HOUSE OF ASSEMBLY

Thursday 14 November 1991

The SPEAKER (Hon. N.T. Peterson) took the Chair at 10.30 a.m. and read prayers.

SCHOOL WATCH

The Hon. T.H. HEMMINGS (Napier): I move:

That this House recognises the valuable role that School Watch plays in deterring vandalism in schools and further that this House congratulates those school communities currently involved in the program for their enthusiastic support.

I do not think there is any member in this House who has not at any time in his or her political career had problems relating to schools in their electorate. This can range from complete, wholesale arson, where a school or classroom is burnt out completely, down to those incidents where school windows are broken indiscriminately and valuable work undertaken by children is vandalised. We have all thrown up our hands and asked what we could do about it. The important question is: 'What can we do to educate the community to accept that those school assets belong to them?' They do not belong to the State, the Government or the Education Department: they belong to the school communities themselves. It is no use saying that we need more police on the roads, that we need to increase the penalties or that we need to take all sorts of stringent measures. In that respect, I will leave it to the Select Committee on Juvenile Justice to present recommendations to this Parliament and the Government. But the school communities must be made aware that these assets belong to them and that they must play a part in protecting them.

I was pleased that quite a few schools in my electorate and in the electorate of the member for Elizabeth were chosen to be part of the pilot School Watch program which began in the latter part of 1990, and that program has been one of the most impressive 'watch' programs I have ever seen. Neighbourhood Watch, Rural Watch and other programs in the central business district (spearheaded by the Adelaide City Council) have been established over the years, but this has been the first effort to get school communities involved. There have been positive results in the short time that School Watch has been operating. The program is run jointly by the Police Department and the Education Department and was established in an attempt—and a very successful one at that—to enhance the community's pride in schools and participation in decreasing vandalism and arson.

As I said, my electorate was one of the lucky ones to be involved in the pilot program which included the Elizabeth West Junior Primary School, the Elizabeth West Primary School, the Elizabeth Field Junior Primary School, the Elizabeth Field Primary School, the Smithfield Plains Junior Primary School, the Smithfield Plains Primary School and one high school, the Smithfield Plains High School.

Mr Ferguson: Was the local member there?

The Hon. T.H. HEMMINGS: I was, as was the member for Elizabeth, I understand. The launch was meant to get people involved, and it was one of the most successful launches I have attended since I have been in Parliament. Comparisons undertaken by the Education Department between December 1989 to the end of May 1990, and 1 December 1990 to 31 May 1991—in effect, a year—show a significant reduction in incidents, which have decreased from 92 to 54. Right across the board there has been a marked reduction in all kinds of vandalism and arson. What that represents in money I cannot say because it cannot be quantified. A reduction in the number of windows broken might involve a fairly insignificant amount of money, but a 50 per cent reduction in the number of major vandalism incidents would result in more significant cost benefits. The trend is there.

If one takes the results pertaining to the schools that were part of the pilot program and averages those across all schools in the State, one will see that the reduction in incidents represents a significant saving to the taxpayer. The results show that the number of incidents has been brought to below 500, and that is manageable. Whenever I see a report on television or in the newspaper about a school fire, I give thanks that it did not happen in my electorate. Perhaps the reason for that is that we have School Watch. Comparing schools with School Watch with those that do not have the program, it has been shown that there is a 41.31 per cent reduction in incidents in schools with this program. If the program is not operating in your electorate, Mr Speaker, my advice to you, if you are prepared to take that advice, is that you write to the Minister of Education and ask that School Watch be introduced. I know that it has been said that you have some influence with the Education Department.

The SPEAKER: Order! Although the member for Napier is not reflecting upon the Chair or upon me as the member for Semaphore, I ask him to be careful in the terms that he uses in this debate.

The Hon. T.H. HEMMINGS: That would be the last thing that I would do, Sir. Schools without School Watch have not shown a significant change in the number of incidents. That information tells me that the program has been a success. However, I want to sound a cautionary note about those figures. SACON has established a 24-hour patrol service. That may have some bearing on the statistics but I doubt whether it has had a significant difference. I do not want to downgrade mobile security patrols. However, across the spectrum of break-ins, whether they be in public or in private buildings or retail outlets, that is, premises with alarm systems and mobile patrols, there has been little change in the incidence of break-ins. I do not think that patrols make much difference. Let us look at the human side. The response from students, parents and teachers to the program has been magnificent.

Mr Ferguson: It is community pride.

The Hon. T.H. HEMMINGS: It is community pride in something that belongs to them. I have attended quite a few School Watch meetings and seen the involvement of the people from the outset. What is coming through is that these people are fed up with seeing their property damaged and they want to be part of the program. The endorsement has been magnificent. In addition, I pay a tribute to some staff members, those teachers who may live outside my electorate but who attend meetings after the school day. One of the sad things about my electorate is that most of the public servants who work there do not live there. They live at Henley Beach, Unley or Salisbury. However, they are part of the School Watch program. The attendance level has usually been more than 20 people. For those of us who have to go to meetings night after night it is good to see others prepared to attend a meeting after a hard day's work. That attendance figure is quite significant. The children want to get involved. It is their school, and that again is a reflection.

When we talk about the high level of enthusiasm, motivation and determination to make sure it does not happen to their school, that cannot be measured in monetary terms. The real benefits are at the personal and social level. That is an area where I do not think we have placed enough

importance up to now. If we can get a child of six or seven involved in making sure that his or her school is not damaged, that stays with them right the way through their school life and, hopefully, their adult life.

I have seen some parents who have become part of School Watch, and I notice a lot has been said lately about empowerment. 'Empowerment' is being used almost as much as 'social justice'. Members opposite talk about social justice, and that really worries me. The empowerment of parents and teachers to get through that personal involvement builds up their own self esteem. That is important, and it cannot be measured in monetary terms. The personal and social benefits that stem from that are very important.

I have told the Minister of Education that the benefits of School Watch should not be confined just to my area. I think School Watch is now an integral part of Neighbourhood Watch, Rural Watch and also Business Watch, or whatever it is called. If all those are brought together, the expertise that we have gained from, say, Neighbourhood Watch and Rural Watch can then flow through to School Watch and *vice versa*. That is the answer. It is community policing. It is a practical example of how the Government is getting involved in the fight against crime, and I urge all members of this House to support the motion to give encouragement to the Minister and to the Government.

Mr S.G. EVANS secured the adjournment of the debate.

NATIONAL HIGHWAY 1

Mrs HUTCHISON (Stuart): I move:

That this House notes the benefits that will flow on to the rural community with the improvements to National Highway 1; namely the duplication of the Port Wakefield Road from Two Wells to Port Wakefield and the reconstruction work between Port Pirie and Snowtown.

I do not know whether city people realise just how much value country people place on having good roads. It is the essential lifeblood of country dwellers to know that they have good roads. That is the reason I have moved this motion. As a country dweller, having a need to travel frequently to the city as you would know, Mr Speaker, it is of immense value to me to know not only that I have good roads on which to travel, roads that reduce the time necessary for me to arrive here for my business, but also that those roads are safe for travel.

I know that many people in my electorate have the same need to travel frequently to the city, not only for the type of business that I am involved in or for office-type business but also to transport their produce to the city for sale or to be transported elsewhere through the port facilities. To those people and to me it is extremely important that we have roads that we know we can travel on safely and which can reduce our travelling time to the city. Also, these roads will enhance the opportunity for travellers from the city to go to the country. Because of the high levels of unemployment in country areas, alternative employment opportunities are important. Obviously, one area of opportunity is tourism. Because of Tourism South Australia's emphasis on short holidays, country areas around my electorate and those closer to the city are obvious choices for travellers from the city.

The work that is being done on these roads and the money being expended by the State Government will encourage city people to travel into country areas to take advantage of those short holidays. Now that we have 'happy days' on a Monday or a Friday, people can have a three-day short holiday in the country. The value of that to small country communities suffering very high levels of unemployment is inestimable at this stage, and it could probably, as I have said, be of immense benefit to those communities. So, I applaud the work that is being done on these roads, and I hope that it can be extended further into country areas. I will take up that matter with the Minister at a later stage.

I turn now to the road work that has been done and is anticipated to be done by the Government. The following sections of the Port Augusta/Port Wakefield Road have been or are scheduled to be upgraded to provide an eight metre seal width for traffic and bring the geometry of the road alignment to the standards required for the National Highway. Obviously, that is to make the road safer and to cut down on the number of accidents that have occurred on country roads, which is also an important factor.

The Crystal Brook bypass, which is just at the edge of my electorate, involved construction of 9.2 kilometres of road on a new alignment, bypassing the township of Crystal Brook by 2.5 kilometres. It also included the construction of an additional 3.4 kilometres of access roads and minor local roads, as well as new junctions on the highway for the northern and southern accesses to the town. Part of that work involved the construction of two new bridges—one over the Crystal Brook Creek and the other over the Crystal Brook/Port Pirie railway line. That involved substantial work and the construction of a 6.7 metre high road embankment, which incorporated a reinforced earth retaining wall structure.

Those construction works commenced on 4 November 1987 and were completed on 22 December 1988. The total project cost was $6 904 075. That is quite a substantial cost, but it was well worth it. During that construction a lot of concern was expressed by the Crystal Brook people that the bypassing of Crystal Brook would have an adverse effect on that town. I am pleased to say that up to now my advice is that there has not been an adverse effect on Crystal Brook, as was anticipated—and perhaps the member for Custance would like to talk on that matter later because it affects his electorate more than mine.

The second part of the project involved the Warnertown/Jamestown Road to the Crystal Brook bypass (otherwise known as the Crystal Brook bypass extension). The construction of 7.3 kilometres of road on a new alignment provided vastly improved horizontal and vertical geometry of the National Highway and improved vertical gradients for traffic. Again, they are improvements that make the road safer for traffic. That project also involved the construction of one large box culvert drainage structure near the Port Davis Road junction and a new upgraded junction for the Warnertown/Jamestown Road. That construction work commenced on 5 May 1988 and was completed on 4 March 1989. As members would probably realise, I have been asking questions constantly on when these roads would be completed, because I place a high value on them for country dwellers. The total project cost for this was $3 630 433.

The third road to which I refer is the Merriton road, which is five kilometres south. This project involved the construction of 5.3 kilometres of new road, 3.7 kilometres on the existing road alignment and 1.6 kilometres on a new alignment. The section using the existing alignment was constructed under traffic. An increased seal width and a much improved riding surface was provided. the realignment section involved the replacement of a substandard small radius curve across the old bridge over the River Broughton at Merriton, with a larger radius curve and the construction of a new bridge. I am sure the users of that

road would have been pleased with the construction of those bridges, because obviously they make the road much safer.

The existing bridge over the River Broughton has been utilised on the Merriton Clements Gap road, which has been extended by a length of .7 kilometres to form a new junction with the realignment section. Due to the poor ground conditions, the embankment on the southern approach to the new bridge was constructed one year prior to the commencement of the combined road and bridgeworks contract. This was to pre-load the existing ground material and to produce the anticipated consolidation and settlement effects in the soil prior to the construction of the new road alignment. Construction works for the road commenced on 8 February 1990 and were completed on 15 January 1991. The total project cost for this was $4 904 422.

The fourth road was from Collinsfield to Snowtown. This project consisted of the upgrading of 17.3 kilometres of road on the existing alignment. Construction involved the reshaping of the existing road surface and over-laying it with an additional pavement layer to provide the required strength and improve the road shape and ridability. Some minor adjustments were made to the existing vertical road profile during this process. The road was constructed in half widths, and under traffic, using portable traffic signals to control the traffic through the works. I can tell the House that on many occasions I have been held up because of heavy loads of traffic so that only half the road was useable. The construction work commenced on 20 November 1990 and was completed on 12 April 1991 at a total project cost of $4 689 824.

Road number five was five kilometres north of Redhill to Collinsfield. Construction on this project is expected to commence in January 1992. Tenders have been received and are presently being assessed, and I am sure the member for Custance would be interested in that. The project consists of a total length of 13.3 kilometres, comprising 9 kilometres of upgrading on the existing alignment and 4.3 kilometres of construction on a new alignment. The upgrading of the existing alignment consists of approximately 50 per cent of pavement overlay work (in a similar way to the Collinsfield to Snowtown section) with the remaining 50 per cent involving improvements to the existing vertical profile, prior to the addition of a new pavement.

The 4.3 kilometres of road realignment involves three distinct sections. The first is 1.2 kilometres at Collinsfield to eliminate an S-bend, and I must say that I am very glad; the more S-bends that are eliminated, the better, and I am sure you would agree with that, Mr Deputy Speaker. The second is 2.1 kilometres at Redhill to eliminate a series of substandard curves. This will form a new bypass of the Redhill township. I think that is vitally important, because currently it is a very dangerous section of the road and it is in very poor condition, so the sooner that is done, the better it will be for the users of that road. The third is one kilometre of curved realignment north of Redhill to eliminate substandard curves, so, once all those curves are out of that road I think we will find that travelling time from the country to the city will be cut down substantially, and the safety aspects will be dealt with to make that a much safer journey. The estimated total cost of that project is $7 736 000. This project will be constructed under quality management principles.

Last, but certainly not least, is the duplication of the Port Wakefield Road which, without doubt, would be one of the worst sections of the road when travelling from the country to the city because of the high density of traffic which all of us have found on that road, particularly at holiday weekends and travelling home on a Friday night. It is a very bad section of the road. This project terminates approximately two kilometres south of Port Wakefield, so it will pass through Port Wakefield. There will be 26.1 kilometres of roadworks, which will be the final section of the duplication of the Port Wakefield Road to be completed and which is still in the process of final design. The construction will involve 18.6 kilometres of duplication on the new alignment, 6.5 kilometres of duplication over the old alignment and one kilometre of side road realignments to new minor T-junctions.

These new alignments will minimise the service relocation requirements, which would have been extensive, and vegetation removal. I am pleased about that, because the more vegetation we can leave there, the better. Land acquisition for the realignment involves approximately 70 hectares. All owners have been contacted, and they have indicated general agreement to the commencement of acquisition proceedings. Fifteen separate groups are involved in acquisition proceedings, so that has taken some time to organise. Material for the construction of this road will be produced from a crushing contract to be located south of Port Wakefield, and that should commence in the next financial year. The estimated date for the commencement of the construction works is September 1993.

All in all, I have much pleasure in moving this motion because of its value, as I have pointed out, to country and rural dwellers and because of the major safety aspects, particularly with relation to that last section of the road, which is the duplication of the Adelaide to Port Wakefield highway. I look forward to the completion of this construction work and to finding that it will increase tourism, particularly in the short holiday period, to areas in the north of the State. I ask the House to support the motion.

Mr VENNING secured the adjournment of the debate.

BERRI BRIDGE

The Hon. P.B. ARNOLD (Chaffey): I move:

That this House believes that the first priority for a bridge across the River Murray should be at Berri, in accordance with the undertaking of the Tonkin Government in 1981, and condemns the Premier for abandoning this commitment by diverting funds allocated for the Berri bridge to other projects and by committing funds to a bridge between Goolwa and Hindmarsh Island, thus dishonouring his promise made on coming to Government that the next bridge to be built over the River Murray would be at Berri.

This motion is moved following a recent announcement by the Premier that a Government-funded bridge will be built over the River Murray between Goolwa and Hindmarsh Island. As a result of that announcement, a petition from 459 residents of and visitors to Hindmarsh Island was presented to the House yesterday by the member for Alexandra. The petition stated:

We the residents and property owners of and visitors to Hindmarsh Island object in the strongest terms to the construction by the Government of a bridge from Goolwa to Hindmarsh Island on the grounds that:

(a) it cannot be financially justified and is an inequitable and inappropriate use of taxpayers' funds,

(b) it will destroy the unique quality of life and peacefulness of the island, and

(c) the existing ferry is itself part of the tourist attraction of the island.

That petition was signed by some 459 people from that area in a very short period of time, indicating that a large number of people in the Goolwa-Hindmarsh area do not support the construction by the Government of a bridge from Goolwa to Hindmarsh Island. A letter dated 4 November to the

Premier from R & J Medlyn and M & D Griggs of Hindmarsh Island states:

As concerned landowners of properties on Hindmarsh Island we are astounded to think in these tight financial times you can announce that the improverished State Treasury can afford to commit $7 000 000 to the building of a bridge to connect Goolwa to Hindmarsh Island to satisfy the development ideals of one person. This bridge will lead to nowhere, leaving the towns of Berri and Mannum to still use their existing ferry systems which serve the rest of the country as main arterial outlets.

The main point in that letter is 'a bridge to nowhere'. We have already seen one bridge to nowhere that was built at Port Pirie, and we have yet to find out why the Government of the day built it. The Labor Government of the day still has not given the people of South Australia the true reason for having built that bridge. So, now we have the present Government embarking on another bridge to nowhere, as has been indicated by the residents of Hindmarsh Island.

As a result of the announcement by the Premier, residents of the Riverland spontaneously sought to circulate a petition. Residents of that area are currently signing the petition, and I believe that between 500 and 600 copies of it are being circulated in the Riverland. The petition states:

We the residents of and visitors to the Riverland object in the strongest terms to the construction by the Government of a bridge from Goolwa to Hindmarsh Island in lieu of the promised bridge at Berri on the grounds that:

(a) it cannot be financially justified and is an inequitable and inappropriate use of taxpayers' funds,

(b) a bridge at Berri would provide far greater economic benefits to South Australia, and

(c) such action dishonours the promise made by the Premier, on coming to Government, that the next bridge to be built over the River Murray would be at Berri.

That petition was a spontaneous reaction by the people in the Riverland following the announcement by the Premier that the South Australian Government would fund a bridge from Goolwa to Hindmarsh Island. On 9 October 1991, in the House I asked the Premier:

... what has become of the promise the Premier made to the people of the Riverland, when withdrawing funding for the Berri bridge project in favour of the Gawler bypass, that the next bridge over the Murray in South Australia would be in the Berri area?

To that the Premier responded:

The bridge I am describing—

referring to the Hindmarsh Island bridge—

is not a bridge over the River Murray.

It left most people in South Australia absolutely dumbfounded that the Premier could make such an inaccurate statement that the bridge from Goolwa to Hindmarsh Island is not a bridge over the Murray River. Of course it is. The river proper flows between Goolwa and Hindmarsh Island. The Premier went on to state:

I would be delighted if the same sort of economic case could be developed by the honourable member for such a link—

That refers to me and to the link between Berri and the adjoining road leading to Loxton. We are delighted to develop that case for the Premier and we will have no difficulty whatever in developing a financial benefit case that will be many times greater than that in respect of Hindmarsh Island.

I refer to the Draft Environmental Impact Statement for Hindmarsh Island Bridge, Marina Extension and Waterfront Development, November 1989. At page 8 of that EIS it states:

Replacement of the Hindmarsh Island ferry by a bridge cannot be justified when viewed from a whole river perspective. There are many other crossings currently serviced by ferries which would take priority on the basis of vehicle numbers and convenience to South Australian motorists. Two ferries now run at Berri, for example, where population growth and residential land development is also proceeding at a rapid rate.

That is an extremely significant paragraph in the draft environmental impact statement for the Hindmarsh Island bridge proposal. The situation has arisen where the Government is no longer governing for the people: it is governing for selective interest groups—a selected few in the community—and it is doing so at taxpayers' expense, with taxpayers' money.

If the Government can afford to build a bridge, then the indisputable top priority is a bridge not to Hindmarsh Island but across the river at Berri. If the Hindmarsh Island developer wants to build a bridge as part of a commercial development, I have no problem with that whatsoever, and I wish the developer every success. However, without doubt it is a totally inappropriate use of public moneys for the Government to build a bridge to support a private enterprise project.

As I said, the last thing I want to do is see the developer's project fall over in any way, but it is quite inappropriate for the Government to use taxpayers' funds for that purpose. I have already referred to the Highways Department's February 1982 environmental impact statement for a bridge over the River Murray at or near Berri that was developed at the request of the then Minister of Transport (Hon. Michael Wilson). In summary, the report states:

The South Australian Government is committed to the construction of a bridge across the River Murray in South Australia at or near Berri in the Riverland.

That statement refers to the then Tonkin Government in 1981. To determine the optimum site for a future bridge in the Berri vicinity, the Highways Department has conducted a comprehensive planning investigation considering several possible bridge locations adjacent to the Berri town area and upstream. The investigation follows a public display held in the Riverland showing the site alternatives on which councils, interest groups and residents were invited to comment. Resulting from the investigation and the initial comments received, a preferred scheme for a bridge site and its road construction has been selected, based on a bridge location west of and close to the town centre.

The Tonkin Government had approval; the money was supplied from the Federal Government to build a bridge at Berri; it was to be built as a bicentennial project: and it would have stood as a monument for a long time into the future. In fact, it would have been there for the next 100 or 150 years. However, on coming to office, the present Labor Government withdrew the funding that was allocated by the Tonkin Government to this project and spent it on other projects. On coming to office, the Premier did give an undertaking that the next bridge would be at Berri, and I commend this motion to the House and ask it to call on the Premier to honour his undertaking.

Mr FERGUSON secured the adjournment of the debate.

RURAL COMMUNITY

Adjourned debate on motion of Mr Gunn:

That a select committee be established—

(a) to inquire into the reasons why many farmers and small businesses in rural South Australia are having difficulties in raising adequate finance to maintain their operations;

(b) to examine the operations of and funds available to the Rural Industries Assistance Branch of the Department of Agriculture to see if they are being directed toward those who have the best possibility of long-term viability;

(c) to examine the need for the Government to give protection to those facing foreclosure; and

(d) to give those people who believe they have been harshly treated by the financial institutions the ability to advise the select committee of the difficulties they are facing,

which the Hon. B.C. Eastick had moved to amend by leaving out all words in subsections *(a)*, *(b)* and *(c)*.

(Continued from 13 November. Page 1880.)

Mr HOLLOWAY (Mitchell): When this matter was being debated last night, I was just about to point out some of the measures this Government has taken to assist farmers who are in financial difficulties. The State Government has a considerable investment through its Rural Finance and Development Division in helping farmers in that situation. For example, under the Rural Adjustment Scheme, it is expected that the Government will this year lend approximately $15 million for such purposes as debt reconstruction, farm build-up and farm improvement programs. The Government also assists by way of interest rate subsidies, which are available to eligible farmers with existing commercial borrowings from banks, pastoral houses and other financial institutions.

The Government also provides support by way of interest rate subsidies on carry-on finance for those who require them, and some hundreds of farmers will be assisted by this program. A total of well over $40 million will be provided by the Government in the current financial year for assistance to farmers.

Another measure is in the form of household support and re-establishment grants, for which approximately $6.6 million will be provided this year. The Government also provides about $12 million for commercial rural loans and, in addition, it also provides through the Rural Industry Adjustment and Development Fund an additional $1.8 million for such purposes as soil conservation loans, farm research and development loans, as well as various extension and marketing support activities. So, the Government does make a big contribution to assist those farmers in financial difficulty. I do not believe there would be any purpose in our calling together a select committee to examine those aspects. For that reason, I cannot support paragraphs *(a)*, *(b)* and *(c)* of the motion moved by the member for Eyre; it would be counterproductive to do so. I believe that we should let those elements of the Department of Agriculture that are assisting farmers get on with the job.

In relation to that matter, it is worth pointing out that at the recent meeting of State and Federal Ministers the Federal Government announced increased assistance to farmers. I am sure that would be welcomed by every member of this House and that all members would also welcome the proposed changes to the Social Security Act, which will enable struggling farmers who have the long-term capacity to remain in the industry being given access to unemployment benefits. I believe that will assist about 2 000 farmers in Australia and some 200 to 250 farmers in this State to remain viable. That is a change that we would all welcome.

In relation to paragraph *(d)* of the member for Eyre's motion, which refers to giving the opportunity to members of the rural community to give their views on the problems that they have had with financial institutions, I believe that, in principle, we should support such a move. It is now about 10 years since the deregulation of the banking system and a lot has been written about the effect of deregulation of the financial system on retail lenders, but the agriculture sector has particular problems. There is no doubt that the availability of finance is very important to this vital part of our economy. It is an area that could well benefit from examination. That is why I am pleased to say that the Government supports, in principle, the establishment of a select committee that would enable members of the rural community to give their views and to explain to the committee the problems they have had with the various financial institutions. Of course, that would also give the opportunity for the banks to put their views.

I certainly welcome the establishment of a select committee to examine such matters and I compliment the member for Eyre on bringing up this subject. It is most important that we consider it. The rural industry is a particularly important industry for this State. As I have said, it has special problems that are not shared by other industries. Its uniqueness and its dependence on the financial sector for its viability are very good reasons why we should be examining those aspects of rural industry. I believe that amendments may be moved later and I welcome them.

Mr M.J. EVANS (Elizabeth): I too support the principles behind which the member for Eyre has moved to establish a select committee into the financial operations of the rural sector. I believe that a number of very important aspects of South Australia's vital rural sector will come out of the operations of such a select committee. I believe that this House should support the establishment of it. However, I believe that it should do so in an amended form. I would like to move an alternative proposal to the House, which I believe encapsulates the most significant sections of the motion moved by the member for Eyre and puts it into a form that I think the House may find acceptable. Therefore, I move:

That the motion be amended by leaving out all words after 'established' and inserting in lieu thereof the words—

(a) to inquire into the financial viability of the rural sector of South Australia, the availability of adequate operational finance and the role of financial institutions;

(b) to examine the operations of and funds available to the Rural Industries Assistance Branch of the Department of Agriculture.

I believe that this will give members of the rural community, whether they be in small business or on farms, the opportunity to present their case to the committee and to discuss the role of financial institutions, both in a positive and, possibly, a negative sense. I believe that all members of the rural community will find this a useful operation in terms of presenting their opinions and, indeed, their suggestions for the future operation of this vital sector. I commend the amendment to the House.

Mr GUNN (Eyre): I thank the House for its support of this proposal. I am sure that it will be welcomed by the rural industry. I believe that a select committee will give the Parliament a better insight into the difficulties that many people in the rural industry are facing. Members of Parliament will be spending their time most productively. I look forward to the deliberations of the committee. I thank all members who have assisted with the redrawing of this motion to ensure that it has bipartisan support, and I look forward to the deliberations of the committee.

The SPEAKER: The House has two amendments before it. To safeguard the member for Light's amendment, I propose to put the question that paragraphs *(a)*, *(b)* and *(c)* be deleted.

Question agreed to.

The SPEAKER: The next question is that paragraph *(d)* be deleted and new paragraphs *(a)* and *(b)* inserted.

Question agreed to; motion as amended carried.

The House appointed a select committee consisting of Messrs S.J. Baker, Blacker, Ferguson, Hemmings, Holloway, Mrs Hutchison and Mr Gunn; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 13 February 1992.

ACCESS CABS PROGRAM

Adjourned debate on motion of Hon. T.H. Hemmings:

That this House recognises the role that the Access Cabs program has played in allowing the physically disabled to be less housebound and to be more involved in the day-to-day activities of the community.

(Continued from 17 October. Page 1221.)

Mr BLACKER (Flinders): I support the motion. It may sound like a motherhood statement, but it is not. I think it is of great importance. It is a very important issue to those people who are or who have been housebound because of their physical incapacity, and to that end I think it is appropriate that this House places on record its appreciation of the advantages that this scheme has provided. Whilst the Access Cab program is very good, it does not extend sufficiently far to cover country regional cities.

In Port Lincoln we do not have the same opportunity to avail ourselves of the Access Cabs scheme. I call on the Government to extend the program to make sure that handicapped people in regional cities have the same access as is available in the metropolitan area to this facility. I appreciate that, with respect to country towns, that is not always possible. However, where there is a taxi infrastructure or a taxi service in a regional city, it should be able to accommodate the Access Cabs program.

I understand that there is some form of Access Cabs service in at least one of the Iron Triangle cities, and the member for Stuart will be able to help me on that point. However, that is not the case in Port Lincoln and it is an area where some benefit can be gained. In regional centres, it requires a capital commitment by private taxi firms to equip themselves with the vehicles required under the program. That is where the Government will have to consider whether it can help out with some additional funding so that at least one vehicle can be made available in the regional cities.

There are many more housebound people in the community than most of us would believe. I have had close association with the Lower Eyre Peninsula Society for the Handicapped (LEPSH), which was established many years ago as a project of the Port Lincoln Lions Club. I vividly recall Lions Club members trying to estimate the number of handicapped people in the Port Lincoln community and the initial figure they came up with was approximately 25 or 30 handicapped people. However, having sat down to work it out, we were able to name 110 physically or intellectually handicapped people who were in need of some support services. An urgent need was established.

As a result, the Lions Club set up LEPSH and, since that time, a number of other organisations for the handicapped have been established. I refer particularly to the Boston Employment Service and Training (BEST) program for the handicapped. However, those schemes can only work and work effectively if handicapped persons are able to get to the LEPSH or Boston Employment establishment or to the flora and fauna park, which is another project for handicapped persons. Transport is the key to all that. If transport is made available, in this case through Access Cabs, it will result in individual freedom for handicapped persons and their personal stature will grow with their increasing ability to take part in community life.

If members have any doubt about the value of wider community involvement with handicapped persons, I invite them to visit the Boston Employment Service and Training program in Port Lincoln. That organisation took over a small soft drink factory. It is an absolute delight to go there and see handicapped persons playing an active role in the whole structure of the organisation. It shows that it can be done but, unless people can be transported to these places, it will not come to pass.

It is worthy of this House to place on record its appreciation of the Access Cabs program. My request is that the program be extended to incorporate the regional cities, or at least those areas that already have a taxi service. That will require the consideration of the Government because taxi owners cannot be expected to provide a modified vehicle at their own cost. For that reason, the program needs to be extended to accommodate country people. I support the motion.

Mr OSWALD (Morphett): I support the motion. About a year ago I visited various groups in the foothills of the north-eastern suburbs. Some of the senior citizens organisations complained about the lack of Access Cabs service on the periphery of Adelaide. Some zones are well established but in other zones it is difficult to secure that service. That is particularly so on the north-eastern side of Tea Tree Gully, and I bring that matter to the attention of the House and the Government. I support the member for Flinders in saying that we applaud the scheme and those taxi drivers who are obviously dedicated to their task. However, it must be put to the Government that there is a necessity to extend the scheme into regional areas.

I looked very carefully at this motion to try to understand the member for Napier's motives in moving it. It may be a purely honourable motive to publicise the scheme; but he may be trying to cover something and I am not sure what that is. However, I know that there is a need to extend the scheme, which is very popular and desirable. I support the motion.

The Hon. T.H. HEMMINGS (Napier): I thank the member for Flinders and the member for Morphett for their support of this motion. The member for Flinders summed it up adequately when he said that this is not just a motherhood statement. Members will be aware that I have recently come under some criticism for the number of motions that I have moved in private members' time in this place. Unfortunately it was suggested that I have been wasting the time of the House by moving frivolous motions, and the two examples given concerned my defence of the monarchy and a motion about corporate crime. I feel strongly about those motions and I think that it is valid to debate them. Unfortunately, the criticism did not cover some of my other motions, such as this one about the Access Cabs program, which I hope will pass this House.

Members will recall that, when moving the motion, I stated that the Access Cabs program should not be confined to the metropolitan area, that there is a need in the larger country towns for a similar program, although not of the same magnitude as in the city. I am pleased that work for the handicapped is being done in Port Lincoln, as the member for Flinders described. That augurs well for a similar Access Cabs program to be established in that centre. In my speech, I outlined some of the preparatory work that has been done in the Barossa region with the idea that any experience that is gained there will flow on to the larger country towns. I thank members for their support of the motion and I look forward to the expansion of the Access Cabs program as the years go by.

Motion carried.

ENVIRONMENT POLICIES

Adjourned debate on the motion of Hon. T.H. Hemmings:

That this House expresses its sympathy to the Minister for Environment and Planning on seeing the Liberal Party continually filching her environment policies.

(Continued from 17 October. Page 1223.)

The Hon. D.C. WOTTON (Heysen): This is a frivolous motion and I will just tidy up a few of the comments that were made by the member for Napier. In his motion, the honourable member has accused me, as the Opposition spokesman on environment and planning, of highjacking Labor Party policy and recycling that policy as our own. Right at the outset, let me say that that does not fuss me one little bit. If in fact it is the correct policy, I do not care whether we are copying the Labor Party or whether the Labor Party is copying the Liberal Party, as long as it is better for South Australia. There have been numerous occasions when the Labor Government has copied or, to use the member for Napier's word, 'filched' the policies of the Liberal Party, and I am delighted that that is the case. It may be that the honourable member and the Opposition deem the matter to be sufficiently important for it to be taken up irrespective of who may have initiated the policy. As long as it is good for South Australia, that is all that matters.

In fact, when the Leader and I released the strategy discussion paper to which the member for Napier has referred continuously throughout this debate, I made it very clear at the time that I would be delighted if that were to happen. During an interview on the ABC, I was asked, 'What happens if the Government pinches your policy? What happens if the Government takes up the Liberal Party's policy on kerbside collection and recycling?' The honourable member can check on this, but I said that I would be delighted if that were to happen. Nothing would give me more pleasure, because the Opposition and I believed that that was an appropriate policy and direction for South Australia.

We have been concerned that the Government and the Minister for Environment and Planning, in particular, have not been strong enough in that particular policy area. The Minister has talked a lot about the need for recycling and a kerbside collection program but has done very little to implement it. So, we believed that it was important for us to indicate very clearly what we would do immediately on coming to Government. If the honourable member checks that document, he will find that that is the way we put it. We would give it the very highest priority and, immediately on coming to Government, we would introduce an appropriate kerbside collection as part of our overall recycling strategy. We have sitting opposite members to whom I refer affectionately as Bubble and Squeak—the members for Napier and Henley Beach—

The Hon. T.H. HEMMINGS: On a point of order, Mr Speaker, the member for Heysen has reflected on both me and my colleague the member for Henley Beach, although I am sure that the member for Henley Beach is quite able to speak for himself.

The ACTING SPEAKER (Mrs Hutchison): I would ask the honourable member to stick to the text of the motion.

The Hon. D.C. WOTTON: Thank you, Madam Acting Speaker, and I am pleased to do so. These two members opposite, the member for Napier and the member for Henley Beach, have had a lovely time in this debate. Much of it has been frivolous, as I said earlier. They accused me, as the Opposition spokesman on environment and planning, of taking up some of the Labor Government's policies. They have suggested that I was not aware of some of the work being carried out by the Waste Management Commission. That is not the case. I have watched very closely and have on a number of occasions commended the work being carried out by the Waste Management Commission in South Australia. They further stated that I do not know what is happening as far as the Recycling Advisory Committee is concerned. Well, I have been involved in the workings of that committee. I have been consulted by members of that committee and have had considerable input into the committee's work.

I want publicly to commend that committee and the commitment and dedication shown by its members who have worked so hard to bring down appropriate strategies and recycling policies. Certainly I refute the member for Napier's suggestion that I or my Opposition colleagues have a lack of knowledge of the workings of that committee under the Waste Management Commission. Unlike the Government, we believe in proper and effective consultation, and we also believe in the need to listen. As I have said previously, that is one of the major problems of the current Minister. She does not listen enough to people who wish to make constructive contributions to the environment policy in this State. That is something that the Opposition has been very keen to do as far as that strategy discussion paper is concerned. The Opposition has spent much time talking with people and listening to their comments so that we were sure to have an appropriate and effective environment policy.

I have already mentioned that the Government has now turned the situation around, having seen what we proposed with respect to kerbside collection. It is now accusing us of jumping on the band wagon and copying its policies. I do not care whose policy it is, as long as it is good for South Australia. We were delighted to be able to bring down that policy prior to the Minister's endorsing it and in fact extending it. We have been very strong in our policy on waste minimisation which, with the Minister, I concur is the most important part of any waste management program. It is not just a matter of talking about recycling but of trying to minimise waste, and I suggest that both the Government and the Opposition have strong policies in regard to that matter.

I was concerned when the member for Napier suggested that our comments in that strategy paper regarding the opportunity for country towns to generate electricity from methane out of rubbish dumps was 'nothing more than gobbledegook'. I suggest to the honourable member that he take a trip down to the Wingfield dump to see what is happening there. I want to commend the commitment shown by a family company who have persisted down there, first with the Electricity Trust which did not want to know them and, later, with SAGASCO, because they were determined that they were able to produce gas that could be introduced into the grid. That is exactly what they have done. ETSA did not want to know about it, but fortunately SAGASCO has picked it up and is running with it. That particular family company has indicated quite clearly to the Opposition that it would be prepared to carry out similar endeavours in country areas. As far as the Opposition is concerned, we would very strongly support any initiatives that they might take up in that area.

I want to refer to national parks, because the member for Napier was very critical of the statements that had been made in the discussion paper in regard to the national parks, particularly relating to endangered species. Even the member for Napier would have to recognise the disastrous situation that we have in this State regarding the management of our national parks and reserves.

Mr Ferguson: What about cats?

The Hon. D.C. WOTTON: I will be interested to know what the Government is going to do in regard to cats. We

have been talking about that matter for a long time, and I have had some discussions with the member—

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

The Hon. T.H. HEMMINGS (Napier): I can now sincerely say that I view the member for Heysen in an entirely new light. I have never known a person who has been attacked—in a kindly way and well within the confines of this motion—to then stand up and say, 'I'm not fussed. I did steal; I am a self-confessed thief.' I believe that that is a sign of a statesman.

The Hon. D.C. WOTTON: I rise on a point of order, Mr Speaker. It is totally inappropriate for the member for Napier to suggest that I have stolen anything.

The SPEAKER: I accept the point of order. This is the second time this week that those terms have been used. Unfortunately, the first occasion was not taken up. However, I do believe that those words are totally unparliamentary, and I ask the member to withdraw them.

The Hon. T.H. HEMMINGS: Yes, Sir, I do withdraw those remarks, and I apologise unconditionally to the member for Heysen. I think the member for Heysen would understand that perhaps I should have said plagiarise or borrow in relation to the words used by the member for Heysen. His response to my attack on his Party's environmental policies was statesmanlike, and I am convinced now, more than ever, that on retirement I shall probably live in Stirling or Mount Barker, because I wish to have the member for Heysen representing me when I have no say in matters of importance to the State.

I have no problems with what the member for Heysen has said in this debate that it does not matter who thought of an idea first and who picked it up. In fact, when one thinks about it, that is the only way to go. Perhaps my motion was framed in a harsh way, but the fact is that the member for Heysen, on behalf of the Liberal Party, has picked it up and has said, 'As long as it's good for South Australia, who cares whether the Minister for Environment and Planning thought it up or whether an Opposition member thought it up?' That is good. The member for Heysen has a fantastic record in terms of conservation and water quality issues. I only wish that he would talk to one of his colleagues who wastes 5.1 tonnes of filtered water every day and try to counsel that person in regard to water conservation.

One final criticism of the member for Heysen: he said that I did not really know what it was like at the Wingfield tip, and also that I had said that it was gobbledegook for some small country town to use waste emanating from that town to produce electricity. Obviously, the member for Heysen did not read exactly what I said, because I said that, even with all the waste that goes to Wingfield, any electricity produced could service only a few thousand homes, so how could a small country town produce enough waste to keep itself in electricity? The principle is okay, but the practicalities are just not on. That is why I said it was gobbledegook—and I think the member for Heysen knows that.

Apart from his magnanimous attitude to his motion, the honourable member had to come back with that criticism. That is all part of it, and I accept it. It is 'hands across the Chamber' in that regard. Obviously I would like this motion to pass. I appeal to the impartiality of both you, Mr Speaker, and of the member for Elizabeth—although he is giving me some sort of indication that I will go down the gurgler. However, I think the message has got through that we should not plagiarise each other's documents. If that happens, all well and good, but please put a footnote: 'I borrowed this from the Labor Party, so please forgive me.' I urge all members to support the motion.

Motion negatived.

MEMBER FOR FISHER

Adjourned debate on motion of Hon. T.H. Hemmings:

That this House, having always paid due deference to the monarchy and to vice-regal representatives, as evidenced in Standing Order 121, and to our oath of office, dissociates itself from the disrespectful and irresponsible attitude of the member for Fisher to our royal family.

(Continued from 17 October. Page 1227.)

Motion negatived.

MEMBER FOR HEYSEN

Adjourned debate on motion of Hon. T.H. Hemmings:

That this House condemns the member for Heysen in the strongest terms for inciting the people of South Australia to act outside the law and calls on the Leader of the Opposition to sack him immediately from his position as Liberal party spokesperson for water resources.

(Continued from 17 October. Page 1229.)

Mr BRINDAL (Hayward): I rise reluctantly in this debate, and I note, Mr Speaker, your deliberation on the last two motions on which a vote has been put. I hope that this House will consider this motion in much the same light as it has considered motions on which it has voted today. I have some respect for the member for Napier when he contributes to debates seriously. When he chooses to contribute honestly and honourably to this House, he can make sense and he can make a fine contribution. However, I believe that a number of the motions on the Notice Paper reflect no credit at all on the member for Napier—and the motion to which I am speaking is one.

In the course of other debates in this Chamber, the Government has continuously tried to besmirch the Opposition, in particular my friend and colleague the shadow Minister for Environment and Planning and for Water Resources, by saying that we are inciting mayhem, riot, that we are encouraging people to break the law and so on. I recall reading a newspaper article about a court process that has been pursued. Like it or not, my understanding of a democracy is that it is the function of this place to discuss and to pass legislation, and that it is the function of the courts to interpret that legislation. If while in this place—and indeed if I, as a citizen of this State—I choose to exercise part of the separation of powers and test the legislation or an action of this Parliament before the courts, that is my right and the right of every member in this House as a citizen. If my colleague has done that, then I am quite sure that he will willingly plead guilty because he is playing his part in the democratic process.

For any member of this House to stand up and try to denigrate a member for playing a part in democracy and using the full range of tools that are available to any citizen in a democracy does not reflect creditably on them. I do not wish to detain this House for any longer than is necessary. I think it should go on the public record that this motion condemns the person who moved it. I note, Sir, that you appear to have been taking some resolution in the matter of motions such as this, and hopefully some members opposite might realise that there are honourable members in this House who are indeed honourable, who do not believe in wasting the time of the people of South Australia and who want to get on with the business of constructive

Government. I urge all members in this House to reject this motion totally and, in saying so, I would ask the member for Napier, through you, Mr Speaker, that, if in future he would like to exercise the intellect of members, he do it on a serious matter and not in a frivolous and vexatious way.

The Hon. T.H. HEMMINGS (Napier): I feel hurt. I have just heard the member for Hayward say that this is a frivolous motion and that I deserve to be roundly condemned for moving it. The member for Hayward did temper his words somewhat by saying that some of the motions that I have before the House are worth supporting, and I thank him for that. He did congratulate the member for Heysen for using all the tools available in a democracy, or words to that effect, and said that he should be congratulated or even condemned in a sense for what he did, which ultimately ended up with the court action. Perhaps they were not the exact words.

However, in saying that, the member for Hayward condoned the member for Heysen's inciting people to riot. I did not make that up; there are press clippings that say the people will go out and riot. In fact, the Premier mentioned it only the other day. Is inciting people to riot one of the tools of democracy? The member for Hayward, in the short time he has been here, tries to put himself at the level of understanding what democracy is all about and the philosophy of what we are all about here in this place. If the member for Hayward on one hand wants to be the kind of budding statesman of the Parliament but on the other hand wants to go out there and incite the community to riot in the streets, then he is just playing, with all due respect, with a little bit of a double standard. I remind the House that the member for Hayward in defence of his friend and colleague said, because the Full Court had come out with a judgment that said it was invalid, that was not strictly true. The only correction—

Mr BRINDAL: On a point of order, Mr Speaker, I did not mention a judgment and, in saying I did, the honourable member is misrepresenting me.

The SPEAKER: Whether or not it was mentioned, there is no point of order. I refer to Standing Orders. If any member wishes to raise a point of order it must be raised in relation to the Standing Orders under which we operate.

The Hon. T.H. HEMMINGS: There was mention—

The SPEAKER: Order! The member for Napier will resume his seat. The member for Hayward.

Mr BRINDAL: I seek your guidance, Mr Speaker. I claim to have been misrepresented; I thought that that came within Standing Orders.

The SPEAKER: If the member is offended the point of order must be raised at the appropriate time. It seems to me that this point of order has been taken now by many members just to interrupt the flow of other members. I am not necessarily referring to the member for Hayward, but it seems to be a practice developing in this Parliament. It will not be allowed to continue. If members are affronted correctly they must operate within the Standing Orders, which is to take the point at the time it occurs.

The Hon. T.H. HEMMINGS: In the short time remaining, I will not go down that track. We have voted on three of my motions today; I have lost two and won one. The way things are going, I might lose three and win one. All I know is that, in my heart, I know the gentle readers of *Hansard* will judge on the debate who won. I might lose on the voices but when the readers of *Hansard* go through it in the next couple of weeks they will say, 'Hemmings, you was robbed.'

Motion negatived.

Mr LEWIS (Murray-Mallee): I rise on a point of order, Mr Speaker. Whilst I do understand that no honourable member may refer to another honourable member by anything other than the name of the electorate they represent or a pronoun, would you rule as to whether or not a member should refer to himself by his or her own name?

The SPEAKER: I do not believe it is significant enough for the Chair to make a ruling. I believe we adhere to the rules.

Members interjecting:

The SPEAKER: Order! When referring to other members we have a very clear Standing Order. To my knowledge, there are no precedents for referring to oneself. It is very hard to take a point of order about oneself. This does not warrant the Chair's making a ruling.

TICKET SELLING FACILITIES

Adjourned debate on motion of Mr Matthew:

That this House calls on the Government as a matter of priority to introduce selling facilities onto train platforms and/or trains to enable commuters to once again conveniently purchase train tickets and to restore public confidence in the metropolitan train system.

(Continued from 24 October. Page 1416.)

Mr HAMILTON (Albert Park): I move:

Delete all words after 'That this House calls on the Government' and insert:

to continue to monitor technological advancements in the manufacture of ticket vending machines that are vandal proof and continue to increase the number of licenced ticket vendors to enable passengers to easily purchase a ticket before boarding a train.

Prior to embarking on the new rail security initiatives, the member who moved the motion may recall that there had been a metropolitan based demand for improved security for passengers and employees on trains, supported by many reports of threats and actual violence. The situation could not be allowed to continue; in fact many people demanded action, so the STA reviewed its security on trains. During the review, the STA and the Government took into account constructive suggestions from its public transport employees, their unions (in particular the Australian Railways Union) and passengers, especially those interviewed in the media as well as those who wrote and telephoned the STA and members of Parliament.

The train staffing considerations became part of a wider range of strategies already being explored by the STA in an effort to improve security on the public transport system generally and to reduce incidents of intimidation and assault of employees and passengers alike. Indeed, the gradual introduction of transit officers on trains has reduced dramatically the number of incidents of vandalism and assault reported and has been very well received by commuters.

The honourable member who moved this motion may not be aware that a ticket vending machine was trialed in 1990 at Modbury interchange, with a view to installing similar machines elsewhere in the transport system. However, within three weeks the machine had been effectively destroyed by thieves intent on gaining access to its contents. Subsequently, the STA embarked on a program of increasing substantially its ticket outlets while better methods of securing ticket vending machines were being developed.

As at September this year the STA had established 464 licensed ticket vendors in the metropolitan area and near country towns. Including post offices, a total of 679 off-

board ticket outlets are available to STA customers, and that number continues to grow. In addition, the STA has provided a 'pay later rail card' for use by tourists or visitors to Adelaide and other people who, for one reason or another, have been unable to purchase a ticket prior to travelling by train. No person with a legitimate reason for being on a railway platform and found without a ticket in his or her possession will be penalised.

The STA is monitoring the present system of ticket outlets and has deferred any installation of ticket vending machines at suburban railway stations or on board railcars until the present system, which is far more cost effective, has had a chance to demonstrate its effectiveness. Accordingly, as indicated, the STA is not prepared at this stage to accommodate the member's request.

During this period of review, like other members, I have received representations about ticketing outlets. I suspect that, as with any new system, there will always be some hitches or flaws in it. However, since this system came into effect, apart from an initial request by a number of businesses in the community and hoteliers seeking the opportunity to sell tickets, I have had only two complaints, and I understand that those have been addressed. I understand there was some hostility or concern that tickets should be sold by hoteliers. I have no difficulty with that. In fact, I have actively encouraged hoteliers within my electorate, and outside, to make application. Hotels are places into which the public, quite properly, go to have a drink with their friends. Instead of that aspect being knocked, I believe that it should be actively encouraged. I believe that people should be invited to get on a train to go home rather than to jump into their cars. I do not see why those people who knock this aspect should be opposed to business people selling tickets. As a former President of the Australian Railways Union in this State, during this whole debate I have been cognisant of some of the feelings coming across from past members.

Mr Ferguson: And you were a good President, too.

Mr HAMILTON: I thank my colleague the member for Henley Beach for his expression of support. I believe that people who want additional outlets, as the Minister has indicated, should apply to the STA. I cannot remember off the top of my head to whom they should apply. I remember taking up this matter with the Minister, and the Minister indicated that, if I were prepared to circulate a letter within my electorate to business houses which were interested, the STA would give the matter consideration. In many cases favourable consideration was given. As I indicated, I have received only two complaints since, and I understand that they have been remedied.

There are other aspects to the ticketing system. Initially, I was concerned that people found on a railway station without a ticket could be pinged. Obviously, this regulation is being treated in a reasonable and proper way. People are given the opportunity to pay later should they wish to do so. Indeed, I understand from talking to some of the people involved in inspectorial duties that most people are given every opportunity to pay their fare. My experience, during the many years that I was in the railway industry and since, has been that STA staff, on bus and rail, treat the travelling public with the respect that they deserve. It is unfortunate that certain people vandalise ticket vending machines, but I believe that the Government has quite properly addressed that problem and is reviewing it.

I ask the House to support this amendment. I believe that it does address the problem. I hope that my colleagues will give it the support that I believe it merits, given the fact that a large number of ticket vendors are available in the metropolitan area. The opportunity is present for those who wish to sell tickets to apply to the State Transport Authority. Indeed, I ask you, Sir, as a local member, to encourage members of Parliament to seek that information.

Mr S.G. EVANS secured the adjournment of the debate.

ELIZABETH/MUNNO PARA PROJECT

Adjourned debate on motion of Hon. T.H. Hemmings:

That this House notes the positive impact the Elizabeth/Munno Para Project is having on the community in that area.

(Continued from 24 October. Page 1417.)

Mr De LAINE (Price): I have much pleasure in supporting this motion. I wish to acknowledge the priority given to this project by the Bannon Labor Government as part of its social justice strategy. As the member for Napier stated on 10 October, the Elizabeth/Munno Para area was selected as a priority for a pilot scheme because of the nature of the local community, and particularly because of the locational disadvantage suffered by people in that community. Locational disadvantage is defined as disadvantage, primarily as a result of geographic location, in gaining physical access to employment and training, health, education and community services and facilities. This disadvantage becomes more serious when linked with other socio-economic disadvantages such as low income, sole parenthood and unemployment which exist in parts of Elizabeth/Munno Para. One of the main reasons why this area was selected for this pilot program was that many people in the Elizabeth/Munno Para area struggle with the burden of compound disadvantage. Many of those factors together compound and make the community very susceptible.

The 1990-91 State budget allocation of $1.4 million to this project includes money for an Elizabeth housing redevelopment project, an intensive early intervention program through the Department for Family and Community Services, an integrated family support service, child care facilities at Elizabeth West re-entry school and some money for the first stage of a $20 million redevelopment of court and police facilities to service the Elizabeth/Munno Para and Salisbury areas.

The State Government is working with the Elizabeth/Munno Para councils and the local community to run this much needed and valuable project. Over the next two years the project will develop strategies to bring about changes in housing, transport, health, education, safety, employment, environment, economic development and community participation. In addition, the Federal Government has funded a research project on locational disadvantage issues in Elizabeth. This research should assist the longer-term planning and provide a framework for more detailed consultation with the community.

The philosophy of the Elizabeth/Munno Para project is that this is a social justice project that will identify ways of using limited resources to redress existing inequities and give more to those in greatest need in that area. The broad aims of the project are to: increase the adequacy, relevance and accessibility of community resources; improve the quality of the natural and infrastructural environment; encourage economic development and the creation of job opportunities; and involve the community in the design and implementation of decisions for change. The project will function over two years in four broad phases: phase 1, establishment (April to June 1991); phase 2, consultation and consolidation (July to December 1991); phase 3, action:

facilitation of agency and inter-agency action program and projects (January to December 1992); and phase 4, evaluation and final report (January to March 1993).

I envy the member for Napier for having this exciting program established in his electorate, as my electorate of Price is very similar in many respects to the honourable member's. However, I believe that the choice of Elizabeth/Munno Para for this pilot program is a good one and, when the project proves to be an outstanding success, which I am sure it will, I look forward to its being adapted to other needy areas of South Australia, including my electorate of Price.

As to the comments made by the member for Davenport on 24 October, I can only say that the honourable member and other members on the other side of the House would have no idea of the type and magnitude of the problems being experienced by many people who live in electorates such as Napier and Price. I know that members would experience similar problems in certain areas of their electorates, but not to the same extent or magnitude as those experienced in electorates such as Napier and Price and some of the western suburb electorates.

It is all very well to say that $1.4 million should not be spent on one electorate at the expense of others, but the fact of the matter is that this is a pilot program. Pilot programs are not set up all over the place; they are set up in only one area for evaluation, and that is exactly why this program has been set up—for evaluation. The other argument, of course, is that, if that $1.4 million were split up amongst all 47 electorates, each electorate would be allocated about $30 000, and obviously that would be ridiculous: $30 000 would not do anything for any electorate. If you are going to do something, it pays to do it properly. The program should be evaluated in a one-off situation. If it is successful—and I am sure that it will be—it could then be expanded to other areas. Again, I applaud the Bannon Government for its initiative in setting up and funding this pilot program, and I am happy to support the motion moved by the member for Napier.

The Hon. T.H. HEMMINGS (Napier): I thank the member for Price and the member for Davenport for their contribution to this debate. I will not enlarge on what the member for Price said about whether one should spend a particular sum of money in areas such as the electorates that you, Mr Deputy Speaker, and I represent, because we are the lucky recipients of this social justice strategy. However, the House should realise that, as the member for Price has said, this is a pilot program, but it is also a conscious attempt by the Government to enable the community to help itself.

I could go on at length in the time remaining, but you, Sir, are well aware that other community activities are taking place in the Elizabeth/Munno Para area that have actually resulted from this thrust by the Government to get involved. At the launch of the program, the Premier made it perfectly clear that it would not be an example of pouring millions and millions of dollars into a particular area of this State to be used simply as a bandaid treatment. The days of the bandaid treatment are gone.

Some of the good things that have emanated from the Elizabeth/Munno Para project, which forms an integral part of the social justice strategy, are working. You know well, Sir, of the operations through the Peachey corridor in respect of schools and of the work being done by the Anglican Community Services Mission. Whilst that is a church based organisation, it is bringing together the non-Government sector and the community. I refer also to the consultation process. It is not just a series of bureaucrats telling the people of the Elizabeth/Munno Para area, 'This is what we are going to do for you.' The Elizabeth/Munno Para community is being asked, 'What do you want to do for yourselves and how can we help you?'

The member for Davenport said, 'You've got your police station and your courts complex out there; I want one in my area.' I understand that attitude, but social justice is headed in a new direction. Because you, Sir, and I are closely involved in that, we are well aware of the thrust of the Government.

Mr BRINDAL: A point of order, Mr Deputy Speaker. I seek your guidance.

The DEPUTY SPEAKER: What is the point of order?

Mr BRINDAL: With reference to relevance, when summing up a debate, is a member allowed to introduce new subject matter?

The DEPUTY SPEAKER: Is the member for Hayward's point of order that that is what the member for Napier is doing?

Mr BRINDAL: The point of order is relevance, Sir.

The DEPUTY SPEAKER: As far as the Chair is concerned, the speech of the member for Napier has been relevant to date. The member for Napier.

The Hon. T.H. HEMMINGS: I will not take up the time of the House any further. I would like to think that the point of order taken by the member for Hayward was not an attempt to stifle in any way what I think is a very serious motion. I have lost three motions because they were frivolous, and I freely admit that.

Mr Lewis: You admit that?

The Hon. T.H. HEMMINGS: Of course I do, but this is one motion that is very important, as is the motion in regard to Access Cabs. For that reason, I urge the House to support the motion.

Motion carried.

AUSTRALIAN TAXATION OFFICE

Adjourned debate on motion of Mr Matthew:

That this House conveys its disappointment to the Commonwealth Government over the failure of that Government to locate at least one of the proposed new Australian Taxation Office buildings in the vicinity of Noarlunga Centre or Westfield Marion Shopping Centre in preference to central Adelaide.

(Continued from 24 October. Page 1418.)

Mr BRINDAL (Hayward): I hope that members opposite will support the member for Bright's motion. I think it is important, because it addresses many of the underlying problems that members who have seats in the South will acknowledge are very real problems. Those problems relate to people working within commuting distance of their homes, to transport, to access by road and to a number of other matters. The member for Bright, in putting forward this motion to the House, is drawing the attention of members to the fact that there is a real problem in the south. We have a series of dormitory suburbs that are sprawling further southwards, and people who are employed, of necessity, are going over the escarpment and travelling towards the city. This is a bad use of people's leisure time, which they should not be forced to spend on travel, and of the economic resources of the State.

If we can encourage the Federal Government to establish more jobs in the southern areas, that should be applauded, and I think that that is what lies at the heart of this motion. Members on the Government benches can say that they have achieved some form of decentralisation of Govern-

ment services. Many Government services have been decentralised to places such as the Noarlunga Centre. I do not think that many members would criticise that effort. If members on this side of the Chamber do have a criticism, it is from the point of view of the lack of efficiency of the resulting Government service. I doubt that many members on this side of the House would criticise that sort of approach in terms of the economics of people living and working in that area.

I note that the suburbs in the north were developed in a slightly different way. Sir Thomas Playford, as members opposite would acknowledge, was largely responsible for the development of the area. First, he developed an infrastructure in terms of a manufacturing base and a place for jobs, and he then built the housing needs around the industrial needs of the area. That is not true for all the areas and the area represented by the member for Playford is much more akin to the areas about which I am speaking.

Members opposite acknowledge that this a problem. We are talking now about medium density housing throughout the whole metropolitan area. We are worrying about the length of our transportation corridors. This motion seeks to look at the problem and at least say, 'Let's encourage the Federal Government to get some of our resources and workplaces out of the central business district and down into the southern areas.' It will make for a better lifestyle for the electors in the southern areas, the ones who can live in close proximity to their work. It is a good, sensible and constructive move, and I urge members opposite to support it.

Mrs HUTCHISON secured the adjournment of the debate.

FLINDERS MEDICAL CENTRE EMERGENCY SERVICES

Adjourned debate on motion of Mr Brindal:

That this House calls on the Minister of Health to immediately instruct the South Australian Health Commission to provide the money needed for upgrading emergency services at the Flinders Medical Centre.

(Continued from 24 October. Page 1419.)

Mr McKEE (Gilles): I oppose the motion moved by the member for Hayward on the basis that it is just another cheap political stunt. Yet, again, that is not so strange, either from the Opposition as a whole or from the member for Hayward in particular. To me, this stunt is made all the more cheap because the member for Hayward is relying on the misfortunes of other people, the people who have the bleak misfortune to have an accident.

However, I find no inconsistency in the Opposition's general approach since I have been in this House. What concerns me most of all is that the member for Hayward raises matters concerning hospitals when the Party that he represents does not even have a health policy. I can recall at the last Federal election the shadow Federal Minister for Health had to admit publicly to the media that the Federal Liberal Party did not have a health policy. In the absence of a Liberal health policy, I can only guess what it might be.

I suspect that the Liberal health policy means a general downgrading of Medicare. The Liberals know that they cannot get rid of Medicare, because it is too firmly entrenched, supported and accepted by the overwhelming majority of the people in this country. Will we see the total abolition of bulk billing, forcing the people of Australia to pay through their nose for their health care by channelling them into private health insurance? Instead of showing compassion to 'our lords the sick', the Liberal approach is to set up private health insurance companies so that businessmen can make money out of people.

It is patently absurd for the member for Hayward to claim, as he did on 17 October 1991, that the Flinders Medical Centre is 'falling to bits'. It is equally absurd to claim, as he did on 24 October 1991, that, 'in terms of capital requirements, this Government is treating FMC shoddily'. When the Flinders Medical Centre was opened in 1976, it was a state of the art hospital facility, which was the envy of other States. Fifteen years later, the general fabric and layout of the centre is still very good by any objective standards. In the last seven years Flinders Medical Centre has received allocations totalling $14.6 million from the Health Commission's capital works program. Details are:

	$m
Major works	$3.9
Medical equipment	$5.9
Computing equipment	$3.7
Other equipment	$1.1

But that is not to deny that the Accident and Emergency Department at Flinders Medical Centre requires upgrading to enable more efficient treatment of patients, particularly paediatric patients. The project is on the Health Commission's forward capital works program, and it is anticipated that preparatory work will begin next financial year. The Minister of Health has already explained to the House, in answer to a question from the member for Adelaide (22 October), that the Government had to decide between proceeding with the Flinders Medical Centre project in 1991-92 or the construction of the new Queen Victoria building for the Adelaide Medical Centre for Women and Children.

We decided on the latter, because the condition of the existing Queen Victoria Hospital building is well below that of Flinders Medical Centre. The decision was based on priority, and I remind members that this Government has given a high priority to capital works in the health area. When members opposite were last in government, the capital works budget for health was $11.6 million (1982-83). The Bannon Government increased this substantially during the 1980s and, in 1989-90, the Health Commission's capital program reached a record level of $71.3 million. It is sheer hypocrisy for the member for Hayward to move this motion without acknowledging the Bannon Government's record in capital works expenditure on the health system.

Before responding to some of the other comments made by the member for Hayward, I will briefly trace the history of the Flinders Medical Centre accident and emergency project. Planning for the project began in February 1990, not for an upgrade of the Accident and Emergency Department but for the construction of a day surgery unit on level 3, adjacent to the existing operating theatres, medical imaging suite and the Accident and Emergency Department. There were difficulties encountered from the beginning in arriving at an agreed project brief, and the initial project was eventually widened to include additions to the Accident and Emergency Department, as well as a day surgery unit at a then estimated cost of $4 million.

It became apparent during the planning stages, however, that the construction of a day surgery unit in the location proposed would prohibit any further expansion of medical imaging for accident and emergency. Because of other opportunities to locate a day surgery unit elsewhere, Flinders Medical Centre and the Health Commission agreed to give priority to the Accident and Emergency Department upgrade, and the project was listed on the 1991-92 forward

capital works program at an estimated cost of $2 million (in December 1990 dollars).

A feasibility study has now been prepared by Flinders Medical Centre which involves: refurbishment of the existing Accident and Emergency Department and construction of a new extension of approximately 872 square metres on Level 3; a new entrance lobby and transport department on Level 2; modifications to the existing physiotherapy and occupational therapy areas to improve access to both the Accident and Emergency Department and the main hospital corridor system; and provision of new radiology facilities.

This new project was estimated to cost $5.97 million including all loose equipment, consultants' fees and contingency sums. As this amount was well in excess of the notional allocation in the Health Commission's forward capital works program, the project was deferred to allow the commission to examine the project in more detail, particularly the increased scope of work proposed.

Although this examination has not yet been completed, it is acknowledged that the project carries a significant number of penalties associated with additions at Level 3 of the existing building, including the need for footings to go to rock some 18 metres below the future Level 1 floor level.

I refer to some of the other statements made by the member for Hayward. The honourable member alleged that people in the southern suburbs were receiving 'shoddy treatment at the hands of this Government'. He also quoted the Administrator of Flinders Medical Centre as stating that 'nothing is coming down to the south'.

Members interjecting:

The SPEAKER: Order!

Mr McKEE: Both statements are simply not true. Besides the $14.6 million of capital funds provided to Flinders Medical Centre, to which I referred earlier, other capital projects in recent years include the construction of the Noarlunga Hospital at a cost of $17.6 million, the opening of the Daw House Hospice, the Woodcroft Community Centre, the upgrading of patient accommodation at the Southern Districts War Memorial Hospital at McLaren Vale, and refurbishments and extensions to the Noarlunga Health Service to provide accommodation for the South Australian Dental Service, Southern Women's Health and Community Centre, and the South Australian Mental Health Service at a capital cost of $750 000.

Finally, in a somewhat clumsy attempt at playing off people in the northern metropolitan area against those in the south, the member for Hayward claimed that residents of the northern areas had more hospital beds than their counterparts in the south and implied that they were being treated better. Once again, the member for Hayward is simply incorrect. The Bannon Government has, and will continue, to govern in the interests of all South Australians.

Mr BRINDAL (Hayward): I thank all members who contributed to this debate, some more than others. I would not let this opportunity pass without referring briefly to the words that were just offered by way of contribution by the honourable member opposite. It does strike me that, when this Government is found to be wanting or wrong, or is required to take some action, the best it can do is to come up with irrelevant rhetoric and repetitious carping from the other side of the Chamber.

I acknowledge that the honourable member raised some valid points, and I acknowledge to you, Sir, that I was not aware of the full extent of the problems associated with health care in the northern areas. Frankly, that appalls me, because I realise the seriousness of this problem at Flinders Medical Centre. When you, Sir, and other people allude to the full extent of the problem in the northern areas as well, I can say that I am totally appalled. I do apologise for giving the impression that the southern areas were disadvantaged when I find that both northern and southern metropolitan Adelaide are equally disadvantaged under this Government and, if backbenchers opposite stand up in here and say, 'Haven't we done well?' when they have done it to the disadvantage of the people whom they purport to represent, there is something very wrong.

This motion relates to the accident and emergency services at Flinders Medical Centre. I was not talking about the provision of hospice care or, aged or general hospital facilities, and for the honourable member to raise those matters is totally irrelevant. There is a desperate need for additional accident and emergency facilities at the Flinders Medical Centre. That has been acknowledged by the Health Commission in putting this matter on the forward estimates of expenditure. Quite clearly, there is a need and, for the Government to come in here and say there is not a need, is just a misrepresentation of fact.

What this motion argues, and what I am arguing, not only on my own behalf but also on behalf of a number of Liberal colleagues and, I hope, some members opposite, is that the work must be put forward. It is a matter of concern to the people in the south, and it is a matter of priority. I agreed with the honourable member when he said that, but it is my opinion—and I hope it is the opinion of my colleagues who service nearby electorates—that it is a matter of priority which needs to be addressed in the immediate rather than the medium future.

Therefore, I urge this House not to once again abdicate its responsibilities and not to hide behind past achievements, but to look at what is needed by the people of this State now and to vote for this motion. It is needed by the people in the south; it is needed now; and I believe it should be a priority of this Government.

The House divided on the motion:

Ayes (23)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal (teller), Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew, Meier, Oswald, Such, Venning and Wotton.

Noes (23)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, M.J. Evans, Ferguson, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway and Hopgood, Mrs Hutchison, Mr Klunder, Ms Lenehan, Messrs McKee, Mayes, Quirke, Rann (teller) and Trainer.

The SPEAKER: There being 23 Ayes and 23 Noes, I give my casting vote for the 'Noes'.

Motion thus negatived.

COMMEMORATIVE MEDAL

Adjourned debate on motion of Mr Brindal:

That this House petitions Her Excellency the Governor to strike in the name of the people of South Australia a commemorative medal to acknowledge the valuable role played by the Royal Australian Navy and support groups of other service wings in the Vietnam conflict,

which Mr Holloway had moved to amend as follows:

By leaving out the words 'petitions Her Excellency the Governor to strike in the name of the people of South Australia' and inserting in lieu thereof 'calls upon the Federal Government to strike'.

(Continued from 17 October. Page 1230.)

Mr HOLLOWAY (Mitchell): I rise to support the amendment that I have moved to the motion. I do not disagree

with many of the sentiments of the member for Hayward in moving his motion. There is no doubt that Vietnam veterans who were involved in the war in a support role should be appropriately recognised for their efforts on behalf of their country. However, I think these Vietnam veterans would prefer recognition from the Commonwealth Government, not the State Government, because they were fighting for Australia. Even if this State were to strike a medal, I do not believe it is likely that those who were involved in that support capacity would be satisfied with such a measure. However, if the amendment is passed I believe it will add weight to the call on the Federal Government to strike an appropriate medal for those people.

I will relate how this issue has come about. Certain people involved in Vietnam in a support capacity sought to be awarded the Vietnam Medal, but they did not qualify under the terms of the royal warrant covering the issue of the medal. Three basic groups were involved: the CMF observers group, the *HMAS Sydney* and Vietnam Logistical Support Veterans Association and certain RAAF support groups. I will briefly outline each group's role in the Vietnam conflict.

First, army reservists—then members of the CMF—volunteered for temporary duty in Vietnam but were not posted to units for a normal tour of duty of 12 months; nor were they to participate in operations. Rather, they were attached to units in Vietnam for a period of up to 14 days to gain knowledge of operational procedures so that they could apply and pass on their knowledge to members of their own units on their return to Australia. For those reasons, members of the CMF could not qualify for the Vietnam Medal under the same conditions that applied to the majority of Army personnel who were posted to operational units and who expected to serve for a period of 12 months.

The second group involved naval support personnel. The *HMAS Sydney* operated as a fast troop transport ship to and from Vietnam from June 1965. In 1966, when the qualifying conditions for the Vietnam Medal were being considered, the service rendered by *HMAS Sydney* and the logistic support ships was not considered to be operational, because it was deemed that any ship stationed in Vietnam waters had not participated in combat operations in Vietnam. As has been pointed out by the member for Hayward, there was certainly some danger involving those ships, because mines had been laid in some of the ports. So, there is no doubt that those serving on the ships would have been aware of that danger.

The crew members of the 32 small ships squadron were eligible to qualify for the Vietnam Medal under either of two criteria, depending on the nature of the ship's involvement at the time. First, when ships of the squadron were employed in operations in inland waters or off the coast of Vietnam, their crews were eligible to qualify for the medal under the 28-day provision for service afloat. Secondly, when the ships were employed in supply duties from Australia to Vietnam and back to Australia only, the crew members were eligible to qualify for the award under the 30-day visitors provision.

The third group involved was RAAF support groups, which provided logistic support to our troops in Vietnam from the Butterworth Air Base. As the member for Hayward said, we need to accept that risks were certainly faced by those three groups that were involved in a support capacity in the Vietnam war. I guess the problem facing the Commonwealth Government was that the conditions of the medal would need to be altered for people to qualify for the one medal—the Vietnam Medal—that was provided for service in Vietnam. The defence force chiefs, as the member for Hayward pointed out, have been reluctant to alter those conditions.

It is important to point out in this debate what the Commonwealth Government has actually done to recognise those who served in a support capacity in Vietnam. The Veterans Affairs Entitlement Act was amended in 1987 to extend repatriation benefits as a condition of service to the Vietnam logistical support group on the basis of at least one day's allotted service in the operational area. As a consequence of that, Australia Defence Force personnel who served in a logistic support capacity were awarded a 'Returned from Active Service' badge. Whereas there was no minimum qualifying period of service for those benefits, there is a minimum period in relation to campaign awards.

It is important that we acknowledge that the Commonwealth Government has recognised the efforts of those who were involved in the Vietnam War by providing them with the opportunity to qualify for repatriation benefits. The differences between those who were posted to units stationed in Vietnam and those whose duty in Vietnam was temporary are substantial. As I have mentioned, the majority of troops who served in that war and who were eligible for the Vietnam Medal served 12 months. The crux of this issue is in finding an appropriate recognition for those who did serve their country in Vietnam in a support capacity. We have to find an appropriate form of recognition for the personnel involved. Approximately 15 000 people from the three services were involved in a support capacity.

One could understand the problems that would face any Government in awarding a medal if the conditions of that award were changed. Obviously, those who served in the front line of that conflict for 12 months or more would believe that, if others were given that award, it might be a downgrading of their particular medal. It is up to the Commonwealth Government to find some appropriate way of recognising those who have served in a support capacity. It is certainly my understanding that the Commonwealth Government has this matter under active consideration. I note that the Minister for Defence Science and Personnel is on record as stating that those Vietnam veterans who were involved in a support capacity should receive some appropriate recognition. I certainly hope that the Commonwealth Government will be able to bring about that form of recognition in the near future. If this amendment is carried, it will certainly help encourage the Federal Government to bring about that recognition.

In closing, I mention that today I received a letter, as I am sure did other members, from the Grunt Club, an organisation of Vietnam veterans who are trying to establish a town where Vietnam veterans can live. I note that they recognise that the South Australian Government has allocated a land parcel of approximately 120 hectares, including the town site of Mootatunga to the club for its proposed bush retreat. While we are discussing the Vietnam conflict, I take this opportunity to add my support to that group. I hope all members will take up their offer of sponsorship by making donations to assist in the establishment of this project. All of us owe a debt of gratitude to those who served. I realise that the Vietnam conflict was a very divisive time in this country's history but, whatever position one took on that conflict at that time, we recognise that those who were actually fighting were doing their duty.

In terms of repatriation benefits and recognition for military services, we would all agree that those people involved in that conflict should receive proper recognition. In conclusion, I ask members to support this amendment and let us all urge the Commonwealth Government to find some appropriate way of recognising those 15 000 ex-service per-

sonnel who supported their country during the Vietnam conflict.

Mr BRINDAL (Hayward): I accept the amendment.

Amendment carried; motion as amended carried.

[Sitting suspended from 1 to 2 p.m.]

CROWN PROCEEDINGS BILL

Her Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

STATUTES AMENDMENT (CRIMES CONFISCATION AND RESTITUTION) BILL

Her Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

PETITION: KINGSTON SOLDIERS MEMORIAL HOSPITAL

A petition signed by 1 578 residents of South Australia requesting that the House urge the Government to maintain the funding and services of the Kingston Soldiers Memorial Hospital was presented by Mr D.S. Baker.

Petition received.

PETITION: PROSTITUTION

A petition signed by 25 residents of South Australia requesting that the House urge the Government not to decriminalise prostitution was presented by the Hon. Jennifer Cashmore.

Petition received.

PETITION: FREE STUDENT TRAVEL

A petition signed by 465 residents of South Australia requesting that the House urge the Government to reconsider the decision to reintroduce public transport fares for students not in receipt of the school card was presented by the Hon. Jennifer Cashmore.

Petition received.

PETITION: WATER RATING SYSTEM

A petition signed by 22 residents of South Australia requesting that the House urge the Government to revert to the previous water rating system was presented by the Hon. Jennifer Cashmore.

Petition received.

PETITION: FISHERIES

A petition signed by 688 residents of South Australia requesting that the House urge the Government to withdraw the fisheries green paper and establish a representative committee to develop a management plan was presented by Mr Meier.

Petition received.

PAPER TABLED

The following paper was laid on the table:

By the Minister of Housing and Construction (Hon. M.K. Mayes)—

State Services Department—Report, 1990-91.

MINISTERIAL STATEMENT: DEPARTMENT OF MARINE AND HARBORS

The Hon. R.J. GREGORY (Minister of Marine): I seek leave to make a statement.

Leave granted.

Members interjecting:

The SPEAKER: Order! The member for Hanson is out of order. Leave has been granted.

The Hon. R.J. GREGORY: During Question Time yesterday and later in a media release, the member for Goyder questioned the actions of the Department of Marine and Harbors in levying a $1 000 a year charge on fish buyers. He claimed this was a charge now levied in respect of all vehicles parked on wharves by drivers wishing to purchase fish products from fishing vessels, and went on to talk about the situation at Robe. He claimed that this was an example of 'greed and desperation for money' on the part of the Government. This is, in fact, another example of just how out of touch the honourable member is with both the facts and commercial realities. I must stress that we are not talking about charges being levied on people who come down to the wharves to buy fish for their dinner table that night.

We are talking about a charge that the Department of Marine and Harbors has recently introduced at Robe on the five or six commercial fish buyers who regularly conduct business on departmental property and facilities at Robe. These people buy crayfish and then sell them to other customers elsewhere. These business people are not only competing against each other, but against a permanent fish processing plant at Robe where a businessman has invested in plant and equipment. It is entirely proper that these people, doing business as they are on a commercial facility operated by the department, pay for that right.

The charge of $1 000, or about $20 a week, was arrived at after consultation with the Valuer-General's Office and it was determined this was a fair charge for the use of the facility. The Department of Marine and Harbors now has a charter to operate as a business in terms of its commercial operations with the aim of returning a dividend for the taxpayer. Is the member for Goyder suggesting that the taxpayer or other businesses should subsidise these commercial fish buyers? If so, he should come out and say so and make it clear that he rejects the need for business to meet its costs and indicate that the Liberal Party believes the average taxpayer should 'carry the can'.

Similar charges to those at Robe are being introduced by the department for commercial operators across the State. Charging small business operators for the commercial use of DMH property is not new. For some time, the department has charged stall holders at the North Arm market who operate on departmental land. Site holders there are charged $1 100 a year at present to operate their stalls on

Sunday mornings, and I am advised there is a considerable waiting list for sites at North Arm.

The honourable member's press release also referred to a charge of $235 being levied on fish buyers at Port Macdonnell. This charge is in fact levied by the local council for the use of the council's land, and was introduced by that body last financial year. Clearly, the member for Goyder needs to become acquainted with the facts of this matter before he shoots his mouth off.

QUESTION TIME

SAFA BOARD PAPER

Mr D.S. BAKER (Leader of the Opposition): My question is directed to the Treasurer. In view of his assertion that the ETSA leasing deal he approved in 1986 did not involve manipulation of tax laws, will he table in this House SAFA Board Paper No. 124 of 1986? This board paper is identified in a letter dated 15 April 1986, written by Mr Peter Emery, then Deputy Under Treasurer, to the State Bank. That letter states that this board paper 'explains the background' to the leasing deal for the Torrens Island Power Station, which the Treasurer approved.

On the application of the Government, this board paper has been suppressed in the State Bank Royal Commission this week. The Royal Commissioner said that the paper did not refer to the State Bank and was therefore largely irrelevant to his terms of reference. However, the paper may be highly relevant to showing whether the Premier was aware this deal involved tax manipulation at the time he approved it. In seeking its tabling in this House, I will accept the deletion of the names of any third parties to the deal which may be included in the document.

The Hon. J.C. BANNON: A request was made for suppression of the paper, because the matter of the tax ruling on the Torrens Island Power Station is still under discussion with the tax office.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: That has been outlined in the SAFA reports, to which I referred yesterday. I made it quite clear. Let me explain again the sequence of events. The Northern Power Station was financed under a favourable, appropriate and legal arrangement entered into in 1985-86. That provided very distinctive benefits to the State. In fact, that particular transaction was ruled on favourably by the Taxation Office. The Torrens Island Power Station financing was undertaken with a structure similar to that of the Northern Power Station. It stood to reason, therefore, that a favourable tax ruling in relation to the Northern Power Station would be duplicated by the Torrens Island Power Station situation. If there had been a change in the tax laws as between those dates, certain contingencies were set in place to ensure that such changes were covered. Those arrangements were the cause of discussion in the State Bank. Again, there is nothing illegal or odd about them; they were appropriate arrangements in the circumstances.

In May 1987, following the confirmation of the acceptability by the Taxation office of the Northern Power Station funding arrangement, when questioned publicly, and indeed in any statements that would have been made by SAFA, we quite reasonably believed that we could rely on that and the structure of the Torrens Island Power Station financing to ensure that the same ruling would be provided. So, again, there is no problem in obscuring the facts of the case or what happened. As I say, there was no change in the tax law between those times.

I was advised by Treasury at the time I gave approval to the Torrens Island Power Station arrangement, which was in August 1987—in other words, well after the decision that had been made about the Northern Power Station—that not only was this in conformity with that transaction, not only were Treasury and SAFA satisfied that it was certainly within the appropriate tax arrangements that had been approved by the Taxation Office, but they had independent legal advice to that effect as well. They looked at all aspects and elements of it.

At that time it was intended that a ruling would specifically be sought, as is normal in these transactions. Ultimately, the request for a ruling was not lodged in the same way as for the TIPS, because new simplified self-assessment procedures had been introduced, which allowed for tax rulings to be sought through the lodgement of section 169 *(a)* ruling requests. Such a request was submitted in mid-1988. We have not yet had a response and finalisation of that request. That has been referred to publicly on a number of occasions. That is the end of the matter. The reason documentation and all other details are not being put in the public arena is obviously that they are matters at the moment between those involved in the transaction and the Taxation Office as they seek to conclude the matter.

DRIVER TRAINING

Mr FERGUSON (Henley Beach): Will the Minister of Transport advise the House of the new arrangements for the training of taxi and hire vehicle drivers? I have recently seen a press report critical of the Minister for not imposing further regulation of training in the hire car industry.

The Hon. FRANK BLEVINS: I thought that the arrangements had been made clear, but when I read this morning's *Advertiser* I realised that for some people at least they had not been. I thank the member for Henley Beach for giving me the opportunity now to set the record straight and make one or two other observations. There was an article in this morning's paper under a headline, 'Blevins "No" to training hire drivers'. It quoted at some length the Hon. Diana Laidlaw being critical of me for intervening in a decision by the Metropolitan Taxi Cab Board which, had it been implemented, would have imposed on the hire car industry compulsory training for drivers prior to their being employed, identical to that which has been imposed on the taxi industry.

The first thing to say about that is that the Hon. Diana Laidlaw is completely incorrect, because that is not the case. I can assure the House that the hire car industry is happy not to have unnecessary regulation imposed on it. It is happy—and the industry conveyed that to the Hon. Diana Laidlaw—about that. However, more important than the Hon. Diana Laidlaw's being wrong, which is a frequent and common occurrence hardly worthy of comment, is the underlying assumption in her comments that I ought to go along with the industry's request for regulation—quite unnecessary regulation—because somehow that is good.

I always thought—quite naively—that members opposite had the philosophical view that the Government ought to get out of the way of business, get off their backs, deregulate and let 100 flowers grow. I thought that that was their policy. Yet on every occasion over the past 16 years that I have been in this and another place, whenever the Government has attempted to deregulate or resist imposing regulation on business, industry or a section of industry, this

Opposition has opposed it. I cannot think of a single occasion where it has not bitterly fought for regulation that privileges some sectional interest. I find that appalling.

The only reason for this, apart from self-interest (which is a comment made elsewhere), is that at a certain time the Opposition sees an issue—a pocket of dissent. Opposition members see a group of people who benefit and who are privileged by regulation and they want to jump on the band wagon. That they do parrot this policy of deregulation to get out of the way of business I suppose is fair enough, but when I as a philosophical position—

Mr S.J. BAKER: Mr Speaker, I rise on a point of order. The Minister has talked about deregulation at least four times, and it is irrelevant.

The SPEAKER: Order! The honourable member will resume his seat. I have looked at the time and the Minister has covered the answer well. I ask him to draw his remarks to a close.

The Hon. FRANK BLEVINS: Yes, I will, Sir. I am just about to wind up. When the Opposition parrots that the Government should get out of the way of business and all those other phrases and at the same time opposes any attempt by the Government to deregulate, I believe it is political opportunism and hypocrisy.

TAX LAWS

Mr D.S. BAKER (Leader of the Opposition): When the Treasurer approved the ETSA leasing deal in 1986, did he have any advice that this deal involved manipulation of tax laws?

The Hon. J.C. BANNON: The deal did not involve manipulation of tax laws: it involved ensuring that tax minimisation, which is the right of any instrumentality or any individual within the law of the land—and as a businessman I am sure the Leader of the Opposition fully understands what I am saying—was available—

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: —to the owners of the instrumentality in this State. We would have been derelict in our duty if we had not tried to raise the money to finance our infrastructure at the best and cheapest possible rates. In that, we were following the practice carried out previously under Liberal Administrations and by Governments all around the country and by Commonwealth instrumentalities themselves.

This is what the tax law provides; this is how one appropriately finances infrastructure within it. The benefits of that flow directly back to the users of that infrastructure—to the price of electricity, for instance. So, I cannot understand why the honourable Leader, who purports to have some business background, is even questioning this. The honourable member is talking about 1986, so I suppose he means the Northern Power Station. He asks whether I am satisfied that it was not tax manipulation and my answer is, 'Yes'. In fact, I am extremely satisfied. So, indeed, was the Australian Tax Office, because it gave a ruling to the effect that it was in order. So, again, I cannot understand what the Leader of the Opposition is on about, except to try to create an air of murk, gloom and association around these very legitimate transactions, which can have only one effect, one impact, and that is to raise the cost of government to people in South Australia and to deny them what is legally their entitlement.

If the Leader of the Opposition wishes us to do what even Commonwealth instrumentalities do not do—that is, to donate large amounts of money to the Commonwealth Government or go to the market and borrow money at very much higher prices—let him say so. There is nothing discreditible, murky or illegal about these transactions.

On the contrary, it is not appropriate for a Government instrumentality to go down that path at all, as the Leader could well understand. I am staggered that he attempts by the way in which he frames his questions—the questions are fine and I am happy to answer them—

Members interjecting:

The Hon. J.C. BANNON: I have answered the question.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: Mr Speaker, the Leader of the Opposition asked it, and my answer to him is that my advice was that this was an appropriate, legal and effective way of financing our infrastructure. That advice in relation to the Northern Power Station was confirmed by the Australian Tax Office itself. In relation to the Torrens Island Power Station—the subsequent transaction—I have already explained exactly the sequence of events. I do not know what motives the Leader of the Opposition has unless it is simply to try to destroy the financial base of this State in some way. How that helps South Australians, I cannot conceive.

OUTDOOR ADVERTISING

Mr HOLLOWAY (Mitchell): Will the Minister representing the Minister for Local Government Relations outline the consultation that has occurred with business groups and local government relating to the control of sandwich boards?

The Hon. M.D. RANN: I thank the honourable member for his question. Yes, I have received some advice from the Minister for Local Government Relations, who informs me that a working party was established late in 1988 to look at the whole question of planning controls on outdoor advertising. The Australian Small Business Association was represented on the working party, as were the Outdoor Advertising Association of Australia, the Local Government Planners Association, the then Department of Local Government, the Department of Environment and Planning, and the Local Government Association.

Last September, that is, 13 months ago, the working party sent out its report for consultation and comment. The working party report was sent out on 6 September 1990 to interested groups, and ample time was allowed for response. The groups included the Retail Traders Association, the Chamber of Commerce and Industry, the South Australian Mixed Business Association, the Building Owners and Managers Association, the Outdoor Advertising Association, the Institute of Municipal Management, as well as every council and local government regional organisation in the State, and some insurance companies.

I am advised that the Retail Traders Association did not make any submission to the working party regarding the draft amendments. Nor did the Chamber of Commerce and Industry and nor did the South Australian Mixed Business Association. It is regrettable that people do not take the opportunity to state a point of view when every possible effort is made to consult them.

ETSA LEASING DEALS

Mr D.S. BAKER (Leader of the Opposition): Does the Treasurer stand by his statements to the House in March

1987 that the ETSA leasing deals he approved were 'in accordance with Australian tax law and rulings thereon' and that the Federal Government had been notified 'in advance' of these deals?

The Hon. J.C. BANNON: I stand by that statement. I have already explained that, as at March 1987, I had approved one transaction, the Northern Power Station transaction, which, in May 1987, obtained a favourable tax ruling, as we had a right to expect on the basis of the information that had been obtained, not just from our own sources but from independent counsel. Equally, we had such an expectation in relation to a later transaction, the Torrens Island Power Station transaction, which I approved in August 1987 after receiving the favourable ruling in relation to the first transaction.

CEMETERY VANDALISM

Mr De LAINE (Price): I direct my question to the Minister of Employment and Further Education, representing the Minister for Local Government Relations in another place. Will the Minister request the Enfield Cemetery Trust to investigate the possibility of upgrading security at the Cheltenham Cemetery? The most recent sick and disgraceful attacks by vandals at the cemetery are a continuation of such attacks over the past couple of years. Relatives of people who have been laid to rest there have been sickened by the mindless desecration of headstones and graves and have asked what can be done to stop such attacks.

The Hon. M.D. RANN: I appreciate the honourable member's concern. I will be pleased to pass on his question so that the Minister for Local Government Relations can contact the Enfield council in relation to improving security. I am sure that all members of Parliament deplore the senseless violation of graves in that cemetery and would appreciate the immense distress it causes to the families concerned.

PAYROLL TAX

Mr S.J. BAKER (Deputy Leader of the Opposition): My question is directed to the Treasurer. In view of a promise he first made more than 10 years ago to lead a national campaign to abolish payroll tax—a promise he has repeated on a number of occasions since then—did he make any representations on this matter to the Prime Minister in the context of today's statement by Mr Hawke on jobs, and does the Premier agree that abolition of payroll tax would provide employers in the State with the capacity to create up to 15 000 jobs? The Treasurer made that promise in 1980 and again at the 1985 tax summit.

The Hon. J.C. BANNON: I have been a constant advocate of finding a replacement for payroll tax, which represents for the States one of their chief dependent State-sourced taxes. The whole thrust of the national tax-sharing arrangements was bound up in that question. Those arrangements were put as proposals by the Premiers to the Prime Minister and their lack of acceptance or the unwillingness to negotiate those arrangements caused the cancellation of the Perth conference. Unless the States have a long-term, secure growth tax to which they have access, whether it be collected on a national basis or whether it be State-sourced, there is no way in the world that we can abolish or reduce payroll tax to any great extent.

As well as campaigning for some kind of substitution, I have ensured that, throughout our term of office, payroll tax in this State has consistently remained very much below the rate at which it is paid in all other States except Queensland. When in the 1980s New South Wales and Victoria, followed later by Tasmania, put large levies on payroll tax—it was done in Western Australia on a temporary basis also—we in South Australia did not. South Australian employers have always been treated to the lowest payroll tax of any of the States except Queensland. We have always ensured that there are substantial differences between our payroll tax settings and those of Victoria and New South Wales, so we have more than discharged our obligations. Despite the very heavy financial problems with which we have to deal in this recessionary climate, in our current budget we reduced payroll tax. We gave a signal to industry of our concern in respect of the regressive nature of the tax by reducing it.

Having said all that, I point out that it is not sufficient to make the glib assertion that the abolition of payroll tax means 15 000 extra jobs could be created in our economy. The fact is that, without finding some replacement revenue, 15 000 jobs might be created somewhere in the economy, but certainly 15 000 jobs would be lost from key service areas in our economy—services on which private employers depend. That is the equation that ought to be put together by the honourable member when he makes that statement. Replacement funds must be found, or the total deterioration of services that would result from not having access to this income would be devastating for private industry in the State.

I know he can recklessly suggest this, just as his colleague, the Leader of the Opposition—the man who wants a 9 per cent across the board cut in our public sector activity—would see this as somehow assisting our economy. It would have a devastating effect on employment, and it would have a multiplier effect in to the private sector of our economy which relies very heavily on services to operate effectively. It relies on roads and on safety and health services, and in rural areas—the very area that the Leader of the Opposition should claim to represent—it would have an even more devastating effect. How many members come to us daily saying, 'We are concerned about deterioration of services in country areas. We want more resources put into the schools, hospitals and so on because, by not having these—

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: —we are undermining our employment base.'?

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: They interject furiously, because they do not like to hear this. I am saying, first, that our record on payroll tax is very good and, secondly, to say that we should abolish it is an irresponsible statement, because in fact we would lose not just 15 000 public sector jobs but a lot more in the private sector as well.

FIBREGLASS STANDARDS

Mr McKEE (Gilles): Can the Minister of Occupational Health and Safety advise the House on the current occupational health and safety requirements for people working with fibreglass and insulation products and whether these products pose a severe health and safety risk? Last week, Mr Richard Munson, from the American association Victims of Fibreglass was in Adelaide. I believe he claimed that glass wool, a form of fibreglass, is as dangerous as asbestos.

The Hon. R.J. GREGORY: Mr Munson's view of the danger from what we call synthetic mineral fibres is not universally shared. The National Occupational Health and Safety Commission (also known as WorkSafe Australia) considers these fibres to be less hazardous than white asbestos. Studies of the exact extent of the risk posed by these products is continuing and, unfortunately, the experts have differing views.

However, we do recognise there are potential risks, and there is a need for caution, so we have done something about that through our Occupational Health and Safety Commission. In May this year, a regulation and code of practice on the safe use of synthetic mineral fibres came into force. They put into effect WorkSafe developed standards, including the world's toughest exposure limit for synthetic mineral fibres—.5 respirable fibres per millilitre of air. For the larger irritant dust, the limit is 2 milligrams of inspirable fibrous dust per cubic metre of air. All packages containing such product are to be clearly labelled stating the type of fibre, health hazards, directions for use, safety information and first-aid procedures.

Other action must be taken to minimise the release of fibres, including the wetting down of materials to reduce dust, proper clean up of waste and the use of protective clothing and respirators. I must stress that people should not panic about the concerns raised by the Victims of Fibreglass Group. If all the precautions I have outlined earlier are followed, exposure risks are definitely minimised.

STATE BANK

The Hon. JENNIFER CASHMORE (Coles): My question is directed at the Treasurer. Given that the annual interest cost on the State Bank losses is $220 million, which is greater than the total of all the bank profits paid to the Government since 1984, does the Treasurer expect the bank ever to begin to repay its $2 200 million principal loss and, if so, when?

The Hon. J.C. BANNON: The answer is, 'Yes, I certainly do.' I am surprised that the honourable member asks this question, because it has been covered so extensively in the budget, in the Estimates Committees and at the press conferences surrounding it. I have said, again and again, what our plan is in relation to the State Bank. I have pointed out that the indemnity fund is money provided to the State Bank as part of its base to work out in an orderly fashion its non-performing loans. I hope that the total of that amount of money is not called in, that, indeed, settlements can be made, recoveries can be made over time, and that, with the general economic conditions improving, we will see that all that total is not required.

That was the estimate of that bad case at the time of the declaration of the closing off of the annual results. That is the situation. Yes, I do expect the State Bank to repay it. The State Bank has established an Assets Management Division, the prime aim of which is to get maximum recovery from those non-performing loans. It has had one or two successes to date; in other areas, it has not been so successful. The vital thing is that they must operate over a reasonable period of time, not a matter of weeks or months.

The $2 200 million would evaporate tomorrow if there were a forced sale of all those assets stacked against the non-performing loans. It is precisely to avoid this situation occurring that the indemnity has been provided, and I would expect a return on that indemnity. How long it will take and over what period of time cannot be estimated in the current economic conditions, but that is the charter the bank has, and that charter has been accepted by the Chairman, Mr Nobby Clark, and his board and by the staff of the bank. I hope that they fulfil that charter in the years to come.

EDUCATION RESOURCES

Mrs HUTCHISON (Stuart): Can the Minister of Education advise the position regarding the revised ruling of the Commissioner of Taxation in relation to item 63A of the First Schedule to the Sales Tax (Exemptions and Classifications) Act relating to goods for use by schools? A number of school councils in my electorate have raised this matter expressing their concern that this could have a serious impact in limiting what can be provided for their schools.

The Hon. G.J. CRAFTER: I thank the honourable member for her question. As members will be aware, the Commissioner of Taxation issued a revised ruling in relation to some items that are used by schools. That did not include the purchase of educational text books, but in our view it did apply to items of stationery and materials of a consumable nature generally issued to students, and that may well attract a sales tax rate of 20 per cent. At that time I expressed concern about the impact of that ruling on our schools and subsequently made representations to the Commonwealth about the fact that the ruling may impose a financial burden on schools which they had previously not had to bear.

As members will be aware, sales tax is a Commonwealth tax administered by the Australian Taxation Office and, under the new ruling, the Commissioner of Taxation has penalised our schools, in our view, by removing a general exemption from sales tax for materials purchased by schools, such as consumable books, stationery, photocopying, etc., which the school makes available to its students. South Australia is almost alone amongst the States in providing that service through State Supply and its other bulk purchasing arrangements.

Under the new ruling, schools would have to pay sales tax on these items, even though they were not being sold as separate items to students. Naturally, a number of schools would be adversely affected by this new tax treatment, and I can well understand the concern of school councils, because it would place an additional financial burden on many parents. I am pleased to report that, following an approach to the Australian Taxation Office, it has responded by stating:

> Where consumable items are provided free of charge and the school has borne the cost, in these circumstances the consumables can be purchased exempt from sales tax.

This information will be made available to all schools to enable them to decide what charges they wish to include in their 1992 school fees. I am pleased to advise the member for Stuart, and indeed all members, that this should ensure that our schools will not be adversely or unfairly penalised by the new ruling by the Commissioner of Taxation.

STATE BANK

Mr BECKER (Hanson): When was the Treasurer last briefed on the State Bank's financial position, and will he say what is the latest advice he has received concerning the level of non-productive loans and likely total losses within the State Bank Group? In his budget speech, the Treasurer stated that as at 30 June 1991 the gross level of non-accrual loans and similar exposures was $4.2 billion, with total losses totalling $2 200 million, which was 'conservative'.

The Hon. J.C. BANNON: I am meeting with the State Bank Chairman and the Chief General Manager on a monthly basis and they report to me on progress. There is no way in the world that I will be giving monthly bulletins on the State Bank. That is just not appropriate and not on.

Mr D.S. Baker interjecting:

The Hon. J.C. Bannon interjecting:

The SPEAKER: Order! Will the Leaders desist from this across-the-Chamber conversation.

AGED RECREATION

The Hon. T.H. HEMMINGS (Napier): Can the Minister of Recreation and Sport advise the House of recreation opportunities for older adults? It has been put to me by many of my admiring constituents that as I approach my twilight years I should make myself aware of any recreational opportunities that might be available in order to make my body as alert as my mind—hence my question.

The Hon. M.K. MAYES: I do not think the honourable member has any problems as he has exhibited a great deal of agility in the past few years and I am sure that he will continue to exhibit such capacities in his retirement (if he decides to retire). Frivolity aside, yesterday I had the opportunity and honour to be at the launch by Dr Leon Earle, of the University of South Australia's Salisbury Campus, of his book *Social Network Needs Among Older People*, which has been commissioned by Recreation for Older Adults. The book highlights a number of deficiencies that we need to address in our community to assist older adults to enjoy a better quality lifestyle in their retirement years. A number of important things are highlighted by Dr Earle, including an examination of all the social patterns that currently exist and the importance of social networks that members of the community currently enjoy or look forward to enjoying in their later years.

Certainly, the research showed that older people want to remain active. We see evidence of that more and more today, and it is becoming even more important as life expectancy continues to expand. We have more people over 60 years; in the year 2006 we will see the baby boomers hit 60 years; and we will see a higher proportion of our population over 60, with life expectancy increasing probably further, especially as modern technology and medicine offer improved opportunities for people to recreate.

It is important that we look at leisure pursuits, especially before our retirement, with a view to participating in those activities that play an important part in continuing the quality of one's lifestyle. Close companionship contributes to a high level of social activity and involvement, but how many times have we heard about the male in the household retiring, finding himself not wanted in the domain of the kitchen and being left to spend his time out in the back shed? That might be fine in respect of activity but it leaves a lot to be desired in respect of companionship.

We have identified, through the work commissioned by ROA and through Dr Earle's excellent work, a need particularly for men, to develop the necessary skills and establish appropriate social networks in pre-retirement years. As a consequence, the recommendations that come from this report on strategies suggest the development of closer relationships between the training institutions, local government and professionals in the field and an emphasis on older people to help themselves, as distinct from retiring them from life. I think we need to recognise the skills that older people have offered and continue to offer and the need to draw on those kills. We do not want to force people into early retirement or out of the community. We certainly do not want to force them to be dependent on others.

Pre-retirement and leisure education will let people know about the recreational options open to them. I think that is particularly the case for men, because the study has highlighted that women are very good at networking, the survey having revealed those women interviewed had shown a very close and supportive network that offered them in their retirement years appropriate structures to continue recreation and leisure pursuits. As Minister I have asked the department, under the Acting Director of SARI, to bring together those people involved—ROA and all the other agencies—to look at the opportunities and issues highlighted by Dr Earle.

I commend the book to the House and to the community. It is an excellent work and I think that it will be a cornerstone for this area nationally, and probably internationally. Dr Earle has a great sympathy and understanding, because not only does he work as a professional but most of his leisure activity involves working with older adults in the community. I think that those members who may be contemplating retirement would find the book a very good reference. Those of us who have continuing responsibility in the community will find it a useful tome and for future reference for future advice and support within the community.

STATE BANK

The Hon. B.C. EASTICK (Light): Was the Treasurer aware that the losses of the State Bank could exceed $1 billion when on 3 April this year he criticised the Leader of the Opposition for asking him whether losses could exceed $2 billion? When the Treasurer was asked whether the group's losses could exceed $2 billion, his reply was:

> I have already responded to this question.

Further, he said:

> The bank should be left alone until the time comes for it to publish its annual accounts.

It is a matter of record that the Treasurer has not responded to the question before.

The Hon. J.C. BANNON: The point I was making then was extremely valid. As I have said from 10 February—the day that we announced the massive problems of the State Bank (problems that well exceeded anyone's expectation)—the situation remained uncertain; that the provision we made at that time was based on the best estimates, but that the full auditing process was necessary; and that the state of the economy as we moved through this year would obviously have a critical effect of the value of the assets against which the bank's loans had been made.

All that remains as true today as it was then. My reasons for caution on that occasion were, of course, justified, although at the end of the day, in terms of the audited result of the State Bank, it was certainly worse than we could have feared. All of that has been well canvassed in the arena and I stand by the remarks I made. I particularly stand by my remarks that a continued campaign of destabilisation of the bank as it attempts to get its act together, as it revamps its management and as it tries to start earning money to start repaying that loan, can only be seen as negative. Yet, unfortunately, the Opposition still seems to persist in that area.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: The Deputy Leader asks, 'What about your role?' We are spending millions of dollars,

including assisting the Leader of the Opposition to be represented before a royal commission, which is examining, among other things, that very point. I think it is better that instead of gabbling from his place on the front bench in this sort of cuckoo way, the Deputy Leader allows the proper processes to take place. My role is being fully examined and will be ruled upon by the Commissioner at the appropriate time.

NEEDLE DISPOSAL

Mr HAMILTON (Albert Park): Is the Minister of Health able to report to the House on the needle disposal process which eliminates the risk of a person contracting HIV through needle injuries?

On Tuesday last I brought to the attention of the Minister an article from an interstate newspaper, which claimed that 'a company has invented an electronic device which eliminates the risk of contracting HIV through needle injuries'. The article goes on to espouse the benefits of this particular equipment and says further, 'remains of needles which are burnt can then be thrown in a rubbish bin doing away with the cost of specialised disposal services'.

The Hon. D.J. HOPGOOD: I have had some time to consider this matter, because the honourable member gave notice on Tuesday that he would be asking this question of me some time this week. The device is not known to the Public and Environmental Health Division of the Health Commission. However, the advice to me is that there are a couple of problems in the immediate application of these devices. First, it appears to be fairly expensive. Secondly, the majority of such needle stick injuries occur at the point of use rather than the point of disposal. The disposal of this material is fairly straightforward. There is now a universally recognised protocol in hospitals for ensuring that sharps are immediately placed in an appropriate container, which container can be closed up, and then ultimate disposal is a fairly straightforward matter. Unfortunately, needle stick injuries occur as a result of some accident during usage or because people do not follow the protocol that I have just set out. However, the commission is prepared to look at it further and, when it has, perhaps I will be in a better position to give a more detailed response to the honourable member.

BUDGET PAPERS

Mr INGERSON (Bragg): Has the Treasurer presented budget papers to this House which provide a limited and false picture of the State's finances? The Institute of Public Affairs has compared all State budgets and awarded the South Australian budget its lemon award for the most irresponsible budget for the second year in a row. The IPA analysis states that in a year in which the transparent quality of most State budget papers showed a marked improvement, 'South Australia's budget presentation is particularly objectionable as it provides a limited and false picture of the State's finances', and by 'misrepresenting the timing of the bail-out payments' to the State Bank it deliberately sought to understate the public sector and budget sector deficits in 1991-92.

The Hon. J.C. BANNON: I thought eventually that the Opposition would get around to picking up the Institute of Public Affairs report and to parroting some of its findings. In relation to some of the matters raised in that report, I am very proud to agree that, in this recessionary climate, confronted as we were with our financial problems, we did not resort to raising taxes. On the contrary, we reduced a crucial area like payroll tax. Nor did we resort to slashing services—this 9 per cent across the board cut which would have had a devastating impact.

Mr D.S. Baker interjecting:

The Hon. J.C. BANNON: The Leader of the Opposition laughs about his attitude on public sector cuts. He said that he would cut 4 000 jobs across the board: 900 fewer teachers, 700 fewer doctors and nurses, 300 fewer police, Correctional Services officers and legal officers, 50 fewer welfare personnel and 1 800 others. They are the figures that the Leader of the Opposition declared on radio.

The Hon. D.J. Hopgood: He was after the clerics.

The Hon. J.C. BANNON: Yes, he was. If he had done that, he would have got the award from the IPA as the most successful budget in Australia. He would have been congratulated by Mr Des Moore and his team as having the ideological strength to destroy services and respond to the recession by cutting back jobs in these key and crucial areas. The odd thing is that he would have got that great award but he would not have been supported by his colleagues who spend half their life here and in another place demanding greater services. What was the Minister of Health asked about the other day? He was asked about increasing services and facilities and I could go right down the line of Ministers. Members opposite keep demanding more and more services.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: If that is the way to get the award of the best budget from IPA—and it is the last thing I want—I am delighted to get this award of the lemon this year, because it represents a budget strategy that understands the recession, that is humane and that is helping people at their time of greatest need. Secondly, the point has been raised by the honourable member about the information provided. This is absolute nonsense on behalf of IPA as well. Again, this patriotic South Australian opposite is very happy to pick up these Canberra-based criticisms of South Australia, because it suits his purpose to try to put us down.

The truth is—and a few years ago, of course, this was recognised by IPA, amongst others—that South Australia has led the way in publishing detailed financial information. In 1983-84, we provided major information. We were one of the first States to do so and our format has since been followed by others. It follows closely also the Australian Bureau of Statistics Government Financial Estimates Bulletin, but we dispute some of the ABS treatment and some of its rationale. Indeed, the objections that we have raised in the past have in part been acknowledged by changes in that ABS data. It is not a case of less information: it is, in fact, a case of more.

What the IPA really is complaining about is not that the information is not there—it is all there; and it is there far more comprehensively, I would suggest, than most Governments in this country—but that it is not in a format that they in Canberra can recognise and conveniently and easily cross compared with other far less adequate databases in other States. We publish information that is meaningful to show very clearly what the state of finances are on a current basis. All the figures that can be required are there in the documents. It might not suit the IPA's format, but so be it. However, the information is there, and we have led the way in providing it.

Accounting changes certainly can affect budget comparisons year to year. They do in all States and, indeed, in companies in other areas. Under table 1.1 of the financial

statement, we prepare and present comparable figures, and the effects of accounting changes are always marked. I expected members of the Opposition to seize on the IPA's recommendations; they probably thought that they would have me on the defence and saying that they had got it all wrong. In some respects, I think your analysis is right, and if that gets you the award of the lemon, I am happy to receive it.

WANILLA FOREST

Mr QUIRKE (Playford): Will the Minister of Aboriginal Affairs inform the House of details of the handover to Aboriginal ownership of the Wanilla Forest area near Port Lincoln? This forest was formerly owned by the Woods and Forests Department, which used it for much of this century for native timber production. Legislation, which passed through this House recently, has enabled the transfer of ownership of the forest to proceed.

The Hon. M.D. RANN: The Wanilla Forest near Port Lincoln will tomorrow be handed over to Aboriginal ownership in a ceremony in the historic forest. The Minister of Forests will take part in the handover ceremony, which has the strong interest of the member for Flinders, as well as other members of this House. The ownership of the forest, 22 kilometres north-west of Port Lincoln, is now vested in the Aboriginal Lands Trust. The Port Lincoln Aboriginal organisation will lease the forest and use it for a series of employment and training initiatives.

Wanilla forest was dedicated in 1887. It was established in an attempt to foster native timber production and to provide a nursery for the distribution of plants to West Coast farmers. In the mid 1980s the Woods and Forests Department decided to wind down the Wanilla operations and seek an outside operator for the forest. The forest was purchased for $380 000 from the Woods and Forests Department by my office on behalf of the Aboriginal Lands Trust. The Minister of Forests and his department and the Minister of Lands have been most helpful in assisting the Port Lincoln Aboriginal Organisation to develop its plans to use the Wanilla forest for the employment and training of local Aboriginal people. The Minister of Lands, of course, steered this legislation through the House.

The Port Lincoln Aboriginal Organisation plans to use the forest for a variety of projects, including forestry operations. These will use existing timber for sales of hardwood posts, rails and firewood. Seed collection, a nursery, planting for forestry and conservation, maintenance and use of plant and equipment, and plantation management will provide training and employment in these areas. I am sure that the Minister for Environment and Planning will have greater expertise than I, but the conservation will enhance the habitat for the yellow-tailed black cockatoo and protect the native vegetation.

Areas of the Wanilla forest will be developed as a community asset providing public recreation and education. Development plans include picnic areas, signs, walking trails, brochures, car parking, toilets and a kiosk. We are very pleased that areas of the Wanilla forest will be developed as a community asset providing public recreation and education and also employment.

MYPONGA WATER FILTRATION PLANT

The Hon. D.C. WOTTON (Heysen): Will the Minister of Water Resources confirm that the E&WS Department is letting a contract to a Victorian earth-moving company at the site of its proposed Myponga water filtration plant when the job could be done faster and cheaper by a South Australian company, and can she explain how this fits in with the Government's campaign to give a mate a job? I have been contacted by a South Australian earth-moving company which is not only upset at not being awarded the job but concerned at the bureaucratic attitudes in the E&WS which led to the decision and which could jeopardise the employment of the company's South Australian work force.

The Hon. S.M. LENEHAN: I thank the honourable member for his question. The short answer is 'No', but I think I owe it to the House to explain exactly some of the fairly leading statements that the honourable member has made. The contract to which he has referred has been raised by another honourable member and, indeed, it does refer to the Myponga water filtration plant. Tenders were sought by the E&WS and those tenders specified a particular class of earth-moving machinery. It was important that this earth-moving machinery had a power rating of 400 kilowatts and an operating mass of between 44 and 58 tonnes. The gentleman to whom the honourable member referred tendered with machinery that was rated at 462 kilowatts and weighed 78 tonnes and in fact belonged—

The Hon. D.C. Wotton interjecting:

The Hon. S.M. LENEHAN: Mr Speaker, I did not interrupt the honourable member when he was asking his question. He does not like this answer because it is the truth and he does not like that.

An honourable member: He cannot remember the truth.

The Hon. S.M. LENEHAN: I forgot about his memory problem. The machinery that was used in the tender was in the class above the class that had been specified by the E&WS. In addition—

Members interjecting:

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

The Hon. S.M. LENEHAN: We will see whether it is bureaucratic humbug. In addition, the tender price quoted by the constituent represented by the honourable member was almost twice the price accepted by the E&WS. Although it is acknowledged that the machine owned by this gentleman could have been 30 per cent more productive than the successful tenderer, it does not overcome the fact that the machine did not—

The Hon. D.C. Wotton interjecting:

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

The Hon. S.M. LENEHAN: It is amazing, Mr Speaker, that the honourable member asks me a question, I then give him a very full and detailed answer, and he does not want to hear it. Indeed, I would like to inform the honourable member that the machine did not meet the specifications and that the successful tenderer was able to offer a machine in the required class at half the tender submitted by the honourable member's constituent. There is yet another piece of information relevant to this question, because the last part of the question was 'Are we therefore disadvantaging South Australians?' Let me tell the House that the gentleman whom the honourable member purports to represent has just returned from completing a job in Western Australia. Is the honourable member seriously suggesting that South Australian taxpayers should be paying twice as much for a job where the machinery that had been asked for was not appropriate?

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: It amazes me that the honourable member is shouting and screaming in some sort of hysteria on the Opposition benches because he has been caught out. This was going to be the question of the century whereby the department was supposed to be exposed for not giving a contract to a South Australian person. Surely, no member in this Chamber would suggest that we should be paying twice as much for a particular job.

CHLOROFLUOROCARBONS

Mr HERON (Peake): Will the Minister for Environment and Planning advise the House whether the quantity of chlorofluorocarbons in South Australia has reduced since the introduction of legislation? How does the figure compare with the international phase-out agreement signed by parties to the Montreal protocol?

The Hon. S.M. LENEHAN: I thank the honourable member for his continued interest and support for the environment. On 1 June 1990, South Australia introduced legislation to control and eventually prohibit the use of CFCs. As all members would know, CFCs are used for refrigeration, air-conditioning and foam manufacture and have been identified as the major cause of ozone depletion, which results in increased levels of ultra-violet radiation at the earth's surface.

The sale of CFCs in South Australia has been monitored, and the results for 1991 show that our CFC-based industries and our CFC equipment users have supported protection of our environment by operating within the spirit of the legislation. The result of this effort has produced a 42 per cent reduction in sales equivalent to 150 000 kilograms of all CFCs in South Australia so far this year compared to the same period last year. For CFC 12, used in car air-conditioners, the reduction has been 70 per cent over the same period last year. This is well ahead of the international phase-out which the South Australian Government agreed to in concert with the Australian Government in relation to the Montreal protocol, which requires a 50 per cent reduction by 1995. It thus places South Australia at the forefront of countries and States around the world.

PERSONAL EXPLANATION: MISREPRESENTATION

Mr D.S. BAKER (Leader of the Opposition): I seek leave to make a personal explanation.

Members interjecting:

The SPEAKER: Order!

Leave granted.

Mr D.S. BAKER: Thank you, Mr Speaker. Yesterday the Premier made a scurrilous allegation against a member of my staff.

The Hon. J.P. TRAINER: I rise on a point of order, Mr Speaker. The rules governing personal explanations do not allow for the member concerned to start off in that manner.

Members interjecting:

The SPEAKER: Order! The rules for personal explanations are clear. A personal explanation must be precise and deal with the issue at hand. I ask the Leader to be careful about the words he uses in his explanation.

Mr D.S. BAKER: Thank you, Mr Speaker. The allegation was that a member of my staff had breached the royal commission confidentiality. The Premier's allegation is untrue—

The Hon. J.C. Bannon: I did not say that.

Mr D.S. BAKER: You did so say that.

The SPEAKER: Order! The Leader will resume his seat.

Members interjecting:

The SPEAKER: Order! The member for Hayward is out of order. The House will come to order. We will listen to the personal explanation. All other members have access to the same device in this House and I ask all members to listen quietly. The honourable Leader.

Mr D.S. BAKER: The Premier's allegation is untrue and it should be withdrawn unequivocally. The facts are that a member of my staff does attend the royal commission on a regular basis.

The Hon. J.P. TRAINER: I rise on a point of order, Mr Speaker. My understanding is that personal explanations are made where a member believes that he or she has been misrepresented, not a member of his or her staff.

The SPEAKER: I uphold the point of order. Personal explanations are for the use of members of Parliament when they are personally aggrieved about a situation. I believe that, if a member of staff is involved, it is not appropriate for that issue to be brought up in a personal explanation by a member of this House.

Mr D.S. BAKER: On a point of order, Mr Speaker, the allegation was made against a member of my personal staff, who is representing me personally at the royal commission. An allegation was made yesterday which affects me personally. The only recourse for the person is for me to speak in this House.

The SPEAKER: Order! I do understand the point the Leader is making. However, I think that, if the Leader refers to the Standing Orders, he will see that the personal explanation mechanism refers to members. In no reading of *Erskine May* have I ever seen a reference to any member making a personal explanation on behalf of another person.

Mr S.J. BAKER: I rise on a point of order, Mr Speaker. In making the allegation, the Premier was in fact reflecting on the Leader. That was the only reason he used that example, because he believed it was the Leader's responsibility. He was reflecting on the Leader, and the Leader has the right to make a personal explanation.

The SPEAKER: Order! The Deputy Leader will resume his seat. I do not uphold the point of order. I refer again to the very specific rules for personal explanations. 'Personal' means relating to the person himself or herself—meaning a member of Parliament—and that is the rule I will apply.

GRIEVANCE DEBATE

The SPEAKER: The question is that the House note grievances.

Mr HAMILTON (Albert Park): Yesterday I was pleased to see at long last that the Liberal Party in Canberra has decided to leak some information about its 15 per cent consumption tax. I think it was about time; everyone has had a gutful of the lack of intestinal fortitude of the Liberal Party, particularly in relation to its consumption tax. We have read a great deal about what it may or may not do and, indeed, we have seen articles headed 'Shut up. Hewson warns Liberal tax rebels'.

Dr Hewson is quoted in the *Sunday Mail* of 27 October as saying that people opposing the tax were only a fringe element. That is a very interesting comment and one that

I thought would be met with interjections from members opposite (although I know they are out of order). However, members opposite know, as well as I do, that there are credible people in the community who are attacking the Liberal Party policy. The *Advertiser* of 17 July this year contains an article which was written by Mr David Walker and which states:

> Liberals accused of bid to buy silence. Taxpayers Association chief, Eric Risstrom, yesterday accused the Federal Opposition of trying to buy his silence over a consumption tax . . . that offer was refused because it was a political way of trying to buy silence.

There is no doubt that the Federal Liberal Party is in big trouble with this consumption tax. Yesterday it was pleasing for me to read an article in the *News* with the headline 'Tax will cost family $2 000 a year'. That is the claim of Mr Risstrom of the Taxpayers Association. I will read the article for the benefit of the member for Bragg, who will be greatly interested in it. It states:

> Typical families faced a rise of $2 000 a year in living costs under the controversial goods and services tax, the Australian Taxpayers Association said today. Even income tax cuts would not save consumers from a substantially higher cost of living, it said. The new measure would fuel inflation and even increase unemployment.

Unemployment is already unacceptably high, but it would increase. The article continues:

> As some lobby groups reacted positively to the Liberal's proposed new tax package, the Taxpayers Association moved to condemn it. 'I honestly can't find a good thing in it,' the association's national director, Mr Eric Risstrom, said. 'I think it will fail.'

Unquestionably: it will fail. The Taxpayers Association has tremendous credibility in this country. It has attacked both Labor and Liberal Parties in the past. Here is a classic illustration of the Liberal Party's trying to buy off a man of his credibility. That is the length to which it is prepared to go. It is prepared to go to any length to try to buy the next Federal election. It is prepared to sell the workers down the drain. It is prepared to sell business people down the drain.

The Liberal Party looks after silvertails like the member for Bragg and his ilk, the ones who have been left money, who would not know what it is like to work. The Liberal Party looks after a select group in the community. That is what it is about. We on this side of the Chamber, the community and the Taxpayers Association of Australia are well aware that the Liberal Party is attempting to buy off this credible association. The association is recognised for the way in which, without fear or favour, it is prepared to look at all tax packages. Is it any wonder that members opposite cry, bleat and try to shout me down. The facts are on the public record.

Mr INGERSON (Bragg): It is a pity that the member for Albert Park cannot keep up to date because today's paper says, '$30 tax cut under GST'. If he kept up to date with the real issues, he might learn something. Today I will refer to the sloppiness of WorkCover. WorkCover continues to refuse to supply replies to letters regarding a genuine claim. In addition, WorkCover has decided that it will not follow through on a fraud case because it involves only $2 500.

A constituent requested a review of two cases. One case involved four requests of WorkCover regarding a rehabilitation provider. The person involved was claiming compensation to which she was not entitled. A further investigation by a WorkCover officer revealed that that was true. When questioned, the WorkCover officer said, '$2 500 is insufficient to claim. It would cost us too much to go out and chase up this deliberate fraud case because we need to have fraud of the order of $40 000 to $50 000 before we take any notice.' That is morally bankrupt and I ask the Minister to look at this case separately.

My constituent rang WorkCover, providing the details in September 1989, August 1990 and February 1991. For two years this employer has said, 'I know this woman is working somewhere else. We are paying WorkCover benefits. Why won't you do something about it?' WorkCover has ignored the request. I will supply the Minister with all the details after my speech. The second case is similar and involves the same employer. A person was injured at work and the employer inquired as to why the WorkCover Corporation cannot cease paying benefits. Again, there has been no follow-up on this case and the employer is still waiting for an answer. This second person is also working in another job, getting compensation at the same time. Both these cases are being handled by the same WorkCover officer. In the first instance, he has admitted fraud; in the second instance, nothing is being done.

As I said, the officer has found that there is no doubt that, in the first case, there is fraud, and I ask the Minister to look at that case. The employer runs a nursing home. There have been no other claims on WorkCover but the employer is now in a penalty position. Yet one of these cases has been proven to be fraud and the other one is very questionable. The main problem with this sort of slow investigation is that the employer pays. There is no question that, if employers are involved in general accidents for which they should have been more responsible, the penalty system ought to apply. However, when it is proven that the employer has not been negligent and there has been a deliberate fraud, the WorkCover system should pick it up and make sure that it is looked at quickly. Unfortunately, this is one of many instances in which WorkCover's administration is causing massive problems for employers.

There is no doubt that fraud is one of the major concerns of employers and they argue consistently to me that the investigation system is inadequate. This is the first example that I am able to show publicly that has not been investigated fully; yet there is an admission of fraud. The argument given to this employer is that, because it involves only a small amount, it is not worth following through. A principle is involved. If someone is defrauding an organisation or an individual, it should be followed through. I hope that, when the Minister is given the evidence, he will follow this matter through as soon as possible.

Mr HERON (Peake): I raise an industrial problem relating to apprenticeships. Some employers in South Australian industry are not abiding by their contractual arrangements with their apprentices. When two parties enter into an agreement on an apprenticeship, both parties are bound by the relevant Act. If one of those parties wants to sever that relationship, certain steps must be taken in accordance with that Act. If an employer wants to cancel an indenture, he must get permission from the Industrial Training Commission.

It has come to my attention that one employer who told his employees he was restructuring his business offered them all the option of becoming subcontractors. That included all the apprentices. Apprentices cannot be subcontracted because it is in breach of the Act. Some youngsters are accepting work as subcontractors because they are frightened about their future employment prospects. If an apprentice accepts work as a subcontractor, he forfeits the apprenticeship. The apprentice also forfeits all his other legitimate entitlements when becoming a subcontractor, that is, holiday pay, penalty rates, sick leave, workers compen-

sation, superannuation and all other entitlements under the relevant award.

If an employer gets into difficulties, he is obliged to notify the Industrial and Commercial Training Commission so that it may assist and maybe have the apprentice transferred to another employer so that the apprentice can complete his or her indentures. There is a shortage of skilled labour in Australia at the present time, so we should be doing everything possible to assist youngsters to become tradespersons. It has also come to my attention that in the hospitality industry young workers are signing indenture papers for a four-year apprenticeship to become qualified chefs and, after working for up to 2½ years of that four-year term, the only work that the apprentice has performed really is washing dishes.

Most employers do the right thing, abide by the indentures and train their apprentices to become competent tradespersons. If they get into some difficulties, they contact the Industrial Training Commission to see whether some arrangements can be made to assist those apprenticeships. However, there are a few employers who rort the system and treat young workers as slaves. Some employers get financial subsidies from Government to take on apprentices, and I would hope that none of those employers receiving those subsidies is rorting this system. I will take up this issue with the relevant Minister to see whether these problems can be resolved to assist our young people in the work force today.

Mr D.S. BAKER (Leader of the Opposition): I want to clear up the matter of what was said yesterday by the Premier. He said:

> I will have my time before the commission. I will give my evidence, and I will be judged on that. I will not be judged in this scurrilous and underhanded way, either by the Leader of the Opposition or by the media.

The Premier's statement was referring to an earlier comment that he made, as follows:

> The personal assistant of the Leader of the Opposition has been culling through the documents, marking passages that would seem to implicate the Government or me, even though they are not currently being discussed before the commission, and making those available in photocopied form to members of the media. It is disgraceful.

That implies that a member of my staff is allowing confidential documents, which are before the commission, to be leaked to the media. That is a scurrilous allegation, and it is totally untrue. My staff member has exactly the same rights before that royal commission as has the Premier's ministerial assistant, Mr Alexandrides. However, at no stage has anyone from my staff or anyone from my office allowed any of those confidential documents to be released to the general public before it has been tendered as evidence and at no stage have confidential documents been released to the media.

As parties to the royal commission, we are privy to some very confidential documents. At all times, we uphold our responsibility as parties to that royal commission by keeping those documents absolutely confidential. The representation that we have before the royal commission is the same as that of all other parties before the commission—in fact, it is exactly the same as the representation of the Premier. To make those allegations against a member of my staff is scurrilous and typical of the underhanded, gutter-type politics that the Premier is now trying to bring into this Parliament, now that he is backed into a corner.

In relation to scurrilous and underhanded tactics, what about the $2 million interest rate subsidy that the Treasurer secretly tried to hide from the taxpayers and the South Australian voting public to help buy winning the last election? What about that sort of scurrilous activity? What about the promise he made about free school bus travel for students in South Australia, saying how marvellous it would be for everyone? What about the cynicism of now withdrawing all that from those people and making them pay, just to buy a few votes—and I might say well less than 50 per cent of the votes—to cling on desperately to power as he drags South Australia right down into the mire?

The greatest financial disaster in this State's history has been perpetrated by the Treasurer of this State through the tax scams in which he has been involved and the way in which he has manipulated the voters of this State. On and on it goes: $2 200 million of taxpayers' money has been wasted through the Premier's incompetence in managing the affairs of this State, yet he has the temerity to stand up in this Parliament, where he can say what he likes and make allegations against a member of my staff who is unable to defend himself.

This is all about covering up those past mistakes in relation to buying votes. What about HomeSure? What happened there? The Government won a few votes at the election, and when the election was over it cut the scheme out. Mr Squeaky Clean has become Mr Sneaky Clean—the tax scammer of 1991. His Government has been in power for nine years, and look where it has got South Australia.

The Hon. J.P. TRAINER (Walsh): I would like to say a few words in recognition of a South Australian who is currently being assessed for sainthood. Tomorrow a committee of theologians will gather at the Vatican to consider the life, work and virtue of an Australian nun, Mary MacKillop, who 100 years ago spent a religious career taking on the Establishment of her time, challenging the *status quo* and helping the poor and the oppressed.

As members of the Labor Party, we particularly identify with Mary MacKillop, because our organisation was similarly inspired by the plight of the working class of late nineteenth century Australia. I remind members that this year, 1991, is the centenary of the Australian Labor Party. But it was more than 100 years ago when Mother Mary MacKillop first ventured to Penola in the State's South-East to establish an order of Catholic nuns whose charity and virtue endure not only here but throughout the world.

The Vatican committee will decide whether to recommend to the Pope whether she is ready for the final step in an 80-year progression from her death in 1909 to possible sainthood on the criterion of heroic virtue. There is a widespread view that this is, indeed, one person who achieved heroic virtue in her lifetime with charity, compassion, and with particular dedication to the poor in the face of artificially created obstacles that came from the nineteenth century Establishment who disliked those who rocked the boat—especially women who rocked the boat.

Mary MacKillop undertook a particularly gutsy career in God's service, establishing Australia's best known order of nuns, going to the extent of begging for the poor on Adelaide streets in the 1870s. On top of this, she developed a certain streak of anti-authoritarianism which is a well recorded trait of Australians at the time and which led to her for a while being thrown out of the church in 1871. Nevertheless, she went on to help feed, clothe and educate the poorest people of what was then a very poor State.

An article appeared in the *Australian* of 3 August above the name of Max Harris, who is someone with whom I do not necessarily agree most of the time, but I was rather impressed with this article. He pointed out that he had no particular religious convictions and was never likely to be a member of any flock but, nevertheless, he intensely sup-

ports the crusade for the canonisation of Mother Mary MacKillop and envisages her elevation as being not merely 'a spiritual giant for the Catholic faith but as a saint for all Australians'. He points out that we need an image of what is a good Australian; he points out that we are a young nation that got off to a rotten start as a mob of demoralised convicts, but from that tradition Australia has spent two brief centuries trying to outgrow it. He says:

> Into this male and brutish world came Mary MacKillop, and the action began. I understand that your Congregation for the Causes of the Saints requires evidence not only of unique piety but of miracles performed by candidates for canonisation ... I don't know how our Mary MacKillop will be deemed to perform in that department—

referring to miracles—

> but I can tell you this, the young girl who turned up at the tiny South Australian village of Penola with a divinity of dreams in her head was Australia's miracle ... She is a nuts and bolts saint, a toiler, a battler and a sociological radical ... She was a pioneer feminist ... While being humble, chaste, obedient to the authority of the Church (despite being excommunicated by the pea-brained authoritarianism of an unbalanced Adelaide prelate) she saw that Australia would only achieve cultural coherence if women went out into the male survivalist world and did the work of the mind and spirit in the hard places of the environment.
>
> She took prostitutes, lowly domestics, illiterate young girls, and taught them. What she taught them she then taught them to teach, and then sent them out alone in their earthly Josephite garb to the isolated outposts of occupation, to educate children, women and men all about their humanity ...

He points out that she was also a pioneer ecumenical working against the rigid sectarianism of the time with the assistance of 'a lonely old Jew called Solomon and an affluent Anglican lady from the squattocracy, Joanna Barr Smith'. In another article in the *Advertiser* of 11 November, he points out:

> She was a pioneer barefoot educator. She didn't set up colleges for the Catholic flock. The Josephites she had taught to teach forayed out into the remote corners of SA, alone, unchaperoned, wherever there was a new settlement or a mob of railway gangers and their families. She was putting liberation theology into practice a century before the term had been invented ... the present day Josephites all over Australia, New Zealand, even Peru, exemplify the continuity of the gritty Australianism ...

I point out that only recently a nun from that order was murdered at the hands of insurgents in far off Peru. The author continues:

> South Australia is lucky to have been the source of it all ... Their work must be supported by Australians in the name not of any religious persuasion but as an example of the best qualities of heart, mind and action that came out of the ungiving earth of a continent ... But the charity and courage of these indigenous religious feminsts provide us with some faith not in them but in ourselves.

I hope that we will all join together in wishing the best for tomorrow for the Order of the Josephites.

The SPEAKER: Order! The member for Heysen.

The Hon. D.C. WOTTON (Heysen): Earlier today during Question Time I expressed my concern and real disappointment that a current E&WS civil contract had been awarded to a Victorian earthmoving contractor, despite keen competitive bids being submitted by a number of South Australian earthmoving contractors. The purpose of raising this matter today was not to complain solely about the loss of the job to a particular company or firm, but rather to point out the facts and the situations which appear to be the accepted standard by which Government departments operate. That is my very real concern. It would appear that the company, which I represented in the question that I asked of the Minister today, would have completed the job too quickly, and that is really what it is all about. I suggest that that makes an absolute mockery of any cost-saving exercises for this State.

Even if the interstate machine to be used was half of the rate being proposed by the South Australian firm, it would cost more to shift the same volume because of productivity and performance factors. Prior to tender, the department made a point of saying that it wanted the biggest machine that it could get on the site. After the close of tender, it saw fit to send to the company a copy of the classification of site materials and method recommendation. The company could have used that information usefully before the tender closed, but it was unable to do so afterwards. I should like to read a letter that has been forwarded by the Eathmoving Contractors Association of South Australia to the Premier in regard to this matter. It states:

> Our association is very disappointed that a current E&WS civil contract is to be awarded to a Victorian earthmoving contractor—

the letter names the contractor—

> despite keen competitive bids being submitted by a number of South Australian earthmoving contractors. The contract concerned called for the hourly hire of a Class 300C crawler tractor ... such as a Caterpillar D9L bulldozer, being the minimum specified machine to carry out the work. At the same time, the specification did not preclude tenderers offering a machine of a higher classification.

It goes on to say:

> Another South Australian contractor had based their tender price on using a larger machine which had been discussed and approved by a senior E&WS officer as an acceptable basis for submitting a tender. This machine ... has greater horsepower capacity and ripping capabilities than the D9L and provided a competitive and cost-effective alternative by being able to carry out the work quicker and more efficiently.
>
> In view of our concerns regarding the current crisis state of the South Australian civil constructions industry, as outlined in our previous letter to you on 8 October 1991, it is disturbing that such decisions by State Government departments do little to alleviate the problems in our industry.
>
> One cannot blame our contractor-members for feeling angry and frustrated that a State Government department is not supporting local business. Furthermore, it seems that the criteria in accepting the tender was based on the lowest price, regardless of other considerations such as the need to foster local employment, supporting South Australian small business and generally putting money back into our economy.

I do not believe that the Minister understands the gravity of the situation. It is of concern to the industry and I find it extremely difficult when we have to continue to deal with a Minister who absconds so blatantly from the truth in many of these matters. I look forward to receiving a more detailed reply from the Minister.

The Hon. T.H. HEMMINGS: Mr Deputy Speaker, I draw your attention to the state of the House.

A quorum having been formed:

PAY-ROLL TAX (MISCELLANEOUS) AMENDMENT BILL

Returned from the Legislative Council with suggested amendments.

PETROLEUM (MISCELLANEOUS) AMENDMENT BILL

Returned from the Legislative Council without amendment.

HOUSING COOPERATIVES BILL

Returned from the Legislative Council with amendments.

RESIDENTIAL TENANCIES AMENDMENT BILL

Returned from the Legislative Council without amendment.

Mr HOLLOWAY: Mr Deputy Speaker, I draw your attention to the state of the House.

While the bells were ringing:

Mr BRINDAL: Mr Deputy Speaker, on a point of order, can one draw attention to the state of the House every two minutes?

The DEPUTY SPEAKER: One can draw attention to the state of the House every time the attention of the House needs to be drawn to it.

A quorum having been formed:

SOUTH AUSTRALIAN HEALTH COMMISSION (PRIVATE HOSPITAL BEDS) AMENDMENT BILL

The Hon. D.J. HOPGOOD (Minister of Health) obtained leave and introduced a Bill for an Act to amend the South Australian Health Commission Act 1976. Read a first time.

The Hon. D.J. HOPGOOD: 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 short Bill is to clarify the South Australian Health Commission's powers in relation to private hospital licensing. Honourable members will recall that amendments which were passed in 1984 sought to introduce for the first time the concept of licensing private hospitals on the basis of need. Prior to that, licensing had been carried out by local government largely on the basis of physical facilities, with system-wide issues such as geographical distribution, service mix and coordination of services being outside the scope of the legislation.

Reports and inquiries at State and Federal level had supported the need for State Government controls over the establishment of new services in both the public and private sectors, to provide for accountable management of public moneys and responsible oversight and distribution of hospital services. Indeed, the distinguished Dr Sidney Sax, who chaired the Inquiry into Hospital Services in South Australia in 1983 recommended that legislation be introduced in South Australia 'to ensure that the establishment of additional private hospital facilities complies with State and sector strategic planning guidelines and does not prejudice the economic and efficient delivery of health care services in South Australia.'

The legislation which followed in 1984 and came into force in 1985 provided for the Health Commission to license private hospitals. The commission was empowered to take a number of factors into account in determining whether a licence should be granted, for example:

- the scope and quality of the service to be provided in pursuance of the licence;
- the location of premises and their proximity to other facilities for the provision of health services;
- the adequacy of existing facilities for the provision of health services to people in the locality;
- the requirements of economy and efficiency in the provision of health services within the State.

The commission was also empowered to impose conditions on a licence, including a condition limiting the number of patients to whom health services may be provided on a live-in basis at any one time.

South Australia has one of the highest ratios of hospital beds:1 000 population in Australia (5.56 beds:1 000 population). The relationship between high ratios of hospital bed supply, utilisation and costs is well documented. The Health Commission has adopted planning targets of 5.07 beds:1 000 population in the metropolitan area and 3.31 beds:1 000 population in the non-metropolitan area, with a Statewide target of 4.5 beds:1 000 population by June 1993. Consequently, the commission has not approved any net increase in the number of private hospital beds in metropolitan Adelaide for some time. It has sought to exercise its statutory responsibility to have regard to economy and efficiency by requiring new hospitals, or extensions to existing ones, to ensure the closure of an equivalent number of beds at other hospitals. This has led to some rationalisation in the private hospital industry and at the same time, has created a market for 'beds'.

The commission's ability to impose such requirements has recently been subject to judicial review. In an appeal to the Supreme Court *[Gawler Private Community Hospital Inc. v. South Australian Health Commission]*, the Honourable Justice Millhouse found 'economy and efficiency in the provision of health services in the State' to be too broad and general a consideration to support a specific condition requiring a private hospital to ensure the closure of an equivalent number of existing private hospital bed numbers within the metropolitan area, thereby ruling the condition *ultra vires*. The need to contain health care costs has probably never been greater than it is today. Economy and efficiency were major features of the 1980s—they are absolute imperatives for the 1990s and beyond. The private hospital and private health insurance industries themselves have, to their credit, recognised the need for regulated, planned development in the private hospital sector. In response to the Health Commission's review of private hospital licensing arrangements during 1990-91, the industry supported the maintenance of controls over private hospital bed numbers. It is essential, therefore, that the Health Commission's powers in relation to private hospital licensing be clear and unambiguous.

The Bill seeks to formalise the current practice of the commission when considering applications for new or expanded private hospitals. It enables Regulations to be made, setting a limit on the number of hospital beds in the State or in a particular region. Section 57d sets out the various factors to which the commission must have regard in determining whether or not to grant a licence. A new provision specifically enables the commission to take into account whether the prescribed limit of hospital beds for the State, or for the particular region in which the premises or proposed premises are or will be situated, has already been reached or exceeded. If that limit has been reached or exceeded, the commission may refuse to grant a licence or refuse to grant it unless there is a corresponding reduction in the bed entitlement of an existing licensee.

The conditions which the commission may impose on licences are similarly made more specific in amendments to section 57e. A transitional provision is included to ensure that applications made on or after the date of introduction of the Bill (14 November 1991) are dealt with in accordance with the new provisions, and that limitations on bed numbers on existing licences continue to have effect.

Clause 1 is formal.

Clause 2 amends the definitions section, section 6. A new definition is inserted. 'Hospital bed' is defined as the bed and associated facilities provided by a hospital for the provision of health services to a patient on a live-in basis.

Clause 3 amends section 57c by requiring the application for a private hospital licence to state the maximum number of hospital beds sought to be provided pursuant to the licence.

Clause 4 amends section 57d which sets out various factors to which the commission must have regard in determining whether or not to grant a private hospital licence. The amendment requires the commission to have regard to those factors also for the purpose of determining what conditions should be imposed on a licence. The Bill provides in clause 6 for the making of regulations setting a limit on the number of hospital beds in the State or in a particular region. This amendment provides that if that limit has been reached or exceeded, the commission may refuse to grant a licence or refuse to grant it unless there is a corresponding reduction in the bed entitlement of an existing licensee.

Clause 5 amends section 57e which provides for the imposition of conditions on a private hospital licence. The amendment alters the wording of the condition relating to limiting the number of patients to whom services may be provided on a live-in basis at any one time to include a reference to the defined term 'hospital bed'. The amendment also enables a new condition to take effect earlier than 30 days after it is imposed if the licensee consents. The amendment provides that if the limit set in regulations as to the optimum number of hospital beds in the State or a particular region has been reached or exceeded, the commission may refuse to increase the bed entitlement of a hospital without a corresponding reduction in the bed entitlement of some other hospital.

Clause 6 amends section 66 by including the regulation making power referred to above.

Clause 7 is a transitional provision that ensures that applications made on or after 14 November 1991 are dealt with in accordance with the Act as amended. It also ensures that existing conditions of licence limiting the number of patients to whom health services may be provided on a live-in basis at any one time continue to have effect as a limit on the bed entitlement of the hospital.

Dr ARMITAGE secured the adjournment of the debate.

STATUTES AMENDMENT (STATE HERITAGE CONSERVATION ORDERS) BILL

The Hon. S.M. LENEHAN (Minister for Environment and Planning) obtained leave and introduced a Bill for an Act to amend the City of Adelaide Development Control Act 1976, the Planning Act 1982 and the South Australian Heritage Act 1978. Read a first time.

The Hon. S.M LENEHAN: 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 1985 the present South Australian Heritage Act was amended to give the Minister responsible for administering the Act power to place Conservation Orders on buildings or structures which were considered to have significant heritage qualities but were threatened with damage or destruction. It was intended that Conservation Orders could be placed on a building or structure at any point in time thus ensuring the protection of the State's heritage. Since 1985 this intent has been carried out in practice and has been generally accepted as a power which is available to the Minister.

During 1991 a court challenge was made to the power of the Minister to make a Conservation Order on a building after a planning application had been lodged for its development. The case in question involved the proposed demolition of the building known as Gawler Chambers on the corner of Gawler Place and North Terrace in the city of Adelaide and the subsequent erection of a modern hotel on the site. After the development application was lodged with the Adelaide City Council the Minister placed Gawler Chambers on the Interim Heritage List and issued an Urgent Conservation Order on the building to protect it from destruction. This was done in the belief the building was an important part of the State's heritage and was of significant aesthetic, historic and cultural interest.

The Adelaide Development Company, who were the applicants for development, took Supreme Court action to have the council consider the planning application without consideration of the heritage listing or Conservation Order. The Court held that the council must have regard to the law at the time the application was made and as it considered the Interim Listing and Urgent Conservation Order introduced new law, council could not have regard to them in deciding the application.

As a result of this decision much of the State's heritage which has not yet been assessed and documented could be lost. Planning applications which would result in the destruction or damage of a building or structure of heritage significance to the State could be made, and the Minister is powerless to intervene to provide protection. This clearly was not the intent of the 1985 amendment and the Government considers such a situation to be untenable given its commitment to protecting the State's heritage for the benefits of present and future generations.

Recognising the urgency of the situation the Government has moved quickly to introduce this legislation which will provide the necessary protection. The amendments proposed are in keeping with the original intention of the 1985 amendment and are aimed at putting the powers of the Minister beyond question.

Both the City of Adelaide Development Control Act 1976 and the Planning Act 1982 require the Planning Authority to consider a development application on the basis of the law existing at the time the application is made. The amendments proposed will enable the Minister to Interim List a heritage item and place a Conservation Order on it after the planning application is lodged. In cases where this occurs the Planning Authority will be required to process the application and make its planning decision as though the Interim Listing and Conservation Order were in place at the time the application was lodged, thus ensuring proper attention is paid to heritage considerations.

Over the last year, six Urgent Conservation Orders have been issued. In four of these cases the order was placed after careful assessment of requests from local councils for the Minister to use her powers to protect items of heritage value to the local community. The Government considers that to date Urgent Conservation Orders have been used judiciously and it is envisaged that this practice would continue in the future. The Orders have a limited life of 60 days and this period can be extended up to 6 months by the Planning Appeal Tribunal thus allowing time for a complete assessment of the heritage significance of a building or structure. This small time delay is considered reasonable to ensure that items of irreplaceable heritage significance are not lost because of hasty planning decisions.

The amendments proposed to the South Australian Heritage Act ensures that where a valid planning approval is in existence it cannot be overridden by a Conservation Order. The Government considers that this provision is essential to provide developers with the certainty necessary to proceed confidently with development proposals.

In framing the amendments the Government has sought to confirm the intent and practice of the 1985 amendment and provide the necessary level of protection for the State's heritage whilst giving developers the assurance that Conservation Orders can not be used to override existing planning approvals.

Clause 1 is formal.

Clause 2 provides that the measure is to be brought into operation by proclamation.

Clause 3 is a formal interpretation provision.

Clause 4 amends section 42 of the City of Adelaide Development Control Act 1976. Section 42 provides that the laws to be applied and the planning principles to be considered in deciding an application for development approval in the City of Adelaide and in resolving consequential issues in other proceedings (whether under that Act or not) are the laws and principles in force as at the time the application was made.

This section was the subject of judicial interpretation in the recent case before the Supreme Court of *Adelaide Development Co. Pty. Ltd. v. The Corporation of the City of Adelaide and Another*. The effect of the decision in that case is to overturn the previously generally accepted view that if an item (that is, a building, structure or land) was listed in the interim list, registered in the Register of State Heritage Items or made the subject of a conservation order under the South Australian Heritage Act 1978 after application was made for approval of a development relating to the item, the listing, registration or order did not constitute a change in the law but was rather an administrative act under the existing law. As a result of the decision, where heritage listing or registration of an item occurs after a development application was made in respect of the item, the fact of the heritage listing or registration is, by virtue of section 42, to be ignored in the proceedings on the application.

Section 24 of the South Australian Heritage Act provides that it is to be an offence if a person damages or destroys an item that is the subject of a conservation order under Part V of that Act. This section was previously thought to operate to protect an item the subject of such an order against any subsequent damage whether proceedings for development approval had been commenced or development approval had been given. Also, as a result of the decision, where such an order is made in respect of an item after an application for development approval was made in respect of the item, the protection apparently afforded by section 24 will be excluded if the development application is successful and section 42 of the City of Adelaide Development Control Act will operate to authorise the development so approved.

In this context, the clause amends section 42 to add a new subsection that is intended to make it clear that where a conservation order has been made (whether before or after the commencement of this measure) in respect of an item of the State heritage that was at the time of the making of the order the subject of an application for development approval—

(a) the item will be taken to have been an item of the State heritage for the purposes of section 42 at the time the application was made;

and

(b) the conservation order will be taken to have been in force for the purposes of that section at that time.

It should be noted that this deeming provision is expressed to apply where a conservation order is made after the lodging of a development application and not where an item the subject of a development application is placed on the interim list or registered under the South Australian Heritage Act 1978 without also being made the subject of a conservation order.

Clause 5 amends section 57 of the Planning Act 1982 which makes the same provision for the law applying in relation to applications for planning authorization under that Act as section 42 of the City of Adelaide Development Control Act makes in relation to City of Adelaide planning applications.

The clause adds a new subsection to section 57 providing that where a conservation order has been made under Part V of the South Australian Heritage Act 1978 (whether before or after the commencement of this measure) in respect of an item of the State Heritage or a State Heritage Area that was at the time of the making of the order the subject of an application for planning authorisation—

(a) the item or area will be taken to have been an item of State Heritage or a State Heritage Area for the purposes of section 57 at the time the application was made;

and

(b) the conservation order will be taken to have been in force for the purposes of that section at that time.

Clause 6 amends section 24 of the South Australian Heritage Act 1978. This section provides that it is an offence if a person damages or destroys an item or State Heritage Area that is the subject of a conservation order. The clause amends the section to exclude from this prohibition the carrying out of a development affecting an item or State Heritage Area in accordance with an approval under the City of Adelaide Development Control Act or a planning authorisation under the Planning Act granted before the item or area became the subject of a conservation order.

Mr S.J. BAKER secured the adjournment of the debate.

REAL PROPERTY (SURVEY ACT) AMENDMENT BILL

The Hon. S.M. LENEHAN (Minister of Lands) obtained leave and introduced a Bill for an Act to amend the Real Property Act 1886. Read a first time.

The Hon. S.M. LENEHAN: 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

This Bill has its origin in reviews carried out by the Department of Lands into land boundary requirements and the Surveyors Act 1975. In 1987 Cabinet approved a proposal for the gradual introduction of a new land boundary system, called a Coordinated Cadastre to South Australia. In this system the positions of property boundaries are expressed in east and north coordinates derived from a series of accurately coordinated survey marks established and maintained by the Surveyor-General. Procedures to

introduce the Coordinated Cadastre are incorporated in the Bill to introduce the Survey Act 1991.

Current boundary determination procedures are based on a number of common law precedents established by the courts early this century, and do not necessarily recognise survey measurements as defining the positions of title boundaries. To introduce the Coordinated Cadastre it is necessary to amend the Real Property Act to provide legal status to coordinates determined from the survey measurements. This Bill provides that status. In addition, it allows the courts authority to rebut coordinates and makes provision for the correction of errors in the Coordinated Cadastre.

The Bill for the Survey Act 1991 also empowers the Surveyor-General to identify 'confused boundary areas', being areas where the legal positions of boundaries disagree markedly with fences, buildings and other features which have over many years been accepted by land owners as the boundaries. This disagreement usually results from poor quality surveys in the early days of the survey of South Australia. The proposed Survey Act provides that such areas can be defined and the boundaries therein determined by the principles of equity rather than common law. The amendments to the Real Property Act contained in this Bill require the Registrar-General to alter the certificates of title of land in confused boundary areas to reflect the new boundary details as surveyed.

The land boundary and title methods introduced by Colonel Light and Robert Torrens respectively have given South Australia a registration system virtually free from boundary disputes and costly litigation. This Government is committed to maintaining the system's quality and views this legislation as an important component in achieving that goal. The Government trusts this Bill will be well received and looks forward to its passage through Parliament and successful implementation.

Clauses 1 and 2 are formal.

Clause 3 inserts a new Division after Part V Division II. The Division contains two sections. One relates to the coordinated cadastre and the other to confused boundary areas. They are both consequential to the inclusion of provisions on these matters in the Survey Bill 1991.

New section 51e provides for filing in the Lands Titles Registration Office of a plan of an area of the State within the coordinated cadastre lodged by the Surveyor-General in accordance with the Survey Bill 1991. Such a plan will give AMG (Australian Map Grid) coordinates for the boundaries of allotments of land within the area covered. The coordinates will have been fixed by reference to permanent survey marks established by the Surveyor-General. Such a plan must be accepted in legal proceedings as evidence of the position and dimensions of the boundaries of allotments that it delineates. If an issue as to the position or dimensions of a boundary shown on such a plan arises in legal proceedings, the Surveyor-General must be given an opportunity to present evidence and be heard on that issue. The new section also provides a mechanism for the correction of any errors found in such a plan and for any necessary adjustments of certificates of titles.

New section 51f requires the Registrar-General to correct certificates of title that are inconsistent with a plan relating to a Confused Boundary Area (as established under the Survey Bill 1991) that has been deposited in the Lands Titles Registration Office.

Mr LEWIS secured the adjournment of the debate.

SOUTH EASTERN WATER CONSERVATION AND DRAINAGE BILL

The Hon. S.M. LENEHAN (Minister of Water Resources) obtained leave and introduced a Bill for an Act to provide for the conservation and management of water and the prevention of flooding of rural land in the South East of the State; to repeal the South-Eastern Drainage Act 1931 and the Tatiara Drainage Trust Act 1949; and for other related purposes. Read a first time.

The Hon. S.M. LENEHAN: 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

Flood damage during recent winters in the rural sector of the South East has prompted a review of the South Eastern Drainage Act. It was evident that there would be advantages in dealing with the floodwater problems if the legislation provided for overall coordination and control to achieve solutions on a regional basis. Past remedial actions taken in isolation have accentuated the problems downstream and highlighted the need for a catchment wide management approach. Uncoordinated private works have also contributed to the problem by passing floodwater from one property to another along northerly flowing watercourses in an uncontrolled way. This has caused the acceleration and expansion of flooding and soil salinity problems in the Upper South East.

The Government and the South Eastern Drainage Board responded to calls from public and private sectors for positive action to resolve the floodwater management dilemma. Many public meetings were held to discuss possible solutions and management options for floodwater control. It was recognised that over all management by one independent authority was the first important area for improvement. There was agreement that the South Eastern Drainage Board had achieved effective and efficient floodwater management within its area of operation. Consequently it was logical for the Board's role and area to be expanded rather than create a new authority.

The basic proposals of this Bill were debated at a public meeting when all parties concerned with floodwater management in the South East gave unanimous support for the concepts incorporated in this legislation. Public comment has been sought on the draft Bill and all submissions were carefully considered in formulating this legislation. It was decided that a new Bill should be drafted rather than amend present legislation because through age and a number of amendments over the years, the Act had become disjointed and outdated.

The Bill covers the whole rural sector of the South East and includes the area previously administered by the Tatiara Drainage Trust. Provision has been made for the District Council of Millicent to retain management of its autonomous drainage system under the same conditions and responsibilities as applies to the remainder of the defined area.

The enlarged area has been divided into three electoral zones and a landholder will be elected to the board from each of these zones. Submissions strongly favoured Local Government representation on the board and two extra Government appointees have been added (making four in all) to cover its wider responsibilities. An effort has been made to keep board membership to a reasonable number.

However, it was found that eight were necessary to meet the diverse conservation and flood protection requirements of the new legislation. Voting franchise for board elections has been extended to all landholdings in excess of 30 hectares where previously voting was restricted to a specific drainage area. The qualifications for board appointments are left open so that flexibility is retained and the best persons can be appointed to provide expertise and skills during any management phase. The Bill also provides for the establishment of advisory committees to provide input and local knowledge into board management decisions.

In drafting this legislation emphasis has been placed on the board's conservation responsibilities and its wider surface water and groundwater management role. There is a requirement for the board to prepare a management plan and conform with all Government legislation and policies regarding the protection of the environment, and conservation of natural resources. This integration of resource management on a regional basis is consistent with Government objectives. Public involvement is encouraged and will be sought when the board's management plan is being prepared or reviewed.

The Act provides for the board and landholders to enter into agreements for the joint construction and funding of works. This replaces the involved and complex petition provision of the old Act. These provisions have not been used by landholders for the past thirty years due to the lengthy and complicated procedure necessary to reach the final outcome. In recent years the board has entered into simple concise agreements for joint works with landholders, e.g. weirs etc. The proposed legislation formalises agreement procedures presently adopted which has proved satisfactory to the parties concerned.

The main thrust of the Bill is to allow one authority to coordinate and control all private works in the area. This will allow an integrated catchment wide approach to be adopted in finding solutions to flooding and soil salinity problems. Present legislation provides the board with authority to control private works that discharge or effect the flow of water into the Government drainage system. This has proved to be manifestly inadequate in dealing with present day problems and rural water management needs. Support has been given from public and private sectors and the local community for legislation along the lines proposed.

A right of appeal against key board decisions affecting landholders has been included in the new Bill. Appeals against board decisions will be heard and determined by the Water Resources Appeal Tribunal. This approach will forge links between two water resource related pieces of legislation. Rights of individual landholders are protected by the appeal process. This avenue of redress is not available under current legislation.

The Government is fully aware of the important contributions made to the State's economy by the highly productive South East region. It recognises that floodwater management and soil salinity problems have developed in the area in recent years. This legislation which has strong grass roots support provides a sound legislative base for addressing these complex problems on a regional basis. The ultimate outcome will be to enhance agricultural production and the natural environment by implementing compatible strategies. In summary, this Bill seeks to:

- change the name of the board and the Act to reflect changed rural floodwater management responsibilities.
- provide the board with legislative authority to control and coordinate all private works within the boundaries of the expanded defined area.
- increase board membership to eight, consisting of four local members and four Government appointees.
- increase the proclaimed area under the control of the board to include the Coonalpyn Downs/Tatiara areas and the whole of the lower South East.
- update and streamline administrative procedures and provide appeal provisions.
- provide for advisory committees to be appointed by the Minister in strategic areas.
- ensure that a management plan is prepared involving public participation, which will take an integrated approach in managing floodwaters and the natural environment on a regional basis.
- repeal the South Eastern Drainage Act 1931 and the Tatiara Drainage Trust Act 1949.

I commend the Bill to the House.

Clause 1 is formal.

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

Clause 3 provides necessary definitions. The board's area of jurisdiction is all that part of the South East that does not fall within the Millicent Council's area. For the purposes of this Act, the Council's area excludes a small portion of land that has Government drains on it and therefore should fall under the board's jurisdiction. The total area of the South East is defined in a schedule.

Clause 4 empowers the Minister to direct the vesting of private water management works in the board or the council or the vesting of Board or Council water management works in any person. This power can only be exercised at the request of, or with the approval of, all parties concerned (except in the case of the Board, which only need be consulted by the Minister).

Clause 5 makes it clear that this Act does not override other Acts.

Clause 6 gives the Minister a power of delegation to the board, but not in respect of powers under Parts I and II of the Act.

Clause 7 sets out the objects of the Act, which are to prevent flooding, improve the quality and productiveness of rural land and enhance or develop wetlands and the natural environment in general. All persons involved in the administration of the Act are required to act consistently with these objects.

Clause 8 continues the current Board in existence but changes its name to the 'South Eastern Water Conservation and Drainage Board'. The board continues to be a body corporate.

Clause 9 gives the board a membership of eight. Four members will be nominated by the Minister and, of these, at least one must be an expert in environmental management. One member will be appointed on the nomination of the Local Government Association. The three remaining members will be persons elected by landholders from the three electoral zones.

Clause 10 provides that elections of board members will be conducted by the Electoral Commissioner in accordance with rules prepared by the Commissioner and approved by the Minister. The Commissioner can declare a person duly elected where there is no contest and, if there are no nominations for an election, the Governor may fill the vacancy.

Clause 11 sets out the rules for determining who is to vote at board elections. Voters' rolls will be prepared for each electoral zone by the board with the assistance of the Valuer-General. A person or body corporate that owns or occupies more than 30 hectares of land in an electoral zone is entitled to be enrolled. A group of joint owners or occupiers of more than 30 hectares is also entitled to be enrolled.

Groups and bodies corporate can nominate the person who will vote on their behalf. In the case of a body corporate, it must be a director, manager or other employee of the body corporate. A voters' roll closes 30 days prior to the election. A person may vote both in his or her own right and also as a nominated agent for a group or a body corporate. Voters' rolls will be made available for inspection by the public.

Clause 12 provides for the appointment of the presiding member, the deputy presiding member and such other deputies of other members of the board as may be appropriate.

Clause 13 provides that a board member will be appointed or elected for a term of four years. Casual vacancies, even for elected members, may be filled by the Governor. If the vacancy occurs in the office of an elected member, the person appointed must be an eligible landholder from the same electoral zone.

Clause 14 entitles board members to receive allowances.

Clause 15 sets out the standard provisions relating to board procedures.

Clause 16 is the usual provision dealing with conflict of interest.

Clause 17 sets out the functions of the board, which are generally to manage surface water on rural land in the South East, to lower the water table of rural land, to carry out or promote relevant research and to give advice and assistance to others in the board's field of expertise. The board is required to consult with all relevant Government authorities and adhere to their policies when the board is performing its functions. The board is also required to involve the community in water conservation and management, and must, in administering this Act, always endeavour to do so by negotiation first rather than by enforcement.

Clause 18 requires the board to prepare and update on an annual basis a management plan detailing its, and the council's, proposed activities over the ensuing three years. The South East community is to be given an opportunity to comment on the plan. The Minister has the final right of approval of the management plan and of any subsequent amendments of it.

Clause 19 sets out the powers of the board to hold and deal with property, enter into any contract, engage consultants, borrow or lend money, and do any other thing incidental to the performance of its functions.

Clause 20 renders the board subject to the Minister's control and direction.

Clause 21 empowers the board to delegate its powers (other than a power delegated by the Minister) to a member or employee of the board or to any of the advisory committees.

Clause 22 sets out that the staff of the board is comprised of Public Service employees assigned to the board and such other persons whom the board itself may employ. A person employed by the board is not a Public Service employee.

Clause 23 requires the board to keep proper accounts and requires the Auditor-General to audit those accounts at least once a year.

Clause 24 requires the board to submit an annual report to the Minister. An annual report must include particulars of the progress made by the board and the council in achieving the objectives of the board's management plan during the preceding financial year.

Clause 25 sets out the council's functions under this Act. The council's primary function is to implement the board's approved management plan within the council's area. The council is also required to involve the community in water conservation and management and must seek to administer this Act on the basis of negotiation rather than enforcement.

Clause 26 renders the council subject to the Minister's control and direction in the performance by the council of its functions under this Act.

Clause 27 requires the council to keep a separate fund (from its general revenue) for money received by the council under this Act. The council must keep proper accounts in respect of that fund and those accounts must be audited by the Auditor-General.

Clause 28 provides that the council may delegate its powers under this Act to the board.

Clause 29 establishes the Eight Mile Creek Water Conservation and Drainage Advisory Committee, which will be appointed by the Minister. The board will nominate one person, at least three must be eligible landholders in the Eight Mile Creek area, and at least one must be from the Government sector. The committee will advise the board on the administration of this Act in the Eight Mile Creek area.

Clause 30 establishes a similar advisory committee for the Upper South East.

Clause 31 enables the Minister to establish other advisory committees.

Clause 32 sets out the terms and conditions of office for all members of advisory committees. Members of advisory committees are entitled to receive allowances.

Clause 33 sets out standard provisions for advisory committee procedures.

Clause 34 empowers the board to construct water management works or alter or remove any of its water management works. All such work must be work that is contemplated by the board's approved management plan, unless the Minister gives special approval for the work.

Clause 35 empowers the council to do likewise, and the council is similarly constrained by the board's management plan.

Clause 36 continues the present right of the council to discharge township stormwater into the council's water management works under this Act. Costs incurred as a result of the exercise of this power must be paid out of the council's general revenue.

Clause 37 continues the existing provision whereby all water in the board's and the council's water management works is the property of the Crown. The Minister can grant rights to this water to any person.

Clause 38 gives the board and the council power to enter and inspect land and private water management works and may clean out, deepen, widen or raise or lower the banks of watercourses, lakes, dams, etc. The power to enter land is only exercisable at a reasonable time of the day and on giving reasonable notice to the landholder, except in the case of flood or other emergency.

Clause 39 makes provision for requiring contribution from landholders for work carried out by the board or the council where the board or council has already reached agreement with some landholders on the question of funding. The relevant authority may only make such a requirement if it has reached agreement with a number of landholders who represent between them more than 75 per cent of the land the authority believes will benefit from the proposed work. The authority must make the requirement for contribution no later than three months after completing the work. Payment may be made in instalments if the authority so allows. Such debts are a charge over the land.

Clause 40 empowers the board and the council to fence their water management works. Adjoining landholders are liable for half the cost of the fencing work, subject to any agreement reached with the relevant authority. If the board or council proposes to enforce this statutory liability, notice

must be sent to the adjoining landholders no later than three months after the completion of the fencing work. Debts under this section are charges over the land in question.

Clause 41 makes it an offence for a person to construct water management works unless he or she has a licence from the relevant authority to do so. It is also an offence to alter or remove water management works (whether constructed before or after the commencement of this Act) without a licence. A licence is only required for the construction, alteration or removal of works if the flow of water onto or from some adjacent land would be affected, or the flow of water into board or council works would be affected.

Clause 42 makes it an offence to construct bridges or culverts over, through or along board or council water management works or drainage reserves.

Clause 43 provides generally for the granting of licences by the board or council.

Clause 44 gives the board and the council the power to direct a person to carry out specified work to remedy certain contraventions of the Act or to counteract the harmful effect private water management works may be having on the proper management or conservation of surface or underground water in the South East. If a person fails to comply with such a direction, the relevant authority may cause the work specified in the notice to be carried out and the cost recovered from the defaulting landholder. This power may be exercised in relation to successors in title to the land on which the works in question are situated. Debts arising under this provision are a charge over the land in question.

Clause 45 provides that a person cannot take water from board or council water management works without the permission of the relevant authority.

Clause 46 creates the offence of interfering with board or council water management works without the permission of the relevant authority.

Clause 47 provides that the relevant authority may give permission under the two preceding sections subject to such conditions as may be thought fit. It is an offence to breach such a condition.

Clause 48 provides a right of appeal against a decision of the relevant authority that particular land would benefit from proposed works that are to be wholly or jointly funded by landholders, a decision to refuse a licence for private water management works or a bridge or culvert, a decision to vary or add to the conditions of such a licence or a decision to require a person to carry out certain work pursuant to section 44. Appeals will go before the Water Resources Appeal Tribunal.

Clause 49 enables the relevant authority or the Water Resources Appeal Tribunal to suspend the operation of a decision while an appeal is pending.

Clause 50 gives the board and the council the power to waive or defer payments due by landholders.

Clause 51 enables the appointment of authorised officers by the board or the council. A board authorised officer may generally only exercise the powers of an authorised officer within the board's area, but the council may give written authority for such an officer to operate within the council's area. The same provisions apply in relation to the council authorised officers.

Clause 52 sets out the powers of authorised officers. A warrant from a justice is required if force is to be used in entering any land, except where the authorised officer believes urgent action is required.

Clause 53 creates the usual offence of hindering, obstructing or using abusive language against an authorised officer or any other person engaged in administering the Act.

Clause 54 provides that offences against the Act are summary offences.

Clause 55 provides that the director and manager of a body corporate that commits an offence against the Act will also be guilty of the same offence.

Clause 56 provides a general 'no negligence' defence.

Clause 57 provides some evidentiary aids.

Clause 58 gives the usual immunity from personal liability for persons engaged in the administration of the Act (whether as a board member or otherwise).

Clause 59 provides for the making of regulations.

The first schedule defines the area of the South East.

The second schedule defines the land that is excluded from the area of the council.

The third, fourth and fifth schedules define the areas comprising the three electoral zones under the Act.

The sixth schedule firstly repeals the South-Eastern Drainage Act and the Tatiara Drainage Trust Act, and secondly provides some necessary transitional provisions. The current board members will vacate their offices to enable fresh appointments and elections to be made. The assets, rights and liabilities of the Tatiara Drainage Trust vest in the District Council of Tatiara. The drains and drainage works of the board or the council under the repealed Act continue to be vested in the relevant authority. The drains and drainage works of the Eight Mile Creek area that were vested in the Minister under the repealed Act now become the responsibility of the board. The Minister may continue to correct, if necessary, any of the drain vesting plans that were lodged under Part II of the repealed Act.

The Hon. D.C. WOTTON secured the adjournment of the debate.

SURVEY BILL

The Hon. S.M. LENEHAN (Minister of Lands) obtained lease and introduced a Bill for an Act to provide for the licensing and registration of surveyors and to make provisions relating to surveying and land boundaries; to repeal the Surveyors Act 1975; and for other purposes. Read a first time.

The Hon. S.M. LENEHAN: 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.

Mr Lewis: No.

The DEPUTY SPEAKER: Leave is not granted.

The Hon. S.M. LENEHAN: I apologise to other members of the House for taking up this huge amount of time, but it is not of my choice. It is the culmination of a review into the Surveyors Act 1975 which governs the surveying of land boundaries and the licensing and registering of surveyors. The review was mounted as part of an overall examination of the Department of Lands legislative program. The review identified a number of specific problems that needed to be addressed. It questioned the need for a Government board and separate committee to register, license and discipline surveyors; it proposed that the responsibility for the professional aspects of surveying be the domain of the South Australia Division of the Institution of Surveyors, and identified the Commercial Tribunal as the appropriate body to hear disciplinary actions against surveyors.

It highlighted problems in the current methods of controlling land survey requirements and recommended that more flexibility could be introduced by removing technical matters from regulations and allowing the Surveyor-General

to issue Administrative Instructions to cover these areas. The review also explored the specific surveying requirements of implementing the State's coordinated cadastre, it identified problems encountered in areas of poor original survey and posed solutions to the problems. The review concluded that, in order to bring about the proposed improvements, a completely new Act was appropriate.

As part of the review process, comments were sought from interested parties. A number of submissions were received from individuals working in the surveying arena, and associations representing both professional and paraprofessional surveyors. Continued dialogue has been maintained with these groups throughout the course of the review and their comments on draft proposals have been considered in the formulation of this Bill. A public meeting was also convened to provide a forum for the wider community to have input to the proposals.

Attention may now be given to specific aspects of the Bill. The object is to repeal the Surveyors Act 1975 and to provide new legislation for the licensing and registration of surveyors and to make provisions to ensure that the cadastral (land boundary) survey system is adequate to meet the needs of current and future South Australians. Under the provisions of the Surveyors Act 1975, the Government, through the Surveyors Board and Surveyors Disciplinary Committee, is responsible for the registration, licensing and disciplining of the State's surveyors.

The review of the Act questioned the need for direct Government involvement in these areas and concluded that they could be transferred to the South Australia Division of the Institution of Surveyors Australia (the institution), without diluting the standards of surveying currently enjoyed by the community. The institution is the professional body representing registered and licensed surveyors, and its membership includes virtually all such South Australian surveyors.

This Bill therefore establishes the legal framework within which the institution can license, register, investigate and discipline professional surveyors. It also vests the responsibility for major disciplinary actions against registered and licensed surveyors with the Commercial Tribunal. I seek leave to have the remainder of the second reading explanation incorporated in *Hansard* without my reading it.

Leave granted.

Remainder of Explanation

The tribunal can direct either the Surveyor-General or the institution to investigate complaints made against registered or licensed surveyors and, if it decides, may hold an inquiry into the complaint. The new Act will provide the tribunal with a range of disciplinary actions it may take against a surveyor it finds guilty of an offence. This body is also to provide the forum where a surveyor can appeal against a decision of the Institution of Surveyors. The costs of administering the registration and disciplining of surveyors are currently jointly met by the surveyors through registration fees, and the Governmnent. In order to ensure that the institution can assume the responsibilities of the Surveyors Board, the new Act allows it to set a levy payable on all plans deposited with the Registrar-General and signed by a licensed surveyor. Adopting this procedure will see the costs associated with administering the system being jointly met by surveyors through the payment of registration fees and that segment of the community that uses the surveyor's service.

In addition the Bill provides protection for the public. It makes it an offence for any person or company to hold out as a licensed or registered surveyor unless they are so endorsed by the institution. It maintains the requirement that only licensed surveyors can survey property boundaries. Before carrying out survey work for the public, a registered or licensed surveyor will need to be covered by professional indemnity insurance. The new legislation will also require surveyors to participate in continuing professional development courses as a condition of renewal of registration or licensing.

To ensure that the public and the surveying profession have input into land surveying matters, the Bill establishes the Survey Advisory Committee. This committee, to be chaired by the Surveyor-General will comprise representatives from the Government, the Institution of Surveyors and the public and will provide advice to the Minister on matters relating to cadastral surveying in South Australia. The new Bill also defines the role and responsibilities of the Surveyor-General as they relate to cadastral surveying. In particular, it empowers that office to issue administrative instructions in relation to technical matters affecting cadastral surveys and cadastral surveying. It also permits the carrying out of 'audit surveys' to ensure that appropriate standards of surveying practice are being met.

Survey marks in the form of wooden pegs or concrete permanent survey marks form the foundation of the State's land boundary system. As is the case with the current Surveyors Act, the new Act makes it an offence, except in specific circumstances, for any person other than a licensed surveyor to remove or otherwise interfere with these marks. In 1985 the Government commissioned a study to examine ways of improving the State's cadastral system. The study recommended that a Coordinated Cadastre be introduced, and the new Act allows the Surveyor-General to declare areas of the State where the Coordinated Cadastre applies. Complementary amendments to the Real Property Act require that, within these areas, the coordinates of the property boundaries will be evidence of their position.

In a number of areas of the State, the legal positions of boundaries disagree markedly with fences, buildings and other features which have over many years been accepted by landowners as marking the boundaries. This disagreement usually results from poor quality surveys in the early days of the survey of South Australia. This Bill provides that such areas can be defined and the boundaries therein determined by the principles of equity rather than common law. This will avoid the costly and time consuming actions which are currently required to remedy boundary problems in these areas.

This Bill is significant as it allows Government withdrawal from the regulation of a professional body while still ensuring that professional standards are maintained and the service to the public is not compromised. It also provides appropriate statutory backing to ensure that the State's cadastral survey system will meet the needs of all South Australians. The Government trusts this Bill will be well received and looks forward to its passage through Parliament and its successful implementation.

Clauses 1 and 2 are formal.

Clause 3 repeals the Surveyors Act 1975.

Clause 4 is an interpretation provision. The following definitions are of particular note:

'cadastral survey' means any process of determining the boundaries of land by the measurement of distances and angles (including measurement by means of an electronic device) or by photogrammetry;

'Institution of Surveyors' means the Institution of Surveyors, Australia, South Australian Division Incorporated;

'survey' means—

(a) a cadastral survey;

or

(b) any process of determining—
(i) the form of land:
or
(ii) the position of a point, object, structure or feature on or in land,
by the measurement of distances and angles (including measurement by means of an electronic device) or by photogrammetry.

Subclause (2) provides that a person who holds a licence as a surveyor is also to be taken to be registered as a surveyor. Part 2 deals with administrative matters relating to the Surveyor-General, the Survey Advisory Committee and the Institution of Surveyors.

Clause 5 establishes the position of Surveyor-General and requires that the person appointed to the position under the Government Management and Employment Act 1985 be eligible to be licensed or registered as a surveyor.

Clause 6 provides the Surveyor-General with power to delegate functions under this measure or under any other Act.

Clause 7 provides special powers to the Surveyor-General to enter land at any reasonable time for the purposes of performing his or her functions under the measure and to take such action as is necessary to enable those functions to be carried out effectively. These powers are similar to those given to surveyors generally in relation to the carrying out of a survey.

Clause 8 establishes the Survey Advisory Committee. It consists of the Surveyor-General, the Registrar-General, three persons appointed by the Minister (one of whom must be a person who is not a surveyor) and four persons appointed by the Minister on the nomination of the Institution of Surveyors. The terms and conditions of office of the appointed members are determined by the Minister and the Committee is subject to the direction of the Minister.

Clause 9 sets out the functions of the committee, namely:

(a) monitoring the operation of the measure and the law relating to surveying and making recommendations to the Minister with respect to those matters;

(b) exercising a general oversight over surveying, and the keeping of survey records, in this State and making recommendations to the Minister with respect to those matters;

(c) monitoring the operation of survey instructions in force under the measure and making recommendations to the Surveyor-General with respect to those instructions;

(d) carrying out such other functions as are assigned to it by the Minister.

Clause 10 sets out the functions of the Institution of Surveyors under the measure. These are:

(a) exercising a general oversight over the professional practice of surveyors;

(b) monitoring the standards of courses of instruction and training available to those seeking licensing or registration as surveyors and surveyors seeking to maintain or improve their skills in surveying practice;

(c) consulting with educational authorities in relation to the establishment, maintenance or improvement of courses;

(d) making recommendations to the Minister with respect to the above matters;

(e) carrying out such other functions as are assigned to it by the measure.

Clause 11 requires the Institution of Surveyors to make administrative arrangements necessary for the performance of its functions under the measure. Included is a provision requiring the Institution of Surveyors to give the Surveyor-General free access to the register of surveyors. The institution must consult the Minister in making these arrangements.

Clause 12 requires the Institution of Surveyors to keep separate accounts of fees and levies received under the measure and to have those accounts audited each calendar year. The clause also provides that the fees and levies may only be expended in carrying out functions assigned to the Institution of Surveyors by the measure.

Clause 13 requires the Institution of Surveyors to report annually to the Minister. The Minister is required to table the report in each House of Parliament. Part 3 contains the scheme for registration and licensing of surveyors.

Clause 14 makes it an offence for a person to place a survey mark on or in land unless the person is a licensed surveyor or is acting under the supervision of a licensed surveyor or the survey is carried out as part of a course of training approved by the Institution of Surveyors.

Clause 15 makes it an offence for a person to carry out a cadastral survey (a survey of the boundaries of land) for fee or reward unless the person is a licensed surveyor or is acting under the supervision of a licensed surveyor or the survey is carried out as part of a course of training approved by the Institution of Surveyors.

Clause 16 makes it an offence for a person to hold himself or herself out as a licensed surveyor if he or she is not one. It also makes it an offence for a person to hold out another as a licensed surveyor if that other is not one.

Clause 17 makes it an offence for a person to hold himself or herself out as a registered surveyor if he or she is not one. It also makes it an offence for a person to hold out another as a registered surveyor if that other is not one.

Clause 18 makes it an offence for a person to use the expression 'licensed surveyor' or 'registered surveyor' to describe himself or herself if he or she is not one. It also makes it an offence for a person to describe another as a licensed or registered surveyor in the course of advertising or promoting a service that he or she provides if that other is not one. The clause enables the regulations to reserve other expressions for the exclusive use of licensed or registered surveyors and to exempt persons of a specified class from the clause.

Clause 19 in effect, requires surveyors to carry professional indemnity insurance. The Institution of Surveyors may grant exemptions.

Clause 20 empowers a court in finding a person guilty of an offence against clauses 14 to 19 to disqualify that person from being licensed or registered under the measure permanently, for a specified period, until fulfilment of stipulated conditions or until further order.

Clause 21 provides for the making of applications to the Institution of Surveyors for a licence or registration.

Clause 22 governs the granting of a licence or registration. A natural person is eligible to be licensed or registered as a surveyor if the Institution of Surveyors is satisfied that the person:

(a) is a fit and proper person to be licensed or registered;

(b) has the qualifications required by the regulations (or qualifications and experience accredited as equivalent by a prescribed body);

(c) has the experience required by the regulations;
and

(d) fulfils all other requirements set out in the regulations.

A company is eligible to be licensed or registered as a surveyor if the Institution of Surveyors is satisfied that the memorandum and articles of association of the company

are appropriate to a company practising as a surveyor and contain certain stipulations including the following:

(a) an object of the company must be to practise as a surveyor and the remaining objects (if any) must be to practise in any one or more of the fields of engineering, town planning or any other field allowed by the regulations;

(b) the directors of the company must be natural persons;

(c) at least half of the directors of the company must be practising surveyors (practising licensed surveyors in the case of an applicant for a licence) and the remaining directors must be—

(i) surveyors;

(ii) persons holding qualifications in, and practising in, a field included in the objects of the company;

(iii) employees of the company;

or

(iv) in the case of a company with only two directors—a prescribed relative of the other director;

(d) at least half of the shares in the company must be owned beneficially by practising surveyors (practising licensed surveyors in the case of an applicant for a licence) who are directors or employees of the company and the remaining shares must be owned beneficially by—

(i) directors or employees of the company;

or

(ii) prescribed relatives of directors of the company;

(e) at least half of the voting rights exercisable at a meeting of the members of the company must be held by practising surveyors (practising licensed surveyors in the case of an applicant for a licence) who are directors or employees of the company;

(f) no director of the company may, without the approval of the Institution of Surveyors, be a director of any other company that is a surveyor.

The clause enables the Institution of Surveyors to license or register a person (including a company) who does not satisfy the eligibility criteria if satisfied that the lack of compliance with the criteria would not adversely affect the ability of the person to practise surveying. This power can only be exercised with the approval of the Minister.

An appeal against a decision to refuse to grant a licence or registration is provided later in the measure.

Clause 23 allows the Institution of Surveyors to grant a licence subject to specified conditions in order to enable a person to do whatever is necessary to become eligible for a full licence. An appeal against a decision to impose conditions is provided later in the measure.

Clause 24 provides that the term of a licence or registration is one calendar year.

Clause 25 provides for the issuing of licences or certificates of registration.

Clause 26 enables the Institution of Surveyors to establish a continuing education program that must be undertaken by licensed or registered surveyors. If a surveyor does not undertake the required program, the Institution of Surveyors may:

(a) renew the licence or registration subject to conditions;

(b) refuse to renew the licence or registration until specified conditions are fulfilled;

or

(c) refuse to renew the licence or registration.

An appeal against a decision to exercise these powers is provided later in the measure.

Clause 27 makes it an offence for a surveyor to breach any condition of the surveyor's licence or registration.

Clause 28 requires a company licensed or registered under the measure to report non-compliances with respect to the memorandum or articles of association of the company to the Institution of Surveyors and enables the institution to give such directions as are necessary to secure compliance.

Clause 29 requires a company licensed or registered under the measure to obtain the approval of the Institution of Surveyors to any alteration to its memorandum or articles of association.

Clause 30 prohibits a company licensed or registered under the measure from practising in partnership with any other person unless authorized to do so by the Institution of Surveyors.

Clause 31 limits the number of surveyors that may be employed by a company licensed or registered under the measure to twice the number of practising surveyors who are directors. The Institution of Surveyors may allow a greater number of surveyors to be employed in individual cases. A person who is both an employee and a director does not count as an employee for this purpose.

Clause 32 imposes joint and several liability on any company licensed or registered under the measure and its directors.

Clause 33 requires companies that are licensed or registered under the measure to lodge annual returns with the Institution of Surveyors.

Clause 34 sets out the circumstances in which a surveyor is liable to be disciplined. These are if the surveyor:

(a) has been guilty of conduct that constitutes a breach of the measure or has contravened or failed to comply with survey instructions (see clause 43);

(b) has obtained a licence or registration improperly;

(c) has failed to exercise proper care in carrying out a survey;

(d) has, in the course of surveying practice, committed an offence punishable by imprisonment for a period of one year or more or been guilty of improper or unethical conduct, incompetence or negligence.

Clause 35 provides for the lodging of complaints against surveyors with the Institution of Surveyors and requires the Institution to attempt to resolve complaints by conciliation.

Clause 36 provides for the investigation of complaints against surveyors by the Institution of Surveyors. The Institution of Surveyors may appoint a person to carry out an investigation and that person may require the surveyor under investigation, or a person who is or was the employer, employee or partner of the surveyor to produce records or equipment for inspection.

Clause 37 provides that the Institution of Surveyors may, after conducting an investigation, reprimand the surveyor or lodge with the Commercial Tribunal a complaint against the surveyor setting out matters that are alleged to constitute proper cause for disciplinary action. The clause requires the Institution of Surveyors to give the surveyor an opportunity to make representations before exercising powers under the clause. Any evidence of the commission of an offence against the measure found in the course of an investigation must be reported by the Institution of Surveyors to the Surveyor-General.

Clause 38 sets out the disciplinary powers of the Commercial Tribunal. The Surveyor-General, the Institution of Surveyors or any other person may lodge a complaint against

a surveyor with the tribunal. The tribunal may ask the Institution of Surveyors or the Surveyor-General to investigate the matter. If the tribunal is satisfied that proper cause exists for disciplinary action against the respondent, it may:

(a) reprimand the respondent;
(b) impose a fine not exceeding a division 5 fine (max. $8 000) on the respondent;
(c) impose conditions on the respondent's licence or registration restricting the right of the respondent to practise surveying;
(d) suspend the respondent's licence or registration for a specified period, until fulfilment of stipulated conditions or until further order;
(e) cancel the respondent's licence or registration;
(f) disqualify the respondent from being licensed or registered permanently, for a specified period, until fulfilment of stipulated conditions or until further order.

Clause 39 makes it an offence not to return, at the direction of the tribunal, a licence or certificate of registration that has been suspended or cancelled.

Clause 40 prohibits a person whose licence or registration is suspended or cancelled from undertaking work in connection with a survey without the prior approval of the tribunal. Any such approval may be subject to conditions.

Clause 41 provides that where a surveyor's licence or registration is suspended or cancelled elsewhere in Australia or in New Zealand it is also suspended or cancelled here.

Clause 42 provides for an appeal against decisions of the Institution of Surveyors to the Commercial Tribunal. The decisions that may be appealed against are as follows:

(a) granting of a conditional licence;
(b) refusal to grant a licence or registration;
(c) granting of a conditional renewal of a licence or registration;
(d) refusal to renew a licence or registration;
(e) a reprimand.

The appeal is to be conducted as a fresh hearing.

Part 4 deals with matters relevant to the Surveyor-General's role in surveying practice and to other general matters relevant to surveying practice.

Clause 43 provides for the making of survey instructions by the Surveyor-General after consultation with the Survey Advisory Committee. The instructions only relate to cadastral surveys. The instructions may include matters relating to the technical aspects of carrying out a cadastral survey and lodging survey plans. Survey instructions are to be promulgated in the *Gazette* or distributed to or brought to the notice of licensed surveyors by some other means approved by the Minister.

Clause 44 empowers the Surveyor-General to carry out an investigation in order to determine whether a survey plan lodged in the L.T.O. is defective in any respect or whether in relation to a cadastral survey there has been any contravention of survey instructions. The Surveyor-General may appoint a person to carry out the investigation and that person may require the surveyor under investigation, or a person who is or was the employer, employee or partner of the surveyor to produce records or equipment for inspection.

Clause 45 gives the Surveyor-General power to require a licensed surveyor to rectify any defects found in a survey pursuant to an investigation under the measure. The Surveyor-General must at the request of the surveyor concerned, refer a matter relating to a possible rectification of a survey to the Institution of Surveyors for advice. The clause makes it an offence to fail to comply with directions to rectify a defect and provides for the recovery of costs if the Surveyor-General carries out work to rectify the defect consequent upon that failure.

Clause 46 gives a surveyor, or a person authorised in writing by a surveyor, power to enter land at any reasonable time for the purposes of carrying out work in connection with a survey and to take such action as is necessary to enable the survey to be carried out effectively.

Clause 47 provides that a plan or document required by law to be signed or certified by a surveyor must be signed or certified by a surveyor who is a natural person. It also makes it an offence for a surveyor to certify as correct a plan prepared in connection with a survey that the surveyor did not carry out or supervise.

Clause 48 makes a surveyor liable for the acts or omissions of any persons employed by the surveyor in carrying out a survey. Part 5 contains provisions relating to the establishment of the coordinated cadastre for the State and to the definition of land boundaries in certain areas.

Clause 49 places the responsibility of establishing a coordinated cadastre for the State on the Surveyor-General. The clause provides that for that purpose the Surveyor-General may:

(a) establish and maintain a network of permanent survey marks;
(b) declare designated survey areas—areas in which surveys must be carried out by reference to the permanent survey marks;
(c) record the coordinates for land boundaries surveyed in designated survey areas;
(d) compare and adjust those coordinates when all land in an area has been surveyed by reference to the permanent survey marks;

and

(e) lodge a plan in the L.T.O. delineating the boundaries of land within the area on the basis of those adjusted coordinates.

An amendment to the Real Property Act 1886 travels with this measure. The amendment recognises the coordinated cadastre by providing that coordinates entered in the register through the means described above are to be accepted as rebuttable evidence of the boundaries of the land.

Clause 50 provides for the declaration by the Surveyor-General of a Confused Boundary Area where the Surveyor-General is satisfied that generally the occupation of land within the area does not accord to a substantial extent with the boundaries of land as shown in records or plans kept in the L.T.O.

Clause 51 provides that where a survey is conducted within a Confused Boundary Area the boundaries of the land surveyed must be determined on the basis of what is fair and equitable having regard to:

(a) existing physical boundaries;
(b) the length of time that those boundaries have departed from the boundaries as shown in any public records of survey or as marked by existing survey marks;

and

(c) all other relevant factors.

When the plan is lodged in the L.T.O. a copy is to be forwarded to the Surveyor-General for approval. The Surveyor-General is to give an opportunity to make representations on the plan to all persons with a registered interest in the land or adjoining land and to all other persons who have a registered interest that is likely, in the opinion of the Surveyor-General, to be directly or indirectly affected. The Surveyor-General may approve the plan with or without modifications and must notify the surveyor and the

persons referred to above of his or her decision. An appeal against the decision of the Surveyor-General may be lodged in the Land and Valuation Court by any person entitled to be notified of the decision. The appeal is to be conducted as a fresh hearing. Part 6 deals with miscellaneous matters.

Clause 52 makes it an offence to disturb, damage, remove, destroy or otherwise interfere with a survey mark. A general defence of lack of intention and knowledge appears in clause 56. Certain exceptions are built into the clause relating to interference in the course of the erection of a fence, the conduct of a survey or major works carried out in association with the division of land.

Clause 53 makes it an offence to hinder or obstruct a person in the exercise of a power conferred by the measure or to refuse or fail to comply with a requirement made by a person for the purposes of an investigation carried out pursuant to the measure.

Clause 54 makes it an offence to make a false or misleading statement in furnishing information required under the measure.

Clause 55 imposes an obligation to keep information derived from investigations under the measure confidential.

Clause 56 provides a general defence to offences against the measure—that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

Clause 57 provides that a person may be both convicted of an offence and have disciplinary action taken against him or her under the measure.

Clause 58 enables the Institution of Surveyors to charge a levy of an amount approved by the Minister on each plan certified as correct by a licensed surveyor and lodged in the L.T.O.. Under clause 12 the Institution of Surveyors must use the money in the administration of its functions under the measure.

Clause 59 provides that any approval given by the Minister, the Surveyor-General or the Institution of Surveyors under the measure must be in writing and may be conditional.

Clause 60 is an evidentiary provision relating to the register of surveyors.

Clause 61 provides that an offence against the measure is a summary offence and that a prosecution must be commenced within two years or such further period as the Minister allows.

Clause 62 makes provision for the methods of service of notice under the measure.

Clause 63 is a general regulation making power. It enables documents to be incorporated into the regulations by reference.

The schedule contains transitional provisions. It includes a provision allowing a company that was practising cadastral surveying before the commencement of the measure to continue to do so until the following 31 December, notwithstanding that its memorandum and articles of association do not comply with the requirements of the measure. Such a company will be taken to have been granted a licence. The provisions of the measure relating to the liability of directors etc. apply. At 31 December a company will have to comply with the provisions of the measure relating to the memorandum and articles of association of a company (and consequently the structure of a company) to be able to hold a licence, or to be registered, as a surveyor.

Mr LEWIS secured the adjournment of the debate.

SUMMARY OFFENCES (PREVENTION OF GRAFFITI VANDALISM) AMENDMENT BILL

The Hon. M.D. RANN (Minister of Youth Affairs) obtained leave and introduced a Bill for an Act to amend the Summary Offences Act 1953. Read a first time.

The Hon. M.D. RANN: 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

This Bill is an important part of the State Government's multi-pronged attack on graffiti vandalism. It signals the Government's intent that it wants tougher penalties for graffiti vandalism.

Graffiti vandalism—the tagging we see scrawled over public and private property—is a mindless, destructive act.

It costs this State millions of dollars each year to clean up this mess. These attacks on property impose costs on property owners but also on the Government, Councils and ultimately ratepayers and taxpayers.

The introduction of tough penalties for graffiti offences as provided for in this Bill is an essential step in sending a clear message to the community and the courts that graffiti vandalism is a serious offence. 'Marking graffiti' has been broadly defined to include 'defacing' of buildings, roads, and other property. Its seriousness is recognised in the proposed doubling of penalties in Section 48 from a division 8 penalty to a division 7 (up to $2 000 or six months imprisonment). (This doubling of penalties will also apply to the offence of fixing of bills or placards, also dealt with under Section 48).

This Bill also creates a new offence of 'carrying' a graffiti implement with the intention of using it to mark graffiti, or carrying a graffiti implement of a prescribed class without lawful excuse in a public place or a place on which the person is trespassing or has entered without invitation. The penalty for this offence is also a division 7 penalty.

The limiting of the offence of carrying a graffiti implement without lawful excuse to the places mentioned deliberately does not deal with the carrying of an implement on one's own property or in other private situations, for example at a friend's house.

The definition of a graffiti implement is similar to the provisions introduced recently in legislation in Victoria, including 'any implement capable of being used to mark graffiti'. However the offence of 'carrying without lawful excuse' applies only to implements of a prescribed class. This class has not been defined under the Regulations at this stage but will include only the most common items such as spray cans and wide felt tipped pens. In this way articles such as pens, lipsticks, boot polishes etc, can be legally carried unless they are specifically being carried with the intent of marking graffiti.

Section 5 of the Summary Offences Act already places the onus on the defendant to prove 'lawful authority'. An excuse that sounds plausible but cannot be backed up with proof will not be sufficient to have the charge dropped.

The new offences created by these amendments will apply to both juveniles and adults. The increased maximum penalties will not automatically apply to juveniles, who come under the Children's Protection and Young Offenders Act.

However the increased maximum penalties will send a message to the Children's Court that the Government considers graffiti vandalism to be a serious offence deserving

serious penalties. The Select Committee into the Juvenile Justice system will be considering penalties as part of its deliberations.

We must, of course, also tackle the problem at the source. The Government firmly believes that we need a range of measures including tougher penalties, rapid clean-up, community service orders, and also programs to divert young people away from graffiti vandalism into more productive activities.

Government and Retail Industry are together developing voluntary guidelines for the display and sale of graffiti implements. Retailers are establishing an impressive willingness to take up their share of the responsibility to take action on graffiti.

The Government is also pleased with the work already being done by some Councils in terms of rapid clean up initiatives. Rapid Clean up is important as part of the total package of us working together against graffiti vandalism. The issue of providing constructive alternatives to graffiti vandalism is also being addressed.

The overwhelming evidence from interstate and overseas suggests that long-term solutions to the underlying causes of graffiti vandalism are to be found in educative and preventative strategies in addition to the appropriate punitive measures.

A Graffiti Action Conference was recently held here in Adelaide in which participants heard of preventative and diversionary tactics that have proven successful here and interstate. After all it is success that we are interested in—success in reducing the incidence of graffiti vandalism through a variety of measures.

Looking further at the training and educational needs of diverting some of these potential graffiti vandals, a course is being developed in TAFE with visual and commercial art modules to provide an extra 'pathway' to refocus young people into gaining further education and training in expressive and visual arts fields.

We need to redirect their energies and talents from mindless vandalism into productive activities that are not only useful but can lead to worthwhile jobs.

However we are all aware that no matter how comprehensive our range of preventative, educative, and diversionary programs are, there will always be a few hard-core vandals who will persist with the mindless defacement of other people's property. It is particularly at these people that our tougher penalties are aimed. They must be made to realise the consequences of thoughtless and criminal actions.

Graffiti has been around since time immemorial, but we can make a concerted effort to wipe out as much as possible the mindless tagging and attacks on property.

Clause 1 is formal.

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

Clause 3 repeals the current section 48 of the Act and replaces it with the following provisions. Proposed section 48 (1) restates the offences of bill posting and defacing property in simpler terms. The offences now refer to bill posting on or damage to 'property'. 'Property' is defined in proposed subsection (4) to include 'a building, structure, paved surface or object of any kind'. This definition covers not only the objects currently enumerated in section 48 but also miscellaneous items such as motor vehicles or park benches. The penalties in relation to both offences are increased from a division 8 fine or imprisonment ($1 000 or 3 months) to a division 7 fine or division 7 imprisonment ($2 000 or 6 months).

Subsection (2) is amended to refer to property and to make it clear that orders for compensation for damage apply only to offences of posting of bills or marking graffiti and not to the new offences contained in proposed subsection (3). Subsection (3) creates two offences in relation to carrying graffiti implements. Subsection (3) *(a)* makes it an offence to carry a graffiti implement with the intention of using it to mark graffiti. Subsection (3) *(b)* makes it an offence to carry prescribed types of graffiti implements without a lawful excuse in a public place or when trespassing on private property. The penalty for these offences is a division 7 fine or division 7 imprisonment. Subsection (4) defines terms 'carry', 'graffiti implement', 'mark graffiti' and 'property'.

Mr INGERSON secured the adjournment of the debate.

DISTRICT COURT BILL

Second reading.

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

This Bill is one of several Bills travelling together which will significantly reform the system of justice in South Australia. Significant improvements in the system of justice in South Australia have been made by the Courts, the Parliament and the Government in recent years.

The Government recognises the important work that the judiciary has done and is continuing to do to improve the administration of justice in this state. The judiciary have introduced significant reforms to enable the courts to meet the demands placed on them. In many instances the courts have had to work within the framework of antiquated legislation. The Government believes that it, and this Parliament, have a responsibility to establish an appropriate legislative framework within which the judiciary can most effectively deliver justice.

The Government believes that the appropriate structure for the court system in South Australia is as follows:

- the jurisdiction of the Supreme Court should remain basically unaltered. That is, it should be the appellate court within the State and the trial court for more serious or complex trials;
- the District Court, constituted by its own act, should be the main trial court for both civil and criminal matters and should hear appeals from various administrative decisions;
- the Magistrate's Court, constituted by its own act should deal with committals, summary proceedings and the other jurisdiction presently exercised by the courts of summary jurisdiction and exercise the civil jurisdiction currently exercised by the local courts of limited jurisdiction and the small claims jurisdiction.

The Government believes that this new structure will have several advantages. Each court will be constituted by its own Act of Parliament and able to develop the procedures appropriate for its own jurisdiction.

The establishment of the District Court by its own Act of Parliament was recommended by a committee chaired

by the Senior Judge in 1984 and this bill is largely based on the recommendations of that committee.

This Bill constitutes and defines the District Court. The District Court, as it has now become known, was established in 1969 and commenced sitting in 1970. As a matter of expediency the new Court was, as it were, grafted on to the existing Local Courts Act. The Local Courts Amendment Act, 1969 provided for the appointment of judges and for the creation of new criminal and civil jurisdictions to be exercised by these judges. More recently the small claims jurisdiction has been established under the same Act. There are now three jurisdictions working within the same parameters.

Experience has shown that it is not conducive to the sound and efficient administration of justice for these three jurisdictions to go hand in hand. Some of the procedures adopted in consequence of the provisions of the Local Courts Act are not appropriate for claims of the magnitude now dealt with in the civil jurisdiction of the District Court. Likewise, some of the procedures that are needed for more substantial matters are not needed and are over-expensive for minor matters.

It will be seen that the new Act is relatively short, dealing basically with such matters as the constitution and jurisdiction of the Court, with some evidentiary and other powers of the court. The new Act has few sections compared with 342 in the Local and District Criminal Courts Act.

The Act does not deal with matters of court practice and procedure. These matters will be regulated by Rules of Court. This is the position in most of the other states in Australia. The regulation of the practices and procedures of the court by Rules of Court means that those primarily charged with the responsibility of ensuring the smooth progress of work through the Court should also have the responsibility of setting the rules of practice to ensure that such end is achieved. Parliament, of course, will retain its overriding control by virtue of its powers with regard to subordinate legislation.

The criminal jurisdiction of the court has been altered to remove a number of anomalies. At present, the jurisdiction is defined in terms of the maximum penalty that may be imposed in respect of an offence. A District Court may deal with any offence where the maximum penalty does not exceed imprisonment for 15 years. This produces some strange anomalies. For example, the District Court may try a person charged with attempted rape, but may not try a person charged with the completed offence.

The Government considers that certain offences should always be tried in the Supreme Court. The offences of murder, attempted murder, treason, and offences which by virtue of any special Act are to be triable in the Supreme Court and all other offences are to be triable in both the Supreme Court and the District Court. The magistrates, upon committing an accused person for trial or sentence, will decide which court would be the more appropriate for the particular case. Magistrates already do this in respect of group II offences under section 136 of the Justice Act, 1921.

As to the civil jurisdiction of the courts, no changes are made in the classes of action which may be heard, however it will be seen that the jurisdiction is no longer defined in monetary terms. The monetary limit to the jurisdiction of the District Court can lead to some very arbitrary results. It can lead, and indeed has led on occasions, to the unfortunate result of persons who have chosen to proceed in the lower court not recovering the full amount to which the court has held they were entitled.

To ensure that a matter is tried in the appropriate court provision is made for a judge of the Supreme Court to order that proceedings commenced in one court be transferred to the other court. This provision also allows for a more flexible use of judicial resources. It will allow the Supreme Court to enlist the aid of a District Court judge if the Supreme Court is in difficulty in meeting its commitments. Likewise, if the position should arise that a Supreme Court judge is left without a case to try, while the District Court is unable to meet its commitments, it will be possible for the Supreme Court judge to hear and determine a District Court matter.

A new Administrative Appeals Division of the District Court is established. There are many appeal tribunals, established under various Acts of Parliament, which are presided over by a District Court judge. Some Acts of Parliament require the nomination of a particular District Court judge while others merely specify a District Court judge. It is the Government's intention that each of these bodies should be examined and, where appropriate, the appellate jurisdiction should be conferred on the Administrative Appeals Division rather than on a separate tribunal. It is recognised that in some instances rights of appeal will be best left to lie to the appellate bodies presently in existence but it is envisaged that many appeal rights can be transferred to the new Division.

The creation of this Administrative Appeals Division will allow greater flexibility in the use of judicial resources and greater efficiency by having a common set of procedures for administrative appeals. Provision is made for the court to sit with lay members (called assessors in the bill) when determining Administrative Appeals. This will allow the *status quo* to be preserved in those cases where the appellate tribunal presently has lay, ie non legal, members.

Clauses 1 and 2 are formal.

Clause 3 is an interpretation provision.

Part II establishes the District Court and sets out its structure and jurisdiction.

Clause 4 establishes the District Court of South Australia.

Clause 5 provides that it is a Court of record.

Clause 6 provides for seals of the Court and contains an evidentiary aid in relation to documents apparently sealed with a seal of the Court.

Clause 7 sets out the structure of the Court. It is to have 4 divisions: the Civil Division, the Criminal Division, the Criminal Injuries Division and the Administrative Appeals Division.

Clause 8 gives the Court the same civil jurisdiction as the Supreme Court at first instance except that it has no jurisdiction in probate or admiralty, no supervisory jurisdiction except as expressly conferred by statute with respect to inferior courts or tribunals or with respect to administrative acts and no jurisdiction to grant relief in the nature of a prerogative writ.

The Criminal Injuries Division has the jurisdiction conferred on it by the Criminal Injuries Compensation Act 1978. The Administrative Appeals Division has the jurisdiction conferred on the Administrative Appeals court by statute. The court is also given any other civil jurisdiction conferred by statute.

Clause 9 gives the Court jurisdiction to try a charge of any offence except treason or murder, or a conspiracy or attempt to commit, or assault with intent to commit, either of those offences.

The Court is given jurisdiction to convict and sentence, or to sentence, a person found guilty on trial, or on his or her own admission, of such an offence.

The Court is also given any other criminal jurisdiction conferred by statute.

Part II sets out the composition of the Court.

Clause 10 provides that the Court's judiciary consists of the Chief Judge, the other Judges and the Masters. It also provides that a Master is, while holding that office, also a Magistrate.

Clause 11 provides that the Chief Judge is the principal judicial officer of the Court and is responsible for the administration of the Court.

The clause provides that in the absence of the Chief Judge from official duties, responsibility for administration of the Court devolves on a Judge appointed by the Governor to act in the Chief Judge's absence or, if no such appointment has been made, on the most senior of the other Judges who is available to undertake that responsibility.

Clause 12 provides that appointments to judicial office in the Court are to be made by the Governor.

The clause sets out the following eligibility criteria:

- a person is not eligible for appointment as the Chief Judge unless that person is a legal practitioner of at least 10 years standing;
- a person is not eligible for appointment as a Judge unless that person is a legal practitioner of at least 7 years standing;
- a person is not eligible for appointment as a Master unless that person is a legal practitioner of at least 5 years standing.

The clause enables the Governor to appoint a person who is eligible for appointment to judicial office, or who has held but retired from judicial office, to act in a judicial office (except the office of Chief Judge) for up to one year.

Clause 13 provides that the Remuneration Tribunal is to determine the remuneration of the Chief Judge and the Judges. It also provides that a Master is entitled to the same remuneration as a Magistrate in Charge.

Clause 14 gives Judges the same leave entitlements as Judges of the Supreme Court and Masters the same leave entitlements as Magistrates.

Clause 15 provides that a Judge cannot be removed from office except on an address from both Houses of Parliament praying for his or her removal. It also provides that removal or suspension of a Master is subject to the decision of the Chief Judge.

Clause 16 requires a Judge to retire on reaching the age of 70 years and a Master to retire on reaching the age of 65 years.

Clause 17 provides for the following administrative and ancillary public servants:

- the Registrar;
- the Deputy Registrars;
- any other persons appointed to the non judicial staff of the Court.

Clause 18 provides that the Registrar is the Court's principal administrative officer and that any appointment to or removal from that office is subject to the decision of the Chief Judge.

Clause 19 provides that the administrative and ancillary staff are responsible to the Chief Judge.

Part IV contains provisions pertaining to the sittings and distribution of business of the Court.

Clause 20 provides that the Court may be constituted of a Judge, a Judge sitting with a jury in criminal matters, or a Master where the Court's jurisdiction may be exercised by a Master. The clause provides that if an Act conferring jurisdiction on the Administrative Appeals Division provides that the Court is to be constituted of a Magistrate it will be so constituted. An Act may provide that the Administrative Appeals Division is to sit with assessors. The special Act must set out how assessors are selected. Questions of law or procedure are to be determined by the presiding Judge or Magistrate, other questions, by majority opinion.

Clause 21 allows the Chief Judge to determine the sitting times and places of the Court. It also provides that the Governor may, by proclamation, appoint a place in the State as a District Court Registry. It also enables the Court to sit outside the State and on a Sunday.

Clause 22 gives the Court power to adjourn proceedings and to transfer proceedings from place to place.

Clause 23 requires proceedings to be open to the public unless an Act or rule otherwise requires.

Clause 24 enables a Judge of the Supreme Court to order that civil or criminal proceedings in the District Court be transferred to the Supreme Court or that civil or criminal proceedings in the Supreme Court be transferred to the District Court. It also enables a Judge of the District Court to order proceedings to be transferred to the Supreme Court. Part V gives the Court certain evidentiary powers.

Clause 25 gives the Court powers to require the attendance of witnesses before the Court and the production of evidentiary material to the Court or to a nominated officer of the Court.

Clause 26 provides for contempt of the Court by persons called to give evidence or to produce evidentiary material.

Clause 27 empowers the Court, or a person authorised by the Court to enter property and to carry out an inspection that the Court considers relevant to a proceeding before the Court. It also provides that it is a contempt of Court to obstruct such entry or inspection.

Clause 28 deals with the attendance before the Court of a person held in custody.

Clause 29 provides for issuing of a summons or notice on behalf of the Court. Part VI contains special provisions relating to the Court's civil jurisdiction.

Clause 30 enables the Court to grant an injunction or make any other order that may be necessary to preserve the subject-matter of an action intact until the questions arising in the action have been finally determined.

Clause 31 provides for the making of restraining orders by the Court. These are orders preventing or restricting dealing with property of a defendant to an action. A restraining order may be made if the following requirements are satisfied:

- the action appears to have been brought on reasonable grounds;
- the property may be required to satisfy a judgment that has been, or may be, given in the action;
- there is a substantial risk that the defendant will dispose of the property before judgment is given, or before it can be enforced.

The clause contains other provisions supporting the making of such orders including a provision making it a contempt of Court to contravene an order.

Clause 32 enables the Court to attempt to achieve a negotiated settlement of an action or to appoint a mediator to endeavour to achieve a negotiated settlement.

Clause 33 enables the Court to refer an action or any issues arising in an action for trial by an arbitrator. The arbitrator may be appointed either by the parties to the action or by the Court. The clause provides that the Court must have good reason to depart from the award of the arbitrator.

Clause 34 enables the Court to refer any question of a technical nature arising in an action for investigation and report by an expert in the relevant field. The Court is given a discretion as to the adoption of the whole or any part of such a report.

Clause 35 provides for the merger of law and equity but provides that the rules of equity prevail in the case of any conflict.

Clause 36 empowers the Court to grant forms of relief not sought by the parties.

Clause 37 empowers the Court to make binding declarations of right whether or not any consequential relief is or could be claimed.

Clause 38 enables the Court to give a declaratory judgment as to liability and postpone judgment as to the amount of damages. It contains various provisions in support of the just operation of such a postponement.

Clause 39 provides that the Court will normally include an award of interest in a judgment in relation to a period prior to judgment. It enables the Court to award a lump sum instead of interest. Principles to be applied and limitations on the award are set out in the clause.

Clause 40 provides that a judgment debt bears interest at a rate set out in the rules.

Clause 41 enables the Court to order payment of money to a child who is a party to an action and provides for the giving of a valid receipt by the child.

Clause 42 deals with the award of costs in civil proceedings at the discretion of the Court, including an award against a legal practitioner if proceedings are delayed through the neglect or incompetence of the practitioner. It provides that no order for costs will be made in favour of the plaintiff if, in effect, the action should have been brought in the Magistrates Court. It also allows the Court to order a legal practitioner or witness to pay compensation to the Court for wasting the Court's time. Part II deals with appeals and reservation of questions of law.

Clause 43 gives a party to an action a right to appeal. In the case of an interlocutory judgment given by a Master, the appeal is to a Judge of the Court. In the case of an interlocutory judgment given by a Judge the appeal is to the Supreme Court constituted of a single Judge. In any other case, the appeal is to the Full Court. The clause limits the right of appeal in the case of a judgment of the Administrative Appeals Division. An appeal lies as of right on a question of law and by leave of the Supreme Court on a question of fact unless the special Act under which the jurisdiction is conferred provides otherwise.

Clause 44 allows a Master to reserve a question of law arising in an action for determination by a Judge. It also allows a Judge to reserve any question of law arising in an action for determination by the Full Court of the Supreme Court.

Clause 45 provides that this Part does not apply in respect of appeals and reservations of questions of law in criminal proceedings to which Part XI of the Criminal Law Consolidation Act 1935 is applicable. Part VIII contains miscellaneous provisions.

Clause 46 provides a Judge, Master or assessor with the same privileges and immunities from civil liability as a Judge of the Supreme Court. It also protects nonjudicial officers from civil or criminal liability.

Clause 47 provides for contempt in the face of the Court.

Clause 48 provides that the Court may punish a contempt (whether committed in the face of the Court or arising from non-compliance with an order) by imposing a fine (without limit) or committing to prison for a specified term (without limit) or until the contempt is purged.

Clause 49 gives the Registrar responsibilities in relation to money paid into the Court and securities delivered to the Court in connection with proceedings in the Court. It provides that the Treasurer guarantees the safe keeping of any such money or security. It enables the money to be invested and provides that the Unclaimed Moneys Act applies to the money in appropriate circumstances.

Clause 50 allows process to be served on a Sunday and provides that the validity of process is not affected by the fact that the person who issued it dies or ceases to hold office.

Clause 51 provides for the making of Rules of Court by the Chief Judge and two or more other Judges.

Clause 52 sets out special rules as to evidence and procedures in the Administrative Appeals Division. It provides that the Court is not bound by the rules of evidence but may inform itself in any matter it thinks fit and that the Court must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

Clause 53 provides regulation making power for the imposition of court fees and allows the Court to remit or reduce fees.

Clause 54 provides for accessibility of court documents. The fees for inspection or copies are to be fixed in the regulations.

Mr INGERSON secured the adjournment of the debate.

MAGISTRATES COURT BILL

Second reading.

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

Once the decision was made to constitute the District Court under a separate Act of Parliament it was evident that extensive amendment would need to be made to the Local and District Criminal Courts Act and that the opportunity should be taken to review the procedures of the local courts of limited jurisdiction and the appropriate structure under which magistrates should exercise both their civil and criminal jurisdiction. The Government believes that the creation of a Magistrates Court with a civil and criminal jurisdiction is the appropriate structure.

This Bill establishes the Magistrates Court, confers jurisdiction on the Court, provides for some evidentiary powers common to both the civil and criminal jurisdiction of the new court and sets out some special provisions as to the court's civil jurisdiction (including the small claims jurisdiction). The criminal jurisdiction of the court will continue to be governed by the Justices Act 1921. As with the District Court Bill which I have just introduced, the Magistrates Court Bill is relatively short. It does not deal with matters of court practice and procedures. Approximately 230 sections of the Local and District Criminal Courts Act deal with procedures that are more appropriately left to Rules of Court. Simplified procedures in the Magistrates Court will enable the great volume of straight forward court business to be dealt with in the most efficient manner and to restrain the ability of either party to cause increase in cost or delay to suit its own purpose.

Changes are made to the civil jurisdiction exercised by magistrates. The monetary limits are increased. The small claims limit is increased from $2 000 to $5 000. The court is given jurisdiction to determine claims for damages or

compensation for injury damage or loss caused by, or arising out of, the use of a motor vehicle of up to $60 000, and in other cases, up to $30 000. The previous limit was $20 000 in all cases. The Court is also given jurisdiction in actions to obtain or recover title to, or possession of real or personal property where the value of the property does not exceed $60 000. It is given jurisdiction in interpleader actions also where the value of the property does not exceed $60 000.

More importantly the court is given an equitable jurisdiction. Hitherto Magistrates have only had an equitable jurisdiction that is incidental or ancillary to, and necessary or expedient for the just determination of, proceedings before them.

There is no justification for maintaining such a state of affairs. Rules of equity have now lost much of their mystique together with much of the difficulty that was once thought to surround them. Appointments to the Magistracy must be made from legal practitioners of at least five years standing who in the course of their practice will have experienced equitable rules simply as part of the general law applied to the determination of all cases.

Provision is made for a Judge of the District Court to order civil proceedings commenced in the Magistrates Court to be transferred to the District Court and for proceedings commenced in the District Court to be transferred to the Magistrates Court.

Legal Practitioners whose actions delay or contribute to delaying proceedings may be penalised by having costs disallowed or by being ordered to repay costs or indemnify a party. This provision is similar to the existing Rule 186A (2).

The provisions relating to the small claims jurisdiction have been rewritten to emphasise the role the court should play in arriving at a resolution of small claims. The Rules of Court will provide for simplified procedures in the small claims jurisdiction. The system is presently excessively complex given the nature of its jurisdiction, and too formal and trial directed.

At present a claim is not justiciable as a small claim where a plaintiff makes a small claim but also seeks relief in addition to a judgment for a pecuniary sum. This limitation has severely curtailed the usefulness of the jurisdiction for resolving the many minor disputes which occur between, for example, neighbours. A small claim now includes a 'neighbourhood dispute' for which the court may grant injunctive or declaratory relief.

Clauses 1 and 2 are formal.

Clause 3 is an interpretation provision.

A minor civil action is defined as a small claim (an action founded on a monetary claim for $5 000 or less), a claim for relief in relation to a neighbourhood dispute or an application under the Fences Act 1975. A neighbourhood dispute is in turn defined as a dispute between neighbours or the occupier of properties in close proximity based on allegations of trespass or nuisance. The clause provides that if the action involves a monetary claim exceeding $5 000, a party may elect to have the action removed to the Civil (General Claims) Division. Part II deals with the establishment, structure and jurisdiction of the Magistrates Court.

Clause 4 establishes the Magistrates Court of South Australia.

Clause 5 provides that it is a court of record.

Clause 6 provides for seals of the court and an evidentiary aid in relation to documents apparently sealed with a seal of the court.

Clause 7 sets out the structure of the court. It is to have 3 divisions: the Civil (General Claims) Division, the Civil (Minor Claims) Division and the Criminal Division (which is a court of summary jurisdiction).

Clause 8 gives the Court the following civil jurisdiction:

- to hear and determine an action (at law or in equity) for a sum of money where the amount claimed does not exceed $30 000 or, if the claim is for damages or compensation for injury damage or loss caused by, or arising out of, the use of a motor vehicle, $60 000;
- to hear and determine an action (at law or in equity) to obtain or recover title to, or possession of, real or personal property where the value of the property does not exceed $60 000;
- to hear and determine an interpleader action where the value of the property to which the action relates does not exceed $60 000;
- to grant any form of relief necessary to resolve a minor civil action.

The clause also provides that parties to an action may waive any monetary limit on the civil jurisdiction of the court, and, in that event, the Court will have jurisdiction to determine the action without regard to that limitation.

Clause 9 gives the court the following criminal jurisdiction:

- to conduct a preliminary examination of a charge of an indictable offence;
- to hear and determine a charge of a minor indictable offence;
- to hear and determine a charge of a summary offence.

Clause 10 provides that the court has any other jurisdiction conferred on it by statute and that the rules may assign a particular statutory jurisdiction to the Civil (General Claims) Division or the Criminal Division. Part III contains matters pertaining to the administration of the court.

Clause 11 provides that the Chief Magistrate is the principal judicial officer of the court and is responsible for the administration of the court. In the absence of the Chief Magistrate from official duties, responsibility for administration of the court devolves on the Deputy Chief Magistrate and, if both are absent, on a Magistrate appointed by the Governor to act in the absence of the Chief Magistrate.

Clause 12 provides for the following administrative and ancillary public servants:

- the Principal Registrar;
- the Registrars;
- the Deputy Registrars;
- the Magistrates' clerks;
- the Listing Co-ordinator;
- any other persons appointed to the non judicial staff of the court.

Clause 13 provides that they Principal Registrar is the court's chief administrative officer and that any appointment to that office or removal from that office is subject to the decision of the Chief Magistrate.

Clause 14 makes administrative and ancillary staff responsible to the Chief Magistrate.

Clause 15 provides that a Special Justice or two Justices may constitute the court if there is no Magistrate available to constitute the court or if the court allows parties to object. If a party does object the proceedings must be adjourned for hearing by a Magistrate. Otherwise the court, when sitting to adjudicate on any matter, must be constituted of a Magistrate.

The clause further provides that a Registrar or Justice may issue summons and warrants on behalf of the court, adjourn proceedings before the court or exercise any procedural or non judicial powers assigned by rules.

Clause 16 allows the Chief Magistrate to determine the sitting times and places of the court and the Governor to determine the places at which registries will be maintained.

It also enables the court to sit outside the State and on a Sunday.

Clause 17 gives the court power to adjourn proceedings and to transfer proceedings from place to place.

Clause 18 requires the court's proceedings to be open to the public unless the Act or Rules provide otherwise.

Clause 19 enables a Judge of the District Court to order that civil proceedings commenced in the Magistrates Court be transferred to the District Court or that civil proceedings commenced in the District Court (but which lie within the jurisdiction of the Magistrates Court) be transferred to the Magistrates Court. The clause also enables a Magistrate to transfer proceedings to the District Court. Part IV gives the court certain evidentiary powers.

Clause 20 gives the court powers to require the attendance of witnesses before the court and the production of evidentiary material to the court or to a nominated officer of the court.

Clause 21 provides for contempt of the court by persons called to give evidence or to produce evidentiary material.

Clause 22 empowers the court, or a person authorised by the court to enter property and to carry out an inspection that the court considers relevant to a proceeding before the court. It also provides that it is a contempt of court to obstruct such entry or inspection.

Clause 23 deals with the attendance before the court of a person held in custody.

Clause 24 provides for issuing of a summons or notice on behalf of the court. Part V contains special provisions relating to the court's civil jurisdiction.

Clause 25 empowers the court to grant certain injunctions or other orders to preserve the subject matter of an action.

Clause 26 empowers the court to make a restraining order to prevent or restrict dealing with property of a defendant that may be required to satisfy a judgment that has been, or may be, given in the action.

Clause 27 enables the court to attempt to achieve a negotiated settlement of an action or to appoint a mediator to do so.

Clause 28 enables the court to refer an action or any issues arising in an action for trial by an arbitrator. The court is to adopt the award of the arbitrator as its judgment unless good reason is shown to the contrary.

Clause 29 enables the court to refer any question of a technical nature for investigation and report by an expert in the relevant field.

Clause 30 provides for the merger of law and equity in the exercise of the court's jurisdiction, but that in the event of a conflict, the rules of equity are to prevail.

Clause 31 empowers the court to grant forms of relief not sought by the parties.

Clause 32 empowers the court to make binding declarations of right.

Clause 33 enables the court to give a declaratory judgment as to liability and postpone judgment as to the amount of damages. It contains various provisions in support of the just operation of such a postponement.

Clause 34 provides that the court will normally include an award of interest in a judgment in relation to a period prior to judgment. It enables the court to award a lump sum instead of interest. Principles to be applied and limitations on the award are set out in the clause.

Clause 35 provides that a judgment debt bears interest at a rate set out in the rules.

Clause 36 enables the court to order payment of money to a child who is a party to an action and provides for the giving of a valid receipt by the child.

Clause 37 deals with the award of costs in civil proceedings at the discretion of the court, including an award against a legal practitioner if proceedings are delayed through the neglect or incompetence of the practitioner and an award against a witness who fails to appear on a summons.

Clause 38 contains provisions relating to minor civil actions (small claims). The court should attempt a negotiated settlement. If that is not successful, the court is to conduct an inquiry on a more informal basis. After giving judgment, the court should give the person in whose favour the judgment is given advice and assistance as to enforcement and should investigate the means to pay of the person against whom the judgment is given and take any further action appropriate in view of the results of that investigation.

The clause provides that representation of a party by a legal practitioner will only be permitted in limited circumstances. It allows a party to be assisted by another if that other is not a legal practitioner and is not paid.

Costs for getting up the case for trial, or by way of counsel fees, will not be awarded unless all parties were represented by counsel, or the court is of opinion that there are special circumstances justifying the award of such costs.

A party may apply for a review of the proceedings by a single Judge of the District Court. The District Court may give any judgment that should, in the opinion of the District Court, have been given in the first instance.

Clause 39 allows parties to a minor civil action to litigate any issues arising in that action again in different proceedings based on a different claim. Part VI deals with appeals and reservation of questions of law (other than in minor civil actions).

Clause 40 gives parties to a civil action the right to appeal to a single Judge of the Supreme Court. The single Judge may refer the appeal for hearing and determination by the Full Court.

Clause 41 allows the court to reserve any question of law arising in a civil action for determination by the Supreme Court.

Clause 42 gives parties to a criminal action relating to an industrial offence the right to appeal to the Industrial Court and to any other criminal action the right to appeal to the Supreme Court. (See the classification of offences under the Justices Amendment Bill.) In the case of an appeal related to a minor indictable offence, the appeal will be to the Full Court of the Supreme Court unless the appellant elects to refer it to a single Judge.

Clause 43 allows the court to reserve any question of law arising in a criminal action for determination by a superior court—in the case of an action relating to an industrial offence, the Industrial Court and, in any other case, the Supreme Court (the Full Court unless the parties agree to refer it to a single Judge). Part VIII contains miscellaneous provisions.

Clause 44 provides a magistrate or other person exercising the jurisdiction of the court with the same privileges and immunities from civil liability as a judge of the Supreme Court. Non-judicial officers incur no civil or criminal liability for honest acts in carrying out official functions.

Clause 45 provides for contempt in the face of the court.

Clause 46 provides that the court may punish a contempt by imposing a fine (not exceeding a Division 5 fine) or committing to prison for a specified term (not exceeding Division 5 imprisonment) or until the contempt is purged.

Clause 47 gives the Registrar responsibilities in relation to money paid into the court and securities delivered to the court in connection with proceedings in the court. It provides that the Treasurer guarantees the safe keeping of any

such money or security. It enables the money to be invested and provides that the Unclaimed Moneys Act applies to the money in appropriate circumstances.

Clause 48 allows process to be served on a Sunday and provides that the validity of process is not affected by the fact that the person who issued it dies or ceases to hold office.

Clause 49 provides for the making of Rules of Court by the Chief Magistrate, the Deputy Chief Magistrate and any two or more other magistrates

Clause 50 provides regulation making power for the imposition of court fees and allows the court to remit or reduce fees.

Clause 51 provides for access to transcripts of evidence, documentary material admitted into evidence and judgments or orders.

Mr INGERSON secured the adjournment of the debate.

STATUTES REPEAL AND AMENDMENT (COURTS) BILL

Second reading.

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

It contains amendments consequential on the restructuring of the court system. I wish to draw attention to clause 5—the repeal of the Debts Repayment Act 1978. The Debts Repayment Act was one of a package of Acts dealing with the repayment of debts and the enforcement of judgments, enacted in 1978. None of the Acts are in operation.

The Debts Repayment Act provided for a debtor's assistance office. Counsellors attached to this office would provide debt counselling for any member of the public who wanted it. They would negotiate with creditors to try to arrive at satisfactory arrangements for settling debts, and they would help to formulate schemes which would have the backing of the Act for the regular payment of debts. Any such scheme would have been subject to the approval of the (then) Credit Tribunal.

When this package of legislation was being examined in 1979 with a view to bringing it into operation, the cost of the Debts Repayment Act was estimated, in the first full year, to be some $895 000 if administered by the Department of Public and Consumer Affairs. The cost of administration by the then Department for Community Welfare was estimated to be $482 000. An update of the costings in 1986 estimated that, if the Act was administered by the Department of Public and Consumer Affairs, the cost would be $2 400 000 and, if administered by the Department for Community Welfare, the cost would be $1 872 000.

Apart from the cost concerns, consideration of bringing the Acts into operation was deferred when the Commonwealth Government announced it would be implementing the Australian Law Reform Committee Report—Insolvency: the regular payment of debts. This legislation would have covered the area covered by the Debts Repayment Act and obviated the need for State Legislation.

The Commonwealth Attorney-General in the late 1980s announced that he would not be proceeding with Commonwealth legislation on account of the cost of administering any such legislation. Commonwealth legislation would have overcome the major problem inherent in the State legislation. That is the problem that a State law cannot prevent a creditor taking advantage of the Commonwealth law relating to bankruptcy. A carefully crafted repayment of debts scheme under the State law could be undone if one creditor would not go along with the scheme and instituted bankruptcy proceedings.

Over the years there has been a growth in the number of organisations providing debt counselling services. These include the Budget Advice Service offered by the Department for Family and Community Services which commenced in 1976. These Government and non-Government services are doing informally much of what the debts repayment legislation would have formalised. Looked at realistically the costs of implementing the 1978 Act are prohibitive and are always likely to be so. The sensible thing to do is to acknowledge this and repeal the Act. Amendments to the Supreme Court Act provide for the court's non-judicial staff in the same way as the District Court and Magistrates Court Bills provide for their non-judicial staff. A similar provision is made for public access to court documents.

Clause 8f amends the Residential Tenancies Act 1978 to increase the jurisdiction of the Residential Tenancies Tribunal from $2 500 to $25 000. The Tribunal's jurisdiction has not been increased since the Act was introduced in 1978. At that time the small claims limit was $500. This amendment brings the two jurisdictions back into parity. Other provisions which I wish to draw attention to are those which amend the Criminal Law Consolidation Act and the Controlled Substances Act.

The amendments to the Criminal Law Consolidation Act make common assault a summary offence, and reclassify the offences relating to criminal damage to property in line with the general reclassification provisions in the Justices Amendment Bill. In general terms, damage exceeding $25 000 will be major indictable, damage between $25 000 and $2 000 will be minor indictable, and damage under $2 000 will be summary.

The Controlled Substances Act amendments make the manufacture, production, sale or supply of limited amounts of cannabis or cannabis resin summary offences. These amounts are amounts less than one-fifth the amount prescribed under section 32 (5). The statistics show that, in practice, sentences actually imposed in relation to these offences invariably fall within the range appropriate to a court of summary jurisdiction. The manufacture, production, etc., of prohibited substances of less than one-fifth the amount prescribed by the section is made a minor indictable offence. Once again, the statistics show that the penalties imposed invariably fall within the minor indictable range. This Bill also contains the transitional provisions for the package.

Clauses 1 and 2 are formal.

Clause 3 repeals the Local and District Criminal Courts Act 1926 which is replaced by the District Courts Bill and Magistrates Courts Bill.

Clause 4 repeals the Enforcement of Judgments Act 1978 which is replaced by the Enforcement of Judgments Bill.

Clause 5 repeals the Debts Repayment Act 1978.

Clause 6 amends the Debtors Act 1936 consequential on the Enforcement of Judgments Bill. Paragraphs *(c)* and *(d)* of section 3 are struck out. Those paragraphs allowed arrest and imprisonment for debt in the case of a trustee, auctioneer, bailiff, messenger or person acting in a fiduciary capacity, or legal practitioner ordered to pay an amount by a court. Subparagraph (iii) of the proviso to section 3 is

substituted. It ensures that powers of arrest or imprisonment under the Enforcement of Judgments Bill are not affected.

Clause 7 amends the Mercantile Law Act 1936 consequential on the Enforcement of Judgments Bill. Section 18 which dealt with the attachment of wages is repealed. The matter is dealt with in the Bill.

Clause 8 provides that certain Imperial Acts have no force or effect in the State (56 Geo III c. 50 and 8 Anne c.14). This provision continues the negation of those Acts contained in the Enforcement of Judgments Act 1978.

Clause 9 amends the Supreme Court Act 1935. Section 35 dealing with absconding debtors is repealed as the matter is covered in the Enforcement of Judgments Bill. Section 40 dealing with costs is amended to provide that costs are generally not recoverable in respect of an action that should have been brought in the District Court. Section 72 is amended to enable rules of court to confer power to tax costs on the registrar or other member of the non-judicial staff.

Section 82 is amended insofar as it relates to the appointment of the Registrar. The appointment of administrative and ancillary staff is dealt with in new section 110a. The staff are responsible to the Chief Justice under new section 110b. Section 114 (2) relating to the taxing of costs is brought into line with the District Court and Magistrates Court provisions. A new section 131 relating to accessibility of evidence and other court documents is included and is equivalent to provisions included in the District Court and Magistrates Court Bills.

Clause 10 amends the Children's Protection and Young Offenders Act consequential on the classification of offences contained in the Justices Amendment Bill.

Clause 11 amends the Criminal Injuries Compensation Act by defining 'court' to mean the District Court.

Clause 12 amends the Fences Act by defining 'court' as the Magistrates Court and by deleting section 13 which deals with jurisdictional matters. These are included in the Justices Amendment Bill.

Clause 13 amends the Criminal Law (Sentencing) Act. It requires a court of summary jurisdiction to be satisfied that there is sufficient reason for imposing a penalty in excess of a Division 5 fine or Division 5 imprisonment before referring a defendant to be sentenced by the District Court.

Clause 14 amends the Residential Tenancies Act by altering the jurisdictional limit of the Tribunal from $2 500 to $25 000. The parties may consent to the Tribunal hearing matters involving claims above this limit.

Clause 15 amends the Criminal Law Consolidation Act 1935. The maximum penalty for common assault is reduced from 3 years imprisonment to 2 years. The range of penalties for damaging property is altered. The maximum penalty for possession of an object with intent to damage property is reduced form 3 years imprisonment to 2 years. Section 87 which relates to classification of offences is removed. These amendments result from the new classification of offences under the Justices Amendment Bill. Section 281 is repealed. The section deals with procedure in criminal matters. These matters are dealt with in the Justices Amendment Bill.

Clause 16 amends the Controlled Substances Act 1984. The amendment alters the categorisation of offences involving the sale, supply or production of drugs of dependence or prohibited substances (section 32). If the offence involves an amount of cannabis that is less than one-fifth the amount prescribed as the amount that invokes the highest penalties, the offence will be a summary offence (a maximum penalty of $2 000 or 2 years imprisonment or both). If the offence involves an amount of any other substance that is less than one-fifth the amount prescribed, the offence will be a minor indictable offence ($25 000 or 5 years imprisonment or both). Sections 43 (1) and (2) are consequentially deleted.

Clause 17 amends the Acts Interpretation Act by inserting definitions of major indictable offences and minor indictable offences and substituting the definition of a summary offence in line with the new categorisation set out in the Justices Amendment Bill.

Clause 18 amends the Bail Act 1985 by substituting section 23. The current provision classifies offences under the Act as summary offences and allows 12 months for commencement of prosecutions. These matters need not be provided for in the new scheme. The new section 23 provides that where a person under sentence of imprisonment is released on bail pending the hearing and determination of an appeal, the period of release does not count as part of the sentence.

Clause 19 contains transitional provisons related to the District Courts Bill. It provides for the transfer of Judges and Masters from local courts and district criminal courts to the District Court and for the transfer of staff of lcoal courts of full jurisdiction and district criminal courts to staff of the District Court. It also makes provision for the continuance in the new District Court of proceedings commenced before a local court of full jurisdiction or a district criminal court.

Clause 20 contains transitional provisions related to the Magistrates Court Bill. It provides for transfer of staff of local courts of limited and special jurisdiction and of courts of summary jurisdiction to corresponding positions on the staff of the Magistrates Court. It makes provision for the continuance in the new Magistrates Court of proceedings commenced before a local court of limited or special jurisdiction or a court of summary jurisdiction. It also provides that a preliminary examination commenced before a justice may be continued and completed before the Magistrates Court, but the Court will apply the law as in force at the commencement of the proceedings in all respects as if references in that law to a justice were references to the Court.

Clause 21 contains transitional provisions related to the Enforcement of Judgments Bill. It provides for the recognition and enforcement of judgments of the current courts under the new legislation.

Clause 22 contains general transitional provisions. If the effect of an amendment made by this measure or the Justices Amendment Bill is to reduce a penalty for an offence, the reduction applies retrospectively; an increase, however, only applies to offences after the amendment takes effect. An alteration to the classification of an offence does not apply in relation to an offence committed before the amendment takes effect.

Clause 23 provides that a reference in an Act or instrument to a court or officer is to be read as a reference to the corresponding court or officer under the new scheme.

Mr INGERSON secured the adjournment of the debate.

JUSTICES ACT AMENDMENT BILL

Second reading.

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

It amends the Justices Act 1921 in several important ways. One lot of amendments follow from the establishment of the Magistrates Court and the conferral on that court of the jurisdiction to hear and determine summary matters and all the other proceedings provided for in the Justices Act. The name of the Act is changed to the Summary Procedure Act to reflect this and the provisions related to the appointment of Justices of the Peace are removed from the Act and separately enacted.

In an extensive review of the practices and procedures of courts of summary jurisdiction the Chief Magistrate has looked at ways to enhance the efficient operation of the courts to ensure the efficient disposition of matters before the courts. Many of the Chief Magistrate's recommendations are incorporated in these amendments, as are recommendations made in a discussion paper by Matthew Goode, Consultant in Criminal Law, entitled Committals, Offence Classification and the Jurisdiction of the Magistrates Court.

In discussion of the widespread and justifiable concerns expressed by a variety of people and institutions about delays in the criminal justice system, it is common for those critical of the current criminal process to point to the expense and time taken up by the committal, or, as it is more formally called, the preliminary hearing. There have been calls for the abolition of committals in the name of the conservation of resources and the expedition of the prosecution of criminal matters and their replacement by other means designed to examine the justifiability and strength of the prosecution case and to ensure appropriate discovery of the prosecution case to the accused. These calls for abolition have been backed by general allegations that the preliminary hearing or committal is responsible for a great deal of the delay and backlog in the criminal courts, and notorious specific cases in which a preliminary hearing has run for months and, occasionally, years.

It is true that excessive delay means injustice. It is unjust to the prosecution, because the memory of witnesses will be impaired, or witnesses may die or otherwise become unavailable. It is unjust to accused persons, for justice delayed is justice denied, and that injustice may take the very concrete form of time spent on remand in custody awaiting a trial which exonerates the accused. Delay is inimical to the public interest, not only in the expenditure of scarce resources, but also in the effects of lengthy delay in meting out deserved punishment to an offender and vindication of the rights and feelings of victims in successful prosecutions.

A related argument for the abolition of committals apart from their effect in terms of delay is that they are said to be ineffective filters of inadequate prosecutions, which filtering activity can and should be done more expeditiously and cheaply by an administrative process. Moreover, it is argued, committals do not act as a protector of the accused person who may not be able to afford legal representation at the hearing and who may not be given legal aid either. It is also said that the committal process is abused by defence counsel who engage in harassing cross-examination, laborious fishing expeditions or both with the impunity of knowing that whatever goes wrong at the committal cannot be held against them at the ensuing trial and can only be to their advantage. Perhaps a witness can be so intimidated as not to give evidence at the trial—or so it is said.

There is, however, a general consensus among most participants in the criminal justice system that, while the current system of committals or preliminary hearings may be considerably improved the preliminary hearing is an important part of the criminal justice process, with a vital role to play. First, the committal provides public external review of the decision to prosecute, to determine whether there is sufficient evidence to put the accused to trial, thereby serving the public interest in preventing fruitless trials and the interests of the public and accused in ensuring early discharge should the prosecuting decision be shown to have been made in error. Second, the committal serves the important function of providing an opportunity for the accused to test the strength of the case for the prosecution. This has advantages for the prosecution as well, for it will reveal any weakness prior to trial. Third, the committal performs the vital function of giving the accused early and precise information about the nature of the prosecution case. Further, the process will often serve to clarify and refine issues which would otherwise have to happen, at far greater inconvenience and expense, at trial. Importantly, it provides an early opportunity for the guilty plea at great saving for resources and court time further up the system.

It is for these reasons that the practising profession, the High Court, the Court of Criminal Appeal and, most recently, a comprehensive study commissioned by and for the Australian Institute of Judicial Administration have all affirmed the importance of the preliminary hearing for all interests represented in the criminal justice system.

None of this means that the current system of preliminary hearings is perfect, or that it should not be reformed to minimise adverse consequences and to compel concentration of resources to maximise the advantages and defensible functions of the procedure outlined above. This legislation will streamline the committal system to ensure that the resources devoted to it are concentrated on its proper and appropriate functions. The amount of actual court time devoted to the committal will be kept as short as possible consistent with the due administration of justice.

This will be achieved by amending the Justices Act to provide that where there is to be a preliminary hearing, the prosecutor must at least 14 days prior to the date appointed for the hearing, file in the court and give to the accused copies of all the evidence relevant to the case and available to the prosecutor. The prosecutor is under a continuing duty to disclose any further such evidence. This full pretrial disclosure then forms the basis for a presumption that evidence for the prosecution will only be called if the court gives leave to do so, or if the defendant calls for that witness and the court is convinced that cross examination of the witness for the prosecution by the defence is necessary for the purposes of the committal. The legislation spells out the purposes of the committal in order to guide the discretion of the magistrate and preserves the special protections given to children and the victims of an alleged sexual offence.

Further, the test for committal for trial will be strengthened so that its function as a filter for weak cases will be promoted. The test will now be whether, in the opinion of the court, a jury would be likely to convict, as opposed to the current, much weaker test, of whether or not there is a *prima facie* case.

These legislative provisions will be integrated with the innovative and welcome administrative measures being taken under the guiding hand of the Chief Justice to minimise delay in the criminal process. They are consistent with the recommendations of the Australian Institute of Judicial Administration and with reform initiative undertaken interstate.

Delays in the administration of justice have led to an increasingly critical examination of a wide range of factors at play in the court system, including plea bargaining, charging practice, the conduct of a jury trial and the attitudes

and practices of all participants in the criminal trial. A major focus has been on the role of the courts of summary jurisdiction, for the very good reason that summary disposition is expeditious, efficient and relatively undemanding on scarce resources, as opposed to the time and expense involved in jury trials. While it is true that the right to trial by jury should not lightly be removed for serious criminal matters, the devotion of these scarce resources on what can only be described in any person's language as trivial larceny and assault cases is more than questionable. That is more so when it is realised that giving justice in such cases in the form of a right to trial by jury to one accused will inevitably result in injustice to another accused, on a much more serious charge, perhaps languishing on remand on a far more serious charge awaiting the availability of legal aid, or court time. In these circumstances, the presumption of innocence loses a deal of its meaning.

The current classification of offences has over time become less than rational in some respects. Monetary limits have suffered from a lack of inflation indexation. and new offences require classification further, it is time that the statutory right to trial by jury in these trivial cases must be put to the question. The days are long gone when it can truly be said that summary offences are not serious offences at all. There has never been an absolute right to trial by jury and that right has always to be balanced against the right of those accused of serious crimes to have their charges heard and determined with reasonable expedition. Further, examination of South Australian criminal statistics shows that in many cases, the penalties actually imposed by the higher court are of the older available to a court of summary jurisdiction. Arguments that the quality of justice is inferior in the Magistrates' Courts are difficult, if not impossible, to sustain.

Accordingly, this legislation rationalises the existing classification of offences and reclassifies a number of new and existing offences to reflect the comparitive seriousness of offences and the need to distribute the workload of the criminal courts in a just and equitable manner. However, it retains the tripartite classification of offences into those which require trial by jury (indictable), those which do not (summary) and those which may or may not attract trial by jury (minor indictable). New criteria for classification are spelled out and the procedure in relation to minor indictable offences is streamlined and made more rational.

Accordingly, the legislation now in force is amended to provide a clearer definition of summary, minor indictable and major indictable offences.

In general, any offence which is punishable with a maximum penalty of two years imprisoment or less is now to be summary. This reflects the current sentencing limit of the Magistrates Court. Further, offences of petty dishonesty which are not classed as offences of violence are to be summary. Offences of violence are defined as offences involving the use of a weapon or involving the infliction or threat of serious injury. Offences of dishonesty are spelled out by a list contained in a schedule to the Bill. The Bill also classifies offences not punishable by imprisonment by reference to the relevant maxima in terms of a fine available. Divisional penalties are used to give the required flexibility to the classifications.

In general, offences which are punishable by imprisonment for five years or less are to be minor indictable. Moreover, the monetary limits defining as minor indictable those instances of offences which carry a penalty greater than five years have been increased to take account of inflation and match the increased responsibilities of the Magistrates Courts in relation to civil matters. Other offences which attract a theoretically higher maximum but which do not in practice warrant the full panoply of the jury trial in all cases (such as mere breaking and entering, malicious wounding and assault occasioning actual bodily harm) are specified to be minor indictable.

While the right of the accused charged with a minor indictable offence to elect jury trial is to be retained, the election must take place at a time to be specified in the rules, prior to the first hearing in relation to the offence. This provision eliminates the potential for a great deal of unnecessary delay and expense in the criminal process which can and does occur as a result of the current provisions which allow the election to take place up to the close of the prosecution case on a committal.

Together with the reforms made to the committal or preliminary hearing, it is hoped that these procedural reforms will make a significant impact on the problems of delays and court congestion with substantial concomitant benefits to the administration of justice, the public interest, and the interests of all those in contact with the criminal justice system.

A number of miscellaneous amendments are designed to improve the efficiency of the court. These include the joinder of charges. A person may be charged with any number of offences in the same complaint and information if they arise from the same set of circumstances or from a series of circumstances of the same or a similar character. Where indictable and summary offences are charged together provision is made for the summary offences to be disposed of at the same time as the indictable offences. Hitherto the disposition of the summary offences had to await the disposition of the indictable offences if a person had been committed on the indictable offences.

The Magistrates' Court is given a wide power to set aside a conviction. This will enable convictions to be set aside where, for example, a magistrate has acted outside his or her jurisdiction. This will save the necessity for an appeal. The need for a complaint to be made before a justice of the peace and for proof of service to be sworn before a justice have been done away with. In practice, many justices rubber stamp complaints in bulk and unless a warrant is to be issued there is no apparent need for a complaint to be sworn. In doing away with the need for proof of service to be sworn we are following Western Australia. A person who falsely certifies service will be guilty of an offence.

Sections 182 to 187 of the Justices Act, which provides for irregularities and amendments of processes and orders are not only too formal, but also unclear. These provisions have been replaced by one simple provision. Other reforms which will eliminate unnecessary procedures and wasting of court and court staff time are not readily apparent on the face of this Bill. For example, the requirement that a person accused of a minor indictable offence must elect as to how he or she is to be tried before any hearing commences will do away with the need to keep a running transcript in case the accused elects to be tried in a superior court. Equally, the repeal of elaborate provisions as to the payment of witness fees will result in the saving of magistrate, magistrates clerk and police time.

Clauses 1 and 2 are formal.

Clause 3 amends the long title. The new long title reads: An Act to make provision for the procedures of the Magistrates Court in criminal proceedings; and for other purposes.

Clause 4 alters the short title to the Summary Procedure Act 1921. The remaining clauses of the Bill, in addition to

the amendments set out below, remove provisions that are dealt with in the Magistrates Bill or Justices of the Peace Bill, alter various references to those appropriate to the new scheme and remove provisions that have no further use.

Clause 6 inserts in section 4, the interpretation provision, definitions of 'third schedule offence', 'fourth schedule offence' and 'offence of violence'. These definitions are important in terms of the classification of offences.

Clause 8 substitutes section 5. The new section 5 sets out a new classification of offences. Offences are divided into summary offences and indictable offences.

The following are summary offences:

- an offence that is not punishable by imprisonment;
- an offence for which a maximum penalty of, or including, imprisonment for two years or less is prescribed;
- a third schedule offence involving $2 000 or less, not being an offence of violence (as defined), or an offence that is one of a series of offences of the same or a similar character involving more than $2 000 in aggregate.

An offence for which a maximum fine exceeding twice a division 1 fine is prescribed is not summary offence.

All offences apart from summary offences are indictable offences.

The following are minor indictable offences:

- offences not punishable by imprisonment but for which a maximum fine exceeding twice a division 1 fine is prescribed;
- those for which the maximum term of imprisonment does not exceed 5 years;
- those for which the maximum term of imprisonment exceeds 5 years and which fall into one of the following categories:

— a fourth schedule offence, not being an offence of violence, involving $25 000 or less;

— an offence involving interference with, damage to or destruction of property where the loss resulting from commission of the offence does not exceed $25 000;

— malicious wounding or assault occasioning actual bodily harm;

— indecent assault;

— breaking and entering and related offences (not being offences of violence).

All other indictable offences are major indictable offences.

The third and fourth schedules contain lists of offences against particular sections of the Criminal Law Consolidation Act.

The clause sets out some further principles to help determine the classification of a particular offence and to facilitate criminal proceedings.

The classification is subject to any express statement to the contrary in another Act.

A defendant is given a right to challenge the classification of an offence.

Clause 14 strikes out section 22a (4). This amendment, together with the repeal of section 55 in clause 24, ensures that complaints include particulars necessary to give reasonable information with respect to the nature of the charge.

Clause 19 in amending section 28 adds a provision that service may, in addition to being proved by affidavit of service, be proved by tender of a certificate of service signed by person who effected service. An offence of giving a false certificate is created with a maximum penalty of 2 years imprisonment.

Clause 22 in replacing section 49 dealing with complaints requires that a complaint made orally must be reduced to writing. The clause also removes the provision in section 49(*b*) that a complaint may be made to a justice where the justice has authority by law to make any order for the payment of money or otherwise. This provision is currently necessary because reservations of questions of law for determination by the Supreme Court are limited to matters arising on information or complaint. However, clause 35 of the Magistrates Bill enables the court to reserve a question of law for determination by the Supreme Court in any civil action, including on matters initiated by the court itself (eg. forfeiture orders under section 19 of the Bail Act).

Clause 23 substitutes section 51 and makes some slight alterations to the principles relating to the joinder and separation of charges. A person may be charged with any number of summary offences in the same complaint if the charges arise from a series of circumstances of the same or a similar character in addition to if the charges arise out of the same set of circumstances. A limitation of a technical nature on laying charges in the alternative is also removed. The provision also enables a court to direct that charges contained in separate complaints be dealt with together in the same procedings. This is in addition to its current power to direct that charges contained in a single complaint be dealt with in separate proceedings.

Clause 25, in substituting section 57, makes it clear that the court is generally required to issue a summons for the appearance of the defendant when a complaint is properly made. It makes it clear that the summons need not be issued where the defendant is already before the court or where a warrant is issued to have the defendant arrested, as well as where the relevant law provides for the matter to be dealt with *ex parte* as expressly stated in the current provision. It also provides that the issue may be deferred if the whereabouts of the defendant is unknown.

Clause 26 simplifies the procedures set out in section 57a (4) and (5) for notifying the complaint and the court of a written plea of guilty. The new provision requires the defendant to return the completed form to the Registrar by delivering it to an office of the court or by sending it by post. The complex provisions about delivering it to the relevant complainant and that complainant delivering it to the court are removed.

Clause 28 substitutes section 59 by refining the way in which the court may deal with an arrested person. The new provision provides that if it is not practicable to deal immediately with the matter for which the defendant has been brought before the court, then the court may remand the defendant in custody, or on bail, to appear before the court at a time and place fixed in the order for remand.

Clause 40 substitutes section 76a giving the court power to set aside a conviction or order. The grounds on which a conviction or order may be set aside are extended to where the court is satisfied that it is otherwise in the interests of justice or the parties consent.

Clause 43 amends section 99 which provides for orders to keep the peace. The amendment extends the right to apply for a variation or revocation of an order to a police officer, a person for whose benefit the order was made and a person against whom the order was made, thus ensuring that orders made ex parte may be varied. It also removes the limitation set out in subsection (10) that it must be the court that issued the order that varies it. It provides that an order may be made on the basis of evidence given in the form of an affidavit, but the oral evidence must be given, if the defendant so requires, when the order is confirmed.

Clause 44 substitutes Part V governing procedure in relation to indictable offences. The procedures are simplified and rationalised and the provisions brought up to modern standards of drafting. The following is a description of the new provisions.

New section 101 provides for an information to be laid charging a person with an indictable offence. If the information is laid orally, it must be reduced to writing. An information is to be filed in the court as soon as practicable after it is laid.

New section 102 provides for the joinder and separation of charges. Charges for major indictable offences, minor indictable offences and summary offences may be joined in the same information if the charges arise from the same set of circumstances or from a series of circumstances of the same or a similar character. If any charge is of a major indictable offence, then the procedures applicable to such offences apply. The court is given power to split or join proceedings arising from a single information or several informations. The provisions allow greater flexibility than the current provisions in order that matters may proceed expeditiously.

New section 103 governs procedure on an information being filed in the court. If the defendant is in custody, the court may remand the defendant in custody or on bail to appear before the court. If the defendant is not in custody, the court may (if the charge has been substantiated on oath) issue a warrant of arrest and then remand the defendant in custody or on bail or may issue a summons requiring the defendant to appear to answer the charge. The defendant must be given the appropriate form for electing for trial in a superior court. If the defendant does not so elect the charge will be dealt with in the same way as a charge of a summary offence.

New section 104 imposes certain obligations on the prosecutor relating to notification to the court and the defendant of evidence to be produced at a preliminary examination. Special provisions apply in relation to statements of children. The age of a child in respect of which these provisions apply is altered from 10 to 12 to bring the provisions into line with the Evidence Act.

New section 105 sets out how the court is to proceed with a preliminary examination. If the defendant has returned a written guilty plea, the court will commit the defendant to a superior court for sentence. If the defendant does not appear to answer a charge, the court may issue a summons to appear or a warrant of arrest or, if the defendant has absconded or there is some other good reason, the court may proceed with the preliminary examination in the absence of the defendant. If the defendant appears to answer the charge, the preliminary examination is to proceed as follows:

- the charge is read and the defendant is asked how he or she pleads to it;
- if the defendant admits the charge, the defendant will be committed to a superior court for sentence;
- if the defendant denies the charge, the court will consider the evidence for the purpose of determining whether it is sufficient to put the defendant on trial for an offence;
- if the defendant asserts previous conviction or acquittal of the offence, the court will reserve the questions raised by the plea for consideration by the court of trial and proceed with the preliminary examination as if the defendant had denied the charge.

The section also gives the court power to adjourn the examination and to exclude the defendant if disruptive or to excuse the defendant from attendance for any proper reason.

New section 106 sets out the procedure for taking evidence at a preliminary examination as follows:

- the prosecutor will tender the statements and other material filed in the court and the court will, subject to any objections as to admissibility upheld by the court, admit them in evidence;
- the prosecutor will call any witness whose statement has been filed for oral examination if the defence requires production of the witness and the court grants leave (leave will only be granted in the limited circumstances set out in the section);
- the prosecutor may by leave of the court call oral evidence;
- the defendant may give or call evidence;
- the prosecutor may call evidence in rebuttal of evidence given for the defence.

New section 107 sets out the principles that govern the evaluation of evidence at a preliminary examination. If evidence has not been tested by cross-examination the court will assume that it is worthy of credit unless it is plainly incredible. The court may reject evidence if it is plainly inadmissible but otherwise matters of admissibility will be left to the court of trial. If the court is of the opinion that the evidence is not sufficient to support a conviction, the court will reject the information and order the release of the defendant if in custody. If the court is of the opinion that the evidence is sufficient, the court will review the charges and make any necessary amendment to the information. Then, if the charges include a major indictable offence, the court will commit the defendant to a superior court for trial. If the charges do not include a major indictable offence but do include a minor indictable offence, the court will allow the defendant an opportunity to elect for trial by a superior court (if the defendant has not already done so) but if the defendant does not so elect will proceed to deal with the charge in the same way as a charge of a summary offence. If the charges are for summary offences only, the court will proceed to deal with the charge in the same way as if the proceedings had been commenced on complaint.

New section 108 determines the forum where a defendant is committed to a superior court for sentence. It will be the Supreme Court in the case of treason or murder (including attempt, conspiracy or assault with intent) or where the court thinks the gravity of the offences justifies that. In other cases it will be the District Court.

New section 109 determines the forum where the defendant is committed to a superior court for trial. It will be the Supreme Court in the case of treason or murder (including conspiracy, attempt or assault with intent), and other major indictable offences where the circumstances of the alleged commission are of unusual gravity or the trial is likely to involve unusually difficult questions of law or fact. In other cases it will be the District Court.

New section 110 allows the Supreme Court to transfer a trial (except for murder or treason) to the District Court where it considers it appropriate. It also enables the Supreme Court to remove a case from the District Court to itself for trial or sentence. Subsection (4) sets out certain factors to guide the Supreme Court in the exercise of its discretion.

New section 111 provides for a defendant to change a plea of guilty following committal for sentence.

New section 112 provides that the court will remand a defendant, committed to a superior court for trial or sentence, in custody or release the defendant on bail. New section 113 obliges the Principal Registrar of the Magistrates Court to forward certain information to the Attorney-General.

New section 114 enables rules of court to provide that specified provisions of the Criminal Law Consolidation Act apply, as modified in the rules, to the trial or sentencing by

the Magistrates Court of a person charged with a minor indictable offence.

Clause 46 simplifies the provisions (see sections 181 to 187) relating to the curing of irregularities in any information, complaint, order, summons, warrant or other process of the court. The new provisions provide that a defect of substance or form does not invalidate the document and gives the court power to make appropriate amendments or if necessary revoke the document.

Clause 48, in substituting section 200b with a new section 200, simplifies the procedures for reciprocal enforcement of orders for payment of a fine or other monetary sum made against a body corporate in another State or in a Territory of the Commonwealth. The new provisions enables the Principal Registrar to register such orders of the courts of summary jurisdicton and provides that, subject to the rules, proceedings may be taken for the enforcement of a registered order.

The clause inserts section 201 which is a provision providing for the award of costs for or against the prosecutor or defendant in proceedings commenced on information or complaint. It provides that costs will not be awarded in relation to a preliminary examination of an indictable offence unless the court is satisfied that the party against whom the costs are awarded has unreasonably obstructed the proceedings. The clause also provides for costs to be awarded against a legal practitioner, the Crown (in respect of a prosecutor who is not a legal practitioner), or a witness, who causes delay. The clause also replaces the Governor's rule making power in relation to court fees with a power to make regulations for that purpose. The power to make regulations is extended to witness fees and expenses. (See new sections 202 and 203.)

Mr INGERSON secured the adjournment of the debate.

PARLIAMENTARY COMMITTEES BILL

Consideration in Committee of the Legislative Council's amendments:

No. 1. Page 1, line 30 (clause 3)—Leave out 'and Resources' and insert ', Resources and Development'.

No. 2. Page 2, lines 8 to 12 (clause 3)—Leave out all words in these lines and insert definitions as follow:

Presiding Member', in relation to a Committee, means the person appointed to be the Presiding Member of the Committee:

Presiding Officer', in relation to a House, means the Speaker of the House of Assembly or the President of the Legislative Council:'.

No. 3. Page 2 (clause 3)—After line 12 insert definition as follows: 'publicly funded body' means any body that is financed wholly or partly out of public funds:'.

No. 4. Page 2, line 34 (clause 3)—Leave out 'corporate' and insert '(whether incorporated or not)'.

No. 5. Page 2, line 36 (clause 3)—Before 'has a governing body' insert 'is comprised of or includes, or'.

No. 6. Page 2 (clause 3)—After line 37 insert 'or'.

No. 7. Page 2, line 39 and page 3, line 1 (clause 3)—Leave out all words in these lines.

No. 8. Page 3, line 25 (clause 6)—Leave out 'or State instrumentality' and insert ', State instrumentality or publicly funded body'.

No. 9. Page 3, line 35 (Heading)—Leave out 'AND RESOURCES' and insert ', RESOURCES AND DEVELOPMENT'.

No. 10. Page 3, line 38 (clause 7)—Leave out 'and Resources' and insert ', Resources and Development'.

No. 11. Page 4, line 2 (clause 8)—Leave out 'five' and insert 'six'.

No. 12. Page 4, line 4 (clause 8)—Leave out 'two' and insert 'three'.

No. 13. Page 4, line 7 (Heading)—Leave out 'AND RESOURCES' and insert ', RESOURCES AND DEVELOPMENT'.

No. 14. Page 4, line 9 (clause 9)—Leave out 'and Resources' and insert ', Resources and Development'.

No. 15. Page 4 (clause 9)—After line 16 insert subparagraph as follows:

(iv) any matter concerned with the general development of the State;'.

No. 16. Page 5, line 17 (clause 14)—Leave out 'five' and insert 'six'.

No. 17. Page 5, line 19 (clause 14)—Leave out 'two' and insert 'three'.

No. 18. Page 6, line 1 (clause 16)—After 'the Committee's appointing House or Houses' insert ', or either of the Committee's appointing Houses'.

No. 19. Page 6, line 14 (clause 17)—After 'priority' insert ', so far as it is practicable to do so'.

No. 20. Page 6, lines 17 and 18 (clause 17)—Leave out all words in these lines and insert 'and then deal with any other matters before the Committee in such order as it thinks fit;'.

No. 21. Page 7, line 40 (clause 23)—Leave out 'Officer' and insert 'Member'.

No. 22. Page 8, line 2 (clause 24)—Leave out 'Officer' and insert 'Member'.

No. 23. Page 8, line 3 (clause 24)—Leave out 'Officer' and insert 'Member'.

No. 24. Page 8, lines 5 to 11 (clause 24)—Leave out all words in these lines and insert 'Four members of a Committee constitute a quorum of the Committee'.

No. 25. Page 8, line 15 (clause 24)—Leave out 'Officer' and insert 'Member'.

No. 26. Page 8, line 16 (clause 24)—Leave out all words in this line and insert 'has, in addition to a deliberative vote, a casting vote in the event of an equality of votes'.

No. 27. Page 8, lines 32 to 39 (clause 28)—Leave out the clause and insert new clause as follows:

'Privileges, immunities and powers

28. (1) All privileges, immunities and powers that attach to or in relation to a committee established by either House attach to and in relation to each Committee established by this Act.

(2) Without limiting the effect of subsection (1), the powers of each Committee include power to send for persons, papers and records.

(3) Any breach of privilege or contempt committed or alleged to have been committed in relation to a Committee or its proceedings may be dealt with in such manner as is resolved by the Committee's appointing House or Houses.'

No. 28. Page 9, line 19 (clause 32)—Leave out 'Presiding Officers' and insert 'Presiding Members'.

No. 29. Page 9, lines 20 to 23 (clause 32)—Leave out subclause (3).

No. 30. Page 9, line 33 (clause 34)—Leave out 'Officer' and insert 'Member'.

No. 31. Page 9—After line 37 insert new clause as follows:

'Power of Parliament to establish other committees

36. This Act does not limit or derogate from the power of either House or both Houses to establish committees in addition to the Committees established by this Act.'

No. 32. Page 11, The Schedule—Leave out 'Presiding Officer' wherever occurring and insert in each case 'Presiding Member'.

No. 33. Page 11, The Schedule—Leave out 'Environment and Resources Committee' wherever occurring and insert, in each case 'Environment, Resources and Development Committee'.

No. 34. Page 11, The Schedule—Insert at the end of the schedule—

'PART III
TRANSITIONAL PROVISIONS

(1) A matter that was the subject of inquiry by a former committee may, if that committee had not completed its inquiry or reported on the matter before the commencement of this Act, be referred to a Committee under this Act.

(2) Where a matter is referred to a Committee as referred to in subclause (1), the Committee may continue and complete the proceedings and consider and report on the matter under this Act as if all the evidence given in respect of the matter before the former committee had been given before the Committee under this Act.

(3) In subclauses (1) and (2)—

'former committee' means—

(a) the Joint Committee on Subordinate Legislation;

(b) the Public Accounts Committee;

(c) the Parliamentary Standing Committee on Public Works.'

The Hon. D.J. HOPGOOD: I move:

That the Legislative Council's amendments be agreed to.

In view of where we are in this week's program, I presume that it is not the desire of the Committee that I give a

comprehensive and erudite explanation of the effects of the amendments, suffice to say that they are before honourable members and that they have been very carefully negotiated in another place and in the corridors of this building. I commend them to the Committee.

The Hon. H. ALLISON: The Opposition is a little disappointed at the outcome of this Bill. We note that the Opposition's proposal, which was put forward in the Lower House and which related to having a statutory authority's committee to be dedicated to Legislative Council membership alone, was again rejected. In reality, when one peruses the Bill and notes the impact that it will have on the operations of the Parliament, I find it hard to believe that there will be any radical change to the system as it presently exists. We have a few extra members on the committees who are Legislative councillors and whose aims and ambitions have been slightly accommodated.

However, the four committees now emerging are the Economic and Finance Committee, which has seven Assembly members; the Environment Resources and Development Committee, which has an even membership of three Assembly members and three Legislative Council members and an amendment has been made to add one Legislative Councillor to that committee; the Legislative Review Committee, which also has an even membership of three Assembly members and three Legislative councillors; and the Social Development Committee, which has an even membership of three plus three—there again, there is the addition of one member, namely, a Legislative Councillor.

While the Economic and Finance Committee remains solely a House of Assembly committee, the change in the number of Legislative Council members in the Environment Resources and Development Committee and the Social Development Committee alters the balance of power on those committees, diluting the influence of the Assembly. That may or may not be significant. Many of the amendments are machinery amendments and some of them are consequential upon the change in the function of the new Environment Resources and Development Committee. Publicly funded bodies have been redefined to include wholly or partly Government funded bodies, whilst statutory authorities are again slightly redefined and, as a result, there will be scope for wider inquiry.

The Economic and Finance Committee can examine the affairs of either of those publicly funded bodies or statutory authorities, and the Environment Resources and Development Committee's functions are expanded. Committee matters for priority consideration are redefined against those originally proposed in the legislation, which we considered in this place a few weeks ago. The quorum of members is more simply stated—a quorum being four members of any committee. The Chairman is now given a deliberative as well as a casting vote where an equality of members exists and, of course, that has been necessitated because there has been the addition of one Legislative Council member to two of those committees, making the committee membership even and, therefore, the deliberative and casting vote of the Chairman may be necessary where there is an equality of votes.

The powers of the committees themselves are redefined. They already have considerable power, but matters of privilege, immunity and the general powers of committees are now further expounded upon by the legislation. I am pleased about that because I questioned the adequacy of the existing clause, which seemed to place heavy reliance on the powers of the Royal Commissions Act and I pointed out that I did not think those powers covered the situation as envisaged by members of the House of Assembly. That matter now appears to have been resolved.

The power of Parliament to create other committees—I assume that includes select committees—is not constrained and the power to disclose confidential matters, a power which was vested in the President and the Speaker, has now been withdrawn. I am pleased about that because in earlier debate I expressed concern about those powers being endowed upon the President and the Speaker because of the confidential nature of the work under discussion and examination by the Industries Development Committee, the Economic and Finance Committee and the former Public Works Committee. It does not seem appropriate that any member, however responsible, should have the authority to disclose information for whatever reason.

The transitional provisions which I sought in earlier debate and which were denied, simply because I was told that they were not needed, are now inserted in this legislation to cover matters still under consideration by the former committees or not reported on by the former committees. However, I do have a couple of questions with regard to the transitional provisions which the Deputy Premier might choose to address. Has the IDC not been mentioned by name for any specific reason? I had anticipated seeing the IDC referred to and I wonder whether that is because it bears the same name although it has been subsumed by the new Economic and Finance Committee. Also, since the matter of referring former committee inquiries to the new committees has now been included, why is it not clearly defined as to whether the former committees, of their own initiative, can refer matters to the new committees? Has that power been vested in the two Presiding Officers? I raised the matter in earlier debate simply to ascertain whether the existing committees could refer to the new committees the matters that they have been considering. That is still not clear, even with the transitional provisions.

The committees represent the agreed views of the Government and the Democrats, because the Opposition's views in the Upper House do not seem to have been accommodated fully. One can only assume that a deal was done, either in the House or in the corridors, to ensure this Bill's passage. The committees emerging under the Bill should be kept under review. There is no sunset clause, but I believe that the Houses should keep their work under review. The committee work will only be effective if matters are pursued fearlessly. In that regard, I point out one suggestion which I made in the Public Accounts Committee, that the State Auditor-General should have the power to audit the State Bank, SGIC and other bodies as a matter of formality.

In earlier debate, the member for Henley Beach said that, with hindsight, the committee might well have heeded my request—I was overruled 4:1—because the State might have benefited from having the Auditor-General audit the State Bank of South Australia. Whether or not that is true will never be known, simply because the State Bank's affairs were so far in decline that the Auditor-General's perusal of them might not have cleared up the position. That recommendation was not heeded, mainly because there was a fear that we might cause a run on the bank. I believed that fear was groundless because the State guaranteed the solvency of the bank, as was later proven, despite the situation being far worse than we envisaged. I am sure that the Auditor-General would have no trouble auditing anything in South Australia, even if he had to subcontract some of the work. At least he would have oversight of some of the audit. These committees will only be effective if they are adequately equipped, funded and staffed, and that remains within the purview of the Government.

The Hon. T.H. HEMMINGS: What was envisaged by altering the title of the Environment and Resources Committee to the Environment, Resources and Development Committee? The provisions have not been expanded. Is it just a name change or was there some method behind the decision by the other place in regard to this change? In addition, I pick up the point made by the member for Mount Gambier about the transitional period, when the two Acts in question will be repealed and the new committees commence. The transitional powers provide that the new committees have the power to look at existing projects which are before other committees. I refer particularly to the Public Works Standing Committee, which has two or three matters before it. Other matters are in the pipeline. What timetable is envisaged by the Government, if the Committee accepts these amendments, so that there can be a continuation of the Public Works Committee's work? We must bear in mind that there will be different membership—some new members will be appointed and other members will be taken off. Will it be a decision of Parliament or will it be done as normal through the Party rooms?

The Hon. D.J. HOPGOOD: In relation to the second matter, I believe that the arrangement is that assent will be obtained next week and proclamation will be made next Thursday, which will allow the Chamber to elect the appropriate people at the first opportunity following that proclamation. As to the first matter raised, I think it was felt in another place that the broader term more nearly reflected the terms of reference which had already been agreed upon.

Mr S.J. BAKER: I express my disappointment at the outcome of the Bill. It is only a matter of changing the number of seats on the ship. It does not mean any changes to the way the Parliament progress. We have sold out to the Democrats, who love doing deals and who have done deals on committees, to get Bills through and on accommodation. The new committee system does not do a great deal for Parliament and I am disappointed with the outcome. It should have had a better finale than the one we are seeing here today. It has been expressed previously that it is very difficult to get the two Houses together, and that is correct. Joint House committees do not work very well because Legislative Councillors work on a different time frame from members of this House, who have electorates.

Mr HAMILTON: What will happen to the matters that are currently before the Public Accounts Committee? Will those investigations flow on, as I understand to be the case? Will the new committee continue those investigations? I hope that will be the case. What will be the procedure for staffing arrangements for the new committee?

The Hon. D.J. HOPGOOD: My understanding is that, with agreement amongst members, anything is possible that does not breach the ambit of the Bill. One would hope—and this is really the answer to part of the matter raised by the member for Mount Gambier—for full cooperation between the existing committees and the new committees to ensure that these transitions can occur and, as long as they occur within the framework of the new legislation, I would think that there would be no problem. The same will obviously occur in relation to staffing, and it will have to be subject to consultation with the Presiding Officers.

Mr HAMILTON: It is important that the committee be adequately resourced, and I understand that there may be a timetable for this new committee to come into effect. Is there a timetable and, if so, what is it?

The Hon. D.J. HOPGOOD: Proclamation will be next Thursday, all being well. The appropriate elections can occur immediately afterwards.

Motion carried.

POLLUTION OF WATERS BY OIL AND NOXIOUS SUBSTANCES (MISCELLANEOUS) AMENDMENT BILL

Returned from the Legislative Council without amendment.

ENVIRONMENT PROTECTION (SEA DUMPING) (COASTAL WATERS AND RADIOACTIVE MATERIAL) AMENDMENT BILL

Returned from the Legislative Council without amendment.

ROAD TRAFFIC (SAFETY HELMET EXEMPTION) AMENDMENT BILL

In Committee.

(Continued from 13 November. Page 1901.)

Clause 2—'Safety helmets'—which the Hon. P.B. Arnold had moved to amend as follows:

Page 1—

Line 18—After 'religion' insert 'and is wearing a turban'.

Lines 19 to 20—Leave out all words in these lines and insert the following:

or

(b) is in possession of a current certificate signed by a medical practitioner and certifying that the person is, for medical reasons, unable to wear a safety helmet or that, because of the person's physical characteristics, it would be unreasonable to require the person to wear a safety helmet.

The Hon. P.B. ARNOLD: Naturally, I am disappointed with the attitude the Minister has adopted in relation to my amendment, but I do not intend to pursue the matter further. Suffice to say that perhaps I just hold South Australian general practitioners in higher regard than does the Minister. I have always regarded the general practitioners of this State as a reasonably responsible group of professionals: if that is not the case, so be it.

The Hon. FRANK BLEVINS: I have only the highest regard for general practitioners in this State. Probably, unlike the member for Chaffey, I have had a great deal of experience in the work force and a great deal of experience, one way or another, in the area of workers compensation. At times, it is extremely difficult to understand some of the decisions that are taken. As I said yesterday, it may well be that pressure on general practitioners from patients to supply certificates can be very strong. All members would have to agree at times that pressure may influence whether or not a certificate is given. I also point out that when these determinations are made by medical practitioners, in particular general practitioners, they are balanced decisions.

No textbook can tell a general or medical practitioner precisely the right thing to do in all circumstances, so it is a matter of judgment. I am saying that I want this matter fixed up. If there are to be exemptions, I want the medical profession to come down with some guidelines for the protection of the community and for the protection of the medical profession itself. That is a very reasonable position. Already, I have taken steps to have that put into place if it is possible, and I have, of course, distributed the letter that I sent to the Road Trauma Committee some time ago.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (WATERWORKS AND SEWERAGE) BILL

Adjourned debate on second reading.
(Continued from 12 November. Page 1777.)

The Hon. D.C. WOTTON (Heysen): The Opposition finds itself in a situation where it is being asked to retrospectively validate an illegal Act. This whole system and the position in which we find ourselves in this House at the present time can be described as nothing more than a debacle. We have about an hour and a half to debate and to pass a very complicated piece of legislation as part of an overall complicated system—a totally unacceptable system to the majority of people in this State. When we recognise that the Bill was introduced into this House only late in the afternoon of the day before yesterday, and that yesterday we were still receiving amendments to the legislation—

The Hon. S.M. Lenehan interjecting:

The Hon. D.C. WOTTON: The Minister says that the Government received my amendments this morning. What does the Minister expect? We received a copy of the Minister's legislation only the day before yesterday. Now she is grizzling because we have had the audacity to take one day to put together our amendments.

The Hon. Jennifer Cashmore: Without any of the resources of the Government.

The Hon. D.C. WOTTON: The point that the member for Coles makes is extremely valid, because the Minister has a whole department at her disposal, as well as a large contingency of personal staff. I am sure that you, Mr Deputy Speaker, and other members of the House who have looked into this system would realise the complexities. I suggest that we only need to look at trying to amend the legislation to realise just how complex it is. I do not believe that any of the amendments proposed by the Minister to her own Bill (and not only have we had changes to the Bill itself but now further amendments have been brought in by the Minister) will do anything to improve the situation or to overcome the concerns that the Opposition has now and has had since the introduction of this system and, indeed, since the introduction of the legislation earlier this year. As I said earlier, the whole situation is an absolute debacle and an absolute disaster. Again, it is a situation where we see the Minister having to make policy on the run in a very important area—in a policy area that has brought anger and concern to many people in the metropolitan area.

An honourable member: Burnside.

The Hon. D.C. WOTTON: That is a very good point; the honourable member opposite says 'Burnside'. I shall refer to some of the contributions that have been made by many people who are well outside the south-eastern suburbs. It has been too easy for the Government and the Minister to say that this affects only the so-called wealthy, as far as the Minister is concerned, or people who have worked hard to build up their assets. At a later stage I will go into more detail about the people whom this legislation and system will really affect. I make the point that none of the amendments that are being proposed or the Bill will do anything to improve the system. It might validate a system about which we are extremely unhappy, but what it really does is retrospectively validate what we see as an illegal piece of legislation.

I do not intend to go over a lot of the material that has been used in this House regarding this legislation and system, but I will refer again to the full bench of the Supreme Court. I know that the Minister does not want that to happen, because the Minister and members opposite have said that they do not agree with the findings of the Supreme Court. The Premier had the audacity to stand up in this place and say that two of the honourable justices supported it and only one opposed it. I should have thought that, for a lawyer, he would understand the legal system a little better. The fact is that the full bench of the Supreme Court heard this matter and brought down a decision. The majority of the full bench of the Supreme Court found that a consumer who paid excess water rates in 1990-91 may, to use the words of Acting Justice Zelling, 'find some of that water for which he has already been rated being brought into calculation in fixing his liability for this year'. He went on to say, and admittedly we have referred to this and we will continue to refer to this—

The Hon. S.M. Lenehan: That's all you've got to hang on.

The Hon. D.C. WOTTON: The Minister says that that is all we have got to hang on. So much for the Supreme Court and legal system in this State when the Minister says all we have to hang on are the findings brought down by the Supreme Court. That shows the contempt for the court that this Government holds. Acting Justice Zelling went on to say:

> The Sultans of Turkey were said to be addicted to levying the same tax or toll twice or more, and if the Parliament of this State sees fit to follow their example that is no concern of the court.

As I have pointed out in this place previously, that might be the situation that the court finds itself in; it might not be concerned about that matter, but I can assure the House that it is and has been the concern of the Opposition since this system was first introduced. The Liberal Party and the residents of Adelaide have continued to express grave concerns about the retrospective elements of this legislation since it was introduced earlier this year.

Mr Ferguson: What is your policy?

The Hon. D.C. WOTTON: I will go on to our policy. Just sit there and be patient. We will go on to what the Opposition wants to see as a water policy. As I have said previously, we are all familiar with the line that the Government has put forward in regard to this matter. By setting aside the annual adjustment for the price of water and the property surcharge in successive financial years, it is said that consumers will pay no more for a set usage of water. In my opinion, that is a blatant distortion of mathematical fact and the Government knows it: if it does not, it should. The indisputable fact is that any consumer whose 1991-92 consumption year commenced prior to April 1991 and who uses anywhere near the amount of water previously allocated has been overcharged to the extent of the difference between the new quarterly access charge and the old quarterly rates. If that is not the case, I challenge the Minister to explain in detail why it is not.

Since July the Opposition has been calling for an independent legal opinion not just on the legislation but also on the gazettal notice and all sections of the legislation and the system itself. It was only as a result of a large meeting held in the Burnside Council Chamber, a meeting made up mainly of the constituents of my colleagues the members for Bragg and Coles, who insisted and voted unanimously to set up an action committee, that ensured that this matter was taken to the court. It was the residents who forced this matter to the court in an attempt to get justice. As I have said before, and I say again, I and all members on this side of the House commend those people for their persistence in their desire to take this matter to the court.

The Government did not want to know about it and the Minister did not want to listen. The Minister did not want to know anything about it. She continued to say that it was not necessary to have an independent legal opinion. The

Minister continued to rely totally on Crown Law, knowing full well that Crown Law had had its part to play in the drawing up of the legislation in the first place. The only response that we got from the Government with regard to the matter going before the court was to let us know that it would be taking the action committee to the cleaners for costs. We have seen a reversal of attitude on that matter.

On Tuesday, in this House, the Premier chose to ridicule the people who had taken the matter to the court. As I said at the time, it was a glaring example of the politics of envy. That point was also made by my colleague the member for Kavel. That is exactly what it was—the politics of envy. The Premier also tried to suggest to us, when we moved a no-confidence motion in the Minister, that this was not an important issue. He rather suggested that not many people were concerned about this matter at all. I repeat: it is obvious that the Premier, the Minister and members opposite have refused to listen to the representations they have been receiving. It is obvious that they do not want to know about the representations they have received.

I have received copies of correspondence that, I suggest, have come from people in the majority of Labor districts. I do not know whether the members responsible have responded or done anything about it, but I have received that representation. If they are saying to their Premier or if the Premier is saying to us that this is not a major issue, I suggest that they are very much out of touch with their own constituents. This whole kerfuffle and situation which has caused so much anger in the community and the uncertainty and confusion that have resulted from the new system have not even been allayed, despite an expensive publication relations exercise. Questions have been asked in this House—

The Hon. Jennifer Cashmore interjecting:

The Hon. D.C. WOTTON: The member for Coles says it was about $35 000. I suggest that it was much more—probably twice that amount. I suggest the cost was well over $60 000, which I believe was the figure given by the Minister and at the time I suggested that it would have been more than that, taking into account the costs of television advertisements, etc.

This whole system has brought confusion, concern and anger. Members need only look at the figures released about the number of people who have contacted the departments hot line to seek clarification on a number of these issues. This system has been supported by the Government and the Democrats. Today we have seen the Democrats come out with suggestions about how they believe the system could be improved. I suggest that the Democrats are only playing at the edges. What the Democrats are putting forward are simply cosmetic measures without much substance at all. It may be that these measures are heading in the right direction, but they do little, for example, to overcome one of the major problems that we have with the system, that is, that matter of the wealth tax, property tax, land tax, or whatever else one wants to call it. There is a tax, and that was picked up by the Supreme Court justices. The Minister, the Government and the Australian Democrats refuse to do anything about this matter.

It has been of particular concern to the Opposition that the Minister has been more hell-bent on listening to her former colleague, a former Labor Minister (Mr Hudson), who, at a cost of some $23 000 to the South Australian taxpayers, has recommended this socialist property tax. My other concern is that to a large extent the Minister has refused even to listen to her own department. I am aware of the fact that members of her own department have strongly opposed this system. The property tax has caused much concern to many people, yet the Minister has indicated that so far as she is concerned this is social justice. What is a basic commodity? Why should people in one part of the Adelaide metropolitan area pay more than other people for the same basic commodity? It is as simple as that.

As I said earlier, the Minister has tried desperately to link this issue to the people of Burnside and the south-eastern suburbs. She has tried desperately to link this whole situation to people she describes as being asset-rich. On numerous occasions I have referred to the concerns expressed to me on the part of families, the elderly and a number of other people affected by this new system. I know that members opposite will not want me to do so, but I intend to refer to three or four letters—

Members interjecting:

The Hon. D.C. WOTTON: They are three or four out of about 500, and I can understand why the Minister does not want to listen to any of this. It is obvious that she has not read any of the representations that have come before her. It is obvious that the Minister has not wanted to listen to the people who have made representations to her. Let me refer to three or four letters. The first letter concerns me because it refers to what is a typical family situation. It states:

> We find the new system for assessment of water rates to be very disadvantageous to us financially in that our family which consists of four teenagers and ourselves obviously has a moderately large water requirement and we feel that we are to be treated unjustly because we have four children instead of perhaps one or two. We already have four lots of school fees, six lots of food and clothing, six lots of electricity, etc., to provide for and the last thing we need in these harsh economic times is for a major additional expense. It is difficult enough having to find the money to pay for the extra amount of water used by our large family but to pay even more because we have worked hard to own a house which is valued above your figure of $117 000 we feel is totally unfair. We would be less unhappy were we rated simply on the amount of water we used but to be penalised because our house has been maintained reasonably, and is probably overvalued on today's market, we object to most strongly and would urge you to find a fairer system.

That is a letter to the Minister. I have received a letter from an elderly person, who writes:

> As yet another voice crying in the wilderness, I would like to add my name to the many others you have received in the hope that something can be done to scrap the new water rate system. I do not believe that this system is a fair one. We are certainly not wealthy people, but our home is worth more than $117 000. It seems to me that we are being penalised because we have worked hard to get a good home together and for taking an interest in our garden. Apart from that, what family can manage on 136 kilolitres and still smell nice—

that is the expression used in the letter—

> It is obvious to me, no matter how much Ms Lenehan tries to justify it, that this is just another cynical money-grabbing exercise on the part of the State Government. What is the use of saying on the one hand that we should try to green Australia if on the other hand trees and gardens are going to die because we can't afford to water them? Instead, why can't an incentive be given to people to purchase rainwater tanks by going back to the old system and giving those who have tanks a reduction in their rates? Probably too much to ask, but this would also help to boost our manufacturing industry. We certainly need it in this recession we had to have.

The next letter is from Morphett Vale (a bit closer to the Minister's own electorate), and the writer states:

> I write with grave disquiet and concern over the new water rating system, particularly for elderly people such as my 83-year-old mother-in-law. From my perspective I would like to make the following points:
>
> 1. The use of all Government resources, like private resources should be costed on the amount used. Electricity and gas are costed in this way, and so it is quite illogical to have a differential rate for water consumption based on property value.
> 2. The current system is a blatant, albeit somewhat disguised, wealth tax. Once people have paid their tax then the Government should not be 'double dipping'.

3. The current system of water rates will drastically affect pensioners, who are often asset rich and income poor, due to past Governments lack of will, or ineffectiveness in controlling inflation.

4. Could you explain to me how the current system is equitable, to use a fashionable word, please?

5. Sadly your Government appears to have lost its way, its ideals and compassionate for its constituents and as a voter who has supported your Party in the past I am becoming, each day, increasingly disillusioned.

I point out that of the 500-odd pieces of correspondence that I have received, more have come from the electorate of Norwood than from any other electorate. Another constituent from that area states:

This system of charging is entirely unprecedented in our society, and grossly unfair. It is apparently based on the assumption that those people whose property value exceeds that figure are wealthy and can afford to pay more. A few, perhaps, could. But what about pensioners (whose concession is minimal)? And what about those people who have inherited their properties, but do not necessarily have large incomes? A lot of the owners would be in the category I am in: plain hard workers who have scrimped and saved for years in order to buy their homes.

I moved to Adelaide in 1977. For three years I lived in a miserable flat while saving and looking for a home to buy. I had no car, and still don't. I walked to save bus fares. Eventually I found a home which met all my requirements in 1980, when prices were low, and have now lived in my home on Kensington Road, Norwood for 11 years. I had only a small down payment saved, and took out a loan for $40 000 with our [building society]. During a period of very high interest rates, one of my fortnightly pay cheques was insufficient to cover my monthly mortgage payment! However, by working two full-time jobs and living very frugally, I managed to pay off my mortgage in nine years.

I am now approaching an age when I should be entitled to retire from my clerical position, but the prospects of payment of council and water rates on a pension appears dismal. It is a case of being property rich and income poor, a situation in which many home owners find themselves today.

If we wish to avoid being penalised in this unfair manner, the only alternative is to sell our properties and move into a lesser property, a costly and traumatic experience.

I deliberately chose my property in an inner suburb so that I could walk to work (which I have been doing for years), and on a bus line, thereby forgoing the need for a car. I'm also close to a major shopping area, which is an important consideration when one is approaching retirement age. I am certainly in favour of paying for whatever water I use, the same rate everyone else is charged. I have recently installed a rain tank, and have always been frugal with the use of water, as it is a scarce resource in our State; and besides, I am a strong conservationist who uses only the minimum of our resources. I care enough about my children and grandchildren not to leave them a legacy of insufficient resources.

Another letter from Norwood states:

Dear Sir,

The Group Manager Operations Roadworks of the Engineering and Water Supply Department advised me on 24 September last that my water allowance for the period 1 July 1990 to 30 June 1991 was 357 kilolitres, with a capital value of my property of $170 000.

Rate notice from the E&WS Department was received stating that the water rates for the period July 1991-September 1991 is $39.60 and a further statement that 'the meter on this property was read on 19.7.91. The consumption for the first half year period up to this date was 100 kilolitres. You have 36 kilolitres of your allowance remaining.'

Please explain how the department can give me an allowance of 357 kilolitres from 1 July 1990 to 30 June 1991 and charge me accordingly, then charge me again for the period 1 January 1991-30 June 1991.

Is the above what is colloquially referred to as 'double dipping' or flagrant robbery?

If the law has been changed legally to catch unaware people by retrospective charging of water can you please lobby on my behalf for the return of the funds I paid January 1991 to June 1991 for the water allowance of 357 kilolitres for the financial year 1990-1991.

Finally, I received a letter from Eden Hills, which states:

Dear Sir,

The justices of the Supreme Court have acknowledged that ratepayers are being charged twice for some of the water used in the first half of this year. They also state that it is not illegal for the Government to charge twice under legislation passed by Parliament, commenting that 'there is no equity in taxing legislation'.

Far from being a pyrrhic victory for the plaintiffs, 'the judgment exposes the pig-headed refusal of the Government representatives to acknowledge that double charging was taking place.

I could spend the rest of the day referring to some of the concerns that have been brought to my notice and to the notice of many of my colleagues in this place. As well as the concerns that I have already expressed, particularly in relation to the wealth tax, it is also of concern to a lot of people and, certainly, to the Opposition, that the Minister is able to do so much in regard to this system without having to refer to Parliament. She can alter the threshold whenever she wishes and she can alter the price of water and the water allocation, and there is no opportunity for Parliament to have its say. That causes much concern.

The courts referred to sloppy draftsmanship, stating that 'people are entitled to be told with precision anything affecting that person's right with which a person is expected to comply'. The Minister has said that that is not her responsibility. Well, if it not her responsibility, whose is it? Quite obviously, there is a need for people to be made aware of what is expected of them. That just makes plain sense.

A number of questions need to be asked, and I hope that the Minister will be able to answer some of them. As far as the new system is concerned, I would like to know what action, if any, the Minister will take to overcome problems, for example, arising out of the system that unfairly penalise many Housing Trust tenants who are now responsible for paying excess water rates. What will she do about private tenants who are now forced to maintain large gardens and properties? They will be disadvantaged as a result. What about owners of strata title houses and units? Surely the Minister has received representations from people in that situation. All these people will, as a result of this system, now be liable to pay for excess water. We have not heard a thing about those matters.

There are a number of areas that the Minister needs to address and to clarify. So far, that has not been done. As I said earlier, the system is very complex. Is it any wonder that some people find it extremely difficult to understand their accounts and the difference between the consumption year and the financial year and the difference between access costs and excess water, and so on. That is why I was so totally impressed by what I saw of the system in the Hunter Valley. I have had the opportunity of spending only a short time there at this stage. The Hunter Valley board has implemented a user-pays system, which is being used in Newcastle.

The Hon. S.M. Lenehan interjecting:

The Hon. D.C. WOTTON: The Minister can answer at the appropriate time. I understand that there was some discussion between the Hunter Valley board and representatives of the department in South Australia. I also understand that the position was put very clearly to the South Australian representatives in regard to the acceptance of a similar scheme to that used in Newcastle. It is very simple. I was able to talk to consumers who understood the system very clearly. Certainly, they do not have the problems that are being experienced as a result of the current system.

On a number of occasions the Opposition has been accused by the Minister about acting abominably in this matter. I just suggest that nothing could be further from the truth because, if anyone has been misleading or confusing the situation, it is the Minister. That is why I make the point that a true user-pays system, where people pay for the water they use in the same way—

The Hon. S.M. Lenehan interjecting:

The Hon. D.C. WOTTON: I realise that the Minister will use all sorts of scare tactics about the increased cost and all the rest of it. However, if the Minister were prepared to listen to people from other parts of Australia that use different systems she would find that the system would be much more easily understood and no more expensive for the people of this State. All she needs to do is listen to people who understand other systems.

The amendments will be discussed at a later stage but, as I said earlier, they will not do anything to improve the situation. The Minister and the Government have suggested that this is only a technical matter. The Minister claimed in her second reading explanation that the Bill results from the court's decision and the fact that there is no authority to recover any charges for water and sewerage services provided during this financial year. She went on to say that the potential loss of revenue to the Engineering and Water Supply Department would be of the order of $220 million in water rates alone. I find it difficult that the Minister and the Government can brush off this matter and say that it is not important, that it is merely a small technical hitch. It could have been an absolute calamity, recognising the State's economic problems.

The Opposition has requested that we revert to the old water rating system, but the Minister says that by doing that we would not have any opportunity to issue rate notices or charge people accordingly. I find that hard to understand. If the Government and the Minister were serious about the need to introduce a system that provided the opportunity for people to pay for what they use, she would be able to do that. To go back to the old system for a brief period would provide the Minister with the opportunity to listen to other people and to observe what is happening in other places. She could then reconsider her position and introduce a new system which avoids the wealth tax element, in particular. That should be reasonably simple, but the Minister has refused to do that. As many people have said, all they are looking for is a system that permits them to pay for what they use, as is the case with ETSA and SAGASCO.

The Minister can hardly say that the loss of $220 million in water rates alone is a trivial matter. There will also be costs associated with the debacle that will result from a system where more money has been claimed, without any legal authority, from those who have used the water over a period. There will also be the cost of reissuing rates notices. A lot of people are concerned about the wealth tax element, and it is commonsense that we should revert to the previous system, if only to provide the opportunity for a new, more equitable system to be introduced. As my colleague the member for Chaffey said, the sad part is that the previous system was very close to being a true user-pays system. That has all been changed. That system has gone by the board. We now have a wealth tax and problems with retrospectivity, yet the Minister wonders why there is so much concern in the community.

I object to the incompetence shown by the Minister in the administration of this new system, and the public relations side of its introduction has been deplorable. The new system has been rejected totally by a large number of people in metropolitan Adelaide. I represent the concern of those people, as do my colleagues. I call on the Minister to introduce a system that is equitable and acceptable to the majority of South Australians. The Opposition will seek to amend the legislation but, as I said, the Opposition opposes the retrospectivity and the wealth tax—the two major issues.

Mr BECKER (Hanson): I can understand the Government's concern about this legislation because it must go on record as one of the most poorly handled pieces of legislation that Parliament has witnessed for many years. I have not seen anything like it in 21 years. In her second reading explanation the Minister said:

> The purpose of this legislation is to validate the water and sewerage notices which were published in the *Government Gazette* of 11 July this year. This action arises out of a recent Supreme Court decision declaring the water rates notices to be invalid.

That is where the Minister was let down badly by her advisers. At the same time, she has been in the portfolio long enough to know that, when you change legislation and set out a program, you should check it against your overall plans. I will come back to that later, because a clear program was set out. Obviously, the department missed that point. I was also concerned to read the following in the Minister's explanation:

> The court's decision is of major significance to the State because there is presently no authority to recover any charges for the water and sewerage services provided during this financial year. The potential loss of the revenue to the Engineering and Water Supply Department is of the order of $220 million in water rates alone.

That is a terrible indictment of any administrator in relation to a Government activity. Ministers are well paid and I expect them to do better than that. We expect better performance of managers in private enterprise, and I expect the same from those in Government.

Under the new system, instead of the E&WS's income being spread evenly over four quarters, there will be two very low periods and two reasonably high periods, and it is possible that the final quarter will be the highest. The cash flow of the E&WS Department has been put seriously out of kilter and that is an indictment of the Minister, as well, because of its impact on the finances of that department and of Treasury. In adopting the Hudson plan, the Minister accepted that the access fee would be $116 a year or $29 a quarter. This issue does not affect the south-eastern suburbs alone. The western suburbs, particularly the south-western suburbs which I represent, have been hit equally as hard.

An account from a constituent at West Beach shows that, for the period July 1990 to September 1990, the quarterly water rate was $75.18; for October to December 1990 it was still $75; and for January to March 1991 it was still $75.18. From 1 July to September 1991, the quarterly charge reduced to $43.20. So, the department will lose revenue of some $32 a quarter. If that is applied across the board to the many hundreds of thousands of consumers, that will impact on the cash flow of the department.

Another constituent at Lockleys told me that their quarterly water rates were $92.40, and it has now been reduced to $49.60 under the new system. Another constituent from Lockleys had their water rate reduced from $61.32 to $34.80. Each one of those constituents will find that they will use excess water, because the $116 gives them only 136 kilolitres for the year. No-one objects to the user-pays principle, but the mistake that was made initially—and the mistake that is causing all the problems—relates to a lack of communication generally. This is the mistake that the Minister has made: the water consumption year does not match the financial year of her department, and it varies greatly from district council to district council. The impact of the consumption year in relation to the financial year has never been spelt out before.

Of course, the access charge is just far too low. The average annual consumption for South Australia is about 300 kilolitres. So, when 136 kilolitres of water is allocated, compared with an average consumption of 300 kilolitres, the department—and certainly the Minister—would have been well advised (and I cannot for the life of me understand why Treasury has not done this) to suggest that the

access allowance should be in the vicinity of $255 a year. That amount of money would provide 300 kilolitres of water per year and would, of course, give the Minister's department a steady cash flow of about $64 per quarter per consumer instead of $29 a quarter per consumer. So, if Treasury, the Minister and her administrators are concerned to ensure steady cash flow, I seriously recommend to them that in future they look at the organisation of that department and increase that access charge. I do not think anyone would complain.

Complaints are starting to come in. For example, a constituent from Lockleys, who has a magnificent property, which is valued at $260 000—but I think that is quite a conservative valuation—has a water bill of $57. However, the excess water for the previous six months was $263. That person will pay out, in two lump sums, about $550 in excess water, compared with a quarterly charge of $57. It would be reasonable for that consumer to pay about $100 a quarter and then have only a small excess water bill at the finish.

I know that the aim of the legislation is to conserve water. I doubt that many consumers in the metropolitan area would deliberately waste water. The only consumers I know who would waste water are in the Housing Trust houses and flats, because the Housing Trust has a gardening competition every year. If one looks at the Housing Trust areas—as I have over the past five years—one sees some marvellous gardens. There are some wonderful vegetable and flower gardens. Those tenants are not accountable for the excess water charge, so we can see what is happening there. At least the Housing Trust is now addressing that problem.

Each of the complaints that I have received, as the member for Heysen has mentioned, is because residents had their water meter read in January and again in July, and they now find that they have used all their water allocation and will be charged for using excess water, and for the next six months—this very warm period from July to January—they have no water allocation. Naturally, they will go about conserving water. However, the new system has created a false impression. It is a tragedy that consumers of the E&WS Department are up in arms and have been put through a stressful period because of the very poor communication program. Yet, when one studies what the department has done and the briefing that has been provided to the various personal assistants, one sees that the department has put up a pretty good picture. The department outlines the history of the new system from July 1990, when Cabinet approved the Hudson proposal, right through to the activities of the department to date. It has been quite a busy period. However, it missed the most important aspect of the system, that is, to define clearly and spell out to the consumers that the consumption period does not match the financial year.

When the water charges were increased to 85c a kilolitre, no-one realised that, come the first period from July, they would be charged at the rate of 85c for excess water used from January through to the end of June. That is where the confusion has occurred. People are irate to think that they got a bill in July where the excess water charge was 85c, in other words it was charged at the new rate. It does not matter whether it is coincidental. The point is that the principle is there and people feel gipped, which is why they are irate. They are irate to think that the department brought down an increase in water rates, and in some parts of my electorate that water rate went back almost six months.

That is why I appeal to the Minister. I hope that the legislation, and my supporting the member for Heysen's motion, will address that problem. If the water rates are to be increased as from 1 July, any additional water used from January through to the end of June should be charged at the old rate. I appeal to the Minister to have a look at her department's cash flow and the impact the new system will have on her department. If the access charge was increased to about $255, it would provide a pattern in the department.

As I said to my friend the member for Heysen, I would rather debate this topic in about five months when everyone receives an horrendous excess water bill. I think we will get all the protests in the world in early 1992 when the impact of this legislation comes through. If we are legislating to conserve water, so be it, but people cannot be forced to do it if they want to maintain a reasonable lifestyle and if they want to maintain pride in their property. I do not believe we have the right to legislate to force people to rip up their lawns, their shrubs and their gardens because the Government cannot administer the system well enough to allow them to have water at a reasonable price. I do not accept that. I think we should pay for what we use, and that is what people want—they would prefer to go straight to a user-pays system. To charge people a large sum of money every six months or once a year, rather than charging them quarterly, is ill advised.

It is a tragedy that we have to go through this system; it is a tragedy that the State was forced to go to court to rectify what had happened; and it is a tragedy that all that money had to be expended to try to bring the system back on to an even keel. I hope it is a lesson to all Ministers and Governments that, in future at least, the power is still with the people to take the necessary action to force the Government to accede to their request. I commend the court for the action that it took.

The Hon. JENNIFER CASHMORE (Coles): This Bill is an attempt to patch up one of the worst administrative and statutory botch-ups that I have ever seen. The Bill aims to validate retrospectively the water and sewerage notices which were published in the *Government Gazette* on 11 July. The Minister, in her second reading explanation, claims that the Supreme Court judgment which declared the rate notices invalid 'did not arise out of any legal defect in the Waterworks (Rating) Amendment Act.' In saying that, the Minister suggests that the Government had the perfect right to set a rate for water that had already been consumed and in some cases paid for. In fact, in her speech, the Minister said:

> It would appear that some concern still exists in the community in relation to the Government's right to set a rate for water already consumed.

That would be one of the political understatements of the decade—'some concern'. People are outraged and they will continue to be angry despite the Minister's efforts to validate this botch-up by bringing in a Bill which, even after all of that, is obviously not adequate because the Minister has already circulated amendments to what is, in effect, an amending Bill to an amending Bill. It is a triple botch-up, as far as I am concerned.

It is interesting for the Minister to claim, on the one hand, that there is concern in relation to the Government's right to set a rate for water already consumed and, on the other, to note that the Minister has indicated that both the rate and the price should now, and will in future, be set before, not after, consumption begins. I can only wonder whether the natural sense of justice of the member for Elizabeth has prevailed and, indeed, triumphed over the Government's total intransigence on this matter. I can think of no other reason why the Minister should already have indicated by way of amendment to the Bill that she introduced earlier this week, first, the inclusion of a date and, secondly, the change of that date to enable the rate and the charge to be set before the consumption year begins. In

doing so, the Minister has accepted a complete change of principle which vindicates the public anger, and I believe it must surely be in response to the public outrage that has been expressed over the double charging inherent in the new arrangements. The Opposition has objected to that from the outset, and that is what the public objects to as well.

The arrogance of the Government has been demonstrated yet again. It seems to me that this Government has a formula for doing things. It is a four-point formula: first, do what you want to rake in revenue regardless of the capacity of the taxpayer to pay; secondly, when the public protests, engage a public relations consultant in an attempt to smooth things over; thirdly, if that does not work, step up the payments—of course, financed by the taxpayer—to the public relations consultant to work a little harder to smooth things over for the better; and, fourthly, if that does not work, press on regardless. Of course, that is what the Government is doing. I should like to quote from the response of a constituent to that formula. In a letter to the Minister dated a couple of months ago, a Magill resident said:

> By the way, you advised me that there was a hot line that people can ring to either complain or have the new system explained. Well, I rang all day and could not get through. I rang the Telecom operator and I was advised by this person that the number was in order and that she was also having difficulties in getting through herself to complain. Does this not tell you something?

Apparently, it did not tell the Minister anything, because she is pressing on regardless. The letter continues:

> Even though I find that my water rates are in excess, I wish to advise that my household does not actually drink the water, as we find that it is not suitable for this purpose. We are, like many people we know, purchasing spring water for drinking.

The Opposition has four basic responses to this whole problem. First, we totally reject the notion of double charging for water that has already been consumed and paid for. The Minister continues to deny that there is such a thing, but my constituents, and indeed the constituents of all members, continue to maintain that that is the case. We certainly believe that people should be reimbursed where they have been double charged.

Secondly, we reject absolutely the property tax component of this system. I should like to inform the House of the property value figures in the City of Burnside, which is represented partly by the members for Bragg and for Davenport and me. There are 3 735 houses valued at less than $117 000, which is the rate at which the property component in the water rating charges commences. There are 14 042 houses valued at more than $117 000. Of those 14 000, a significant proportion of the occupants are pensioners, and probably an even more significant proportion are superannuants. In other words, next year the income of those superannuants is likely to be reduced by approximately one-third. Because of falling interest rates, the return on their investments will fall accordingly in most cases by one-third.

Mr Ferguson: You did not want to see interest rates go down because that is the way you campaigned in the last election.

The Hon. JENNIFER CASHMORE: I am pointing out the consequences to people on fixed incomes of gross increases in Government charges which cannot be met by any kind of increase in personal revenue. I know full well that the member for Henley Beach and very likely the member for Mitchell have constituents in similar circumstances, and I wonder how they respond to those people whose incomes, unlike those of pensioners, are not indexed but are falling. The property tax component of this water charging system is one that the Opposition totally rejects.

Mrs Kotz interjecting:

The Hon. JENNIFER CASHMORE: The member for Newland remarks that if the Bill had been a horse they would have shot it. It is certainly sick indeed. It is barely staggering on two legs, let alone four. We support the user pays principle to which we were moving before this debacle occurred. Laws and systems which are not readily understood are bad laws and bad systems. I defy any member of this House to understand clearly and explain simply to any constituent the entire ramifications of this system. I find it almost incomprehensible, and even on that basis, and that basis alone, it should be rejected.

To have such a system that is not readily understood means that every individual citizen, indeed every member of the Opposition, is at a disadvantage in judging the equity with which the system is being administered, whether it is failing and in what respect it is failing, simply because the principles on which it is based are not simple ones: they are extremely complicated.

There is no way we could support a system that has so many faulty components as this one and, on behalf of my constituents, yet again I protest at what has been done by the Government. I protest most vigorously at the way in which the property component disadvantages those of my constituents who are on fixed incomes and who are simply unable to continue to pay these increased costs.

Mr INGERSON (Bragg): I support the members for Heysen, Coles and Hanson in opposing this outrageous social justice system. Some time ago I saw in the media a report which was headed 'Social justice, says Susan' and which claimed that the water rating system is not a wealth tax and that it is 'just' to make the affluent pay more for their water than those living in moderately priced homes. If that is not a system that is purely and simply a redistribution measure, I would like to know what it is.

The Hon. S.M. Lenehan interjecting:

Mr INGERSON: If the Minister came straight out and said that it is, members on this side would accept it and then argue from a different point of view. The Minister says so gallantly, 'This is my system of social justice', but I understood that the Labor system of social justice meant, no matter where one lived, if a person had a low income, that person would be treated fairly and reasonably. In this instance, if a person happens to have a low income and lives in Bragg, and if the asset value of their house is high, they cop the tax, whereas a person who has a high income, lives in any other suburb and who has a house of low asset value does not cop it. If that is social justice, it is absolute nonsense.

As I said the other day, many high income earners live in houses of low asset value—of their own choice. I have no problem with that being their choice, but the system advantages them over people who have chosen to live in the Burnside area over the past 30 to 40 years. Many superannuants and low income earners are totally disadvantaged under this system. They are asset rich and income poor, yet they are expected to bear the burden when high income earners with low value properties in Labor seats in this city are looked after by this so-called great system. That is not social justice; it is purely and simply a politically dominated system.

If the Minister had come out and explained that, members on this side would have accepted it. We understand that, because that is what we would expect from a Labor Government. We would expect that it uses every tool in its possession to ensure that it redistributes wealth from a suburb like Burnside into any other area. If the Minister

had come out and said that, we would have accepted it. That has not been the case, and we have simply had a cover-up.

Members interjecting:

Mr INGERSON: You have had a go at me once before about that. We need a true user-pays system, and the people in my area recognise that there will be an increase in cost for some of them because of a new user-pays system. People pay for electricity, gas and telephone under a user-pays system. All the services in their houses are paid for under a user-pays system yet, in respect of the water pipes that run up and down their streets, just because their house happens to be more expensive than those in Woodville or the southern or northern areas—

Members interjecting:

Mr INGERSON: They have been there for 30 or 40 years or more. Those pipes just happen to carry water that is liquid gold because they are in the District of Burnside. That is the problem with this system: it is a blatant Labor Party wealth tax system. That is what it is all about.

Members interjecting:

Mr INGERSON: If the Minister had come out and said that, I would not have such a problem with it. My electors are concerned about two issues. The first concerns the fraudulent aspect of the Minister's going out publicly and saying that from 1 July a new rating system would apply, yet they found that the new rating system started, in most instances in Burnside, from 1 January. Not one document went out from the Minister to people in my district saying that the new system would operate from 1 January. Not one document—

The Hon. S.M. Lenehan interjecting:

Mr INGERSON: You produce it, Minister. Not one document sent to residents of Burnside shows that. The letter to me from the Minister contained much gobbledegook, as follows:

> I would like to assure you that, as in the past, customers have the same period of 12 months in which the water consumption is measured. There may be a perceived advantage or disadvantage to customers because of their particular meter reading dates. However, over the whole year this is not the case.

If that is not a whole lot of gobbledegook, I would like to know what it is. There is no mention of backdating to 1 January. There is no reference, in any of the letters that have been sent to me, to the new system being backdated to 1 January. If the Minister had come clean and said that that was what would happen, we would only have been able to argue about retrospectivity. Now we have a sham of a system where people in Burnside are significantly disadvantaged in comparison with people in all other areas.

I would have thought that, with modern computerisation, we could have simply devised a simple mathematical system—and I recognise that we cannot have all the meters read on the same day—that could calculate the period through to 30 June. It would not be a difficult system. We have brilliant mathematicians in South Australia, perhaps at Adelaide University, who would do that for nothing, and it would not cost the Government anything. They would calculate the difference, impose the charge and have a new system apply from 1 July.

It would be very simple with no complications, and everyone would be on a fair system. I accept that the Parliament passed the new system, but neither I nor the people in my electorate like it. Further, pensioners and superannuants on low incomes are totally disadvantaged under the new system, because they are asset rich and income poor; they are not being recognised in this new system. I think it is a disgrace. I hope that the Government will see some reason and make some changes reasonably soon.

The Hon. S.M. LENEHAN (Minister of Water Resources): I will try, very briefly, to respond to the statements made by members opposite and, in so doing, I will table a number of documents because, obviously, members opposite do not understand or choose not to understand the system, and do not wish to understand the correct information.

The member for Heysen referred to the court decision and the comments of Acting Justice Zelling. Of course, what members of the Opposition deliberately choose not to recognise is that, with respect to the decision, the misunderstanding in terms of the system referred to by Acting Justice Zelling had no bearing on the majority decision. It is important to note that Acting Justice Zelling made quite plain that the only ground upon which he decided that the rating system was legally invalid was the late gazettal of the notice fixing the water rate component. That is a far cry from what we have heard from the Opposition. The Opposition has chosen to misrepresent completely the findings of the Supreme Court. That is the reason we are here in this Parliament this afternoon: we have chosen the legislative route to redress the situation whereby two of the three justices found that the gazettal notice of 11 July was invalid and it should have been gazetted on 1 July. This is what this Bill is about: it is not about the full water rating system or anything else.

An honourable member interjecting:

The Hon. S.M. LENEHAN: Of course he does, but he has chosen deliberately to misrepresent the findings. Perhaps I should start reading them out. The member for Heysen referred to a number of aspects. He has talked about the concept of a user-pays system. On the one hand, he says that he supports a user-pays system, but he then goes on to read out letter after letter referring to the term 'excess'. May I put on the public record once and for all that there is no such thing as excess. If we are moving to a user-pays system, we do not have any excess. In asking people to pay an excess charge, we have also moved to give them an allowance of 136 kilolitres, and we have done that because under the old system many people were paying for water they did not use. So that 76 per cent of ratepayers would pay for the water that they use, rather than making an explicit charge, we determined that the allocation would be 136 kilolitres. That was never considered to be some optimum amount above which one would pay excess. It is additional water for which people pay. The Opposition talks about having a user-pays system. The very component of the present system which is about user-pays is that which members opposite are opposing.

Members interjecting:

The Hon. S.M. LENEHAN: That is absolutely correct. As my colleague says, they are a bunch of dills. One would have to arrive at that conclusion. It is important to recognise that that is a fundamental tenet for any system by which people will move to user-pays. What justice is there in having an excess amount (and the member for Hanson referred to 300 kilolitres) when a huge number of people use less than that? So, they are actually paying for water they do not use. It is quite ridiculous. We know that the Opposition has a problem with comprehension, but I understand that members opposite know that there is no paying twice for the same water.

Just so that we can get this on the public record, I wish to table a chart that clearly shows, beyond any doubt at all, that there is no charging twice for the same water. In fact, we must get across to the Opposition that the consumption year does not begin on the same date as the financial date: the consumption year starts on 10 December, and the reason

is that we do not have water meter readers running around the State to read meters on the same day every year. I will table this document and make a copy of it available to the member for Heysen. I point out that I offered the member for Heysen a briefing—

The Hon. Jennifer Cashmore interjecting:

The Hon. S.M. LENEHAN: Yes, I will also give one to the member for Coles. Because I offered the member for Heysen a briefing, I extend that offer to all members from both sides of this Parliament. A briefing will be provided by senior officers of the department who will clearly explain the fact that there is no double charging for the same water. There is absolutely none—

An honourable member interjecting:

The Hon. S.M. LENEHAN: —and we have been told that the Opposition knows there is no double charging. This is nothing more than posturing. I know that you know, and you know that I know you know. So, let's not play any more silly games. I know that it is the end of the parliamentary week, and it has been a long week. But, this is nothing more than a charade. Members opposite know that they are playing games. When this chart—

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: —has been carefully explained to Opposition members one can only hope, Mr Speaker, that they will understand. The member for Heysen used as a model the system in the Hunter Valley. I find that rather amazing because not only is it the only authority in Australia that charges less for big water users—the complete opposite to a conservation philosophy—but also all other authorities charge either a flat tariff or a stepped-up tariff for water that is used above certain quantities. It seems amazing to me that the honourable member would compare our system with that system in the Hunter Valley. I think it is important absolutely to clarify, once and for all, that there is no double charging, that in fact there is an excess charge which is based—

Mr S.J. Baker interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: I didn't interrupt members when they were making their contributions.

Members interjecting:

The SPEAKER: Order! All members have a chance to contribute to this debate. They have their opportunity, or had it, and did not, of their own choice, take it. I ask them to listen to the Minister with some respect.

The Hon. S.M. LENEHAN: The member for Bragg said that he and his constituents had not been given information. In relation to that, I will table a whole list of the dates and details by which the new residential water rating system was communicated to the public, both through the personal water charging system and through the media.

One document in particular went out in October 1990, before the consumption year commenced for anyone, and it very clearly spells out—and the honourable member will be able to see these documents—that there is a new system and that people will have to look at the way in which it will operate. I have a whole plethora of information. In the past I have publicly acknowledged that perhaps people do not read their *Tap Topics*, but I guess that I cannot be held responsible for that. *Tap Topics* was certainly provided to them. I will not take up the time of the House by reading, as members opposite have done, numerous documents and letters, I have chosen the interests—

An honourable member interjecting:

The Hon. S.M. LENEHAN: Yes, there are. In the interests of brevity, I have chosen to table my documents, so that we can move forward in this debate. I remind the House that this is a validating piece of legislation; it is not about the content or the legality of the legislation that passed both Houses earlier this year. It is a validating piece of legislation which I believe clearly puts above reasonable doubt the fact that the system came into being on 1 July, how the system operates and how the charges will operate for the end of this financial year. I commend the Bill to the House.

Bill read a second time.

The Hon. D.C. WOTTON (Heysen): I move:

That it be an instruction to the Committee of the whole House that it have power to consider a new clause relating to reverting to the previous water rating system.

The House divided on the motion:

Ayes (23)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew, Meier, Oswald, Such, Venning and Wotton (teller).

Noes (23)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, M.J. Evans, Ferguson, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway and Hopgood, Mrs Hutchison, Mr Klunder, Ms Lenehan (teller), Messrs McKee, Mayes, Quirke, Rann and Trainer.

The SPEAKER: There being 23 Ayes and 23 Noes, I cast my vote for the 'Noes'.

Motion thus negatived.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Amendment of Waterworks Act 1932.'

The Hon. S.M. LENEHAN: I move:

Page 1, line 30—Leave out '30 November' and insert '7 December'.

In view of the time, I do not believe it is appropriate to explain the amendment, which is quite self-explanatory.

The Hon. JENNIFER CASHMORE: Time may be short, and it is true that this Bill is being guillotined, but I ask the Minister to explain that amendment. It is quite outrageous. She brings in an amending Bill to patch up a botch-up and then tries to amend the amending Bill. The Committee is entitled to an explanation of her reasons for doing so.

The Hon. S.M. LENEHAN: Notwithstanding the quite rude outburst from the honourable member, if she had listened to my second reading explanation, she would be aware of my reasons for this amendment.

An honourable member interjecting:

The Hon. S.M. LENEHAN: Well, it is very interesting that the honourable member is quite beside herself, which does—

Members interjecting:

The CHAIRMAN: Order! I ask the Committee to come to order.

The Hon. S.M. LENEHAN: The reason why we have a date in the Bill was very clearly outlined in the debate by both sides of the Parliament earlier this afternoon. It is very clear that we can gazette what the charges will be for water for the coming year in terms of the consumption year. The consumption year in South Australia begins on 10 December of each year. We will make it very clear to everyone in South Australia through the gazettal notice what the charges for water will be for the coming year. I would have thought that the honourable member, rather than shouting so angrily, might welcome this amendment, because I believe all members would welcome it. I have great pleasure in moving it.

The Hon. D.C. WOTTON: The Minister has not given any explanation. First, the clause now before the Committee was changing the date from 1 July to 30 November. That happened miraculously very late on Tuesday afternoon. Now we are being told that it is being changed from 30 November to 7 December. Why the change?

Members interjecting:

The CHAIRMAN: Order!

The Hon. S.M. LENEHAN: The reason, I would have thought, was obvious. In normal years it would have been quite easy, I guess, to ensure that we would be able to gazette before 30 November. However, because of the date today with respect to 30 November, it was thought appropriate to have time to properly assess and set the rates for the coming year. To give us an extra week would ensure that we were able to do that, because no-one can guarantee when the Bill will pass through the Upper House. It seems appropriate that we have the principle underlying 30 November—

Members interjecting:

The Hon. S.M. LENEHAN: They ask a question and they do not want to know the answer.

The Hon. JENNIFER CASHMORE: I thank the Minister for her explanation. I am very glad indeed that it is on the record, because it demonstrates beyond doubt that the Government has at last accepted the principle that the rate and the price should be set down before the consumption year begins. I am glad that that is now on the record, and I am not surprised that the Minister did not want to put it on the record.

The Hon. S.M. LENEHAN: I reject that. I am the person who has put it on the record. I certainly have wanted to put it on the record. I find that comment quite destructive, and it just shows how vindictive some members can be.

Amendment carried.

The Hon. S.M. LENEHAN: I move:

Page 2—

Line 6—After 'instalment' insert 'of base rates'.

Line 14—After 'financial year' insert 'and will have effect in respect of that year notwithstanding the fact that it was published after the commencement of the financial year and notwithstanding any defect in its form.

This amendment is quite clear, and I will not take the time of the Committee to explain it.

The Hon. D.C. WOTTON: With three minutes to go, that is anything but clear. It is totally obnoxious. The Minister stands up here because—

Mr S.J. Baker interjecting:

The CHAIRMAN: Order! One member of the Opposition at a time.

The Hon. D.C. WOTTON: The Minister does not understand it herself and says that we on this side of the Committee should understand it.

Members interjecting:

Mr S.J. BAKER: This Bill contains one of the most obnoxious references I have ever seen in my life. This amendment will sit in the legislation until we re-write it. The amendment provides:

> . . . and will have effect in respect of that year notwithstanding the fact that it was published after the commencement of the financial year and notwithstanding any defect in its form.

It suggests that whenever we have made a mistake in this Parliament we can just pass a clause which suddenly wipes it off. We as legislators are a disgrace if we allow this legislation to pass; it is the most obnoxious piece of legislation I have ever seen. It has nothing to do with principle. It derogates from the responsibilities of the Minister. Indeed, if this is the way the South Australian Parliament will conduct itself, we should all resign.

The Hon. S.M. LENEHAN: If the honourable member chooses to resign, that is his choice. I refer the honourable member to the Bill to which the amendment is attached. The amendment is attached to schedule 2 'Validation of Notices'. We are talking only about this year, not about every year to come. It relates directly to line 14, and I will read the paragraph to which it relates.

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That the sittings of the House be extended beyond 6 p.m.

Motion carried.

Mr S.J. BAKER: On a point of order, Mr Chairman; there is a resolution hanging over this House which determined that its business be guillotined at 6 p.m. We have not suspended Standing Orders—

The CHAIRMAN: Order! We have determined that the Bill be guillotined at 6 p.m., not the sittings of the House. It being 6 p.m., I am required by Sessional Orders to put the questions necessary to resolve the matter. The question before the Chair is that the amendments be carried.

The Committee divided on the amendments:

Ayes (23)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, Ferguson, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway and Hopgood, Mrs Hutchison, Mr Klunder, Ms Lenehan (teller), Messrs McKee, Mayes, Peterson, Quirke, Rann and Trainer.

Noes (23)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew, Meier, Oswald, Such, Venning and Wotton (teller).

The CHAIRMAN: There being an equality of votes, I give my casting vote for the Ayes.

Amendments thus carried.

After line 14, insert clause.

The Committee divided on the amendment:

Ayes (23)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, Ferguson, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway and Hopgood, Mrs Hutchison, Mr Klunder, Ms Lenehan (teller), Messrs McKee, Mayes, Peterson, Quirke, Rann and Trainer.

Noes (23)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew, Meier, Oswald, Such, Venning and Wotton (teller).

The CHAIRMAN: There being 23 Ayes and 23 Noes, I give my casting vote for the Ayes.

Amendment thus carried.

Page 2, after line 18—Insert schedule.

The Committee divided on the amendment:

Ayes (23)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew, Meier, Oswald, Such, Venning and Wotton (teller).

Noes (23)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, Ferguson, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway and Hopgood, Mrs Hutchison, Mr Klunder, Ms Lenehan (teller), Messrs McKee, Mayes, Peterson, Quirke, Rann and Trainer.

The CHAIRMAN: There being 23 Ayes and 23 Noes, I give my casting vote for the Noes.

Amendment thus negatived.

The Committee divided on clause 3 as amended:

Ayes (23)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, Ferguson, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway and Hopgood, Mrs Hutchison, Mr Klunder, Ms Lenehan (teller), Messrs McKee, Mayes, Peterson, Quirke, Rann and Trainer.

Noes (23)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew, Meier, Oswald, Such, Venning and Wotton (teller).

The CHAIRMAN: There are 23 Ayes and 23 Noes. I give my casting vote for the Ayes.

Clause as amended thus passed.

Clause 4—'Amendment of Sewerage Act 1929.'

Page 3, lines 5 and 8.

The Committee divided on the amendments:

Ayes (23)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, Ferguson, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway and Hopgood, Mrs Hutchison, Mr Klunder, Ms Lenehan (teller), Messrs McKee, Mayes, Peterson, Quirke, Rann and Trainer.

Noes (23)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew, Meier, Oswald, Such, Venning and Wotton (teller).

The CHAIRMAN: There are 23 Ayes and 23 Noes. I cast my vote for the Ayes.

Amendments thus carried; clause as amended passed.

Title passed.

The Hon. S.M. LENEHAN (Minister of Water Resources): I move:

That this Bill be now read a third time.

The House divided on the third reading:

Ayes (23)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal, Ms Cahsmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew, Meier, Oswald, Such, Venning and Wotton (teller).

Noes (23)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, Ferguson, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway and Hopgood, Mrs Hutchison, Mr Klunder, Ms Lenehan (teller), Messrs McKee, Mayes, Peterson, Quirke, Rann and Trainer.

The SPEAKER: There being 23 Ayes and 23 Noes, I cast my vote for the 'Ayes'.

Third reading thus carried.

ADJOURNMENT

At 6.25 p.m. the House adjourned until Tuesday 19 November at 2 p.m.