It is important that the panel be as large as possible to help the Minister when he or she chooses the selection committee. It is also felt important that the various groups and bodies be appropriately represented on that panel in the first instance, and it is up to the Minister whether they are appropriately represented on the selection committee. An argument exists that another grower and possibly a wholesaler could be put on the panel. The Minister is possibly of the opinion that there should be at least a couple of packing industry representatives and a couple of processors. I am not sure that the Minister envisages a wholesaler. We then have grower representatives themselves.

The Minister would be well aware of the three recognised representative organisations that I identified in my second reading contribution, namely, the Murray Citrus Growers Cooperative Association, the United Farmers and Stockowners Association, and the Riverland Growers Unity Association. A considerable difference exists in their relative strengths, although I will not get into an argument on 'strengths', as it depends on how one defines that word.

However, there is a considerable difference in their membership. There could even be discussion on what is classed as 'membership' and what is not. Whilst I believe that the UF&S and the Riverland Growers Unity Association would each have fewer than 200 members, the Murray Citrus Growers Cooperative Association would have a membership of nearer 700. That being the case, there will certainly be the need for some acknowledgement of that fact on a panel.

The figures I have just indicated (which I believe are substantially correct) may be the subject of some argument about the word 'membership' by one or more bodies, and I will not go into that matter here. That number may change in the coming years and we may find that the UF&S or the Riverland Growers Unity Association becomes the dominant body and the MCGCA might become the minor body. On the other hand, another group may emerge, but I am not arguing the relative merit of one group or another—that is for these organisations to sort out. What I am saying is that it is important that the Minister ensure, to the best of his ability, appropriate representation on the panel. For that reason, I hope that the Minister will agree to an increased membership of the panel.

**The Hon. LYNN ARNOLD:** The Government accepts the amendment.

Amendment carried.

**Mr MEIER:** What mechanism does the Minister see existing to ensure appropriate representation from the various groups across the board? It is all very well to have it written here, but we know that he will not be Minister after the next election—he might even go before then.

*Members interjecting:*

**The CHAIRMAN:** Order! Honourable members to my right will come to order.

**The Hon. LYNN ARNOLD:** The wisdom of the presiding Minister is a very important matter as a guarantee, but I accept the point made by the shadow Minister that there may come a time in the future when there may be another Minister and that wisdom cannot be so guaranteed. In any event, I am certain that the advice of industry, the department of the day and the other sources of advice would ensure that commonsense would prevail and there would be no merit in anyone wishing to appoint a selection committee that was a distortion of what the industry in fact is now or is at that time, because that would simply provide a burden upon the back of the Minister of the day, and that would be a very foolish act for a Minister to commit, if it was so distorted as to end up creating a board that the industry did not want. There is enough evidence of previous examples of where commonsense is expected to prevail in legislation and does indeed prevail.

**Mr MEIER:** With respect to the selection committee, the hard decision has to be made as to which five from the panel of 10 members will be selected. Is the Minister able to disclose to the Committee the particular groups that those five members would represent?

**The Hon. LYNN ARNOLD:** I draw attention to clause 9 (4) which provides:

> The Minister must invite such organisations or other bodies as are, in the opinion of the Minister, substantially involved in the citrus industry—
>
> *(a)* to each nominate a specified number of persons to the panel from which the Minister must appoint members of the selection committee.

That is the clause which highlights the very point about differing strengths of membership numbers of various organisations. Clearly that would be reflected in how many people are invited from each group. Clause 9 (4) *(b)* is the pivotal provision in terms of the honourable member's question because reasons in writing would have to be provided in support of each nomination. That would give the evidence behind the name that would be taken into account in the formation of the selection committee.

**The Hon. P.B. ARNOLD:** The Minister has a committee of five members. He will now select that committee from a panel of 10, and I refer here to subclause (4). Looking at it from a grower's point of view, will the Minister ask each of the three groups (MCGCA, RGUA and UF&S) to put forward five, 10 or 20 names? The matter seems somewhat vague at this stage. The point was made by the member for Goyder that there is a significant difference in the representation of the number of members in each organisation, and that could change from time to time. How many will the Minister ask each organisation to nominate?

**The Hon. LYNN ARNOLD:** It is not possible for me to give a definitive answer to that at the moment because this legislation must be passed and proclaimed before we go about setting up such a selection committee. That will depend upon an assessment at the time of those groups that are relevant to the industry, including growers, processors and packers. With respect to growers, it would take account of the fact that there is not one single grower group—as has been mentioned by the member for Goyder, there are three at this stage, and presumably in two or three months from now, when we are dealing with this, there will still be three—and it will be a case of trying to weigh up the relative strengths of each group before determining how many positions would be made available. That is the best I can offer.

I would be loath to go any further than that by trying to tie up in the Act specific numbers, because no sooner might the Act tie up specific numbers from each group than the groups may change and we would end up in a situation where interstate legislation has to take account of the fact that groups may disappear and the Minister then has to appoint someone from a body which, in his opinion, has replaced a previous body. I am certain that, if there is an imbalance in the numbers we give to each group, I will have it drawn to my attention very quickly and very publicly.

**The Hon. P.B. ARNOLD:** What the Minister has said is quite important. For one reason or another, one or two of the groups who represent the citrus growers could, for any number of reasons, have their membership reduced to almost zero. If it was the intention of the Minister to still seek equal nominations from the three organisations, that would not be fair and reasonable to the growers.

Clause passed.

Clauses 10 and 11 passed.

Clause 12—'Conflict of interest over appointments.'

**Mr MEIER:** We see here another clause where a selection committee member, being closely associated with a person who is under consideration by the committee for nomination to the board, must disclose the existence of that association to the committee. I can well see that that could happen in respect of all persons who come before the selection committee. Can the Minister indicate how that will be done?

**The Hon. LYNN ARNOLD:** How a person will declare that they are?

**Mr MEIER:** Yes.

**The Hon. LYNN ARNOLD:** I presume that, when they were in the process of revealing to themselves as a selection committee the names that were nominated, and before they went into any consideration of those names, the respective committee member would declare that under clause 12 (2) a particular person was a person with whom he or she had been associated, and that would be recorded in the selection committee's minutes. I presume the selection committee would then resolve whether or not the interest was significant enough to constrain the capacity of that selection committee member to make further comment on that particular person. That is my presumption as to how that would be done. In fact, clause 12 (4) provides:

> A member of the committee who is closely associated with a person under consideration by the committee—
>
> *(a)* must not, except on request of the committee, take part in a discussion by the committee relating to that person;

*(b)* must not vote in relation to the nomination of that person to the board;

and

*(c)* must, unless the committee permits otherwise, be absent from the meeting room when any such discussion or voting is taking place.

So, essentially, that confirms what I have just advised. It is a bit more specific, I guess.

**Mr MEIER:** The Minister indicated that it could be determined, because of the close association with the person, that they would be constrained from being a panel member. Maybe I am not reading it correctly, but I could well see that a selection committee member could come from the same organisation as one of the persons who are now eligible for appointment to the board. Perhaps they worked with each other for many years and served on committees together. They could know the ins and outs of the industry and be excellently suited to their respective areas—one a selection committee member, the other a prospective board member. Is the Minister indicating that that close association could debar a person from selection?

**The Hon. LYNN ARNOLD:** Casual association does not debar a person from being on the selection committee, and a co-employee relationship would be such a casual relationship. What we are talking about here is where there is a direct interest, that it could benefit financially or in other ways the member of the selection committee by virtue of the appointment of the person to the board. An employer and employee are both such direct links, but a co-employee is not such a direct link. I believe that clause 12 (2) spells out those areas where a direct link could take place, which could financially or otherwise benefit a selection committee member if he or she appointed, or was a participant to appointing, somebody under that clause as a member of the board.

Clause passed.

Clause 13—'Functions of the board.'

**Mr MEIER:** This is certainly a very important clause in that it identifies the functions of the board. A fair amount was said during the second reading debate, and I guess the real test of the extent to which this clause comes to fruition will be time. Could the Minister indicate what funds will be available for the board to undertake some of its activities, particularly in promoting products overseas, and what additional help can they call on to promote the fruit and help with exports, etc?

**The Hon. LYNN ARNOLD:** The situation is that the Citrus Board at the present time is self-funded, and it will remain self-funded. That is provided for under the legislation. As to what other help it can call upon, I do not believe that situation will change much of what happens at present, in as much as the board can work with the Australian Horticultural Development Corporation. It can also work with interstate marketing bodies or other statutory authorities of like interest, or it can work with the Department of Agriculture including various sections of the Department of Agriculture, such as the marketing and development division. Essentially none of those relationships will change, but the basic premise—that the board itself in its activities expected to be self-funding—is not changed in this legislation.

**Mr MEIER:** In his second reading reply the Minister said that he was pleased with the way the board had already branched out into some of these activities. Does the Minister see in this new Bill the board being able to make new and greater advances in these areas than it is able to currently?

**The Hon. LYNN ARNOLD:** Yes.

**The Hon. TED CHAPMAN:** I agree with my colleague the shadow Minister of Agriculture that this is an important clause and one that is all-embracing in relation to the functions of the board. Quite apart from the board's functions involving the policy making for orderly marketing, to maintain minimum quality standards for the primary produce in question, and to support and encourage the export of that produce, etc., I notice with interest that the board is required to provide 'information to registered persons and to such other persons or classes of persons as the board thinks fit'. I suppose, in all fairness, that that provision relates specifically to registered persons within the business of citrus growing, in particular, but it is so general that I ask, under the canopy of that particular part of the clause, whether the Minister considers the board would have the power to advise on financial matters, such as borrowings or investments by its grower representatives.

I ask that question to cite the sort of concerns in the community at large about whether or not growers are advised to borrow. I cite, for the purpose of this example, the case of Alex Buick on Kangaroo Island, who allegedly sought advice to borrow from one institution or another. I note, in particular, the State Bank's attention to that subject as of today, for example, where it has said there will be a reprieve in the light of some of the allegations made and that his property will not be sold tomorrow. So, in that instance the bank has agreed to give a little more time to negotiate the sale of part of the property and include advice, in this instance, to the client, as to what direction might properly be taken. It is in that context that I ask the Minister, in particular, whether his board, within the terms of this Bill, has those wider powers of advice in relation to carry-on finance regarding the citrus growers and/or investment in that industry and/or any other.

**The Hon. LYNN ARNOLD:** Powers given under statute need to be tempered with expertise available in the people who form the board and its officers. Clause 13 *(c)* and clause 13 *(e)* (ii), particularly, are wide enough to enable the board to have an interest in the matters raised by the honourable member. The board would not want to see itself becoming an expert body of financial advice to individual growers with respect to their own business plans and how they finance those plans. I think it would still be appropriate for them to deal with other sources more trained in that area.

The board could say that this is how the industry is mapped out and this is what is likely to happen to the industry in the years ahead with respect to different products and different uses of product. The board could outline how it expects the domestic versus the export market to pan out, and explain what it is saying to other growers. Therefore, the growers would know what their potential competitors are hearing and make appropriate decisions. However, if they then want to go further and decide whether or not to buy property X as opposed to property Y and whether or not to finance it by means A rather than means B, that is more appropriately left to others who have greater financial expertise to provide that advice. The board would be going beyond its brief to deal in that area because I could not see it having that expertise to reasonably give that specific information to growers.

It is not just simply a matter of referring growers to financial institutions. Those areas could be dealt with by rural counsellors, for example, or by officers in the Rural Finance and Development Division, who should not be treated only as officers advising on borrowing money from that division but, indeed, giving their opinion on what options from other financial sources might be considered by growers.

**The Hon. TED CHAPMAN:** I appreciate the reply by the Minister and I note with interest his reluctance to commit the board under this Bill to the role of offering financial advice to its registered property owners. For the Minister's benefit, I confirm that the matter I raised in relation to this subject is currently being distributed by press release from the bank. I raise the subject also because the area of financial advice to primary producers in particular is one about which we need to be extremely cautious, both at banking institution level and within the boundaries of the respective Acts of Parliament that deal with board and advisory committee structures. I raise that seriously and deliberately because, at the moment, given the situation in the rural community at large, litigation is already pending against lending institutions for alleged wrong or bad advice to primary producers.

I do not share the view that banks, lending institutions or those who give advice without charge should be victims of litigation in this regard. I do not believe that loans to producers from any level of lending institution is a marriage, partnership or joint venture. In fact, it is a contract, one into which adult borrowers go with their eyes open, and they should be as alert and aware of the pitfalls as they are under the *caveat emptor* (buyer beware) warning in respect of real estate transactions. I put my position on that subject clearly on the record in this instance because, as our producers in the paddock become progressively under pressure, we are about to see in Australia generally and no doubt in South Australia a surge of action against lending institutions.

If they come under enough pressure, they will punch at anything that moves, and I believe that that level of pressure is already about us in the rural community. It will not surprise me at all if primary producers in the agricultural, horticultural and viticultural arenas seek to have a serve of their banks and their lenders of finance in order to defend their positions as time goes on. It is a natural reaction, one that I will understand as it is implemented, but it is an action that I do not share or support. The sooner it is discussed openly and publicly in this place or like institutions the better it will be for us all in the field and the less that will be wasted on lawyers and others who have their snouts in the trough in such instances.

Clause passed.

Clauses 14 to 17 passed.

Clause 18—'Exemptions.'

**Mr MEIER:** This provides that the board may exempt a person or class of person from the provisions of this Act or a regulation. Can the Minister advise cases where the board might wish to exempt a person?

**The Hon. LYNN ARNOLD:** This clause is carried forward from the Act that we are amending. I guess that it has been included to give flexibility to the board in case such a situation were to arise. I have to say that neither my adviser nor I are immediately able to think of such a person who might arise. It would have to be printed in the *Gazette*, so it would become public knowledge. We will go back to the archives and discover the origins of this undoubtedly wise clause and find out why it is undoubtedly wise, and have the answer given in another place.

Clause passed.

Clauses 19 to 31 passed.

Clause 32—'Power to issue marketing orders.'

**Mr MEIER:** Under subclause 1 *(b)* can the Minister explain what is meant by 'fix the rate of commission on the sale of citrus fruit'? In the case of an order fixing a price or minimum price, three months is specified, and I would like clarification of that. Is that three months a definitive time or can it be for a period less than that? If it is three months, I assume that it could be extended for another month or so.

**The Hon. LYNN ARNOLD:** Subclause (4) provides that an order made under subclauses (1) *(a)*, *(b)* or *(c)* remains in force for a period not exceeding three months. The maximum would be three months. If there was merit in extending it, it would need a new order. A new order would need to be put in place to provide coverage beyond three months.

**Mr MEIER:** Has the Minister given any thought to a six month period, recognising that the Valencia season extends for six or seven months, so that there is stability across the board to all growers?

**The Hon. LYNN ARNOLD:** We have not included six months because, essentially, we wanted to get to the spirit of an emergency situation requiring emergency reaction. The Government consciously wants to move away from an ongoing minimum price regime and provide for situations in which exceptional circumstances apply and to force the decision-making process to consciously make any such decision. If a six month order were fixed and the problem lasted the whole six months, that order would be appropriate; but, if a six months order were in place and the problem existed for only one month, provision would be made for five months of that time, which is inappropriate. It would no longer deal with an exceptional circumstance, yet an order, which could be deemed to be over-regulation, would be in place. One might ask why would that matter, but the point is that neither does it matter the other way. The Bill provides the mechanism whereby an order may be placed with relative ease, but it is the conscious placing of an order and the creation of a new order beyond that time.

*[Sitting suspended from 6 to 7.30 p.m.]*

**Mr MEIER:** What is meant specifically by the Minister being able to fix the rate of commission on the sale of citrus fruit? I was under the impression that the application of a minimum price could well be the norm, but I take it from the Minister's response to the second reading that only in exceptional circumstances would a minimum price be implemented.

**The Hon. LYNN ARNOLD:** It would be in exceptional circumstances. What was very telling in this issue was a set of circumstances that took place last year. Early last year there was a fairly normal marketing pattern for citrus in this State. At that time, given what had been the preceding pattern for some years for citrus since the 1980s, there was not a case to support an ongoing minimum price or, indeed, any deliberate intervention in the price mechanism. That is why at the time I firmly said that we would not put any such mechanism in place. However, later last year there was clearly a marked change of circumstance given the dumping of juice from Brazil, a major collapse in the price and a set of circumstances that could be regarded as being beyond the norm.

Agriculture, in all its commodity sectors, has to accept normal fluctuations, highs and lows. What we had late last year was clearly beyond the norm. Therefore, that convinced me that perhaps there are times in the marketing cycle where special measures need to be taken. Indeed, they are reflected in my views on a base price for wheat; I do not think that should be a normal circumstance, but there are times when the international market delivers something which the normal free market should not be expected to deliver. In that case, we must have a capacity to respond. I accept the view that it would be a mistake to cut out such provisions from

the legislation. There would have to be a capacity for the Minister of the day to react quickly.

I still stand by the comments that I have made on other occasions that, in terms of normal trading, it is better not to have a minimum price but to rely upon the indicative pricing mechanism as an ongoing mechanism. Indicative pricing is provided as an ongoing mechanism. That gives growers certainty that when they are selling their produce they know what the indicative price is, therefore they know whether they are being done by those who are buying their fruit. Substantive evidence could be given for growers who had sold their fruit for a price much lower than the effective going rate because they did not have enough market know ledge. Indicative pricing addresses that: a minimum price is not needed for that.

The other problem in relation to minimum pricing is that we could end up with a problem between the States. A South Australian grower could be artificially protected by a high minimum price, while other growers in other States could have sold, under the provisions of section 92, at a lower price and won the sales while the South Australian grower simply had the protection of a price but no sales. I stand by the decision that there should not be an ongoing minimum price arrangement. However, the circumstances of last year convinced me that we need the capacity to react in exceptional circumstances.

**Mr MEIER:** What is the rate of commission referred to in subclause (1) *(b)* and where does it apply?

**The Hon. LYNN ARNOLD:** As I understand it, the provision will enable an order to protect the return to a grower in cases where fruit is sold by a packer on commission, for example, as is the case with overrun fruit. This provision is identical to the existing provisions in the current Act, and I refer the member to section 22 (1) *(d)*.

The matter of exemptions under clause 18 has been further clarified and covers such examples as a lemon grower in the Adelaide Hills who, without needing to have access to a packer, could have direct access to the Adelaide market, or a citrus grower in Port Pirie who might want direct access to the retail market in Port Pirie without having to go through a packer who was not resident in the city of Port Pirie. This legislation provides for a freeing up of those situations to stop the Act becoming overly bureaucratic when there is no purpose to its requirements being applied in particular cases. So, there is no purpose to the Act putting upon the Adelaide Hills lemon grower and the Port Pirie orange grower the same constraints that have been put, for other legitimate reasons, on other growers in other areas.

Clause passed.

Remaining clauses (33 to 37), schedule and title passed.

Bill read a third time and passed.

## CRIMINAL LAW CONSOLIDATION (SELF-DEFENCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 March. Page 3474.)

**The Hon. E.R. GOLDSWORTHY (Kavel):** The Opposition supports the Bill. It results from the deliberations of a bipartisan select committee comprised of Government members, Liberal members and you, Mr Deputy Speaker, as the Independent Labor member. The Bill faithfully represents the conclusions of that committee, with a significant deletion and one addition. The deletion relates to the fairly tough recommendations of the committee in relation to drunken driving that leads to death or serious injury. I could sum it up by saying that the committee took a fairly hard line in relation to these offences. The Government decided not to proceed with those recommendations but to refer them elsewhere for further consideration.

The significant addition over and above the recommendations of the committee really comes about as a change of heart by the police. The original submission from the police was that the law was satisfactory as it stood. In the event, the committee recommended changes to the law, and the police subsequently thought that they had better be part of these changes. That, as I understand it, has led to the inclusion of new section 15 (1) *(b)*, which provides:

> iii) to effect or assist in the lawful arrest of an offender or alleged offender or a person unlawfully at large.

This provision will give the police the protection which otherwise is available to citizens in terms of the Bill. Let me say at the outset that, in the recommendations of the committee and subsequently in the Bill, we sought to give effect to what was strong public sentiment as expressed by a petition which was organised by Mrs Betty Ewens and Mrs Carol Pope and which was signed by more than 40 000 people. The expression of opinion was that the law needed to be changed to give enhanced rights to people whose property or person was being invaded.

In other words, the public are fed up to the back teeth with house breaking, and crimes of violence—crimes described as crimes against person and property. The public are fed up with this level of crime and they are seeking further protection when they seek to protect themselves and their property. My view is that the committee did a fairly successful job and that the Bill accurately reflects the conclusions of the committee, but for those two riders, first, that the police are now included (having decided that they wanted to share in the protection afforded by the Bill) and, secondly, that the recommendations for drink driving have been omitted.

The committee based its findings, it is fair to say, largely on our study of what was transpiring in Britain and around Australia. We looked also at current deliberations in Canada. Early in the piece I was attracted to the Tasmanian code and the general notion that the sort of force people should be permitted to use ought to reflect not only the circumstances that were actually obtaining at the time they were being invaded but the circumstances they believed were obtaining at the time. In other words, if they believed that they were in mortal danger, they would have been able to use fairly extreme force in coming to terms with that danger. In my view that was summed up fairly well in the Tasmanian code, which provides:

> A person is justified in using, in defence of himself or another person, such force as in the circumstances as he believes them to be, it is reasonable to use.

That is a fairly succinct statement, and that is about where it begins and ends in Tasmania. That seemed to carry the position a fair bit further than the current common law as it stands in South Australia, where the test of reasonableness is applied by the jury without the proviso that the jury would be taking into account what the person believed.

They might not have been in danger, but they might have believed that they were in danger and that would be a determining factor in Tasmania. The committee was not prepared to go quite that far, because it was of the view that in some circumstances persons defending their property could have a bizarre sort of belief or the person may be deranged. One could conjure up all sorts of examples in the past where people have committed some pretty violent crimes in the name of self-defence—and their defence has been one of self-defence—when in fact their beliefs have been quite bizarre.

The committee sought to come to terms with that by including the words 'genuine belief'. In other words, people could not appear before a jury and plead self-defence and say that they believed certain circumstances occurred when in fact they did not and when it was not a genuine belief. The committee sought to modify the code to that extent. I was of the view that we had come to grips with this reasonably well and I was fairly happy to go along with that idea of a genuine belief. I must confess that I was a bit disturbed to look at a submission that has come to hand not even at the eleventh hour but after the committee has reported and the Bill has appeared before Parliament. I refer to a lengthy submission by His Honour former Justice Wells, and I am not prepared to dismiss it out of hand. It came to me only today, so I have not had a great deal of time to come to grips with what the former judge is on about, but it is clear that he has serious misgivings about the way in which the Bill has been drafted.

As I say, if there is anything wrong with the Bill, it has to rest fairly on the shoulders of the committee because, in my view, it has been drafted faithfully in terms of the recommendations of the committee. One point that is easy to come to grips with in former Justice Wells' submission is that the marching orders to the Parliamentary Counsel from the Executive constrain the drafting in certain directions.

I can put his mind to rest on that one. As I say, the Bill is drafted in accordance with what came out of the committee. The committee had discussions with the draftsman in the closing stages of the committee's hearings. Having said that, I emphasise that I am not one to change my mind readily, as members in this place would know from observing my behaviour over the years, but I was a bit concerned that some of the references that former Justice Wells made about the Bill, particularly the part that interested me most, that is, concerning the Tasmanian code. I want to read the comments into the record, because members in another place may be able to improve on our work if they believe it is worthwhile. Clause 2 repeals section 15 and reference is made to new subsections (1) *(a)* and (1) *(b)*. Former Judge Wells states:

> Section 15 (1) *(a)*, with the passage 'genuine belief that the force is reasonably necessary' introduces an entirely novel and wholly unreasonable test. The defender is, in the heat of the moment, called on to monitor his own thinking, continually to ask himself, and continually to answer, these sorts of questions: 'What is my belief? How far do I believe I am going? Do I genuinely believe that the lengths to which I am going, in the face of this peril, are necessary and still reasonable?' This, in my submission, places a wholly unrealistic and unfair burden on the defender.

He concludes:

> It is the perfect example of an unworkable law. I shall recur to this matter.

When I first read that I thought he was drawing a pretty long bow because in my view, what we had done was to take the Tasmanian situation and put it into different words and include a rider that the belief had to be genuine. However, on thinking about it, as I have in waiting to speak on this Bill, I came to believe that the former judge does have a point about the emphasis that is now to be placed by the jury in terms of the behaviour of the defendant. If you look at the Tasmanian wording—

*An honourable member interjecting:*

**The Hon. E.R. GOLDSWORTHY:** Well, yes, it is wider in a sense, but if you look at the Tasmanian wording, it concentrates on the circumstances that the victim believes he is in—whether he is under threat. If he believes that his life is in danger, he will react in a certain way.

In the wording that our committee came up with, the emphasis is on the reasonableness of the force, not on the circumstances. There is a change of emphasis which was not apparent to me until today when I pondered over what the former judge was saying. I think that that point needs to be looked at in another place. I make no bones about repeating (as, indeed, my colleague the member for Newland will say), that we in the Liberal Party wanted the law toughened up on the side of the person who was being threatened and who was defending his personal property. That is what the public wanted, and that is what the Liberal Party wanted. It took a while for the committee, as a whole, to come around to that view and, in the end, I thought we had done reasonably well. But I am now of the view that something better can be done. We cannot do better but another place can.

I support the Bill because, in my view, it is a move in the right direction. But, if there is any validity in what the former judge is saying (where the concentration is on the belief of the force being used, rather than on the circumstances of threat—which is the Tasmanian code), then, in my view, some further thought needs to be given to the wording of this Bill. As I say, all I am seeking to do is improve the situation, if it can be improved. I thought that we had done pretty well, but I think there is a real possibility that the Parliament can do better.

*An honourable member interjecting:*

**The Hon. E.R. GOLDSWORTHY:** Well, I might be in trouble, I do not care. I am always open to suggestions. I suppose that, after the event, anybody can criticise the findings of any committee. It is unfortunate that we did not have the benefit of the former judge's views while the committee was meeting. Whether, in fact, he would have been able to make those comments without seeing the committee's conclusions, I do not know. It is a bit like the articles we read about any Government proposal, I suppose. You can always criticise and mount a pretty decent sort of argument if you have a good mind. As to the balance and the validity of it, that is a matter of judgment; it is in the eye of the beholder, I suppose.

But, having read this submission, I believe it was enough to raise some questions in my mind. There is nothing wrong with the general thrust of the Bill. We are supporting the Bill; there is no doubt about it. But if the Bill can be improved I, for one, would be for improving it. As I say, the thrust of that amendment (the major amendment, as far as I am concerned), is that the Tasmanian code concentrates on the circumstances which the person believes he is in. In our wording, it is the reasonableness of the force, which has led the judge to suggest that the defendant has to be thinking about what is reasonable force. That would be the last thing on anyone's mind in a situation in which they were threatened in their home, particularly in relation to the frail and the elderly, the sorts of people we are trying to protect. So, I am not welching on the committee, and I hope the Chairman of the committee gets up and says a few words. I have an open mind, and if we can improve the wording—

*Mr Groom interjecting:*

**The Hon. E.R. GOLDSWORTHY:** No way.

*Mr Groom interjecting:*

**The Hon. E.R. GOLDSWORTHY:** No way. I do not know what the Upper House is going to do. This was thrust into my hand today, and I have read it—skipped through it—and there are some doubts: and, having thought in particular about that, I can see—

*Mr Groom interjecting:*

**The Hon. E.R. GOLDSWORTHY:** Mr Griffin has not briefed me in relation to this Bill. Goldsworthy has briefed Goldsworthy. As honestly as I can stand here—

*Mr Groom interjecting:*

**The Hon. E.R. GOLDSWORTHY:** They reckon that I am just Mr Griffin's mouthpiece. That is nonsense. I have not talked to Mr Griffin. Let us put the record straight: when I showed to the Hon. Mr Griffin the select committee's deliberations and the suggested draft, he said, 'That's exactly like the Bill I introduced in the Upper House.' He was perfectly happy with what we had done. I am having second thoughts about refining it further as a result of what I have read and not as a result of anything that the Hon. Trevor Griffin has told me. We support the Bill. The public is demanding action. If there is any validity in that comment and there are further comments that I think would be available for members to ponder, I will quote them. The learned judge also refers to the exclusion in clause 15 (1) *(b)* which provides:

> A person does not commit an offence by using force not amounting to the intentional or reckless infliction of death or grievous bodily harm.

He has doubts about that exclusion, because he said that the person may be attacked and if, in the course of their defence they inflict grievous bodily harm, they are guilty. He talks about the case of a terrorist who is about to blow up an installation and cause a great deal of damage. If somebody was to shoot the terrorist and inflict grievous bodily harm, they would have no defence. The subclause provides:

> A person does not commit an offence by using force not amounting to the intentional or reckless infliction of death against another if that person has a genuine belief that the course is reasonably necessary to protect property from unlawful appropriation, destruction, damage or interference.

If a terrorist is going to blow up something or unlawfully destroy property and somebody shoots him and inflicts grievous bodily harm, they have no defence according to the learned judge. He has a problem with that exclusion and, if what he is saying is correct, that is a fault. If what he is saying is not correct, let the legal eagles tell us so, but at face value it seems that it is correct.

He refers to manslaughter and he is certainly on the side of what we are on about. He is really saying that the balance of probability has to be in favour of the defendant—the person accused—in the case of death. The idea he is canvassing is that as a compromise we might convict of manslaughter whereas in the normal course of events the person would be acquitted. If that is the case, we have not helped the situation much at all.

I raise these issues as they are worthy of airing and, if there is any validity in what is being said, I would expect members in the Upper House to look at it. I know that members of the Government and the Chairman do not look particularly happy, but nonetheless our intent is perfectly clear. We want to make it easier for property owners to defend themselves and not be in fear of the consequences as they are currently. If they believe that they are in a position of danger, they can take all reasonable steps to protect themselves. Even if there is no danger but they believe that there is, they should be able to defend themselves. The emphasis of what we have drafted is that we must think of the reasonable force they are using, whereas the Tasmanian code talks about the circumstances in which they find themselves. That is where the emphasis should be, to my mind.

With those comments I support the Bill, as does the Opposition. If the Government does not like it, that is too bad. I have an open mind on these matters and we want the best law that we can come up with so that people can protect themselves and their property adequately and come to terms with the situation, which I believe at present is almost out of hand.

**Mrs KOTZ (Newland):** In the lead-up to the last State election law and order was the cornerstone of my campaign to become a member of State Parliament, so it was with great pleasure that I accepted the invitation to become one of the five members of this House on the select committee on self-defence. The recommendations presented by the committee and tabled in this Parliament will provide a considerable boost to public safety by laying down new ground rules in relation to self-protection of the citizens of this State.

As I have not had a previous opportunity to do so, I take this opportunity to commend the members of the select committee for their bipartisan participation and contributions which clearly indicated that all members of the committee realised their responsibility to the electorate. I commend my colleagues on this side of the House, particularly the member for Kavel, for their strong deliberations to effect what we all recognise as necessary change to support the protection of law abiding citizens.

Community concerns for the safety and protection of its residents have been highlighted in recent years by increasing crime rates including violent assaults and, to a great extent, by the increased number of break and enter offences into the private domain of our homes, the abuse and theft of our property and the apparent disregard of human dignity by those who inflict pain and suffering, regardless of their victims' age, gender or disabilities. It is imperative to community safety and protection that those who break the law understand in the most straightforward and clear terms that their despicable actions are totally unacceptable and will not be tolerated either by this Parliament making the laws or by the community whose attitude should be reflected by this Parliament's legislation.

For too long the rights of those who offend have held the headlines of our media and have been the major subjects for committees of review, working parties, standing committees and innumerable surveys. This concentrated focus on the law breakers has only served to create the perception that the miscreants in our society have become the untouchables in law and those who become their victims appear to face double jeopardy. If they attempt to defend their person or their property they believe that the law will punish them for an act of self-defence. The tide is turning and the community has developed an anger which will not be appeased by any further watering down of our laws or acceptance of anti-social behaviour which has extended its development in graffiti cults and vandalism.

The anger of the community and the frustrations which emanate from that anger demand positive actions from their politicians. The arrogance, the inhuman insensitivity and the complete disregard for law and order displayed by offenders is most evident when youths and young adults enter a person's home, fully aware that the house is occupied by family members at the time of entering, and then proceed to remove property at will and knowingly are prepared to assault any member of the family who reacts to their intrusion.

The circumstances know no bounds and apply to all sections of our community—the elderly, the isolated and alone, the single parent and all manner of households whose privacy has been violated. Possessions are stolen or abused and the pervading fear of physical danger remains to taunt the victim over and over again. The trauma that develops in households that have been violated is a psychedelic nightmare of despair for all concerned for months to come.

Putting aside the emotional costs and consequences, the cost to the general community escalates in dramatic proportions. One such example is the insurance companies which are hard pressed to cope with the daily demand to replace stolen goods and repair damages caused by forced entry.

Premiums to insure increased as a result of what has become excessive claims, and all households suffer by increased costs. I believe that the intent of this Bill was to carry out the committee's recommendations to allow people to use reasonable force in self-defence or in defence of their property, and that intent is strengthened by interpreting the use of reasonable force as the accused's genuine belief that a given situation called for the action taken by the accused. Therefore, it is once again disappointing to discover that the Bill with which we are dealing has removed the objectivity which I believe we, as a committee, desired to strengthen the law.

This Bill is indeed a disappointment, as I believe the major thrust and intent to place the onus of genuine belief relating to the circumstances in which the self-defence action takes place has been diverted to place the onus of genuine belief to reasonable force, which in effect alters the intent of the select committee's recommendations. Although I will support this Bill in this place, I will be speaking with my colleagues in another place to support an amendment intended to strengthen what has in effect become a codification of existing legislation.

It became obvious to all members of the select committee during the taking of evidence from numerous organisations, community sources and individuals that the majority of people were unaware of the existing law and its application. I believe that this lack of understanding of the rights of lawful citizens has assisted the perception by law breakers that they are the untouchables, and this has been perpetuated by the victims who believe that they cannot take action against offenders. Therefore, it was a priority recommendation that a community-based education program be initiated to inform our citizens of their true rights. This recognition of the need to clarify existing law led the committee to recommend that the lawful use of force in relation to self-defence and defence of property be codified in terms easily understood by the general populace.

Certain aspects of the select committee's recommendations will undoubtedly be seen by some members of the legal profession as quite radical and contentious as they will obviously impact on areas of existing legislation and accepted attitudes and practices. I trust that the Bill presently before us will not be the only Bill that this Parliament will see as a result of the select committee's recommendations. Equally importantly, the Bill recommended (and I summarise): a code of conduct dealing with the use of force by people engaged in private law enforcement, including hotel bouncers, be drawn up in consultation with the police; a drunk charged with an offence should be regarded as having the same perception of the offence as if he or she were sober; and, if a dog attacks an intruder, it is a defence to show that the dog was being genuinely used in the reasonable defence of person or property. With steps such as these, South Australians could at last feel that something has been done for their protection.

**Mr GROOM (Hartley):** I support the Bill and wholeheartedly endorse its terms. The situation that the select committee was confronted with was a belief on the part of the community that the law was easier on the intruder than it was on the victim. Indeed, petitions with over 40 000 signatures, the various talk-back radio programs and commentaries from people in the community, and the various groups that gave evidence before the select committee all quite clearly showed members of the community were confused about the common law. The source of the confusion is, I think, in three areas. First, the law we are dealing with is common law. To find out what the common law was, you had to go to the cases and, if you were good enough to understand the cases, you might come down with some interpretation. Therefore, because it was common law and not statute law, it was law built up by judges and it was difficult for the community to gain access to it and understand it.

What one had to do was to see a lawyer who might give a differing or unsatisfactory interpretation or speak to the police. However, the police generally advise householders not to try to tackle intruders. In other words, the police give commonsense practical advice—get out of the way of the intruders, because the risk of physical injury is not worth your television or video; and call in expert help. That might be sound advice in the practical sense and generally probably should be followed, but it is not, and never has been a statement of the law of self-defence. The third source of confusion was the Opposition, because the Opposition made inflammatory statements during election campaigns for nothing more than short-term political gain.

*The Hon. Ted Chapman interjecting:*

**Mr GROOM:** The member for Alexandra also contributed to the source of confusion by his speeches in this place—my word he did—and I will come back to that. The Opposition has been a source of confusion, because it has sought to use the law and order issue for nothing more than short-term political gain. Quite frankly, in the past few elections, it has been zapped on law and order because it has been exposed for what it is.

*The Hon. Ted Chapman interjecting:*

**Mr GROOM:** I will come back to the honourable members' comments and answer some of them, particularly those of the members for Newland and Kavel. The member for Kavel must be very wary about backing off from this proposal. The fact is that the Opposition has been a source of confusion. The select committee came down in favour of strengthening the law and codification because that is what the community wants and, to be understood, it should be law not only for lawyers but for the community. In other words, the community should be able to understand it and the correct emphases should be placed on the law to protect victims against intruders.

Codification was the unanimous recommendation of the select committee because it makes the law accessible. It enables a public education program to be much easier implemented and it improves the law. Of course, the law must be made as straightforward as possible so that the community can understand it. When we had to decide how to codify the law, there were several influences on us. We could have looked at the Tasmanian situation, which has caused great trouble in that State. I will not go through the deficiencies in that measure, but they were readily apparent. We came down on the side of the English Law Reform Commission model which has been adopted with some modifications by the Commonwealth Law Reform Commission. The English Law Reform Commission begins as follows:

> A person does not commit an offence by using such force as, in the circumstances which exist or which he believes to exist, is immediately necessary and reasonable . . .

It then lists various scenarios. The Commonwealth Law Reform Commission endorsed that position. It stated:

> The review committee recommends that the proposed consolidating law should contain a provision to the effect that a person

does not commit an offence against a law of the Commonwealth by doing such act, including such force, as in the circumstances which exist or which he or she believes to exist is immediately necessary and reasonable.

I know that Justice Wells, who is a very eminent jurist, and a very respected man in the community, does not like that formulation, but I can tell the House who does like that formulation—the community. The source of the confusion is that the community believed that, if they used force to resist an intruder and if they made a mistake, they would be charged and not the intruder. The Opposition contributed to that mischief.

*The Hon. E.R. Goldsworthy interjecting:*

**Mr GROOM:** I will come back to that during the time I have available. The Law Reform Commission said that the codes we looked at in Queensland and Western Australia dealt with the question in a complex and elaborate fashion. That, with the greatest respect to Justice Wells, is the difficulty I have with his summary, because it is very difficult for the community to grasp. It comes down to lawyers' law. We have to make law for the people, law that they can understand.

I am going to deal with the issue of genuine belief, because tonight I heard two members—the member for Kavel and the member for Newland—trying to back off. For short-term political gain the Liberal Party has paraded around this State that this is there to protect victims and not offenders. We came down on the side of genuine belief because we decided to protect the women's groups, the elderly and the frail in the community. We placed emphasis on the genuine belief of the person, of the victim, and the reason was that a women's group gave evidence before the select committee that, when a woman is confronted by a male intruder, even if he is there to steal the video or the TV set or something else, no matter what time of the day or night, a woman usually has a genuine belief that a sexual assault may occur. As a consequence of that, the women's group said, under the existing common law, under the law that the member for Kavel and the member for Newland want to go back and alter, it is not workable, that the women are paralysed from using an effective amount of force to repel a male intruder. I know, because the member for Kavel is now in political trouble.

**The Hon. E.R. Goldsworthy:** You're in trouble.

**Mr GROOM:** The member for Kavel is splitting hairs, because we came down on the side of protecting the victim and ensuring that we placed emphasis on the genuine belief of the householder. So it is that belief that is to prevail and not the belief of the offender, or the belief of Mr Jones or Mr and Mrs Smith down the road. When a woman is confronted with a male intruder, she has only seconds to respond and it is her genuine belief that will determine the amount of force that is to be used. If members opposite want to go back and introduce objective standards into the law, they will be doing a grave disservice to women's groups. Not only is the member for Newland doing a grave disservice to women's groups, she is doing a grave disservice to elderly people. Elderly people, due to their frailty, are faced with a similar predicament, whether they be male or female. They do not have the agility of 20-year-olds, they cannot jump around from room to room trying to make decisions that the honourable member wants them to make. They do not have time to contemplate what would be done by Mr Jones down the road or Mrs Smith who lives around the corner.

We came down in favour of codification dealing with genuine belief, because I thought all members of the select committee wanted to protect the victims. Now, the member for Newland wants to rat on the women's groups and elderly people and make them more susceptible to the criminal element in our society. The select committee said by unanimous recommendation it would uphold the genuine belief of the home owner. Of course, it must be genuine—it cannot be fanciful or unreasonable.

*An honourable member interjecting:*

**Mr GROOM:** The honourable member is going down a very dangerous path, and so is the member for Newland. She is doing a grave disservice to the women's groups, who asked us to reform the law and strengthen the position and the rights of women in our community. What do we get? I will tell the House why members opposite are starting to back off and say, 'We will let our colleagues do something in the Upper House.' It is because the Government has received credit for reforming the law in this way. As a consequence, members opposite, who are trying to inject nothing but confusion into the law and are interested only in the politics of it, have now found that they have missed out a bit and they are trying to pull back. In the process, they are on a dangerous path.

We have heard examples. Mr Speaker, you will recall during election time the Hon. Trevor Griffin in another place and the former Leader who is no longer here trotting up the example of people down at Brighton, I think they said, who were victims but they were going to be charged. When it came out, it was nothing at all, and there was no charge against the victims in that instance. The daughter said that they had never heard of such a charge. It was a beat-up. Once again, we heard from a farmer, a Mr Hutton. This was used mischieviously by the member for Alexandra and the member for Goyder, and indeed it was used by the Hon. Trevor Griffin in another place. I will tell the House what the Hon. Trevor Griffin said about Mr Hutton. When you read the newspaper report—

*Members interjecting:*

**Mr GROOM:** Members opposite distorted the facts in relation to Hutton. Of course, one had immediate sympathy for him, but it was not what the Opposition was pretending. The *Advertiser* of 15 August 1990 came out with a great story, 'Law a failure, says "ex-con" farmer', as follows:

On a balmy evening in November 1987, dairy farmer Mr Leon Hutton settled in for the night at his Mount Compass property ready to defend what was his. Fed up with a constant stream of vandalism and thefts at his property, Mr Hutton decided to sleep at his property in his car—to watch and wait with a .303 rifle and confront anyone who trespassed on his land.

In summary, Mr Hutton fired a shot into the ground in front of a group of about six youths and was later charged with unlawfully discharging a firearm. When the Hon. Trevor Griffin made his speech he claimed, in those circumstances, that the youths were advancing towards Hutton and therefore Hutton was frightened for his own safety and used a rifle to actually scare them off. The member for Alexandra and the member for Goyder went down a similar path. The Hon. Trevor Griffin said that Mr Hutton fired the shot because the youths were advancing towards him, and then he said:

I would have thought that any reasonable person would regard his behaviour as quite appropriate.

He should have stuck to the facts because, if he had done so, there would have been a far greater degree of sympathy. When we saw the report from the Commissioner of Police we got a very different version of the facts. What occurred on the night of 19 November 1987, according to the report, was as follows:

. . . he detected six persons on his property. He challenged them and demanded their names and addresses. When they refused, he took his rifle from his vehicle and fired a .303 shot into the ground some 10 feet from them. The group consisted of five juveniles, one being a female, plus an 18-year-old male. He recog-

nised one of them as a neighbour's son. Hutton claimed the group looked like they were going to run so he fired a shot to stop them from running off so he could get some identification. The female in the group started crying when he forced another to take off a jumper and hand it to him. Another asked if they could leave. Hutton then condescended to permit their departure.

When interviewed by the police he was asked, 'Did you tell them that you had a rifle?' Hutton replied, 'Not straight-away. When they went to take off I fired a shot into the ground. It was quite safe.' The police then asked, 'Was that when your fired the shot?' Hutton replied, 'Yes, they were trying to take off. I had to get some identification from them.' He later said, 'No, but I'd seen—I identified one then who I knew and I hoped that the police could get the rest.' This was a situation where the group was actually leaving and Hutton shot a gun off and frightened hell out of them.

If members opposite had stuck to the facts, there was a great deal of sympathy for Mr Hutton, because it is quite a frightening situation to have a group of people on your property at 11 o'clock or so at night. There is no question about that. It was not the situation that members represented. He was charged with unlawfully discharging a firearm, because there was no danger to him at the time he fired the rifle.

That is one situation that really did not bear up to scrutiny. There was another situation. The media have a lot to answer for in respect of a case they reported. The media quoted a person—and, again, the Opposition was involved in this—as saying he was unable to stop people from entering his backyard and stealing his property. What a terrible indictment on society. He was unable to stop people from entering his backyard and stealing his property. The media blew this up as an example of how law and order has broken down. On the face of it, that is a terrible indictment of society but, when we examined the circumstances, we found that the property in the backyard was a marijuana plantation and he was merely endeavouring to safeguard his criminal enterprise from opposing factions because they were after his marijuana plants. No wonder they were breaking into his property!

Cases were put to the committee and we looked at all the situations. Apart from the Hutton case, we could not find any victim who had actually been charged and convicted of anything. A couple of people were charged and one person pleaded guilty, but he may have done so a little unwisely, for he went to court by himself. The case of the person on Yorke Peninsula was dismissed.

During an election campaign, as a matter of politics, law and order tends to favour the conservative side of politics, because it is this side of politics that tries to balance community interests against individual rights. With the greatest respect, the Opposition is in it for short-term political gain and if ever I have heard some back-pedalling and alteration of stance from members of the select committee, I heard it tonight from the member for Kavel and the member for Newland, who will pay the penalty from the women's groups and the elderly groups in her community. Make no mistake about that, because the honourable member is backing off, and I am particularly surprised by her attitude.

A lot of mischief was done in the last election campaign by the former Leader of the Opposition who is now in the Senate and by members of the Liberal Party in the other House. However, let me say this: the contributions to the select committee by the member for Kavel and the member for Newland were very positive.

**The Hon. T.H. Hemmings:** But they have backed off now.

**Mr GROOM:** Well, they have; that speaks for itself. I was very impressed by the positive contribution of the member for Kavel and the way in which he handled it. It is true that there are some modifications to the draft Bill that was annexed to the select committee report. Some of those modifications arise because the Police Commissioner reported to the select committee by letter that he was quite satisfied with the common law as it is applied to police officers and did not see any need for change. When we come down to codification, it is far better to have the police included in the code so that in a mixed situation police are not governed by the common law while the rest of the members of the public are governed by a code. That is one of the reasons for the modification.

When members opposite pick up these lawyers' points, they do the community a disservice. I urge members not to split hairs but to defend the people we set out to defend: the victims of crime, the women's groups and the elderly in our community. They should read the terms of the Bill: a person does not commit an offence by using force against another if that person has a genuine belief that the force is reasonably necessary to defend himself, herself or another. I will not read out the common law, because there is a change of emphasis, as that is what the community wanted of us as politicians.

I have spoken to dozens of groups since this draft Bill came down and I can tell the House that it is supported by a wide cross-section of the South Australian community. If Opposition members in the Upper House try for short-term political gain to get back a bit of credit, they will go down a very dangerous path, because they will be easily exposed. Yet on the one hand they come down in favour of giving greater emphasis, telling people that the law is that reasonable force can be used to resist an intruder. Under this Bill if a person is elderly or frail he or she can resort to a weapon, or if a woman is confronted by a male intruder, she can respond on the basis that she fears that a sexual assault may or may not occur. I support the Bill.

**The SPEAKER:** Order! The honourable member's time has expired.

**Mr M.J. EVANS (Elizabeth):** I support the Bill before the House. As a member of the select committee, chaired by the member for Hartley, I would like to support his remarks that members of the select committee from the Opposition contributed effectively to the work of the committee, as did the member for Hartley himself and the member for Stuart, the other Government member. However, the most effective contributors to the select committee were members of the public who chose to take advantage of the opportunity that it presented to give evidence directly to Parliament. That select committee has produced a worthwhile reform of the law. The codification of this law will add significantly to the way in which the public respects the processes of Parliament and the law at large.

While the common law did offer members of the public a reasonable degree of protection from those who would seek to interfere with their personal property, there can be no doubt from the widespread media and public debate about this issue over the past few years that there was considerable confusion in the public mind about just what steps members of the public could take to defend their person and their property. There is no doubt that codification of the law, even if it only re-enacted the same terms as the common law, was a very useful and desirable step forward.

In fact, the select committee has made a recommendation that moves beyond that point and I believe that the improvements over the common law reflect modern thinking on these matters and are a significant benefit to home

owners who are threatened by an intruder in circumstances where they find it difficult to assess exactly what the motives and intentions of that intruder are. It is only reasonable that, if their actions are to be judged in those circumstances, it should be from their perspective and not from that of the intruder that the judgment is made.

By including the recommendation relating to genuine belief, the committee's report and the Bill subsequently adopted by the Government take those matters into account in a way that will certainly assist members of the public who are confronted by this situation. Now at last they will have the opportunity to turn to a specific section of the statutory law in order to refer to the exact provisions that Parliament has enacted to support them in this matter, and those who advise the public will have a similar benefit.

It is unfortunate that, because of national considerations, the committee's recommendations in relation to offenders who are intoxicated with either alcohol or drugs intentionally inflicted on themselves are not included in this Bill. I have every expectation and hope that those recommendations can be enacted by this Parliament either later this year or early next year in the balance of the next session, because I think they are a very important step forward. They are a significant additional reform and there can be no doubt in my mind and I would hope not in that of members of this House that, where a person inflicts harm on another because of the fact that he has allowed himself to have his judgment impaired by alcohol or drugs, the effect of which he well knew at the time, he will have to take the consequences of his action and not seek recourse to the excuse that he was unable to decide exactly what he was doing and that the alcohol or the drug becomes an excuse for what is nothing more than criminal conduct.

Certainly, there can be very few members of our society who are not aware of the effects of alcohol and illegal drugs that they choose to take of their volition and, if they then find themselves in a situation where they cause harm to another, the consequences of that action should properly fall on their head. Because this matter is the subject of national attention at the moment, I believe it is appropriate that this Parliament should postpone its consideration of that. I give notice to the Government, if it has not already taken note of that fact, that this is only a temporary stay in this matter and there can be no doubt that we must move in relation to this issue at the earliest possible opportunity when the result of the national deliberations is known.

The issues that the Bill seeks to address are very close to the heart of the average citizen. We all have a right to defend ourselves, our families and, to a lesser extent, our property. The very simple formulation of the law that has been set out here in what is a very short but extremely important Bill will be of considerable assistance to those in the community who are confronted with this kind of situation. The committee has assisted members of the public greatly by allowing them to influence Parliament in its deliberations and it is a process that I hope Parliament will follow in the future, because the public will retain a much greater respect for Parliament and for the law as a whole if they are seen to have a role in influencing those who vote on those laws. We should not leave that role to the media and to the political Parties at large in the context of election debates: Parliament should take a much more active approach to seeking out the public opinion on these matters and to responding to that public opinion in a positive and direct way. This Bill is a direct result of that kind of activity and I commend it to the House on the basis of the significant improvement in the common law that it makes.

**The Hon. B.C. EASTICK (Light):** I am somewhat surprised at the contribution of the member for Hartley. I think he must have been playing to a different audience. I draw his attention to his contribution in this House of 13 December 1990, when he praised the efforts of the members of the committee.

*Mr Groom interjecting:*

**The Hon. B.C. EASTICK:** You could have fooled me, and you could have fooled everybody else who happened to be listening. The honourable member indicated not on one occasion but on two occasions in his contribution that the members who had spoken from this side, notwithstanding that they had been members of the committee and had made a worthwhile contribution on 13 December, suddenly were backing off. It is the member for Hartley who is backing off. I draw his attention to the great play he made about law and order. I suggest that he speak to his colleague the member for Napier and ask how long it took to get the Attorney-General to go to Elizabeth to talk to the mayors of the four towns in that area and to the community generally; he should also ask what lessons the honourable Attorney-General learnt as a result of his visit. It was an orchestrated performance by the Attorney-General: nobody was able to ask questions without their first being vetted. There was an independent chairman so that the mayor of the town could not 'influence' the affairs of the meeting.

If anyone, the Attorney-General included, came away from that meeting at Elizabeth believing that there was no real public concern about law and order, about the rights to protect oneself in one's own home, about the importance of aged, young and business people and others getting fairer protection than exists at the present moment, there is something wrong. And that is no reflection upon the police; it was recognised that they are flat strapped for resources and that they are being moved around from place to place and from crisis to crisis. It is not fair on them, and it is not fair on the community.

Having said that, and having drawn attention to the way in which the member for Hartley wanted to change the playing field with his rendition tonight (and I am quite sure that in the Committee my colleagues will be able to put that matter right), I point out that there is no argument from members on both sides of the House that something needs to be done. The member for Elizabeth, the Deputy Speaker, clearly put the position; we have not yet gone far enough, but what we have in front of us is an improvement. The question I would like to ask is one that was asked of me: is the improvement as good as the drafter of the measure really believed? I draw members' attention to the fact that the provisions of the Bill may be at variance with the provisions of section 51 of the Summary Offences Act. I will read that into the record because it is pertinent to this part of the debate. The Minister can take it on board and take advice in advance of the Committee stage. The document is from a legal practitioner who has had quite a degree of experience in seeking to provide defence to people who have been charged and states:

> It seems that ambiguity could arise concerning section 15 *(b)* (i) and (ii). There appears to be a fine line between the exemption set up in section 15 *(b)* (i) and (ii) and unlawful conduct as set out in section 51 of the Summary Offences Act. The oft-quoted scenario of the Leon Hutton experience provides a good illustration of the confusion which could arise from the very marginal distinction that exists from excused behaviour and unlawful behaviour.
>
> If we consider section 15 *(b)* (i), a person may use force, not amounting to the intentional or reckless infliction of death or grievous bodily harm, against another if that person has a genuine belief that the force is reasonably necessary to protect property from unlawful appropriation, destruction, damage or interference or to prevent criminal trespass to any land or premises, or to

remove from any land or premises a person who is committing criminal trespass. If we accept the facts concerning Leon Hutton's case as stated in *Hansard* by the Hon. Trevor Griffin there appears to be little doubt that Mr Hutton satisfied all the above requirements. More importantly, however, it appears unclear whether or not the discharge of a firearm is deemed to be 'force' within the meaning of the Bill. To suggest that the discharge [of] a firearm is not 'force', is to set up a concerning paradox within the interpretation of the self-defence law, for example, when a person discharges a firearm to repel a would-be assassin, robber or rapist wielding either a knife or carry gun. Within the terms of self-defence this is clearly using 'force'

If this is so, did not Leon Hutton act lawfully under the provisions of the Bill?

That is a question clearly put by the practitioner of the law. The document continues:

Juxtaposed to the Bill there exists the offence of section 51 of the Summary Offences Act, which provided that Mr Hutton's behaviour became unlawful not excusable. This it seems is the area of uncertainty which must be made abundantly clear to the public. However, the interpretation of facts in these sorts of matters are left to the jury or the magistrate, prior to which no definite and consistent approach can be publicised. Without adequate explanation on this point, a misinformed member of the public may discharge a firearm believing they are acting lawfully but nevertheless be acting unlawfully as a matter of fact.

For the proposed Bill to be a clarifying rather than an abrogating influence upon individuals and the courts alike, it seems that the whole concept of self-defence must fit in with existing law or that existing law be somehow amended to support a consistent policy objective. For this reason, the definition of 'reasonable excuse' in section 51 of the Summary Offences Act, needs to be considered and perhaps codified to provide an exact and clear relationship between section 51 of the Summary Offences Act and sections 15 *(b)* (i) and (ii) of the Bill.

This person is quite happy to discuss the matter more widely with members on another occasion. The view of the practitioner comes forward at this stage recognising that we are about to enact a piece of legislation passing on to the public a belief that there is a protection for their actions but that we might, in effect, be leaving some of those people with a misbelief that allows them to get into some great difficulty under section 51 of the Summary Offences Act. One of the important aspects of any legislation that passes through this House is that it seeks to be definitive of the purpose for which the Bill is being enacted. It is also extremely important that it does not place people in jeopardy by misrepresenting to them a belief which might not be a defence relative to another piece of legislation that is clearly on the books. I ask the Minister whether, in answering this second reading debate, he will consider this difficulty, which needs addressing before we effectively proceed with the Bill.

I vote for principle and the thrust of the Bill. It is extremely important that the other matter be picked up. I make the point, as did the member for Elizabeth, that the committee is to be commended for the initiating role it has taken in a number of other areas which is not yet reflected in this legislation. I am happy that the action being taken nationally to look at the import and the effects of intoxication is another area to which we need to give urgent attention at the earliest possible moment when the codifying of those various aspects is made available to the public across Australia.

There will be no difficulty in my supporting those actions at the appropriate time, which I hope is sooner rather than later. This Bill will improve the present situation, but let us first deal with the positions that may be imposed on people concerned with the variance that exists by virtue of section 51 of the Summary Offences Act.

**Mrs HUTCHISON (Stuart):** I support the Bill with a great deal of pleasure. As a member of the select committee and as the member for Elizabeth did, I would like to commend all the members of the committee who worked together in a spirit of harmony in trying to overcome the problems which we have in the community and which became increasingly obvious to all members of the committee. I am sure one of the community perceptions was that there was nothing people could do to protect themselves, and we needed to address that problem.

Concern was also expressed in the many excellent submissions we received, and this gave the committee much to work on. The continuing theme through those written and oral submissions was that the current law did not give people the chance to protect themselves in their own homes. That is an important consideration for everyone in the community. Even though provision exists in the common law for people to protect themselves, the continuing thread through all the submissions was the perception that people could not protect themselves, and obviously the committee needed to look at codification of the law. This was obvious in respect of the elderly, women's groups and disabled people, all of whose concern was real, because of the limited capacity of those people to protect themselves. They needed to know exactly what they could do.

I was concerned that we were going to have to educate the community generally about any legislation that came forward from the committee and I asked a number of the groups who made submissions whether they would be willing to help the Parliament and the committee in educating the public once the legislation went through. Certainly, I hope the Bill has a speedy passage through Parliament but, without exception—and I am sure other members of the committee will bear me out on this—all of those people, because of their real concerns about this issue, were willing to cooperate in letting people know what they could do once the legislation was passed and we knew what we could be telling them through an educational program.

I agree with the member for Elizabeth that the submissions were a vital part of the committee's work. Without them, we would not have had a basis on which to work. The major groups who made submissions and indicated their willingness to help in education programs were the UF&S, Australian Retired Persons, Victims of Crime and the Rape Crisis Centre. Obviously there were others, but I do not have time to list them all.

I am pleased to be supporting the legislation tonight. By codifying the law and stipulating that a person does not commit an offence—and then giving the reasons why that person is not committing an offence—the Bill makes clear in layman's terms exactly what can or cannot be done in terms of protecting oneself within one's own home.

That is most important, because I have been speaking with the elderly citizens and women's groups, many of whom do not understand the common law. It is difficult for most of us to understand the common law but, by putting it in terms that are clear to such people (they indicated that they were happy with the way the legislation was worded), the position is clear to everyone.

Obviously, in my electorate of Stuart I spoke to a number of people prior to the select committee about this legislation, and the concerns expressed to me were the same concerns being expressed to all the other members of the committee. Indeed, there is a real concern in the community and a belief that we need to do something about this problem and to educate the people as to what we are doing about it. It is important that they know what we have done and what they themselves can actually do.

The committee's deliberations have highlighted the problem that exists. Again, I would like to add to what the member for Elizabeth said: this legislation is a step in the right direction. While much of this legislation already existed

by way of common law provisions, it was not known generally, and so it is important to codify it. But that is not the end of the road. I believe that there is still much more that we need to do because people have a right to feel safe in their own homes. They need to know that they can protect themselves.

The committee has been responsible and sensitive in its deliberations on this matter. As I said, it was a pleasure on my first select committee to be able to work on an issue as important as this issue. Also, I would like to pick up the point raised by the member for Elizabeth in respect of drugs and alcohol. We looked at the issue of people who, under the influence of drugs or alcohol, committed crimes. With the law as it stands now, there is not much being done about that problem. Certainly, I will be watching with a great deal of interest to see what occurs at the national level regarding this issue, because it is one about which I and the electors of Stuart are most concerned.

For all of those people—disadvantaged groups and with particular relevance to women, the frail aged, elderly and disabled—what we have come up with is something realistic and something that will be of great benefit. However, it does not stop here, and we need to continue to work on this issue in future.

**Mr GUNN (Eyre):** I am pleased to participate in the debate because these amendments, which flow from the select committee's considerations, are long overdue. For a long time members of the public have been victims of criminal activity perpetrated against them when they have not been in a position to defend themselves properly or adequately. I refer to the case of one constituent who was charged with assault because he defended his family and property against hoodlums who were vandalising his property. He found himself faced with the long arm of the law because he gave these people a good whack under the ear, which was the proper treatment for them.

*Members interjecting:*

**Mr GUNN:** This was at Ceduna and the case is well known and well documented. My constituent was victimised by the system and by the legal aid scoundrels who had nothing better to do with their time than abuse taxpayers' funds, which are far too easily available to such people.

**The Hon. Ted Chapman:** What sorts of people?

**Mr GUNN:** Delinquents—Aborigines and others. I make no apology for saying that, because the Police Department has been reluctant to take firm action against these people: it has not had the courage. Perhaps it has not had the support of the Government or it has been too concerned about the hassle involved, but my concern is that decent and law abiding citizens have been victims of criminal activity which they should never have had to put up with.

*Mr Groom interjecting:*

**Mr GUNN:** It is because lawyers like the member for Hartley continue to interfere and basically line their own pockets, and make it difficult for these people to defend themselves. That is the reason—they line their pockets—at the expense of the taxpayer. That is what has gone on. It is absolutely clear that the overwhelming majority of the public want firm action. Not only do they want people to have the right to defend their families and their properties, but they believe the law should be strengthened so that, when someone breaks into homes and carries out physical violence against people, the law is strong enough to act as a deterrent. The time has long since passed when we should be applying the birch to these people.

**An honourable member:** The what?

**Mr GUNN:** The birch—the cane. That is the proper treatment for them. Only in the last week or so a constituent of mine from Jamestown was spending time with his wife, who has been very sick, at a property they have at Mannum. They were minding their own business; she was recuperating, and getting ready for their daughter's wedding when a fellow escaped from gaol, went to the property, attacked the husband with an iron bar and split his head open, necessitating 25 stitches. That fellow was supposed to have been in gaol for life. What sort of punishment are the courts going to hand out to that sort of person, who has no regard for anyone's physical safety? The courts should have the power to order the birch for a person like that and in other cases we have had in recent weeks.

**An honourable member:** What happened to the victim in Ceduna?

**Mr GUNN:** I will tell you, but I have others to talk about. In recent times elderly people have had their homes broken into and have been attacked. Last week a case was reported in the press in which a doctor was attacked, and the 17-year-old vandal received a $20 bond. That poor fellow was physically attacked and beaten up. The courts should have the power to order at least 10 strokes with the cane. I make no apology for saying that, because the overwhelming majority of the public support firm action.

The Government has been too weak with these people. The Police Department has spent far too much time harassing motorists with their cameras and other speed detectors, and the Government has now created a situation where every police officer has become a tax collector for the Treasury instead of protecting the public against these sorts of vandals and hoodlums who are victimising the community. It has become so bad that on some nights you can hardly walk out to the front of this building without seeing drunken louts lying about. The police do not have the courage to do anything about it.

A couple of weeks ago I was driving through Whitmore Square at 8.30 at night and someone tried to get into my car. You dared not touch them. There was a poor couple, two women, next to me who drove through a red light; they were terrified of this drunken lout who went up to their car. The time has come for the police to be able to come along and move these people, kick them up the backside or give them a whack and send them on their way. The mollycoddling of these people has achieved nothing. It has certainly lined the pockets of lawyers, and it has discriminated against law-abiding, hard-working, decent people, whose homes are being broken into all the time.

Just talk to the police. How many homes get broken into in the middle of the night or even in the day? I have a friend who was sitting, watching television: his home was broken into in the middle of the day, the keys to his car were taken and the car was never seen again. These people have no regard for other people's property. There is no sense in filling the gaols all the time. That is terribly expensive. It costs some $70 000 or $80 000 per year. The time has come for the Government to show some courage.

A few years ago I went to the Isle of Man to examine how they used to deal with these sorts of people when they had the authority to apply the birch. The police commissioner told me that, before the British Government was so foolish as to sign the European Convention that stopped them from using the birch on these villains, they had very few people in gaol. When they held the Isle of Man motor races and these fellows came over and attacked people and smashed up their property, they knew full well that they would get so many strokes of the birch. Very few people misbehaved, and they had very few repeat offenders. Now,

of course, they have to build prisons because of this nonsense that has gone on—this weak, lily-livered, soft action that takes place. It seems to me to be a complete contradiction of Government policy, and of the attitude one should have in dealing with people who break the law.

A person who happens to be near a motor car should, if apprehended and subsequently convicted, be penalised, taxed or punished in whatever way may be appropriate. A motor car is an essential means of transport. If a person breaks into someone's home and vandalises or terrorises the owner, you should look the other way. The majority of the public are absolutely sick and tired of what is going on.

These people who carry out violent acts against defenceless or elderly people and women with children should be treated accordingly. What is the sense of continuing to put them on bonds or in gaol at huge cost when they take no notice? The juveniles in Ceduna know that nothing will happen to them and they laugh at the system. The police take them home and they are out of the back door before the police can get back into their car. Gangs of 30 or 40 of them go down the street and can break 50 or 60 windows at the school in one night. Over 900 windows were smashed in Ceduna in 12 months. What can the police do? The police can catch the individuals. Parents should be held responsible, but the average individual whose home is broken into should have the right to defend themselves. When the police catch these people they find that many are repeat offenders—it is not the first occasion.

If we go through the list of offences involving people who vandalise cars, smash up property and set it on fire, we usually find that they have records as long as your arm. A deterrent has to be put into the law, and the courts should have the opportunity to deal with them. It is no use us continuing to say that they should be counselled or talked to or that we have to build bigger prisons—that is all nonsense. It is time to make an example of one or two of these people, and the courts should have the option to apply the birch to them so that we have no more of this nonsense similar to that experienced by my constituent at Ceduna. Another poor constituent had to rescue his son by firing a shotgun into the air when he was being accosted by eight or nine louts. He was going to be charged with discharging a firearm when he was trying to save the life of his son. That shows how stupid the law is.

The police are so sick and tired of dealing with the same offenders all the time that they do not want to know anything about them. There are two sets of laws in some of these places. The courts should be given the benefit of having some of the more draconian measures available to them to deal with these people. I do not believe that my constituent from Jamestown or any others should have to tolerate being physically attacked whilst on their own property and minding their own business. We have seen 70 and 80-year old people smashed up by vandals and thugs looking for money to purchase drugs or stealing videos and other things because they know that they will get away with it. If they are caught, they will not be greatly inconvenienced by the law.

The time has come in my judgment for legislation to be drawn up and put before Parliament to bring back the birch, if the Government has the courage. The majority of people in the community agree with the sentiments I have expressed and are sick and tired of the nonsense. This is the first step and I am pleased that the select committee has had the commonsense to strengthen the law. My constituent was badly treated and other people have been in similar positions, as the member for Alexandra has rightly pointed out. The long-suffering public is sick and tired of this nonsense and it is time to take effective and firm action to deal with those who have no regard for other people's rights or property. The cost of continually putting them before the courts is excessive and the time has come to deal with them. I am pleased to see this measure as a first step. Many other steps are needed to protect the long-suffering public from people who have no regard for other people's rights.

**The Hon. D.C. WOTTON (Heysen):** I rise to speak briefly on this matter. I strongly support this measure.

**The Hon. Ted Chapman:** Do you support the member for Eyre?

**The Hon. D.C. WOTTON:** Yes, I support the member for Eyre as in most cases he speaks a lot of sense and has certainly done so tonight. The majority of people in the community would support what the member for Eyre has said this evening and I am one of them. I pay tribute tonight to two women from my electorate who had a great deal to do with the situation in which we find ourselves tonight in respect of amendments to this legislation. I refer to Betty Ewens and Carol Pope, both constituents of mine living in Mount Barker.

I clearly recall those two ladies coming to see me some time ago and expressing very real concern about problems relating to self defence. They asked me what I thought they could do about it. I said, rather flippantly, that they should start up a petition. The Democrats were involved in helping them set up a petition, and away they went. I am delighted to say that those two ladies were responsible for putting over 40 000 signatures before the Legislative Council, and to a large extent the select committee was set up as a result of their actions. As a result of the select committee's report, amendments are to be made to the legislation.

It is ironic that the two ladies involved both come from Mount Barker, as not very long ago we had a very ugly scene in that town involving a person who, also ironically, was the chairman of a subcommittee formed as a result of a large meeting in Mount Barker calling for concerns in the community on police matters to be addressed. The person chairing the subcommittee was quite innocently organising a party at his home in Mount Barker for his 14-year old son. Some of his friends had been involved in a band competition and the family thought that it was appropriate to invite some of the lad's friends around for a barbecue. There was no alcohol or anything to attract older people to the place. That evening a large number of thugs came around to the property and attempted to force their way onto the property. In self defence the owner tried to protect his family and property and subsequently finished up in the Mount Barker hospital with a broken jaw and other injuries. He has had an extremely difficult time since then, having been back to hospital on a couple of occasions. It is ironic that the two ladies who have had so much to do with the very important and necessary changes to the legislation live in the same town as the man attacked in that way.

I support the remarks made by the member for Eyre as a significant number of people in the community want to see changes. Like the member for Kavel, I am not sure whether the changes go far enough as it is an extremely serious situation. People are looking for appropriate legislation to be enacted to give the police more powers. It was not a matter of this side trying to water down the legislation.

*Mr Groom interjecting:*

**The Hon. D.C. WOTTON:** Do not let members opposite try to put that across in this place. The member for Kavel has put the honourable member in his place: that is what he is upset about. There is a need for strong legislation and for the police to have more power. I wonder how so many

police continue on with their responsibilities when, as the member for Eyre stated, time after time they are dealing with the same offenders. The legislation that they have to deal with is not strong enough, and one would hope that the changes that are being introduced into this place as a result of the select committee will help to rectify many of those matters. Finally, and the major reason for my contribution to this debate, I commend the two ladies who had so much to do with bringing this House to the situation we are now in with regard to this important matter.

**The Hon. TED CHAPMAN (Alexandra):** Tonight we heard an impassioned address by the member for Hartley. Some of what he said was, I thought, good sense, but he drifted a little, particularly when reflecting upon the Hon. Mr Griffin in the other place, and breached the Standing Orders of this House at the time. I did not take a point of order because I was aware that I was listed to speak later and would remind the House of just how remiss he was in that regard. What did concern me, apart from his attack on the Hon. Mr Griffin, was that he linked me, the member for Alexandra, with some involvement in the Hutton alias Hurrell case a couple of years ago.

I did address the House at the time the motion for a select committee was being considered. I did refer to the Hutton case, albeit quite mistakenly referring to Mr Leon Hutton of Victor Harbor as Mr Hurrell in that instance, but at no time did I vary or stray from the matters of fact that applied in that case. I took the details personally from Mr Leon Hutton here in Parliament House in an interview prior to addressing the Chamber. I referred to those notes of our interview during the address as it was recorded on 8 August, and quite clearly it was not I or, as I recall it, any other member on this side of the Chamber who suggested that Mr Hutton fired a shot in his own defence at the children in question. Be that as it may, as far as I am concerned, the shot was fired in circumstances quite different from those described by the member for Hartley, and I understand that he will clarify that issue in due course.

Having clarified the position on behalf of my Victor Harbor constituent, and on my own behalf, I do want to give my unqualified support to the member for Eyre in his expressions of concern. I cite but one example of a recent Aboriginal attack on a white citizen of our community, and it involved a friend of mine, Mr Ray Washington. Mr Washington was walking within a public park in Adelaide a few months ago when he was viciously attacked by a group of persons later identified as Aboriginal youths. The attack on him was extremely savage. Among other wounds that he received, he lost his eye and in fact has only recently had the necessary surgery to have an artificial eye implanted so that at least his features are restored, but of course he has lost 50 per cent of his sight as a result of that terrible incident.

I have not followed through the particular case in the sort of detail that one might before it is referred to in this place, except to say that, as far as I can ascertain, no positive action has been taken against the offenders. I think that reflects the weakness in the system, whether it be in the policing system, the legal system generally or in the judicial level that we have in South Australia to which the member for Eyre was broadly referring. It concerns me that the police in particular appear to be fearful, under the current legislation, of taking appropriate action against beligerent and savage demonstrators that we experience from time to time in South Australia.

I have personally experienced the sort of arrogance and beligerence referred to amongst the Aboriginal community that the member for Eyre raised this evening. My last experience was, as he indicated, right here adjacent to Parliament House. I have raised the matter in this Chamber before. As a result of doing so, I would have expected that either the Speaker or someone in authority in this place might have taken appropriate action before this time against the Aboriginal community for their behaviour, but I am informed by the caretakers of this Parliament that this behaviour still continues. I witnessed it personally only last weekend when I had need to come to Parliament House to pick up some papers. At night outside this building, particularly on the west side, their behaviour is an absolute disgrace, and the only reason that I refer in this place (in the protection of Parliament, I concede) to those groups as being Aboriginal is that they are black in colour.

I have no evidence to be absolutely sure of their breed or whatever, but that is what they appear to me, and I repeat that their behaviour over a period of some years now has been absolutely disgraceful and it is getting worse. Whoever is the responsible Minister, whoever is the authority of this Parliament to ensure that its grounds and precincts are properly protected from the sort of behaviour that is indulged in out there, I do not know, but I would hope that their conscience would soon take hold of them and have them take the appropriate action.

Clearly the police in this State are not game to take the action that is necessary to straighten up those who indulge in offensive behaviour. I believe that it would be irresponsible of any member of this Parliament, unless they were in pairs, to attempt to go in or out of the premises on the west side of this building after dark on the occasions when those groups assemble for their booze-up and other activities in the precincts of the old Legislative Council building. It would be totally irresponsible for a male member of this place to let his spouse or children be without proper protection in or around those premises after dark when these people are assembled outside the building.

They not only scare the pants off those who are required to go through that walkway in order to enter the public thoroughfare, but they actually leave the verandah area of the old Legislative Council building, go out on to the footpath and accost the citizens going back and forth on this side of North Terrace, seeking contributions from them for whatever purposes they may have in mind. Indeed, when money is not forthcoming from those people, they abuse hell out of them. This is the second time I have raised this issue in the House. It is not by convenience, comfort or desire that I do so. It is because I believe there is a real need to address this subject and, if the Bill presently before us in any way strengthens the arm of the law to enable that to occur, it has my full support.

**Mr Groom:** It does.

**The Hon. TED CHAPMAN:** The member for Eyre has indicated that, on his reading of the Bill, it has that effect. I take on board the interjection of the Chairman of the select committee (the member for Hartley) and accept his assurance that it does have that effect. We could play around with the petty edges of this subject for hours and hours. I am satisfied to leave the debate at the point where I am assured by the respective members that it gives the law the additional powers that it requires in this respect, and I look forward to that point being confirmed by the Minister at the appropriate time in the debate. I would hope that, if the Bill is to be interpreted the way it has been described, no-one in the community would abuse the additional powers and privileges given to a person or persons seeking to protect their property, family or themselves. I hope that the legislation is received and applied responsibly, and that the

police in particular take on the duty which I think the public expects of them, and there is a loud public demand for this by the community at large.

**Mr HAMILTON (Albert Park):** I rise to support this Bill. As one whose family home has been broken into on a number of occasions, whose motor vehicle has been stolen and, a couple of days before Christmas, whose son had a $1 500 zoom lens and camera stolen from the front seat of his car parked out the front of our family home, I understand the hostility out there in the community.

Offenders break into someone's home, rustle through their private belongings, and smash up and wreck irreplaceable items. I can understand how people get very angry indeed when they walk in and are confronted with a person who has invaded their privacy. I remember vividly the campaigns run by the Liberal Party leading up to the 1979 State election, and I vowed and declared that, when I got into Parliament, I would not relent on the law and order issue. I do not believe that anyone in this House can say that I have relented. I recall calling public meetings in my electorate, going around and talking to many of the elderly people within my constituency, knocking on their doors and asking them if they had experienced any particular problems.

Leading up to the 1985 State election, I initiated a proactive campaign to support the police in my area. The Westlakes Community Club, as it was then known—the football club—was absolutely chock-a-block with people. I went out and delivered 6 000 leaflets in that area, and the response was fantastic. People, irrespective of their political beliefs, gave support to my call through that leaflet. On this particular evening I was questioned by a senior officer of the Police Department who said, 'We do get off our arse; we do get out there into the community'—that was recorded on tape. That comment was met with a great deal of disbelief by my constituents. They came along to give support to the police, and that comment of the senior police officer was in response to the concern of people in that area of Westlakes Shore. The statistical data that the police had collected did not coincide with the volume of information that I had received, and the police officer disagreed with that information.

I am aware, as I believe anyone who has studied criminology in this country would be aware, that many people out there in the community do not report crime. They ask, 'What's the point?' The point is—and I have actively campaigned on this—that every incident should be reported to the police and, if they complain about it, people should come to see me, and I will take up the matter. I have a very good working relationship with the police in my area, as indeed do my colleagues, the members for Henley Beach and for Price.

I have been out on police patrols. Very few members in this House have taken the time to do that. I note that you, Mr Speaker, indicate that you have been out, and I commend you for it. But very few other members have been out. However, I went out when I was in Opposition and had a look around; I did eight hour shifts in the afternoon and in the early hours of the morning to see the problems in my electorate—not an hour here, an hour there. I was looking for ideas all the time, and I believe that the role of a member of Parliament is to look around and try to find some new initiative, some new mechanism, to address the problems in our community in terms of not only increasing the penalties but also—and it would be hypocritical of me not to say it—in terms of the social issues. That is another issue in itself.

Returning to the concerns out there in the community, I know from having knocked on every door in my electorate since I came into this place that there is concern amongst the elderly and others. That has been going on for as long as I have been in this place, and it is a fact that crime is increasing; it is increasing in the western world. Quite properly, people are concerned about how they protect their own property.

Just last year, I was out working at the front of my house but had to slip around to my son's house, which is not far away, to get a tool. I had left my daughter's radio in front of the house, connected to the electricity supply but, when I came back, it had disappeared. We cannot leave anything lying around; people are very quick to pick up anything.

I am aware from my experiences both in Opposition and in Government of the problems in relation to shopping centres, where youths congregate and cause a degree of concern to elderly people. Elderly people might not have been confronted with the problem previously but, as they get older, their concerns, rightly or wrongly, increase.

I have listened with a great deal of attention to what has been put forward in this debate and I believe that there is quite a bit of politicking going on. I just hope that some members of the Opposition do not go over the top. Whilst it is very easy—

*Mr S.J. Baker interjecting:*

**Mr HAMILTON:** The Deputy Leader says, 'Oh.' People are entitled to their own belief, and some rednecks out there in the community believe that the birch should be brought back, but I cannot stand here in this House and honestly say that I believe in bringing back the birch, because I do not, despite my anger at times. I do not raise personal incidents lightly, but I have felt anger when my family home has been broken into. I know the anger, I know the frustration and I know the suspicion, and I wondered whether it was the people living in the neighbourhood, their children or people walking past. All those suspicions, quite properly, go through a person's mind. I have spoken to hundreds of people at many meetings throughout my electorate about those issues. I have spoken to people at Neighbourhood Watch meetings.

As all members of this House would know, in November 1983 I asked this Parliament and this Government to introduce the Neighbourhood Watch scheme into the State, and it has been very successful. I hasten to add while the Deputy Leader is in the House that he wrote to me and said that he did not believe it was a practical proposition. I still have that on record. So much for his intelligence and understanding of law and order in the community.

*Members interjecting:*

**Mr HAMILTON:** That is a fact. It is on record and I can prove it to anyone in this House. The honourable member said it was not a practical proposition. It has been proven and, once again, the Deputy Leader is wrong.

**Mr Venning:** What is a redneck?

**Mr HAMILTON:** To the honourable member who interjects out of his seat, it may be him, but I do not want to pursue that line. It is very important that members of this place look at the decisions that are arrived at in the courts, as I believe I have done. I do not want to attack the judiciary but, when I see incidents such as the one that took place last year at Outer Harbor in which a juvenile was let off with a $10 fine and no conviction was recorded, my anger becomes almost instantaneous. In that case I acted. I rang the Attorney-General's office and asked, 'What the hell is going on?' He said, 'Kevin, if you are angry about it, do something about it,' and I did. I wrote and the Act will be amended. It is very easy for members opposite to be critical

but it is another matter to do something about it and to bring legislation into Parliament.

**Mr Ferguson:** We can't get it through often.

**Mr HAMILTON:** Indeed, and I thank the member for Henley Beach for his reminder. We in this place all know how the Liberal Party opposed the proposition that parents be responsible for their children. It is a fact in the community that the—

**The SPEAKER:** Order! The member for Albert Park—

*Members interjecting:*

**The SPEAKER:** Order! I ask the member for Albert Park to relate his comments to the Bill.

**Mr HAMILTON:** I was coming to that, Sir, and quite properly you reminded me to link it up. The point I was making is that it is very difficult to get legislation through Parliament and I just give an illustration of the difficulty that the Government has had because of the politicking of some members opposite. I support the Bill. It is very easy when in Opposition to shout about law and order but anyone who looks at the statistical data of the Liberal Party's dismal record between 1979 and 1982 will know that what I am saying is correct. I give my very strong support for this Bill and I wish it a speedy passage. I just hope that it is not watered down in another place.

**Mr S.J. BAKER (Deputy Leader of the Opposition):** Two things require a response. First, the member for Albert Park simply does not know what the truth is about. He has never been able to tell the truth in this House.

**Mr HAMILTON:** I rise on a point of order. I believe that that is an unfair reflection upon a member and I ask that it be withdrawn.

**The SPEAKER:** Order! I uphold the point of order. It is a reflection upon the honourable member and I ask the member for Mitcham to withdraw.

**Mr S.J. BAKER:** I withdraw. The point that I was trying to make and make clearly is that the honourable member has paraded the notion that he was the instigator of Neighbourhood Watch.

**Mr Hamilton:** I didn't say that.

**Mr S.J. BAKER:** Yes, he has, on a number of occasions and it is on the parliamentary record. He also said in his contribution tonight that the Deputy Leader has been opposed to it or said that it would not work. He can find no evidence of that. Indeed, if he really wants to check the record, he should look at statements that were issued prior to the 1982 election when I introduced the concept into South Australia from America. If he wants to argue the point, if he wants to look at the record, he will find that I was the first person to raise that matter in South Australia, but I have never claimed any credit because a number of people put a lot of effort into it, and I have never mentioned that in this House.

Secondly, I could not believe the *prima donna* performance of the member for Hartley. He was absolutely precocious in the way in which he addressed the House on this issue, which we thought was bipartisan. In retrospect, I believe it reflected poorly on what I thought had been a very solid contribution by all members of the committee. The honourable member should be condemned. It was not members of this side of the House who rushed out to tell the press. It was almost as if the member for Hartley was trying to create the impression that he had suddenly taken the law by the scruff of the neck and was changing the force of the law at his own instigation. I am talking about the precocious performance by the member for Hartley and I believe it was unworthy of him and unworthy of the House. Those two points need to be made.

I, too, would like to congratulate Betty Ewens, Carol Pope and all the other people who assisted in the collection of the vast number of signatures that formed one of the most impressive petitions presented to the House. I also congratulate the members of the select committee on coming to grips with the subject matter.

Like Justice Wells, if I had seen this piece of legislation 20 years ago, I would have been horrified. When I did commercial law in the 1960s, the common law was something special. It was something that protected all citizens. The common law told people where their rights lay and every citizen knew what their rights were. But, over time, the law has changed, special circumstances have arisen, and the common law has been eroded. It is a huge problem, because people really are confused. I am confused about the law. Once upon a time, the common law said that there could not be retrospectivity because a person could not be convicted of an offence for which there was no offence, yet the Labor Party has made retrospectivity an art form. Once upon a time, there were no expiation notices for summary or criminal offences. It is a Clayton's offence: the offence you are having when you are not having an offence, except that there is a fine on the end of it. The Labor Party has made an art form of expiation notices and there has been an erosion of what I class the law.

It is no wonder there is a problem with the law, given the parole system, which was changed by the Labor Government to reflect what I believe was an anxious desire to get some criminals out of the prison system so that they would not burn down the prisons. Members who were here at the time will well remember that. A number of initiatives have eroded the common law over a long period, so I can understand the frustration of the people because they do not know what their rights are. They do not know what would happen should they take action against a person who invades their privacy. It is time we attempted to codify this matter, because so many other areas of the common law have been codified and, in many cases, the principles have been eroded because the lawyers have made a plaything of them.

I do not know whether the words that are set down here will do what we want, but I know that the principles we are trying to express in the legislation are those that members of Parliament and the majority of South Australians want. It is quite apparent that we do not want criminals entering our premises thinking that they are on a free ride. We would like criminals to think that they are on a bet to nothing, and that if they get a hiding in the process no-one will be there to pick up the pieces. If a criminal trips over a rake, he or she will not be able to sue for public liability.

A person provided with a strong defence should not be able to claim that that he or she had been assaulted. These are the confusions that exist in the present law. I have read the fine article by former Justice Wells, and I happen to concur in a number of his observations, but I believe that what the select committee has come up with is a strong and reasonable approach to a difficult situation. I support the general thrust of the report and the legislation.

**Mr SUCH (Fisher):** I support the thrust of the Bill, which will hopefully improve and clarify the legal situation relating to people's rights to defend themselves and their property. I acknowledge the contribution of those people who initiated the petition process and I would also like to acknowledge the contribution of those people who so readily signed those petitions. It was one of the quickest changes I have ever seen in terms of this Government's behaviour, and I welcome the consequence we see here tonight.

I believe it is a sad commentary that we have reached the stage where we must tighten or clarify provisions relating to self-defence and the protection of one's property. As I indicated, I welcome these changes, but I emphasise the point that it is a sad commentary that we have to resort to toughening up provisions so that people can adequately protect themselves and their property. The community is sick and tired of this fairy floss approach to criminal behaviour. It is tired of wimpy Governments that fail to protect citizens and their property. Crime in our society has been one of the few growth industries, and it is not something about which this Government can be proud.

In the past 10 or so years there has been a strong element of what I would call a 'do-gooder' mentality where the pendulum has swung in favour of the criminal rather than the law-abiding citizen. It is time that that pendulum swung back. The hands of the police are often tied, and that is an area that needs to be addressed. Of course, it is not simply a matter of changing the law: it is a matter of addressing the social values which underlie the behaviour that gives rise to breaking the law. We need to seriously question some of the practices and disciplinary approaches being conducted in our schools and in the community at large. Also, we need to look at the role of the media, but that is a topic on which I do not intend to speak at length here.

I support the member for Eyre in his call for the use of the cane against those who resort to violence. I have no objection whatsoever to having the cane as a punishment for those who inflict violence on others: they are usually cowards, and a dose of the cane is often appropriate. I believe it should be an option that is before our courts not only at the juvenile level but also at the adult court level. There is no point in our living in a society that has degenerated to the level of behaviour befitting a jungle, but that is the way we are heading, and that is why I welcome this Bill as one small step in helping to arrest that unwelcome trend.

Our courts system has much to answer for. In relation to a minority of juvenile offenders, I do not believe that our system has been tough enough. Probably 10 or 15 per cent of repeat juvenile offenders scoff at the system and inflict further damage and cause concern throughout the community. I believe the role of a small percentage of our legal profession is open to question; their behaviour and approach often leaves much to be desired. I have no hesitation in saying that a section of the legal profession needs to lift its game.

Too much emphasis has been placed on so-called rights and not enough emphasis on responsibilities. We have human rights commissions, but we do not seem to hear much about the corresponding other aspect of responsibilities. In my own electorate, which consists of quality suburbs such as Reynella and Happy Valley, in which there are decent, middle income earning Australians, people are being terrorised by gangs of hoodlums and thugs at present. Those residents' homes are subject to vandalism, and many people, particularly women—but not only women—live in fear of gangs roaming in those quality suburbs, particularly on Thursday, Friday and Saturday nights. It is quite unreasonable that people should have to put up with that sort of behaviour, being confronted with constant vandalism, terrorism, bad language and general misbehaviour. The police seem only able to move them on to other areas, thus not solving the problem at all. It is reaching the stage where the proposed changes to the law become even more relevant in that people living in those situations will be better able to protect themselves and their property.

I support this Bill. As I indicated, it is a small step in changing the balance, which has been favouring the criminal in recent years, and in giving additional rights and clarifying those rights for citizens to protect themselves and their property. I commend the Bill to the House.

**Mr INGERSON (Bragg):** I support the report and the Bill before the House. In recent times I have had several experiences that have caused me significant concern in this area, the first of which involved two young men in a hotel who became involved in a brawl. One incited the other, who put a broken glass into that person's face. That was a fairly horrendous act, which is currently on appeal before the courts. It saddens me to think that the person who has been badly injured had to go to such an extent to defend himself when, if this Bill had been in force, his remedy would have been much easier.

Last weekend I was in the unfortunate position of coming home from a couple of days off only to find that our house had been broken into. A mess was left in the house by the idiots who had broken in, taking many of the possessions that were very close to our family—albeit not very expensive, but very important possessions. If I had been at home at the time, I might not have been as controllable as I was. I have also had another experience in which a good friend of mine, a young policeman, was badly beaten up when carrying out the law and attempting to defend himself. The three experiences I put before the House represent the three major areas that this Bill will attempt to cover.

Earlier, positions were put from both sides of the House. In principle, every member in this place supports the direction of this legislation. Members on one side would like to see the legislation go in slightly different directions, but overall everyone is happy with the general way that this legislation has come about as a result of the select committee. I, like everybody in this debate, have been concerned about the fact that the intruder appeared to have got off easily in relation to the law, and about the fact that victims have been neglected. Members of the community are angry about this matter, and the member for Albert Park, the member for Mitcham and others have described how one knows from door knocking that people want something done in this area.

With all other members of Parliament, I have recently received a document from retired Judge Wells. His contribution to this debate is an important one, and he has raised certain issues that need to be looked at more closely. Obviously, they will be looked at in another place. I have been moved by the argument concerning force, and the emphasis placed in this Bill on 'genuine force' receives my support. Mr Wells' comments need to be examined thoroughly when the Bill is dealt with in another place. Indeed I recommend that that occurs. There is no doubt that the community is in favour of this important measure and, along with other members on this side, I support the Bill.

**Mr FERGUSON (Henley Beach):** I shall be brief, as nearly everything that can be said about this Bill has been said. I congratulate the select committee on the report it has brought down which has resulted in this legislation. I commend members of the Opposition who have contributed to this debate. I listened intently to the Deputy Leader and the members for Fisher, Newland, Kavel and Bragg, all of whom have said that they support both the legislation and the report.

However, based on the comments made tonight, I sense that the Opposition intends to move an amendment to the Bill, or perhaps it intends to seek the support of its col-

leagues in another place to amend the Bill. We have heard these speeches about law and order and about people wanting to see law and order toughened up, including the return of the birch, which is something that I do not support. Although I do concede that many people genuinely believe that the birch ought to be returned, I would not like to see, after all the support that has been expressed in this House tonight, amendments seeking to water down this measure.

We all know of the fate of another matter introduced by the Government in another place making parents responsible for their children. I know that you, Sir, would not want me to debate that issue tonight, but I refer to that proposition's being rejected by members of the Liberal Party in another place when we had the opportunity of toughening up the law. I have sat through many speeches in this House about law and order, about how the Government has gone soft on law and order and about how members of the Opposition would like to see law and order toughened up. However, when the opportunity comes their way, recent history has provided us with the evidence that members of the Opposition are not willing to support the Government when it introduces legislation to toughen up law and order. We have received general expressions of support from both sides of the House for the excellent report and legislation now before us which has been guided by the member for Hartley. We have a bipartisan agreement now before us.

Members from both sides of the House have produced the report and the legislation. No doubt Opposition members will cut out their speeches in *Hansard* and send them to their constituents, but I hope that they do not try to weaken this legislation by introducing amendments. I hope the Opposition will support the Bill as it is. Indeed I hope that my interpretation of their motivation is totally wrong.If it is wrong, I apologise in advance.

I hope the legislation that has reached this House by agreement from a bipartisan committee is left unscathed and that the intention of the committee in introducing this legislation remains in tact. I hope we will not have a situation of Liberal members saying, 'We support law and order and we want the law tightened up and made tougher', but then introducing amendments either in this or in another place to water down these provisions.

I hope that we can get support for the legislation from both sides of the House—unequivocal support—and none of what I have just described. I support the Bill.

**The Hon. G.J. CRAFTER (Minister of Education):** I seek leave to continue my remarks later.

Leave granted; debate adjourned.

## STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Received from the Legislative Council and read a first time.

**The Hon. G.J. CRAFTER (Minister of Education):** 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.

### Explanation of Bill

In the past few years a tendency has emerged of using a number of small separate Bills to introduce amendments of a minor or non-controversial nature. In February 1990 Cabinet approved guidelines to reduce the volume of legislation in a parliamentary session. The guidelines are designed to ensure, as far as practicable, that minor amendments to legislation can be dealt with in Portfolio and Statute Law Revision Bills during the course of a parliamentary session. This is the first portfolio Bill introduced under these guidelines.

Members will note that nine separate Acts are amended. Introducing the amendments in one Bill represents a considerable saving of parliamentary time. As required by the guidelines, the amendments are of a minor, non-controversial character. Major new policy proposals are not included. Turning to the amendments.

ADMINISTRATION AND PROBATE ACT 1919

It is proposed that the Registrar of Probates be appointed by the Governor on the recommendation of the Chief Justice. No such requirement exists at present although, of course, as a matter of practice no such appointment would be made without the Chief Justice's concurrence.

Section 29 (1) of the Act provides that there shall be one place of deposit of original wills under the control of the Supreme Court. Due to pressure of space, it has now become necessary to deposit wills in storage away from the Court. It is no longer possible to ensure storage for all of the wills in one area. Accordingly, the Act should be amended to reflect this change.

CRIMES (CONFISCATION OF PROFITS) ACT 1986

Section 3 of the Crimes (Confiscation of Profits) Act 1986 specifies certain summary offences as 'prescribed offences' for the purposes of the Act.

Amendments to the National Parks and Wildlife Act 1972 mean that the offences prescribed in relation to that Act need to be altered. Further, investigators of the Wildlife Protection Branch of the National Parks and Wildlife Service have in recent months confirmed a higher incidence of illegal taking and sale of brush (*Melaleuca uncinirta*), a native plant in demand for brush fencing and green cut mallee for firewood. Significant profits of many thousands of dollars are being made from this illegal trade. Brush and firewood are diminishing resources which remain in high demand and will continue to be exploited. It is possible to identify the monetary amounts paid to illegal brush and wood cutters and it is appropriate that these illegal profits should be liable to forfeiture. Accordingly the offences of unlawful taking of native plants (section 47), unlawful disposal of native plants (section 48), and illegal possession of native plants (section 48a), have been added to the list of prescribed offences.

CRIMINAL LAW CONSOLIDATION ACT 1935

(i) Year and a Day Rule

The purpose of this amendment is to abolish the rule at common law known as the 'year and a day rule'. That rule states that, where one person causes injury to another, or inflicts injury on another, he or she cannot as a matter of law be taken to have caused the death of the victim if the victim dies more than a year and a day after the injury which in fact caused the death. Some say that the rule reflects nineteenth century medical knowledge and represents a judgment that, in 1800, for example, it was not possible to prove the causal link between injury and death after a year and a day. Others see its origin in the procedure of appeal of felony for death in the thirteenth century. Whatever its origin, it retains no present rationale. Further, it may cause positive injustice where an offender injures a victim who lies in a coma for a long period, or where the offender, for example, infects the victim with a disease such

as AIDS, which involves a long slow death. The result of repeal will be that the causation of death will now be assessed on the same basis as in any other criminal case.

It is true that, if the rule is abolished, an offender may be convicted of an offence such as malicious wounding and then face a charge of murder or manslaughter at some distance from the event; however, if he or she did cause the death of the victim, then the charge is appropriate. Repeal was recommended by the Mitchell committee for these reasons.

(ii) Unlawful Sexual Intercourse

The purpose of this amendment is to remove the expression 'mentally deficient', which is offensive to the intellectually disabled, from an offence criminalising sexual intercourse with people who, by reason of an intellectual disability, cannot understand the nature or consequences of the act. The offence, as before, applies only to an offender who knows that such is the case and the redrafting is not intended to alter the scope of the offence at all, either in relation to the class of potential victims or the class of potential offenders. This amendment was recommended by the Bright Committee and prompted by a reminder from the Intellectually Disabled Services Council.

(iii) Miscellaneous

Section 357 is amended by extending the time for appeal to 21 days. It is often necessary for a proposed appellant to obtain assistance from the Legal Services Commission and sometimes to obtain advice from counsel. Applications for an extension of time are an everyday and wasteful occurrence. A period of 21 days is more realistic and the court would feel able to enforce such a period.

Section 364 (3) is amended by deleting the reference to special treatment as the Correctional Service Department no longer accords special treatment to a prisoner pending the hearing of his appeal and in consequence the sentence continues to run.

CRIMINAL LAW (SENTENCING) ACT 1988

A new provision is inserted to allow a charge to be made for sending out a reminder notice that payment of a fine, costs etc are overdue. With the introduction of computerisation in the courts it will be a simple matter to send reminder notices which it is hoped will prompt some people to pay the amounts they owe, saving the need to issue a warrant. It is reasonable that a fee should be charged for this notice. A fee of $10 will be prescribed.

JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS AND POWERS) ACT 1988

This amendment expands the class of persons eligible for appointment as judicial auxiliaries to include retired judges from the Superior Courts in Australia and New Zealand. The amendment is consistent with a proposal agreed to by the Standing Committee of Attorneys-General whereby a pool of retired judges would be established to meet temporary backlogs in court lists or to serve on commission or inquiries where local judges are unavailable or unwilling to serve.

The amendment provides that prior service as a judge of a superior court in another jurisdiction is a sufficient qualification for appointment to the judicial pool. Currently, the pool is limited to practitioners of the South Australian Supreme Court.

Judicial service outside the State is only taken into account for the purposes of determining whether a practitioner of the court has the standing necessary for appointment. The amendment will allow retired judges from other States to be appointed to the pool, even though they are not, or have never been, admitted to practise in South Australia.

This matter has been the subject of consultation with the Chief Justice. He has advised that he sees considerable merit in the proposed scheme and that he has no difficulties with it.

JUSTICES ACT 1921

This amendment to section 106 clarifies the law relating to the use of an audiotape record of an interview with a young child at a preliminary hearing.

In 1987, the Justices Act 1921 was amended to enable the evidence of a young child to be received at a preliminary hearing—

(i) in the form of a written statement taken down by a member of the Police Force at an interview with the child and verified by affidavit by the member of the Police Force;

or

(ii) in the form of a videotape record of an interview with the child that is accompanied by a written transcript verified by affidavit of a member of the Police Force who was present at the interview.

The section does not specifically provide for the use of an audiotape recording of the interview.

The conduct of interviews with victims is often very difficult particularly when the child is very young. The Sexual Assault Unit does not presently have the facilities for videotaping of interviews, as allowed for in section 106 (2) *(c)* (ii) of the Act. To ensure accuracy of such interviews, the unit's personnel presently take statements of children on audio cassette tapes. Transcripts are then prepared and used as the statement for presentation at the preliminary hearing.

The Bill makes it clear that an audiotaped recording of an interview with a young child may be received as evidence at a preliminary hearing in the same manner as a videotape record could be presented.

LAW OF PROPERTY ACT 1936

This amendment arises out of a recommendation by the Supreme Court Judges in their 1984 annual report. Court is so defined that all claims for partition of land must be heard in the Land and Valuation Court. The majority of such claims arise out of broken de facto relationships or partnership disputes. The determination of the rights of the parties in such matters falls within the general jurisdiction of the Supreme Court. The value, sale or division of land is seldom an issue once those rights have been determined. If such an issue does arise, it can be referred to the Land and Valuation Court under section 62c of the Supreme Court Act.

PRISONERS (INTERSTATE TRANSFER) ACT 1982

Uniform interstate transfer of prisoners legislation is in place in all the States and Commonwealth. The legislation allows prisoners to be transferred from one State to another to stand trial or for welfare reasons. The Act makes provision for the Governor to declare by proclamation that a law of a State is an interstate law for the purposes of the Act. A number of amendments to this legislation has been made in other States, which must be declared by proclamation as interstate laws for the purposes of the Act.

In order to eliminate the need to proclaim every amendment hereafter, the Act is amended to ensure future amendments will automatically be recognised as interstate laws for the purpose of the Act. Provision is already made for amendments to the Commonwealth Act to be automatically picked up.

SUPREME COURT ACT 1935

The Bill amends section 129 of the Act relating to the unclaimed suitors' fund.

Under section 128 of the Act, unclaimed suitors' funds are paid to the Treasurer as part of the general revenue of the State and are then not claimable unless released by the court. Section 129 provides that when the court orders release of the money, it is required to 'make an order for payment of the sum to which the applicant is entitled with or without simple interest therein at the rate of three per centum per annum from the time when the money was paid to the Treasurer.'

The Public Actuary has indicated that in the current economic climate an interest rate of three per cent per annum is inadequate. In addition, he considers that the use of simple interest which does not allow for accumulation over time is inappropriate for funds which may be held for several years.

Before unclaimed suitors' funds are paid to the Treasurer, they are held in the Supreme Court Suitors' Fund and are invested in accordance with the *Supreme Court Rules 1987*.

Supreme Court Rule 109.06 *(b)* provides for investment in a common fund. As soon as practicable after 30 June and 31 December each year, the Registrar of the Supreme Court, with the approval of the Auditor-General, fixes the rate of interest payable in respect of funds in Court for the preceding half year. Interest at this rate is credited to the common fund on those dates.

Interest accrues from day to day on money in the fund and, if money is paid out of the fund during any half-yearly period, the rate of interest applicable to the previous half year is applied, unless the Registrar directs otherwise. The Registrar may specify a different rate if interest rates have changed.

Once funds are paid to the Treasurer, they are invested by the Treasury along with other consolidated revenue funds. The earning rate on these funds should be similar to the rate earned on the common fund.

The Public Actuary considers that it would be more appropriate for Treasury, when paying out unclaimed suitors' funds, to add compound interest at the rate declared by the Registrar under the Supreme Court Rules rather than simple interest at three per cent.

This amendment achieves this aim.

I commend the Bill to members.

Clauses 1 and 2 are formal.

Clause 3 provides for the interpretation of this Bill. This Bill amends nine Acts and this clause provides that a reference in this Bill to the 'principal Act' is a reference to the Act referred to in the heading to the part of the Bill in which the reference occurs.

Clause 4 amends section 6 of the Administration and Probate Act 1919. Subsections (2) to (5) that deal mainly with the appointment of the Registrar of Probates by the Governor are struck out and subsections (2) and (3) are substituted. The new subsection (2) provides that the Registrar of Probates will be appointed under Part III of the Government Management and Employment Act 1985 on the recommendation of the Chief Justice. The new subsection (3) provides that the Registrar must not be dismissed or reduced in status except on the recommendation or with the concurrence of the Chief Justice.

Clause 5 amends section 29 of the Administration and Probate Act 1919 by striking out subsection (1) which states that there is to be one place of deposit of original wills under the control of the Supreme Court at a place in Adelaide as directed by the Governor by notice in the *Gazette*. The new subsection (2) which is to be substituted empowers the Governor, by notice in the *Gazette*, to appoint places for the safe custody of wills and any other documents as the Supreme Court may direct. This clause further amends section 29 by striking out subsection (3) which is no longer relevant.

Clause 6 amends section 3 of the Crimes (Confiscation of Profits) Act 1986. Paragraph *(b)* (ii) of the definition of 'prescribed offence' dealing with offences against the National Parks and Wildlife Act 1972 is struck out and a new subparagraph is substituted that reflects the changes that have been made to the National Parks and Wildlife Act 1972 and also takes in other offences committed against that Act.

Clauses 7 to 10 provide for amendments to the Criminal Law Consolidation Act 1935.

Clause 7 inserts a new section after section 17 of the principal Act in that part of the Act dealing with homicide. The new section 18 abolishes the common law 'year-and-a-day' rule by providing that an act or omission that in fact causes death will be regarded in law as the cause of death even though the death occurs more than a year and a day after the act or omission.

Clause 8 amends section 49 of the principal Act by striking out subsection (6). The current subsection uses language which is no longer acceptable. A new subsection (6) is substituted which uses language that is not offensive to the intellectually disabled without changing the nature of the offence enacted in the current subsection.

Clause 9 amends section 357 of the principal Act by extending the length of time in which a person can appeal under this Act or can obtain leave of the Full Court to appeal from ten days to 21 days from the date of conviction.

Clause 10 amends section 364 of the principal Act by striking out certain words from subsection (3) that are no longer appropriate given the current practice of the Correctional Services Department in respect of an appellant attending court for the determination of his or her appeal.

Clause 11 inserts a new section after section 60 of the Criminal Law (Sentencing) Act 1988. The new section 60a enables the appropriate officer of a court to issue a reminder notice to a person who has been in default of payment of a pecuniary sum for 14 days or more. The cost of issuing the notice is to be added to the amount in respect of which the notice was issued.

Clause 12 amends section 3 of the Judicial Administration (Auxiliary Appointments and Powers) Act 1988 to make retired judges of the High Court of Australia, the Federal Court of Australia, the Supreme Court of another State or Territory of Australia and of the Court of Appeal of the Supreme Court of New Zealand eligible for appointment to act in a judicial office on an auxiliary basis.

Clause 13 amends section 106 of the Justices Act 1921. Insertions are made into the current subsection (2) to allow the evidence of a child at a preliminary hearing to be given in the form of an audiotape accompanied by a written transcript verified by affidavit of a member of the Police Force who was present at the interview that was audiotaped. Consequential amendments are made to the current subsection (5).

Clause 14 amends section 7 of the Law of Property Act 1936 by striking out the definition of 'court' and substituting a new definition that defines 'court' to be the Supreme Court or a judge of that court.

Clause 15 amends section 5 of the Prisoners (Interstate Transfer) Act 1982 to provide that future amendments to any Act that has already been declared to be an 'interstate law' will not have to be separately declared by the Governor.

Clause 16 amends section 129 of the Supreme Court Act 1935. The current section 129 deals with the payment out of Treasury of funds originally held in the Supreme Court as part of that court's suitors' funds. Under section 128 of the principal Act, suitors' funds which have been unclaimed

for six years have to be paid to the Treasurer. Section 129 provides that the Supreme Court may subsequently order the payment out of Treasury of those funds to any applicant who is entitled to them. At present, the Supreme Court can also order the payment of simple interest at the rate of 3 per cent per annum on the sum to which an applicant is entitled for the period for which that sum was held by the Treasurer. This clause repeals that authority to order 3 per cent simple interest and replaces it with authority to order payment of whatever additional amount would have accrued (as interest or otherwise) had the sum to which the applicant is entitled been left in court all along.

**Mr INGERSON** secured the adjournment of the debate.

## LAND AGENTS, BROKERS AND VALUERS (INCORPORATED LAND BROKERS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

**The Hon. G.J. CRAFTER (Minister of Education):** 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.

### Explanation of Bill

The purpose of this Bill is to amend the Land Agents, Brokers and Valuers Act 1973.

The proposed amendments will permit land broking practices to incorporate and thereby take the benefit of certain tax, administration and other advantages.

The professional incorporation model upon which amendments to the Land Agents, Brokers and Valuers Act are based is contained in the Legal Practitioners Act 1981. It is provided in the Legal Practitioners Act 1981 that the personal liability of members of incorporated legal practices is not affected by incorporation.

It should be clearly understood that a decision to allow land brokers to incorporate is made only on condition that incorporation is permited to facilitate business arrangements with no effect on the personal liability for negligence, fraud or otherwise of members of incorporated land brokers' practices.

The Bill permits incorporation of land brokers' practices where the 'sole object' of the company is to carry on business as a land broker. In other words, the incorporated body must only carry out the duties of a land broker as defined by the Land Agents, Brokers and Valuers Act. Pursuant to that Act a land broker means a person, other than a legal practitioner, who for fee or award prepares any instrument as defined in the Real Property Act 1886 in relation to any dealing in land. Land brokers who carry out any other activity such as finance broking, mortgage financing or other related businesses will not be permitted to use this model to incorporate. A person carrying out those activities may of course incorporate separately under the Companies Code.

The Bill also establishes strict stipulations in respect of the holding of shares and broking rights within the incorporated practice. The effect of these provisions is to ensure that ownership of the company remains with a licensed land broker or land brokers and his, her, or their relatives or employees. No more than 10 per cent of the issued shares may be beneficially owned by employees for most licensed land brokers. Voting rights in the company may only be exercised by licensed land brokers who are directors or employees of the company. The Bill effectively ensures that ownership remains with the land brokers who are active in the business by requiring that shares be acquired by the company when a person ceases to meet the criteria for membership set out in the Bill.

Where the stipulations required by the Act are not complied with, such non-compliance must be reported to the Commissioner for Consumer Affairs and the Commissioner may apply to the Commercial Tribunal to ask that the company be ordered to comply with the terms of the Act.

It will be grounds for disciplinary action which may be taken by the Commissioner for Consumer Affairs in circumstances where there is non-compliance with the Act.

No additional staffing or resource implications for the Department of Public and Consumer Affairs would flow from the enactment of this Bill.

Clause 1 is formal.

Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 amends section 6 of the principal Act which provides definitions of terms used in the Act. The clause repalces the definition of 'director' of a corporation with a definition that is in the same terms as that for a company director under the corporations law. The clause inserts new definitions of 'prescribed relative', 'spouse' and 'putative spouse' which are used in the new provisions relating to incorporated land broking businesses (for which see clause 6 of the Bill). 'Prescribed relative' is defined as a spouse (which includes a putative spouse), parent, child or grandchild of the person in relation to whom the term is used.

Clauses 4 and 5 make amendments that are consequential to the amendments providing for the incorporation of land broking businesses.

Clause 6 inserts a new section 57a providing that a company is entitled to be licensed as a land broker under the Act if the Commercial Tribunal is satisfied that the memorandum and articles of association of the company comply with certain requirements. These include requirements:

*(a)* that the sole object of the company must be to carry on business as a land broker;

*(b)* that the directors must be licensed land brokers (or, where there are only two directors, one a licensed land broker and the other a prescribed relative of that person);

*(c)* that beneficial ownership of shares in the company is limited to licensed land brokers who are directors or employees of the company, to prescribed relatives of such persons and to employees of the company;

*(d)* that all voting rights at meetings of members of the company must be held by licensed land brokers who are directors or employees of the company;

*(e)* that no more than 10 per cent of the shares of the company may be owned beneficially by employees who are not licensed land brokers;

and

*(f)* that no director of the company may, without the approval of the Tribunal, be a dirtector of another company that is a licensed land broker.

Clause 7 makes a futher amendment of a consequential nature only.

Clause 8 inserts a new Division IIA of Part VII of the principal Act containing provisions regulating incorporated land brokers.

Proposed new section 59 requires a company that is licensed as a land broker to report to the Commissioner for

Consumer Affairs any non-compliance with the stipulations required to be included in the memorandum and articles of association of the company. The clause provides that the Commercial Tribunal may, on application by the Commissioner, give directions to secure compliance with any such stipulations. Non-compliance with any such directions is, under the proposed new section, to result in suspension of the company's licence.

Proposed new section 60 provides that a company that is licensed as a land broker must not carry on business as a land broker in partnership with any other person without the prior approval of the Commercial Tribunal.

Proposed new section 60a provides that any civil liability incurred by a company that is a licensed land broker is enforceable jointly and severally against the company and persons who were directors of the company at the time the liability was incurred.

Proposed new section 60b requires alterations to the memorandum or articles of association of a company that is licensed as a land broker to have the prior approval of the Commercial Tribunal.

Clause 9 makes consequential amendments to section 85a of the principal act relating to the clauses for disciplinary action against licensed land brokers.

**Mr INGERSON** secured the adjournment of the debate.

## ADJOURNMENT

**The Hon. G.J. CRAFTER (Minister of Education):** I move:

That the House do now adjourn.

**Mr S.G. EVANS (Davenport):** I take this opportunity to raise a matter of concern to me and to one of my constituents. My constituent, his wife and members of his family own a property in Melbourne Street, North Adelaide. The property has a building on it and at the rear of the building is a vacant allotment on which a development can be created. On 24 July last year my constituent wrote to the Minister for Environment and Planning about a controversial planning decision by the Adelaide City Council to approve a cantilevered development over a reciprocal right of way on the property. If built, the cantilever will dramatically restrict access to the property and to the vacant land at the rear. My constituent has made numerous submissions to the Adelaide City Council to no effect. It is felt that the Town Planner did his very best to push through the approval, regardless of my constituent's concern about the proposed development.

In January my constituent began ringing the Minister's office repeatedly seeking a reply to his letter of 24 July last year and he finally received a reply on 20 February 1991. For him the reply was a disappointment. He said that he could not agree with the Minister's reply as principle 34 of the City of Adelaide plan had been totally ignored. The Minister's reply indicated that nothing could be done and that was it; virtually said that the Adelaide City Council was a God unto itself.

As the adjoining owner of the property my constituent makes the point that the proposed development will severely restrict access, will affect the value of the property and disadvantage future owners and occupiers. The law does not provide any avenue of appeal. The Parliament has legislated that way in favour of the Adelaide City Council. An urgent need exists for a third party appeal provision on planning decisions of the Adelaide City Council. My constituent also indicated to the Minister's office that the matter should be brought to the notice of the Adelaide Planning Review Committee for consideration. The Minister's reply did not address this point. My constituent is concerned that the Minister did not bother to respond to the point that he wanted the matter to go before the Planning Review Committee for consideration. He makes the point that he would be pleased if I could discuss the matter in order to effect change.

I have discussed the matter with my constituent and it is my intention to seek changes. The effect of the development is such that, if the cantilever is built over the right of way, the height of vehicles gaining access to the property will be between 3.1 and 3.3 metres. There is a gradient on the drive which has an effect upon the practical height one can achieve when passing through in a vehicle. A premix concrete truck would not be able to gain access to the rear of the property. If they want to pour concrete, they will have to hire a pump to pump it from the street. If people want to shift in with a removalist van bringing in office furniture they will not be able to gain access to the property.

I have no doubt that the Adelaide city planner, who may have some of the powers of council passed down to him, knows full well that the development would have a detrimental effect on the property of my constituent. No-one alive with any planning skills would not know that. A distinct advantage has been given to the other person, maybe a friend or friend of a friend. Maybe the other person undertakes developments regularly around the city and has greater access to advice or help from council employees—I do not know. However, I am suspicious because a small operator finds himself in this situation. Surely if somebody has a right of way to a property it should remain so as to give full access to that property. Imagine if one of the bigger developers in the city had to tolerate such an intrusion on their property. They would use all the money that they could to stop it, but that is beyond this individual. The City Council has been given a massive amount of power in the planning area by this Parliament. With it goes a responsibility to protect the rights of individuals and not to take away any from the value of their property for the benefit of another property holder. That is happening in this situation—it is giving a distinct benefit.

The Minister had no say in the end but my constituent would have liked her to refer the matter to the Adelaide Planning Review Committee. However, the Minister did not reply on that point. I am sure that she will take up the point. How can any council give that sort of power to planning officers if they are going to do this sort of thing and say that it is all right for someone to build out over a right of way at a height that will stop the owner at the rear of the property from gaining access with normal commercial vehicles? That has occurred here.

This Parliament thought that it was giving a responsible body an easier method by which to undertake planning approvals and do the right thing by individuals. I start to wonder when we look around our country and see the sort of graft that goes on, whether it is a case of good mates, a handshake, a wink of the eye or somebody rubbing shoulders with somebody in council. Is it a case of a regular developer saying, 'G'day Jack, how are you' whilst the other party has to call them 'Mr Smith' or 'Mr Brown'? There is no way that anybody can justify giving one person the right to build a cantilevered development over a right of way to the detriment of the owners at the rear. I defy the Adelaide City Council or anybody else to justify that action. My constituent is a small developer and only owns a small property. He does not live within the Adelaide City Council

area and does not have regular contact with it, but he should not be taken for a sucker, as has happened.

My constituent has asked me to ask this Parliament to look at the Adelaide City Council. If it is going to behave like this, we should place third party appeal provisions back into the Act. If it cannot handle that responsibly it should not have the power that it enjoys. It is easy for an officer in the department to say that my constituent is only a small operator who will lose only a small part of his rights. He should not lose any rights but should retain them absolutely. The cantilever should be built at a greater height or not at all if it is to go over a right of way. My constituent does not object to its being built at a greater height, but his complaint is that it will restrict his access to the property. I hope that the Minister will take up the matter with the city council and make representations.

**The SPEAKER:** Order! The honourable member's time has expired. The member for Playford.

**Mr QUIRKE (Playford):** Tonight I raise a serious matter that I had hoped to bring to the attention of the House a few weeks ago. I will speak on who minds the minders. I draw the attention of members to at least one security firm in Adelaide which has some very questionable practices. I do not do this lightly. In fact, I and other members in the House have been approached by various companies, particularly in the past couple of months, that have experienced a great number of financial difficulties. I know that members on both sides have endeavoured to struggle to help some of these companies, where that is possible, to come to grips with their obligations and some of the problems that they have and, where possible, to seek Federal and State Government assistance and, in general terms, to ensure that they survive what is proving to be a very sharp recession. Whether or not it will be a short recession, we do not know.

A constituent of mine, Mr Kevin Osborne, came into my office and made a number of allegations about a security company called Intrepid Security. I understand that it sometimes trades under Alarm Systems of SA. I was in Parliament on 20 March when the approach was made to my office and my secretary (Mrs Cathy Hinder) had to deal with the problem. She heard a number of allegations about the way in which Mr Osborne had been treated as an employee of Intrepid Security. He had no idea how much money was owed to him but had a fair idea that there was some, and I will return to that in a moment. His general terms of employment, timebooks and a number of other things were, to say the least, non-existent. He had a cheque in his possession, but that cheque had bounced. The cheque was made out to him but was not crossed, and did not have the 'or bearer' crossed out. When he went to the bank, it was refused and the bank made it quite clear that he had to go back and discuss his wages with Intrepid Security. He did that, but received very little response.

Mr Osborne came to my office and Mrs Hinder did what I considered to be the right thing in that she followed my instructions that she contact the union, because it was alleged by Intrepid that Mr Osborne was a member of the Miscellaneous Workers Union. However, the union had no record of Mr Osborne's membership at any stage. That is not unusual, because he was never furnished with pay slips or any of the other normal things one would expect a company to do, some of which it has an obligation to do, as I understand it.

At that point, Mrs Hinder telephoned the company and was given what she described as a dressing down. She was told that MPs should not get involved in industrial relations, private enterprise or any one of a number of other things. Also, she was told that Mr Osborne did not know his way into the bank, and that is why the cheque was not presented or in fact bounced. She was also told in a very abusive fashion that Intrepid would take up the matter with other parties. I became very concerned when I heard of Mrs Hinder's treatment, so I faxed a message to the company which stated quite plainly, as I am sure every member in this place would support, that MPs not only have a right but also an obligation to follow through matters that are raised by their constituents, whether it is to do with their livelihood or whatever. Members of Parliament must—and I use the word 'must'—take all reasonable precautions to make sure that these problems are settled.

I was very much under the impression at that time that this may well have been a business that was experiencing difficulties and that it may well have been possible for us to get together and solve some of those problems. My fax to Intrepid stated quite clearly that, if my secretary was addressed in that manner again, I would raise the matter here in the House. The next morning, a Mr Graham Cowen of that company rang my office and was extremely abusive to my secretary. One of his first comments was to whether Mrs Hinder was Mr Osborne's mother. I find that amusing because Mrs Hinder is in fact younger than Mr Osborne. He then suggested that she was on with him, and this is typical of the attitude expressed by Cowen, who claimed to be Managing Director of the company. The other man who had abused my secretary the previous day was a Peter Clarke who, according to Mr Cowen, was formerly of the CIB. If he was, he should have known better.

When I spoke with Mr Cowen, he threatened me with the Opposition. I do not mind that—that is fine. I am quite happy to go on public record for that. In fact, I had contact with a member of the Opposition and was quite impressed with the responsible way in which that member addressed the issue as well, because bounced cheques are bounced cheques.

Since that time there have been further developments. Eventually, the cheque was cleared on 26 March on either the third or fourth presentation. Another employee of Intrepid Security, Mr John Miller, was on the Jobstart program and the Federal Government helped to fund his first 20 weeks of wages. Mr Miller is still owed approximately $2 000 in wages. This is the sort of company with which we are dealing. Mr Miller was a nightwatchman for the company. He was given a dog and his job was to go around and attend to all the clients who had been signed up by Intrepid. He was told that all expenses with respect to the dog would be reimbursed. He is still waiting for the money.

When Mr Miller got sick of the whole arrangement and fronted the boss, he was sacked. He went home but later that evening received a telephone call and was told to return the dog immediately. He suggested that they should meet the next morning and he would hand over the dog and the supplied cage, and that it might be an idea for the company to have some of his wages but, at the very least, the $200-odd for food and veterinary expenses associated with the dog. Mr Cowen's brother went around to the house and threatened Mr Miller and Mr Miller's mother and father. The police had to be called before Mr Cowen's brother would leave the premises. Mr Graham Cowen returned the next day, and so did the police. Eventually the dog and the cage were handed over to Mr Cowen, in an atmosphere again of threats, the sorts of threats which seem to surround this company. To my knowledge, Mr Miller has still received no money, but Intrepid Security has quite happily collected the Jobstart money. Obviously, it has collected money from

its clients and is going about its business like a bunch of cowboys.

At the beginning of this speech I stated that I would return to the problem of Mr Osborne's wages underpayment. He is still waiting for over $400 in wages. The company alleges—and Mr Osborne does not dispute it—that a vehicle had an accident, and that Mr Osborne is responsible for the excess payments on that vehicle. That is something I will pursue all the way. I make it quite clear that companies such as this that are responsible for the security of premises and businesses, and for general security in our community, ought to have a much better code of dealing with their employees, with community representatives such as members of Parliament and people in general. This company is comprised of a bunch of cowboys. They have told lies over the telephone to me and many others and, quite frankly, they are a disgrace.

**The SPEAKER:** Order! The honourable member's time has expired.

**The Hon. D.C. WOTTON (Heysen):** I want to raise a couple of issues in this grievance debate this evening: one is of concern to all South Australians, and the other is a matter of concern to me personally and to a small percentage of the population. I am very pleased indeed that the Minister of Water Resources is in the Chamber at the present time, because both of the matters to which I wish to refer will be of interest to her. The first matter relates to an open letter that has been written by an Aldinga resident, Mr Ken Hughes, under the heading 'The degradation of this nation's waters'. I am sure the Minister would be familiar with the letters that Mr Hughes has written on a number of subjects. I have the highest regard for Mr Hughes and for the information that he has made available to me, and through the media to many other South Australians but this letter is of considerable concern. Mr Hughes states:

> There is no doubt that the two greatest environment public health threats to Australia are the massive and increasing extent and severity of the degradation of our entire water resources—catchments, wetlands, rivers, lakes, aquifers and reservoirs which is inextricably bound up with the ongoing degradation of our land . . . Clearing, deforestation, soil erosion, chemical pollution, sewage effluent, excessive irrigation, salination, impeded and impounded river flows, turbidity, rising nutrient levels, eutrophication and toxic algal-blooms all of which are associated with increases in land development demands by planners and developers using the pretext of supposed population 'needs' . . .

He goes on to say:

> The scenario is intimidating now, the prognosis is horrendous and the total overall costs in dollar and human terms is simply unimaginable.

Mr Hughes refers to the recent tests by Professor Wootton in New South Wales which received a certain amount of media coverage, and he indicates:

> Professor Woottons' tests, first proposed in the *Weekend Australian*9 to 10 March 1991 were, apparently, performed on samples straight from the kitchen tap in marked contrast to the E&WS methodology involving running water for five minutes and the application of a blow-torch to the tap body prior to collection.

Mr Hughes goes on to say:

> The E&WS is primarily interested in the bacterial integrity of the water within its own distribution mains which is a quite different issue from what 'nasties' emerge from the kitchen taps in real life, or does the bureaucracy maintain that every housewife applies a blow-torch to her tap before withdrawal?

This is the important part; Mr Hughes states:

> The interests of public health and to reveal a more realistic overall picture of the condition of our Statewide potable water supplies, I call upon the E&WS and the Minister for water resources Ms Lenehan to authorise the comencement of a whole new series of tests involving tap samples taken without flaming the tap and without running the water for five minutes beforehand. The samplers could then take a second set of samples from the same tap,first running the water for their 'five-minute-favourite', followed by the application of a blow-torch prior to collection.

Mr Hughes indicates that he believes:

> . . . the bacteriological evaluation—following culture-would enable a much more accurate evaluation of any real or potential threat to public health which is really what its all about. Aldinga Beach and Myponga township would produce some interesting results since Myponga water is unfiltered and both areas have no mains sewerage, whilst cattle, sheep, and goats graze the hillside above the reservoir and the Myponga river feeding the reservoir runs from Page's Flat through grazing areas on both banks.

There are many other areas to which I could refer and which fall into the same category, including the Adelaide Hills. As I have indicated to the Minister on previous occasions by way of questions and statements in this House, a number of people throughout the Hills are calling for the same tests to be carried out.

I am sure the Minister would be aware of the contents of that letter. It has appeared in the *Advertiser*. I believe it is of concern, the same concern a number of people have spoken to me about, and I hope that the Minister, when she has had the opportunity of responding—because the letter was also written to the Minister personally—will provide some of the answers to the matters raised by Mr Ken Hughes of Aldinga Beach.

I now refer briefly to an issue which has been going on for far too long and which has come about as a result of the closure of the Windebanks bridge. This matter has been raised in a considerable amount of correspondence over a period of time. The bridge was closed some time ago as it was found to be unsafe for traffic to pass over. In summary, the fuel load on the E&WS Department's buffer land around the Mount Bold reservoir, together with the prevailing weather conditions in the area on red alert days, combined to create a major fire threat to the rural townships of Clarendon, Kangarilla and Stirling. Given that the fire-fighting resources of the E&WS Department on the land around Mount Bold are insufficient to combat a fire outbreak, support from adjacent CFS brigades, including the Happy Valley CFS group, is essential to reduce the risk of disaster. The fire access tracks through the E&WS land are considered to be dangerous and inappropriate by the Happy Valley CFS group, and on this basis they refused to take their fire-fighting appliances along them. They also refused to require their brigades to face any fire advancing from the south-south-west, because it would leave them with their backs to the Onkaparinga River, with no safe avenue of escape from the fire.

The Happy Valley council has written to the Minister about this matter, and on 1 March the council replied to a letter that the Minister wrote on 24 January this year. The council stated that it was concerned that the Minister's reply would appear to indicate that the Minister had not been provided with all the information on this very important matter. It goes into some detail and provides more information for the Minister in regard to alternative routes for emergency services, the purposes of the route, the bushfire threat and, indeed, the matter of road closures.

This is an extremely important matter. I would suggest that we are coming out of the period of the year of major fire threats, but it is a matter which the Minister and the officers of her department really must consider, to ensure that provision is made over the next 12 months for appropriate facilities for traffic to pass through that area. A number of issues have been raised spelling out the concern.

A copy of a letter from the Happy Valley CFS group has been provided to the Minister, as has a copy of a petition which has signatures from 138 people in the area and which urges the reopening of the Windebanks bridge. I support

that very strongly and again I request the Minister to take this up as a matter or urgency.

Motion carried.

## SPENT CONVICTIONS BILL

Received from the Legislative Council and read a first time.

## STATUTES AMENDMENT (CRIMINAL LAW SENTENCING) BILL

Received from the Legislative Council and read a first time.

## SUPPLY BILL

Returned from the Legislative Council without amendment.

## MARINE AMENDMENT BILL

Returned from the Legislative Council without amendment.

At 10.32 p.m. the House adjourned until Wednesday 10 April at 2 p.m.

## HOUSE OF ASSEMBLY

Tuesday 9 April 1991

## QUESTIONS ON NOTICE

### FISHING LICENCES

383. **Mr MEIER (Goyder)** asked the Treasurer:

1. How many licence transfers have occurred in the South Australian fishing industry since 7 December 1987 and how many of that number were levied with stamp duty?

2. Were any licence transfers levied with duty prior to 7 December 1987 and, if so, how many and for what reason?

3. Are discussions in progress, or being considered, with the Commissioner of Stamps in relation to the possible refunding of duty charged on fishing property transfers in the past and, if so, will such refunds be part credited to vendors who adjusted their sale price downwards by an amount based on the leviable duty?

4. Is the Treasurer aware of claims by South Australian Fisheries Department personnel that there may be no property element in fishing licences and that transfer transactions are not dutiable under the Stamp Duties Act 1923 and, if so, what action does he intend to take and, if none, why not?

5. Is the Treasurer aware of transfers of equitable interests in fishing licences or authorities in the past and can he advise whether such transactions were liable to stamp duty and whether or not they were levied with such duty?

6. For how long has the Commissioner of Stamps viewed fishing licence transfers as property or business transactions liable to stamp duty and has the Commissioner's past inactivity in this sphere directly resulted from the Government's refusal to acknowledge certain property elements of fishing entitlements?

7. Is the Treasurer aware of an article published in the October 1990 *Professional Fisherman* magazine alleging stamp duty evasion by Western Australian fishermen and alleging widespread financial chaos is predicted for fishermen now facing retrospective duties and fines of up to $50 000 each and, if so, are similar raids to seize documents, as described in that article, planned in South Australia?

8. Was an approximate sum of $8 130 levied as stamp duty upon the transfer of an abalone authority attached to a small dinghy in March 1984 and, if so, was such duty levied upon similar transactions around that date?

**The Hon. J.C. BANNON:** The replies are as follows:

1. The Director of Fisheries has advised that 310 fishing licence transfers have been transacted since 7 December 1987. No information is available on how many of these transfers were levied with stamp duty.

2. No information is kept on which transfers of licences were levied with duty prior to December 1987.

3. The Commissioner of Stamps has had discussions with representatives of SAFIC generally on a range of issues regarding stamp duty. The Commissioner of Stamps only has power to refund duty in circumstances where duty has been overpaid or incorrectly paid. He is not aware at this time of any transactions which would meet this criteria.

4. I am advised that the Director of Fisheries, when advising industry of the Crown Solicitor's amended advice as a result of the Chief Justice of the Supreme Court's ruling in *Pennington vs McGovern* that fishery licences are proprietary in nature, also advised that the department was seeking advice on an opportunity to intercede in an appropriate action to clarify whether this is supported in a higher court. Intercession opportunities explored included the then High Court action in *Kelly vs Kelly* or any appeal against the Commissioner of Stamps' application of stamp duty on fishery licence transfers as a result of the *Pennington vs McGovern* ruling.

The Department of Fisheries' need to address this issue arose as a result of two factors: first, the Crown Solicitor's advice to the department that the Chief Justice's interpretation of the relevant sections of the fisheries legislation was open to some argument; secondly, the need to clarify what effect the ruling had on the powers of the Minister and Director of Fisheries to administer their respective responsibilities under the Fisheries Act 1982.

5. I am advised by the Commissioner of Stamps that where there have been conveyances of property reduced to writing, then such conveyances are liable to duty and he has levied duty on such conveyances which have come into his possession.

6. For many years stamp duty liability on fishing transations has been uncertain. Stamp duty being chargeable on instruments arises only where there has been a conveyance of property reduced to writing. The manner in which persons engaged in fishing structured their transactions determined whether stamp duty was payable.

Prior to 1987 many persons in the fishing industry had previously taken advantage of what was known as the 'Clayton's Contracts' loophole to transfer property without the creation of a dutiable instrument. Amendments to close this avoidance technique came into force in December 1987.

The Commissioner of Stamps has always sought to ensure that duty is paid on all conveyances of property. There is no ready mechanism whereby the Commissioner can be aware of all transactions entered into and he has to rely on compliance programs carried out by his inspectors to ensure that all duty legally payable is received by the Government.

7. The Commissioner of Stamps has advised me of the existence of the relevant article. He has also advised me that no similar action is currently being contemplated or thought necessary in relation to South Australia.

8. No information is kept whereby the relevant transactions could be identified.

### SECOND-HAND TRACTORS

488. **Mr BECKER (Hanson)** asked the Minister of Housing and Construction:

1. How many tenders were received for the purchase of second-hand tractors from the South Australian Housing Trust in December 1990 or thereabouts?

2. Why were the tractors disposed of?

3. What was the reserve price for each tractor and what price did each bring?

4. Were all tractors sold and, if not, how many were kept and how many are now operating at Christies Beach?

**The Hon. M.K. MAYES:** A total of 21 tenders were received for the tractors resulting in 30 offers to purchase. The four tractors in the tender package were deemed to be surplus to Housing Trust requirements and this conclusion was reached after thorough consultation with each of the engineering and construction disciplines in the trust. The resultant action in disposal is directly relative to the reduced building programs throughout the State and therefore it seemed reasonable and prudent to dispose of capital assets that are no longer needed. A reserve price was established through existing internal capital book asset values indexed to commercial valuations.

The following table represents the reserve price and accepted price for each particular tractor:

| Reserve Price $ | Tractor Model and Registration | Accepted Price $ |
|---|---|---|
| 7 000 | Case UQA 066 | 6 500 |
| 8 000 | Case UQA 555 | 8 240 |
| 8 000 | International UQD 654 | 12 750 |
| 5 000 | Fordson SRB 933 | 4 256 |

It should be noted that the collective sale of the tractors achieved a return greater than anticipated. However, as can be seen, two sales were completed at a figure less than the expected return. It was nevertheless decided, taking into consideration a depressed market, that the tenders in question be accepted in order to reduce our holdings. Of the four tractors offered for sale, all sold to the highest tenderer in each instance. Two tractors remain and operate from Christies Beach.

## GOVERNMENT VEHICLE

497. **Mr BECKER (Hanson)** asked the Minister of Transport:

1. What Government business was the driver of the vehicle registered UQU 391 conducting at the Gawler Trotting Club on Friday evening 1 February 1991?

2. Were the guidelines set out in Public Service Circular No. 30 of 1990 being adhered to?

**The Hon. FRANK BLEVINS:** The vehicle UQU-391 was returned by the Department of Agriculture to the State Fleet, Murray Bridge on 23 January 1991 with an odometer reading of 37 980 km. This vehicle was rehired from State Fleet, Murray Bridge on 18 February 1991 with an odometer reading of 37 995 km. On inquiry from State Fleet, the vehicle UQU-391 was being repaired by Murray Mitsubishi Garage, 45 Adelaide Road, Murray Bridge on Friday, 1 February 1991 and the work sheet from the the garage showed the odometer reading to be 37 993 km. This information supports the view that this vehicle could not have been at the Gawler Trotting Club on Friday evening 1 February 1991 and that the registration number must have been incorrectly read.

## EDUCATION DEPARTMENT AREA OFFICES

502. **Mr BRINDAL (Hayward)** asked the Minister of Education:

1. How many FTE seconded teachers and public servants have been cut from area offices and the central office of the Education Department since November 1990 and what were the locations, title, area of responsibility and classification of each of these officers?

2. What is the estimated saving to the department this financial year and in a full financial year?

**The Hon. G.J. CRAFTER:** The organisational structure of the Education Department is currently under review as part of the Government Agencies Review Group exercise. Pending the outcome of this review, a temporary 'freeze' was imposed on all vacant public servant and seconded teacher positions. As at 28 February 1991, the level of Area Office and Central Office seconded teaching staff was 22 positions below the 1990 level and the public servant headcount was 17 positions below the 1990 approved establishment.

This represents a snapshot of information as at 28 February 1991 and will vary as specific approvals are given to fill positions of a high priority nature. Any comparison of the seconded teacher levels in 1990 with 1991 is affected by the deployment of school support resources (mainly seconded teachers) as a result of the implementation of the curriculum guarantee. The final outcome will not be known until Cabinet approval is available for the GARG recommendations.

## CONTRACT TEACHERS

512. **Mr BRINDAL (Hayward)** asked the Minister of Education: How many contract positions have been offered in each of the areas of secondary, primary and junior primary teaching for term I, 1991 and what were the comparisons in term I, 1990?

**The Hon. G.J. CRAFTER:** The following table provides a comparison between levels of contract teaching in 1990 and 1991. The figures are a snapshot of the work force profile taken on 1 March in both years. It is not possible to distinguish between primary and junior primary contracts.

| | FTE Contracts | | |
|---|---|---|---|
| Year | Primary | Secondary | Special |
| 1991 | 555.4 | 119.0 | 13.6 |
| 1990 | 1 094.8 | 145.1 | 15.1 |

## TWIN STREET GAS LEAK

516. **Mr BECKER (Hanson)** asked the Minister of Mines and Energy:

1. Why were six SAGASCO employees watching two other employees endeavouring to locate a gas leak in Twin Street on or about Tuesday, 12 February 1991?

2. Why was it necessary for two other persons who arrived at the location in a New South Wales number plated rental car to video the workmen?

3. How long did it take the two workmen to find the leak and what was the cost of the job?

4. Who were the persons videoing the two workmen and what was the cost of this particular aspect of the exercise?

**The Hon. J.H.C. KLUNDER:** The South Australian Gas Company Limited is not a Government instrumentality; however, in answer to the question please find attached a response which I have sought from the General Manager of SAGASCO.

Hon. J. Klunder M.P.
Minister of Mines and Energy
G.P.O. Box 1067
Adelaide, S.A. 5001

Dear Minister,

I refer to your Senior Administrative Officer's letter of 15 February concerning Question on Notice No. 516 by Mr Becker M.P.

I am disappointed to realise that despite the fact that the South Australian Gas Company has been a public company for 129 years our public relations is such that Mr Becker assumes the Gas Company is an arm of Government over which you as Minister have operating control rather than a private sector company which operates under the Companies Act and within the regulating framework provided under the Gas Act.

As he has chosen to raise his concerns through the Parliament rather than directly with the company, I have set out below the answers to the questions he has raised. Should you care to provide Mr Becker with a complete copy of this letter please feel free to do so.

Turning to the questions Mr Becker raised.

*1. Why were six SAGASCO employees watching two other employees endeavouring to locate a gas leak in Twin Street on or about Tuesday, 12 February 1991?*

The gas company work crew was repairing a gas leak. The people on site consisted of:

a gas company repair crew of three men
a contract tipper truck driver
a contract backhoe operator

The sixth person on site was our Western Area Safety Representative who was co-ordinating the videoing of the work (see further comments later).

Due to the confined space in the hole, it was not practical for more than two employees to work on the escape at any one time. The men were rotated as deemed necessary.

The backhoe was used to assist in the excavation and backfilling of the hole.

The tipper truck was used to take away the spoil and supply clean filling for the excavation. The Adelaide City Council requires that excavated material be placed directly into a truck. This truck moves between jobs in the same area.

*2. & 4. Why was it necessary for two other persons who arrived at the location in a New South Wales number plated rental car to video the workmen?*

*Who were the persons videoing the two workmen and what was the cost of this particular aspect of the exercise?*

The vehicle with the New South Wales number plate was being used by the Institute for Fitness, Research and Training from the University of South Australia. This organisation is assisting the gas company in investigating ways to reduce incidence of injuries arising from shovelling work undertaken by its employees. The video will be used to identify faults in techniques used in an actual case on site and the information gained will be used to train the employees in improving their shovelling technique.

The total cost of this study, which spans three months, is $10 000.

This project is just one of the many activities being undertaken as part of the Occupational Health and Safety Policy of the SAGASCO Holdings Group. Such activities assisted the gas company in reducing the frequency of work related injuries by 49% in 1990. When it is recognised that the direct and indirect cost of accidents in the workplace involving employees of the gas company alone amounted to around $3 million in 1989, it becomes clear that the benefit of such safety training is substantial in terms of cost to the company and the community at large.

*3. How long did it take the two workmen to find the leak and what was the cost of the job?*

The leak was located in a lead joint on a 100 mm cast iron low pressure main and was repaired using an encapsulation shrink sleeve over the joint. The job took approximately two hours to complete at an approximate cost of $400.

I would appreciate it if you passed on our thanks to Mr Becker for providing us with the opportunity of explaining to him and, through the Parliament to the community at large, the importance which the gas company places on the occupational health and safety of its employees. We believe the focus which we have had on improving the working techniques has been fully repaid in terms of operating efficiency, saving to the company and in benefits to the community. We make no apology for the investment we are making in this area.

Should Mr Becker wish to further his knowledge on what the gas company is doing to improve its occupational health and safety performance I would be pleased to arrange for a presentation to be made directly to him.

Yours sincerely,

(Signed) Clive Armour, General Manager.

## ADELAIDE CASINO

518. **Mr BECKER (Hanson)** asked the Minister of Finance:

1. Has a recent revaluation of the Adelaide Casino been undertaken and, if so, why?

2. Has the firm Hospitality and Leisure Enterprises Pty Ltd prepared a report valuing Adelaide Casino for prospective takeovers and, if so, why?

3. Have the Government and the Casino Supervisory Authority been advised of the remarks by Mr Lamb, a director of Hospitality and Leisure Enterprises Pty Ltd, in the Melbourne *Sunday Herald* of 20 January 1991?

4. Will a takeover proposal be considered and, if so, on what terms and conditions?

**The Hon. FRANK BLEVINS:** The replies are as follows:

1. No. The Government is unaware of any recent revaluation of the Adelaide Casino.

2. The Government has no knowledge of a report valuing the Adelaide Casino having been prepared by the firm Hospitality and Leisure Enterprises Pty Ltd.

3. Yes.

4. The bodies which have an interest in the Adelaide Casino are the ASER Property Trust, the ASER Investment Trust and the AITCO Trust. No 'takeover of the Adelaide Casino' can take place nor can any portion of any interest in the three trusts be sold without the prior written consent of the Lotteries Commission and of the Casino Supervisory Authority.

## ACQUIRED IMMUNE DEFICIENCY SYNDROME

523. **Dr ARMITAGE (Adelaide)** asked the Minister of Health: What precautions have been taken to avoid the transmission of acquired immune deficiency syndrome via sperm received from a sperm bank?

**The Hon. D.J. HOPGOOD:** Under the Reproductive Technology Act, persons carrying our artificial fertilisation procedures are required to be licensed by the Health Commission. In undertaking this function the commission is advised by the South Australian Council on Reproductive Technology. Two people are currently licensed under these arrangements. They are the two heads of the reproductive medicine units. These individuals follow the precautions set out in AIDS Task Force Bulletin 12/85—Artificial Insemination by Donor.

## SINGAPORE ANTS

538. **Mr BECKER (Hanson)** asked the Minister of Agriculture:

1. Is the department aware that Singapore ants, also known as Argentine ants, could be nesting in Camden Park and, if so, how did these ants migrate to South Australia?

2. What is the normal nesting behaviour and pattern for these ants and how can they be eradicated?

**The Hon. LYNN ARNOLD:** The terms Singapore ant and Argentine ant are not synonymous. The Singapore ant, *Monomorium destructor*, does occur in Australia but the Department of Agriculture has no records of its occurrence in South Australia. The Argentine ant, *Iridomyrmex humilis*, does occur in South Australia and it seems likely that Mr Becker's question refers to this species. Argentine ant was first recorded in South Australia in metropolitan Adelaide in January 1979. A survey carried out during 1979 showed that it was patchily distributed over metropolitan Adelaide from Smithfield Plains in the north to Morphett Vale in the south. Sixty-nine suburbs were found to be infested at various levels and Camden Park was considered to have a major infestation (that is between 10 and 100 properties infested). The mode of introduction of this ant into South Australia is unknown. The natural spread of Argentine ant is slow because nuptial flights are unusual and the colonies do not migrate over long distances. Its dispersal over large distances is always man-assisted and results from the transportation of infested goods such as pot plants, nursery stock, packaging cases and firewood. It is likely Argentine ant was moved to Adelaide by this means from interstate.

Argentine ants usually establish their nests in the ground in gardens under stones, concrete paths and other objects but nests rarely are found inside buildings. The ants forage for food away from the nest and often set up very well-defined ant trails. Argentine ant can be controlled with insecticides by applying a 30 cm wide band of spray to the base of buildings, walls, fences, edges of paths and other hard surfaces in the areas where they are foraging. Spray

should also be applied to the nest if it can be located and along the ant trails. Chlorpyrifos and diazinon are two insecticides which are registered for this use. Argentine ant has been established in Adelaide for at least 12 years. During this time, the number of inquiries received by the Department of Agriculture concerning this species has been low and hence it is considered to be a relatively minor urban pest.

## RIVER TORRENS

554. **Mr BECKER (Hanson)** asked the Minister of Water Resources:

1. What studies have been undertaken concerning the silting up of the River Torrens at Fulham from the deviation of the old river to the breakout at Henley Beach South?

2. What would be the estimated cost of dredging this section of the river and how many tonnes of silt/loam would be available for disposal to interested parties?

3. Could not a section of the river be utilised for canoeing and teaching young students to sail after dredging?

4. Have similar studies been undertaken of the Patawalonga and its upper reaches and, if not, why not and when will such studies be undertaken and, if not at all, why not?

**The Hon. S.M. LENEHAN:** The replies are as follows:

1. To determine the required channel capacity, cross-section areas were measured throughout the River Torrens in 1980. The cross-sectional areas measured in Breakout Creek at that time indicated there was more than sufficient channel capacity to pass 410 cubic metres per second and consequently no channel enlargement was necessary in this section of the river. These measurements in 1980 took into account any deposits of alluvial silt in the channel at that time. As a routine check for siltation, cross-sectional areas were measured again in March 1989 in Breakout Creek at the same locations as those measured in 1980. A comparison of these two sets of cross sections has shown there is no measurable difference in bed level of the channel between the measurements taken in 1980 and 1989. Therefore the channel in this area still meets the requirement to pass 410 cubic metres per second and provide protection from floods in the River Torrens up to and including the 1 in 200 year return flow.

2. As it has not been necessary to clear this portion of the river channel for flood mitigation purposes there have not been any estimates made of the quantity of alluvial silt deposited or the cost of removal and to do so would require detailed surveys to obtain the appropriate information. This is not considered to be necessary given that based on the measurements taken in 1980 and 1989, there is no requirement to remove silt for flood mitigation purposes.

3. When Breakout Creek was constructed in 1937, it was designed as a drainage channel and not to retain water. It would require detailed engineering investigations to determine if major works could be undertaken to convert the channel to hold a pool of water sufficient to accommodate water sports. No such investigation is proposed.

4. The four proposals received for the development of the Glenelg foreshore, all include dredging and silt removal for the Patawalonga Basin. In earlier technical deliberations by the Parawalonga Basin Task Group, the matter of dredging and silt removal was addressed in formulating proposals for improving water quality in the basin such that canoeing etc. would be allowed.

It is now perceived that the proposed development will contain a tidal basin flowing south to north then entering a new stormwater outlet to the north of the Glenelg Sewage Treatment Works. A wetlands is proposed to treat stormwater from the catchment area before discharge to the gulf. Therefore, by dredging and silt removal from the Patawalonga Basin and creating a tidal sea water flushed basin, recreational sporting activities will be possible in the future as it is considered the necessary water quality parameters will be met.

## AUSTRALIAN MASTERS GAMES

555. **Mr BECKER (Hanson)** asked the Premier:

1. What was the financial result of the 1988-90 Australian Masters Games?

2. Will the Government apply to hold the Masters Games in future years and, if so, when?

**The Hon. J.C. BANNON:** The replies are as follows:

1. The Second Australian Masters Games were held in the period 14-22 October 1989, and therefore fall within the 1989-90 financial year. The financial result of the Second Australian Masters Games was very successful with financial gains by the sports involved and the State as a whole.

An expenditure of $746 000 was incurred by the board of the South Australian Masters Games. In addition to this, important support was given by a number of Government departments, especially the Department of Recreation and Sport, local government (mainly through the City of Adelaide) and the private sector. The board of the South Australian Masters Games was able to fund this expenditure from the following sources:

| | |
|---|---|
| $332 000 | Sponsorship |
| $225 000 | Sports fees |
| $ 50 000 | Department of Recreation and Sport |
| $ 32 000 | Functions |
| $ 43 000 | Merchandising |
| $ 14 000 | Interest |
| $ 60 000 | State Government Grant |
| $746 000 | Total |

In addition to the above financial statement, I am pleased to advise that the target of attracting 1 500 interstate and overseas participants was exceeded. A total of 2 272 participants from overseas and interstate registered. It is estimated that these people and those who accompained them, but did not register, spent $1.6 million in South Australia. A post games survey of these people showed that over 25 per cent will return as tourists and so extend the effect of the Second Australian Masters Games.

2. Consideration is being given to staging a South Australian Masters Games in 1992. Consideration will also be given to the staging of an international games in the nineties.

## GRAND PRIX

559. **Mr BECKER (Hanson)** asked the Premier:

1. In which ways did South Australian small business benefit by $50 million from the 1987 Fosters Australian Formula One Grand Prix?

2. Will the Premier quantify such a claim and, if not, why not?

3. What is the reason for the delay in answering this question since it was first asked on 10 February 1988 and again on 15 August 1989 and 20 February 1990?

**The Hon. J.C. BANNON:** The $50 million referred to previously was an estimated spending figure generated around the event based on surveys undertaken by the Department of State Development. Benefits associated with the event were quantified in a report produced by Price Waterhouse