HOUSE OF ASSEMBLY

Wednesday 10 March 1993

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

DISABLED CHILDREN

A petition signed by 295 residents of South Australia requesting that the House urge the Government to provide equitable access to out of school hours care services to disabled children was presented by Mrs Kotz.

Petition received.

PETROL TAX

A petition signed by 71 residents of South Australia requesting that the House urge the Government to rescind the petrol tax increase was presented by Mrs Kotz.

Petition received.

LPG

The Hon. R.J. GREGORY (Minister of Labour Relations and Occupational Health and Safety): I seek leave to make a ministerial statement.

Leave granted.

The Hon. R.J. GREGORY: During the grievance debate on Thursday last week, the member for Goyder asked whether I would take up the cause for one of his constituents who he claims has been denied a licence to install LPG conversions. However, the issues raised by the honourable member appear to be based on two misunderstandings. The first relates to requirements to obtain a permit. Put simply, an applicant must have qualifications in a relevant trade and LPG knowledge. This knowledge may be obtained either after three months experience or by completion of an approved course. The second misunderstanding is that the honourable member's constituent has been denied the right to an LPG installer's licence and has been requested to repeat a TAFE course. This is not the case. He has not been denied a licence.

The constituent telephoned the Department of Labour regarding requirements for an LPG installer's licence. During that conversation, he advised that he had completed a TAFE course in Queensland. He was told that, because that course was for only one week compared with the two-week course in South Australia, it may not be accepted. However, he was invited to submit all his details and the matter would be considered. On receipt of the information, which apparently was sent simultaneously to the member for Goyder, the department made contact with the Chief Gas Examiner in Queensland to discuss that State's TAFE course. It was determined that steps were being taken to extend that course to two weeks in line with South Australia and other States. Notwithstanding this, it was decided that the constituent would be given full credit for the Queensland TAFE course. The decision has been conveyed to him along with an invitation to provide other information and to complete an application form.

LEGISLATIVE REVIEW COMMITTEE

Mr McKEE (Gilles): I bring up the twenty-fourth report of the committee and move:

That the report be received.

Motion carried.

QUESTION TIME

STATE BANK

The Hon. DEAN BROWN (Leader of the Opposition): My question is directed to the Premier. Did he endorse all the board appointments made by the Government between 1988 and 1990 after he was warned by Mr Hartley that the board was unable to control the bank's affairs and should be strengthened? I point out that, after the Premier was warned, the Government made five appointments—in fact, they were reappointments to the board—as follows: Messrs Nankivell, Bakewell, Searcy and Summers and Mrs Byrnes. I stress that they were all reappointments to the board despite the warnings issued to the Premier.

The Hon. LYNN ARNOLD: This matter was canvassed at great length last year, and I remind members of the contribution that I made on that occasion. The answer is that those appointments were as announced, and they were reappointments. I am pleased that the honourable Leader made the point about their being reappointments, because those people had been members of the board for some time. Yesterday, I detailed how some of them got onto the board and where they came from.

Members interjecting:

The Hon. LYNN ARNOLD: I would like to ask the member for Mount Gambier, the member for Heysen, the member for Coles, the Leader, the member for Kavel or the member for Chaffey, who now reminds me that he was one of them too, what their thoughts were about these very people that they appointed. I remind members what I said about the comments that Rod Hartley made to me when he used to work in the Department of Industry, Trade and Technology, that is, that he felt that a good CEO required a good board to have a good working relationship. In fact, he suggested that such a thing should have applied within Government and that he should have a board in charge of the Department of Industry, Trade and Technology. Since that time we have gone somewhat down that path with the establishment of the Economic Development Board and the Economic Development Authority. He felt it was very important that there be a board to which he could be answerable. He was not criticising himself saying that he was an incompetent or a megalomaniac CEO who was out of control. He said that because he happened to believe that that is what should be done.

He said, 'To take a case in point, I think that's precisely what you need to make sure that with something like the State Bank the board is able to

manage a CEO, for the benefit of both and for the benefit of the organisation.' One has to take not only the evidence given by Rod Hartley to the royal commission but also his comments when interviewed last year about the information, views and issues he was raising with me or others in Government at the time. Clearly, as has been confirmed by my own evidence, but certainly confirmed by his words—

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD:—he was not of a view that Marcus Clark was 'out of control', he was not of a view that Marcus Clark was beyond the control of the board until well into 1990, and that is the time when there was a quantum leap in his own thinking about the relationship between the board and Marcus Clark. If these earlier feelings had been shared by various members of the board, would they so willingly have voted to increase Marcus Clark's remuneration, which they did in the very last months of the failure of the State Bank?

An honourable member: Was Hartley a member?

The Hon. LYNN ARNOLD: Yes, Rod Hartley was a member of the board at that time. Apparently, the implication is that in private meetings with the Government the board was saying, 'You have to get rid of this person', while at the same time while sitting at a board meeting they were saying 'tick' to a vast increase in the remuneration of that particular person. It is incredible, and it puts in context some of the other things that have come through in this royal commission report. So, it behoves the Leader, before he tries to misquote or to draw very long bows from some pieces of supposed information and then to indicate some natural conclusion from that, to look at what was said, what the situation actually was and which the Commissioner himself reported on.

The Hon. Dean Brown interjecting:

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

TRADE TALKS

The Hon. T.H. HEMMINGS (Napier): Did the Minister of Business and Regional Development meet with former New Zealand Finance Minister, the Right Hon. Sir Roger Douglas, who visited Adelaide on Friday 5 March, and will he seek trade talks which could be beneficial for South Australia with the Hon. Murray McCully, the current New Zealand Minister of Customs, who is visiting Australia?

The Hon. M.D. RANN: I am pleased to be asked those questions. I can reveal to the House that I did not meet with Sir Roger during his visit to Adelaide, but I did read an account of his visit in the *Advertiser* in which it was reported that he could not understand why Australians are not falling over themselves to adopt the GST. I understand that Sir Roger is currently advising the Russian Government on its recovery strategy, which some people say is the West's answer to keep them down for another 50 years. I hope that Sir Roger told his audience of accountants and the *Advertiser* how the GST was introduced in New Zealand at one rate and had to be raised at a later date, and the way it has buried New Zealand small business in a sea of paperwork. But there is more sinister work at hand in the role of New Zealand Customs Minister, Murray McCully, who apparently is in Melbourne advising the Australian Liberal Party on policy and strategy during the current Federal election campaign.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: They don't like this at all.

Mr BRINDAL: On a point of order, Mr Speaker, Standing Orders require the Minister to answer the substance of the question; I do not believe the Minister is doing so.

The SPEAKER: I do not uphold the point of order.

The Hon. M.D. RANN: I can understand if the Opposition is tired, following its late night meeting last night over the Leader's performance, but that is another question. If they have meetings—a political group grope—at 3 a.m., they wake up with the likes of the Deputy Leader of the Opposition. Mr McCully recently revealed in a newspaper column that he favours total user pays in tertiary education, reducing New Zealand's universities and polytech colleges to *de facto* institutions. He has also revealed that he is keen to abolish taxpayer assistance to the arts, the New Zealand Symphony Orchestra and other cultural activities, and wants the abolition of the ministries of women's affairs and youth affairs, the Human Rights Commission and the Race Relations Conciliator. So, I will not be meeting with Murray McCully on trade or any other issue, but this is obviously revealing John Hewson's secret agenda. We saw dozens of the New Zealand National Government's promises broken, even though they were categorical before the election.

The SPEAKER: Order! The Minister will resume his seat. The member for Coles.

The Hon. JENNIFER CASHMORE: On a point of order, Mr Speaker: I submit that the Minister is debating the question, contrary to Standing Orders.

The SPEAKER: I uphold that point of order. I believe the Minister has finished.

STATE BANK

Mr S.J. BAKER (Deputy Leader of the Opposition): My question is directed to the Premier. In view of the Royal Commissioner's statement in his second report on page 198 that the Government, not just the former Treasurer, made 'no effective response' to warnings that the board was inept and that Marcus Clark was too powerful, what responsibility will he accept for this grave failure in Government responsibility, in view of the warnings he received over a three year period since 1988? We would like an answer to the question.

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

The Hon. LYNN ARNOLD: It looks as though at some stage I will have to go through and quote again, as I did at great length last year, all the evidence Mr Hartley gave to the royal commission and his other comments in the media.

Members interjecting:

The Hon. LYNN ARNOLD: I am answering it: if you want all these quotes read back into *Hansard* again and to take up Question Time, which is valuable time, I will happily do that, because what the Deputy Leader is doing is choosing to ignore all the evidence. I suspect that perhaps he would not want to listen to the evidence from my mouth; perhaps it would be asking too much of him, given the way that he is a total captive of cynicism and things like that. I would ask him to consider the very words of the person he is now trying to use against the Government, namely, Rod Hartley. Members opposite cannot just use somebody when it suits them and ignore the other things they have said. If we are forced into the situation I will simply quote again all Mr Hartley's extensive quotes about the situation in full.

Mrs Kotz interjecting:

The Hon. LYNN ARNOLD: Quite right. The relevant quotes will be read out in full. The member for Newland is quite right. I hope she had a discussion with her own Leader yesterday, because on a number of occasions he chose not to quote in full. So, the point is well taken from the member for Newland. In the matter of the references to accountability, again, I pay tribute to the member for Newland that she makes this point very validly about quoting the full context.

Mrs Kotz interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: Let us look at page 21 where the Commissioner talks about who he says was responsible for these matters. He makes the point that he does not in any way resile from the first report—and quite rightly so. Then he says:

> Consideration of the issues raised by term of reference 3 does not lead the commission to depart from or qualify what was said in the first report...

That is certainly valid, and I accept that.

The Hon. Dean Brown interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: Listen on. He is trying to stop me quoting in full. He has not listened to the member for Newland's stricture that the quote should be in full. So, I will quote in full, as follows:

> ...that all the relevant players, the then Treasurer, Treasury, the board and management of the bank for which Mr Clark was responsible played a part in and must accept some share of the blame for the ultimate fate of the bank.

That was precisely the case. The member for Ross Smith did accept that by his own resignation. When these things happen in Government the accountability of Government is not just to the whole of Cabinet—it is accepted by a Minister, and the then Premier and Treasurer accepted it by his resignation. If one wants to stretch this further—

The Hon. H. Allison interjecting:

The SPEAKER: Order! The member for Mount Gambier is out of order. The Premier.

The Hon. LYNN ARNOLD: The then Premier and Treasurer accepted that on behalf of the Government last year, and there was full accountability by the Government on those matters. If we then want to go to page 2 of the royal commission report, which again was not fully quoted by the Leader yesterday on a number of occasions—and I hope the member for Newland drew to his attention the fact that he should be fully quoting—we see the reference about Government there as follows:

> 'The Government' means the Government of the State of South Australia and includes, unless the context otherwise requires, a Minister of the Government and the officers of the Government and all public employees within the meaning of the Government Management and Employment Act.

What the Leader seems to be suggesting by his distorted, weird interpretation of that phrase—which is a clear cut statement by the Royal Commissioner—is that the resignation of the then Premier is not sufficient, that it has to be everyone who comes within Government.

Mr S.J. Baker: Hear, hear!

The Hon. LYNN ARNOLD: The Deputy Leader says, 'Hear, hear!' Let us go back to the definition.

Mr S. J. Baker interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: It is:

> 'The Government' means—

and to save time I will leave out some of the words, with the permission of the member for Newland—

> ...all public employees within the meaning of the Government Management and Employment Act.

What the Deputy Leader is saying is that the whole 90 000 should go. It is not just sufficient for the Cabinet and the Government; the whole 90 000 should go marching off to take responsibility for this matter. That is a joke, and it is the kind of joke that the Leader and obviously the Deputy Leader want to make of the substance of this report. This report deserves better than that because the reports that have come down on this matter are very important documents and deserve not to be treated by the Leader as that sort of joke.

Members interjecting:

The SPEAKER: Order! The Chair understands that this afternoon some considerable time will be spent debating this report. I suggest to all members that to debate it now is a waste of Question Time.

GOODS AND SERVICES TAX

Mr FERGUSON (Henley Beach): Can the Minister of Education, Employment and Training explain what the Federal Liberal Coalition policy of zero rating schools under the GST actually means for the operation of schools in South Australia?

The Hon. S.M. LENEHAN: I thank the honourable member for his question. It is not an easy question to answer for the simple reason that the Federal Liberal Party itself is having great difficulty in supplying details about the GST.

An honourable member interjecting:

The Hon. S.M. LENEHAN: Yes, I certainly am going to make sure I gets the facts on the record. The Opposition has promised that any—

An honourable member interjecting:

The Hon. S.M. LENEHAN: You will have one on your side, so you are putting your own member down. The Opposition has promised that any education service provided by a school will be zero rated under the GST. In other words, schools will be able to claim a full rebate for the GST paid by them on goods and services. Obviously, schools will have a mountain of paperwork to do in claiming back the GST—

Members interjecting:

The Hon. S.M. LENEHAN: They have to do this, because they will have paid the GST on items such as—

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: —books as well as heating, lighting, phone and water bills. At the same time, the schools will be expected to charge GST for some but not all goods, certainly not for all food but for things such as bus services and recreational and cultural activities. I would like to quote from Fightback I, which states:

> Educational services provided by schools will be zero rated ... but that zero rating does not extend to the provision of food or beverages to students or school bus services or similar examples.

At the same time that schools are collecting all this GST, they have to take off from the amount collected the sum in respect of which they are exempt. The problem is, who is to say whether subjects like music or dancing are educational or are part of the school curriculum? What about geography excursions and music tours? Are these to be deemed recreational or are they to be categorised as educational? The other aspect of the question that relates to schools is 'What about books, uniforms and clothing?' Calculations have been done on data collected from a typical high school and they indicate that, on the sample tested, the cost of a uniform—

Members interjecting:

The Hon. S.M. LENEHAN: I shall certainly be pleased to provide the figures for inclusion in *Hansard.* The cost of uniforms for girls would increase by about $48 and for boys by about $55.

Members interjecting:

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

The Hon. S.M. LENEHAN: Mr Speaker, I would be happy to have inserted in *Hansard* the table on which these figures are based, if the Opposition—

Members interjecting:

The SPEAKER: Order! The Minister will resume her seat. In Question Time week after week I have to caution members. It is not good enough. It is your Parliament. This is the Parliament of South Australia. The gallery is full of schoolchildren, who are watching the proceedings. Members are lowering the standards of the place, and I will not put up with it any longer. The Minister.

Mr S.J. BAKER: Mr Speaker, I rise on a point of order. Can I draw your attention to the length of the Minister's reply?

The SPEAKER: You certainly can. The Minister.

The Hon. S.M. LENEHAN: Thank you, Mr Speaker. I wish to conclude by saying that I am happy to provide to all members of the Opposition—

Members interjecting:

The SPEAKER: I warn the member for Hanson. The Minister.

The Hon. S.M. LENEHAN: Thank you, Mr Speaker. I am happy to provide the detailed analytical tables on which the claims are based. They are real claims, and I find it amazing that the Opposition finds it humorous and funny that ordinary families in this State will have to find $48 or $55 more just for school uniforms, not counting the rest of the facts.

Members interjecting:

The SPEAKER: Order! The Chair seeks clarification. Does the Minister seek to have a table inserted in *Hansard?*

The Hon. S.M. LENEHAN: Yes, Mr Speaker, I seek leave to have the table inserted in *Hansard.*

The SPEAKER: Is the table purely statistical?

The Hon. S.M. LENEHAN: Yes, Sir.

Leave granted.

SCHOOL UNIFORMS

Item	Size	Quantity	Cost $	Total Cost $	Total Cost + 11.28 % GST $
Girls					
Dress Skirt	8-24	3	30.00 ea	90.00	100.15
Dress Blouse	8-26	3	21.50 ea	64.50	71.78
Sports Dress	8-16	2	44.00 ea	88.00	97.93
Sports Nix	8-16	3	4.20 ea	12.60	14.02
Socks	All	3	2.00 ea	6.00	6.68
Dress Hat	All	1	38.00 ea	38.00	42.29
Woollen V-neck Pullover	All	1	40.00 ea	40.00	44.51
Black Leather Shoes	All	1	50.00 ea	50.00	55.64
Sports Shoes	All	1	40.00 ea	40.00	*44.51*
Total				**$429.10**	**$477.51**
Boys					
Long Grey Trousers	All	1	37.00 ea	37.00	41.17
Dress Shorts	All	1	28.00 ea	28.00	31.16
Dress Shirt	All	3	17.00 ea	51.00	56.75
V-neck Sports Shirt	All	2	21.50 ea	43.00	47.85
Sports Shorts	All	2	12.50 ea	25.00	27.82
Sports Socks	All	3	5.20 ea	15.60	17.36
Long Socks Pullover	All	2	5.20 ea	10.40	11.57
ShortSocks	All	3	2.00 ea	6.00	6.68
V-neck Woollen Pullover	All	1	40.00 ea	40.00	44.51
Tie		1	10.50 ea	10.50	11.68
Sports Cap	All	1	4.50 ea	4.50	5.01
Black Leather Shoes	All	1	50.00 ea	50.00	55.64
Sports Shoes	All	1	40.00 ea	40.00	44.51
Total				**$361.00**	**$401.71**

STATE BANK

Mr INGERSON (Bragg): My question is directed to the Premier. In view of the repeated warnings that he received from Mr Rod Hartley about the problems of the State Bank, does the Premier's accusation that the former board's failings were 'wide-ranging, ongoing and inexcusable' extend to Mr Hartley, who was also his Director-General for three years and with whom, according to the Premier's evidence to the royal commission, he shared 'a good, close working relationship'?

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: It is interesting to note that the Royal Commissioner did not break that up in terms of who were members of the board.

Members interjecting:

The Hon. LYNN ARNOLD: I thought members were asking questions about the Royal Commissioner's report and not personal opinions that I may have. In fact, as is widely known, Mr Hartley is a person for whom I have had regard for a long time. That point is well known; I made that point to the royal commission. If we look at the evidence of the Royal Commissioner, we see that he took this group of people and asked whether or not they were up to the occasion of managing a board of a bank. What he says by his statements here is that, yes, they were up to it—they had the necessary experience and the necessary qualifications. So he says that that collective group of people did have those skills.

Mr Ingerson interjecting:

The SPEAKER: Order! The member for Bragg interjects time after time in Question Time. I must caution him about this habit he is developing of asking a question and continuing.

Mr Ingerson interjecting:

The SPEAKER: Order! The Chair has no power to force any nature of reply. The honourable Premier.

The Hon. LYNN ARNOLD: Then he says that, once having determined that they were up to it in terms of their skills and experience—so essentially he is saying that individually many of those individuals are, but perhaps that is stretching too long a bow from his report—nevertheless, did they do it? He then says, 'Collectively as a group, no.' He says that Mr Hartley did give some evidence on this matter, and he refers back to his first report on this point. So he certainly acknowledges that Mr Hartley had given evidence to that effect. He then seems to be particularly scorching in his comments about the two former Chairs of the board, more so than the general members of the board. I guess that is quite right, too, because after all those who take leadership positions do have to bear that accountability for the larger group. They are expected to show some leadership of the larger group.

So he makes that point clearly about both Lew Barrett and David Simmons, but beyond that one reference to Rod Hartley in this report he does not go on to make individual comments on the other individuals—but I am slightly wrong there, because at one stage he does say he probably excuses Keith Hancock and Keith Smith. He says 'probably', so there is a pretty heavy qualification on those two. But essentially his comments refer to the board at large, and my comments that I have made since the release of this report, and indeed prior to that, also refer to the board at large—to the whole group of people. The other comments that I have made about the personality of individual people I have made publicly, and they are there to be seen anyway.

GOODS AND SERVICES TAX

Mr HAMILTON (Albert Park): Will the Minister of Housing, Urban Development and Local Government Relations advise the House what impact the proposed goods and services tax would have on housing repayments for customers of HomeStart in South Australia? Yesterday my electorate office was contacted by a Semaphore Park home buyer seeking information as to the impact of the GST on HomeStart loans, hence my question.

The Hon. G.J. CRAFTER: I thank the honourable member for his question and for giving me sufficient notice that he was interested in this matter so that I could carry out further research in order to answer his question. First of all, can I say that there are 12 000 low and moderate income South Australian families who have been able to buy a home of their own over the past three years with the assistance of a HomeStart loan. The proposed goods and services tax, if it ever comes into effect, will impact on mortgage repayments for HomeStart customers in two key areas: a GST will, first, mean higher inflation, which will mean higher interest rates, which means bigger mortgage repayments; secondly, a GST will mean higher house prices—and I have explained that to the House previously—which means bigger loans, which means bigger mortgage repayments also.

HomeStart's 12 000 customers are everyday South Australian families, trying to achieve a dream and level of financial security that I am sure is enjoyed by every member of this House. Their average combined household income is just above $31 000 per year, and they borrow on average $69 000. Yesterday I told the House that families in the private rental market were the most likely to live in poverty. Well, programs such as HomeStart provide opportunities for private renters to get out of the rental roundabout and buy a home of their own, a goal to which I am sure we all aspire. By its own calculations (page 328 of Fightback), the Federal Opposition estimates that a goods and services tax will have an impact on inflation of 4.4 per cent. We all know that 4.4 per cent inflation means that interest rates on house mortgages also go up by 4.4 per cent.

Even if we believe—

Members interjecting:

The SPEAKER: Order!

The Hon. G.J. CRAFTER:—Fightback II, where the Opposition estimates inflation will now be only 2 per cent, we will still see a huge impost on mortgages. For our average HomeStart borrower, 2 per cent inflation would add $26.50 per week to their mortgage repayment. Are these families eligible for the Coalition's compensation package for home buyers? The answer is simply, 'No; that is only for the families who buy in the future.'

Members interjecting:

The SPEAKER: Order!

The Hon. G.J. CRAFTER: And are they able to access their super funds as promised by the Coalition? Again the answer is 'No; they have already contracted and received a loan.' So, the Federal Coalition's proposed goods and services tax is a hidden tax. We have all heard the rhetoric about how everyone from Broome to Brompton will be compensated, but here we have yet another example of how 12 000 low and moderate income South Australians will be hit by a new tax slug without one single dollar of compensation.

Members interjecting:

The SPEAKER: Order!

STATE BANK

Mrs KOTZ (Newland): Will the Premier concede that, under the definition of 'Government' in the second royal commission report, members of Cabinet in office at the time are the only people with at least some responsibility for State Bank losses who have not yet done the decent thing and resigned?

Members interjecting:

The SPEAKER: Order! The Premier will resume his seat. I have indicated to the House previously that I understand we will have a long debate on the State Bank this afternoon. The debate will not be allowed to continue in Question Time. The Premier.

The Hon. LYNN ARNOLD: I am disappointed in the member for Newland; I thought she would be one who believed in proper—

Mrs Kotz interjecting:

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

The Hon. LYNN ARNOLD: I thought she was going to properly deal with the words of the Royal Commissioner's report: quite obviously not. So, again we must come back to what is actually happening.

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: I thank the member for Chaffey for his reference to page 2; I was already there and about to quote again the quote that he knows full well:

> 'The Government' means the Government of the State of South Australia and includes, unless the context otherwise requires, a Minister of the Government and the officers of the Government and all public employees within the meaning of the Government Management and Employment Act 1985.

I take it that the member for Newland is debunking the possible view of the Deputy Leader that 90 000 should be held accountable for this. I will assume that that is the case for the honourable member. Then we come back to what it talks about. It says 'a Minister of the Government'; clearly, that refers to the Minister responsible for the area under question. Yesterday, I was asked a question—

Members interjecting:

The SPEAKER: Order!

The Hon. Dean Brown interjecting:

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

The Hon. LYNN ARNOLD: Yesterday I was asked a question by—

The Hon_ Dean Brown interjecting:

The SPEAKER: Order! I warn the Leader.

The Hon. LYNN ARNOLD:—the Opposition as to who was the Minister responsible for the State Bank now. I remember the Deputy Premier gave a non-verbal answer to that, and I indicate quite correctly that the Deputy Premier is the one to whom the Act is committed. The Act was previously committed to the then Premier and Treasurer, and he resigned. Let us just take it a little further, because it says, 'unless the context otherwise requires'. We must look at what that might refer to. The Commissioner's own words on this matter appear at pages 12 and 13 and, again, in a sweeping kind of way, these page numbers have been referred to by members of the Opposition but they have not referred to what actually is said on pages 12 and 13. So I will do that now. At the bottom of page 12, the Commissioner quite clearly indicates that the two reports should be taken together: they are equal reports in this process, and that is quite correct. I certainly accept that. Then he goes on to say:

> It is necessary to remember that the examination of the relationship between the Government and the bank which was the subject of the first report disclosed that—

and there is half a page of quotes. I will not go through them all, although if members want me to I can do so. However, I can quite clearly identify the references to 'Government' in those dot points. If the honourable member has the document open she can check that I am going through them properly. The report refers to the 'Treasurer', 'Treasurer', 'Treasurer', 'Treasury', 'Treasury', 'Treasurer'.

Mrs Kotz: Read the last sentence.

The Hon. LYNN ARNOLD: I am reminded to read the last sentence, so I will do that.

Mrs Kotz: In full.

The Hon. LYNN ARNOLD: In full. It states:

> Such findings and the findings in the first report will serve to confirm the conclusions in chapter 12 of that report that none of the players who are there referred to can escape a measure of accountability for the ultimate fate of the bank.

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: The section that I have just read is a restatement of chapter 12 by the Commissioner. Should there be any doubt about that, Sir—

Mrs Kotz interjecting:

The SPEAKER: Order! I warn the member for Newland.

The Hon. LYNN ARNOLD: Apparently the member for Newland is having a bit of trouble digesting or getting the hang of what the Commissioner had to say. It is quite clear to me and to anyone who listens to those words. Let us turn now to page 21. Members opposite should not shake their head because these are the Commissioner's own words. He states:

> Consideration of the issues raised by term of reference 3 does not lead the commission to depart from or qualify what was said in the first report, that all the relevant players—

we have been through this earlier this afternoon, and I will quote the list that the Commissioner puts—

the then Treasurer, Treasury, the board and management of the bank for which Mr Clark was responsible, played a part in and must accept some share of the blame for the ultimate fate of the bank.

And, indeed, they have done so. The former Treasurer resigned last year, a point that has been missed by the Opposition, in accepting some share of the blame for the ultimate fate of the bank.

GOODS AND SERVICES TAX

The Hon. J.P. TRAINER (Walsh): Has the Minister of Business and Regional Development asked the Small Business Corporation to undertake a small business impact statement on the GST and other taxation measures being advocated during the current Federal election campaign by various Parties? Calls to my electorate office reveal considerable confusion about the GST, how it would apply and how much paperwork would be involved. In particular, there are concerns about the printing industry and the publishing industry.

The Hon. M.D. RANN: With your indulgence, Mr Speaker, I should like to take politics out of this reply. From my feedback, I am sure that thousands of small business people are confused by the GST. Some of them have asked me to define goods and services. As I understand it, if I can drop it on my foot, it is a good, but, if I cannot, it is a service. As an example, I will take our daily newspaper, the *Advertiser,* which is dear to us all. Whenever the *Advertiser* buys newsprint, printing ink and machinery, it would pay a 15 per cent GST to its suppliers. It would also pay 15 per cent tax whenever it buys pens and notebooks for its journalists, telephones and equipment, and office cars for its senior staff. The *Advertiser* would pay 15 per cent tax on top of its electricity bill, its telephone bill and its water and sewerage bill. Every time it buys a radio advertisement about ringing Rhonda, there would be a 15 per cent tax on that, too.

Let us relate all those things to the newspaper we buy on our way to work. Newsagents would pay the *Advertiser* an extra 15 per cent GST and add their margin for cost and we would have to pay 15 per cent GST on the final price. At the end of each month, the *Advertiser's* computers would go through all the invoices for GST paid and received, top them up, and send the difference to the tax office. Of course, the *Advertiser* would not face any tax from any Government on its impartiality because it has already been zero rated.

Small business would be faced with a paper chain of invoices that would divert energy and choke effort, and that is why so many small businesses in this State are very alarmed by the Party-political campaign by the Chamber of Commerce. They say that that campaign confirms that the chamber is about big business and is not concerned with small business. I certainly hope that is not the case.

STATE BANK

The Hon. JENNIFER CASHMORE (Coles): I direct my question to the Premier. Why has the Government refused to apologise to the people of South Australia for the $3 150 million loss of the State Bank which has inflicted such massive damage on our children and on their children?

The Hon. LYNN ARNOLD: I wonder sometimes where some people are when statements are made. Last year when I made my ministerial statement, I indicated that the Government accepted its share of the responsibility for the failure of the State Bank. I did so again yesterday and I have indicated on other occasions that we must await the full report of the royal commission to see what is happening. Substantially, we now have that. That has indicated where responsibility should lie and what action should be taken, and action has been taken. I would have thought that the resignation of the former Premier and Treasurer was a very big step. The fact that many others seem not to have borne such a burden in terms of their own position is of concern in terms of those in the bank. The Government accepts its share of responsibility for this matter. What it behoves the Opposition to do is not to play cheap politics but to get to the substance. You may ask, Sir, why I would make that comment about cheap politics.

Members interjecting:

The SPEAKER: Order! The Premier will resume his seat. The Chair is vested with the responsibility of the conduct of this House. Members cannot expect the Chair to keep crying wolf without taking some action. I will say no more than that. Members know what the rules are. I have cautioned and I have warned. I will not continue to warn. There is a very important debate this afternoon. If members want to be here for that, they should look to their conduct.

The Hon. LYNN ARNOLD: It is quite clear that what really motivates the Opposition is nothing other than a lust for power. I say that because Opposition members have not been interested at all in what is in this document. In fact, they have been very concerned about the document because it does not help their case. They have made precious little reference to anything in the document beyond page 2. Why? Because it does not serve their case.

An idea of how cynical and lacking in credibility the Opposition has been in this matter can be seen in its response to the second report of the Royal Commissioner. Its response came out in a press release from the Leader of the Opposition on Monday. The Leader did not have a copy of the second report at that stage, but he issued to all the media his response to the report. He cast judgment before he saw the Commissioner's own words. It is a tribute to the discipline of the team over there that they have not budged from the line which the Leader put out on Monday about the Opposition's judgment or opinion on this matter. It was as if the document had never appeared

The Hon. J.P. Trainer: Verdict first, evidence after.

The SPEAKER: Order!

The Hon. LYNN ARNOLD: That is exactly right. It was a case of shoot them first and then ask questions. If the member for Coles could show herself to be a person of more credibility in the political process and if the Leader could show himself to have more credibility, perhaps they would be taken more seriously but, to hear questions of this nature just now against the background

of such lack of credibility by the Opposition, simply brings this place into disrepute.

Members interjecting:

The SPEAKER: Order!

WORKCOVER

Mr QUIRKE (Playford): Will the Minister of Labour Relations and Occupational Health and Safety tell the House what effect reductions in the annual WorkCover levy collected from employers will have on business in South Australia? Last Friday, the WorkCover board agreed to reduce the annual levy collected from employers to $233 million in 1993-94, a reduction of $20 million from the original 1992-93 target of $253 million.

The Hon. R.J. GREGORY: On Friday, the WorkCover Corporation announced that, as from 1 July, its average levy rate collection would be 2.86 per cent. That will reduce the total amount collected to $233 million. In real terms, that is $67 million less than what was collected when private insurance companies were operating in South Australia in 1986.

Mr D. S. Baker interjecting:

The Hon. R.J. GREGORY: Well might the member for Victoria laugh and say, 'What a joke', but that is the truth. If the member for Victoria cannot understand and read figures, I feel sorry for him, but he should not laugh about it, because what has happened is that for the first time a scheme has been introduced into South Australia which has brought about a reduction in injuries and pain to people in the workplace. For the first time, employers are being encouraged, through monetary means, to reduce the accident rate within factories. We have seen this happen over the past three years with significant increases of about 10 per cent per annum which have continued into this financial year. That means a huge increase in productivity. Not only has there been a reduction in cost and injury but there has been an enormous increase in productivity, which benefits all people in South Australia.

I might add that the member for Bragg, with the true attitude of an Opposition spokesman on this matter, has always decried the efforts of the WorkCover Corporation, the board and the people who work there who have examined their organisation, introduced mechanisms and reformed their processes so that it can operate more effectively and efficiently and bring down injury rates. There has been a partnership of people in industry, the corporation, the Department of Labour and the Occupational Health and Safety Commission to bring this about. I applaud the decision of the board. I am confident that the work it has done in the past three years and the work it will do during this year will bring about a further significant reduction in levy rates for the next financial year.

HOSPITAL BEDS

Mr MEIER (Goyder): How can the Minister of Health, Family and Community Services claim that South Australia has no crisis in its hospital system when a man sells his piano to pay for an operation in a public hospital only to find there is no bed available, and will the Minister take urgent action to address the problem faced by this person? A constituent of mine from Paskeville has suffered severe sinus blockages to the extent that medication he is required to take is affecting his health. He was told that if he waited for an operation on the public health Medicare system it would take at least a year and that he could not have the surgeon of his choice. In desperation he sold his piano to help pay the $600 fee at Modbury Hospital, which was cheaper than a private hospital.

After five or six calls, he was booked in for an operation this evening and he was to be admitted to hospital yesterday. He confirmed the arrangements last Thursday and Friday and was told that a bed would be available. He arranged with his employer to take a week off and for someone to stay with his wife, who is unwell, and his nine-month-old daughter. He also arranged for relatives to pick him up at the bus from Paskeville to take him to hospital, after spending $50 to get there, only to be told on arrival that a bed was not available. He has now been told to book again through his surgeon but has been warned that a bed still may not be available. As my constituent has indicated to me, 'South Australia's health system is in an absolute mess.'

The SPEAKER: Order! The honourable member will come to order. The member for Goyder spoke over the Chair. The Chair has the power to disallow that question, but knowing how important it is to the honourable member I will allow it. If he tries to override the Speaker again, I will disallow the question. The member for Napier.

The Hon. T.H. HEMMINGS: Mr Speaker, I draw your attention to the length of the question.

The SPEAKER: The member for Napier has done that and will resume his seat. The Minister of Health, Family and Community Services.

The Hon. M.J. EVANS: In individual circumstances such as this where a person has as a private patient sought admission to a public hospital or, indeed, a private hospital, I am prepared to examine the case. I am sure that the member for Goyder will be happy to provide me with the personal details so that I can have them checked forthwith. I would have been happy to begin that process this morning had he sought to contact me at that time, and we may well have been able to resolve the matter. If the issue is about private admission, that is somewhat more difficult.

The honourable member correctly raises the issue of hospital charges and private patient costs, and I think he should remember that those costs are very much part of the Opposition's health system. As a survey taken in Sydney showed this morning, 78 per cent of the doctors questioned said they would raise their fees to the AMA schedule price of $32, and nine out of 10 said they would require payment up-front.

An honourable member interjecting:

The Hon. M.J. EVANS: Well, nine out of 10 doctors in a survey of the electorate of the Opposition spokesman on health said that they would charge the full AMA fee up-front. If we are going to talk about costs, I suggest that an up-front payment of that kind of fee is a very difficult proposition indeed. I am more than prepared to examine the individual case of a private patient that has

been raised here, and if the member for Goyder would like to give me the details I will have the matter investigated immediately following Question Time.

EQUAL OPPORTUNITY

Mrs HUTCHISON (Stuart): My question is directed to the Premier. In the event that the Federal Coalition's industrial relations proposals were introduced, could he advise the House of the measures he could take as Premier to ensure that South Australian women were guaranteed equal pay for equal work? At a meeting of the Women in Trade Unions Network last night, three speakers asserted that there would be no equal pay for women under the Federal Coalition's proposals.

The Hon. LYNN ARNOLD: I can give an assurance that if the worst case scenario were to happen, namely the election of a Hewson Government on the weekend—and that would be something to be deeply concerned about—to the extent that it is within the power of the South Australian Government we would do whatever we could to protect equal pay. Of course, South Australian awards exist, and this Government has no intention at all of taking away that safety net of the award system. Many women are covered by the South Australian award system, and we have wanted to bring women into an award system in other situations such as, for example, outworkers. We know what sort of response that got from the State Opposition.

We do not need to have views about what the Federal Opposition would do in these matters; the very State Opposition opposes equality of circumstance for women in that category. It does not matter what the Leader of the Opposition attempted to say last week when he claimed that the Australian Nurses' Federation misquoted situations—

The Hon. Frank Blevins: Morphett said they were Trotskyites.

The Hon. LYNN ARNOLD: That is right. With respect to the Federal Opposition's policy on these matters, the Liberal Party has to answer to this State and to the women of this State regarding the situation with respect to its State policy on industrial relations. We have been waiting for that for a long time, and I do not know when it will be forthcoming. The member for Hayward commented that we have not seen the policy. Indeed, the Federal Coalition's industrial relations policy has been seen. It is called 'Jobs Back'. The copy that I have was not sent directly to me but was sent to someone courtesy of the Liberal Party, and I have the 'with compliments' slip that came with it. So, I want it to be understood that we are not misquoting—

The Hon. Frank Blevins: It's authentic.

The Hon. LYNN ARNOLD: Yes, it is authentic, and we are not misquoting what the Liberal Party is saying. While the Leader may choose to say that all is not correct with the nurses' federation, the reality is that regarding this matter 'Jobs Back' states:

> Award regulation of employment conditions will continue only where both an employer and one, some or all of its employees desire it.

If the employer is not going to be part of the bargain—bad luck. That is what it amounts to, because it says that it is contingent upon both the employer and the employee, and it states quite clearly 'will continue only where'. I suggest that the Leader should start trying to wipe out his speech of last Thursday, because he is out of step with his Federal colleagues.

The point might be made by some of the more ingenuous members opposite that that will not affect equal pay, that there will still be equal pay for women in the work force, because that is the way things work, that better nature will take control of things and where women are working in the same position as men they will get equal pay. That simply is not the way a non-award-protected system works. One sees from the New Zealand example that there are vast variations in the rates of pay given to various people. One only has to look at what happened in this country, given that equal pay for those under award conditions was introduced in the 1970s. Women now get about 90 per cent of men's wages, if we take all the wages into account.

The situation in other countries without that award safety net is quite markedly different. In the United Kingdom, it is 75 per cent; in the United States, it is 75 per cent; and in Canada it is 66 per cent. So, the application of this Federal policy will mean that those women who are employed presently under Federal awards will suddenly find that they are exposed and vulnerable to a situation where equal pay will no longer be a reality for them. That very great goal that was achieved by the Whitlam Government in the 1970s and the Dunstan Government in this State will be history; it will be finished, and that is a policy which the Leader of the Opposition, by no amount of dissembling, should be ashamed of.

REMM-MYER

Mr BRINDAL (Hayward): My question is directed to the Deputy Premier. How many tenants in the Remm-Myer office block have received rent free deals, and how much is this costing taxpayers in South Australia? This office block is part of a project in which losses to the taxpayer are already estimated at more than $400 million and could exceed $500 million. One tenant of the office block is the MFP project, which moved in in March 1992, some 12 months ago. Representatives of the MFP project gave public evidence today and said that they have received a rent free deal for 18 months, which was worth some $354 000. The building has other Government tenants, including the Commonwealth Book Shop, which we believe moved in last weekend, and Tourism South Australia.

The Hon. Dean Brown interjecting:

The Hon. FRANK BLEVINS: The Leader ought to realise that interjections are out of order. I would not expect to be interrupted by him constantly, today of all days. As I understand the office and retail accommodation market out there, not one building owner is not giving discounts—

Mr Brindal interjecting:

The SPEAKER: Order! The member for Hayward will pay in a moment.

The Hon. FRANK BLEVINS:—rent free periods and other incentives for people to occupy their office blocks.

I can see no reason why the ownership of that office block would make any difference. Just because the office block is owned by the taxpayers, it does not mean it can avoid the market at the moment and, if the market at the moment demands incentives and if Remm is in the market, it will have to meet the market or its shops will be empty. It is as simple as that. I would have thought that members opposite would approve of that and would approve of market forces operating on the Government, the same as they operate on everybody else. I can assure the member for Hayward that in this instance it does—it is exactly the same.

If a private individual or company is looking for office, commercial or retail space, it will go to the market and see what is available and take the best deal, and that is what business is all about. Whether the building is owned by the Government makes no difference; the market is not interested. However, I will examine the question and, if there is anything further to add (which I doubt; it seems a very easily answered question) and if there is anything in the question that I have not dealt with in principle, I will come back to the Parliament.

ENVIRONMENT POLICY

Mr De LAINE (Price): How does the Minister of Environment and Land Management respond to the claim by the Coalition in its environment policy that a Hewson Government would promote greater efficiency in energy consumption? In its environment policy document, the Coalition claims it will improve efficiency and reduce demand for energy in buildings and motor vehicles and will substitute renewable for non-renewable energy sources, such as greater use of solar power and natural light.

The Hon. M.K. MAYES: I thank the member for Price for his question, because it is very relevant. From the outset, the Coalition's position on the environment has been a disaster, commencing when the Leader of the Opposition refused to negotiate with the Conservation Foundation, sent Mr Philip Toyne to coventry and would not have any negotiations over a period of almost two years. Now, it has this philosophy that it is announcing from the rooftops whereby it will be the new light and that it wants to follow with the economy and certainly with efficiency in energy consumption. Let me just point to a few factors within Fightback which highlight the absolute hypocrisy of the statements of the Leader of the Opposition, Dr Hewson.

In effect, when we look at the Coalition's energy policies, we see that the introduction of the GST (and this will impact directly on South Australia) would actually impose cost penalties on those people trying to move away from non-renewable resources to achieve energy efficiency. If we look at the reduction in the price of petrol as part of this offset for the GST, we see that the estimate is that there will be a 20 per cent increase in the consumption of petrol. Now we know that, for example, there have been significant health studies, and I am sure that my colleague the Minister of Health, Family and Community Services would be happy to bring the House up to date on those with regard to lead pollution, particularly in metropolitan Adelaide but also in all the cities of Australia. It is of great concern, particularly to Health Ministers and also to the community. Here we have the GST as part of the Fightback package and, following the reduction in the price of petrol, we will see petrol consumption increase by about 20 per cent, and that is a major problem, particularly for cities like Sydney and Adelaide.

Under the GST, the alternative fuels with lower carbon content such as LPG and natural gas would go up in cost, because such fuels are now exempt from fuel excise and under the GST there would be a 15 per cent levy on LPG and natural gas. Again, that is a disincentive for people to move to those. There are some 100 000 vehicles currently using LPG, so we would see an increase in expense for those people using that form of energy.

Let us look at solar power. Currently, solar collectors for hot water are exempt from wholesale sales tax. The GST would impose a 15 per cent tax on those collectors, significantly increasing their costs, so that is another direct cost to South Australians who endeavour to use natural, renewable resources. Let us look at home insulation. Housing insulation also is currently exempt from wholesale sales tax, and that would also suffer a major increase through the GST, so we can see again another attack on those people who are trying to do the right thing for the environment.

Members can see that it is an untargeted and careless approach on the part of the Coalition. I would be remiss in not touching on nuclear energy. The proposal enunciated by the Leader of the National Party indicated the Coalition's support for the establishment of domestic nuclear power stations and for the development of a uranium enrichment industry. When questioned, he clearly said that South Australia is part of its policy. Most South Australians would find that extremely worrying.

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

Mr S.G. EVANS: On a point of order, Mr Speaker, the Minister has given a long enough answer, and he is debating the question.

The SPEAKER: I uphold the point of order.

CRAIGBURN FARM

Mr S.G. EVANS (Davenport): Will the Minister of Environment and Land Management now release all details of the Government's secret deal with Minda Incorporated, which was entered into to facilitate the disposal of a large section of Craigburn Farm at Blackwood for housing and, if not, why not? This morning before the Environment, Resources and Development Committee, the Minda representatives gave evidence that they had no objection to the details of that agreement being released and that in fact they have never objected to its being released. People who were observing approached me afterwards and said that they had been trying for months to get a copy of the details and asked me whether I would ask the Minister to have it released.

Members interjecting:

The SPEAKER: Order!

The Hon. G.J. CRAFTER: I will undertake to have this matter considered. I understood that there was some confidentiality of a commercial nature about aspects of this matter but, if that does not exist, I can see no reason why that information should not be released. I will certainly have it investigated and advise the honourable member in due course.

STATE BANK

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations): I lay on the table the ministerial statement relating to the future of the State Bank royal commission that was made earlier this afternoon by my colleague the Attorney-General in another place.

The Hon. LYNN ARNOLD (Premier): I move:

That the second report of the Royal Commission into the State Bank of South Australia be noted.

I want to make some points about this matter before the House goes into a full debate on it. First, it was always the Government's intention to make the opportunity available for a full debate on this report, just as we did with respect to the first report of the Royal Commissioner. I hope that the debate we have this afternoon will draw from the Opposition more constructive comments, more constructive appreciation and a more accurate reflection of what is actually in this report than we have seen so far.

As I mentioned a few moments ago, we have had the Leader of the Opposition already giving an opinion about the judgment of the Royal Commission the day before he even saw the document. That is what it has really been like from the Leader of the Opposition ever since that. In his rush to judgment, in his rush to ignore the evidence, he has been going around with a certain fixed position as to what actually was the case. I have this feeling that we can anticipate what the Leader is going to say in his speech in a few minutes from now: he will simply rehash the arguments that he has put forward before. I suggest that he look through his written script and make the appropriate amendments to bring himself back to what the report is really about.

The Leader of the Opposition has desperately been trying to make people believe that this report is all about—solely about—the Government. The point that I have made is that this report is one of two reports: we debated the first report last November and we are debating this report this week. In the wholeness of those two reports, we see information about the responsibility of the various players (as the word is used) in the failure of the State Bank. It is not all about the Government: it is about a number of other players as well. Indeed, as we have seen from the report this week, dealing as it does with those who were directly responsible not only for the day-to-day management but for the regular oversight of the bank—namely, the then board of the bank—it is a scathing report on those particular people.

However, if we read the Leader's press release of Monday, if we read his comments made yesterday after he had seen the report, we find that he totally ignores that issue. It was only last night on the *7.30 Report* where almost *sotto voce* he said, 'Well, yes, the board and the management did have a part to play.' It was a reluctantly drawn out admission that perhaps there were some others who might be vaguely affected by what happened at the bank. The Leader will have to do better than that. In his speech today he will have to go through the substance of this report—and there are 289 pages that he will have to deal with. It will not be sufficient for him simply to draw our attention by misquoting something on pages 1 and 2 and one or two other pages: he will have to fill in the gaps in between in terms of all the other pages where statements are also made.

I will come back to what the report deals with in a moment, that is, the bank's former board and management. Let us deal with what the Leader himself wants to talk about, what he has been talking about and what he has been obsessively focusing on. What he has been obsessively focusing on is this question of Government. I make reference to that matter of Government yet again, so that in this speech that I give the fullness of the issue of Government and the way it is dealt with by the report can be acknowledged by all who read the speech later or are listening to it now.

I come again to the points I have made before. The Commissioner tells us that we should consider this report along with the first report, and that is correct. Certainly, the Commissioner tells us that there is an understanding of the concept of Government that we should be clear about. I believe he possibly did that because there were many references to 'Government' in the first royal commission report, and that led, I believe in this Chamber, to members opposite particularly being confused about what was actually meant. I draw attention again to the quote on this matter, as follows:

'The Government' means the Government of the State of South Australia and includes, unless the context otherwise requires, a Minister of the Government, and officers of the Government and all public employees within the meaning of the Government Management and Employment Act 1985.

Earlier in Question Time I drew attention to the kinds of deductions that can be drawn from that—the kinds of deductions that can, in quite a silly way, be drawn from that. It is interesting to note that the Commissioner himself at one stage in the report does refer to people drawing silly conclusions from evidence presented before them. The Leader himself has fallen for that same trap of drawing silly conclusions from the evidence before him.

The Leader would have us believe that this means everybody in Government—despite the fact that it talks about a Minister of the Government and officers of the Government and all public employees. That would suggest, as I have indicated before, that the Leader believes that the whole 90 000 of the Public Service of South Australia should go with respect to this bank. Indeed, even the former member for Victoria did not have any intention of that large a cut in the employment levels of the State Public Service: he was going to go for only 9 000. But the Leader, by one implication, would want us to have 90 000 employees go. That is clearly an absurd proposition.

Let us look at what the statement actually says. It talks about a Minister of the Government, and that relates to the Minister who holds responsibility for an area; in the

Westminster system, when a Minister holds responsibility for an area, that Minister is the one who takes the consequences. Indeed, that happened last year when the former Premier and Treasurer resigned his position, as he indicated at the time that he was taking that responsibility. The quote also states, '...unless the context otherwise requires...'. We have to come back again to what the context may otherwise require, and that is where we find—and again I draw reference to the pages—

Mr Lewis interjecting:

The Hon. LYNN ARNOLD: The member for Murray-Mallee says this is absolute drivel. He is reflecting on the words of the Commissioner's own report. I am not fabricating these words: I am drawing from the Commissioner's own report. On pages 12 and 13 again we come to the Commissioner's connecting the first report and the second report—that they must be taken in parallel, that they are equal reports that must be dealt with equally, and I have certainly accepted that. He then states:

> ... it is necessary to remember that the examination of the relationship between the Government and the bank which was the subject of the first report disclosed that—

and I detailed in Question Time the references that come out of the next eight dot points. Those eight dot points refer to—in terms of those relevant to Government—the Treasurer, on a number of occasions, and Treasury, and that is all.

An honourable member interjecting:

The Hon. LYNN ARNOLD: Further down in that section—and I was reminded by the member for Newland that I should quote the last sentence of that section, and I am quite happy to do so—it states:

> These matters are part of the scenario in which the role of the board and Mr Clark falls to be assessed. Subsequent chapters of this report will make findings that are critical and sometimes highly critical of their performance.

I may say that the findings of the Commissioner are truly damning of the performance of the former board and the former management. The Commissioner goes on to say:

> Such findings, and the findings in the first report will serve to confirm the conclusion in chapter 12 of that report that none of the players who are there referred to can escape a measure of accountability for the ultimate fate of the bank.

Members opposite try to hide away from the fact that on that very page—page 13—the players are already named. If we then look at page 21, we can see that the players are most certainly named again, and I quote this matter again. I have quoted it earlier today but, for the sake of wholeness of the speech, I believe it is important to quote it again now:

> Consideration of the issues raised by term of reference 3 does not lead the commission to depart from or qualify what was said in the first report, that all the relevant players—

and thereupon follows a list of all the relevant players—

> the then Treasurer, Treasury, the board and management of the bank for which Mr Clark was responsible played a part in and must accept some share of the blame for the ultimate fate of the bank.

That is clearly what we see. We have those issues defining Government put well and truly into account. The Commissioner's definition of 'Government' refers to a Minister—not all Ministers—and that Minister has indeed paid that price. It is a very harsh price that that Minister had to pay, given that the direct responsibility for the dealings of the bank—the day-to-day management of the bank—was being handled by the then management and the oversight of the bank was being handled by a group that the Commissioner himself acknowledges was a body capable of having done better, namely, the then board, but failed to do so.

Again, I make the point that it is a pity that the Opposition Leader seems to have read only pages 1 and 2, misquoted pages 12 and 13 and totally ignored page 21 and a number of other pages in the document as well. Let us deal with the whole report. These days with modern technology it is possible to scan word references in a report, because it is available on disk. In this whole report, for the Leader's information, the word 'Treasurer' referring to the former Treasurer is referred to 114 times. The Opposition Leader goes on a lot about the supposed responsibility of the whole of Cabinet. How many times—

Mr Brindal interjecting:

The Hon., LYNN ARNOLD: The member for Hayward does not want to hear this but, for the member for Hayward's information, he ought to hear how many times Cabinet is mentioned in the 289 pages of the report. Have we any guesses as to how many times? The member for Hayward will not hazard a guess, but I will tell him and put him out of suspense. How many times is Cabinet mentioned? It is mentioned once. The one reference to Cabinet may be sufficient enough to be of great concern to the Government. It could be; one could find that it could be of great concern. We must look at what that reference is and the context of it. This is the sentence in which it appears:

> That board member Mr Don Simmons was a former member of Parliament and a State Cabinet Minister.

That is the one reference to Cabinet in the entire document.

Members interjecting:

The Hon. LYNN ARNOLD: The member for Mount Gambier may prattle on, but the reality is—

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD:—that they are choosing to misuse what the Commissioner himself is attempting to say, and that is a considerable disrespect to the Commissioner. Let us come back to the issue of what the report does deal with, and that is what the debate should focus on; I sincerely hope that members on both sides will focus on what the report is actually to deal with, namely, following the Commissioner's own words that:

> This reports falls to the role of the board and Mr Clark.

We had an extensive debate last year on other matters and, if we want to, we can revisit that debate, that is true, but I will quote back all the words I quoted before from the various evidence on this matter if we are to get into a wide debate such as that.

First, what does the Commissioner say about the board and the former management of the bank? It is notable that, after receiving and considering all the evidence from all the parties, the Commissioner rejects the arguments of the directors and of Mr Clark where they blamed each other for the bank fiasco. Members may recall that the evidence they gave was to point a finger at

each other. In their submission on term of reference 3, the directors said:

> ... in the absence of any clear evidence of lack of judgment or misinformation the board was entitled to place its faith in the skill and honesty of management.

Again:

> ...unless a director is aware of circumstances that would make it imprudent for him to act or to have relied on the information and advice of management, he is entitled to trust management to attend to matters delegated by the board.

And again:

> Until mid-1990, there had been no reason for non-executive directors to believe that the trust they had placed in senior management had been misplaced or breached.

That is an important piece of evidence, and I hope that the Leader is paying close attention, because they are attempting to suggest in their line of questioning today that ample evidence was provided to the Government long before 1990 about the problems in the bank, yet this is what the directors themselves said in the submission they made to the royal commission. This is what they collectively signed off; all the directors of the bank collectively agreed to have their name put to this (and I repeat it again):

> Until mid-1990, there had been no reason for non-executive directors to believe that the trust they had placed in senior management had been misplaced or breached.

Again, another quote from them is as follows:

> Nor had there been reason for the board to believe that any information, essential to its ability to make an informed decision, had been withheld.

What does the Commissioner say about that? The Commissioner emphatically rejects their submission, and in his report he states:

> The findings in this report will demonstrate that long before mid-1990, perhaps as early as 1986, the board had reason to question the competence of management on matters some of which at least were vital to the health of the bank...

He then proceeds to cast his judgment upon the board and states:

> ...too often the board's response to management was passive and acquiescent... [the board] allowed its own misgivings to be overborne; [the board] appeared to lack the strength or ability, and sometimes the desire, to stand firm or oppose, or to give positive direction to management; too often [the board] simply accepted the bland and confident assurances of management in the face of evidence which did not justify that confidence.

Members interjecting:

The Hon. LYNN ARNOLD: The member for Murray-Mallee interjected out of order, of course, but implicitly raises the question of the calibre of the board, a matter that was referred to in the first report of the royal commission, and I have acknowledged that. Indeed, there are lessons to be learnt about the appointment of boards. Certainly, the Government acknowledges that. With respect to the role—

Dr Armitage interjecting:

The Hon. LYNN ARNOLD: The member for Adelaide is back. We had the member for Goyder today playing the role of shadow Minister of Health, with his question taking the Opposition line away from—

Mr Meier interjecting:

The Hon. LYNN ARNOLD: I am not laughing at your constituent—

The DEPUTY SPEAKER: Order!

The Hon. LYNN ARNOLD:—I am laughing at you. Let us come back to the calibre of the members of the board because, while these criticisms were justly made in the first report, we have to ask the questions: 'Would they still apply in the second report? Would the Commissioner come down and say that the real reason why the board failed to live up to things and failed to rise to the occasion was that it simply was not able to do it, that it should have been a different group of people?'

It is certainly true that, whenever a board is gathered together, one can always make criticism of it and say, 'You could do better than that.' There would not be a board around about which one could not say, 'There is a better group than that.' I guess the point could have been made about the State Bank Board, notwithstanding that this group of people was a group with some apparent skill in terms of the qualifications that they have, certainly skill enough to allow the then Liberal Government to appoint a number of them to the boards of the predecessor banks of the State Bank.

I have made reference to that fact. I have not heard the Leader, the member for Mount Gambier, the member for Heysen, the member for Chaffey, the member for Kavel or the member for Coles saying, 'We got that wrong, we made a mistake, we picked people who just did not have the capacity.' They have been remarkably silent on their own role in this matter. In fairness to them, some of the apparent qualifications of these people were very good indeed. On paper they read very well. Indeed, I believe in their appropriate place a number of them still read very well, because in appropriate circumstances they do have the capacity to perform well. But what was clear was that as a group they did not perform well on the State Bank Board. The Commissioner himself makes that precise point in a number of places. He acknowledges that the members of the bank actually did have the capacity to do these things. On page 79 we find out about some issues that should have been faced by the board. He said:

> The failure of Mr Clark to cause the bank to address it is inexcusable—

I will come to Mr Clark in a moment, because he is also the recipient of damning criticism in this report—

> but the board was surely skilled enough and had ample opportunity and reason to raise the matter.

So, he said, 'I have looked at the qualifications of this group of people; indeed, I have heard them'—because a number of them gave evidence to the royal commission—'and having seen them, having heard their evidence, they were in fact skilled enough to have managed this bank better, and they did not.' On page 148 he again refers to the board and then talks about lost opportunities in terms of asking questions:

> ... it [the board] therefore could and should have sought to control the future with more rigour.

He did not just say it should have sought and imply, therefore, that the quality of the board perhaps was what was really the problem. If he had taken that line of inquiry he would have said it was explicable why they did not because they were simply no good. But he did not: he said they could have done that—could have and should have. They could have risen to the opportunity because they had the skills to do it but they did not.

Dr Armitage interjecting:

The Hon. LYNN ARNOLD: I am canvassing a great number of pages, for the benefit of the member for Adelaide. On page 160 we again find a reference to the level of skill or experience of the board, and it states:

It did not require a greater level of skill or experience than the board possessed for the board to discern for itself long before mid-1989 and certainly by 1987, and despite the contrary assertions of management, that:

— there were grave deficiencies in the capacity of management to plan and manage the operations of the bank;

— the bank's lending policies and asset quality must be unsatisfactory.

That is a very clear statement about the capacity of the board of the bank. I acknowledge that in the first report he made criticisms of the selection of the board, but he said nevertheless that that group of people did have that calibre. At page 164 the Commissioner states:

What did the board know for itself, or what should an alert board have known, given the commercial and financial experience of its members, which was by no means negligible?

That is a clear statement. He has looked at those people, studied their CVs, looked at them individually as they gave some evidence to the commission, and read about them and their work in other areas, and he says that, with respect to their commercial and financial experience, that experience was by no means negligible. At page 172 we see a further reference to this matter:

Directors, of course, can only use the skills which they possess—

That might abort a statement that, 'Of course, they did not possess the skills and I am critical of that, and therefore I exonerate them from anything else.' However, he does not draw that conclusion. At page 172 he continues:

...but directors of an enterprise with assets of $21 billion, embarking on an acquisition at a cost of $157 million, might reasonably be expected to be aware of the fundamental techniques of prudent company acquisition, and to satisfy themselves that management has adopted them.

It is quite clear that he believes that that group of people actually had those skills to do that and, as I have said before, they had the capacity to rise to the occasion but failed to do so.

I now refer to some other matters, this time to the most senior of senior management then in the bank, Mr Marcus Clark. He is an interesting person.

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: We find that Mr Marcus Clark was somebody who John Hewson in 1985 believed would be an appropriate person to head up the Reserve Bank of Australia. Dr Hewson extolled his virtues. The Leader might look a bit surprised about that, but that is exactly what happened. Dr John Hewson believed that Mr Marcus Clark was the appropriate person to do those things, and indeed obviously there were many other people at the time who believed that he had some capacities. So, if we are going to start casting criticism and accusations about who misplaced their faith in Marcus Clark back in the mid-1980s when he was appointed to the bank, none other than John Hewson comes into the line of that criticism.

What does the Commissioner say about the board with respect to Marcus Clark and his role with the board? In his own evidence, Mr Marcus Clark said that the board was badly led. He criticised the two people who chaired the board. In terms of having them appointed to boards of the predecessor bank, the Opposition—and indeed the Leader was one of those Ministers of the day—did the appointing. So, in answer to your question, look to yourself.

Members interjecting:

The DEPUTY SPEAKER: Order! I call the Leader of the Opposition to order.

The Hon. LYNN ARNOLD: Mr Marcus Clark, in his evidence, then said that the board was comprised of inept performers. I have already read out the quotes with respect to the Commissioner's view on the eptness or otherwise of the members of the State Bank Board. He also said:

The board showed little or no interest in the basic planning of the bank, did not monitor the performance of the bank against planning strategies, continually failed to counsel, encourage and redirect management, failed in its duty to exercise proper supervision and control over the CEO [Marcus Clark himself], and failed to exercise independent judgment in those matters which were more properly the responsibility of the board than management.

I mentioned before that what was actually happening here was that in their submissions they both pointed forgers at each other, accusing each other. As I have said, by and large the Commissioner rejects the submissions made by both of them. What does he find? The Commissioner found that Mr Marcus Clark steadfastly and vigorously opposed Treasury representation on the board, supported the reappointment of existing board members, vigorously and successfully opposed the appointment of an audit committee of the board, repeatedly gave confident assurance to the board that the bank would meet its profits targets and that management was competent and would be able to cope with the rapid growth. He also said that Mr Marcus Clark must accept a very large responsibility for the level and quality of management information flowing to the board.

On almost every page—not just page 2, page 12 or page 13—of the 289 pages of this report, the Commissioner directs blame at the board or at Marcus Clark, or at a combination of the two. The Commissioner variously describes the board as resolute and indecisive, putting at risk shareholders' funds to an unlimited degree, failing as early as 1987 to act to fortify and improve the bank's lending processes, failing to implement protective systems from the first days of the bank, failing to ask questions about the ability of management to cope with growth, approving a strategic plan for 1988-93 (despite being told that the bank's return on assets was only a little more than half the average for nationally operating banks), being seduced by management without resistance, abdicating the board's responsibilities under section 22 of the State Bank Act, becoming reckless in its indifference to the realities of planning in 1988, failing to consult with its external auditors on the half-yearly accounts for 1989, failing to call Mr Clark's bluff over proposals for an audit committee in October 1989 and failing to address the

issue of what they as directors needed to know over the plight of Beneficial Finance Corporation in 1989-90.

On Mr Marcus Clark—and again I note the frequency of these references throughout the 289 pages—the Commissioner's comments are just as revealing. He indicates that Mr Clark failed to discharge his responsibilities as the bank's CEO; he encouraged a culture in the early days of the bank that lending should be undertaken without appropriate protective procedures and policies in place; he failed to point out to the board the details of a $20 million loan as part of a syndicated $125 million package in the Hooker Corporation in May 1986; he failed to make the bank address issues concerning growth and lending policies in 1986; he rejected initial figures in the bank's 1988-89 profit plan which were dramatically less than the bank's actual performance; and he displayed an arrogant confidence of management in not providing material to the board over investment in New Zealand in 1988. In the financial year 1989-90, Mr Clark had been largely responsible for sowing the seeds of disaster through too rapid growth, inadequate lending policies, inadequate loan management, ill-managed expansion and inappropriate capital structure. He ignored a continuing need to develop a budget strategy in 1990-91.

In June 1990, Mr Clark told the then Treasurer and the Under Treasurer that the bank's profit for the 1990 financial year would be $90 million, yet senior bank management were saying that the bank would lose up to $200 million in 1990-91. Mr Clark failed to carry out his responsibility as CEO in complaining that several key executives were not competent. There appeared to be no formal review in place covering Mr Clark's performance as the bank's CEO. The board was prepared to follow a leader who was regrettably neither strong nor sufficiently astute. In August 1990, despite the bank being unprofitable, the management team responsible to Mr Clark (and I mentioned this point in Question Time) was awarded handsome bonuses and salary packages totalling $1.2 million in extra salary and bonuses, a 34 per cent increase on the previous year.

An honourable member interjecting:

The Hon. LYNN ARNOLD: He needs lots of coaching. Mr Clark was a member of the committee which presumably made that decision. We then find that—

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: —specific references are made to the two retired board Chairs of the State Bank: first, Mr Lew Barrett and then Mr David Simmons. There are references on a number of pages in the report to those two gentlemen. The most telling combined criticism of the board, its Chairman, the senior management and Tim Marcus Clark comes from the words of the Commissioner on page 201:

> A prudent driver who sees flashing warning lights ahead slows down and if necessary changes direction. As explained in some detail in the first report, some warning lights were or should have been visible to Mr Clark, as the driver, and to the board, and indeed to Treasury—

he makes that comment, and that comment is noted; the former Under Treasurer certainly has to wear some of that blame as well, so that point is made—

> for approximately four years before the event of February 1991, and they increased in number and intensity as the bank moved towards that date. However, the board, vested with statutory power and authority to control the driver [Mr Clark], allowed him to continue on without change of course and at an ever-increasing speed. If this [Mr Clark's performance] was a problem, it was a problem of the board's own making. In 1988 it reappointed Mr Clark to June 1992, in the face of mounting criticism from some board members and with no provision for prior termination on notice or otherwise.

I think those comments are particularly telling indeed and should be acknowledged by the Opposition, an Opposition that so far refuses to go through that substance in the report and comment on or express its attitude to this substance. It focuses all its energy on its misinterpretation of some paragraphs and leaves aside the 289 pages of substance. Reference was made in the commission's report to matters of direction and control of the bank, and some questions were asked about that yesterday. I indicated in my ministerial statement—

The SPEAKER: Order! Is the member for Bright eating in the Chamber?

Mr MATTHEW: My mouth is empty, Mr Speaker.

The Hon. LYNN ARNOLD: —that there would seem to be some potential difference of opinion between the Government and the Commissioner with respect to direction and control of the bank. I indicated that it is the Government's view that the bank, were it to remain in public ownership, should be brought under the direction and control of the appropriate Minister and that that is a direction that we think has been learnt from the experience of years gone by—a direction that I hope all members would accept—because the Opposition was party to the original legislation. The Commissioner himself does not actually come to that self-same conclusion. He says on page 216 (and I think earlier on I heard a suggestion that I should quote from this page, so I am doing so)—

Members interjecting:

The Hon. LYNN ARNOLD: Well, I had lots of other things to cover. The Commissioner says:

> However that may be, the commission is unable to conclude that past experience and losses alone call for such wide-ranging powers of control as are now suggested, and the existing arrangements between the bank and the Government, as referred to above, suggest that such far-reaching controls are not necessary.

Yesterday, the Leader attempted to suggest that this was a firm recommendation of the Commissioner. It is not a firm recommendation of the Commissioner: simply, the Commissioner says he has been unable, on the basis of the submissions that were made, to conclude. In other words, it is quite the opposite of a firm recommendation: it is the absence of a recommendation. It is the Government's view that, while it is true (and we acknowledge the Commissioner's appreciation of the actions the Government has taken without the aid of legislative change in bringing the bank under control), it is nevertheless true that very heavy powers were needed for that to happen, the putting in place of an indemnity which gives the Treasurer extensive powers, and that is not seen to be the most appropriate way to go in the longer term management of the bank.

It is quite clear, for example, that if the bank were no longer to need the indemnity, if the trading fortunes of the bank changed dramatically and it were no longer to need the Treasurer's indemnity, that indemnity would no longer have any force over the operations of the bank and, therefore, the Treasurer's power of direction and control would be null and void. That is a point that cannot be disputed. So, the way you overcome that is to make a legislative change that allows that to be built into law, regardless of whether or not there is an indemnity in place. That is a point which I think is quite significant in this area.

A few other points need to be made. On a number of occasions in the report the Commissioner does acknowledge that the former Treasurer raised concerns about some of the practices of the bank and, indeed, in the case of the Queensland office had that office opening deferred until further work was done on improving its profitability. He identified that it would not be a profitable operation. On another occasion (and I forget which financial matter was involved; I think it might have been 150) he makes reference to the many other things with which the then Treasurer had to deal as any Premier and Treasurer would have to deal with. If he, despite all these other things that he had to deal with, could identify that this proposal would not be profitable, then indeed so should the board, which did not have that overwhelming burden of duties.

What he has done in that respect is to acknowledge in this report that which is not clear at all in the first report, that is, that, while the notion of the then Premier and Treasurer as the person responsible for the Act over the State Bank had that legal responsibility, the effectiveness of that responsibility relied upon the quality of advice given to him by the bank. That relied upon the quality of day-to-day management by senior officers of the bank and the quality of the periodic oversight given by the board. He acknowledges in this report that, if those were lacking, then it was not possible for the then Premier and Treasurer to be fully apprised of the situation. Indeed, as he said on one occasion in the first report, he quite clearly acknowledges that the former Premier and Treasurer was indeed misled by the bank on a number of occasions. Let us come to one final point.

Dr Armitage interjecting:

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

The Hon. LYNN ARNOLD: The point made by members opposite is that, somehow or other, the whole Government should take responsibility for this matter, and I dealt with that earlier.

Members interjecting:

The Hon. LYNN ARNOLD: Oh, you can count! The point about this is which issues came before Cabinet and which did not. It was the view of the former Treasurer, supported by officers within the Government, that the financial arrangements referred to in these reports did not come before Cabinet. I have made that point on other occasions. What did come before Cabinet was the appointment of board members, and that has been referred to earlier. Board members were appointed and reappointed. We have been through the issue of the effectiveness of the board members and the lessons that have to be learned about appointing board members.

As to the financial matters, the suggestion that these things should have come before Cabinet is not what happened. The point that I want to make quite clearly is that the evidence was simply not provided to officers of Government about the problems that were being faced by the State Bank. Indeed, I could cite again the very evidence of Rod Hartley in this matter about what quantification or what detail he could provide to concerns that he began to have at various stages about the State Bank. Mr Hartley's remarks can be read into *Hansard* quite easily but I refer members to the remarks I quoted in *Hansard* last November because they confirm clearly the fact that the substance of his worries did not happen until the last quarter of 1990; in other words, almost on the very eve of the collapse of the bank.

I know that the Leader has no flexibility about how he handles tactics. He has a mind-set that was made up on Monday when he issued his press release about who was to blame, regardless of the report; in other words, sight unseen. Although that was reflected yesterday in his strategy, I strongly encourage the Leader, in his contribution to the House, to deal with the substance of the report, not with just one or two pages, because proper appreciation of this issue requires that.

The Hon. DEAN BROWN (Leader of the Opposition): Let me make quite clear from the outset that, based on the evidence of the first and second royal commission reports, the Liberal Party accepts that the board of the bank failed. We accept that Marcus Clark failed. We accept that the Reserve Bank failed. We accept the fact that Treasury failed to notify the Government on certain aspects. Most importantly of all, the people who are responsible for the collapse of the State Bank, who should have been in control of the circumstances, failed South Australians.

Let us look at page 216 of the second report of the royal commission. This is the part that the Premier has refused consistently to read to the House—and that is because it lands him and his Cabinet colleagues right in the thick of it:

> The ultimate control and sanction in the hands of the Government is its powers to determine the composition and membership of the board.

It was the Government which put the board there, which put the Managing Director there and which failed South Australia. It was the Government which, by that very action, has failed South Australians. It was this Labor Government, which we have had for 10 years and which we so desperately want to get rid of. Never have I heard a more hollow, self-justifying speech from a Premier of South Australia. It was absolutely pathetic. This man, along with his Cabinet colleagues, has inflicted a loss of $3 150 million on all South Australians. The biggest financial disaster of Government in the entire history of Australia lies squarely on the shoulders of the men and women opposite, who were directly responsible for putting that board there and for failing to heed the warnings given to them on numerous occasions.

South Australians are angry, and they are angry justifiably for a number of reasons. First, this Labor Government will not accept any responsibility whatsoever for the disaster of the State Bank, and I will come to that in more detail shortly. Just look at the

Premier's speech yesterday. Everyone outside this House, in the public and in the media, and I refer particularly to the *Advertiser's* editorial, talked about how the Premier's speech went right over the top, trying to put the blame on everyone except himself, his own Government and his fellow Cabinet colleagues. South Australians are angry because this Labor Government has not had the decency to apologise for the $3 150 million loss that has been inflicted on all South Australians.

They are angry because this Government is the only guilty party that has not yet had the decency to resign. The former board directors, the former Managing Director (Mr Marcus Clark) and former senior management of the bank have gone, but the Labor Government has not gone. The men and women who were supposed to be in charge of the bank, the people who put the board's directors there in 1984 and kept them there until 1991, the people who in 1988, 1989 and 1990 failed to heed consistent warnings that there were grave problems with the bank, the very people, all 13 of them in Cabinet, who failed to listen to the 200-odd questions asked in this House over a two year period have not gone. They sat on their hands in Cabinet.

This Premier had no courage whatsoever in Cabinet. He was warned by Hartley in 1988, 1989 and 1990 but he sat there and reappointed exactly the same directors who were making a mess of the entire bank. Even when Mr Hartley bought him lunch, apparently, and explained over a meal the disaster that was facing the entire board and said that the board had lost control over Marcus Clark, the now Premier sat on his hands and did absolutely nothing. He had no courage, and South Australians will have to pay for the next 10 years because of his failings and those of his Cabinet colleagues.

South Australians are still angry because of what is going on in the bank. They are angry because of the huge pay-outs being made to the former senior managers who let the State down and incurred the debt. The very people criticised in the royal commission report are still receiving pay-outs of $600 000, and the Government allows it to go on. The Government has allowed the $10 million pay-outs to cover the legal expenses of the directors who were criticised in the report. Premier, you are supposed to be the head of the Government of this State, and you came to the agreement with the former directors as to what protection you would give them. You are supposed to be in charge. You have indemnified the bank. You have control over it.

The SPEAKER: Order! The Leader will make his remarks to the Chair and not to other members of the House.

The Hon. DEAN BROWN: Mr Speaker, let us make quite clear that the Premier and the Cabinet are in control and they have put down the conditions under which, through their indemnity of the bank, the former directors can be covered. I point out that it was this Cabinet that allowed the huge salary increases to occur through the bank, increases that we heard about last night when we first read the report, increases that almost doubled some salaries. I think that one individual received a salary increase of $130 000. That is gross greediness, which this Cabinet allowed to exist and took no action to stop. That is why South Australians are angry, and rightly so.

Let us return to the substance of the reports: the first report on the first term of reference and the second report on the second and third terms of reference. It became obvious, once we got to the second paragraph of the Premier's speech to this House yesterday, that he tried to grossly distort the truth and the contents of this report. That highlights the fact that this Labor Government has learnt absolutely nothing from history. Former Premier Bannon distorted the facts about this bank to this House time after time, and now the present Premier is stooping into the same gutter and continuing the same practice. He stood in this House yesterday and in his second sentence said:

> This report makes it clear that the bank's former board, its former Chief Executive Officer, Mr Tim Marcus Clark, and the former management overwhelmingly bear the responsibility for the bank's losses.

Anyone who has read the royal commission's report knows that that is a blatant lie. On the second page of his ministerial statement, the Premier said yesterday:

> And I repeat that the Royal Commissioner has identified no failing that can be attributed to the whole of Government...

That is plainly untrue, and anyone who reads chapter 12 of the first royal commission report would know that. On the *7.30 Report* last night, when the Premier put up such a disgraceful performance, Leigh McClusky attacked the Premier on that point saying that that was not true, and the Premier acknowledged that the claim that he made in the House was not true.

The Hon. Lynn Arnold interjecting:

The Hon. DEAN BROWN: Well, you did. She said that you claimed in the House that there was no evidence of a failing to be attributed to the whole of Government, but it is quite clear that there is. This highlights the extent to which the present Premier and his Cabinet colleagues, together with the former Premier (the member for Ross-Smith), have constantly and consistently refused to accept any liability whatsoever. That is the point that makes South Australians so angry. If only they would admit their mistakes.

When the Royal Commissioner referred to 'Government', to whom was he referring? It is not by accident that the Royal Commissioner on pages 1 and 2 of the first chapter of his report picks up that point. Why do you think the Royal Commissioner suddenly on the first and second pages of his second report specifically redefined 'Government'? He did so because of the very narrow definition that Premier Arnold tried to place on 'Government' in this House after the release of the first report. I refer specifically to the debate on the first report in this House on 17 November last year. On that occasion, Premier Arnold said:

> ...where there are references to the Government they are in the generic sense that they still more often refer to the Treasurer and Treasury...

In other words, Premier Arnold was trying to put on the interpretation that 'Government' applied only to the Treasurer and the Treasury. That is why the Royal Commissioner, having read that debate, wanted to make sure that that false interpretation by the Premier was not continued. I will read the last line, because the Premier

constantly refuses to read this part when he refers to this passage in the House. The Commissioner said:

The commission has adopted the wide definition of its term of reference which is as follows:

Let us look at that definition, which states:

'The Government' means the Government of the State of South Australia...

It means the whole of the Cabinet in Executive Council, all 13 of them, not the 90 000 Government employees. We are not referring to them at all. Like the Royal Commissioner we are referring to the Government of the State of South Australia, which is the Cabinet in Executive Council. Everyone who understands Government understands that point. It is the 13 Ministers, the 13 men and women who have let this State down and who still will not admit their mistakes and apologise to the people of South Australia. Labor Governments have let down grossly the people of South Australia over the past 10 years. Look at Victoria and the losses that have been incurred in that State through the State Bank of Victoria. Look at Western Australia and what was inflicted on Western Australians through WA Inc by the Labor Government in that State.

Look at what has happened nationally under 10 years of Labor. Unemployment has doubled with over one million people unemployed throughout Australia at present, and the real unemployment figure is probably closer to two million people. Our national debt has rocketed through the roof. Labor has effectively destroyed many industries in the whole of Australia. Certainly in South Australia the cost has been very high. Unemployment has more than doubled from 40 000 to 90 000. We have lost 21 000 full-time manufacturing jobs—the equivalent of five Mitsubishi plants—in the past two years alone under Labor. South Australia has borne the cost and the effect of Labor Governments more dearly than any other State of Australia. We have copped the effect of a national Labor Government for 10 years. We have suffered and will continue to suffer for many years because of the mismanagement and incompetence of the State Labor Government over the past 10 years. It is time for Labor to go throughout Australia. This is what Australians are saying, and they will do it next Saturday 13 March. It is time Labor went. Labor must go!

We acknowledge that the former board and Marcus Clark failed the bank. The Premier must answer to this Parliament and to the public of South Australia some very important questions. First, what action did he take after being warned by Hartley in 1988 to make sure that a more competent board was put into power? The answer is, quite obviously, nothing. Why did the Cabinet reappoint five directors? I gave their names earlier this afternoon during Question Time. Why did this Cabinet reappoint these five directors when quite clearly they were incapable of managing and were too inexperienced for this rapidly growing bank, this bank which from 1988 onwards suddenly expanded its capital from about $10 000 million to $21 000 million?

The Government set this bank on a course of growth that would eventually blow it apart. Yet, in doing so it did not appoint members to the board who had any experience whatsoever in large financial institutions and certainly not in banking. We South Australians are paying dearly because of that incompetence, despite the warning given to this Premier by Hartley in 1988, again in 1989 and again in 1990.

This Government has consistently tried to apply several defences as to why it has no responsibility for the failure of the State Bank. It has tried to blame the Act by saying that the Act was deficient. Yet, if we look at what the Royal Commissioner says, he makes it quite clear that the Act was not the reason for the failure. I refer to page 207 of the report. The Royal Commissioner has equally made it quite clear that it was not the property crash or the world recession that brought about the failure of this bank, as this Government has consistently tried to argue. This highlights the extent to which this Government has constantly tried to pass the buck to others and is never willing to accept the buck itself. South Australians are sick and tired of the buck-passing by you, Mr Premier, and by your Cabinet colleagues. It is very important that this buck-passing stops and that it now stops squarely at the feet of our present Premier, the other eight or nine Cabinet Ministers who sat in Cabinet with him and certainly also with the former Premier, the member for Ross Smith.

I point out that there can be no other conclusion that the fundamental reason why the State Bank failed was the growth path upon which this Government set that bank, the fact that it wanted growth so it could grab ever increasing profits for its own coffers and to pay for its failure to manage the expenditure level of Government because, as the Royal Commissioner has pointed out, the bank set out on a course of growth for no other reason but for growth's sake, to return ever increasing profits to the Government, even though they were spurious profits at that.

Even when the bank reached the point where, despite the growth, its profits were declining, this Government took no action whatever to understand why or to step in and protect its interests. It completely abrogated its responsibility when it came to acting as guarantor for the funds of the bank on behalf of all South Australians, yet no mention of any attempt whatsoever has been made by the Premier to understand why that occurred. That is a complete abrogation of the Government's responsibility.

Now that the Royal Commissioner has reported on terms of reference 1, 2 and 3, it is clear that the Labor Government, the nine existing Ministers who sat in Cabinet at the time, Mr Bannon, the bank's board, Mr Marcus Clark and other senior managers of the bank are all guilty of financial mismanagement, negligence and incompetence. We are waiting for the Auditor-General's report to see who amongst the directors and management should now be prosecuted. However, that still leaves the former Premier, the current Premier and other Ministers who may be outside the scope of legal action for negligence, of which they are clearly now guilty, as all of us have seen.

Yet, if the South Australian Government were SA Ltd, with we the taxpayers as shareholders, there is no doubt that we would have already taken legal action against the former Premier, the current Premier and the other Ministers for negligence. They would be forced to answer financially for failing to heed the warnings issued and for failing to use the powers available to them to ensure that the bank did not put taxpayers' funds at risk.

After all, Mr Bannon was effectively the managing director and the other Ministers the directors of the company, SA Ltd. As directors they would be at risk of losing all they had for having failed so blatantly to protect the interests of their shareholders, the taxpayers of South Australia.

Mrs Hutchison: You don't understand what they were doing.

The SPEAKER: Order!

The Hon. DEAN BROWN: Madam, if anyone did not understand what they were doing it was your own Party, and especially the Cabinet of your own Party.

The SPEAKER: Order! The Leader will address members by their electorate and he will address his remarks through the Chair.

The Hon. DEAN BROWN: I must apologise, Mr Speaker: I was directing my remarks to the member for Stuart, who passed that stupid remark.

The SPEAKER: And in doing so, the Leader was out of order.

The Hon. DEAN BROWN: If it is the case that operating in the political arena rather than the commercial world leaves them immune to such action (and I am referring to legal action), even though it is deserved, the only recourse we as shareholders and taxpayers have is to impose the most severe electoral defeat upon these guilty people, both individually and collectively. The member for Ross Smith claims he has already paid a high price, but what company would continue to pay salary and superannuation benefits to a failed managing director who had lost $3 150 million of shareholders' funds through his mismanagement, incompetence and negligence? It is one thing for political leaders and Ministers to fail in their objectives; it is quite another when the taxpayers lose thousands of millions of dollars through gross incompetence, negligence and blatant covering up of the truth.

It is this injustice that causes South Australians to become so angry with the fact that the Labor Government is able to walk free from the ruin and despair that it has inflicted on all South Australians. The Government has gone soft on the legal expenses for the former directors and senior management of the bank, because of the guilt of the Government itself. While the Premier expresses anger about the $10 million that has been spent on the legal costs of the former directors of the bank, no action is taken by him. The reasons include, first, the Government's failure to negotiate adequate controls over expenditure of former directors through the bank and, secondly, the Government's own implicit guilt. Under its indemnity with the bank, the Government had and still has the power to have control over these payments. South Australians feel the same anger over the huge settlements now being made to former senior management of the bank. As I said earlier, one settlement alone is worth about $600 000.

For this as well, the Government must accept ultimate responsibility. It created the environment in which these excesses occurred and continue to occur. Evidence given to the royal commission showed that the former Premier did not want to know about huge salaries being paid to bank executives, while they were presiding over the failure of the bank. Underlying all these failures is the clear view of the Royal Commissioner that the Government could have done much more than it did to prevent the losses of the bank, and that the Government (not only the former Treasurer) failed effectively and responsibly to discharge the powers available to it as a Government and to control the bank's affairs.

Just to conclude, let us be quite clear as to what powers this Cabinet had to control the bank. Under section 7(2) of the State Bank Act, it had the power to recommend the appointment of board members; under section 7(3), it had the power to appoint the CEO to the board; under section 7(4), it had the power to appoint a chairman and deputy chairman; under section 8(1), it had the power to recommend the terms and conditions of appointment of directors; and, under section 8(3), it had the power to reappoint a director, which it did, five times, after it had been warned about the inadequacies of the board by Mr Hartley.

Under section 9(2), it had the power to recommend the removal of a director, but it failed to do so, despite the very clear warnings given to this Premier and the former Premier in 1990. Under section 10 it had the power to recommend the remuneration of directors, which it did, in large slabs. Under section 15(3), it had the power to consult with the board in relation to any aspect of the policies or administration of the bank; and, under section 15(4), it had the power to make proposals to the board on the administration of the bank's affairs and to request reports from the board on any such proposals, but it failed to do so, despite the warnings to the Government.

Under section 19(7), it had the power to approve the acquisition of any more than 10 per cent of the issued shares of a body corporate, and what did it do? It approved that, time after time, without even a proper investigation. Under section 20(1), the Government had the power to advance moneys to the bank by way of grant or loan, and we know it did that, through SAFA, to allow the bank to expand at a very rapid rate. Under section 21(1), it had the power to guarantee the liabilities of the bank, which it did, with no scrutiny whatsoever over the entire period, again despite the warnings given to the bank. Under section 22(lb), it had the power to determine the return on capital to be made by the bank, which it did, as it grabbed excessive profits out of the bank. Finally, under section 25, it had the power to recommend the appointment of the Auditor-General to investigate the operations and financial position of the bank, which it failed to do.

I highlight all those powers that existed within the Act for a very special reason: it was this Cabinet—this group of 13 men and women—in the late 1980s and in 1990 who had these powers and who failed to exercise those powers, as now revealed by the Royal Commissioner. It is this group of men and women who must take ultimate responsibility. Despite the failings of the board, despite the failings of Marcus Clark, despite the failings of the senior management of the bank, ultimately the buck stops with the Cabinet of South Australia, the Labor Government of South Australia. I can assure them that South Australians will treat them accordingly at the next election.

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS (Deputy Premier): I was very disappointed in that contribution, Sir, because I had already heard it before. With a slight variation, it was the speech that the Leader gave yesterday—and I am sure the Deputy Leader's will only be a repetition, too. The motion before us is to note the second report of the Royal Commission. Yesterday the House was asked for leave so that the Leader could make a statement on this issue—on the second report of the Royal Commission—and we got 10 pages, very carefully prepared and read by the Leader. The question of the problems that were created by the board and by senior management, as outlined in the report, took up three lines out of 10 pages.

What the Leader of the Opposition is attempting to do is to ignore the report. I think that that is a great pity. That report has cost the taxpayers of this State a lot of money and it deserves careful consideration. When I read it, apart from being absolutely outraged at the behaviour of these people—these so-called responsible people, who had every credential and experience to be responsible—I was absolutely amazed that people of this calibre could behave in the way that they did. It was something of a gruesome experience to turn the page and find—words fail me in the parliamentary arena—that these people behaved day after day, meeting after meeting, in the way in which they did.

I am also very sad that the Leader's speech drove out the media. Really! The speech by the Leader on the motion to note the report, I would have thought, was a speech of some importance, and the media people, who are known for their patience—they do a lot of sitting around and listen to an awful lot of rubbish—could not take it. They left. The Leader drove them out, and I think that their comment by their action was certainly warranted.

Whilst still dealing with the Leader's speech, I point out that he made some play of the legal expenses of the former board and senior management. All members on this side of the House and I—and, I am sure, everybody in South Australia, except for the lawyers who are getting very large amounts of money—are outraged that these people are still being represented in the way that they are.

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: I was somewhat pleased to hear the Leader take up this point. The Leader did suggest that we do something—but I am not quite sure what, because the Leader did not say. Does the Leader mean that we ought to legislate to ensure that no more money goes to paying the expenses of lawyers representing the people I have just mentioned? If so, the Leader can respond by just saying, 'Yes', and we can take it from there. But the Leader is studiously doing other things to avoid answering the question. It may well be that that is the only thing that is possible, and it could finish up anywhere. If we finished up in the High Court, we would end up paying even more to these lawyers who are around the town, laughing and smiling, building million dollar houses on the taxpayers of this State for this royal commission, which the member for Victoria demanded. So there are some questions to be answered by the Opposition in that regard.

I now address the style of the report. On first reading of the report, I was somewhat disappointed that the style of the first report was not carried over to this one. The first report was inflammatory; it was written in an inflammatory way—there is no question about that. It was very colourful, with a great deal of hype. I made the statement in the House in debate that I thought it would have been better had it not been written in that way. However, since the first report was written in that way I hoped that the second report would be written in the same way. I was disappointed in that the language appears to have been toned down when it came to the description of the behaviour of the board and the senior management. Nevertheless, as I say, I think the report is an excellent although a horrifying document.

I now turn to the board. Great play has been made of the fact that we reappointed the board. That is quite correct: 'reappointed' assumes, by definition, that the members were appointed in the first place—and they were appointed substantially by a number of members opposite, six of whom are still here. Why should not they have appointed them?

Who are these people? I do not want to go through them all. Lew Barrett without doubt is the doyen of Adelaide accountants; he is an enormously highly respected accountant in South Australia, if not in Australia. He was appointed by the Tonkin Government—and why should not it appoint him? Ought it not to have been able to rely on Lew Barrett? Of course, it ought to have been able to rely on Lew Barrett. David Simmons was appointed by the former Liberal Government, and why should not it have appointed him? What in David Simmons's background would have prevented the previous Tonkin Government from appointing him? David Simmons is probably Adelaide's leading corporate lawyer. In a moment of thought, it was an excellent choice of the Tonkin Government. Why should not it have appointed him? There is Robert Searcy, and we can go on.

We are talking about some of the top in their field here in South Australia, all appointed by the Tonkin Liberal Government, six members of which still sit here. It had no reason to believe, when it made those appointments, that these people would behave in the way that they did. I do not blame the Tonkin Liberal Government for appointing them: I merely point out that in good faith the Tonkin Liberal Government appointed these people and in good faith we reappointed them, and why should not we have done so? For them to behave in the way that is described in this second report of the Royal Commissioner is just beyond explanation. Nobody in Adelaide could have predicted that those people would behave in the way that this report outlines. Nobody could have predicted that they would have done that.

Dr Armitage interjecting:

The Hon. FRANK BLEVINS: I do not know these people personally at all. I am sure that the member for Adelaide knows them well. They would be in the social set of members opposite, not mine. I do not play tennis with them. I have never met them in Whyalla at the workers club. They are in the social set; they are in the business set; they are in the milieu of members opposite. They are your mates, not mine. But I had every confidence in them because of their obvious expertise

and background. However, I was clearly disappointed, as were all South Australians.

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: I have never met them, to the best of my knowledge. I have never met the man, to the best of my knowledge. These are all your mates, appointed by you. South Australia had every right to expect that these people, when they took on this job, would do it and do it well. There is no excuse for them—none that we can discern for them. I think that the Commissioner, in a restrained way, makes that point.

I want to turn to the positives. I think that there has been far too much negativity today by the Leader, and I want to point out what has been done and achieved by this Government since the announcement of February 1991. What Commissioner Jacobs said—and he said it quite clearly—is that he appreciates and recognises what has been achieved in rectifying the problems. We do have some differences with the Commissioner on the question of the legislation, and I will come to that in a moment.

Essentially, the Commissioner has endorsed what the Government has done and what we have achieved. The bank has been given a new chief executive, a new board and a new top management team who have refocussed its activities on its core business through a systematic process of divestment and downsizing. The Group Asset Management Division has been working diligently through the State Bank's non-performing loans and impaired assets. That is not a happy task but one it is doing in an excellent manner.

The progress that has been made in rehabilitating the bank was demonstrated last month with the news that the State Bank has been returned to profitability, with a half yearly result of $42.9 million. This return to profitability has not only—

Mr S.J. Baker: What about the bad bank?

The Hon. FRANK BLEVINS: I have just spoken about that, but the honourable member was not listening. Would he like me to go through it again? The return to profitability not only has restored some of the value that has been lost but has given the Government the option of reducing part of the debt that it had acquired under the indemnity in the course of the rescue operation by disposing of the Government's equity in the bank.

The net sale proceeds, if indeed a sale were to go ahead, together with the very generous $600 million tax compensation agreement negotiated between the Premier and the Prime Minister, would reduce the State's net debt by well over $1 billion. Early this year I had Treasury commission financial advisers Baring Brothers Burrows to value the bank under a number of sale and retention scenarios. On the basis of that report, I expect I will be taking a submission to Cabinet shortly dealing with the corporatisation of the bank.

I believe that corporatisation is a necessary step in placing the bank into the Commonwealth tax net as is required, quite properly, under the tax compensation agreement. Corporatisation will also be accompanied by legislation that puts the bank under the full regulatory control of the Reserve Bank of Australia. That will avoid any repeat of the ambiguous situation that arose as to the extent of its supervisory role as occurred in relation to the current set of losses.

However, I do recall saying after the first report was handed down that I think the Reserve Bank of Australia also has a lot to answer for in this. It is appalling that the Reserve Bank, in my view, has certainly not lived up to what the majority of Australians would have perceived its duties to be, not just in relation to the State Bank of South Australia. The Reserve Bank has to accept some of the responsibility for the other banks also. It pleads that it is there to protect only depositors, not shareholders. I think that that defence by the Reserve Bank does not hold water at all but, nevertheless, I believe the Reserve Bank has also learnt a lesson and I have no hesitation, indeed I will have a great deal of pleasure, in eventually having the State Bank of South Australia formally under the full regulatory control of the Reserve Bank.

The bank and the Government will be working closely together on the corporatisation process, which will provide a disciplined environment in which to clarify such issues as the most appropriate structure, capitalisation and corporate objectives for the bank, following the current downsizing process.

Members interjecting:

The Hon. FRANK BLEVINS: Yes, indeed. It depends where you are having the conversation. I did not like 'downsizing' and I like 'right-sizing' even less. The Commissioner has acknowledged, with some satisfaction, that the Government and the new board have established arrangements that address the defects in their previous relationship, which contributed to the bank's failure. These arrangements were established within the framework of the existing legislation long before the first report of the royal commission. The commission has endorsed without reservation these arrangements as they 'go a long way to ensure that the Government knows what it needs to know in order to protect the revenues in terms of the Government's guarantee and the investment in the bank by SAFA or any other Government instrumentality'.

Being properly and adequately informed is a prerequisite for me as the responsible Minister to discharge my responsibilities in determining that the officers of the bank and its board are operating in a competent manner and that the shareholders' interest is being protected. The proper exercise of my responsibilities does not in any way diminish the responsibilities of the board and the management to perform their functions with proper care and to be fully accountable for their own performance.

The arrangements to which the Commissioner referred include a mission statement, which confines the bank to its core business; recognition of the Treasury's right to monitor the bank; the Under Treasurer attending board meetings, although he is not a member; and the Under Treasurer receiving all board papers. As Treasurer, I meet with the Chairman and the Managing Director as often as required, and at least monthly, to receive detailed reports on the bank's performance and to discuss any relevant issues.

When the State Bank of South Australia Act was passed by this Parliament, there was bipartisan support for the principle that there should not be political interference in its commercial operations. There is now a

constructive and healthy relationship between the Government and the shareholders in the bank. In recent years, royal commissions in other States have reported on the very real dangers of ministerial intervention in State sponsored commercial activities on a day-to-day basis.

This royal commission has dealt with the opposite case. This was a situation which arose, in part, because of the then Treasurer's belief that it was appropriate to avoid ministerial intervention and even close oversight by Treasury of the bank's operations. Ministers do not necessarily have the expertise and certainly not the time to concern themselves with detailed specific commercial transactions. If they attempt to do so, they diminish the accountability of the management and boards who are directly responsible for those commercial decisions.

A Minister who intervenes in this way may at best be seen to be less than competent if the intervention results in other than a commercial success and at worst corrupt if someone can construe motives that are other than sound commercial ones. A Minister's responsibility, therefore, is one of making sure that there is proper oversight. This sad episode has demonstrated that this cannot be done on faith.

The Commissioner has taken the view that, despite the past unfortunate experience, he is unable to conclude that the Government requires wide-ranging powers of control, and the current satisfactory arrangements demonstrate that that is unnecessary. The Government has considered this view, with respect, and takes a different position. If a Minister is to be held ultimately accountable, the Minister will have to have powers of direction.

Direction is something that a Minister would exercise only in an extreme situation, such as to require the provision of information if he thought he had not been given either a complete or an accurate account of the bank's affairs, or to ensure that the bank ceased some activity that the Minister believed would have an effect that was detrimental to the State's interest.

As the appropriate Minister, I would be a lot happier with those additional powers. I believe that the machinery I have put in place is working well, although nevertheless at the end of the day the Treasurer is responsible. I believe that the legislation ought to give the Treasurer the power to exercise full authority.

I commend the second report to the House and to the people of South Australia. I obviously regret the circumstances which brought this about. Nevertheless, I think it is a classic on how management and boards ought not behave.

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

Mr S.J. BAKER (Deputy Leader of the Opposition): I, too, commend the report to the House because it clearly reiterates the deficiencies of the Government's performance. I was going to say that for the last 60 minutes we had had a spirited defence of the Government's actions over the past four years, but it was a dispirited performance. If there is ever a cure for insomnia, I would recommend that members of the public come and listen to the Premier and the Deputy Premier of this State perform like they have today.

I would like to refer to the Deputy Premier and the Minister of Finance. The House is already aware of the lack of guts and determination that has been shown by the present Premier of this State, the person who could never take any action; he was too scared to confront the former Premier and force a decision. He is the now Premier of this State.

But what about the present Treasurer of this State? He was Minister of Finance after the last election. From 1989 he sat alongside the Treasurer of this State in the form of the member for Ross-Smith. For the past four years he has had intimate knowledge about the workings of Treasury and the workings of Finance.

The Deputy Premier of this State has often said that he prides himself in being able to smell a rat. According to this report, since the very beginning of 1984-85 rats have been breeding, and he wants us to believe, with 3 150 million of them out there, that he never smelt one. That is the Treasurer of this State. He did not want to have anything to do with this debacle. He wanted to blame the former Treasurer whose time was taken up entertaining visitors to this State, and he paid little attention to the detailed planning and administration of this State.

This is an excellent report. It does say that damage was caused by the board, and it does say that Marcus Clark was indeed a key element in the disaster. But what it had to reiterate in this report was that it was ultimately the Government's responsibility. That is the difference. The report is about directors and it is about the board, because that is what is spelt out in the terms of reference. The report has addressed that particularly well. However, the Commissioner has seen fit to readdress the issue and has said, 'Ultimately the Government is responsible,' and members opposite would recognise that.

I want to ask any fair-minded person in South Australia: what happened when the warning signs went up? I refer to page 197 of the report, which talks about the disasters. What happened when the Oceanic balloon went up; what happened when the plight of the Remm project started to become apparent; what happened when Equiticorp and the National Safety Council hit the headlines; what happened to the Treasurer; what happened to the Minister of Finance; and what happened to the present Premier of this State? Were there no warning signs?

I know that the Premier referred to flashing lights. He said that the flashing lights referred to by the Commissioner were actually attributed to the directors and the board. I am sure everyone would agree that those flashing lights should have been going helter skelter very early in the piece, and every member of the Government should have recognised them. It was the Cabinet that was responsible. So who asked the questions in Cabinet when we saw Oceanic, when we saw the Remm project, when we saw Equiticorp, when we saw the National Safety Council and when we saw the massive expansion and growth in the assets of the State Bank? Was everybody silent? Did everybody want to disappear down their burrows? There was a responsibility on every person of that Cabinet to take up the issues, but of course they did not do so. At the same time, many people around Adelaide were telling them of the problems.

I do note that the Commissioner has also made some mention of the suitability of the appointment of Marcus Clark to the bank. We know who made that appointment, with the full confidence of his Cabinet. It was the then Premier and Treasurer of this State. So, let us be sure that there has been adequate opportunity for the Government to act, and that is what the Commissioner has reflected upon. That is not to even discuss the matter of how many questions one has to ask the Government before it gets through its members thick heads. Two hundred questions were asked in this House about matters of performance of the State Bank, of the impending disasters, and on each occasion the Treasurer of this State, with the support of the members of his Cabinet, came back with untruths or half truths or no truths at all.

So, let it be on the record that the Government is responsible and the Cabinet is responsible. I note that, when the present Treasurer was talking about the blow-out in costs of the royal commission, specifically the $10 million to somehow protect the interests of the directors and managers of the bank, he said, 'The lawyers are building million dollar houses.'

What happened when the deal was signed up in the first place? What intervention was made by the Government of the day? What intervention was made when those particular directors and managers were given an open cheque book? The Government had an indemnity. It could do whatever it liked under that indemnity. Yet it opened the door and let the flood through. What happened? Why was it not tightened up? Why was there an open cheque book? Now the Treasurer says, 'Well, what does the Opposition think about this?'

What we heard from the Premier of this State was 40 minutes of extracts from this report. He could have saved himself the trouble. We have read the report. We agree with the comments that have been made by the Commissioner about the part played by the directors and by Marcus Clark in particular. We agree with the comments that have been made by the Commissioner. It is a very fine report.

However, it goes back to that one continuing theme: the ultimate responsibility stays with the Government. I do not care if we have to say it 10 times or 20 times: it is no good a Premier of this State standing up for 40 minutes and trying to avoid that simple truth, namely, that the ultimate responsibility stays with the Cabinet, as the former Treasurer would understand.

I now move back to the issues that the Government has held on to. Since the first report, since the matter was debated in November, the Government has been telling everybody 'Wait until the next report comes out; it is going to clear us. Wait until we have had the absolution of other people being blamed.' That is why I believe the Commissioner made it explicit in this report that the second report had to be read in conjunction with the first report. That is why I believe the Commissioner made it explicit that, when he was talking about Government, he meant Government in the widest terms and he encompassed the Cabinet—not just the then Treasurer but the whole Cabinet.

I believe that that is the most compelling point that the Commissioner made in that report, because he drew the conclusion that, if the board failed, if the Chief Executive Officer failed or the Managing Director failed, the Government was there to pick up the pieces. The Government was there to make decisions, but it did not do so, and the ultimate guilt lies with the Government.

I ask members to read the report very carefully, particularly in relation to the warning signs mentioned by the Commissioner. He was absolutely adamant that those signs should have had a response, that those flashing lights should have done something for the Government, and they did nothing. From 1984-85 onwards, there were continuing signs, signs that would have been known to the Government and should have been taken up very forcefully, leading to a readjustment of that board and, of course, to the sacking of the Managing Director. We know why it did not happen—because the then Premier, with all his cohorts in Cabinet, was on a mad grab for cash. We know that he ripped millions of dollars out of that bank to satisfy his 1989 election promises; for example, we know he put pressure on the board to get involved in the REMM project, and we know that the then Premier and Treasurer of this State put pressure on the board to declare abnormal profits.

So, the Premier and Treasurer of this State and all his Cabinet had no interest in slowing down the bank, applying accountability rules to the bank, taking action which would have saved the bank and the State $3 150 million. That is grubby, and the culpability rests not only with the former Premier and Treasurer of this State but with every person who was in that Cabinet and who participated in the decisions, well knowing that what they were doing was wrong and would lead to further problems.

So, I have spoken briefly in this debate. I make the point quite clear: we are noting the report, but we are also noting the responsibility of the Government for the $3 150 million lost to this State, the 3 150 million good reasons why this Government should go today and not wait until the election, the gross negligence and incompetence of this Government and the lack of redress to date for the people of South Australia. Whilst all the players have been walking out of that bank with very large payouts, no doubt encouraged by the now Premier and the Treasurer of this State, the people of South Australia have been paying the bills. So, although I support the noting, I draw attention to the context.

The Hon. J.C. BANNON (Ross Smith): After that rambling, incoherent and repetitive contribution to the debate, I do not know that we are very much more advanced having listened to the Deputy Leader.

Mr S.J. Baker interjecting:

The ACTING SPEAKER (Mrs Hutchison): Order! The Deputy Leader has had his opportunity.

Members interjecting:

The ACTING SPEAKER: Order!

The Hon. J.C. BANNON: I believe that, in fact, an enormous amount of wisdom is contained and important recommendations are made in the report that we have before us. This report is the result—

The Hon. Dean Brown interjecting:

The ACTING SPEAKER: I caution the Leader.

The Hon. J.C. BANNON: —of two years of sifting, together with a high-powered staff, documentation that was gathered together by the commission that was not

previously collected or collated, the hearing of extensive oral evidence, and examination and cross-examination. The result of that, as one would expect, is a very full and thorough view in both reports of what happened and the detail relating to it. But, bearing that in mind and that massive exercise and the millions of dollars put into ensuring that the Commissioner had before him the full range of information and evidence that was possible, it is not surprising that we have such weighty, careful and substantive findings.

It is equally not surprising that it is fair to say that, however hard one tries to avoid hindsight, there is nonetheless and must be monumental hindsight in the way in which this material is presented. Time and again in reading these documents one says, 'If only those pieces of disparate information had been put together', or 'If only that piece of misinformation had been known to be misinformation or false', then things could have been different. That is very true, and the Commissioner makes that point on a number of occasions.

We must not and should not bask in hindsight in either apportioning blame or trying to allocate responsibility. Hindsight is certainly a factor here, because if that multimillion dollar concentrated exercise has only just now managed to throw up and unravel some of the things that were going on, how much less could the board, for a start, facing management and the Managing Director, behaving and performing in the way that is revealed in this report, have found it difficult to carry out their job? How much more difficult indeed could it be for the Government, in turn, the Treasury and the Treasurer, to attempt to understand what the bank was doing and how it was doing it? The further one gets away from that area of direct hands-on responsibility, the more difficult it obviously had to be to discern what was going on. That is really a starting point, surely, of examining the conspectus which these two reports represent.

Let me just refer to the Opposition and its approach to this report. Far from noting this second report and debating the implications of it, as the Premier has so rightly pointed out, even before it was published and issued, the Opposition decided that it would discard that and concentrate only on a re-run of report No. 1, which involved the Government, which involved the Opposition's political opportunism, which involved its grab for power. So, the statement was prepared; the issues were named. It is very true, as the Commissioner said, that the two documents need to be related—and nobody denies that, the Premier does not deny it, no-one on this side in referring to the matter denied it: of course they relate and of course they must be read in conjunction. But, the fact is this takes it a whole lot further, we are looking at how and where it takes it further, and the Opposition is not at all interested in that, because it does not suit its purposes.

Of course, the other fundamental problem the Opposition has is that, for those years it claimed it asked these 200 questions and it knew all about it and could ensure that people were warned, it had a target in mind. I do not recall the Opposition ever criticising or attacking the Cabinet or pointing to individual colleagues, sitting either in Cabinet or on this side of the House. I do not remember it indicting the Government; I certainly remember it indicting me as Premier and Treasurer. The target was me, its pamphleteering, its speeches were about John Bannon, it was about the Premier and Treasurer of South Australia who bore the burden of responsibility. So—

Dr Armitage interjecting:

The ACTING SPEAKER: The member for Adelaide is out of order.

The Hon. H. Allison interjecting:

The ACTING SPEAKER: Order! The member for Mount Gambier is out of order.

The Hon. J.C. BANNON: At the point that I accepted that, resigned and stepped down, one would have thought that at least the Opposition would have the grace to say 'Well, there is the Westminster tradition being upheld; there, at least, is somebody standing up and being counted on this, the target, the person whom we have paid to be responsible.' Not a bit of it. Suddenly it was the Government, suddenly it was the new Premier; the new Premier obviously was a key player, was a repository of all this knowledge and information; Cabinet made these collective decisions.

What a joke and what hypocrisy! They want it all ways. While I was around, it was me and only me. The moment I went, suddenly it is the new Government. That will not wash, either with the people of South Australia or, indeed, with this Parliament, and the Opposition knows it. Let us look at that question of responsibility and again get it in perspective—not to shift it, because I accept it. It is not a fact that the Premier and Treasurer was the Managing Director of the bank, as the Leader of the Opposition tried to say: the Premier and Treasurer was the representative of the shareholder, the owner of the bank. In that respect—

Dr Armitage interjecting:

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

The Hon. J.C. BANNON: —it is no different, I would suggest to you, from, for instance, a sole owner or majority shareholder in any other company. Let us take the case—and a very current case, indeed, and one that has a bearing on this, too. Those who dismiss the fact that economic circumstances or general banking decisions, etc., had anything to do with the problems of our State Bank should bear in mind the problems of the other banks and financial institutions. The Opposition's private sector banks, with those high powered boards of top business managers that it is seeking to contrast with ours got into big trouble, too. Westpac is a good example.

Dr Armitage: Private funds, not the people's funds.

The Hon. J.C. BANNON: Yes, people's funds, used by these experts, these top bankers, syndicated time and again with our State Bank. They were all in it together. They all went down the same path. It just so happens that the State Bank has a particular political vulnerability and its public ownership means it has particular significance and responsibility for South Australia, but let us keep it in perspective.

In the case of Westpac, the shareholders demanded that heads roll, that people paid the price for the loss. There have been major changes in the senior management and the Chairman of the board and some other board members resigned. They were the directors of the board of Westpac. However, the major

shareholder of Westpac, with a very large stake, was AMP. It has put an enormous amount of the funds of its policy-holders into the bank and therefore has a great interest in the fortunes of the bank. Has the Chairman of AMP resigned? Has the board of AMP resigned? Has the Managing Director of AMP resigned? The fact is that in some cases the directors of AMP were on the Westpac board, making decisions. That is not the case in South Australia with the sole shareholder of the State Bank. It is an outrageous doctrine that says it is not the board and management that are charged with the responsibility of running the organisation, but that it is the board and management of the shareholders that are responsible for the problems. That is nonsense. They bear some responsibility and I have taken more than the Chairman of AMP in relation to it, and I do not renege from that. It is appropriate that I do so. But that is where it stops, and it is nonsense to say otherwise.

The Leader of the Opposition went on to say that it was not the powers under the Act that were the problem. He quoted some examples of the Commissioner, saying that there were sufficient powers in the Act. I find his using that argument staggeringly hypocritical. He was here when the Act was debated in this House. He was part of the process that established the Act, as he well knows, and every member opposite who was here at the time knows that was aimed at keeping the Government as far away from the bank as possible. That was the prevailing ethos. That was the course of the debate. Amendments were suggested, and in some cases accepted, all with that aim in mind. It may be that in hindsight and from reading the Act in close detail as the Commissioner has been able to do that he can say that there are some avenues here, but I would suggest that they are not consistent.

I suggest, first, that, if that had been contemplated by Parliament, Opposition members would have been on their feet amending it. Secondly, if indeed those powers that purport to be in the Act had been exercised, apart from the bank's being able to object to it and probably succeed in such objection, members of the Opposition would have demanded to know why the Government was not obeying the spirit of the Act. They know it. They will interject and carry on, but they know that is the truth. That was the ethos and that was the structure of the Act and it is outrageous for them to suggest anything else in the light of hindsight.

The Leader of the Opposition went on to say that economic factors had nothing to do with it, that the property market collapse and other things had absolutely nothing to do with the collapse of the State Bank. What nonsense! He tried to call the Commissioner to his aid in this assertion. He claimed that the Commissioner says it had absolutely nothing to do with it. That is not what the Commissioner says at all. The Commissioner does not give it as the main cause or even the most important cause, but let me quote from page 25 of the report where he refers to this argument, as follows:

> It also helps to establish in a convincing manner that adverse external economic factors, important as they may have been, were a less significant factor for the bank than the demonstrable shortcomings of the board, the management, quite apart from the management of Treasury surveillance.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: The Leader of the Opposition claimed that it had nothing to do with it. In saying, 'important as they may have been,' the Commissioner acknowledges that they were important, and he speaks about degrees. I am prepared to accept or argue the degree. Their argument is a lot of nonsense and a gloss. The way in which Opposition members want to get themselves off the hook, because they helped formulate the Act and they helped put it into a certain context, is to say that the Government appointed the board and the managing director. That is a gross gloss on the way in which the board was formed and the board was reappointed. Members opposite know it. For a start, they well know that, in selecting the board, we wanted to preserve continuity and the confidence of the Opposition, and we reappointed a number of people whom the Opposition put on the board. They were people in whom they had shown confidence. They had them on—

The Hon. Jennifer Cashmore: For a different bank.

The Hon. J.C. BANNON: 'For a different bank,' the honourable member interjects. Different nothing! They were very keen to support them in putting those banks together. When Mr Barrett came to see the Opposition Leader to ask him what his attitude would be about the amalgamation of the bank and to discuss it, did the Leader say, 'It is a good idea but I hope you are not going to be Chairman, Lew. I hope that you are not going to be doing it. You are not up to the job.' Of course not. Part of his confidence at that time was because Mr Barrett was there and because he knew that it was the Government's intention to appoint him as Chairman. So we had Lew Barrett, Robert Searcy and David Simmons.

Members opposite have spoken about politicians being on the board. Bill Nankivell was put on the State Bank board by a Liberal Government. It was said at the time that it was not a job for the boys and that Bill had a great deal of experience in the rural sector. He was on a number of boards, for example, the Southern Farmers board. He was a businessman. I recall them saying it. The former Leader of the Opposition laughs about that, but he knows how true it is. When he was appointed to the board, Bill Nankivell was a perfectly logical choice. The same thing could be said of Don Simmons and Molly Byrne, although she was by no means a banker, but she had a legitimate role to play on the board. Putting that into the context of all the other business, accounting and legal and other expertise, it is very hard to say that those appointments were not appropriate.

Reappointments were based on the term of office. Board members could have a term of up to five years. With the first board, we appointed people for one, two, three, four or five years so the vacancies would occur on a staggered basis. It was understood, and it was logical, that there would be reappointments in the course of that term. Members can go through the list to see the logic in the reappointments and the new appointments that were made. Rod Hartley, who replaced Keith Smith, was no slouch in business. He had a good reputation. The Opposition did not object to him.

Tony Summers had been an enormously successful Managing Director of Australian Bacon, but he was taken out of that organisation by a takeover. He took up

Bennett and Fisher and I can recall that, at the time—this is hindsight at work—members opposite said what a marvellous thing it was that Summers had managed to rescue Bennett and Fisher and invest in it and keep it here in South Australia. He was Chairman of the Festival of Arts and he is a leading lay member of the Anglican Church, etc. What was wrong with the qualifications of that businessman? I could go through the list. In terms of nomination, the Opposition knows and understands the basis of that membership and it supported it until it suited it not to do so.

As for Tim Clark, he was appointed by the board, having been identified by headhunters. One of the members of the selection panel is now a judge of the Supreme Court of South Australia. He was not mentioned in the report; one of Justice Jacobs' former colleagues, and he was on the selection panel. My role was two-fold. I was simply to be introduced to Mr Clark, to be told that this is the man we believe is ideal for the job—his credentials were impeccable. Part of the condition of that was that Mr Clark should be a member of the board, as the Act provided and, indeed, he was so made a member of the board. There is nothing outrageous about that. That puts a proper perspective on this nonsense that we are hearing about the board, because the Commissioner has found that, despite those qualifications, despite the reasonable expectation that these people could do the job, they did not—they failed in their duty, and that is made palpably clear.

I want to deal quickly with one further matter. Apparently, what the Commissioner calls my enthusiastic public support and endorsement of Mr Clark hampered the board in its dealings with him. That is absolute nonsense, because as the Commissioner himself concedes on page 150:

> ...restoring the balance was harder by reason of Mr Clark's relationship with Mr Bannon, or at least that relationship as it was perceived by the board.

It was wrongly perceived by the board as in any way blocking or inhibiting the way it could appropriately handle its chief executive. I made that abundantly clear to Mr Simmons when he got to the point of not talking obliquely but saying what he felt. This was towards the end of 1990, I might say, after Mr Clark had been reappointed and they had said how relieved and grateful they were that he had agreed to another term and after they had given him a big salary rise in that year. When Mr Simmons approached me on this point, I said to him, 'You won't get any argument from me. Whatever I might think about Mr Clark, if that's the board's decision I will support you privately and publicly.' It is in evidence, and it is known.

What counts here is not the apportionment of blame—responsibility has been taken at the political level—but how the Government gets on with the job. What is the Government doing to correct the problem? Is it solving it and dealing with it appropriately? The answer is that it is in all respects, and in the interests of the people of South Australia. That is what the judgment will be made on at the next election, not on this nonsense of trumped up charges, an attempt to try to pin the blame where it will not go, to allocate responsibility in a way in which the Commissioner himself is not prepared to allocate responsibility for pure political gain. The target has gone; how about facing up to it.

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

Mr OLSEN (Kavel): What we see now is damage control mode being put into place by the Labor Party. It is trying to limit the political fall-out of the State Bank disaster. The former Premier (the member for Ross-Smith) stands up and says, 'I have broad shoulders; I have taken all the political flak; I have stepped down and resigned; no-one else is to blame; blame it on me but leave the Government alone.' We saw the Labor Party try that in Victoria with Joan Kirner, in Western Australia with Carmen Lawrence and in South Australia with Premier Lynn Arnold. In each case it has not worked. Trying to rewrite the perceptions contained in this report simply will not work. The member for Ross Smith, the former Premier, can stand up all he likes and say, 'I'm responsible; I share the blame; I've taken the Westminster system of responsibility upon my shoulders, but don't blame this Government.' Come next election day, the electors of South Australia will exercise their right, and the verdict will clearly be that the responsibility lies with the ALP Government—the Bannon-Arnold Government—and not with any single individual.

So, the Government can attempt to rewrite all it likes the perception contained in this report, but the simple fact is that in the ballot box it will not change. We will see a component of that this Saturday. The Labor Party is in for the greatest routing in the ballot box that it has seen in South Australia for a long time, and the principal issue will be the reaction to the first and second reports of the royal commission.

I want to touch on three aspects of what has been said by the Premier, the Deputy Premier and the member for Ross Smith. The member for Ross Smith said, 'The report has wisdom.' We agree with that statement. He also says, 'In hindsight, with all these disparate pieces of information collated together, you can understand how the report would come out as it did.' Well, there were plenty of pieces, disparate as they may be, floating around when the member for Ross Smith was Premier of South Australia, but he chose to ignore that information, because the State Bank was used by this Government and by the Bannon Government for blatant political purposes.

The Commissioner identifies that by the holding down of interest rates in the 1985 State election. Exactly the same thing happened in the 1987 Federal election campaign, and in 1989 we saw absolute misuse and abuse of taxpayers' funds by subsidising the State Bank to an amount of $2 million to keep down interest rates during an election campaign, the principal theme of which at that time was high interest rates in the community. The Government did not challenge; it did not question; it did not take on Tim Marcus Clark or the board or anyone else because it was not in its political interest to do so. This State Bank was being used by the Bannon-Arnold Government for its own political purposes. That is not only my perception, which was clear at the time—it has been confirmed by Sam Jacobs, the Royal Commissioner so clearly and concisely that the Government cannot walk away from it at this point. Let

us look at the report. Much has been said about collective responsibility. The former Premier (the member for Ross Smith) is the fall guy.

Mr S.G. Evans: He won't run at the next election.

Mr OLSEN: I bet he won't run at the next election. They are trying to say, 'The price has been paid; let's get on; these other people have nothing to do with this.'

The Hon. E.C. Eastick: Still shoving things under the carpet.

Mr OLSEN: Quite clearly, they are still shoving things under the carpet. What did the Royal Commissioner have to say about that? The Deputy Premier complained about the way in which the report was written, its phraseology and its colour. I hasten to point out that the Government appointed the royal commission and set the terms of reference and, apparently, if one listens to the Deputy Premier's argument, the Government wanted to put its input into the nature of the report. Thank goodness, the Royal Commissioner exercised his independence and called the shots as he saw them. It is interesting that on page 209 of the second report, the Commissioner, no doubt having noted how the Government and the member for Ross Smith responded to the first report, makes special reference to that, as follows:

> The commission does not seek to resile from or qualify these conclusions, nor the language in which they were expressed, but the first report made it clear that all parties—

I emphasise 'all parties'—

> to the previous unsatisfactory relationship were answerable for their respective roles and played a part in the ultimate fate of the bank.

That is quite clear; quite specific. I refer to page 2 of the report, to which the Premier referred today when he talked about 'a Minister of the Government'. He kept saying 'a Minister of the Government'. I will read the full paragraph, as follows:

> 'the Government' means the Government of the State of South Australia and includes, unless the context otherwise requires, a Minister of the Government...

So, quite clearly, His Honour was—

An honourable member: Read on.

Mr OLSEN: I will read on, because it goes on to say:

> ...and the officers of the Government and all public employees within the meaning of the Government Management and Employment Act.

That does not alter, so the honourable member had better read the report himself before he says 'read on', interjecting while out of his seat. It clearly indicates the Government of South Australia and includes a Minister of the Government of South Australia. It is clear that what the Commissioner was talking about is not only a Minister but the Government of South Australia. One thing that John Bannon (the member for Ross Smith) will have is his political epitaph, and it will be etched clearly in those two great tombstones in the central business district.

The Hon. T.H. Hemmings interjecting:

Mr OLSEN: Yes, I do know a lot about tombstones. If the public of South Australia had responded to that in 1985, we would not have the State Bank mess that we have on our plate now, and the taxpayers of South Australia would not have a $3 150 million debt on their hands. Those two great tombstones—the epitaph of John Bannon's premiership, the two buildings he opened with great fanfare as Premier—are the State Bank building and the other is the Remm building, which is now called the yellow deli. We could give a number of reasons why it is now being described around town as the yellow deli. Those two buildings in the central business district clearly indicate where the State Bank got it wrong and where the Government let it get it wrong, because it was in the Government's political interest yet again for those two building projects to go ahead.

The Royal Commissioner clearly indicates how the Premier used his influence to get the Remm building up and running because between 1987 and 1989 he wanted that building project to go ahead for political reasons. It did not matter what the bottom line said. The bottom line to members opposite was in the ballot box; the bottom line was not what the cost would be to the taxpayers of South Australia.

An honourable member: The fruits of office for them and their sinecures.

Mr OLSEN: Exactly. I want to pick up another component of the Deputy Premier's remarks, when he talked about the board. The Premier referred to it earlier today, saying that the board was similar to the board that the former Tonkin Government had appointed. The old Savings Bank of South Australia, to which the Tonkin Government had the responsibility of appointing board members, was a totally different animal from the State Bank of South Australia as we now know it. The old Savings Bank of South Australia was referred to as the penny bank. It was not a major trading enterprise on the national and international market; it was a purpose built, core activity bank. Its core activity was principally housing loans and, amongst other things, it looked after the banking needs of kids in schools, to get them into the good discipline and habit of saving.

That was really the thrust of the Savings Bank of South Australia. Appointments to that board should be treated totally differently from appointments to the board of a new, emerging, major trading bank under the new deregulated banking system in Australia. One cannot draw a comparison between the two, because the job functions between the two trading enterprises were totally different. If members opposite cannot see that fundamental, basic point, it just reaffirms the view that they are totally incompetent in business terms to be managing the State of South Australia.

The Hon. B.C. Eastick: Two entirely different Acts.

Mr OLSEN: They were two entirely different Acts, requiring two entirely different approaches, and they cannot be linked now. It is not logical, consistent or reasonable to link them. Premier Arnold said in his remarks that Marcus Clark forcefully resisted Treasury representation on the board. To that I would respond, 'Who the hell was running the show?' So what if he did resist it? Why did members opposite not show some strength of purpose and character—in other words, plain old fashioned guts—and say, 'We do not care what you say; we have a stake in this. We are the guarantors and we represent (as the member for Ross Smith said) the shareholders—the taxpayers of South Australia.'?

That was the responsibility and, if one is representing the shareholders in any major company takeover, the first thing that happens if one buys a slice of the

company—a share—is that one gets representation on the board to protect one's interests. That is simple. That is elementary and, once again, if this Cabinet, this Government and these Ministers could not see it and did not act in that way, it identifies their abysmal approach to business matters. The fact is that they have had no experience and there are glaring examples of how they have had no experience in the actions they take, day by day, week by week and month by month.

In trying to sheet blame to whoever is near and handy, the Deputy Premier got on to the Reserve Bank. In relation to the Reserve Bank, what did the all Party committee of the Federal Parliament have to say about this matter? Let me quote point 12.38 as follows:

> It was naive and grievously in error of State Governments and their advisers not to appreciate the need for an independent external supervisor. Sadly the trust the Governments maintained in the boards and management of the banks was misplaced. The South Australian Government has injected $2.2 billion [as it was then] into SBSA this year, equivalent to around $1 500 for each person in the State.

The report goes on:

> An additional factor in the difficulties was an apparent misunderstanding by the Governments of the role of supervision by the Reserve Bank. They appeared to believe the Reserve Bank could be relied upon to protect the capital of the bank. However, in its normal supervisory procedures the Reserve is charged with protecting the depositors, not the shareholders.

Members opposite did not understand, and the Deputy Premier to this day does not understand, the relationship, the role and the function of the Reserve Bank in this saga. When this legislation was debated in the House of Assembly on 29 November 1983 (and the member for Ross Smith referred to that today), the then Premier and Treasurer, John Bannon, said:

> One would expect that the board of the day, in entering into obligations on lending, would have regard to the impact of its policies on the State's economy, and not expose itself too greatly to interstate or other loan arrangements.

That is what he said was the charter he would follow with this State Bank. He set the ground rules, nobody else: they are his words. That was his objective, his goal and the direction he thought the bank should follow. But what did he do after putting that down and reassuring the House that that would be the course that would be followed? By 1989, we saw that more than 60 per cent of the bank's business was located interstate and overseas and, for the third time in four years, the Premier was about to insist that the bank enter into an agreement on interest rates, and that would have absolutely no regard for the State's economy. I have made some reference to playing around with interest rates over some three election campaigns.

There was another factor that we wanted to propose, as an Opposition looking at the long-term interest, by way of an amendment. The amendment which we tried to propose and have inserted in this legislation and to which we are referring today was a limitation on the Government's taking profits out of the bank. We wanted to limit it to 50 per cent of the profitability of the bank—no more than that could be taken out. What did we see in 1989? We saw inflated profits and the money coming out in terms of the revenue for the State Government so it could offer the $55 million tax relief package in 1989, just prior to the State election. Once again, that is clear manipulation of the bank for its own base political purposes. That is what the Government did, and the Royal Commissioner clearly identifies that, on a number of occasions, the Government used the bank for its own political ends.

It cannot have it two ways. It cannot for some seven, eight or 10 years use this instrument (the State Bank of South Australia) for its own political gains, reap the rewards in the ballot box as it surely did and, now that it has turned around and bitten the Government, walk away from it and say that the Government was at arm's distance and that it had nothing to do with the bank. The Opposition insisted in this Parliament in 1983 that there should be a gulf between the Government and the bank. The Government cannot have it two ways. If it used and abused the bank for political purposes, it must now reap the rewards for its use and abuse of the bank during that 10 year period. The reason it did not take on the bank and its management was that it was using and abusing the bank. It was a political tool, so it did not want to interfere with it.

An honourable member interjecting:

Mr OLSEN: It is corrupt: that is clearly what it is. If we had a number of these people in Government representing shareholders, as is their responsibility and as the member for Ross Smith said, representing the shareholders—if they were out in the private sector—the Australian Securities Commission would have them now. There is no doubt where they would be: if they were not before the courts they would be behind bars already by now, and I refer to the Government, through you, Mr Speaker.

In previous debates I have mentioned how in 1989 we put down a position that the long-term corporate plan of the State Bank was not an appropriate plan for the future. The Government says it did not know. It full well knew, because it got a copy of my speech on that occasion in 1989. It was subject to a board discussion and, in particular, the letter Tim Marcus Clark wrote to me was the subject of board discussions and a subsequent apology from the Chairman of the board, Mr Simmons, that he had no right to write a letter of that nature to me as Leader of the Opposition.

Members interjecting:

Mr OLSEN: I would like to hear that; I thought mine was pretty good. The board instructed him after that that he was no longer to communicate in that way with the Opposition—taking a reasonable, appropriate and responsible stance as to the direction that the bank was clearly taking. The Government claimed that these directors had skills, and the Premier said that they could and should have used those skills and acted more diligently. I agree. Equally, so the Government could and should have acted more diligently, by questioning the bank and its direction. As has been said—

The Hon. B. C. Eastick interjecting:

Mr OLSEN: Indeed, they were. One could not go to a dinner party, a reception or a business function in this town for two or three years without people asking questions about what on earth was going on with the State Bank.

The Hon. Jennifer Cashmore interjecting:

Mr OLSEN: Or the finance pages. One had only to look at Equiticorp, the National Securities Council and Oceanic—

Members interjecting:

The SPEAKER: Order! We can have only one speaker at a time in this Chamber.

Mr OLSEN: We had all these disparate bits of straw floating around, as the former Premier said, and he could not draw them together. He was the only one who could not draw them together. Everyone else knew what was going on or had a clear impression of what was going on. What we sought to do was to use the forum of the Parliament in the interest of the taxpayers, the shareholders of the bank, to try to elicit what the problem was.

It was swept under the carpet because there was an approaching election. They had to get through that election campaign, come hell or high water. They used the bank also to get through the election campaign. Where was the Government? As the Deputy Leader said, where were the Ministers in Cabinet asking, 'What on earth is going on? There are too many questions.' They must have been out in the business community as we were, clearly hearing what was happening. I pose the further question: where were the Caucus members? What were they discussing in their Caucus because, as members of Parliament, they had a responsibility to question and to find out what was going on? Where were they? Were they dumb, mute and silent about the direction of the bank and the difficulties of South Australia? Why were they not speaking up? Why were they not questioning? Why were they not asking, 'Is there something in this?'

If they had only done this, they would have served not only their constituents but the interests of South Australia, and we might not have a $3.1 billion debt hanging around our ears at the moment that will be a sorry legacy for this State and young South Australians for generations to come. But Government members all abdicated this responsibility.

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

Mr QUIRKE (Playford): The debate—

Members interjecting:

The SPEAKER: Order!

Mr QUIRKE: The debate this afternoon is an interesting one in many respects. In particular, a number of issues that have been raised by the Opposition today show clearly that it is not interested in getting down to the basis of the situation: it just wants to make mileage out of it. So far as the Opposition is concerned, clearly it has the approach of a cracked record on this issue. It is not interested in getting down to what went wrong at the bank; it is not interested in the basics of the report; it is not interested in finding out what went wrong so that in the future we will all be a lot wiser about what has clearly been seen as one of the worst financial disasters in South Australia's history.

I do not think anyone on this side walks away from the fact that the State Bank disaster—and 'disaster' is the appropriate word for it—has blown this State's finances and in many respects has destroyed many of the hopes that we on this side of the House have had for many programs that we as a Labor Government believe are appropriate out in the community.

It is certainly interesting to come in here and listen to the contributions of members opposite. I refer to the hypocrisy of members who say, as the former member for Kavel did a short while ago, 'Indeed, the old Savings Bank of South Australia was a very different entity, and the people whom we put on that board were not really appropriate for the State Bank board.' We did not hear that in the 200 or so questions that were asked.

I listened from early 1990 until early 1991 to all the questions on the State Bank and the scatter-gun approaches of the member for Coles, the then member for Custance and other members who asked a series of questions. Never once did the calibre of the directors at that point come up in any of that questioning. Today we have a re-run of what happened last November. It is clear that the television audience is long gone. In fact, it was not around much this afternoon at all and it was not around much yesterday, either, because they know what the Opposition's approach is going to be. It is going to claim that it is all the Government's fault.

However, there are a few points in the report that need to go on the record. There are a few points which, in the interests of the community of South Australia, need to be put on the record. I refer to this morning's *Advertiser* headline, which was a very fair one and which talked about the vow, in the interests of the community of South Australia that, if some charges could be laid, they would be laid.

The Government has not walked away from that. Indeed, as to the findings, one hopes that, when Sam Jacobs makes his next presentation, he will deal with whether or not any criminal charges can be laid in this matter. Let me turn to some of the findings in the report, because we will certainly not get them from the Opposition: its task is to claim that it is all the Government's fault. Anyone would think that it was the members of the Government who were organising all the problem loans. It was not. It was the mates of the Opposition who were getting the loans, and at bargain basement rates. That is why members of the Opposition knew many of the things that were going around town. They were out there. It was their mates, the John Elliotts of this world and that crowd, who were in the corporate environment in the 1980s. Let me turn to a few of the findings. On the subject of the submission from the former directors, the old board, the Commissioner states:

> The commission emphatically rejects that submission [the old board submission]. The findings in this report will demonstrate that long before mid-1990, perhaps as early as 1986, the board had reason to question the competence of management on matters some of which at least were vital to the health of the bank, but too often the board's response to management was passive and acquiescent, and it allowed its own misgivings to be overborne; it appeared to lack the strength or ability, and sometimes the desire, to stand firm or oppose, or to give positive direction to management; too often it simply accepted the bland and confident assurances of management in the face of evidence which did not justify that confidence.

As to the summary of findings, it continues:

> The failure or inability of the board (including the Chairman) to understand at least until late in 1989 or early in 1990 the changes to the capital structure of the bank, the high cost of

capital as differently structured and increased, and the implication of that cost upon the strategy and direction of the bank's lending policies.

The report gives other findings, and I will share a few of them with the House:

The failure of the board to take any firm and decisive action in the face of many clear signs that management was out of its depth and struggling.

What we had here a short while ago was a speech saying, 'We had the Savings Bank of South Australia and, yes, we appointed a number of people to the board. When it became the State Bank of South Australia, they were out of their depth. It was a different organisation.' We did not hear any of that. We can find no speeches saying, 'Our nominees were not up to the new tasks.' Moreover, until we got here today, we heard none of those comments at all, because the reality is, as everyone on this side of politics knows, that if we had sacked those five board members, the Opposition would have been the first to start screaming about it: 'What are you doing? You are bringing in a purge. Bias.' All those comments would have been made here. We heard none of that stuff about how incapable those old directors were, because they were quite happy that they went onto the new bank board. They did not said a word about it. Let us have a look at a few of the other things in the report:

The unwillingness of the board to exert its authority to appoint an audit committee of the board when that proposal was opposed by Mr Clark.

Again, we have a clear example of where Mr Clark had a tremendous influence over the board as he did over Executive staff. I will come back to that in a moment. The report continues:

In dealings with the Treasurer, there was the maintenance of a facade of confidence in the bank and its Chief Executive Officer in the face of clear evidence that such confidence was not, or at the very least might not be, justifiable.

Some of the other key findings are on pages 19 and 20 of this report:

- Mr Clark must accept a very large measure of responsibility for the level and quality of management information flowing to the board.
- The board too often and too readily accepted management proposals on policy and management recommendations without adequate scrutiny or critical assessment, when the proposal or recommendation obviously called for such scrutiny or assessment.
- The board failed to take adequate steps to satisfy itself that proper management procedures were in place or to heed evidence of unsatisfactory procedures.
- The board failed to address the appropriate indicators of the bank's performance.
- The policy of the board with respect to making provision for bad and doubtful debts did not accord with prevailing industry standards and its published profits painted an unduly favourable picture of its performance.
- In so far as the board's assessment of the role and performance of Mr Clark was less favourable than, and did not justify, his high public profile and reputation, or the Treasurer's confidence in him, the board was irresolute and indecisive in resolving, or in taking action to attempt to resolve, the apparent dilemma posed by such conflicting assessments.
- The board was unwilling at all times to disclose the level of executive salaries to the Government.

I know that one only too well. It was further stated:

The action of the board in providing very large salary increases and bonuses in 1990 can only fairly be described as rash and irresponsible.

Indeed, I would have thought that the debate here today and the comments made yesterday really were to do with volume 1—that the Opposition had finally read volume 1 and were not dealing with volume 2 at all. Volume 2 gives us an indication of what went wrong in the State Bank. There was a culture up there where a group of men—and, as I understand it, they were all men—were paid enormous salaries. If we have a look at the Bureau of Statistics, we find that only those people earning over $80 000 a year are in the top 1 per cent of salary earners. An amount of $80 000 was not a very big salary in the State Bank. Under the Marcus Clark regime, executives were paid levels of remuneration that were enormous by any scales in South Australia.

Information has come out already which has indicated to us that those salaries paid to the executives of the State Bank in the late 1980s and early 1990s reflected much more—that which would be appropriate to large trading banks that had offices all over the world and had a much larger share and a much greater asset base to look after. The reality is that the Commonwealth Bank of South Australia at that time, even though it had a four times greater asset base than the theoretical one which the State Bank had, did not have anywhere near the number of executives earning the sorts of salaries that were paid under the Marcus Clark regime.

There is no doubt that Mr Marcus Clark used his ability and his influence with the board as well as his own power and position as the Chief Executive Officer to organise bonuses for many of those individuals. Some examples of that have been given to us in the report today. We are not talking about a Christmas hamper; we are not talking about a Christmas pudding or a leg of lamb to take home for Christmas: we are talking about Christmas bonuses that are two, three and even four times the yearly wage of some of my constituents—their customers.

That is the amount of money that was paid at the State Bank, and it is quite clear to see the hold that Mr Clark had over the executive salary regime at the bank. He authorised and encouraged very large salaries indeed. He allowed flexible packaging so that many of these people went into debt and depended upon those salaries. Then, largely at his whim, as I understand it, they were paid bonuses—not small amounts of money but very large amounts of money. Indeed, as Mr Jacobs has indicated, bonuses of $1.2 million were spread across the executive structure of the bank. It is difficult when dealing with the bank to find out what is an executive and what is not an executive, as members will recall towards the end of last year. It included at least 100 people, but not approaching too many more than that. If we divide that amount up over those years, we find that it is a very large amount of money.

But Mr Clark did not stop at that. He made sure that he had his own bonus. As I understand it, he received bonuses in excess of $100 000, apart from his own salary, which the board put up in late 1990 to the tune of

$500 000. As I understand it, Mr Clark is still taking legal action. He is a very litigious chap and, I believe, he has threatened a few members here with litigation as well. One group that I understand he is suing is his own lawyers, because they did not get enough for him when he left the bank. I believe that he now has an action in court saying that they did not negotiate enough money for him when he left this State.

I want to tell the House that, if ever it happens in this place that we can recover some of this money, if ever it happens that we can pursue some of the guilty, my vote will be solidly behind it. I make that clear: my vote will be solidly behind it. We also need to look at the directors at the bank. There is no doubt from this volume of the Royal Commission's report that the directors failed to perform their duties. There is no doubt that they failed to look after the interests of the shareholders, namely, the people of this State. There is no doubt that the Chief Executive Officer had an influence over the board and over most members of that board which one could only describe as very unhealthy.

I will also be interested to see subsequent reports come out later, particularly the Auditor-General's report, because I have a view that many of those directors were also in receipt of remuneration as a result of their being placed on a series of boards of many other companies and that the same magic that Marcus Clark exercised over his executives was exercised over the directors as well. It is my view that his influence over the board and his influence over the executive staff made quite clear that his control of the bank where this was concerned was to be achieved without any light being shed as to what was really happening in many areas.

I also think that subsequent reports—and I hope they come down soon—will leave a trail that is still warm so that we can track down some of the things that have happened, so that we can track down some of the individuals, and so that, if there is any criminality or any fraud, we can do something about it. We do not hear any of that from Opposition members; they are not interest in that.

Mr Meier interjecting:

Mr QUIRKE: The member for Goyder always interjects, and it is usually inane, as it is this time, but the reality is that we do not hear from the member for Goyder and others on the Opposition side when they want to do something for the people of South Australia. They come in here and make speeches like they did last night on the Disability Services Bill and a few other things. Five years ago they did not want to know about disability. They were the ones who had to be dragged kicking and screaming into the twentieth century, and now we find that they want to make a cheap political advantage on this point.

Yes, they have read volume 1, but they do not want to read volume 2. They are not interested in doing too much about it, because they know that many of the recipients of these loans out there are in their bailiwick. Many of those recipients of these loans out there in the business community are corporate members. We have an Opposition that is so enormously hypocritical that it came in here years ago and said, 'All this has got to be at arm's length; keep it away from Government.' Then what do we have? Members opposite come in here and say, 'No, no, it's all the Government's fault.' Anyone would think that they had not bothered to read the second report at all; it does not concur with their principal views.

The motion before the House that we note this report is something I will commend, because in this report we start to shed some light on what happened in the bank and in the late 1980s, as will the other reports when they come down, namely, the other report from the Royal Commissioner and the Auditor-General's report, which I understand will look in microscopic detail at what happened with these non-performing loans. When those reports come down, we can do what the people of South Australia want to do, that is, hold responsible those who were responsible, namely, those people who issued the loans.

I am a customer of my local State Bank branch in Ingle Farm, and I feel very sorry because the children behind the counter are not the ones who caused this problem. Unfortunately, they are face of the State Bank for the people in my district. They are the ones who cop the criticism, they are the ones who get abused by people. The real abuse is up there in the tower, with the board of directors who failed their duty, the Government and the people—and, indeed, in many instances who have walked out with rude amounts of money. I was told the other day that one executive who left there recently, Mr Patterson, would be in receipt of over $1 million and that that is not a lot of money today. Well, I have to say that that would fix many problems in some of the schools in my electorate.

Mr D.S. BAKER (Victoria): The first and second reports of the Royal Commission into the State Bank of South Australia will be nailed to the headstone on the grave of this Government after the next election, because these reports show the economic mismanagement of this Government over the past 10 years. It is not only in the State Bank that we have seen it; it just happens that we moved for a royal commission into the State Bank because it was the culmination of the disasters this State has witnessed under this Government. No other Government in the history of South Australia has had as many financial disasters as this Government. It started off with Marineland, which was a very small disaster in monetary terms ($7 million) compared with the rest, although it occurred because the Government kowtowed to the unions. The Scrimber operation then lost $60 million. Once again the Government said, 'No, it was not our fault; it is nothing to do with us; it is someone-else's fault.' Then there was SGIC, and we have not seen the full ramifications of the SGIC situation. This Government at no time has taken any responsibility for those disasters.

Finally, of course, we have the State Bank disaster, with 200 questions being asked over three years. Constantly the Opposition was goading the Premier; we were asking questions of Ministers; we were out in the public arena saying something was wrong, and finally, when we moved for the royal commission after the initial disaster involving some $900 million, the Government agreed and said, 'We'd better have a look at it.' Of course, it is now trying to shift the blame: it is trying to say that we did not have that responsibility under the Act

(and I will discuss that in a moment). Of course it had the responsibility, and the Act and the Royal Commissioner make that quite clear.

The arguments that I have heard this afternoon, including that of the member for Ross Smith, are the most inane arguments that anyone can try to put forward, because the Royal Commissioner said it himself, and the very page that none of them will look at or open that really looks at this whole saga and puts it into perspective is the one reflecting what the Leader said in his speech: it has been repeated several times, and I will repeat it again—page 216, which contains the following brief passage:

> The ultimate control and sanction in the hands of the Government is its power to determine the composition and membership of the board.

That is what it says on page 216, and that is the ultimate responsibility of this Government. It had the power under the Act to change the board, to appoint the Chairman and the Deputy Chairman and, most importantly, to take away those positions.

What we have heard today is this ridiculous argument that, before this Act came about, the original Savings Bank of South Australia was only the piggy bank and that we appointed some of the directors or we were in Government when they were appointed. This is a completely new Act, which at the outset—and it will do all members good to look at it (I know that the honourable member who will speak next will have a look at it first)—repeals the Savings Bank of South Australia Act 1929 and the State Bank Act 1925. That is when this Act came into being.

But apart from that in any business, in any financial arrangement anyone makes, the situation is reviewed annually. When the annual accounts come in, that is the time to discuss with your board its performance over the past 12 months; that is the time when you decide whether changes should be made in the direction of the board or the bank. Even in 1990, when everyone knew that things were going bad in the bank and that it was out of control, even then, after its liabilities doubled in 12 months, the Government did not intervene and do anything.

Worse than that, even when the first $1 billion was announced for the bail-out, the Government did not do anything. Even when we knew from our research that the non-performing loans were much worse than had been disclosed to the public in the annual report and it was quite obvious what was going on, the last question that the Opposition asked on 3 December 1990 did not just fall out of the sky. It was planned to end the year's attack on the State Bank, and that question was: 'Do the board and the executive management of the State Bank Group, and particularly the Group Managing Director, Mr Marcus Clark, retain the full and unqualified confidence of the Treasurer?' The very prophetic and pathetic answer was 'Yes'.

With hindsight and the report of the royal commission, it now appears that at that stage everyone was warning the Premier. Forget about the 200 questions that the Opposition asked, because they were asked over a two-year period. But even then, in spite of all the warnings and the private letters that I wrote to the Premier saying that things were wrong, the Premier said, 'Yes, I have full confidence.' The member for Kavel gave the reason why: he said that the Premier was massaging Mr Clark so that he could carry out the sleazy deals on interest rates that had gone on before three elections.

That in itself is a scandal. He said, 'You let us hold down interest rates for political purposes before the elections and we will let you do whatever you want. I will make sure that the board does not exercise any authority.' Of course, that is obvious now that we see the royal commission report. The people for whom I feel sorry are the backbench members who were also conned. I do not know whether the matter ever went to Caucus.

An honourable member interjecting:

Mr D.S. BAKER: Of course the Cabinet knew about it; it must have known about it, and obviously it did. Government backbenchers who will lose their seats at the next election found out only when the bank collapsed. Their problem was that they had confidence in the Cabinet which they had elected.

An honourable member interjecting:

Mr D.S. BAKER: That is right, and that is a very sad point. Another person for whom I feel sorry, Mr Speaker, is yourself, because in 1990 you were conned into propping up this Government. All through 1990 and up until the collapse of the bank you did not know what was going on. You only knew about the questions that were asked in this House. Now that you know what went on in the royal commission, I wonder whether you were told about the state of the bank. I think it would be very interesting if you made a statement to this House to say exactly what you were told before you accepted the very high office of Speaker in order to prop up this Government and keep it in power.

It must be an embarrassment to you, Sir, to have to sit there knowing that the truth was kept from you. I would be amazed if you could keep these people in office much longer, but the next election will put things right. It is unfortunate, Mr Speaker, that the highest office in this Parliament was used in that manner and that you were misled to such an extent in order to prop up this Government. As I have said, the annual reports should show what was going on in the bank. Each annual report, as it was analysed, has shown that the bank was getting further into trouble. Of course, nothing was being done about it. The culpable people on the other side of the House comprised, of course, the Cabinet. For the new Premier and the former Premier to try and get around the royal commission report by saying that it was not their fault—and the Royal Commissioner does not say that—is absolutely ridiculous, because quite clearly the Commissioner names throughout the report who is responsible and who must pay the price.

The Premier stands in this House and says that the former Premier has paid the price and that now all blame is absolved. If he thinks that, let him go to the people of South Australia to confirm that view. That is what the Opposition wants to do. If the Premier says, 'We are not responsible', let us go to the public of South Australia and have an election. That is the matter on which we will fight the election: whether this Government is culpable, whether this Cabinet has misled the people of South Australia as to who should be held responsible. It is very simple. At the same time, Mr Speaker, you may

facilitate that situation if the Premier maintains that he and his Cabinet are not responsible.

In closing, I think it is very important that the charlatans who have bankrupted South Australia are brought to account by the electors of South Australia. The biggest financial disaster in South Australian history will be the culmination of the reign of this Government. The only way to fix that is by going to the people of South Australia.

The Hon. J.P. TRAINER (Walsh): When we are dealing with a report such as this, we should be concerned with what really happened. What really happened is that a group of—

Members interjecting:

The Hon. J.P. TRAINER: Members opposite might scream all they like, but I am determined to put my views on the record. What really happened is that a group of fools, charlatans and economic quacks have avariciously and frenziedly loaned hundreds of millions of dollars of depositors' money for projects which were either worthless from the beginning or which were made worthless by the collapse of the property boom, loans which must now be covered by the people of South Australia as the guarantors.

The supervision of the management of the bank was entrusted to a board; a board that was made up of establishment figures, a board that consisted of a 'who's who' of the Adelaide establishment, predominantly the same sort of people—and in many cases the very same people—who have been appointed to boards of this nature in Adelaide for years. Predominantly, the board was the same as the board which the Liberals appointed to the South Australian Savings Bank. It even included a former Liberal member of Parliament, who is the auditor of our Commonwealth Parliamentary Association branch. There was nothing about those board members that indicated they could not do the job entrusted to them, yet the same people who supported those appointments at the time they were made are now screaming 'foul'.

The gall of members opposite to criticise now the selection of the board is like that of the adolescent who killed his parents and then pleaded to the court for mercy on the ground of being an orphan. I cannot believe the gall of members opposite, who at no time questioned those appointments to the board but who now criticise them. What humbug we have got from members opposite acting out of sheer political opportunism. However, that board proved to be grossly inadequate.

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

The Hon. J.P. TRAINER: As I said before the adjournment, we saw highly paid executives frantically thrusting money into the arms of entrepreneurs. We saw a board of predominantly Adelaide Establishment figures who proved to be grossly inadequate. Nevertheless, that board was trusted by the Minister responsible to represent the interests of the shareholders of the State Bank. Perhaps in trusting it the Minister did so foolishly, naively or rashly—but nevertheless he trusted it. That Minister has resigned as a consequence of his misplaced trust in the board. But, significantly not one member of that board was criticised by the Opposition when those people were appointed to the board.

The individuals on that board must carry the overwhelming proportion of the blame for the money-driven madness which brought down the State Bank, just as happened with so many other banks in Australia in recent years, including two of the top three private sector banks in Australia—Westpac and ANZ. The Opposition is not interested in that; nor is it interested in the indescribable incompetence of two separate companies of auditors who audited the State Bank and pronounced it in good health. The Opposition does not want to know about that.

It is also strange that the Opposition is so ambivalent about what it claims to have known about the real condition of the bank at a time when the board was assuring us that all was well and that the auditors agreed with that verdict. How much did the Opposition really know? What really solid information did it have at a time when it was questioning the then Treasurer? The member for Kavel mentioned the many rumours he had heard about the State Bank which, he said, inspired Opposition questioning. Was it only slippery rumours that formed the basis for its questioning? It is strange that the Opposition backed off on its questions if it really had hard facts to go on. Was it just serendipity that led the Opposition to raise these questions? Did it just ease off because it had no hard facts on which to act? Or, did it callously and knowingly let the bank go down because it saw some political advantage in that?

Many of us on this side of the House heard basically similar rumours to those mentioned by the member for Kavel. Some of us raised them in Caucus and conveyed them to the Treasurer but, like the Opposition, the Treasurer had nothing to go on but rumours in dealing with the State Bank management who misled us all—they did not just mislead the Treasurer but the whole community of South Australia. I ask the House through you, Sir, not to overlook the fact that the appointed auditors failed to pick up what was really going on and that the disinformation coming back was hard to argue with.

The Opposition does not want to know about matters such as that. The Opposition does not want to know about the failure of the auditors. The Opposition does not want to know about the disinformation that was provided to the Treasurer. The Opposition does not want to accept that the relevant Minister has resigned in accordance with Westminster tradition. The Opposition is not interested in putting the incompetency of the board under the spotlight. The Opposition does not even seem interested in uncovering the avaricious and incompetent managers and executives and prosecuting them on behalf of the people of South Australia. Instead, the Opposition is only interested in petty political point scoring and petty political posturing in a manner that unfortunately exemplifies one disadvantage of our two Party parliamentary system whereby an Opposition can sometimes be not interested in the real job at hand but merely at trying to attack the Government of the day.

The public has had enough of this from the Opposition. Members of the public have had enough of this cynical, political opportunism. They want to know where the money went. Who has it and can any be

recovered? Who are the avaricious bank officials who gave it away? What procedures in the bank allowed it to happen? Whereabouts in the bank (or among people departed from the bank) can the guilty be found? Above all, when will they be prosecuted? That is what the public wants to know: when will the guilty be prosecuted? They want to know why, after two years, not one person has been prosecuted. I will come back to that point, but before doing so I would like to put the report into a broader historical perspective covering the past decade when the accepted economic wisdom of the 1980s led to a very rude awakening in the 1990s—a rude awakening that saw the downfall of so many financial institutions.

Unfortunately when the big money organisations crumbled it was the ordinary depositors and taxpayers who had to pick up the tab from the high-fliers of the 1980s—high-fliers who are still getting by on very high living standards way out of the reach or even the imagination of most people. These high-fliers, even when they were deep in debt, had no trouble getting money from the banks. Perhaps it is because, as is sometimes said, if you owe the bank $10 000, you have a problem; if you owe the bank $10 million, the bank has a problem.

How, Sir, did such a financial madhouse evolve to destroy so many banks? Well, at national level through the 1980s both sides of politics—the Labor Government and the Liberal Opposition—were in the grip of economic rationalists and, in that sense, both Parties at Federal level share some responsibility for what they unleashed with the deregulation of the banking system. At a time when the banks were deregulated, new banks entered the field and older ones expanded. We had State banks and building societies which expanded into much wider fields of activity; we had new foreign banks, such as Chase and Standard Charter, move into the Australian market; and we had older ones like the respected ANZ and the respected Westpac which simply grew too fast and, just like the State Bank, they suffered the same consequences.

In that deregulated environment these 'new' banks needed two things: first, business clientele (that is, customers); and, secondly, staff (that is, managerial expertise). Where did they find these two requirements? They needed to find business somewhere, but the best business was already accounted for. What the new banks were left to pick up was the risky end of the market, the high-flying entrepreneurs. They raced around pressing money on these people in order to gain from the commissions that they were paid. Secondly, as well as needing business clientele these new banks needed executive staff. Bankers do not grow on trees and they do not fall out of CAEs each week. The only way they can be obtained by a foreign bank setting up in Australia, a building society converting itself to a bank or a bank vastly enlarging its activities is to hire staff from other financial institutions.

The head-hunters scoured the business world for talent. High salaries were offered to entice people away from other firms. However, you do not necessarily get the best people that way, because if someone employed by an existing organisation thinks very highly of that individual they simply up the ante—they match what is being offered or go above it in order to hang on to that person. So, what we ended up getting, to a large extent with the State Bank, was, amongst some of the good people, a lot of B-minus executives at A-plus salaries. Those two factors—the need to find business and the need to find staff—ensured that there was a potential disaster.

What made it a certain disaster was two other things. One was the overall spirit of the 1980s, the mad entrepreneurial frenzy. People such as Tim Marcus Clark were public heroes. The former Premier was referred to as having been bedazzled by Tim Marcus Clark, and in that he was no orphan. For some time all the financial community in South Australia were bedazzled by him. The entire community worshipped Tim Marcus Clark. The *Advertiser* spoke very highly of him. He was a public hero for rescuing the *One and All* and the John Martins Christmas Pageant. John Hewson thought so highly of him that he wanted him on the Reserve Bank board. He was a public hero. The community worshipped the get rich entrepreneurs, the people who seemed to be doing well in the financial world, whether they were competent people or whether they were mere money manipulators. Everyone wanted to be seen with them, to be photographed with them. Tim Marcus Clark was the idol of the Grand Prix set_

The movie *Wall Street* came out at that time, and some members may remember the anti-hero Gordon Gecko—anti-hero perhaps, but in some people's eyes he was more of an idol than a anti-hero. We saw raw capitalism—in effect, a real survival of the fittest; very much a case of every animal for himself, as the elephant said when he danced among the chickens. It almost ended with the stock market crash of 1987, with so many yuppie BMWs being repossessed. But one of the worst effects of that stock market crash was that it actually worsened the concomitant land boom.

Those people who were in the property boom were bound to crash, as well. The property boom was bound to grow too fast and collapse, just like the infamous South Sea Bubble of the eighteenth century. Land speculators had an insatiable need for loans and, because the stock market was seen as so insecure after 1987, the late 1980s saw a diversion of funds into the property market. For example, we saw such a massive surplus of property development in the inner metropolitan areas of Sydney, Melbourne, Brisbane, Adelaide and Perth that it was described this way on the *Four Comers* program I saw regarding the collapse of Westpac: a property consultant said that at that time there was the equivalent of 40 30-storey buildings lying idle in the central business district of Sydney. North Sydney and the outer metropolitan area contained another 40 buildings, so that is the equivalent of 80 30-storey buildings lying idle in Sydney. There was a similar amount in Melbourne, and a similar amount in Brisbane, Adelaide and Perth put together. That meant the equivalent of 240 30-storey skyscrapers lying empty, returning no rent and therefore being unable to return any interest on the loans on which they had been built. The greed of the financial institutions was matched by that of the entrepreneurs who sought to borrow, and that was a recipe for disaster if ever there was to be an economic downturn.

My second point regarding the potential disaster becoming a certain disaster is that the problem was aggravated by the incentives provided within financial institutions for bad loans to be made, because of the commissions that would be paid whether the loans were bad or good. I remember that the member for Victoria, at the time he was Leader of the Opposition, made a very sensible comment around the time that the news in respect of the State Bank disaster first came out. He does not make many sensible points, and perhaps he cannot even recall making this one, but he pointed out at that time that it was not right to make commissions payable as incentives or bonuses to someone who is in the job of giving away money. That is a recipe for absolute disaster—to give people incentives to give money away. I tend to agree with what he suggested, namely, that any incentives of that nature should be put in some sort of holding account until the loan proved that it really was a good loan. Certainly, there should be some better way to provide salaries for banking executives than to give them commissions on how much money they can give away.

Eventually, the massive property boom crashed, with the consequences that I have already pointed out. Perhaps the community does not understand where the money went. Most of it went in property speculation. No-one is holding it in their pocket; it mainly exists in the form of buildings which now stand empty. As a consequence of that collapse, our bank suffered along with others; in some ways worse.

The principle of ministerial responsibility meant that there was a Minister to take responsibility for our State Bank. Parliament and the Cabinet designate a particular Minister to be responsible for a portfolio area and to accept the responsibility for any consequences, and the relevant Minister in this case offered his resignation and it was accepted. The political price was paid by the relevant Minister, the then Premier and Treasurer.

The political opportunists opposite are seeking to exploit the misfortune of South Australia for their own political purposes and are trying to redefine the traditional concept of ministerial responsibility to suit themselves. They are ready to give the verdict first and to hear the evidence afterwards, in the case of this report received yesterday. Look at the way the Leader put out his press release before the report had even been received. One can paraphrase the words of Charles Dodgson and say that for the Leader of the Opposition it is a case of verdict first and evidence afterwards.

The public are not interested in those sorts of political games; they want the real culprits to be pursued. The ritual political price has been paid; let us now get on with dealing with the real culprits. The real culprits are those who are mentioned in this report and in subsequent reports still to come. Having seen the self-imposed penalty suffered by the Premier and Treasurer as the responsible Minister, the community are uncertain why nothing has happened to Tim Marcus Clark, to the board, to the senior management of the bank and to those executives who profited obscenely from their profligate lending policies. In the general view, Tim Marcus Clark is seen as laughing all the way from the bank, to misquote Liberace. He is seen as laughing up his sleeve at the public from over the border in Victoria, sitting on ill-gotten gains.

The community cannot understand why his superannuation and other bonuses are not confiscated. No-one has explained to them that these highly paid geniuses—or charlatans—are not like the Premier or Treasurer who resigned through ministerial responsibility without any due process of law being required. The superannuation and bonuses paid to Tim Marcus Clark cannot be revoked just by Executive order. The community do not understand that; they think we can just stop him from having those benefits. They do not seem to be aware that if this were to happen he would sue and get every cent of it back, plus millions more that would be lost to the community in legal fees. The community do not understand how there is this due process of law to protect former executives. They certainly do not understand (and, in this case, I do not really understand, either) how the taxpayers' and depositors' money can be used to pay legal costs to pervert that due process of law. We have seen these huge legal fees being paid by the State Bank to delay the Auditor-General's report, which would help shed a further spotlight on what has happened within the State Bank.

We can say a lot of harsh words in here, we can have a lot of harsh words said in a royal commission report, and a lot of harsh words can be said in the media (although of course one has to be careful of a libel suit). However, harsh words do not achieve anything in the way of prosecuting and convicting those who are really responsible. That is something that still needs to be done. This report that we received yesterday points the way towards (perhaps) prosecution and conviction. Subsequent reports can point the way even further. The Opposition should join the Government in getting on with that real job of prosecution and conviction, of doing what the people really want: to pursue the real villains who are hiding behind their legal barriers and enjoying their ill-gotten wealth. I support the motion for the adoption of the report.

Dr ARMITAGE (Adelaide): I rise in this debate with a sense of sorrow over the fact that many South Australians are being called on a daily basis to pay the debt for the financial mismanagement of this Government opposite. By 'this Government' I mean exactly as the Royal Commissioner meant when he said 'Government' on all those occasions when he was talking about Government in the first report, and when in the second report he states quite categorically that he is detailing all the Ministers and responsible people in the Government. I do understand the previous members who have just spoken; they know that the political verdict will be enacted whenever the next election is held and they know that the polls are 56 per cent our way and 44 per cent theirs, so they are anxious about their own seats. I can understand that anxiety. It is just a pity that, over the past 10 years and in the past two to three years in particular before the devastating news of the State Bank disaster hit South Australia, they were not as anxious for all the people who are so affected by this financial disaster.

The previous speaker, the member for Walsh, went into great detail saying that he had heard rumours but that there were no hard facts; there were similar rumours to those that we had heard and so forth, but why should

anyone be convicted on that? He clearly has not read page 198 of the second report, which discusses senior members of the board being driven to go behind the Chairman's back to complain to Ministers and senior officers of Government that the board was inept and that the Chief Executive Officer was too powerful. That is not rumour or innuendo: that is a direct accusation from the people who were appointed by this Government that things were going wrong. The blame palpably lies on the benches opposite, because, as is mentioned in the second report of the royal commission and as discussed in the first report, these portents are even more ominous when the Government makes no effective response to the messages. The messages were there; they were not rumours but direct accusations that the bank was failing, and this Government ignored the portents.

The member for Walsh claims that we have a history of having B-minus executives at A-plus salaries. While I do not dispute that, it is clearly an attempt by the member for Walsh to whitewash the Government. However, he forgets that the question asked at the end of the 1990 session was, 'Does the executive and the board of the bank still have the complete confidence of the Government?' The answer was an unequivocal 'Yes.' Not once did we hear from members opposite, 'Look, we understand all these rumours, and some of the board members are not good enough.' This is an attempt to whitewash history.

The Deputy Premier went into great detail about why there were no reasons not to appoint the board. I agree. There were absolutely no reasons not to appoint the board but, as the Royal Commissioner said quite categorically on page 198, when senior members of the board came to the Government and said that things were awry, there was every reason not to reappoint them. That is where the blame is. The blame is with this Government, which reappointed people who were clearly not up to the job. The Government was told that they were not up to the job. As the Royal Commissioner says on page 216:

> The ultimate control and sanction in the hands of the Government is its power to determine the composition and membership of the board.

It heard the messages and it ignored them. The former failed Treasurer said, 'If only things had not happened ...' In fact, he is well recognised for having said that in the past, but I would say to him, 'If only you had listened to the warnings that everyone was shouting from the rooftops and, as we know only too well, the boardroom at the State Bank was a particularly high rooftop.' He also went into major justification and damage control, saying that other banks suffered the same fate. I do not dispute that at all. The fact of the matter is that the other banks were not fiddling with public funds while Rome was burning. The other banks—

Mr Atkinson interjecting:

Dr ARMITAGE: Exactly; they were shareholders' funds, the share prices went down and the shareholders had the right to get rid of the members at the annual meeting. He then went on to say that—

Mr Atkinson interjecting:

The SPEAKER: Order! If the member for Spence wishes to contribute, he can do so.

Dr ARMITAGE: —regarding the Westpac bank and so on, the chief of the major shareholder, the AMP, did not resign, so why should the AMP resign? The very fact that he resigned himself makes his argument completely and utterly fallacious. It is a spirited defence of the indefensible. His argument was dispensable, as was he. Politically a couple of years ago he was the great hero who could not wait to get the knife in between the shoulder blades.

The failed former Treasurer went on to quote from page 25 of the report in relation to justification as to adverse economic factors. I would like to give the full quotation from that page that the member for Ross Smith forgot to quote. Let us be charitable and say that the member for Ross Smith was so excited in creating this spirited defence that he actually did not go on to read what is the crucial phrase in the paragraph. I will read it into the record. Regarding adverse external economic factors, it is stated:

> ...important as they may have been, were a less significant factor for the bank than the demonstrable shortcomings of its board and management...

That is where the failed former Treasurer stopped quoting, because it suited his argument to stop there. However, let us look at what the Royal Commissioner said in the full context of that sentence, as follows:

> ...adverse external economic factors, important as they may have been, were a less significant factor for the bank than the demonstrable shortcomings of its board and management—

and I go on—

> quite apart from the management of Treasury surveillance.

In other words, the Royal Commissioner is saying that this Government did a dud job of surveillance on Treasury information and, unfortunately, South Australians are paying rather than this Government. The sum of $3 150 million is a big figure, especially for families who are worried about their children's education when teachers are being sacked and when class sizes are going up. They are big figures for people who are worried about hospital queues.

I can tell the House that 3 150 million $1 coins would stretch for 78 750 kilometres—enough to go twice around Australia's coastline. Further, that number of coins would stretch up and down the Murray River, Australia's longest river, 21 times. It is apposite that we should be talking about how many times one can go up and down the Murray River dropping a dollar coin end to end to pay for the debt of this Government because, unfortunately, under the stewardship of this Government, South Australia's economy is up the creek and we have lost the paddle.

I repeat: the ultimate control and sanction of the board's action were directly in the hands of the Government. The Government failed. What has this meant to South Australians? It has meant that there is not enough money to provide basic services. Let me give a few examples. In the area of family and community services, the Minister has said that there is not enough money to fund both post-adoption services and fostering programs: they have to be amalgamated. This is extremely important work, but with no money we will agglomerate the programs, and who cares about the end results?

Let us look at child abuse. There is a lack of resources and staffing within FACS dealing with child abuse notifications, so that in several offices in the north-eastern metropolitan area of Adelaide only 30 per cent of child abuse notifications are investigated appropriately. Why? Because there is no money. Why is there no money? It is because this lot opposite was profligate. Let us look at national parks. At present we have 20 million hectares in South Australia's national parks system. How many rangers are there? There are fewer than 90.

In my district we have the Adelaide parklands, of which I am particularly proud; 128 outdoor staff manage the parklands, because they are provided by the Adelaide City Council, yet fewer than 90 people look after 20 million hectares in the national parks system. Why? Because the Government wasted the money. The Government did not care. The Government did not exercise its ultimate sanction, and members opposite will all pay—the polls are showing 56:44—and the public cannot wait to pass judgment.

Let us ask all the 9 500 people on waiting lists what they think about where the blame should lie. Let us ask the man whom the member for Goyder highlighted today from Paskeville: rather than wait 12 months for an operation, he sold family goods such as his piano and came down on a bus only to be told that there were no beds. He went home to his wife, who was unwell and for whom he had organised someone to care; he had taken a week off work and so on, but he was told there were no beds. Who cares? He was told to wait. Why? Because this Government was profligate and did not exercise its proper concern as the ultimate guarantor.

Let us ask the man with the growing throat lump who went into the Ear Nose and Throat Clinic at the Royal Adelaide Hospital to be told an appointment was six months down the track and he could take it or leave it. That man has a growing tumour in his throat, and members opposite laugh and say it is the fault of the doctors. I remind members opposite that the doctors in that very clinic late last year offered to operate on Saturday mornings for nothing—for not one cent—to get rid of the waiting lists.

They were told, 'We do not have the money to open the operating theatres.' This Government wonders why 56 per cent of the people cannot wait to see the back of it. It is no surprise to me. Let me also remind members opposite that the chief of that clinic where the man was told to wait for longer than six months—'Take it or leave it, because we do not have the money to open the operating theatres'—told me, and I told the Parliament, 'We may as well not bother to put any patients on the lists, because they will never be operated on.'

Let us look at Community Support Incorporated, an organisation that looks after the disabled. There was a financial mess-up and a complete withdrawal of services. Only this morning I went to Palm House, in the electorate of Mitchell, where people with acquired head injuries are given respite care. Previously, the carers in that wonderful place, Palm House, were paid for by Community Support Incorporated: now they do not know whether they can get the carers. This Government, because of its profligacy, because of its failure to keep the hand on the celebrated levers of the failed former Federal Treasurer, is unable to provide proper care.

The Minister has the hide, in the face of withdrawals of service, to attempt to make a virtue of funding Community Support Incorporated at the present level. South Australians are paying dearly for the failings of this Government, and it is quite clear from the findings of the second report of the Royal Commissioner that the blame lies fairly and squarely at the feet of every member sitting opposite.

Mr BRINDAL (Hayward): In this Chamber the member for Napier often refers to me as 'Ankles'. He finds that nickname amusing, because he does not seem to think that I realise that his gutter sense of humour is such that he refers to me as 'Ankles' because ankles are found some two feet below an anus. In noting this report, Sir, I think it is time to tell the honourable member that it is a nickname which I accept with pride for two reasons: it clearly removes me from him and his kind by at least two feet, and it puts me some inches above the mess that he and his colleagues on the Government benches have got this State into.

This report is a tragedy for South Australia; it is a tragedy of waste, of financial mismanagement and of sheer and complete incompetence. But what the Government is yet to truly comprehend is that the anger—no, not anger, the rage—of the people of this State is less about money than it is about a betrayal of trust. If there is one point with which the former Premier, the member for Ross Smith, struck a resonant chord it was this: at some stage in the past couple of years, he made the statement that he felt let down by people in whom he had placed his trust and people who were still to apologise. That struck a chord with every South Australian, for what he said about those who let him down is equally true for every person on this side of the House and every man, woman and child in South Australia, because the people sitting opposite are yet to do the same—they are yet to admit their guilt and they are yet to apologise for the betrayal of the trust of the people in this State.

Members opposite can say what they like. They can draw nice little analogies and nice little conclusions, and they can talk about the Westminster system, but most people in South Australia know that they go to the poll to elect a Government to represent their interests and to govern this State competently. Quite frankly, we can indulge in all the arguments we like, such as, 'This was my bit of the blame, and that was their bit of the blame', but the people know one thing: they elect us, and they expect us to do a job and do it properly. In the case of the State Bank, no matter what anyone says, no matter how people try to push and shove, this Government did not do the job properly.

The attitude of the Premier can at best be described as *amphisbaenal.* I am sure that the learned member for Spence will know exactly what I am referring to. It was a mythical Greek serpent which happened to possess the unique capacity of having a head at both ends. That allowed this serpent, whenever a change of direction was needed, to quickly scud away in the other direction and do a complete about face at any given instance. If we have ever seen a political example of that, it has been this Government and the apologists for this Government in this Chamber during the course of this debate.

The member for Walsh made a marvellous contribution—the ritualistic price has been paid. We are talking about a financial tragedy of mammoth proportions and he prates about a ritualistic price. He said that the Parliament and the Cabinet designated a Minister, and that Minister has accepted the responsibility. That was the theme that he took from his Leader, the Premier of South Australia, who also said, and was shown on television saying, that the member for Ross Smith has resigned, and that is the Westminster system. If that is all this Government, the member for Walsh and the Premier of South Australia understand about the Westminster system, thank God, Sir, that you are Speaker and custodian of the traditions of the House, because they do not understand the Westminster system. Let us look at the section on ministerial responsibility in *Parliament and Politics in Australia* by P. Henderson.

Mr Atkinson interjecting:

Mr BRINDAL: If the member for Spence cannot listen, I suggest he read *Hansard.* I will not waste my time repeating myself. It states, in Jennings's words:

> The principle of collective responsibility means that a Minister vote with the Government, speak in defence of it if the Prime Minister insists and that he cannot afterwards reject criticism on the ground that he did not agree with the decision.

The article goes on to point out that in 1878 Lord Salisbury said the following:

> For all that passes in Cabinet each member of it who does not resign is absolutely and irretrievably responsible.

The *MacMillan Dictionary of Australian Politics,* in relation to Cabinet Government, states:

> In modern Australia the system of parliamentary democracy on which the Westminster system is based has developed into Cabinet Government—'rule' by a body of people...
>
> The Cabinet collectively decides on policies and programs to be presented to the legislature and assumes a collective responsibility for those policies. It also takes collective responsibility for the implementation of policy through the control and coordination of departments of Government.

I suggest that, rather than wasting the time of members in this House who can read, rather than once more trying to dupe the people of South Australia, the Premier, of whom I thought better, and the member for Walsh, who I thought prides himself on his cleverness, could at least go out and read what Cabinet responsibility is about and not come in here and say, 'Don't blame us; don't hold us to blame. We had nothing to do with it.' The Commissioner makes it quite clear on page 209 of his report, as follows:

> The Commissioner does not seek to resile from or qualify the conclusions (of the first report), nor the language in which they were expressed, but the first report made it clear that all parties to the previous unsatisfactory relationship were answerable for their respective roles and played a part in the ultimate fate of the bank.

It is arrant hypocrisy and arrant nonsense and not even intelligible debate for the Government to come in here and say that 'all parties' means the Treasurer and the Treasury and excuses other Ministers on the Government bench. The Commissioner himself says that clearly on page 2, when he defines 'Government', not in the narrow terms that members opposite sought to define 'Government' in the debate on the first report but in the true terms of collective Cabinet responsibility. Justice Jacobs, the Commissioner, is obviously not the fool that many of the members are, because he understands the terms of which he writes and the terms about which he speaks. He is not like those opposite: he does not seek to excuse himself and he does not seek to make excuses for the great wrong that was done to all South Australians by a Government that has clearly shown itself to be incompetent.

Another matter on which the Government has laboured long and hard is the appointment of the board. It said—and with some justification—that some previous Liberal Governments had helped to appoint the board. What it did not say was that the nature of the bank changed and the responsibility of the Government was to oversee the changing nature of the bank. In that context, again, the Royal Commissioner clearly refers to—

> the structure of the board and its static membership after 1987, which became increasingly inappropriate to the growing complexity of the bank's operations and the dominant role of the Chief Executive Officer.

Are Government members so stupid that they cannot understand what that means? Perhaps it means that in the beginning the board may have been competent to carry out its duties, but as the bank changed its nature, as the great Tim Marcus Clark, aided and abetted by his chief sycophant, the then Premier, rose to ever more glorious and dizzy heights, the board lost its ability to control the bank. So says the Royal Commissioner, and so knows any intelligent person in this State.

Another little quote of the Royal Commissioner bears analysis. It points out that Mr Marcus Clark was originally appointed for three years, and he makes some point of the fact that the Commissioner does not quite understand how Mr Marcus Clark, having accepted a job for three years, having clearly been given the job of the merger and to then hand over to somebody more competent to run the merged bank—

An honourable member interjecting:

Mr BRINDAL: Read it; read the thing—suddenly got all these extensions. He picks on a typographical error. In his own words, he said that he would hand over the reins, and reins was typographically spelt 'reigns'. Justice Jacobs comments:

> ...an appropriate typographical error, for he had indeed become king.

That about sums up this debate. But perhaps the last word should belong to the former Treasurer. In the Adelaide *Advertiser* of Wednesday 2 September, the day on which the former Treasurer resigned, under the heading, 'I accept that the buck stops with me,' he also said:

> I do not accept that I or my Government created the bank's problems.

That is as it may be, but I, together with every other member of the Opposition benches, am here to say to the Government members that that is not the opinion of the people of South Australia. They can pull the wool over their eyes by making stupid speeches in here—do in here what they like—but there is one final judge, and we are subjected every four years to that judge. When they face the people at the next election, the people will give a verdict, and of one thing I am supremely confident, whether or not I am part of the next Parliament, that people on the benches opposite will no longer be the

Government of this State, for the people of South Australia will deliver on them the verdict they deserve, and they will not govern again in two decades. I commend to the House the Opposition's stance on this matter.

The Hon. JENNIFER CASHMORE (Coles): I support the motion for the noting of this report, and in doing so I commend the Royal Commissioner, Mr Samuel Jacobs, for the diligent and strenuous efforts he made to ensure that the truth of this matter is put before the Parliament and before all South Australians. In noting the report, I ask: what are some of the principal conclusions that we note? We note first and foremost that the board and the Government were careless of their roles as custodians of the Government guarantee. The Royal Commissioner made clear that this second report must be read in conjunction with the first report, and the first report delivered a damning condemnation of the Government in respect of its role as guarantor of the bank.

We note that the State is technically bankrupt, that is, that we are borrowing to pay for our borrowings (the definition of bankruptcy). We note that, despite the former Premier's claims to the contrary, the State Bank Act was adequate to enable any Government to do what it ought to have done to protect the Government's guarantee. We note also that, contrary to persistent claims by the Premier, by the past Premier and Treasurer and by the present Treasurer, external economic factors were by no means the prime factor in the bank's failure; in fact, they were less significant than the shortcomings of the Government and the board.

We note also that neither the board nor the Government exercised their statutory powers to control the remuneration of directors, and we note also in passing that that is still the case. These enormous, immoral payouts are still being made to people who have brought this State low. South Australians object in the strongest possible terms to the fact that this Government is still, despite its statutory powers, failing to control that outflow of taxpayers' funds. We note that the ultimate control and sanction in the hands of the Government is its power to determine the composition and membership of the board. That point has been made repeatedly by my colleagues, and repeatedly the Government has ducked and weaved and declined to accept its responsibility. Finally, we note that the board and the Minister were accountable to Parliament under the Act, and the Government, of course, was accountable under the Constitution and under the Westminster tradition.

Let us look in detail at some of those things that ought to be noted. The board and the Government were careless of their role as custodians of the Government guarantee. On page 29, the Royal Commissioner said:

> The board, when conducting the commercial affairs of the bank, was not only putting at risk shareholders' funds, as the board of a limited liability company might do, but it was also putting at risk the public funds of the people of the State to an unlimited degree. The need to avoid or at least minimise that risk called for prudence, care and caution.

That same prudence, care and caution which ought to have been exercised by the board ought to have been exercised by the Government as a whole—not only by the Minister but by the Government as a whole. On page 208, the Royal Commissioner outlines the failings of the Government and the Minister. He identifies that the relationship between the Government and the bank was characterised by the reluctance on the part of the Treasurer to exercise the powers available to him and by an unjustifiably narrow view of those powers in order to accommodate a political perception of the bank's independence.

Did it not suit the former Treasurer to stand there day after day and say that he was operating at arm's length? Did it not suit him time after time to fend off Opposition questions by saying that it was not his responsibility but that of the board? Did we not witness month after month the former Premier and Treasurer disregarding his constitutional and statutory responsibilities and trying to blame the board of the bank? But the Royal Commissioner nails the former Premier and the Government on page 208 of this report when he refers to the following:

> ...the failure of both the Government and the bank to adequately address the question of what the Government needed to know in order to protect its guarantee and investment.

Time and again that theme is repeated throughout this report, and it demonstrates beyond doubt that the Government is culpable. The Premier's claim that the State Bank Act did not give him the powers that he needed to control the bank is utter nonsense. Again, on page 207, the Royal Commissioner states:

> The bank and the Government, without the aid of Parliament, that is, without legislative change, have put in place arrangements within the framework of the existing legislation, almost all of which the commission regards as appropriate.

In other words, once the house of cards came tumbling down the Government suddenly realised that it did have the power under the Act to do virtually whatever it wanted to do—and it has done so. It had those powers all along; why did it not use them? There is chapter and verse, and I alert members to page 25, in particular, and to the fact that, contrary to claims time and time again by the then Premier and Treasurer and by the present Treasurer, external economic factors were not totally significant in the failure of the bank. The report states on page 25:

> ...adverse external economic factors, important as they may have been, were a less significant factor for the bank than the demonstrable shortcomings of its board and management, quite apart from the management of Treasury surveillance.

Several of my colleagues have quoted that significant passage, and it drives home yet again the responsibility of the Government.

As to the powers of the board and the Government in respect of the remuneration of the directors, I refer to page 195 of the report where the Royal Commissioner states:

> What is even more remarkable is the fact that Mr Clark was given a substantial salary increase in each year—

while he was vandalising the Government guarantee—

> culminating in an increase of $50,000 in February 1990, hard on the heels of a bonus of $50,000 in August 1989, which he was told would have been greater but for the ill-fated exposure of the bank to Equiticorp and National Safety Council (NSC) in the previous financial year.

Everyone on this side of the House remembers vividly question after question about the remuneration of not only senior staff but of directors. Time after time the then Premier said that he could not give us the answers. What about that section of the State Bank Act that empowered him to send in the Auditor-General on any day or night of the year to find out anything whatsoever that he or Parliament wanted to know? That could have been done without any effort whatsoever. The Premier simply had to dial the Auditor-General's number and say, 'This is what I want to know; find it out.' The Premier had the power to do that—why did he not? Why did he deny time after time that he could do it?

As to the power of the Government to determine the composition and membership of the board, almost every speaker on this side of the House has canvassed that matter effectively and thoroughly. We know that the responsibility lay with the whole of Cabinet. There is not one of those appointments that would not have gone to Cabinet. Did those Ministers sit there supine and silent? Did none of them raise their hand or their voice and say, 'Are these people competent?' Every single one of them, as the member for Hayward explained when quoting Lord Salisbury and other constitutional authorities, was and still is responsible, because nine of the 13 still sit on the front bench.

Finally, we know that the board and the Minister were accountable to Parliament. On page 216 of the report, the Royal Commissioner states:

> The ultimate control and sanction in the hands of the Government is its power to determine the composition and membership of the board.

The Commissioner goes on to say:

> [It] is not inconsistent with the concept of a bank that is accountable to Parliament and whose performance is monitored by regular and fully informed scrutiny by Treasury and the Reserve Bank in joint consultation with the State Bank.

He refers to—

> ...the failure of both parties [the Government and the bank] properly to understand and use the existing provisions of the Act.

Accountability to Parliament is something upon which I want to dwell briefly. The arrogance that led this Government to go further than ignoring Parliament, to show utter contempt for Parliament, is something for which I doubt the people of South Australia will forgive this Government for a long, long time. Colleagues have mentioned time and again that the Opposition asked more than 200 questions without notice. That does not include any of the questions that were put on notice. In 1989, we asked 12 questions; in 1990, we asked 77 questions; in 1991 until the August budget we asked 92 questions: a total of more than 200 questions without notice, and to very few of those questions did we receive satisfactory answers.

On 3 March 1989, the Leader of the Opposition spoke to State Bank executives and raised serious concerns about overseas expansion. The Government received a copy of that speech. On 13 March 1989, in reply to a censure motion by the member for Briggs (the then Minister of Tourism)—a censure motion, if you please; the Government was censuring the Opposition for fulfilling its constitutional duty in scrutinising the Government's administration of the Government guarantee—I raised many serious questions about the bank, including the guarantee. On 6 September 1989, in the budget debate, I analysed the 1988-89 State Bank annual report, and I warned of the high risk strategies and the vulnerability of the Government guarantee.

Virtually all the factors which the Royal Commissioner lists on page 23 of his report were raised by me in one or other of those two speeches: that growth was pursued as a desirable end in itself with no central view of lending or credit policy; that planning was driven by growth in assets rather than profitability; that projected and actual profit performance contrasted unfavourably with asset and capital growth; and, principally, that the culture of growth was not questioned by reference to the spirit and purpose of the Act or by reference to the bank's public ownership and sovereign guarantee. Everything that is there was said in this House from this position or very close to it. Why did no-one listen? I cannot credit that so many questions and speeches and so much scrutiny could have completely bypassed the notice of the Caucus—it is not reasonable or rational to expect that it would.

In the early 1980s the member for Napier asked me a series of questions about animal experimentation at the Institute of Medical and Veterinary Science. It did not take more than a dozen questions for me to set an inquiry in train, yet this Government was asked 200 questions and it would not budge. If that is not incompetence, it must be described as negligence: it is either one or the other. We note that the catastrophe could have been avoided. On page 97 of his report, the Royal Commissioner indicates that if only action had been taken when these warnings were given the catastrophe could have been avoided. He said:

> The end of the journey was not inevitable; there were opportunities to turn back.

In his speech the Premier—not the dismissed and disgraced Premier but today's Premier—invited us to draw conclusions from the report. The first conclusion that I draw is that, when an arrogant Executive Government ignores Parliament, the people suffer terribly. South Australians have suffered and will suffer. Our children and their children will suffer. A terrible price is being paid and will be paid for the shortcomings of this Government. The stench of failure will hang around this Government until it is justly and thoroughly dismissed.

The second conclusion that I draw is that the Government is guilty of moral failure. It was guilty time after time for not distinguishing right from wrong, competence from incompetence, and it was guilty collectively because the Cabinet colluded with the then Premier and Treasurer to ensure that the waters were not ruffled, that lies continued to be told as long as everything stayed neat and clean and that there were no marks to spoil the reputation of the Premier.

The Hon. Dean Brown: And they still can't tell the difference.

The Hon. JENNIFER CASHMORE: They still cannot tell the difference. They are still defending themselves after all this. The final conclusion that I draw, having heard the Premier yesterday and today, is that this Government is a bunch of craven cowards. They were willing to cling to the coat-tails of the member for

Ross Smith for a decade when he led them to three election victories, and now they are cutting him loose to swing in the political wind, and they do not want to have a whiff of a smell of him. Day after day the Premier stands there and repudiates the member for Ross Smith.

Mr Brindal: We didn't cut him off like that.

The SPEAKER: Order!

The Hon. JENNIFER CASHMORE: He repudiates the member for Ross Smith. In fact, there is a total abandonment of any vestiges of loyalty that I thought was inherent in Labor Party philosophy and in the philosophy of mateship. The present Premier shelters behind the definition of 'the Government' on page 2 of the report, and it is a pretty flimsy shelter when you read the rest of the report. The Commissioner makes it clear that all parties are responsible. This crowd are hanging on to office like barnacles clinging to a sinking hull and they have no conscience whatsoever when it comes to blaming the lot on the member for Ross Smith. At least the member for Ross Smith has stood up like a man and taken his medicine, and that is more than I can say for the Premier. The medicine will be administered on State election day. It will be a bitter tasting dose for this Labor Party, which will not see office again this century.

Members interjecting:

The SPEAKER: Order! Motion carried.

CLASSIFICATION OF PUBLICATIONS (DISPLAY OF INDECENT MATTER) AMENDMENT BILL

Second reading.

Mr BECKER (Hanson): I move:

That this Bill be now read a second time.

Members will have already noticed and read the remarks of my colleague in another place, the Hon. Dr Bernice Pfitzner, in proposing this legislation, the subsequent debate and the reason for the Hon. Mr Gilfillan's amendment which is incorporated in this legislation. I am grateful to those members for their action following my raising this issue publicly in January 1992.

Like all members, I do not have the time nor the inclination to read magazines such as *Penthouse, Playboy* or *Man,* which I consider contain explicit photographs of women in unflattering positions. The display of posters and the location of leisure reading magazines such as *People, Picture* and to some degree *Australian Post* led to my involvement in this issue over the 1991 Christmas period. I expressed my concern and disgust at the demeaning and disgraceful publication of a woman kneeling with a studded dog collar around her neck which also outraged many other people. The photo of a nude woman in a late stage of pregnancy was as equally shocking.

Prior to this, many parents had complained to me that teenage children and some children as young as 10 had access to magazines showing nude women in unusual poses, but also illustrations of so-called sex aids. On one occasion, a so-called popular leisure magazine had 21 pages carrying pictures and illustrations normally seen in adult magazines. Initially, when I became involved in this issue, I said on 28 January 1992:

Parental guidance is recommended for young children walking past city newsstands in the wake of the latest outbreak of breasts and bottoms. I am appalled that nipples and nudity are so prominent on posters and front covers of prominently displayed magazines around the city and call on the Government to set local standards if national laws are insufficient.

The effect some of these magazines have on children could be extremely damaging. It is also a tremendous insult to women that there appear to be no holds barred in the portrayal of pornography. I have been informed that under Commonwealth laws the magazines and posters are 'within the law... but only just.'

The State Government must send the strongest possible signals to Canberra to get it to clean up its act—for the protection of women and young children in particular. If ratings were given to some of the posters, they would be classified 'adults only'. Others are certainly PGR and there are fewer and fewer suitable for children.

In maintaining respectability in our community, we must lift our minds above sex. There are more suitable ways of attracting readers. It is appalling that society allows posters to display nudity and gutter language. One magazine displayed near daily newspapers screams the headlines: 'Virgin schoolgirl lesbian scandal'; 'World's hottest black stripper drops her daks for you'; and 'Filthy rich poms go shagging mad'. I am not a wowser, but breasts and bottoms should be confined to the sheets and not displayed on public streets.

Petitions containing 3942 signatures, obtained over a few short weeks, were presented to this House by me to reinforce the community's concern. The petitions stated:

We the undersigned residents and electors of South Australia deplore the reduction of moral standards pertaining to the display of posters, covers and contents of photos, drawings and articles in some magazines and in particular the publication *Picture.*

We call on the State Government, through the Attorney-General, to demand the Federal Government to immediately review classification standards of magazines and posters and:

(a) ban uncovered breasts on posters and covers of magazines;

(b) insist that all 'AO' publications be placed above eyesight level, with only the title of the magazine visible whether in sealed plastic bags or not;

(c) insist on the establishment of a code of conduct for retailers.

And your petitioners, as in duty bound, will ever pray that your honourable House will support our request to stop reduced standards being created by publishers of certain magazines and posters debasing women.

Since then, following considerable media publicity, the Registrar of the Classification of Publications Board, with whom I had discussions and some correspondence, advised me of the action taken by the Federal and the South Australian Governments which quickly reduced the challenge to legislation being made over the previous months by the publisher of magazines such as *Picture* and *People.* In his letter to me dated 6 February 1992, the Registrar stated:

Further to our phone conversation two weeks ago when you made inquiries regarding the guidelines for the classification of magazines, etc., I have since been advised by the Office of Film and Literature Classification (i.e., the Commonwealth Censor) that they have recently reviewed the guidelines for banner posters for magazines (enclosed), and that discussions are

continuing with magazine publishers to finalise implementation of the guidelines. The Office of Film and Literature Classification assures me that there will be a marked change in these advertising posters within a few weeks. I will keep you informed of further developments.

The Hon. Dr Bernice Pfitzner's action, although doubted by the Attorney-General in his response in another place, was not accepted in that House, and the legislation passed.

Whilst some delay has occurred in introducing this legislation to the House of Assembly, the delay has been deliberate to see what publishers, wholesalers and retailers were prepared to do following Classification of Publications Board changes. I regret to advise the House that, whilst posters advertising the previously offending magazines have changed dramatically, the content of some magazines shows contempt of Parliament's wishes.

Last week's issue of *People* continues with lewd photos, cartoons and articles. Tragically, this magazine contains three full pages of so-called sex aids. This concerns me because this magazine, and similar ones, are located deliberately near daily newspapers in some newsagents adjacent to the entrance to the shop. There is no doubt in my mind that wholesalers are pressuring retailers to locate these publications strategically to attract attention and encourage impulse buying.

My attention has now been drawn to photos and articles contained in magazines I had not previously heard about such as *Forum, Women Only, For Women* and *Women on Top.* I was shocked when they were shown to me. The newsagent picked up the magazines by the spine. On each occasion as he went to show me the front of the magazine they opened up to show full page frontal photos of nude males, The newsagent explained that after school many young female students, probably in their early teens, were seen to gather in twos and threes around these magazines which are not sealed or located in a more restricted area where some magazines are sealed and where their title only is displayed.

Unfortunately, pressure is placed on newsagents to locate these so-called women's magazines in easily accessible locations. The magazines I have mentioned have been referred to the Registrar of the Classifications Board for an explanation as to why they should not be sealed and placed in an adults only section. This legislation is not about censorship: it is about accessibility—protecting the young and immature from material that is clearly meant for adults.

Now we have equal opportunity with full frontal nude poses of men. What next? Why is it necessary to publish such material? Pornography is not new, but is it really necessary? Women and men should no longer be exploited and demeaned as playthings for depraved, lecherous fellow human beings. Whilst I find these types of publications demeaning, some do not. I firmly believe that if the Federal Government approves the publication of such magazines we would be irresponsible if we did not legislate to seal and cover up the front of these magazines except for the titles and have them placed in an adults only area, particularly those that carry invitations to purchase so-called sexual aids. At some stage the Minister of Health, Family and Community Services should make a statement as to the dangers of such sex aids.

Furthermore, I cannot accept that so-called sun lover magazines published on behalf of nudist clubs should be so freely displayed without carrying a health warning that 'excess nude suntanning without using suitable blockout suncream is a serious health hazard'. Perhaps I will have to legislate to start the ball rolling in this area. This legislation is now awaited by thousands of families throughout this State and I urge all members to search their consciences and support this Bill.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 amends section 13 of the principal Act by adding the term 'demeaning images' to the definition of prescribed matters.

Clause 4 amends section 14A of the Act in relation to the conditions that are to apply to the display of category 1 restricted publications. The Act presently provides that such publications must be displayed in a sealed package (unless displayed in a restricted publications area). The amendment will require such publications either to be displayed in racks or other receptacles that prevent the display of any prescribed matter, or in opaque material (that does not depict any prescribed matter).

Restrictions are also placed on the manner in which category 1 restricted publications can be advertised if the advertising depicts any prescribed matter. 'Prescribed matter' is defined to mean prescribed matter under section 13 of the Act, being matter (detailed in section 13) that results in a publication being classified under the Act.

The Hon. T.H. HEMMINGS secured the adjournment of the debate.

ENVIRONMENT POLICY

The Hon. D.C. WOTTON (Heysen): I move:

That this House welcomes the coordinated and cooperative approach to environmental enhancement and protection which will result from the Coalition's environment policy and looks forward to working with the Federal Coalition in establishing a 'National Commitment to the Environment' with distinct goals and obligations for all levels of Government and the community.

A coordinated and cooperative approach to environmental enhancement and protection will result from the Coalition's policy. At a meeting in Melbourne on 26 February I was able to meet with my colleagues from other States and the Federal shadow Minister to endorse the policy of the Coalition in the environment portfolio. At that meeting the spokespersons agreed to work in cooperation with the Federal Coalition to establish a national commitment to the environment with distinct goals and obligations for all levels of Government and the community.

At that meeting we welcomed the new era of cooperation and consultation which the Coalition has initiated with environmental stakeholders and the recognition of the States as such stakeholders with responsibility for the bulk of environmental legislation. We also endorsed the position that environment commitments should be national rather than just Commonwealth, and that such a commitment can be

actioned only by cooperation. The meeting agreed that international treaties which impact on the legislation and administrative functions of the States and Territories should no longer be made without regard for that impact. I doubt that any member of this House would disagree with that.

Agreement was also reached that the lack of Commonwealth consultation on environmental matters in the past has slowed the development of appropriate environmental protection mechanisms. The use of environmental issues for Party political purposes by the Government and interest groups was condemned for hindering the potential for national participation in environmental decision making. Examples include politicking by the Federal Government, which has delayed environmental decisions, and those include action to remediate federally owned contaminated sites.

The meeting also condemned the Keating Government's attempts to exempt itself from State laws and welcomed the commitment from the Coalition to voluntarily submit to State laws and to consider any exemptions on national needs rather than political criteria. The meeting also decided to condemn the Government for its demonstrated inability to honour environmental promises. That was an important issue, because the Keating Government has broken the majority of the promises it made during the last election in regard to its environment policy in particular. I realise that that can be said across the board in a number of portfolio areas, but it relates particularly to the environment. The economic policies of the Keating Government have almost crippled this country. It is recognised that protecting the environment will take funds, and only the policies of the Coalition can ensure that funding will be available to carry out this most important work into the next century.

I would like to refer briefly to a number of initiatives in the Coalition's environment policy. One relates to the proposed national revegetation trust to re-green the countryside and to provide new jobs. This relates to the establishment of a permanent revegetation trust designed to return permanently to forest or woodland agricultural land that has previously been cleared. This is a policy that will be welcomed throughout Australia. In the first year of full operation, the trust will provide up to $25 million in grants to land-holders who have successfully planted and fenced previously cleared land and dedicated it in perpetuity to forest or woodland. This would enable some 50 000 hectares of cleared land to be revegetated, and it would have a significant beneficial effect over a much wider area. Effectively, the farmer would provide the land, the taxpayer would pay for planting and fencing, and the community would benefit from the permanent return of land to a wooded state, not to be used for grazing or cultivation.

Criteria have been determined but, unfortunately, I do not have the time to refer to them in detail. To obtain good coverage for the taxpayers' outlay, direct seeding techniques would most probably need to be used. Australia is well advanced in the use of those techniques, and I commend this policy to members. There is also a significant tax break for plantations. As part of the policy, the Coalition will stimulate greater investment in the forestry industry by a review of the current applications of the Tax Act to plantations. Again, this is an area that will be well received.

The major initiative in the policy is the national plan to coordinate environmental action. The first priority for the Coalition Government will be to negotiate with all three spheres of Government and other responsible groups a comprehensive environmental action plan to the year 2000, entitled 'National Commitment to the Environment'. This plan will establish goals, targets, budgets and means for achievement, pinpointing where responsibility for action lies in each area. The plan is designed to harness the enormous cooperation and goodwill that exists today among all parties concerned with our environment. All parties concerned have recognised the massive task that lies ahead. The environment debate has crystallised the major issues, and the policy of the Coalition will add a management perspective, which will set priorities and integrate a national cooperative approach.

The national commitment to the environment will provide a greater measure of certainty for conservation groups and business and assist in resolving quickly and with minimal conflict any matters of contention that may arise. Again, this is a policy that deserves commendation from people throughout Australia, particularly those who have an interest in environmental issues.

I am aware of the time constraints in relation to this motion, but very briefly I would also like to refer to the cooperation and better management which the focus of the Coalition's environment policy will have generally. It is firmly focused on cooperation with all spheres of Government involved in environmental issues and those involved in the non-government sector. Indeed, in the spirit of cooperation, the Coalition endorsed the Prime Minister's statement on the environment. The policy is, in fact, the setting of the goals and targets to achieve objectives that are now a top priority. The Coalition will set out to consult with all interested parties to ensure that any established framework is open to public scrutiny.

The Coalition will also undertake specific initiatives in a number of areas, including consultation with State Government, local government, business, unions, non-government organisations and the scientific community; it will represent Australia's interests abroad and cooperate with other countries to resolve international environment problems. In line with the international obligations that are spelt out in the policy, our own needs to devise, again in consultation with all interested parties, national strategies with clear cut goals designed to achieve essential environmental objectives, will be focused throughout Australia.

Much mention is made in the policy of the voluntary organisations and the support that will come to those organisations under a Coalition Government. Again, this is an area that is supported, because the Coalition recognises the necessity to give grants and maintain tax deductibility for non-government conservation organisations which have an environmental agenda. The level of support will match that of the present Government. Grants will be predicated on conservation groups refraining from Party political activities, and I believe that that is important.

Finally, the Coalition recognises the major role that voluntary conservation groups have had in generating

community awareness of environmental issues and in carrying out significant environmental tasks. Indeed, major advances made by industry might not have occurred at the same pace without the activities of conservation groups. It is important that the Coalition continue to consult with environmental groups as part of their cooperative approach, both as particular issues arise and as a matter of forward planning under the auspices of the national commitment to the environment. The environment policy of the Coalition is excellent; I would commend it to all members of the House and, for that reason, I have pleasure in supporting this motion.

Mr De LAINE secured the adjournment of the debate.

DEVELOPMENT BILL

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations) obtained leave and introduced a Bill for an Act to provide for planning and regulate development in the State; to regulate the use and management of land and buildings, and the design and construction of buildings; to make provision for the maintenance and conservation of land and buildings where appropriate; and for other purposes. Read a first time.

The Hon. G.J. CRAFTER: I move:

That this Bill be now read a second time.

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

Leave granted.

The legislation before the House represents the culmination of a process of study, review, and consultation over a period of almost three years.

The establishment of the Planning Review, the publication of 2020 Vision, and the comprehensive process of consultation which underpinned the work of the Review team, are reflected in the Bill we are now considering.

However, the Bill is also the continuation, and the next step, in the development of a planning system for Adelaide which has a much longer history.

In 1962 Stuart Hart drew up a plan for Adelaide which formed the policy basis for the next thirty years. The 1967 *Planning and Development Act* set out the statutory control system to implement that plan. Over time there were modifications to those controls. Most notably the 1976 Inquiry into the Control of Private Development which led to the 1982 Planning Act.

The emphasis over this period was on a physical plan enshrined in a development control system. However, in the more complex world of the nineteen eighties it became clear that this focus was too narrow and had resulted in a system concerned with control. The emphasis was on what could not be done rather than facilitating the planning of what should be possible.

The history of planning legislation demonstrates that Acts and Regulations cannot exist in a vacuum. Nor can they operate without the support of a broad community consensus that the system is essentially fair, accessible, and consistent. Recent history shows that by the end of the nineteen eighties, for a variety of reasons, consensus had been overtaken by division with the result that planning authorities lacked the confidence to plan, developers lost the incentive to develop, and the broader community lost faith in the ability of the system to maintain and extend their physical environment.

The result has been an all pervasive perception that the South Australian community is incapable of supporting imaginative, value added development. Irrespective of the accuracy of that perception our task is to address these challenges.

The Government's Economic Development and Planning Strategies will give the necessary clarity and direction to attract and facilitate investment in South Australia's future. The Government is firmly committed to achieving sustainable development, meeting the community's social, environmental and economic aspirations. These initiatives are founded on a partnership approach between Government and the community. This Bill forms part of this process.

Consistent with the collaborative approach promoted by the Government, the terms of reference of the Planning Review and its method of operation, were directed towards reaching a shared vision for the future development of Adelaide that would support changes in legislation and procedures. It is why this legislation is designed to establish a process by which that shared vision can be maintained, renewed and held relevant to the planning system and the State's economic strategy.

Work on the Planning Review and Strategy and formulation of the legislative framework for future development have proceeded in concert with related legislative reforms. They include the planned *Environment Protection Bill* and revamped *Heritage* and *Coast Protection Acts*.

In the next Parliamentary session, the Government intends to introduce the new Environment Protection legislation, establishing a South Australian Environment Protection Authority and single, integrated environmental licensing system for ongoing oversight safeguarding the quality of our environment.

The Government is working to ensure that the *Development Bill* and the proposed *Environment Protection Bill* are directed towards facilitating sustainable development and that the two key legislative measures dovetail and link in important respects. Vital linkages relate to both policy formulation and integrated decision making on development applications.

The *Development Bill* becomes an important, integrating legislative scheme.

The Bill is founded on three broad principles.

The first is that legislation which sets the framework for the physical development of metropolitan Adelaide and the rest of the State must be based on strategic planning for the future and focus on achieving results. It must relate to the overall economic, social and environmental strategies for the State as a whole.

The second is that it must resolve any conflicts which arise quickly, and with certainty.

The third, is that the systems and processes it establishes to carry out its objectives must be as simple as possible, visible, and fair.

The Bill introduces a number of key reforms to the planning system to support these principles. Of fundamental importance is provision for the preparation and publication of a Planning Strategy which sets out the Government's vision for the development of the State. The Strategy itself will not be a statutory document. However, it will link the statutory plans with the process of Government policy formulation and decision making. It will ensure that Government policy is declared and accessible. The community will be involved in the preparation of that strategy and the Bill requires the Premier to report regularly

to Parliament on that consultation process, the implementation of the strategy, and any alterations which have been made to it.

Work on the Planning Strategy, including detailed area plans is already underway. This work involves consultation and collaboration with Local Government. It is expected that the Planning Strategy for metropolitan Adelaide will be finalised later this year with the work on the rest of the State completed by 1995.

The new provisions to resolve conflicts and to manage contentious developments, are also significant. In relation to major projects a new Environmental Impact Statement process requires specific guidelines to be prepared for each project to specify the scope and level of assessment needed. The Bill also allows an early "no" decision which is not possible under the existing legislation. This will impose a certain discipline on Government to be clear and prompt in its initial consideration of projects. That consideration will be aided by reference to the Planning Strategy. More importantly the new process will allow for proponents to be given progressive approvals, giving them greater certainty before the preparation of costly detailed designs.

The Government understands and accepts that all sections of the community, from the largest developer to the smallest home renovator, need a planning approval system which is simple to understand and use.

At present proponents are faced with the difficult problem of gaining a variety of licences, consents, permissions and approvals from a multiplicity of Government agencies and local councils. While the *Development Bill* does not integrate all these requirements into one piece of legislation, it deals with those which are most significant and establishes an integrated development control system based on local government as a single point of access for developers. It also links with other legislation referred to earlier. In addition it also provides the framework for a wide range of development controls to be incorporated into this integrated system over time.

To reduce this to everyday examples. Under the present system to build a house requires two applications if planning consent is required. Under this Bill that is reduced to one application with one approval covering all matters.

For infill development, or Strata units, three applications are required at present, with the potential for universal notification and third party appeal. The Bill reduces this to one development application, one approval with the possibility of neighbour notification with no appeal.

For complex commercial development a single application will be required for planning, building and land division.

In all cases approval can be granted in stages if the applicant so desires.

Under this legislation the criteria against which applications of the type I've referred to will be assessed are to be set out in statutory planning policy documents to be called Development Plans.

The legislation provides for these plans to reflect the overall Planning Strategy and to contain matters of a social, economic, environmental and land use nature. They may also set out objectives or principles relating to ecologically sustainable development which will need to be prepared in consultation with environmental, development and industry groups, as well as the community.

The Bill contains a more flexible and less time consuming system for the amendment for Development Plan policies than now exists with emphasis being placed on resolution of major issues at the initial stage, through agreement between the Minister and a council on a Statement of Intent.

To ensure that development plans remain relevant and linked to the Planning Strategy, councils are required to carry out periodic reviews of their Development Plans in order to determine their appropriateness and conformity with the Planning Strategy. The first such review must be carried out within three years of the commencement of the Act and thereafter every five years. This should ensure that a coherent and contemporary approach is maintained. The Minister has power under the Bill to prepare plan amendments if a council refuses or neglects to do so on the Minister's request. While Councils have the right to propose amendments to Development Plans in their areas, the final responsibility for these Plans is the Minister's. Nevertheless, we do not intend to interfere in matters of purely local importance.

A new Environment, Resources and Development Court Bill also has been prepared to provide for the creation of a separate Court to deal with both enforcement and appeal matters related to the Development Bill. This Court will also become the relevant Court for matters dealt with under proposed *Heritage* and *Environment Protection* legislation.

The Bill establishes two statutory bodies. The Development Policy Advisory Committee will advise the Minister on any matters relating to planning and development or the design and construction of buildings. The Development Assessment Commission will assess development proposals where appropriate and report on matters relevant to the development of land.

Broadly speaking these bodies replace the Advisory Council on Planning and the South Australian Planning Commission. However, a significant change is that in determining their membership the Minister must invite expressions of interest in appointment from the community.

The legislation was drawn up after extensive consultation and has itself been the subject of further discussion with the community and key groups. Consequently, consultation is an essential part of the legislation with an increased level of public involvement on some applications.

Other major provisions of the Bill to which I draw the attention of the House include:

- Crown development will now be bound by the same policies and standards in the Development Plan as apply to private applicants. Crown development will require an application, and approval by the Minister, unless exempted by the Regulations. The Minister must report to Parliament any approval which is at variance with the Development Plan. New Crown development will be required by the Bill to comply with the Building Rules.
- Land management agreements have been limited to management issues to avoid the use of these agreements to circumvent the Development Plan policies.
- The Development Bill changes the focus of responsibility for ensuring proper standards of building construction from councils to builders and landowners.
- The Bill introduces the concept of Private Certification to the assessment of compliance with the Building Rules. This will particularly benefit developers using standard designs for a large number of buildings.
- Consideration will be given to granting exemptions from application of the Building Rules, as was done by proclamation under Section 5 of the Building Act. Changes in building standards, settlement patterns and the size of

farm buildings over the last twenty years mean that the former proclamations cannot simply be re-made.

- In the event of defective building work, changes to the liability provisions will lift some of the heavy burden which has fallen on councils previously, and re-distribute it more equitably on other parties, including the designer, builder and owner.
- An integrated system of enforcement and appeals is now proposed in the Bill and the complementary Environment, Resources and Development Court Bill.
- Third party civil enforcement is made more accessible by the Bill. However, there are safeguards written into the Bill and the Court will have the option of requiring a bond to avoid abuse of the civil enforcement process.
- All policies relating to the identification and alteration to local heritage places will be contained in the Development Plans. The Bill contains specific criteria to be used in the listing of local heritage places in order to provide greater certainty in this area.
- The City of Adelaide will now become subject to the same development legislation as the rest of the State.
- The Bill, together with complementary changes to the Mining Act introduced by the *Statutes and Repeal (Development) Bill,* will streamline the assessment of mining applications and help clarify these procedures. Policies relating to mining, including the provision of buffer areas, will be set out in the statutory Development Plans.

Other complementary legislation being presented at this time includes the Statutes Repeal and Amendment (Development) Bill which repeals in their entirety the Building Act, Planning Act and the City of Adelaide Development Control Act and amends the Coast Protection Act, Local Government Act, Mining Act, National parks and Wildlife Act, Real Property Act and Strata Titles Act. It also provides for a wide range of transitional provisions to allow for a smooth transfer between the repealed Acts and the Development Act.

As part of the introduction of the integrated planning and development system, the Government will undertake an education and information programme for councils, the development industry and the community. In addition, the Local Government Association is proposing to streamline council procedures relating to development applications through its Local Approval Review and through the Local Government Training Authority Process.

A new *Heritage Bill* is also to be introduced. The bill now before the House is dependant on the progress of that legislation.

I referred earlier to the Planning Review which was established by the former Premier. I would like to acknowledge the work of the review which has led to the reforms contained in this legislation. The Review team led by Brian Hayes QC, Professor Stephen Hamnet and Dr Graham Bethune have met their brief of designing a planning system which can take Adelaide and SA into the twenty first century. It is now our responsibility to give legislative form to the results of this comprehensive process of review.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the commencement of the measure.

Clause 3: Objects

This clause sets out the object of the Act, which is to provide for proper, orderly and efficient planning and development in the State.

Clause 4: Definitions

This clause lists definitions of terms used in the Bill. They are largely derived from the *Planning Act 1982,* but also include definitions derived from other legislation such as the *Building Act 1971.* By virtue of the *Acts Interpretation Act,* these definitions apply, unless otherwise provided, not only to the principal Act, but to all regulations, codes and instruments under the Act.

The clause also carries forward the *Planning Act 1982* provisions which enable monetary penalties for breach of the Act to be potentially greater where the value of the work undertaken is greater. It also provides that penalties can increase where contravention of the Act continues following a conviction.

Clause 5: Interpretation of Development Plans

This clause specifically applies the definitions set out in clause 4 to the Development Plans created under Part 3. The clause also allows the making of definitions by regulation, to apply to Development Plans generally, or to a particular Development Plan. This provision is a direct carry over from Section 42a of the *Planning Act 1982* and has exactly the same consultation procedures as apply under that Act, except insofar as the new provision requires an explanation of the proposed definitions, not just publication of the text, and extends the *Planning Act 1982* submission period from 14 days to 28 days.

The clause also maintains the *Planning Act 1982* concept of defining terms by regulation, rather than in each Development Plan, so as to ensure consistency between Development Plans, and to avoid the inherent duplication (and perhaps conflict) involved in defining the same terms in Plans, and in the Regulations themselves for the purposes of the Regulations.

Clause 6: Concept of change in the use of land

This clause is a direct carry-over of Section 4a of the *Planning Act 1982* (and its companion Section 4a in the *City of Adelaide Development Control Act 1976).* It is unchanged from the *Planning Act 1982* provision and has three principal roles.

Firstly the provision further defines the concept of "change of use" to include commencement and revival of a land use, whether additional to a previous use or not.

Secondly the. provision provides mechanisms to determine what constitutes "discontinuance" of an activity. This is important as the Bill only controls "development" and has no application to continuation of "existing uses". The clause provides for automatic loss of an existing use right after two years, or where a Council or the Commission determines by resolution and notice, that the existing use has been discontinued, after six months. The provision provides for an appeal right against such a resolution, enabling both the question of discontinuance, and the adverse effect components of the resolution, to be tested. Thirdly subclause (6) enables trifling activities to be disregarded. For a land use change to have substance, it must not be trifling.

Clause 7: Application of Act

The Bill applies throughout the State. This includes all land within its territorial boundaries, including ocean waters off the coastline (by virtue of the definition of "the State" in clause 4). This will mean that, for the first time, buildings erected outside of Council Areas will need to comply with Building Codes (unless excluded by regulation).

The clause also enables the application of the Act to be modified in relation to specified locations or classes of

development. Any modification must be by regulation, bringing it within the supervision of Parliament and its disallowance powers.

PART 2

ADMINISTRATION

Clause 8: The Development Policy Advisory Committee

This clause establishes the Development Policy Advisory Committee, comprising people appointed by the Governor from a range of backgrounds. This committee is the successor to the Advisory Committee on Planning under the *Planning Act 1982,* the Building Advisory Committee under the *Building Act 1971,* and the City of Adelaide Planning Commission in its policy-making role. The composition of the committee contains all membership criteria from the Planning Act's Advisory Committee, together with addition of building and community service criteria. The membership is intended to reflect fields of expertise, but is not intended to be representative of particular interest groups. Subclause (11) requires the Minister to seek public expressions of interest in serving on the Committee before making recommendations to the Governor for appointment.

Clause 9: Functions of the Advisory Committee

The prime function of the Committee is to advise the Minister on his or her functions in relation to the Bill. The Clause specifically requires the Committee to take into account the Planning Strategy when performing its functions.

Clause 10: The Development Assessment Commission

This clause establishes the Development Assessment Commission. The Commission is to be the successor to the South Australian Planning Commission, and the City of Adelaide Planning Commission in its development control role. The Bill gives the Commission the same broad functions as is given to these two Commissions. The membership criteria are broadly the same as applies to the South Australian Planning Commission. The clause also contains standard provisions for appointment of members and includes, as with the Advisory Committee, a requirement for the Minister to seek public expressions of interest before making recommendations to the Governor for appointment.

Clause 11: Functions of the State Commission

The Commission is essentially a development control body in its own right or, for some matters, adviser to the Minister on development control. While the Commission is subject to the direction of the Minister in relation to operational matters, it is independent in relation to decision-making on applications.

Clause 12: Interpretation

This clause defines the term "statutory body" used in subdivision 3.

Clause 13: Procedures

This clause contains procedural provisions relating to the two statutory bodies created by the Bill, namely the Advisory Committee and the Commission. It provides procedural mechanisms for matters such as quorum, voting rights, meetings and minutes.

Clause 14: Vacancies or defects in appointment of members This clause protects acts of the statutory bodies from any defect in the appointment of a member.

Clause 15: Immunity of Members

This clause provides for personal immunity and attaches liability to the Crown.

Clause 16: Committees

The clause allows the Advisory Committee and Commission to establish committees, and provides that they must establish committees as required by regulation. In the first instance it is envisaged committees of the Advisory Committee will be required only for building control, and for City of Adelaide policy matters, reflecting the carry-over role given to the Committee under this scheme. Similarly, it is envisaged a Committee of the Commission will be required only for the City of Adelaide, reflecting the carry-over role of the Commission in relation to the City of Adelaide Planning Commission.

Clause 17: Staff

This clause provides staffing arrangements, based on those applying under the *Planning Act* 1982 to the South Australian Planning Commission and Advisory Committee on Planning.

Clause 18: Appointment of authorised officers

This clause enables "authorised officers" to be appointed to carry out administration of the legislation. The clause includes requirements for identity cards and a power to revoke appointments.

Clause 19: Powers of authorised officers to inspect and obtain information

This clause sets out extensive powers for authorised officers to enter land and buildings and carry out inspections for the purposes of the Act. Subclause (2) requires that a warrant be obtained to break into premises, or pull down work (unless urgent action is required).

Clause 20: Delegations

This clause sets out general powers of delegation for the powers and functions vested in the various bodies under the legislation. The provisions are essentially the same as in the *Planning Act 1982,* except that the provision allows sub-delegation in the circumstances set out in subclause (3). It is envisaged that, for example, a general delegation to a committee established under the Act may be further delegated to officers or members of that committee in relation to minor matters.

Subclauses (4) and (5) deal with private interests. Subclause (7) will ensure that any conflict of interest involving a member, officer or employee of a council will be dealt with under the *Local Government Act 1934*. Subclause (8) envisages a *Gazette* notice for some delegations. It is envisaged that the regulations will require a *Gazette* notice of delegations beyond officers or Committees established by or under the primary body.

Clause 21: Annual report

This clause requires the Minister to prepare an annual report on the administration of the Act and table it in Parliament.

PART 3

PLANNING SCHEMES

Clause 22: The Planning Strategy

This clause provides for preparation of a state-wide Planning Strategy for the development of land. As the Strategy is seen as Government policy the clause provides that neither it nor its application are to be amenable to interpretation by a court.

The Strategy will be implemented in a number of non-statutory ways. However one of the principal methods to implement the Planning Strategy will be through development controls. Accordingly, the Bill makes reference to the Strategy in a number of places, including—

- in relation to definitions of terms
- in relation to the functions of the Advisory Committee
- in relation to the role of a Development Plan
- in relation to preparation of Development Plan amendments by a council
- in relation to the assessment of a Council prepared Development Plan amendment

- in relation to preparation of Development Plan amendments by the Minister
- in relation to reviews of Development Plans
- in relation to decisions by the Governor on major developments.

It is intended that the Planning Strategy will not otherwise apply to decisions under the Act. This is because the intention of the legislation is to enable the Planning Strategy to be government policy, rapidly variable and not written in a legalistic manner. For this reason, there is no rigid procedure laid down for preparation of the Strategy or its amendment. It is anticipated the appropriate level of consultation will vary according to the nature of the Strategy or amendment. Subclauses (4) and (5) establish a process for annual reporting to Parliament on the Strategy, and for consultations to be undertaken within the community regarding its operation and amendment.

Clause 23: Development Plans

This clause provides for the establishment of Development Plans applicable to geographic areas of the State. Subclause (2) provides that only one plan can apply to any particular area so as to prevent potential conflict arising from overlapping plans. (The transitional provisions of the companion Bill carry over the Development Plan under the *Planning Act 1982,* and the City of Adelaide Plan under the *City of Adelaide Development Control Act 1976).* It is envisaged that, in the first instance, there will be a single plan for each council area, comprising its portion of the *Planning Act 1982* Development Plan, together with the relevant regional provisions.

The clause provides that Plans must promote the objectives of the Planning Strategy and may adopt, by reference, Codes or Plans under other legislation.

Subclause (4) recognises that the Development Plan may list local heritage items. This will complement the State list to be established under companion Heritage legislation.

Clause 24: Council or Minister may amend a Development Plan

This clause is very similar to Section 41 of the *Planning Act 1982* and establishes a process for amendment to Development Plans in much the same fashion as the Supplementary Development Plan (SDP) process under that Act. The term "Supplementary Development Plan" is abandoned as many *Planning Act 1982* users understood an SDP to be a document in its own right. As with the *Planning Act 1982,* a Plan amendment may only be prepared by a council or the Minister.

Clause 25: Amendments by a council

This clause sets out the process for amendments prepared by a council. The process starts with a "Statement of Intent". The regulations will specify the nature of this statement. Following agreement between the Minister and a council (generally with Advisory Committee advice), the Plan amendment itself may then be prepared. Preparation of this document will require professional advice.

Subclause (3) requires the council to take into account the Planning Strategy, and adjacent plans when preparing the Plan Amendment Report following agreement on the Statement of Intent, and to provide an explanation and a summary of the investigations leading to the Plan. The clause also requires consultation with government agencies and provides a Ministerial approval process prior to public exhibition. This is a direct "copy" of the current *Planning Act 1982* requirement. The prime criterion for approval under this provision will be whether the amendment is consistent with the Statement of Intent and the Planning Strategy, and whether it complements adjoining plans. Subclause (11) establishes the public consultation stage, the details of which are specified by regulation. It is envisaged that the regulations will establish the same process as is required in the *Planning Act* 1982, with two months exhibition, inspection of submissions, and a public hearing. Following the public process, a report is forwarded to the Minister setting out the public response and details of suggested change. On receipt, the Minister may seek a report from the Advisory Committee, and must do so where substantial public opposition or change is evident. The Minister may then approve the amendment and submit it to the Governor for authorisation.

Clause 26: Amendments by the Minister

This clause sets out the process for preparation of amendments to Plans by the Minister. It is essentially the same as for a council plan, except that the Minister must consult affected councils (unless the Plan is to be given interim effect). It is envisaged that the regulations will contain a new provision providing an ability for the Minister to appoint a committee other than the Advisory Committee to conduct the public process on an amendment by the Minister. This will enable a regional grouping of councils, for example, to hear submissions on a relevant Plan amendment. The Minister will seek Advisory Committee advice following the public consultation stage.

Clause 27: Operation of an amendment and Parliamentary scrutiny

The process for Parliamentary approval for both Ministerial and council amendments is different from the *Planning Act* 1982, as the Bill envisages it will follow rather than precede authorisation by the Governor. An amendment is referred to the relevant Parliamentary Committee and may be subject to disallowance by the Houses of Parliament. This will speed up the process while relating the Parliamentary review process.

Clause 28: Interim development control

This clause replicates Section 43 of the *Planning Act 1982.* It enables a Plan amendment to be given interim effect at the same time as, or following, public display. The rationale behind the provision is that amendments introducing tighter controls can be debated publicly, without prior notice being given that new controls are envisaged. This provision is considered necessary as the Bill maintains the concept of certainty for applicants by not allowing the rules to be changed after an application is lodged. Hence policy in a plan amendment is not relevant to applications lodged during the amendment process, unless this clause is brought into operation. As use of this clause is envisaged to be rare, and only in the interest of orderly development, the provision retains the *Planning Act 1982* concept of it only being brought into effect by the Governor. The clause also provides that prior council consultation on Ministerial amendments is not required where the Minister gives an amendment interim effect. This is to protect confidentiality prior to interim effect.

Clause 29: Certain amendments may be made without formal procedures

This includes elements of Section 42 of the *Planning Act 1982* and provides a short-cut amendment process to fix errors, or to make a change of form. The Minister will also be able to amend a Plan in order to include, or delete, items relating to State Heritage. Certain plans, policies and controls established under other Acts and prescribed by the regulations will also fall within the operation of this clause. In this regard, it is envisaged that development controls currently under a range of other legislation will, over time be incorporated into the Development Bill, progressively implementing the one-stop-shop concept for controls. The control provisions of the Bill enable the regulations to create "referrals" so that the development control

authority is advised of policies of other government agencies relevant to the control. This clause supports this by enabling statutory policies under other legislation to be incorporated into Development Plans, thus enabling removal from the other legislation.

Clause 30: Review of plans by council

This clause is intended to ensure the continued relevance of an existing Development Plan by requiring periodic reviews by councils. The review process will ensure that Councils at least consider whether a Plan is still up-to-date. The Minister will be able to initiate a Plan amendment where a council fails to review as required under this clause.

Clause 31: Copies of plans to be made available to the public This clause requires the Minister to ensure that copies of all Development Plans are available for inspection and purchase, and requires a council to make its Plan or portion of a Plan available for inspection or purchase. The clause also carries over the *Planning Act 1982* provisions enabling the Minister to consolidate and publish Development Plans.

PART 4

DEVELOPMENT CONTROL

Clause 32: Development must be approved under this Act

This clause establishes the general development control power of the Bill.

Clause 33: Matters against which a development must be assessed

This clause sets out the matters which will be considered for an approval under the legislation. The clause carries over decision criteria from the legislation now amalgamated into the Development Bill. Paragraph *(f)* of subclause (1) allows other matters to be taken into account by regulation, anticipating controls from other legislation not yet amalgamated into the Bill.

This clause also envisages that an applicant may apply for progressive, or "staged" assessment, with the provision of greater levels of detail in plans as certainty is obtained. While the clause allows for staged assessment and decision, an "approval" will only be issued following assessment under all relevant provisions. Subclause (3) allows specified matters to be deferred until subsequent stages in decision-making.

Clause 34: Determination of relevant authority

This clause fixes the identity of the assessment authority, being either the relevant council, or the Commission. The role of the Commission is the same as that for the SA Planning Commission under the *Planning Act 1982,* with its principal role including decision-making for applications for development approval of the following types:

- development by a council;
- matters specified by regulation;
- development out of council areas.

It is envisaged the matters prescribed for the Commission by regulation will be based on the current *Planning Act 1982* power-sharing arrangements.

Subclause (2) recognises that the Commission will usually have little interest in building matters and, indeed, less expertise than the council. The provision therefore enables the Commission to delegate matters traditionally covered by the "Building Act" to the relevant council, or to seek professional certification under the Bill.

Clause 35: Special provisions relating to assessment against a Development Plan

This clause refers to "complying" and "non-complying" development. This replaces the "permitted" and "prohibited" concepts under *the Planning Act 1982,* and the transitional arrangements carry forward the State Development Plan and City Plan "permitted" and "prohibited" lists as complying and non-complying development. The term permitted is abandoned for three reasons. Firstly, incorporation of building control in the legislation means that approval is required under the Bill for most development notwithstanding any former "permitted" status under the *Planning Act 1982.* Secondly, there is no clear process under the *Planning Act 1982* for gaining an "approval" for "permitted" development. If development is permitted, no approval is needed, hence there is no certainty for the developer that "approval" is obtained. The approval required will give this certainty. Finally, issue of an approval under the Bill for complying development will protect a developer from changes in planning policy between the approval and commencement of work.

The term "prohibited" is abandoned primarily because it is misleading. Notwithstanding the term "prohibited", nothing is in fact prohibited under the existing planning legislation, which provides procedures for gaining approval where clear merit is demonstrated.

Subclause (1) also provides for the listing of complying development in both the Development Plan and the Regulations, as activities excluded from the definition of "development" under the *Planning Act 1982* are "building work" under the *Building Act 1971,* hence will be "development", and will need an application to be lodged and approved under this Bill. Listing as "complying" in the regulations retains the exemption from "planning" control.

Clause 36: Special provisions relating to assessment against the Building Rules

This clause is similar in many ways to the preceding clause, envisaging that development may be listed as "complying" and therefore effectively exempt from building control. This could apply to low fences, installation of air conditioners and construction of small pergolas (for example). Subclause (2) requires adherence to the Building Rules. However, various powers of modification are set out in the provision. Subclause (3) recognises the need to allow resolution to be achieved between building control and heritage objectives and provides that heritage will prevail over technical building matters. Other safety procedures will be adopted consistent with heritage protection.

Clause 37: Consultation with other authorities or agencies

This clause establishes a referral system for applications as specified in the regulations. Instead of listing each particular referral, as is the case under the *Planning Act 1982,* the clause sets a general referral power, providing that the referral can have the status of general advice, a mandatory direction, or a concurrence where both the control authority and referral body must agree on a decision. Subclause (2) gives referral bodies the ability to seek information where necessary. The regulations will list the types of application, the referral body, a time limit for response, and the status of the referral report. In the first instance they will be the current *Planning Act* 1982 referrals, including heritage, air pollution and coastal development for example, but can readily be extended to pick up control authorities from other legislation. This list can also be readily reduced as referral control policies from other legislation are incorporated into Development Plans. This clause will enable referral to a body such as the proposed Environment Protection Authority on matters such as air and water quality.

Clause 38: Public notice and consultation

This clause sets out the role of third parties in relation to development control decisions. The clause does restrict the role

of third parties to assessment in relation to the Development Plan, and not the more technical construction requirements relating to buildings and subdivisions.

The clause sets out 3 categories of development, being those totally exempt from public consultation, those subject to neighbour notification and comment, and those given full public notice and provided with third party appeal rights. Where it is not clear into which category a development falls, the clause provides for its classification as a Category 3 development.

The categories will initially be fixed in the Regulations. However to ensure the categorisation meets local conditions, the clause enables the regulations to be overridden by specific provisions set out in the Development Plans in respect of Categories 1 and 2. Various rights of representation and comment are provided and appeal rights will apply in relation to Category 3 developments.

Clause 39: Application and provision of information

This clause provides a standard application process and provides for application fees. The regulations will set the fee structure, based on a higher application fee for the types of application likely to require greater assessment under the Bill. The regulations will provide for application forms, requirements as to lodgment and requirements as to the preparation of accompanying plans and drawings. It is envisaged lodgement will be at the office of the relevant council, other than for land division, where central lodgment with the Commission will be retained.

Subclause (2) enables the relevant authority to request further information in relation to an application. The clause also provides for a Statement of Effect in relation to non-complying development. The requirements for this document will be set out in the regulations. Subclause (4) enables a relevant authority to refuse to deal with an application for non-complying development, in the same manner as applies for "prohibited" development under the *Planning Act 1982.* New provisions enable application to be made to vary a previous approval as an application for a new authorisation. As a new application, the referral and public consultation procedures will apply to the extent of the variation, rather than the whole of the previously approved development.

Clause 40: Determination of application

The outcome of an application will be notified under this provision. Any authorisation will remain operative for a period prescribed by the regulations.

Clause 41: Time within which decision must be made

This clause enables time limits for decision-making, and provides a process for an applicant to remedy a failure to make a decision. The process is based on the current provisions of Section 52 of the *Planning Act 1982.* Costs will be awarded for certain cases.

Clause 42: Conditions

This clause provides for the imposition of conditions on a development approval and provides that they bind successive beneficiaries of the consent. This clause also envisages the potential for a condition to be imposed by regulation (for example it is envisaged a council will be able to declare an underground mains area for power supply, and require underground wiring by regulation). Subclause (3) provides a general power to authorise management conditions. This could be used to require building controls in matters such as maintenance of fire safety features.

Clause 43: Cancellation by a relevant authority

This clause provides a general power for assessment authorities to cancel development approvals on application by the beneficiary of the approval. While its use will be rare, it is of benefit where a new proposal can only be approved if a previous approval is no longer to be exercised.

Clause 44: General offences

This clause establishes various offences for the purposes of the legislation.

Clause 45: Offences relating specifically to building work

This clause creates certain offences relating to building work.

Clause 46: Environmental Impact Statements

This clause (together with the following two clauses) establish a process for assessment of major development. The clause is based on Section 49 of the *Planning Act 1982* (and its companion Section 26b in the *City of Adelaide Development Control Act 1976)* and enables the Minister to call for an Environmental Impact Statement. The process is the same as is applied under the *Planning Act 1982* except that reference is specifically made to the Assessment Report of the Minister which is prepared in response to the proponent's EIS. The clause also includes reference to guidelines setting out the matters an EIS is expected to include. The process comprises preparation of a draft report, public display of that report, preparation of a response to public comment, and then assessment by the Minister of the documents.

The clause also includes reference to projects in relation to land, as well as development under the Act, as some activities (for example, land drainage, clearance of vegetation, excavation) are not development but can have major environmental consequences. In that case, the EIS would serve as a reference for decision-making under other legislation. The clause also contains a mechanism to refer an EIS to various prescribed bodies, such as the proposed Environment Protection Authority.

Clause 47: Amendments of Environmental Impact Statement

This clause provides a mechanism for update of an EIS in response to monitoring or new data. It provides for public exhibition of any major changes, and amendment to the Assessment Report.

Clause 48: Governor to give Decision on Development

This Clause allows the Governor to "call in" certain developments, being any development which is the subject of an EIS, or any development within the ambit of a declaration under subclause (2). The provision is modelled on the existing provisions of Section 50 of the *Planning Act* 1982. The clause also maintains the *Planning Act 1982* provisions which provide that the normal control provisions of the Bill do not apply where the clause is operative, and lapses current applications and approvals where a development has not yet commenced. The Governor will not approve a development unless an EIS and Assessment has been completed. This enables an early "no" decision without having to go through the potentially expensive EIS process.

The Governor's decision will effectively be final. The clause also enables conditions to be varied in response to monitoring programmes established by an EIS or Assessment Report. It also enables conditions to be varied on application by the person who has the benefit of the relevant condition. The Governor will be able to delegate the power of decision to the Development Assessment Commission. This provision can readily be used when the Government of the day wishes to leave decision-making to an independent expert body. The Commission may further delegate. This will be used principally to delegate Building Code assessment to a council under the Act.

Clause 49: Crown development

The Bill seeks to bind development proposals by Crown agencies to similar criteria as development by private citizens. It

is proposed that applications be judged against the same Development Plans and codes as apply to private applications. The Bill also ensures that decisions are made based on the advice of the same authorities that control private development, namely councils, and the Development Assessment Commission. However, decisions are to be made by the Minister responsible for the Act. Accordingly, the Bill provides for applications to be made to the Commission, which then, following receipt of comments from the relevant council, advises the Minister. The Minister may then approve or refuse the development. Where the Minister approves a development about which a council expresses opposition, or which is considered by the Commission to be seriously at variance with a Development Plan or with a standard or Code prescribed by regulation, the Minister must report to Parliament on the approval.

Clause 50: Open Space Contributions

This clause carries over the long standing concept of contributions associated with land division. The clause reflects provisions of the *Real Property Act 1886,* with some minor amendments.

Subclause (1) refers to larger land divisions, and enables the council to require up to 12.5% of the land to be reserved for open space, or a cash contribution in lieu, or a combination of both. Where there is no council, the power is exercised by the Commission. This provision is the same as the 1982 Real Property Act requirement, with the exception that the land must now be provided in a location designated as open space in the Development Plan (where any such designation exists over the land being divided). Subclause (2) refers to smaller scale land division proposals and to strata title schemes. As with the 1982 Real Property Act provisions, the council is not given the right to take land, as the reserve would be too small to be useful. Instead, the cash is paid into a central fund administered by the Minister for use primarily for regional scale open space. However, like the 1982 Real Property Act, the provision allows for agreements for certain land allocations.

This provision applies equally to strata title division, which for the first time will be able, by agreement of all parties, to provide public open space in lieu of cash. The provision allows for the exemption by regulation of "existing strata schemes" to be maintained. (This will apply in respect of strata division of existing buildings erected prior to the commencement of strata title legislation in 1968.)

Subclause (4) provides that a decision to take land and/or money must be consistent with any development authorisation under the Act. Subclause (5) sets the rate of cash contribution. (This is a direct carry-over of the 1982 Real Property Act provision.) Subclause (6) provides for update of the cash contribution in accordance with movements in land values. Subclause (7) sets the amount of cash payable where a combination of land and money is to be paid.

The clause also provides an aid to calculation and requires the smallest allotment to be counted first. This means a division of a large allotment into one large and one small, pays one contribution. The additional allotment is the smallest. (The alternative of the additional allotment being the largest would avoid payment of a contribution.)

Subclause (10) requires a council to pay monies into an open space trust fund, and the State Authority to pay the money into the Planning and Development Fund. Subclause (11) enables prior contributions to be taken into account for staged land division.

Clause 51: Certificate in respect of the division of land

This clause provides a mechanism for certification to the Registrar-General that conditions imposed on a development approval for land division have been met, thus enabling issue of new Certificates of Title.

Both the *Real Property Act 1886* and the *Strata Titles Act 1988* presently provide for two certificates, one for State interests issued by the S.A. Planning Commission, and one for local interests by the council. This creates difficulties as the two certificates occasionally relate to different plans, and from time to time overlap with conflicting requirements. The concept in the Bill is for issue of a single certificate, which the applicant will then deposit with the Registrar-General at the time of seeking new titles.

The Commission is chosen to issue the Certificate for land division, rather than the council, for three reasons:

- Many of the requirements relate to State agency interests, particularly the Engineering and Water Supply Department and Electricity Trust
- The Government already creates a computer image of the division plan on initial lodgement and distributes this in electronic form to service agencies. Providing that the final plan is endorsed by the Commission enables a single and ready update of the final division plan on the electronic data base, for transmission to agencies for detailed service network planning
- The data recording and service co-ordination requirements associated with land division are complex and the Commission will be better able to manage an effective centralised system than the councils (each with a slightly different process, and particularly councils where there is little land division activity).

A centralised system will help the introduction of more sophisticated approval processes.

The detailed procedures for issue of certificates will be set out in the regulations, giving councils specific responsibility for various construction matters.

Clause 52: Saving provisions

This clause provides general "protection" provisions for developments against changes in the Development Plan or Building Regulations. Subclause (1) provides that approvals already granted under the Act may be implemented notwithstanding changes in policy expressed in the Plan or Building Regulations. Subclause (2) provides that an activity lawfully commenced may be completed within three years notwithstanding an amendment to the Act to make the activity "development".

Clause 53: Law governing proceedings under this Act

These provisions are similar to Section 57 of the *Planning Act 1982* (and its companion section 42 of the *City of Adelaide Development Control Act* 1976).

Clause 54: Urgent building work

This clause recognises the occasional need for emergency building work and provides it is not an offence provided approval is subsequently applied for. Where approval is refused, the person who undertook the work must reinstate the land or building affected by the emergency work (as far as practicable) to its original state or condition.

Clause 55: Removal of work if development not substantially completed

This clause will allow a relevant authority to apply to the Court for the removal of work that has not been substantially completed within the prescribed period.

Clause 56: Completion of work

This clause will allow a relevant authority to require that development be completed in certain circumstances.

PART 6
LAND MANAGEMENT AGREEMENTS

Clause 57: Land management agreements

This clause is based on Section 61 of the *Planning Act 1982* relating to Land Management Agreements.

As with the *Planning Act 1982,* subclauses (1) and (2) provide agreements can be entered into by either the relevant council or the Minister. However the term "development" does not appear in these subclauses in order to restrict the agreements to "management" issues. This clause also provides for the registration of agreements. The provisions differ from the *Planning Act 1982* as an agreement must be registered to be effective. Reference is also made to the scheme for Transferable Floor Areas.

It is envisaged that the transfer of development potential under the legislation will be incorporated in an agreement registered under this provision. This will result in interested parties being able to ascertain the exact status of the land under this scheme. The clause also incorporates the *Planning Act 1982* provisions relating to remission of rates and taxes.

PART 7
REGULATION OF BUILDING WORK

Clause 58: Interpretation

This clause reflects the fact that this Part gives councils primary responsibility for approving building work.

Clause 59: Notifications during building work

This provision enables regulations to require notification to the council of the progress of building works. A council will be able to require the builder (or other interested party) to furnish a written statement that the building work has been carried out in conformity with the Act.

Clause 60: Work that affects stability

The clause is taken from the *Building Act 1971* and requires owners of land to be informed of building works which may affect the stability of that neighbouring land. It also establishes mechanisms for cost sharing where precautionary works are required during construction stages.

Clause 61: Construction of party walls

The clause is taken from the *Building Act 1971* and provides mechanisms setting out the rights of parties in relation to party walls. The clause sets out the process for consultation between the respective parties and provides that a party wall cannot be built without the agreement of the adjoining owner or owners.

Clause 62: Rights of building owner

This clause provides rights to maintain party walls, subject to approvals under the Act for building works. The clause provides either party may keep a party wall in good repair, and provides for notices and for appeals where disputes arise over whether works are necessary.

Clause 63: Power of entry

This clause provides mechanisms to give effect to the preceding clauses by giving adjacent owners the right to enter land. The clause provides for prior notice of entry and, if necessary, for forced entry (with police assistance).

Clause 64: Appropriation of expense

This clause provides a process for apportioning costs of party wall works and for resolution of disputes over the cost.

Clause 65: Buildings owned or occupies by the Crown

This clause provides that the classification and certificates of occupancy schemes do not bind the Crown.

Clause 66: Classification of buildings

This clause allows a council to classify buildings and thus determine which provisions of the Building Code apply. (The Building Code sets out "classification codes" according to the purpose for which a building will be used, and applies specific building requirements according to that classification). Subclause (1) provides that all buildings erected after 1974 must have a classification as the *Building Act 1971* had a date of operation of 1 January 1974. Buildings erected prior to 1974 effectively have "existing use" rights. A building may not be used except in accordance with its classification.

Clause 67: Certificates of occupancy

This clause provides for the issue of Certificates of Occupancy after completion of building work. The certificate is a statement that the building is suitable for occupation, but subclause (7) makes it clear that it does not constitute a guarantee that the building complies with the Building Rules. A building must not be occupied unless a Certificate of Occupancy has been issued. Subclause (11) allows for appeals. Subclause (12) enables occupancy of part of a building, recognising that part may be suitable for occupation while other parts are still under construction.

Clause 68: Temporary occupation

This clause provides for temporary occupation without a certificate. This could be used to approve the use of site offices on a building site, or the erection of a large marquee for short term entertainment purposes.

Clause 69: Emergency orders

This clause allows certain form of "emergency orders" to be issued by authorised officers who hold prescribed qualifications.

Clause 70: Buildings owned or occupies by the Crown

This provision exempts the Crown from the provisions of the Bill enabling councils to regulate fire safety issues.

Clause 71: Fire safety

This clause provides a power for councils or other authorities to ensure buildings maintain appropriate fire safety. In particular, notices may require the performance of necessary remedial work. Subclause (4) envisages that the owner of a building with a fire hazard will prepare a programme of work to address the hazard. Other provisions give powers to enforce implementation of the programme, and appeals. The provision also ensures that fire safety programmes cannot proceed in a manner inconsistent with heritage protection.

Clause 72: Negation of joint and several liability in certain cases

This clause provides that responsibility for defective building work will be apportioned between the parties in default according to the extent to which their default contributes to any damage or loss.

Clause 73: Limitation on time when action may be taken

This clause restricts the time within which an action for damages for economic loss or rectification costs arising from defective building work to the period of 10 years.

PART 7
REGULATION OF ADVERTISEMENTS

Clause 74: Advertisements

This clause is similar to Section 55 of the *Planning Act 1982* (and its companion Section 39e of the *City of Adelaide Development Control Act 1976).* The provisions provide that either the council for an area, or the Commission, can order

removal of outdoor advertisements considered unsightly. (The provision cuts across the "existing use" rights given to other forms of land use and is essentially a management, as opposed to development, control.) The clause can be exercised notwithstanding that the advertisement has received development approval (on the basis that outdoor advertisements can be "run down" over time). The provision provides for appeal rights.

PART 8
SPECIAL PROVISIONS RELATING TO MINING

Clause 75: Applications for mining production tenements to be referred in certain cases to the Minister

This clause, together with the next clause, carries over the provisions of Sections 59 and 60 of the *Planning Act* 1982. These clauses, together with the definitions of "development" and "mining operations", operate to exclude mining tenements, and existing "private mines" from development approval. The role of the clause is to provide a mechanism for the Minister to provide planning and environmental advice to the Authority (the Minister of Mineral Resources). The provisions are designed to work in conjunction with relevant assessment provisions under the *Mining Act* especially in relation to notification, and consultation with adjoining owners and members of the public. Subclause (4) provides that either the Minister or Authority may require an environmental impact statement.

Clause 76: This Act not to affect operations carried on in pursuance of Mining Acts except as provided in this Part

This clause provides that only this Part applies to operations under the Mining Acts. Subclauses (2) and (3) offer the same protection for operational private mines, but have the effect of making the development approval provisions apply where a mine is abandoned for twelve months. Subclause (4) enables the regulations to apply Building Code provisions to buildings on mining sites.

PART 9
ACQUISITION OF LAND

Clause 77: Purchase of land by agreement

This clause enables voluntary acquisition of land.

Clause 78: Compulsory acquisition of land

This clause enables compulsory acquisition where necessary to implement the Development Plan.

PART 10
THE FUND

Clause 79: Continuance of the Fund

This clause continues the Planning and Development Fund first established under the *Planning and Development Act 1966* and continued under the *Planning Act 1982*. The terms of the provision are modified from the *Planning Act 1982* by deletion of reference to "development schemes" under Section 63 of the *Planning Act 1982* (as this provision is not carried forward into the Development Bill).

Clause 80: Borrowing

This is a general power carried over from the *Planning Act 1982*.

Clause 81: Application of the Fund

This provision is a carried over from the general provisions of the *Planning Act 1982*. Paragraph *(h)* is amended from a general reference to "public recreation facilities", to the more specific "provision and development of public land for conservation and recreation".

Clause 82: Accounts and audit

This clause provides for proper account keeping in relation to the Planning and Development Fund.

PART 11
ENFORCEMENTS, DISPUTES AND APPEALS

Clause 83: Interpretation—Breach of Act

This clause sets out the matters which constitute a breach of the Act for civil enforcement proceedings.

Clause 84: Enforcement notices

This clause enables a relevant authority to direct that a contravention of the Act be remedied.

Clause 85: Applications to the Court

This clause provides a general civil enforcement power to the Court. The clause allows any person to commence an action. However, the Court may require that a bond be paid by an applicant in appropriate cases. Exemplary damages may be awarded against a respondent in certain circumstances. Otherwise, the provisions are similar to those that apply under the existing *Planning Act 1982*.

DIVISION 2—DISPUTES AND APPEALS

Clause 86: General right to apply to Court

Subclause (1) establishes appeal rights to the Environment, Resources and Development Court for applicants aggrieved by decisions under the Act, and for other parties as stated. Subclause (2) states that this general provision is augmented by the establishment of specific appeal rights and provides that the general provision is overridden by specific provisions which remove appeal rights. An appeal must generally be commenced within two months from the decision to which an appeal relates.

The clause also provides for the referral of an appeal relating to a building matter, to a commissioner under the following clause. Other disputes are referred to a compulsory conference.

Clause 87: Building referees

This clause provides for the determination of a building dispute between an applicant and a development assessment authority to be made by a Commissioner who is specifically empowered to act as a building referee.

PART 12
PRIVATE CERTIFICATION

Clause 88: Preliminary

This clause, together with the other clauses in this Part, allow for "private certification" of the duties imposed on the Commission or council under the Act. The effect of these clauses is to enable the private certifier to undertake part or all of the application assessment function, to the extent prescribed by the regulations.

This particular provision establishes that the certified decision is in effect a decision of the "normal" body and states that no liability for that decision attaches to the "normal" body. It should be noted that the private certifier will assess the application and, if appropriate, grant a consent, but the final approval for development to be undertaken will be issued by the relevant authority. This enables the authority to ensure consistency in respect of the Development Plan and Building Rules.

Clause 89: When may a private certifier be used?

This clause provides that any person may engage a private certifier.

Clause 90: Who may act as a private certifier?

This clause provides that private certifiers must hold qualifications fixed in the regulations.

Clause 91: Circumstances in which private certifier may not act

This clause sets out general provisions to prevent a conflict of interest.

Clause 92: Authority to be Advised of certain matters

This clause requires a certifier to keep the relevant authority informed of engagement and decisions. It also ensures that the certifier has suitable professional indemnity insurance.

Clause 93: *Referrals*

This clause enables a certifier to refer any matter to the relevant authority for it to exercise the functions which the certifier was to perform. Such referral does not have to occur with the consent of the client.

Clause 94: Referrals to other private certifiers

This clause enables a certifier to refer a matter to another certifier with consent of all parties and the Minister.

Clause 95: Removal, etc., of private certifier

This clause prevents an applicant from removing a certifier. However, where there is legitimate cause for complaint, the Minister may consent to removal and an alternative arrangement.

Clause 96: Duties of private certifiers

This clause instructs certifiers to act in the public interest, and not act in any manner contrary to the objects of the Act. The clause provides for penalties against both a certifier and person offering an inducement to breach the Act. Subclause (3) enables a code of conduct to be established.

Clause 97: Appeals

This clause provides that the normal appeal rights do not apply against a private certifier.

PART 13

MISCELLANEOUS

Clause 98: Exemption from certain action

This effectively provides that public bodies and officials may only be held liable for their actions during the assessment and approval processes, and not thereafter.

Clause 99: Insurance requirements

This clause provides for mandatory insurance in appropriate cases.

Clause 100: Professional advice to be obtained in relation to certain matters

This clause provides for the use of professional advisers in certain circumstances. The Minister may give full or conditional recognition to professional advisers required under various provisions of the Act.

Clause 101: Confidential information

This clause seeks to ensure that persons involved in administration of the Act do not misuse information obtained by virtue of the Act.

Clause 102: False or misleading information

This clause will make it an offence to provide false or misleading information for the purposes of the Act.

Clause 103: Accreditation of building products, etc.

This clause enables accreditation of building products. This will simplify and accelerate the assessment of plans against the Building Rules.

Clause 104: General provisions relating to offences

Certain provisions relate to offences by bodies corporate. Subclause (4) provides that offences will be heard in the criminal jurisdiction of the proposed Court. Subclause (5) sets time limit for matters to be pursued as breaches of the Act.

Clause 105: Order to rectify breach

This clause allows the Court, in its criminal jurisdiction, to make orders to rectify breaches of the Act (in a manner similar to that available in its Civil jurisdiction). It avoids the need for one matter to be heard by the Court in two jurisdictions.

Clause 106: Charges on land

This clause sets out a scheme for securing a charge on land created under the Act.

Clause 107: Regulations

This clause contains general regulation-making powers to supplement the specific head powers provided throughout the Bill and in the Schedule. The Bill provides that "codes" can be adopted in the regulations (in parallel with equivalent provisions dealing with adoption of Codes in the Development Plan). The clause also provides that regulations will be submitted to the Environment, Resources and Development Committee of Parliament for consideration rather than the Legislative Review Committee. (This ensures that one Committee considers all Development Bill matters, including Development Plan amendments and regulations.)

THE SCHEDULE

This schedule provides specific regulation-making powers.

Mr OSWALD secured the adjournment of the debate.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT BILL

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations) obtained leave and introduced a Bill for an Act to establish the Environment, Resources and Development Court; to define its jurisdiction and powers; and for other purposes. Read a first time.

The Hon. G.J. CRAFTER: I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill complements the *Development Bill.*

A major cause of concern with the current range of development legislation in this State is the multiplicity of Court procedures for disputes and enforcement. Disputes can be dealt with by the Planning Appeal Tribunal, City of Adelaide Appeal Tribunal, Building Referees, District Court, Magistrates Court, Supreme Court, or a range of special purpose Courts. In relation to environmental protection matters, disputes are dealt with by various bodies such as the Water Resources and Clean Air Appeal Tribunals, the Planning Appeal Tribunal and the District Court. This fragmentation has resulted in duplication, confusion and unnecessary cost.

The Planning Review, in its final report on a new planning system presented to the Government in June of last year, proposed the establishment of a single development Court to handle all disputes and enforcements relating to the development and management of land.

The June and November 1992 drafts of the Development Bill, which were released for public comment, proposed that this new court be established as a division of the District Court. Submissions on the November draft of the Development Bill from a wide range of organisations supported the proposed single court but were opposed to it being made a division of the District Court. Concern was expressed about the potential cost

of court proceedings, the role of commissioners and a perceived loss of informality.

For these reasons, this Bill establishes a separate Environment, Resources and Development Court. The Court will comprise the District Court Judges, magistrates and commissioners specifically appointed to the Court. The commissioners will include planning and environmental experts and people with building expertise to handle disputes in relation to the Building Code.

It will hear disputes against decisions under the proposed controls and will have a full range of enforcement powers.

One of the major aims of the Court is to retain informality, with hearings based on the merits of the case, not legal technicalities. The Bill contains a number of provisions to reinforce this objective.

The new Court is envisaged as the primary forum for all matters involving the development and management of land. Its jurisdiction is expected to be extended by complementary legislation, particularly, the proposed Environment Protection and Heritage Bills. Appeals from the Court will be to the Supreme Court.

The provisions of the Bill are as follows:

PART 1
PRELIMINARY

Clause 1: Short title

This clause sets out the short title of the measure.

Clause 2: Commencement

This clause provides for the commencement of the measure.

Clause 3: Interpretation

This clause sets out various definitions required for the purposes of the measure. In particular, a "relevant Act" is defined as an Act which confers jurisdiction on the new Court, or which creates an offence in respect of which jurisdiction is conferred.

PART 2
THE ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT
DIVISION 1—ESTABLISHMENT OF COURT

Clause 4: Establishment of Court

This clause provides for a new Court, to be called the *Environment, Resources and Development Court.*

Clause 5: Court is Court of record

The Court is to be a Court of record.

Clause 6: Seal

This clause provides for the seal of the Court.

DIVISION 2—JURISDICTION OF THE COURT

Clause 7: Jurisdiction

This clause relates to the jurisdiction of the Court. The Court will, basically, obtain jurisdiction in two ways, being either by an Act (a "relevant Act") conferring jurisdiction on the Court, or by the Governor declaring that certain offences will be within the jurisdiction of the Court (just as "industrial offences" are heard before the Industrial Court). The Court will deal with offences in a summary way and, accordingly, a provision will ensure that the Court cannot impose a penalty for an indictable offence beyond the limits set for summary offences under the *Summary Procedure Act 1921.*

PART 3
COMPOSITION OF THE COURT
DIVISION 1— MEMBERS OF THE COURT

Clause 8: Judges of the Court

A Judge of the District Court is to be specifically appointed to the new Court as its presiding member. Other Judges of the District Court may be appointed as judges of the new Court.

Clause 9: Magistrates

Any magistrate holding office under the *Magistrates Act 1985* may be appointed as a member of the Court.

Clause 10: Commissioners

This clause provides for the appointment of commissioners of the Court. A person will need to have knowledge of, and experience in, a presented field of expertise to be eligible for appointment to the Court.

Clause 11: Masters

Any Master holding office under the *District Court Act 1991* may be appointed as a Master of the Court.

Clause 12: Saving provision

This clause protects acts and proceedings of the Court in the event of a defect in the appointment of a member of the Court.

Clause 13: Personal or pecuniary interest to disqualify member of Court

A member of the Court who has an interest in a matter before the Court will be disqualified from participating in the hearing of the matter.

DIVISION 2—COURTS ADMINISTRATIVE AND ANCILLARY STAFF

Clause 14: Courts administrative and ancillary staff

The Court will have various administrative and ancillary staff, including a Registrar and an Assistant Registrar. A person will be able to hold office as a member of the Court's staff and perform other duties in the Public Service of the State.

PART 4
CONSTITUTION OF THE COURT

Clause 15: Arrangement of business of the Court

This clause sets out the manner in which the business of the Court will be arranged. A Full Bench will be constituted, if appropriate, in cases of special or significant importance. Otherwise, the Court will be constituted of a Judge, magistrate or commissioner, or of two or more commissioners. Masters and registrars will be able to act in certain limited circumstances. The operation of the provision will be subject to any relevant Act, the rules of the Court, and, as appropriate, the determinations of the Presiding Member. Subclause (14) requires that the Court be constituted of a Judge or magistrate where the Court is to try a charge for an offence.

Clause 16: Conferences

This clause is "modelled" on section 27 of the *Planning Act 1982.* It is envisaged that a relevant Act, or the rules, will provide that certain proceedings before the Court must at first instance be referred to a conference presided over by a member of the Court appointed to assist the parties to explore any possible means to settle the proceedings by agreement. A conference will normally be held in private. Anything said or done in the course of the conference is inadmissible in subsequent proceedings before the Court (except by the consent of all parties).

PART 5
PARTIES AND SITTINGS

Clause 17: Parties

The Court will be able to join other persons as parties to proceedings. The Court will be able to dismiss frivolous or vexatious proceedings or proceedings instituted for the purpose of delay or obstruction. A Minister may intervene in proceedings that involve a question of public importance. A party will be able to appear personally or by representative.

Clause 18: Time and place of sittings

The Court will be able to sit at any time and at any place. Registries will be established at places determined by the Governor.

Clause 19: Adjournment from time to time and place to place

The Court will be able to adjourn or transfer proceedings at its discretion.

Clause 20: Hearing in public

This clause provides that, as a general rule, proceedings before the Court must be heard in public. Certain exceptions will apply.

PART 6
EXERCISE OF JURISDICTION
DIVISION I—PRINCIPLES GOVERNING HEARINGS

Clause 21: Principles governing hearings

The Court is to conduct its procedures with the minimum of formality and will not be bound by the rules of evidence. The Court will be able to require a decision-maker under a relevant Act to produce documents and other materials to the Court for the purposes of any proceedings.

DIVISION 2— EVIDENTIARY POWERS

Clause 22: Power to require attendance of witnesses and production of evidentiary material

This clause relates to the power of the Court to summons persons to appear before the Court, or to produce evidentiary material. (The provision is similar to section 25 of the *District Court Act 1991.)*

Clause 23: Power of Court to compel the giving of evidence

It will be a contempt of the Court to refuse to make an appropriate oath or affirmation before the Court, or to give or produce evidence. (The provision is similar to section 26 of the *District Court Act 1991.)*

Clause 24: Entry and inspection of property

A member of the Court will be empowered to inspect, or to authorise an officer of the Court, to inspect, any land or building. (The provision is similar to section 27 of the *District Court Act 1991.)*

Clause 25: Production of persons held in custody

This will empower the Court to require the production of a person held in custody. (The provision is similar to section 28 of the *District Court Act 1991.)*

Clause 26: Issue of evidentiary summonses

This clause will enable a member of the Court, a registrar, or any other authorised officer to issue a summons or notice. (The provision is similar to section 29 of the *District Court Act 1991.)*

Clause 27: Expert reports

This clause empowers the Court to obtain an expert report on any question of a technical nature. (The provision is similar to section 34 of the *District Court Act 1991.)*

DIVISION 3—POWER OF COURT ON DETERMINATION OF MATTER

Clause 28: Powers of Court on determination of the matter

This clause sets out the powers of the Court on hearing any proceedings (not being criminal proceedings) under a relevant Act.

Clause 29: Costs

The Court will be able to order costs in certain circumstances (in a manner similar to section 31 of the *Planning Act 1982).* Various orders will be available to the Court in cases involving delays caused by the neglect or incompetence of a representative (in a manner similar to section 42 of the *District Court Act 1991).*

PART 7
APPEALS AND RESERVATION OF QUESTIONS OF LAW

Clause 30: Right of appeal

A right of appeal will lie to the Supreme Court. An appeal will lie as of right on a question of law and by leave on a question of fact (unless otherwise provided by a relevant Act).

Clause 31: Reservation of questions of law

A Judge will be able to reserve questions of law for determination by the Full Court of the Supreme Court.

Clause 32: Operation of decision or order may be suspended

The Court will be able to suspend the operation of a decision or order to which an appeal relates.

PART 8
MISCELLANEOUS

Clause 33: General powers of the Court and the Supreme Court to cure irregularities

The Court, and the Supreme Court or an appeal from a decision of the Court, will be able to excuse a failure to comply with a requirement under an Act or law if it is not unjust or inequitable to do so. (The provision is similar to section 35 of the *Planning Act 1982.)*

Clause 34: Interim injunctions, etc.

The Court will be entitled to grant an interim injunction to preserve the subject matter of proceedings before the Court until their final determination. (The provision is similar to section 30 of the *District Court Act 1991.)*

Clause 35: Interlocutory orders

The Court will be empowered to make interlocutory orders.

Clause 36: Immunities

Various immunities are granted to members and officers of the Court under this clause. (The provision is similar to section 46 of the *District Courts Act 1991.)*

Clause 37: Contempt in face of Court

It will be a contempt of the Court to interrupt proceedings, to insult a member or officer of the Court, or to refuse to obey a lawful direction of the Court.

Clause 38: Punishment of contempts

The Court will be able to impose a fine, or order imprisonment, in a case of contempt.

Clause 39: Power to require security for costs, etc.

The Court will be empowered to require that a party commencing proceedings in the Court give security for the payment of costs or other monetary amounts that may be awarded.

Clause 40: Interest payable on money order to be paid

Interest will be payable in relation to an order for the payment of money.

Clause 41: Miscellaneous provisions relating to legal process

Any process of the Court may be issued or executed on any day.

Clause 42: Proof of decisions and orders of the Court

A document purporting to be a copy of a decision or order of the Court and to be certified by a registrar will be accepted as a true copy of the decision or order, unless proved to the contrary.

Clause 43: Enforcement of judgments and orders

A judgement or order of the Court will be registrable in the District Court and enforceable as a judgement or order of the District Court.

Clause 44: Legal costs

The Governor will, by regulation, be able to prescribe scales of costs which legal practitioners will not be able to exceed when charging for representation.

Clause 45: Court fees

The Governor will, by regulation, be able to set court fees.

Clause 46: Accessibility of evidence

This clause relates to the availability of evidence.

Clause 47: Rules

The Court will be able to make rules to regulate the practice and procedure of the court (subject to the provisions of the regulations and any relevant Act).

Clause 48: Regulations

The Governor will be able to make regulations for the purposes of the Act.

SCHEDULE

Commissioners

The schedule provides for the appointment of commissioners. A commissioner will be appointed on a full-time or part-time basis. The Governor will be able, if appropriate, to appoint a part-time commissioner for a term not exceeding five years. Other commissioners will be appointed on a permanent basis.

Mr OSWALD secured the adjournment of the debate.

STATUTES REPEAL AND AMENDMENT (DEVELOPMENT) BILL

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations) obtained leave and introduced a Bill for an Act to make certain repeals and amendments to legislation to provide for planning and development within the State; to enact transitional provisions; and for other purposes. Read a first time.

The Hon. G.J. CRAFTER: I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill complements the *Development Bill.*

Planning for South Australia has over the years become confused with and subordinate to the regulation and control of private development. The separation of the *Planning Act* from other regulatory areas has tended to reinforce this trend at both State and local levels. Too much emphasis has been placed on regulatory control with the result that approximately 100 Acts of Parliament control some aspect of development in this State.

The difficulties caused by such a quantity of legislation are enormous. While many of these Acts refer only to a single topic and are rarely applied, even the most common of them have different procedures, are applied at different stages of a development proposal, are administered by different State and local government agencies and have different dispute and enforcement provisions for different Courts, tribunals and referees. As an everyday example, the construction, establishment and commencement of a delicatessen requires 18 different licences and approvals.

The *Development Bill* does not seek to rationalise and integrate all of those Acts. Its purpose is to establish an integrated system of planning and development control based on a long term vision for South Australia, set out in a Planning Strategy. As a major initial step the *Development Bill* provisions replace those presently in *the Building Act 1971,* the *City of Adelaide Development Control Act 1976* and the *Planning Act 1982* and the development control provisions of the *Coast Protection Act, Real Property Act* and *Strata Titles Act.* Furthermore, a framework has been provided which can gradually incorporate into one system all the justifiable controls on development that now exist in other legislation.

Accordingly, the *Statutes Repeal and Amendment (Development) Bill* repeals in their entirety the *Building Act, City of Adelaide Development Control Act* and *Planning Act* and removes the development control provisions of the *Coast Protection Act, Real Property Act* and *Strata Titles Act.*

The Bill also includes an amendment to the *Local Government Act* which precludes a council from undertaking a project outside the area of the council if the primary reason for proposing the project is to raise revenue for the council. This amendment has been made following numerous submissions from the development industry and will establish a better link with Development Plan policies. Another amendment seeks to ensure that councils have sufficient flexibility to make appropriate delegations under relevant legislation provisions.

Section 666b of the *Local Government Act* is amended by this Bill to allow councils to direct owners of unsightly land to rectify this situation, which extends the application of the relevant provision in accordance with the amenity issues by that section.

At present the *Planning Act* contains a requirement that, where an application is made under the *Mining Act* for the granting of a mining production tenement, the appropriate authority must publish in the *Gazette* and in a newspaper circulating throughout the State a notice of the application, inviting members of the public to make written submissions in relation to the granting of the mining production tenement. Such submissions must be made within 28 days of the date of the notice. This requirement has not been carried over into the *Development Bill.* Furthermore, the *Statutes Repeal and Amendment (Development) Bill* deletes a requirement for a similar 28 day period for public submissions presently contained in the *Mining Act.* In the place of these two notice periods this Bill amends the *Mining Act* to require the Minister responsible for the Act not to grant a mining lease or miscellaneous purposes lease unless he or she has caused to be published, in a newspaper circulating generally throughout the State, a notice inviting members of the public to make written submissions in relation to the application within 14 days of the publication of the notice. The Minister must also, within 14 days after receiving an application for a mining lease or miscellaneous purposes lease send a copy of the application to the owner of the land to which the application relates and the owner of any abutting land. This new notification procedure will make land owners more aware of mining applications and will streamline

the approval process for mining applications, bringing it into line with the notification procedures for development applications under the *Development Bill.*

The *National Parks and Wildlife Act* is amended in order to require the Minister responsible for that Act to consult with the Development Policy Advisory Committee (established by the *Development Bill)* during the preparation of a plan of management. When preparing a plan of management, the Minister must have regard to the Planning Strategy and any relevant Development Plan. This will provide a necessary link between the *National Parks and Wildlife Act* and the *Development Act.*

The issue of fencing of swimming pools on private land is an important one. The *Statutes Repeal and Amendment (Development) Bill* provides that the *Swimming Pools (Safety) Act* does not apply to any swimming pool approved under the *Development Act.* This will ensure that there will be only one set of legislative provisions for the construction of new pools. The more stringent provisions relating to the fencing of new pools contained in the Building Code of Australia, which will be called up under the Development Regulations, will apply to the construction of all new pools. Ongoing maintenance of swimming pool fences around these new pools will be controlled by the *Development Bill* provisions. Existing pools will continue to be controlled by the *Swimming Pools (Safety) Act.* The provisions of this Act could be strengthened later this year if this is deemed to be necessary after consideration of the White Paper on this issue being prepared by the Local Government Relations Unit.

The Bill makes provision for extensive transitional provisions so that a smooth transfer between the repealed Acts and the new *Development Act c*an take place. These transitional provisions relate to such matters as the continuation of existing statutory policies contained in the Development Plan prepared pursuant to the *Planning Act;* Environmental Impact Statements officially recognised or required but not officially recognised under that Act; and applications, appeals or other proceedings commenced under any of the repealed Acts or parts of Acts. Such applications and appeals may be continued and completed as if the *Development Bill* and this Bill had not been enacted, except that a reference to the Planning Appeal Tribunal or City of Adelaide Appeal Tribunal or to a Building Referee will be taken as a reference to the Environment, Resources and Development Court.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the commencement of the measure.

Clause 3: Interpretation

This clause defines **"the relevant day"** for the purposes of the Act.

Clause 4: Repeal of Building Act 1971

This clause provides for the repeal of the *Building Act 1971.*

Clause 5: Repeal of City of Adelaide Development Control Act 1976

This clause provides for the repeal of the *City of Adelaide Development Control Act 1976.*

Clause 6: Repeal of Planning Act 1982

This clause provides for the repeal of the *Planning Act 1982.*

Clause 7: Amendment of the Coast

This clause repeals the development control provisions of the *Coast Protection Act 1972.*

Clause 8: Amendment of the Local Government Act 1934

This clause makes various amendments to the *Local Government Act 1934.* The delegation powers of a council have been revised to allow delegations to committees that do not simply consist of members, and to ensure that other delegation powers under other Acts can operate. The amendment to section 80 ensures that an exemption under the Act that may be given to an officer in a conflict of interest situation cannot extend to any matter that arises under the *Development Act 1993.* Another amendment will provide that a council cannot undertake a project outside the area of a council if the primary reason for proposing the project is to raise revenue for the council. Another amendment extends the operation of section 666b of the Act to unsightly land (not just land made unsightly by a structure or object on land).

Clause 9: Amendment of the Mining Act 1971

The amendments affected by this clause are intended to complement those provisions of the *Development Act* 1993 that relate to the assessment of proposed mining operations. In particular, the notice provisions are to be "streamlined" in relation to applications for mining leases and miscellaneous purposes licences.

Clause 10: Amendment of the National Parks and Wildlife Act 1972

This clause amends the *National Parks and Wildlife Act 1972* so that the Minister under that Act must, in the preparation of a plan of management, consult with the Advisory Committee under the *Development Act 1993,* and have regard to the Planning Strategy and the provisions of any relevant Development Plan.

Clause 11: Amendment of the Real Property Act 1886

This clause makes various amendments to Part XXIAB of the *Real Property Act 1886* that are consequential on the inclusion of land division provisions under the *Development Act 1993.*

Clause 12: Amendment of the Strata Titles Act 1988

This clause makes various amendments to the *Strata Titles Act 1988* that are consequential on the inclusion of land division provisions (including by strata plan) under the *Development Act 1993.*

Clause 13: Amendment of the Swimming Pools (Safety) Act 1972

This clause provides that the Act will not apply to swimming pools approved under the *Development Act 1993.*

Clause 14: Transitional provision—General

This clause ensures that any reference to the *Planning Act 1982* and Part XIXAB of the *Real Property Act 1886* will be taken to include a reference to the *Development Act 1993.* These provisions will not derogate from the *Acts Interpretation Act 1915* and, in particular, this measure and the *Development Act 1993* will be read together for the purposes of the application of the Acts *Interpretation Act 1915.*

Clause 15: Transitional provision—Development Plans

This clause provides for the conversion of the Development Plan, and Supplementary Development Plans, to Development Plans under the new legislation. In addition, the term "permitted" is to be taken to mean "complying" under the new Act, and the term "prohibited" is to be taken to mean "non-complying".

Clause 16: Transitional provision—Division of land

This clause facilitates the application of the new provisions relating to the division of land. The general effect is to allow existing certificates and procedures to continue to have effect after the appointed day.

Clause 17: Transitional provision—Environmental impact statements

An environmental impact statement officially recognised under the *Planning Act 1982* will be recognised under the new Act.

Clause 18: Transitional provision—Declarations

This clause relates to declarations of the Governor under section 50 of the *Planning Act 1982.*

Clause 19: Transitional provision—Agreements

This clause provides for the continuation of Land Management Agreements.

Clause 20: Transitional provision—Proclamation of open space

This clause provides for the continued operation of a Governor's proclamation as to open space.

Clause 21: Transitional provision—Development schemes

This clause provides for the continued operation of schemes under Part VIII of the *Planning Act 1982.*

Clause 22: Transitional provision—Approved qualifications

An approval given to a person to act as a professional adviser under the *Planning Act 1982* will continue for the purposes of the *Development Act* 1993.

Clause 23: Existing procedures, etc.

This clause preserves existing procedures, except that proceedings before the Tribunal will continue before the new Court.

Clause 24: Administrative arrangements

This clause transfers administrative arrangements, existing powers, and other functions and duties of the Planning Commissions to the new Commission under the *Development Act 1993.*

Clause 25: Lapse of approvals under the Planning and Development Act

This clause relates to approvals under the 1966 Act, which will lapse after 12 months from the commencement of this measure unless exempted by this provision.

Clause 26: Transitional provision—Certificates of classification

This clause "converts" certificates of classification under the *Building Act 1971* to certificates of occupancy.

Clause 27: Transitional provision—Buildings specifically

This clause makes specific provision with respect to buildings and building work.

Clause 28: Transitional provision—Existing appointments

This clause preserves the existing appointments of full-time commissioners under the *Planning Act 1982.*

Clause 29: Application of an amendment

This clause ensures that the amendments affected by section 196 of the *Local Government Act 1934* do not affect projects which have already been approved under that Act or the *Planning Act* 1982.

Mr OSWALD secured the adjournment of the debate.

SOUTH AUSTRALIAN TOURISM COMMISSION BILL

The Hon. M.D. RANN (Minister of Tourism) obtained leave and introduced a Bill for an Act to promote tourism and tourism industry in the State; to establish the South Australian Tourism Commission; and for other purposes. 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.

The SPEAKER: Is leave granted?

The Hon. Jennifer Cashmore: No.

The SPEAKER: Leave is denied. The Minister will read the second reading explanation.

The Hon. M.D. RANN: Thank you, Sir. I am delighted that the honourable member wants to hear my dulcet tones. The tourism industry in South Australia is poised to play a vital role in the growth of South Australia's economy for the remainder of this century and into the next. Tourism directly generates over $1.8 billion income and over 32,000 jobs in South Australia. With a co-operative effort from government and industry this could grow to exceed $2 billion per year by the year 2000.

The establishment of the South Australian Tourism Commission will enshrine in legislation a partnership between industry and government in the development and promotion of our state to travellers and tourists from throughout Australia and the world.

The A.D. Little consultancy report agreed that tourism is an export industry with significant potential to increase its contribution to our economy. It commended the Government's current strategy and argued that a radical new approach was not needed and would not be effective. However, it highlighted a number of challenges that must be dealt with through a hard-edged and cooperative effort. The establishment of the commission is a key step in ensuring government and industry are united in taking up these challenges.

Whilst the Government has a vital role in co-ordinating and assisting tourism industry development, the private sector must ultimately drive the marketing and operation of our tourist attractions and facilities. The South Australian Tourism Commission Bill 1993 establishes an industry-driven commission as the primary agency for the marketing of tourist attractions and facilities in this State and puts the direction, administration and operation of the new commission clearly in the hands of those in the industry.

The South Australian Tourism Commission will be governed by a board of directors, who will be prominent men and women from a business environment with experience, skills and a vision for the industry, and a clear understanding of its importance to the South Australian economy.

The Government intends to appoint an interim board pending passage of this Bill to allow the transition from Government department to a commission to occur as smoothly as possible, and to ensure a fresh start for the new commission on 1 July.

The Government acknowledges the invaluable contribution from members of the Tourism Advisory Board, which was expanded last year to provide direct advice from industry during the planning stages of the commission. Their input has directly influenced the framework of this commission, including the legislation before the House.

Tourism South Australia will be abolished following the establishment of the commission. The commission will pick up the key marketing functions of Tourism South Australia, whilst other functions will be transferred to the Office of Business and Regional Development.

Specifically, the planning and development of tourism infrastructure, including investment attraction, administration of the $5 million tourism infrastructure fund, and research will remain a direct responsibility of the Minister of Tourism, enabling the commission to have a sharper focus on implementing a State-wide marketing plan.

However, the commission will have a key role in gathering feedback from tourists and operators and using this information to identify opportunities for the development of tourism facilities and attractions. It will contribute its expertise and knowledge to the preparation and implementation of economic development plans for tourism in this State.

One of the functions of the commission will be to assist regional bodies engaged in tourism promotion. The State's tourism industry relies heavily on the quality of experience offered to travellers outside the Adelaide metropolitan area, and the commission itself will be most effective if it listens to the constructive ideas of our regional operators and tourist associations.

At the same time, industry and Government must together assist regional tourist bodies to be efficient, outward looking and aware of their role in their regional economy. Close links will be encouraged between regional economic development and regional tourism associations, with regional bodies taking responsibility to develop these relationships in accordance with local needs.

There are growing opportunities for tourism in South Australia arising from our geographic and cultural assets and cosmopolitan lifestyle. We can offer the authentic experience and quality of service increasingly demanded by today's tourists. Through the establishment of the South Australian Tourism Commission, industry and Government can continue to work together in ensuring that increasing numbers of visitors to this State enjoy the essential character and culture of South Australia, and contribute to the creation of more jobs and a healthy State economy.

In this process again I would like to particularly thank the Tourism Advisory Board, which was expanded to involve some of the key players in this State in terms of drafting this legislation, virtually all from the private sector. I would also like to commend several officers: Andrea Martin from my staff and Helen Hardwick from Premier and Cabinet. I seek leave to insert the remainder of the second reading explanation in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title—This clause is formal.

Clause 2: Commencement—This clause provides for the measure to be brought into operation by proclamation.

Clause 3: Object—Clause 3 states that the object of the measure is to establish a statutory corporation to assist in securing economic and social benefits for South Australia through the promotion and development of South Australia's tourist industry.

Clause 4 is the interpretation clause.

Clause 5 establishes the South Australian Tourism Commission as a body corporate with perpetual succession and a common seal and the capacity to sue and be sued.

Clause 6 establishes a board of directors as the governing body of the commission and provides that anything done by the board is binding on the commission.

Clause 7 makes the board subject to the control of the Minister, but provides that a ministerial direction cannot be given to suppress information or recommendations from a report by the board. It also provides that the board must enter into a yearly performance agreement with the Minister and that the performance agreement and any Ministerial direction given during the financial year must be published in the report of the board for that financial year.

Clause 8 establishes the office of the Chief Executive Officer of the commission and provides that the Chief Executive Officer is to be appointed by the Governor on the recommendation of the Minister and the board.

Clause 9 determines the composition of the board and provides that the Governor is to appoint one director to chair the meetings of the board.

Clause 10 provides that, with the exception of the Chief Executive Officer, directors are to be appointed for not more than three years but are eligible for reappointment. It also sets out the conditions upon which the Governor may remove a director from office and the circumstances in which the office of a director will become vacant.

Clause 11 provides that an act of the board is not invalid by reason of a vacancy in the board's membership or a defect in the appointment of a director.

Clause 12 provides that the remuneration of a director is determined by the Governor.

Clause 13 deals with the proceedings of the board and provides, amongst other things, for a quorum of the board, for the person presiding at a board meeting to have a casting vote, and for meetings by telephone or video conference and round-robin resolutions.

Clause 14 requires directors to disclose any pecuniary or personal interest in any matter under consideration by the board. It provides that it is a defence if the defendant can prove that they were unaware of their interest in the matter. Any disclosure must be recorded in the minutes and reported to the Minister and if, in the Minister's opinion a particular interest or office is of such significance that the holding of the interest or office is not consistent with the proper discharge of the duties of a director, the Minister may direct the director either to divest himself or herself of the interest or office or to resign from the board.

Clause 15 provides that a director must always act honestly and exercise a reasonable degree of care and diligence. If a director is culpably negligent, the director is guilty of an offence. A director or former director must not make improper use of his or her official position or of information acquired through his or her official position to gain a personal advantage or to cause detriment to the Commission or the State.

Clause 16 provides that the common seal of the commission must not be affixed to a document except in pursuance of a decision of the board, and must be attested by the signatures of two directors. It also provides that the board may authorise a person to execute documents on behalf of the Commission or for two or more persons to execute documents jointly on behalf of the Commission. Under the clause, a document is duly executed if the common seal of the Commission is affixed or if the document is signed on behalf of the commission in accordance with authority conferred under the clause.

Clause 17 confers on the commission power to delegate its functions or powers. Any such delegation may be subject to

conditions and limitations and may be revoked at will. The clause also provides that a delegate may not act in any matter in which the delegate has a pecuniary or personal interest.

Clause 18 provides that a director incurs no civil liability for an honest act or omission but that this immunity does not extend to culpable negligence. Civil liability that would normally attach to a director attaches to the Crown.

Clause 19 states that the functions of the Commission are to—

- promote South Australia as a tourist destination
- identify tourism opportunities for the State
- contribute to economic development plans relating to the tourism industry
- prepare plans for tourism promotion
- encourage industry participation in and financial support for co-operative tourism marketing programs
- assist bodies engaged in tourism promotion
- ensure appropriate tourism and travel information and booking services
- provide advice to operators for the improvement of tourism services and products
- encourage government, industry and community action to improve visitors' experiences of the State
- provide reports to the Minister on tourism
- carry out any other functions assigned by the Minister that are consistent with the objects of the measure.

The commission must carry out its functions in consultation with the Minister and in co-operation with other Government agencies, industry, local government and community bodies and must ensure that its plans give effect to the Government's economic, social, employment and environmental objectives.

Clause 20 provides that the commission has the powers necessary for the performance of its functions. This allows it to, for example, enter into contracts, employ staff, engage consultants and establish committees and assign them delegated powers.

Clause 21 provides that the commission may establish and operate bank accounts.

Clause 22 requires the commission to prepare budgets for the Minister and provides that the commission must not expend money unless it has been provided for in a budget approved by the Minister.

Clause 23 provides that the commission must keep proper accounting records and have annual statements of account prepared for each financial year. The Auditor-General may audit the accounts of the commission at any time and must audit the annual statements.

Clause 24 provides that on or before 30 September in each year the Commission must forward a report to the Minister containing the audited statements of account and a report on the state of tourism, the commission's plans and their execution and the extent to which the targets set in the Commission's performance agreement for the preceding financial year have been met. Twelve sitting days after receiving a report the Minister must have the report laid before both Houses of Parliament.

Clause 25 allows the commission to conduct its operations under a name prescribed by regulation. It gives the Commission a proprietary interest in the name 'South Australian Tourism Commission' and in any other name prescribed by regulation. A person who uses a name in which the Commission has a proprietary interest is guilty of an offence.

Clause 26 provides that the Governor may make regulations for the purposes of the measure.

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

LEGAL PRACTITIONERS (REFORM) AMENDMENT BILL

Second reading.

The Hon. M.K. MAYES (Minister of Environment and Land Management): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill seeks to implement a number of the recommendations of the White Paper on the Legal Profession and to make various miscellaneous amendments to the *Legal Practitioners Act 1981*.

There has been considerable debate in the community over the last decade in relation to the high cost of justice and the consequent lack of access to legal services. The matter has been the subject of a number of inquiries, both at a State and Federal level.

The Senate Standing Committee on Legal and Constitutional Affairs has produced a number of discussion papers on the topic and the Trade Practices Commission is examining restrictive practices within the profession. The Victorian Law Reform Commission (before its abolition) reported on the matter and the New South Wales Law Society has held a "Summit on Accessible Justice" to discuss access to justice.

The Government has always been committed to increasing community access to justice. The issue was first examined in the Green Paper on the Legal Profession which was released for public discussion in October 1990. A number of considered submissions were received in response to the Green Paper in particular from the Law Society of South Australia and the South Australian Bar Association Inc. The Government considered the responses and then released the White Paper which indicated a policy position on many of the matters raised in the Green Paper.

The Government recognises that reform of the legal profession will not on its own resolve all the problems of the cost of justice. It is aware, however, that it is important to ensure that the structure of the profession does not inhibit obtaining legal representation at the lowest possible cost. It is necessary to make sure that as many anti-competitive and restrictive practices of the profession as possible are removed. The Law Society in South Australia has already acted in a number of areas.

In 1985, the "two-counsel" rule, that is the rule that a Queen's Counsel must always be briefed to appear in company with a junior counsel, was removed from the Professional Conduct Rules of the legal profession by the Law Society. Similarly, the "two-thirds" rule, whereby a junior barrister briefed with a Queen's Counsel is automatically entitled to two thirds of the fee paid to the Queen's Counsel was also removed.

The Government has made a number of moves to increase community access to justice, including:

- the Courts package — these Acts establish an appropriate legislative framework within which the judiciary can most effectively deliver justice,

including expansion of the jurisdiction of the small claims court and expanding the range of remedies available to Magistrates;

- support with the Law Society for a Litigation Assistance Fund - a contingency legal aid scheme which will open up the legal system to certain litigants;
- support for community legal centres;
- alternative dispute resolution — new amendments will ensure the confidentiality of settlement negotiations;
- *Crown Proceedings Act 1992* — this puts the Crown in the same position as an ordinary citizen.

The Law Society of South Australia has been supportive of many of the recommendations of the White Paper and is alert to the need to modernise many of its structures. The Law Society has recently changed its Professional Conduct Rules to allow for increased advertising by practitioners by abolishing the prohibitions on advertising. The Government welcomes these changes as it is clear that the more practitioners advertise skills and fees, the more information is available to the public. The Professional Conduct Rules have also been amended to incorporate a new rule requiring a practitioner to communicate effectively and promptly with his or her clients and provide written advice as to the estimated costs. The practitioner is also required to provide a review as to the costs and disbursements, on request by the client.

The Rules relating to Queen's Counsel have also been amended to remove the assumption, unless the contrary is stated, that junior counsel will be briefed with a QC and that a QC should not charge fees below an accepted minimum. The Law Society has also agreed to include a new Professional Conduct Rule which explicitly states that certain restrictive practices, which apply in the eastern States, do not operate in South Australia. These restrictive practices include having a barrister and solicitor present at all conferences and hearings, not allowing a barrister to attend at the premises of a solicitor, not allowing barristers to appear with advocates who are not members of the Bar and requiring barristers to use approved clerks and chambers. This will have the effect of avoiding those traditional practices which unnecessarily drive up the cost of legal services.

The White Paper recommended, among other things, that Queen's Counsel should be able to remain in firms, all restrictive practices of the separate Bar should be prohibited and that clients should be provided with increased information in relation to costs and to the progress of their matter. The White Paper also recommended an amendment to section 6 of the *Legal Practitioners Act 1981,* which currently provides that the Supreme Court may, on the application of the Law Society, divide legal practitioners into barristers and solicitors. The Bill replaces the existing section with a positive statement as to the fused nature of the profession in South Australia.

This Bill gives effect to many of the recommendations in the White Paper that required legislative change.

The Bill includes an amendment to section 6 of the Act which replaces the current wording of the section with a positive statement as to the fusion of the legal profession in South Australia. The amendment, however, allows for The voluntary establishment of a separate Bar. The amendment to this section also will allow a Queen's Counsel to choose how he or she wishes to practice. A Queen's Counsel will be able to remain in a firm of solicitors if he or she so wishes.

The White Paper also examined the current system of challenging of bills of costs (i.e. taxation) and recommended a new system of review of legal bills which would provide a quick, cheap resolution to a dispute over costs. After examination of the issues the White Paper recommended that the Legal Practitioners Complaints Committee be expanded to incorporate a cost review function.

The Bill provides that, if a complaint of overcharging is made against a legal practitioner, the Committee must, unless it is of the view that the complaint is frivolous or vexatious, investigate the complaint. The Committee is empowered to request details from the legal practitioner in its consideration of the matter and may recommend a reduction in the bill of legal costs or refund at the end of the investigation. The existing system of taxation is preserved should the client wish to pursue that avenue.

The White Paper raised the issue of contingency fees and recommended the removal of all common law restrictions on champertous contracts. The White Paper advocated a limited system of contingency fees. A significant measure of support for this recommendation has been received from the Law Society and the profession. Accordingly, the Bill amends section 42 of the Act allowing for an agreement between client and practitioner for payment of a contingency fee. As yet negotiations between the Government and the Law Society are still proceeding as to the percentage of the "uplift" which a practitioner will be able to charge in the event of a successful outcome.

The Law Society has proposed an uplift of 100% of the fees which the practitioner would ordinarily charge and the Government is considering this matter at present. It is to be hoped that agreement will be reached in the near future on this point. If agreement cannot be reached, the Bill provides for the conditions of contingency fees to be set by regulation.

The Government is concerned not to introduce a system of contingency fees such as exists in the U.S.A. and which it is alleged has contributed to an excessively litigious society with consequent cost to industry and the public. The Government therefore rejects any contingency fees system based on the lawyer receiving an agreed proportion of the damages awarded.

The Bill also contains amendments to the provisions of the Act to impose annual reporting requirements for the Complaints Committee and the Disciplinary Tribunal. The annual reports must detail the nature of the matters subject to investigation and information as to case management and the number of incomplete matters outstanding at the end of the financial year. Provision is also made for the Attorney-General to require further information. Such a provision is also included in the *Courts Administration Bill 1992* and the *Public Corporations Bill 1992.*

These provisions reflect the new spirit of Ministerial accountability, openness and co-operation implicit in recent legislation such as the Freedom of Information Act. The new regime better allows the public interest to

be served. Such annual reports must be laid before both Houses of Parliament.

An amendment has also been made to require the Tribunal to hear matters in public or, if a matter is heard in private, to ensure summaries are available for public inspection.

While the Law Society has amended its Professional Conduct Rules to ensure that restrictive practices do not apply, it is the Bar Association which must consider the restrictive rule that a barrister must only accept instructions from a solicitor.

The Bar Association is considering amending its Rules to allow membership to those who take instructions direct but only from certain professional groups. The Government would prefer to see the Bar Association permitting its members to take instructions direct from the lay public in certain circumstances, e.g. the provision of advice for which the client had all the necessary papers but referral of the matter to a solicitor when it became necessary to deposit money in a trust fund or issue proceedings.

The Government welcomes the Bar Association's consideration of this matter, a decision on which will be made during debate on this Bill. While the Government welcomes the relaxation of this rule, it would like to see direct instruction of barristers from members of the public subject to the above conditions become the rule in the future. The Government would ideally like to see a situation in which practitioners could practice according to their choice in any of the following ways:

(a) as a solicitor only;

(b) as a solicitor and barrister;

(c) as a barrister prepared to accept instructions for advice in certain circumstances direct from the public or other defined professionals on behalf of other clients;

(d) as a barrister who was not prepared to be so instructed.

The Law Society is currently examining the possibility of a separate category of professional indemnity insurance for barristers who wish to accept instructions directly from clients in the limited circumstances outlined above. Even if the Bar Association does not change its rules to allow membership to such barristers, such a move by the Law Society will allow a barrister to accept instructions direct and avoid the insurance premiums normally required of a solicitor.

The White Paper recommended that an amendment be made to the Act to make a barrister liable for negligence in the performance of his or her professional duties.

The controversial issue of barrister's immunity from suit was considered by the High Court in *Giannarelli v Wraith* in 1988. The Court upheld the common law immunity of a barrister in respect of work done in court or out of court which leads to a decision affecting the conduct of the case on the following basis:

(a) the public has an interest in the advocate's overriding duty to the Court to exercise an independent judgement in the case so that his role transcends that of mere agent for his client;

(b) decisions made by a court should not be exposed to collateral attack by negligent actions against advocates, such that finality of litigation would be prejudiced and public confidence in the administration of justice (especially criminal justice) diminished.

The argument has also been put, in response to the White Paper recommendation, that a South Australian barrister would be open to greater liability than an interstate barrister. Further, there is a concern that removal of the immunity will lead to a lengthening of the litigious process and a consequent rise in the cost of legal services. The Government has made it clear that it is committed to speedier and cheaper access to legal services and still supports the principle of removing the advocate's immunity. However, at present, the matter of advocates' immunity is under review both by the Trade Practices Commission and the Senate Cost of Justice Inquiry. In light of the concerns expressed, the Government is prepared to review the matter when these bodies have reported. Accordingly this proposal is not included in the Bill at this time.

The other issue that has been canvassed recently is the appointment of Queen's Counsel. The South Australian Government supports the abolition of Queen's Counsel but believes that this should occur if possible on an Australia-wide basis. The situation is that a majority of Heads of Government recently supported the proposal. New South Wales and the Northern Territory definitely intend to proceed. However at the recent meeting of Attorneys-General it seems that most other States and Territories will not follow them. The position in Western Australia is unclear because of the election. Accordingly the Government reaffirms its view that the Queen's Counsel should no longer be appointed but will monitor developments around Australia before introducing legislation. If they were only abolished in South Australia then the local profession may be disadvantaged as Queen's Counsel from other States could practice here.

The South Australian legal profession has generally been receptive to proposals to increase access to the Courts. Before the current legal aid system was introduced in the 1970s, it ran a voluntary legal aid scheme for many decades. It has now made a number of changes to its professional conduct rules to remove unnecessarily restrictive practices. The fused profession in South Australia avoids most of the problems of restrictive practices which follow from the divided profession in the eastern States. With the changes in this Bill, those already made by the Law Society and those being contemplated by the Bar Association, South Australia will have in place a model for the structure of the legal profession around Australia. A model which provides the maximum flexibility for members of the legal profession to practice as they choose, for the public to have the maximum range of choice of legal practitioners to suit their needs and a competitive environment for legal services where the cost of legal representation is not forced up by the existence of professional rules of conduct which are anticompetitive.

Many of the miscellaneous provisions in the Bill have arisen as a result of a request by the Law Society of South Australia to amend the Act to reflect changes in the way the legal profession operates.

An example of this is the amendment to section 60 of the Act which disallows a claim on the Legal Practitioners Guarantee Fund for a fiduciary or professional default outside the State unless it occurs in the course of, or incidentally to, legal work arising from instructions given in this State or legal work substantially carried out in this State.

The Law Society has expressed concern at the current wording of section 60 as there are South Australian practitioners who are members of national partnerships or are part of firms who have casual ties with interstate practices. The Law Society has raised the possibility of a successful claim on the South Australian Guarantee Fund as a result of a default in another State which exceeds the professional indemnity insurance limit in that State. If a South Australian practitioner is a member of the interstate firm in which the default has occurred, there may be a liability on the practitioner in South Australia to meet some of the loss. The amendment seeks to address this concern.

There are several amendments to the Act which are necessary as a result of matters which have been considered by the Legal Practitioners Complaints Committee.

A practitioner who came before the Legal Practitioners Complaints Committee subsequently issued proceedings in the Supreme Court claiming damages for negligence. The Committee was joined to the action as one of the defendants. The current provisions of section 57 of the Act do not allow for the legal fees of members of the Committee to be paid in these circumstances. An ex-gratia payment was made to solicitors acting for the Committee to cover legal costs. Accordingly, an amendment has been made to the Act to allow for the legal costs of members of the Committee to be paid from the Guarantee Fund in relation to any action against the member arising from an honest act or omission in the performance or purported performance of a duty imposed by or under the Act. This amendment has been extended to also provide similar cover for any person exercising powers or functions under Division V of Part III of the Act.

An amendment has also been made to sections 37 and 73 of the Act to expand the duty of confidentiality imposed by both those sections to allow the divulging of certain information by the Legal Practitioners Complaints Committee to a member of the State, Territory or Commonwealth police force or to an authority with powers of criminal investigation to which a matter has been referred by the Attorney-General. The amendment also allows for information to be provided to a court. This amendment arose as a result of an investigation into the trust account of a certain practitioner. The Committee suspected that a criminal offence may have been committed and referred the matter to the Attorney-General pursuant to section 77(4). However, authorities investigating the matter were unable to seek further information from members of the Committee due to the existing confidentiality provisions in the Act.

There are a number of other "housekeeping" amendments in the Bill requested by the Law Society, including an amendment to section 35 regarding obtaining information for the purposes of an audit or examination and an amendment to section 53 to overcome some difficulties practitioners have experienced in calculating the amount of the deposit to be paid into the combined trust account.

The Bill also contains a clause which deals with the issue of practising certificates to legal practitioners. It will allow the Supreme Court to make rules for the issue of a practising certificate to be made subject to a condition obliging the admitted practitioner to undertake further study or training. The amendment is required because of new arrangements being made with respect to the Graduate Diploma in Legal Practice ("GDLP") course in 1994.

It is proposed that as from 1994 the University of South Australia will offer a shorter "certificate" course. The shorter course will enable more than one intake per year, with the result that it should be possible to ensure that all students who wish to obtain a practising certificate will be able to obtain the necessary practical training.

In order to maintain a satisfactory level of competency, the judges have resolved that it will be necessary to impose a requirement for post-admission practical training.

It is proposed, by rules of court, to require practitioners to undertake further practical legal training for some two years following admission to practice, with a proviso that if an admittee secures continuous full-time employment with a legal practitioner for one year, there would be no further obligation to undergo post-admission training after the expiration of that year.

The amendment also provides for a right of appeal from a ruling of the Board of Examiners to the Full Court of the Supreme Court.

This amendment has been requested and approved by the Chief Justice.

I commend the Bill to Honourable Members.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3: Substitution of s. 6

Presently section 6 of the principal Act empowers the Supreme Court, on application by the Law Society, to divide legal practitioners into two classes, barristers and solicitors, and to make such rules as the Court considers necessary to give effect to the division.

Section 6: Fusion of the legal profession

Proposed section 6 makes the following provisions:

Subsection (1) declares that it is Parliament's intention that the legal profession should continue to be a fused profession of barristers and solicitors.

Subsection (2) makes it clear that the voluntary establishment of a separate bar is not inconsistent with that intention, nor is it inconsistent with that intention for legal practitioners to voluntarily confine themselves to practice as solicitors.

Subsection (3) declares that an undertaking by a legal practitioner to practise solely as a barrister or solely as a solicitor is contrary to public policy and makes such an undertaking void. The provision does not apply in relation to an undertaking contained in or implied by a contract or professional engagement to provide legal services of a particular kind for or on behalf of another person.

Subsection (4) provides that despite the section, an association of legal practitioners may be lawfully constituted on the basis that membership is confined to legal practitioners who practise solely in a particular field of legal practice or in a particular way.

Subsection (5) provides that no contractual or other requirement may be lawfully imposed on a legal practitioner to join an association of legal practitioners.

Clause 4: Amendment of s. 14a—The Litigation Assistance Fund

Section 14a of the principal Act authorises and requires the Law Society to administer the Litigation Assistance Fund in accordance with the Deed of Trust and empowers the Society to enter into agreements with applicants for assistance from the Fund to require applicants to make payments for the credit of the Fund in the event of them being successful in their legal proceedings.

Proposed subsection (3) provides for communications between the Society (or its officers, employees and agents) and applicants for assistance and documents in the possession of the Society concerning the affairs of such applicants to be privileged from production or disclosure in the same way and to the same extent as if the communications or documents were communications between legal practitioner and client.

Clause 5: Insertion of s. 17a

This clause inserts new section 17a into the principal Act.

Section 17a: Conditions as to the training etc. to be imposed on issue of new practising certificate

Proposed subsection (1) provides that if the rules of the Supreme Court require, a practising certificate to be issued to a legal practitioner who has not previously held a practising certificate will be subject to conditions requiring the holder to undertake further training and obtain further experience and limiting the rights of practice of the holder until that further training and experience is completed or obtained.

Proposed subsection (2) empowers the Board of Examiners of the Supreme Court to exempt any practitioner or class of practitioners, on such terms as it thinks fit, from such conditions either wholly or in part.

Proposed subsection (3) empowers the Supreme Court, if the holder of a practising certificate issued subject to such conditions fails to satisfy the Board of Examiners of compliance with the conditions, to do either of the following:

- impose further conditions; or
- cancel or decline to renew the practising certificate and decline to issue a fresh practising certificate to the previous holder of the certificate until stipulated conditions have been complied with.

Proposed subsection (4) gives a person dissatisfied with a determination or decision of the Board of Examiners under the rules made for the purposes of the section, or the Society, a right to appeal against the determination or decision to the Supreme Court.

Proposed subsection (5) empowers the Supreme Court on such an appeal to confirm, vary or reverse the determination or decision and to make any consequential or ancillary order.

Clause 6: Amendment of s. 21—Entitlement to practise

Section 21 of the principal Act prohibits a person from practising the profession of the law or holding out as doing so unless the person is admitted as a barrister and solicitor of the Supreme Court and holds a current practising certificate.

Proposed subsection (4) provides that for the purposes of that prohibition, an employed legal practitioner who provides legal advice, or legal services of a kind mentioned in subsection (2), for or on behalf of his or her employer or clients of his or her employer practises the profession of the law.

Clause 7: Amendment of s. 35 — Obtaining information for purposes of audit or examination

Section 35 of the principal Act requires the manager or principal officer of a bank with which a legal practitioner has deposited any money to disclose, on request by an approved auditor or inspector, every account (including deposit slips, cancelled cheques and so on) to the auditor or inspector and to permit the auditor or inspector to make a copy of any such account.

Proposed subsection (3) requires the manager of a *financial institution* with which a legal practitioner or firm of legal practitioners has deposited or invested money, on being required to do so by an approved auditor or inspector employed to make an audit or examination, to—

- provide full details of the deposit or investment and of any dealings with the money deposited or invested; and
- provide copies of accounts and other documentary material in the institution's possession relevant to the deposit or investment.

The auditor or inspector must, if required by the manager of the financial institution, produce a copy of the instrument under which he or she is employed or appointed to make the audit or examination.

"Financial institution" is defined to mean a bank, building society, credit union, insurance company, trustee company, broker or other body or person that carries on a business involving the acceptance of money on deposit or by way of investment.

Clause 8: Amendment of s. 37—Confidentiality

Section 37 of the principal Act—

- prohibits an approved auditor or inspector employed or appointed to make an audit or examination of the accounts of a legal practitioner for the purposes of the Division from communicating any matter of which he or she is informed or which comes to his or her knowledge in the course of the audit or examination to any person except in the course of the report or as is otherwise permitted or required by or under the Act; and
- prohibits the Law Society or any of its officers or employees from divulging information contained in a report furnished to the Society under the Division except for the purpose of confidential consideration of the report by the Council of the Society or in the performance of a duty.

Proposed subsection (4) permits the Law Society, an officer or employee of the Society, or an auditor or inspector to divulge information arising out of an audit or inspection—

- to a member of the police force of a State or Territory, or of the Commonwealth, investigating a matter, referred for police investigation by the Attorney-General, to which the information is relevant; or
- to an authority, or a member or officer of an authority, vested by the law of the State or the Commonwealth with powers of criminal investigation, to which the Attorney-General has referred for investigation a matter to which the information is relevant; or
- to a court in which criminal proceedings arising from matters subject to the audit or examination have been brought.

Proposed subsection (5) empowers an auditor to inform the Society and the practitioner by which he or she was employed to make an audit, of the fact that the auditor has divulged information under subsection (4).

Clause 9: Amendment of s. 42—Costs

Section 42 of the principal Act permits a legal practitioner to make an agreement in writing with a client for the payment of a specified amount by way of legal costs, or of legal costs in accordance with a specified scale.

Proposed subsection (6) retains these provisions and also permits a legal practitioner, subject to any limitations imposed by the Law Society's professional conduct rules or by the regulations, to make an agreement with a client for the payment of a *contingency fee* to be calculated on a basis set out in the agreement on fulfilment of a condition stated in the agreement.

Clause 10: Amendment of s. 52—Professional indemnity insurance scheme

Section 52 of the principal Act provides for a scheme providing professional indemnity insurance for the benefit of legal practitioners to be established by the Law Society with the approval of the Attorney-General, to be promulgated in the form of regulations and to be binding from its promulgation on the Society, legal practitioners covered by the scheme and the insurers and other persons to whom the scheme applies.

The effect of the proposed subsection (3) is to make the scheme binding without the need for it to be promulgated in statutory form.

Proposed subsection (4) requires the Society to keep a copy of the scheme and of any amendment to it available for inspection at its public offices and, on request for a copy of the scheme or amendment and payment of a reasonable fee fixed by the Society, to provide such a copy.

Clause 11: Amendment of s. 53 Duty to deposit trust money in combined trust account

Proposed subsection (1) imposes an obligation on a legal practitioner to deposit in the combined trust account, within 14 days after 31 May and within 14 days after 30 November in each year, the appropriate amount of trust money held in the practitioner's trust account.

Proposed subsection (la) sets out the formula for calculating the appropriate amount.

Proposed subsection (2) provides that the combined trust account is a composite account consisting of separate accounts established by the Law Society at each approved bank.

Proposed subsection (4)—

- permits a legal practitioner to withhold money from a deposit into the combined trust account if the money is necessary to meet an immediate claim on the practitioner's trust account or to establish or maintain a reasonable balance in the account sufficient to meet claims reasonably expected in the ordinary course of legal practice in the near future and the practitioner has given written notice to the Law Society on or before the day by which a deposit is required to be made; and
- provides that a legal practitioner is obliged to make a deposit into the combined trust account in relation to a particular period of six months if the lowest aggregate referred to in subsection (la) was, during that period, less than $1,000 (or some other sum fixed by regulation).

Proposed subsection (7) provides that for the purposes of the section, where a legal practitioner establishes a trust account and has at that time no other trust account, the balance of the account during the first month after its establishment is to be ignored.

Proposed subsection (8) makes a legal practitioner who fails to make the appropriate deposit by the last date for payment personally liable to pay the Society, for the credit of the statutory interest account, interest on the outstanding amount at the prescribed rate for the period of the default unless the practitioner makes the deposit within 7 days of the due date.

Proposed subsection (9) permits a legal practitioner to withdraw money held on his or her account in the combined trust account only if the withdrawal is necessary to meet an immediate claim on the practitioner's trust account or to establish a reasonable balance in the trust account sufficient to meet claims reasonably expected in the ordinary course of legal practice in the near future.

Proposed subsection (10) provides that if a legal practitioner withholds or withdraws money from the combined trust account under the section, the auditor must in his or her report for the relevant year express an opinion on whether that withholding or withdrawal was justified and if the amount exceeds the amount that could, in the auditor's opinion, be reasonably justified, on the amount of the excess.

Before the auditor includes a statement expressing such an opinion in the report, the auditor must allow the legal practitioner a reasonable opportunity to comment on the proposed statement and may make any modification to the proposed statement that the auditor considers justified in the light of the legal practitioner's comments.

Proposed subsection (11) provides that if the withholding or withdrawal is not justified or exceeds an amount that could be reasonably justified, the legal practitioner is personally liable to pay the Society, for the credit of the statutory interest account, to interest on the amount withheld or withdrawn or on the excess amount, from the date of the withholding or withdrawal until the amount on deposit in the combined trust account is restored to the level required by the section.

Proposed subsection (12) empowers the Society, for any proper reason, to remit in whole or in part interest payable under subsection (8).

Proposed subsection (13) empowers the Society to approve a bank for the purposes of the section if satisfied that the bank is prepared to pay a reasonable rate of interest on money deposited in the combined trust account.

Proposed subsection (14) provides that if the Society revokes an approval under subsection (13), the combined trust account must be transferred to a bank that continues as an approved bank.

Clause 12: Repeal of s. 54

This clause repeals section 54 of the principal Act which requires the Law Society to invest money deposited with it by a legal practitioner pursuant to Division I of Part IV of the Act in a bank that is prepared to pay interest on such money at or above a rate of interest determined by the Society.

Clause 13: Amendment of s. 56—Statutory interest account

Section 56 of the principal Act requires the Law Society to pay into the statutory interest account all income and accretions realised from the investment of money from the combined trust account.

Proposed subsection (2) requires the Society to pay into the statutory interest account only the *interest* earned from deposits in the combined trust account.

Clause 14: Amendment of s. 57—Guarantee fund

Section 57 of the principal Act allows money in the legal practitioners' guarantee fund to be applied for certain purposes.

This clause amends subsection (4) to authorise payment out of the guarantee fund of the legal costs payable by—

- a member of the Legal Practitioners Complaints Committee in relation to any action against the member arising from

an honest act or omission on the part of the member in the performance of a duty imposed by or under the Act; or

- any person in relation to any action arising from an honest act or omission on the part of that person in the exercise or purported exercise on the part of that person of powers or functions conferred by or under Division V of Part III or Part VI of the Act or delegated by the Committee.

Clause 15: Amendment of s. 60—Claims

Section 60 of the principal Act allows a person who suffers loss as a result of a fiduciary or professional default to lodge with the Law Society a compensation claim under Part V of the Act if there is no reasonable prospect of recovering the full amount otherwise than in accordance with Part V.

This clause amends subsection (4) to allow a claim for compensation for loss suffered as the result of a fiduciary or professional default occurring outside South Australia in the course of, or incidentally to, legal work arising from instructions given in this State or legal work substantially carried out in this State, to be met from the guarantee fund.

Clause 16: Insertion of s. 67a

This clause inserts section 67a into the principal Act.

Section 67a: Annual Report

Proposed subsection (1) requires the Law Society, on or before 31 October in each year, to report to the Attorney-General on the administration of Part V of the Act during the preceding financial year.

Proposed subsection (2) requires the report to state the amount of the payments from the guarantee fund during the financial year and the nature of the claims in respect of which payments were made.

Proposed subsection (3) requires the Attorney-General to table a report under the section in both Houses of Parliament within 12 sitting days of receiving it.

Clause 17: Amendment of s. 68—Establishment of Legal Practitioners Complaints Committee

Section 68 of the principal Act established the Legal Practitioners Complaints Committee.

This clause strikes out subsection (4) to remove the requirement that a legal practitioner hold a current practising certificate to be eligible for appointment as a member of the Committee.

Clause 18: Amendment of s. 73—Confidentiality

Section 73 of the principal Act prohibits a member of the Committee or a person employed or engaged on work related to the affairs of the Committee from divulging information that comes to his or her knowledge by virtue of that office or position except—

- in the course of carrying out the duties of that office or position; or
- as may be authorised by or under the Act; or
- to the Council of the Law Society; or
- to the Attorney—General; or
- to a committee or person to whom the Council of the Society has delegated its power to appoint an inspector pursuant to Division V of Part III of the Act; or
- to an inspector appointed pursuant to that Division.

This clause amends subsection (2) to enable information to be divulged—

- in evidence before a court in which criminal proceedings arising from matters subject to a report of the Committee have been brought; or
- to a member of the police force of a State or Territory, or of the Commonwealth, investigating a matter subject to a report of the Committee, referred for police investigation by the Attorney-General, to which the information is relevant; or
- to an authority, or a member or officer of an authority, vested by the law of the State or the Commonwealth with powers of criminal investigation, to which the Attorney-General has referred for investigation a matter subject to a report of the Committee to which the information is relevant.

Clause 19: Amendment of s. 74—Functions of the Committee

Section 74 of the principal Act empowers the Committee to receive, consider and investigate complaints of unprofessional conduct against legal practitioners.

This clause amends subsection (1) to empower the Committee to also receive, consider and investigate complaints of *overcharging by* legal practitioners.

Clause 20: Insertion of heading

This clause inserts a heading before section 76 of the principal Act.

Clause 21: Amendment of s. 76—Investigations by Committee

This clause inserts in section 76 of the principal Act a definition of "financial institution" (the same as that inserted by clause 5 for the purposes of section 35) and makes certain other consequential amendments.

Clause 22: Insertion of s. 77a

This clause inserts sections. 77a into the principal Act.

Section 77a: Investigation of allegation of overcharging

Proposed subsection (1) requires the Committee to investigate a complaint of overcharging by a legal practitioner unless the Committee is of the opinion that the complaint is frivolous or vexatious.

Proposed subsection (2) empowers the Committee to require a complainant to pay a reasonable fee, fixed by the Committee, for investigation of the complaint and to decline to proceed with the investigation until the fee is paid.

Proposed subsection (3) empowers the Committee, for the purpose of an investigation, to require the legal practitioner to make a detailed report to the Committee on the work carried out for the complainant and require the production of documentary material relating to that work.

Proposed subsection (4) requires a legal practitioner to comply with a requirement under subsection (3). The maximum penalty for non-compliance is a division 6 fine ($4,000) or division 6 imprisonment (1 year).

Proposed subsection (5)—

- requires the Committee, at the conclusion of the investigation, to report to the complainant and the legal practitioner on the results of the investigation; and
- empowers the Committee, at the conclusion of the investigation, to recommend that the legal practitioner reduce a charge or refund an amount to the claimant.

Clause 23: Amendment of s. 78—Establishment of the Tribunal

Section 78 of the principal Act established the Legal Practitioners Disciplinary Tribunal.

This clause increases the membership of the Disciplinary Tribunal from 12 to 15 and removes the requirement that a legal practitioner hold a current practising certificate to be eligible for appointment as a member of the Tribunal.

Clause 24: Amendment of s. 79—Conditions of membership

Section 79 of the principal Act deals with the term and conditions of appointment of members of the Tribunal.

This clause removes the prohibition on a person being appointed as a member of the Tribunal for a term expiring after the day on which the person reaches the age of 70 years.

Clause 25: Insertion of ss. 84a and 84b

This clause inserts sections 84a and 84b into the principal Act.

Section 84a: Proceedings to be generally in public

Proposed subsection (1) requires an inquiry under Part VI of the Act to be held in public.

Proposed subsection (2) empowers the Tribunal to order that an inquiry or part of an inquiry be conducted in private if the Tribunal is satisfied that the interests of justice so require.

Proposed subsection (3) requires the Tribunal to prepare a summary of proceedings of an inquiry to be held in private containing such information as may be disclosed consistently with the interests of justice.

Proposed subsection (4) requires a copy of any such summary to be made available on request at the Tribunal's public office for inspection by any interested member of the public.

Section 84b: Tribunal's proceedings to be privileged

The proposed section provides for anything said or done in the course of the Tribunal's proceedings to be protected by absolute privilege.

Clause 26: Insertion of Division VII

This clause inserts Division VII, consisting of section 90a, into the principal Act.

Section 90a: Annual Reports

Proposed subsection (1) requires the Committee and the Tribunal, on or before 31 October in each year, to each prepare and present to the attorney-General and the Chief Justice a report on their proceedings for the last financial year.

Proposed subsection (2) requires a report to contain—

- a statement of the nature of the matters subject to investigation or inquiry; and
- information as to case management, and the number of uncompleted matters outstanding at the end of the financial year; and
- such other information as the Attorney-General may require.

Proposed subsection (3) requires the Attorney-General to table a report under the section in both Houses of Parliament within 12 sitting days of receiving it.

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

ROAD TRAFFIC (PEDAL CYCLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 March. Page 2177.)

Mr INGERSON (Bragg): The Opposition supports the Bill, which we recognise has taken some time to come before the Parliament. It is a very important measure in that it clearly recognises that we now have people who ride bicycles in our community. It is also important, as the Deputy Premier has pointed out, because there is a recognition that over the next 10 to 20 years there will be more people who choose to use the bicycle as their major form of transportation.

It is interesting that over the three or four years in which I was shadow Minister of Recreation and Sport there was a lot of talk about setting up bikeways and nothing very much was done. I remember when the current Deputy Premier was Minister of Transport there was a lot of talk about setting up bikeways so that we could have a better and a safer system for people in the community who chose to ride bicycles. One of the things that the Government has done very well is to set up a bikeway system that runs down the linear park. That is a very significant development, one that was started initially under the Liberal Government. The Hon. Peter Arnold had a lot to do with the original setting up of that bikeway.

It is important to note that the Government has recognised in that particular area, in the linear park from Tea Tree Gully through to the sea at Henley Beach, that we now have an excellent bikeway on which young and older people can work their way from Tea Tree Gully down to Henley Beach.

I note that the member for Napier is out of his seat and is making rude remarks across the House. I point out to the honourable member that bikeways in the Elizabeth area are a very important addition to that town and for the young people of the district of Elizabeth. Elizabeth council, in particular, needs to be congratulated for undertaking that work.

I notice that the Deputy Premier is here. When he was Minister of Transport there were lots of promises about what was going to happen in the bikeway area. As I said, apart from the linear park, very little of that was done. I note that the City of Adelaide is now developing special lanes on the roadway to encourage safer movement of bicycles through the city. This Bill provides for the safety of people in those areas. It also provides for a road to be marked properly with bikeways, and it is important for appropriate signs to be put up. This Bill enables that to take place, so that not only is the lane marking there but also motorists can clearly see the bikeways.

I know as a motorist myself that there are many occasions when we do not see the cyclists, whether it be the motor cyclist or the bicyclist. There is no doubt that a major education program needs to be undertaken by either the Department of Road Transport or the Department of Recreation and Sport so that we can convince the community that bicycling is an important part of our future transportation system.

I remember as a young boy at Adelaide High School when I used to ride down Anzac Highway, along both sides of which there was a bicycle track. It is regrettable that today, although there is still provision on Anzac Highway, those bikeways are no longer there. Hopefully, in the next 10 years we might see them replaced, because they were a very important and safe method of transportation into the city. Once we put those bikeways in place and they intersect or go close to any pedestrian areas we have difficulties, and we must ensure that the law recognises the cyclist and also the pedestrian. This Bill goes part of the way towards recognising the difficulty involved.

From reading the debate in the other place, I note that the Government's promise of funding for recreational cyclists involving the special committee that has been set up did not come forth and was not spent in the way in which it was hoped. We believe that a lot more money needs to be spent on encouraging people to get onto their bikes. We need to encourage local councils to become more involved to make sure that we develop this bicycle track system throughout the metropolitan area. I know

the previous Minister of Recreation and Sport was very keen on riding his bike, and I remember one occasion when we had a lap around the Grand Prix track. It was a very interesting competition, and I lost by some 250 metres. The Minister is a very good cyclist, and I know that he supported the whole concept of improving the bikeways and making them safer for those who ride bikes.

As I said earlier, it is regrettable that we have not had the commitment of the Government to really follow through in regard to the safety and development of bicycle tracks, but I hope that, with the passage of this Bill, we will get a much stronger commitment by the Government in this area. The Bill also contains special regulations to the effect that cyclists do not have to give hand signals when turning left or stopping. Of course, that is a very important road safety measure. We all recognise that having two hands on the bicycle is much better than one. Any move that now requires a person to do something that previously contravened the law, such requirement being aimed at making road safety a first priority, is a very important move indeed. However, it is still recognised that cyclists intending to turn right will be required under the law to signal that intention. So, of the three major turning functions, only when cyclists wish to turn right will they still be required by law to signal. There is still a requirement for the cyclist to give an indication when making a box turn.

One of the groups that spoke to the Opposition at length was the RAA, which has given enthusiastic support for these changes. It made a special submission to us suggesting that we ensure that any changes are effected nationally. That is an important issue, because one of the essential ingredients in legislation of this type, particularly in the road safety area, is the need to have consistency right around the nation. It is very important that we try to standardise nationally all our signalling, speed control levels and the general and basic road safety principles. I know that most Transport Ministers attempt to do just that, but if we look at the road safety signage and observe the difference in speed limits in the various States we see that we do not seem to be able to achieve uniformity. So, the comment the RAA makes is that uniformity with a national road traffic code is something for which we should aim. I understand that these measures are very close to achieving that. We need to ensure that this aim is embodied in all our legislation on road safety. I do not believe that enough money—

An honourable member: I'm impressed.

Mr INGERSON: I reckoned it wasn't too bad when I hadn't read the Bill. That is one of the advantages of being a former shadow Minister of Transport. One of the important issues that has been missed in the whole area of road safety is the fact that we have not had a concerted and continual effort by Government in its schools to spend money on educating children. It seems to me that we need to make sure that we can take this legislation in a simple pamphlet form to all the schools and make sure that the children, the ones who are most directly involved in this important change, clearly and quickly understand what it is all about.

One of the very important things for us to recognise in road safety is that, if we get to the children at the beginning and if we encourage them to understand what road safety is all about—if we get them to understand why speeding, drink driving, selfishness on the roads and the misuse of road rules are wrong—we will have a very different community in the next 10 years in terms of attitudes of people on the road. One of the issues that this legislation involves is the recognition that cyclists do have rights on the road and that they have to be recognised increasingly as part of the continuing transportation system.

I had the privilege some two months ago to go out to McKillop college, having been invited to do so by SGIC to see a road safety program it was putting on involving the Police Force. That road safety program is the best program that I have ever seen. I know I should not link the Government and the SGIC, because I know it does not like to be linked with some of its statutory authorities, but in this case the involvement of SGIC, the Police Force and, more importantly, the 14 to 18-year-olds is laudable and represents a very important road safety message. One of the things that they do not talk about in that program is the difficulties and the problems of riding a bicycle. I am sure that the member opposite, being a cyclist himself, would understand the sorts of things I am talking about. However, the problems of the cyclist is an area for further discussion, and it will give me pleasure to speak to the police officers who are running this excellent program to see whether we can make sure these changes are included in their undertaking.

As I said, the involvement of children is a vital and important part of the Government's road safety program. One group that has spent some time encouraging the Opposition to support the Bill is the Conservation Council. The Conservation Council's arguments clearly are for a better and clean society, for fitness, and for greening of the environment instead of polluting it with petrol fumes, which is a very important issue for the community at large. I hope that over the next 10 years there will be a shift to pedal power in the community.

One issue with which I am involved but which is not covered by this Bill, although it should be discussed, is getting young people to wear a helmet when riding a bicycle. Although the law makes the wearing of a helmet compulsory, as a parent I am aware of the peer pressure that children have to overcome, and the only way to do that is through an education program. I hope that the Government picks up some of my suggestions, particularly those relating to education and the notification of changes in the legislation to the community and particularly to schools through a simple pamphlet. I hope the Government does that quickly, because the saving of children's lives, whether they be students at school, pedestrians or passengers in a car, is very important. I support the Bill.

Mr HOLLOWAY (Mitchell): I wish to support this measure, which facilitates the safe use of bicycles and the extension of the cycle network in Adelaide. Anyone who has been to European cities, particularly Amsterdam and London, would be aware of how those cities provide for cyclists, even though their climate is much more untoward—

An honourable member: What about Thailand?

Mr HOLLOWAY: I have not been there, but there are many European cities with climates which are not as suitable for cycling as Adelaide's climate but which provide for cycling. I want to put on record my appreciation of the now Deputy Premier and former Minister of Transport who has done a great deal to promote the increased use of bicycles in Adelaide. The growing cycle network that has been established around this city is as a result of the efforts of the Deputy Premier, and I think we should record our appreciation for the measures he has taken. It is unfortunate that, in many ways, Adelaide favoured the motor vehicle, especially during the 1960s and 1970s. Like the member for Bragg, I recall cycle tracks on Anzac Highway, and I believe there was another one on Port Road.

An honourable member interjecting:

Mr HOLLOWAY: No, I am not as old as the member for Bragg, but I can still recall as a young child the double tracks on Anzac Highway. Now is the time to restore that trend back to the cycle, and as I have said a lot of progress has been made under this Government. It is particularly appropriate that legislation in this area should pass this week as a number of cycling activities are scheduled for this week, including a ride to work day.

While I support in principle the passage of an Act to establish bicycle tracks, I would like to raise some concerns about the provisions of this Bill. I am particularly indebted to one of my constituents, Mr Gordon Howie, who has raised questions regarding this Bill that I have passed on to the Minister of Transport Development. Mr Howie has made a number of general comments relating to reliance upon regulations rather than provisions of the Act. However, I would like to raise a number of specific provisions of the Bill that possibly need to be looked at to improve the legislation.

Some of these matters are undoubtedly less likely to arise than others. I will highlight some of the more important points from Mr Howie's submission to me, although as I have said I have passed these on to the Minister. The first matter I would like to raise concerns the width of footpaths. Mr Howie has suggested to me that there should be a minimum width of footpath, clear of obstructions, below which bicycles should not be ridden, not only for the protection of pedestrians but because of the difficulty with vehicles reversing from properties. The Local Government Act allows advertising signs to be placed on footpaths, so if we allow cyclists to ride on footpaths there may be a potential problem in this area, and perhaps this matter should be looked at.

A more serious problem relates to section 782a of the Local Government Act which provides that a council may, by resolution, establish a cycle track. It appears that there is some question as to the sort of resolution that might be required lawfully to establish such a track. Mr Howie has informed me that the West Torrens council has enacted a by-law which makes it an offence to ride a bicycle on a road where there is a bicycle track. In other words, one must ride on the bicycle track and not on the road I believe that this by-law was enacted when bicycle tracks were constructed on Burbridge Road near the Adelaide Airport. According to Mr Howie this means that bicycles should not be ridden on portions of the road where there is no track and that they cannot be ridden to and from adjoining properties. As part of the track is a footpath, according to Mr Howie's interpretation, under section 782a it is an offence to drive motor vehicles in and out of adjacent properties, so that matter needs to be looked at.

Another matter concerns the question of definitions. I understand that in this Bill there are only definitions of 'bicycle lane', 'bikeway' and 'box right turn' and a new definition of 'carriageway'. I understand that in other States a number of definitions are necessary for bicycle lanes, bicycle paths, bicycle prohibited signs, bicycle way signs, end of bicycle way signs and so on, so perhaps that matter should be looked at.

I raise the question of what happens in the case of bikeways on divided roads. Should there be provision for a one way bicycle track? For example, on Shepherds Hill Road there are bicycle tracks on both sides of the road, one for going up the hill and the other for going down the hill. Is it necessary to stipulate in the legislation that bicycles should only go one way in the appropriate direction on each of those tracks? Mr Howie has raised with me the question of the terminology used in this Bill, such as 'passing' or 'pass' rather than 'overtaking' or 'overtake' and, similarly, 'kilometres an hour' rather than 'kilometres per hour'. The point that Mr Howie makes in relation to this matter is that standard terminology is used in the National Measurements Act and it is desirable that we use that standard terminology in our legislation rather than other terms.

Another matter concerns whether there should be a speed limit for bicycles being ridden on a footpath and whether stop or give-way signs applicable to footpaths and bikeways are proposed to be used. I would like to raise the question as to whether cyclists on footpaths should be required to give way to pedestrians. It is my understanding that there is no provision in the legislation which actually requires riders of bicycles to give way to pedestrians, and that concerns me. Obviously, we would not want a situation where elderly pedestrians may have concern for their safety with bicycles being used. In clause 22 of the Bill there is a requirement that cyclists on footpaths should sound a warning. It is my understanding that there is no provision in the Bill for cyclists to actually give way to pedestrians. I raise these matters to see whether or not the Bill can be improved, and I hope that the Minister will consider what I have said.

Finally, I will raise one other matter in relation to cyclists. A constituent in my electorate has raised the question of the wearing of helmets. This particular gentleman is a very keen cyclist. He has been cycling for some 50 or 60 years now but he has a skin disease which is irritated by the type of helmets that are available. This gentleman has had a lot of trouble, but it is necessary for him to ride a bicycle to keep fit. As I said, he is a keen cyclist who used to ride to work, but he has a great deal of difficulty in riding with a helmet because of irritation from his skin complaint. He also has a problem in terms of protecting his face from the sun. With the greater concern we now have about skin cancer and the dangers of exposure to the sun, there should be adequate protection from skin cancer.

This gentleman really is in a bind. If he wears the sort of helmets that are available, he suffers greatly from the

skin complaint. In fact, he has effectively been forced to give up cycling. I would imagine that such situations are rare and that very few people are affected in this way. It is not that this gentleman in any way has an objection to wearing a helmet for the sake of wearing a helmet, it is just that he has a genuine skin complaint. If we are to encourage bicycle riding, we must address problems such as this. With those comments I support the Bill in principle and I hope that, as a result of its passage, the degree of cycling in our community will continue to increase and that the measures that this Government has put in place to encourage cycling will continue in the future.

Mr SUCH (Fisher): Mr Deputy Speaker, being a keen cyclist for many years I am pleased to speak in relation to this Bill. In fact, for a long time I was a member of the Hills Cycle Committee which pushed for cycleways in the Adelaide Hills with—and not necessarily from my efforts—some success. Adelaide is an ideal topographical situation for cycling, particularly the inner metropolitan area, and I do not believe that as a community, as a city, we fully exploit the potential of cycling within the inner metropolitan area. It is something I would like to see intensified in terms of usage within that area in particular but also, obviously, outside of the metropolitan area.

Cyclists are, in effect, second class citizens largely because many of them are children and do not have a vote and do not receive the same sort of attention enjoyed by members of the community who do vote. Another reason is that when some members of society get behind the wheel of a motor car for some reason they take an aggressive approach towards other people on the road. Unfortunately that approach is often directed towards cyclists. There seems to be some resentment that cyclists are on the road, despite the fact that many cyclists also pay registration for cars that are left at home while they are cycling.

I think it is largely an attitude problem that we have in our community in terms of the way we relate to people who ride bicycles on our roads. We have many good cycleways in our community, including the Torrens River Linear Park, the parklands and in some council areas. The one with which I am most familiar is in the City of Mitcham council area where considerable effort and money has been spent on establishing a cycleway network. Members would understand that there is considerable debate about whether you have separate cycleways off road or whether you have them on road. Many eager cyclists argue that cyclists should be part of the existing road network, rather than being separated. I think there is an argument that can be sustained for both but, particularly in relation to young people and children, I personally prefer to have them separate from moving traffic wherever possible, although some of the keener cyclists do not agree with that.

One of the reasons I think there is some opposition to off road cycleways is that often they are not well maintained, and this is where councils, I believe, often do not treat cyclists in the same way they treat motorists, for example. Given today's technology and high speed bikes, if the cycleways are not well maintained, people will naturally use the better surface of the arterial road network. So, irrespective of the danger they will use the better surface. That is understandable because, in my experience, many cycleways are not well maintained. They have trenches that are not properly reinstated, there is sand where the cycleway meets the road and there are overhanging branches. I think it is important that councils get the message to maintain cycleways if they want people to use them, otherwise they will be left unused.

This Bill seeks to clarify the position in respect of the use of bikeways. It is an issue in terms of safety that has been raised during the Estimates Committees in respect of the Torrens River Linear Park where we have had people acting irresponsibly, riding at high speed without consideration for pedestrians and other users. I think any measure which seeks to improve that is worthwhile. I think we need an education campaign in terms of focusing on cycle safety, and I would predict that at the moment at least a quarter of the cycles in use do not qualify in terms of being roadworthy. I notice that the Bill refers to cyclists giving a warning to people who may be in their path. I would venture to suggest that many cycles in our community do not have any warning device, and in fact many of them are not roadworthy at all.

In respect of helmets, which has been mentioned, I understand that they save 10 or 12 lives a year, so they are very worthwhile. I commend the STA for the provision of bike facilities on the new trains, because they seem to get considerable usage. I think that is something that should be extended to encourage people to combine cycling with public transport. With respect to the design of arterial roads, I am pleased to say that the previous Minister of Transport agreed that provision would be made for cyclists on Flagstaff Road, and I commend him for that.

I suggest that, whenever planning is done for arterial roads, new roads or upgrades, the question of provision for cyclists be one of the prime considerations. I note that in Victoria they expressly allow cyclists on freeways and make special provision for them, which is something that we do not do in South Australia. Maybe if we are to have any more freeways we should look at following the Victorian experience and make proper provision for cyclists to use the freeway system. I support this Bill and hope that it will lead to greater and safer use of cycles in our community, particularly within the inner Adelaide area.

The Hon. T.H. HEMMINGS (Napier): I did not intend to contribute to this debate, but I was rather struck by the contribution of the member for Bragg. He waxed on about the benefits of riding cycles and of bikeways but has never ridden a bike in his life: his first mode of transport was a Rolls Royce.

Mr INGERSON: On a point of order, Mr Speaker, I have been misrepresented by the member for Napier and I request that he withdraw that remark because, as a young student, I used to ride to Adelaide High—a very good school.

The SPEAKER: Order! I think the honourable member has made the situation very clear. The member for Napier.

The Hon. T.H. HEMMINGS: Also, the Minister responsible for the carriage of the Bill in this House

freely admits that he has never ridden a bike in his life. Therefore, one is left to wonder, when both the Minister and the lead speaker for the Opposition, who have been entrusted by their respective Parties to ensure that this important piece of legislation is passed in this House, have limited knowledge. I did tell the Minister that I would criticise him a little with regard to this legislation, and he reminded me that his late father, Fred Rann, who was the son of a Lewisham dustman, was runner up in the home counties hill climb and, I understand, one of Britain's best and fairest young cyclists before his competitive career was cut short by war. The Minister tells me that his late father's *Tour de France* was via Dunkirk.

Having got that on the record, I would like to go into the more serious aspects of this Bill. The member for Bragg is correct: there has to be a lot of education. We have to get to youngsters when they are at school and educate them about the use of bikeways and so on. However, education needs to come from the other end, that is, through the motorist. At a box right turn, a cyclist does not need to signal that they are going to turn—and I have had the benefits of this explained to me by the Minister in another place.

Not one member of this House would deny that, when they are driving on the road, they have seen a motorist seemingly go out of their way to cut off a cyclist because they are considered to be fair game. I hope that this advance in giving cyclists some rights on the road will not end up with some arrogant motorist seeing them as fair game, because it is the box right turn that concerns me. I think the member for Mitchell referred to Amsterdam. Although I have visited that city only on a couple of occasions, in Amsterdam people have a tendency to leave their bike where they get off it; they might come back and pick it up two or three days later, and everyone accepts that. Yet here we have a provision which will give the police, in some ways, unprecedented powers.

The Hon. M.D. RANN (Minister of Business and Regional Development): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

The Hon. T.H. HEMMINGS: Clause 18 (removal of vehicles causing obstruction or danger), which amends section 86 of the Act, does give me some concern. It enables police officers or council officers to remove a bicycle if they feel that its being left unattended on a road is likely to obstruct traffic, cause injury or hinder access to adjacent land. If that provision is not properly policed—and I mean properly policed in a fair way—council officers or police officers can move along willy-nilly removing bicycles. We cannot have this clause in operation unless an area is provided on the bikeways or the roadways where bicycles to be left in a secure place for a reasonable amount of time.

Shopping centres have areas where cyclists can leave their bicycles comparatively safely—if they lock them up with about six padlocks. I hope that the Minister can explain to the House when he sums up exactly how he sees this clause working and what protection there is for an innocent bike rider to be able to leave his or her bicycle in an area where it is safe from those types of police officers or council officers who, to put it crudely, act like the Gestapo and want to be able to show their power. I think the late Fred Rann would be proud of his son in this regard because, whilst the present Minister could not climb a hill on a bike in a fit, at least he is ensuring that bike riding can continue safely on the bikeways and carriageways of our great State.

Mr LEWIS (Murray-Mallee): The Opposition's official position has been stated categorically by the member for Bragg but, in many respects, if members had read the second reading explanation and then taken a look at the legislation, they would realise that it creates more problems than it might solve. For instance, members will note that there is a redefinition of the words 'cycle' and 'pedal cycle', and more particularly a redefinition of the word 'trailer'. Cyclists will now, unless regulations to the contrary are promulgated at the same time as or before this legislation is proclaimed, have to register their trailers. They do not have to do that at present. That is an oversight for which the Government ought to be condemned. The Government and its Ministers give the impression, as they always have—for so long as I have been on this side of the Chamber—that it is okay to do it now and fix it later, and to hell with the consequences for the general public.

An honourable member: You are a knocker.

Mr LEWIS: This is a classic illustration of it. I am no knocker. Were it not for the fact that I drew attention to some of these anomalies, they would not be addressed before they were proclaimed, and you would end up with egg all over your face in the courts. Mr Speaker, I find the attitude of the member for Napier quite incredible: for him to upbraid me for drawing attention to deficiencies in the legislation during the course of my remarks is incredible.

I will quite happily tell the Government to suck eggs if it needs to be told; I will tell it. It seems that it has blinkers on, and the problem is that it suffers from tunnel vision. Members opposite know what they want to do but they do not look at the consequences. Their capacity to analyse the effects of the legislation they propose is limited indeed. In fact, they do not even bother about that: they see the role of Government more about setting perceptions than about addressing problems. They come in here to hold power, not to make improvements. They do not care; they come in here attempting to make friends, not to sort out problems; and that distresses me.

The aspects of that matter are that, not only will the Motor Vehicles Act definition now have to be clarified (and it should have been addressed in this legislation, which we know amends the Road Traffic Act) but the Motor Vehicles Act definition of 'trailer' is different from the Road Traffic Act definition, and that anomaly will have to be fixed. More particularly, the fashion in which lighting is attached to those trailers will have to be determined, because it is not appropriate to allow someone with a cycle to attach a trailer to their cycle and go riding down the road where the law says that they are allowed to do it but that no lighting is required; they will

not be seen from the back. That is a hazard for the cyclist towing the trailer and any sort of load in it.

There will need to be a provision ensuring that the motorist's liability, in the event that they unfortunately have the misadventure to run into the back of a cyclist who is obscured by the fact that he or she is towing a trailer that has no lights on it, is clarified. That anomaly is serious indeed, and I bet it is more important than changing the structure of playgrounds in primary schools to stop children cutting their fingers on the side of slippery dips or skinning their knees on the bottom. Yet, the Government spends hundreds of thousands of dollars chasing up problems such as that, setting perceptions in the public arena, while it ignores the real problems of this kind, which could result in two or three people becoming quadriplegic in no time.

In addition to that, let me draw to the attention of the House some of the particular problems that this legislation addresses. I am aware of the necessity to sort out the problem which has arisen in recent times where messengers—people involved in delivery services around the metropolitan area, particularly in the inner city—have used a pushbike or pedal cycle (to use the fancy legislative term) and have caused problems on pathways, footpaths and at traffic lights and the like. Equally, I am concerned at the consequences for pedestrians which have arisen through the increased number of cyclists using what were formerly exclusively pedestrian pathways. I now commend the Government for addressing the unfortunate consequences of those practices.

I want to address some of those practices in the course of my contribution. I think it is not appropriate to allow those messengers to go on abusing public safety and equanimity in the way in which they have scootered around our streets and, equally, I believe that the legislation ought to be more explicit about where they cannot go. At present, it is not explicit. In addition to that, cyclists who use pedestrian carriageways or pathways (call them what you like), such as the one along the linear park, worry me. I use that frequently. As members know, the linear park extends from the seaside right through to the foothills along the Torrens valley, adjacent to the main stream, and we can now travel from the beach to the foothills without having to cross a kerb line.

We can travel on foot or by bicycle. It is used to enable people to get from one place to another without having to deal with motorised vehicular road traffic. That is no bad thing, but I find myself at risk at times when two or three cyclists, most of them young people, I suspect racing or for thrills as if they were playing chicken with a roller coaster or a train, come screaming along that carriageway two and three abreast, around the blind corners that now exist in consequence of the melaleucas and other bushy vegetation planted close to that carriageway, obscuring their view. I have nearly been skittled myself several times in consequence of that. We cannot hear them coming and we do not know they are coming, until they are right on us.

When I approach blind corners now, I get off the carriageway, because it is easy to injure oneself simply trying to jump out of the way to avoid being hit. Of course, the pedestrian will always come off second best, now that all cyclists wear helmets. I know that some of them are so thick-headed that they would not need to wear a helmet. However, the fact is that, whether or not they are so thick-headed that it doesn't matter if they wear a helmet or not, they are wearing them and that makes the risk to the pedestrians far greater. Many youngsters are wearing not only helmets but, quite appropriately, (in the event that they have an unfortunate spill) wrist, elbow and knee straps of the kind that are worn by people on skate boards and the like.

That brings me to the next point. I think the legislation ought to have addressed, more particularly, the use that can be made of skateboards and roller blades, because they too now pose a hazard to me taking exercise along the linear park, in the same way' as cyclists do. That has arisen only in the past few months since just before Christmas. If one comes across two youngsters heading in the opposite direction to oneself on roller blades, unlike cyclists, it seems to me that they do not have the same measure of control to change direction. I have had the unfortunate experience of being laid flat by a young lad on roller blades on that footway. There is nothing we can do about it.

If we injure ourselves seriously—and there is the risk that that will happen, just as there is the risk that we could be hit by a slow-moving car when crossing an intersection—it is not possible to obtain any compensation, because the roller blade owner has no third party bodily injury cover. It is not a crime, so the victims of crime legislation does not cover that situation. Members opposite may find something funny about this where it relates to me, but they should think of the general public who might be in the same predicament, as I am sure some of them must have been. We need to address that problem, and it is my purpose to bring these matters to the attention of the Minister (in another place) who is responsible for this legislation.

I therefore turn to some specific difficulties that I have experienced, because I also ride a pushbike on some of the carriageways around Adelaide. I would be pleased if it were possible to provide an exit point on the north side of the Festival Centre for those people who are coming from the western side of Adelaide along the linear park, because at present we have to dismount and carry our bicycle up the steps. It is not just me; dozens of people arrive there at the same time as I do, and they do the same thing. I think that is an oversight in planning and and construction of these facilities.

An honourable member: Who should pay for it?

Mr LEWIS: Who pays for the carriageways, footpaths and so on now? Ratepayers do, quite naturally and sensibly, because the citizens of any local government area provide the means by which it is possible to get vehicular access along the king's way. It is public land, and naturally it has to be met from the public purse by ratepayers in the localities in which those facilities are provided. Moreover, along roads such as Glen Osmond Road through the parklands, a cycle way is already provided separate from and indeed on the other side of the drainage ditch, quite some distance from the left-hand edge of the carriageway of Glen Osmond Road.

Why then do not we require cyclists by law to get off Glen Osmond Road and use the cycle way which would remove the hazard to themselves and motorists,

especially in peak hours? This legislation does not address that aspect, yet it addresses other aspects of how pedal cyclists can negotiate turns and so on at a whole plethora of junctions and intersections of one kind or another.

Also, the law as it relates to cyclists on the freeway ought to be enforced. At present, it is not. When I am travelling to my home at Murray Bridge and further afield to my electorate I find from time to time that there are some damn fools who insist on abusing the system and travelling on the freeway on bicycles, and they are nothing more or less than a hazard to themselves and the rest of the motoring public. They are about as helpful as having a mob of pigs on the freeway, and I know what that is like, having seen some of them escape. They are unpredictable in cross winds as to where they will wander, and it causes a hazard not only to motorists in motor cars but also, more particularly, to semi-trailer-drivers—and the cyclists themselves.

The law as it relates to cyclists, regardless of whether or not they are escorted by a van, ought to be enforced. They ought to be banned and prevented from using the freeway, under sufferance of considerable penalty. In addition, we do not see any provision in this legislation that requires pedal cyclists or people using any other kind of unmotorised vehicle to be sober at the time they are transporting themselves.

Members opposite know that it is possible for people to have high blood alcohol levels and still retain their balance. People who are habitual drinkers can have slow reflexes, yet be capable of maintaining their balance on a bicycle, and they are a hazard to themselves and, more particularly, to other members of the general public. It should be an offence to ride a bicycle, just as it is to be in control of any other vehicle, if your blood alcohol level is over .05 on a cycle way.

Members interjecting:

The SPEAKER: Order!

Mr LEWIS: Let me reassure the member for Walsh that, as it relates to driving under the influence, never. The necessity for public safety to be taken into consideration is overlooked too often by the Government when it introduces this kind of legislation. I would like to think that we could encourage cyclists to use pathways or carriageways that are set aside for their use, more so than is the case at present, by making them more useable.

At present they can suffer severe injuries by attempting to use some carriageways that are overgrown by the vegetation adjacent to them and, somehow or other, someone has to accept responsibility for trimming that vegetation. In my judgment, in some places where I travel, if that is not done fairly soon I will simply take my chainsaw along, invite the media, and cut that vegetation down in order to see around what are at present blind curves or carriageways obscured by vegetation.

As much as members opposite wish to jeer, they cannot deny the fact that it represents a real hazard. We do not allow it on other carriageways used by motorists, and I do not see why we should be so silly as to allow vegetation to grow beside carriageways used by cyclists and people on roller blades and the like. The other reason I would give for advocating the removal of that vegetation from the side of the carriageway, particularly along the linear park, is that it will reduce the number of muggings and rapes which will otherwise occur.

There is no city on earth where vegetation is allowed to grow up to the edge of pedestrian pathways, yet it is on record in police files that attacks on people have been made from the shelter of vegetation which is not only immediately adjacent to but growing over our pathways, thus providing cover for the cowardly attacker. For all those reasons I have reservations about the adequacy of the legislation, although I have no quarrel with the substance of its provisions as far as they go.

Mr De LAINE (Price): I will be brief in my support of the Bill. I commend the Minister for these measures. My only reservation is that I am a racing cyclist with some 38 years experience and I have reservations about allowing cyclists to ride on the footpath. It is a fact of life in recent years that police officers have been responsible and have advised elderly people, in particular, and young children to get off the roads, which are no place for such people, and ride on the footpath.

I have some reservations about putting that in the law. I have concerns about the safety of people, particularly elderly pedestrians, encountering young cyclists travelling over the prescribed limit of 10 km/h. I support the Bill, but I hope my comments are taken into account in order to find some way to overcome that problem.

Mr HAMILTON (Albert Park): It was not my intention to speak until the member for Price rose and reminded me of his exploits as a State cyclist. Some members may not be aware of the honourable member's expertise. He held about 53 State records and it is fair to say that, if they had large Olympic teams in those days, there is no doubt that the member for Price would have been an Olympic cyclist, because he was very skilled.

Certainly, he is a modest person, I hasten to add, unlike some members on both sides of the House who are inclined to brag about their expertise. However, the member for Price, and I am serious about this, is a modest person and a true champion. He is a great credit to the sport of cycling and his worth has been recognised by members on both sides of the House, by the cycling fraternity and by a number of Ministers especially in relation to his support of the new velodrome.

I wish to lend my support to the Bill. Initially, I listened with a great deal of attention to the member for Murray-Mallee and I found myself in the rather awkward position of agreeing with him on a number of things that he said. I found that somewhat unusual but, as one who uses the linear park from time to time, I am aware that those bikeways in particular can be a dangerous area where members of the public can be hurt.

The member for Henley Beach, I and I think the member for Hanson last year attended a meeting of cyclists and State bicycle groups, including the police and local government, to address the problem along linear park. Anyone who has used linear park will be aware of the problem. I use it as a walker, and I have found a number of potentially hazardous areas, as has been mentioned by the member for Murray-Mallee. In all seriousness, I agree with some of the opinions that he has brought before the House.

True, linear park lacks a number of things, including provision to address the problems of blind corners. It is not uncommon for cyclists to use the linear park as a raceway. I understand from talking to the member for Henley Beach that someone was killed some time ago when riding along this park. In my opinion there is a need for convex mirrors to be located underneath bridges and on a number of those blind bends because cyclists do tear along there, as I have indicated, at speeds far in excess of what one would normally expect, and with elderly people using that linear park it poses a number of problems for both Government and local government.

If my memory serves me correctly, I recall being advised that there is an expectation that the number of people using the linear park will increase fourfold within the next 10 years. That being the case, it poses many problems, not only for local government but also for those people who walk, jog or cycle along there. In my opinion, there is a need, which I believe is shared by the bicycle committee, to restrict the speed at which cyclists use that pathway. I understand that the view supported by the bicycle committee is that the speed at which cyclists ride along that linear park should not be any faster than a person jogging. I give my support to that particular proposition, if that be the case.

In some places along the linear park there are areas that, in my opinion, should be used by cyclists only and the other side should be used only by pedestrians. While recently visiting Western Australia I noticed that from Leeming down to Fremantle it was indicated on the carriageway that pedestrians have priority over cyclists. I suspect that that can cause a lot of problems with cyclists who use areas such as the linear park.

I am also concerned that from the city down to the Torrens outlet there is no indication for cyclists, for members of the public or visitors from intrastate, interstate or overseas as to their exact location when they are utilising that particular carriageway. In the east of the city, during my walks from the Torrens outlet up to Tea Tree Plaza, that provision has been made, so that people can move off the bikeway and know the exact road or the ingress or egress point if the signpost is there, but that is certainly not the case in the western suburbs of Adelaide. The other matter that I think is important for people who train along the linear park is proper sign-posting to indicate the distance that a person walks, jogs or rides.

Mr Ferguson interjecting:

Mr HAMILTON: The other question the member for Henley Beach raises is the question of dogs. I have to agree with him. I think that along those bikeways dogs should be on a leash, because I can remember that on one occasion when I was doing a bit of training on the linear park I saw a parent looking after his children and almost ride over the top of one of them when he was looking at the problem of a dog that was not on a leash. He ended up falling off his bike and injuring his kneecap rather severely. So there are numerous problems.

Mr Ferguson interjecting:

Mr HAMILTON: If the member for Henley Beach had been in the House a few moments ago he would have known that I raised the issue about the controversial nature of that area. The other thing that gets up the noses of many users is the fact that cyclists will ring bells and try to force their right of way over other people who are on foot. I think that is offensive. I think that they could at least sing out or say, 'Excuse me.' I do not believe they should force their right of way. That is one issue that I understand the bicycle committee has considered.

The manner in which successive State Governments have addressed the problem involving the linear park has to be commended. I understand the linear park was the member for Chaffey's original idea, although following the election of the Bannon Government the whole scheme was finalised. I give my support to the Bill. I hope that the maintenance and financing of the repairs on the linear park are addressed, and I do not know whether a resolution has been arrived at in relation to that matter.

As anyone who has used the linear park in recent times in the vicinity of Holbrooks Road would know, if my memory serves me correctly, between the 4km and 6km mark from the outlet, a considerable area of that pathway has been washed away and it has not been repaired, so people have to use other means to get around that problem area. The maintenance and upkeep of that linear park is of critical importance, given that the number of people who will use the linear park will increase fourfold over the next 10 years.

I could talk about a lot of other issues in relation to the Bill, but I will not delay the House, because I know others may wish to speak. Nevertheless, I wanted to make my contribution because I use the linear park quite often. I think it is an excellent linear park.

Mr Ferguson interjecting:

Mr HAMILTON: The member for Henley Beach informs me that 6 000 cyclists a day use it. I am surprised. If that be the case then it stresses the importance of that particular cycle way.

The Hon. M.D. RANN (Minister of Business and Regional Development): I would like to thank all members for their contributions. Certainly, a range of points were made. I thought the contribution by the member for Bragg was probably the best I had heard in this House in the past seven years. It is perhaps the signal of a comeback—not a fightback but a comeback—by the honourable member. Next week is the ides of March, I have been told, so we will keep watching. Anyway, some points were raised by the member for Mitchell. I saw the letter he received from Mr Howie, and I intend to raise a number of points with the Minister for evaluation by her officials. Overall, I would like to thank all members for their contributions.

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

LAND AGENTS, BROKERS AND VALUERS (MORTGAGE FINANCIERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 March. Page 2179.)

Mr S.J. BAKER (Deputy Leader of the Opposition): The Opposition expresses its support for the Bill in principle, because we have seen over a long period that finance broking has caused great difficulties to those who have been paying in moneys to protect their

industry, namely land broking, land agents and finance broking. The principle behind the Bill is that land agents and landbrokers should no longer be tied in with the finance broking part of that industry. We have seen over a long period, particularly in the past 10 years, some crashes because of bad—and in some cases fraudulent—practices on behalf of such notable companies as Hodby, Shepherd, Field and Schiller.

An honourable member: Windsor.

Mr S.J. BAKER: And Windsor, yes. It has been highly regrettable that the funds that have been required to be placed in the indemnity fund have been utilised to bail out or to repay those people who have been defrauded or who have suffered damage as a result of the activities of finance brokers and the misuse of moneys placed in trust. I will not give the Minister nor the department a pat on the back, because there is no doubt that many of the disasters—or the minor disasters compared to the State Bank—that have occurred through the default of finance brokers have been a direct result of a lack of surveillance by the Bannon Labor Government—

Members interjecting:

Mr S.J. BAKER: Well, it has. Not only that, but when one of these notable people has been found to have corrupted their trust, the resultant investigations have been slipshod, the recovery of moneys has been inadequate, and it has been a sick and sorry mess. So, it has not been a particularly healthy picture, and part of the responsibility must lie at the feet of the Government. However, we would all recognise that in this industry, where large sums of money can be transferred for purposes other than those for which they were designed, perhaps it is not appropriate to link them into the rest of the industry where there is very little opportunity for some form of corruption or fraud to take place.

It is not appropriate that land agents and brokers who operate in the marketplace should have to bear the burden of high fees to sustain possible future damages against the indemnity fund. In principle the Opposition supports the separation of that area of responsibility. We also support the idea that members of the public need to be protected, and the Bill comes to us in a refined form, in that some time will be available for finance brokers who are currently covered by the indemnity fund to seek other forms of insurance to ensure that their clients are not disadvantaged should they default for good or bad reasons.

We recognise the need for change. It is perhaps in retrospect a change that should have taken place many years ago. We hope that the public will be protected, and we hope that diligence will be shown by the authorities in terms of financiers to ensure that those moneys that are put in trust are not misused and abused, although there will always be some element of that; and we found that with the legal profession and the finance broking profession, basically because of the sums of money involved. With those few words, and given the extensive debate that occurred in another place, the Opposition supports the Bill and recognises the need for the change. I trust that the public will be protected by whatever new arrangements can be put in place. I recognise the need for an appropriate period for that transition to take place and commend the Bill to the House.

The Hon. M.K. MAYES (Minister of Environment and Land Management): I thank the Deputy Leader for his support. I, too, join with him in those comments. I hope the measure does give that protection to the public. I am sure most members have constituents who have been affected by this; I have several who were initially injured by the events which transpired with the defaults on the part of one land broker who also lived in my electorate. This Bill—and it certainly has been debated in the other place at length—hopefully will put in place guarantees and protections. I know that, given the additional close audit which will be carried out on the trust funds which are maintained in their separate and dedicated role by each of these land agents or brokers, we will see much greater control and much greater fiduciary management of those funds. I thank the Opposition for its support.

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

ADJOURNMENT

At 10.37 p.m. the House adjourned until Thursday 11 March at 10.30 a.m.