HOUSE OF ASSEMBLY

Tuesday 21 November 1995

The SPEAKER (Hon. G.M. Gunn) took the Chair at 2 p.m. and read prayers.

WATER RESOURCES (IMPOSITION OF CHARGES) AMENDMENT BILL

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

BOWKER STREET OVAL

A petition signed by 4 117 residents of South Australia requesting that the House urge the Government to retain the Bowker Street oval at Brighton for sporting and recreational purposes was presented by the Hon. W.A. Matthew.

Petition received.

TAPLEYS HILL ROAD

A petition signed by seven residents of South Australia requesting that the House urge the Government to support a tunnel underpass of Tapleys Hill Road located at the extension of the main runway at Adelaide Airport was presented by Mr Leggett.

Petition received.

EDS CONTRACT

The Hon. DEAN BROWN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DEAN BROWN: Last Thursday, I told the House that I would provide a statement on the extensive range of provisions in the Government's data processing contract with EDS which protect the position of the State Government. In now doing so, I advise the House that the Acting Crown Solicitor has summarised his advice on this matter to me with the comment that the contract provisions 'provide the State with a very significant measure of protection if a dispute arises'. The Crown Solicitor's Office led a very strong legal team which has been involved in the process from the time the Government determined, immediately after the election, to contract out data processing to achieve cost savings, better services and industry development.

Our legal team includes the full-time assistance of a partner from the Adelaide law firm Thomsons, and advice on key commercial and legal points from the Washington-based legal firm, Shaw, Pittman, Potts and Trowbridge, which is recognised internationally as one of the leading firms with expertise in outsourcing negotiations. During the negotiation of the contract, particular attention was paid to the provisions that provide remedies for the State in the event of a breach of the contract by EDS.

These remedy provisions are extensive. They include provisions for damages, both general and liquidated, rights of access to alternative providers, set off, injunctive relief and ultimately termination for breach. Reinforcing those rights are a guarantee from the parent company, Electronic Data Systems Corporation of Texas, and a $10 million demand bank guarantee. The parent company's liability under that guarantee is coextensive with that of EDS (Australia) Pty Ltd under the contract with the State; and, by its terms, the parent has submitted to the jurisdiction of the State so that, if need be, the State can sue the parent in the South Australian courts. In the case of certain defaults, such as where the financial position of a State agency is significantly impacted upon, the contract entitles the State to obtain replacement services from other service providers and bill EDS for the costs reasonably incurred in the course of doing so.

At a more detailed level, if EDS fails to provide certain key services in accordance with an applicable agency service level agreement, service debits apply. Service debits are a form of liquidated damages which have the effect of automatically reducing the amount of monthly invoices payable by the State. The State is also able to withhold payment for services not supplied in accordance with an agency service level agreement where the service debits do not apply. Ultimately, in the case of a material whole of contract breach, the State can terminate the contract and sue for damages.

Protection for the State's position is also provided in a number of other important respects as follows. The intention of the Government is that the contract with EDS will be strongly centrally administered, consistent with the Government's whole of government approach to information technology. EDS has agreed to cooperate in this approach. The Government has retained control of its information technology strategic planning, with the contract providing for a consultative committee mechanism by which EDS can make a proper and useful contribution to that process. Information technology infrastructure standards are addressed under the contract. Interim standards have been set and are subject to joint State-EDS annual review. The State's IT 2000 vision statement has also been attached to the contract.

Under the contract, EDS has acknowledged that it is the custodian, not the owner, of State data in its possession by virtue of the contract. EDS must deliver up State data on demand by the owning Government agency regardless of any dispute that may subsist at the time of the demand. EDS has an obligation not to disclose confidential State data and must comply with the requirements of the State's policy on data privacy. EDS has agreed to comply with the State's reasonable personnel clearance requirements for access to sites, equipment and data. It must also comply with each agency's data security policies in place at the time of transfer.

As regards audit, special provision has been made to ensure that the Auditor-General has logical and physical access to all the State's data for the purposes of the Public Finance and Audit Act 1987. In addition, the State has extensive technical audit rights in relation to EDS's operational practices and procedures to the extent necessary to verify compliance with the contract. There are extensive and detailed indemnities in the contract, including, in respect of negligence and other tortious acts by EDS, damage to the State's property, infringement of intellectual property rights and breaches of confidentiality or data privacy obligations.

The contract enables the State to insist that EDS retains on the State account certain key personnel whom the State reasonably judges are particularly important to the proper provision of the contracted services to the State. I also refer to questions about the legal proceedings between the State of Florida and EDS in the United States. The Acting Crown Solicitor has informed me that Mr Trevor Nagel of Shaw Pittman has advised that much of the current litigation filed in the United States between major IT companies and their

customers relates to disputes that have arisen under contracts which are different in character from infrastructure outsourcing contracts of the type that South Australia has entered into with EDS. For example, the terms of the software development contract, or a systems integration contract, would be quite different to those that are appropriate for an infrastructure outsourcing.

The Acting Crown Solicitor advises that the remedies available will depend largely on the specific contractual provisions and circumstances which give rise to a contractual disagreement. Accordingly, caution should be exercised in making comparisons between remedies available in different transactions. As Mr Nagel has pointed out:

> . . . the United States is a much more litigious society than Australia and that in the United States, the filing of litigation is much more frequently and speedily resorted to as a step in the resolution of commercial disputes.

Finally, it should be pointed out that EDS has built a positive reputation and consistently delivers high satisfaction ratings to many Government customers. These ratings are verified by high percentage contract renewal rates and successful long-term relationships with customers.

DEBT REDUCTION

The Hon. DEAN BROWN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DEAN BROWN: Following yesterday's announcement of the sale of SGIC, I wish to advise the House of the latest progress in the Government's debt reduction program. Members will recall that at the election I announced a strategy to reduce public sector net debt to $6 577 million by 30 June 1998 (in June 1993 prices). I ask members to compare this with the trend under the former Government which would have seen the debt approaching $9 billion because of the failure to implement a strategy to eliminate the underlying budget deficit and a very limited asset sales program.

I am pleased to report that, as the Government approaches the halfway point of its term, our program remains on schedule to achieve our targets. In fact, the latest projection of the Asset Management Task Force is that, over the three years from May 1994, its work will produce proceeds from asset sales of $1 800 million. Public sector net debt at June 1995 came in $100 million below the estimate in the 1995-96 financial statement tabled with the budget.

Members interjecting:

The Hon. DEAN BROWN: One can say that, when it comes to being below the projections for public debt, the former Government could not even find $600 million of additional debt that lay in the in-tray of the then Treasurer for something like six to eight weeks. Since the budget, further revisions to expected proceeds from asset sales have been identified, resulting in a further reduction to estimated net debt at 30 June 1998 of about $180 million. The Government's determination to ensure that it meets the target of eliminating the underlying budget deficit in the non-commercial sector means that, by 1997-98, the State no longer will be spending more than it is earning.

This will enable much lower debt levels to be sustained in the longer term. The direct benefit for taxpayers will be reduced interest costs of up to $200 million per annum, providing greater flexibility in the budget management and funding for key services, such as education and health. I take this opportunity to commend the Treasurer and his Asset Management Task Force for their contribution to the achievement of the Government's debt reduction targets. The ongoing program now includes the sale of Forwood Products, bulk loading facilities of the Port Corporation and State Fleet.

PAPERS TABLED

The following papers were laid on the table:

By the Deputy Premier (Hon. S.J. Baker)—

- Legal Practitioners Complaints Committee—Report, 1994-95
- Legal Services Commission of South Australia—Report, 1994-95
- Legal Practitioners—Claims Against the Legal Practitioners Guarantee Fund—Report to the Attorney-General, 1994-95
- Liquor Licensing Act—Regulations—Dry Areas—Tumby Bay

By the Treasurer (Hon. S.J. Baker)—

- Liquor Licensing Commissioner—Gaming Machines Act, Report, 1994-95

By the Minister for Industrial Affairs (Hon. G.A. Ingerson)—

- Workers Rehabilitation and Compensation Act—Regulations—Scales of Medical and other charges

By the Minister for Housing, Urban Development and Local Government Relations (Hon. J.K.G. Oswald)—

- Local Government Association—Report, 1994-95
- South Australian Housing Trust—Report, 1994-95

By the Minister for Recreation, Sport and Racing (Hon. J.K.G. Oswald)—

- South Australian Harness Racing Board—Report, 1994-95

By the Minister for Correctional Services (Hon. W.A. Matthew)—

- Correctional Services Act—Regulations—Penalties for Prisoner Drug Abuse

By the Minister for Employment, Training and Further Education (Hon. R.B. Such)—

- Industrial and Commercial Training Act—Regulations—Civil Construction and Maintenance Worker.

STATE GOVERNMENT INSURANCE COMMISSION

The Hon. S.J. BAKER (Deputy Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.J. BAKER: I wish to inform the House that the Government has announced the sale of its insurance business SGIC to joint bidders SGIO Insurance and Legal & General. Before outlining the main features of the successful bid, I will provide some background to this significant transaction. In March 1994, Cabinet approved the formation of the Asset Management Task Force (AMTF) to oversee the sale of certain Government assets and entities as part of the Government's debt reduction strategy. In May 1994, Cabinet approved the establishment of an SGIC project committee to coordinate the sale of the State Government Insurance Commission. After a scoping review of SGIC, the AMTF determined that certain parts of SGIC's existing businesses, assets and liabilities were inappropriate for inclusion in the sale. It was therefore not considered feasible to offer the SGIC statutory authority for sale in its then current form.

The AMTF restructured SGIC by leaving non-performing businesses and 'inappropriate' assets and liabilities in the SGIC statutory authority and transferring under the SGIC (Sale) Act 1995 other businesses, assets and liabilities into a new corporate structure which was offered for sale. The major businesses which have been transferred to the new corporate structure and included in the sale are: the general insurance business; the management of the claims and investments in the Government-owned compulsory third party insurance scheme; the health insurance business; the life insurance business; and the superannuation business. The Government retained the compulsory third party insurance fund through the SGIC statutory authority, which was renamed the Motor Accident Commission. The SGIC (Sale) Act also enabled the phase-out of the Government guarantee and the corporatisation of SGIC, which took effect from 1 July this year.

On 25 July this year, Cabinet gave the AMTF approval to proceed with the final stage of the sale, and expressions of interest were subsequently sought through advertisements nationally and overseas following an intensive domestic and international pre-marketing program. I should point out that BT Corporate Finance Ltd, in examining the value and risk to the Government of retaining the SGIC assets and business, determined that if the Government were to retain SGIC it would face a requirement to add significant capital to meet industry standards. This followed the decision of the previous management of SGIC to enter into high risk insurance businesses and property investment in the late 1980s, resulting in significant losses.

It is timely to revisit some of those mistakes which were made under the previous Labor Administration. South Australians should never forget that the mismanagement of SGIC under the former Chairman, Mr Vin Kean, and former General Manager, Denis Gerschwitz, forced the taxpayers to fund a $350 million bail-out. It is appropriate to reflect on some of those poor investment decisions. There was the infamous put option on the 333 Collins Street building in Melbourne. That put option was exercised costing SGIC $465 million. That building is now worth well under half its value. The Terrace Hotel, now under new ownership, was also a costly exercise returning less than half what it cost SGIC.

There were other questionable investments which I will not detail, but that was not the only area of mismanagement. SGIC lost its focus and decided to tackle the international reinsurance market. South Australians watched the devastation of Hurricane Andrew in Florida on television, not suspecting in their wildest dreams that this natural disaster would also cost their own State-based insurance company millions of dollars. It is important to note that, at the same time as SGIC was calling on the former Government for help, it embarked on a series of new financial risk businesses of property securitisation and residual value insurance. The State has provisioned for losses of about $4 million on one particular deal in the United States.

In the residual value insurance area, SGIC wrote contracts covering all sorts of items ranging from commercial jet aircraft, trains, trucks, even a ship and, of all things, cherry pickers. These contracts guarantee a certain value for the asset at a future date. While most have been assessed as having a negligible risk of claim, a number will have to be dealt with as the contracts expire and appropriate provisioning has been made. I stress that the 333 Collins Street building, securitisation and residual value contracts are not part of the sale of SGIC and will be dealt with over time by the Government. They are remnants of the past, and I am pleased to say that, under the guidance over the past three years of the SGIC Board under Chairman, Mr John Lamble, and management, headed by Mr Malcolm Jones, SGIC returned to prudent investment strategies and concentrated on developing its core businesses.

Apart from the obvious need to avoid any added pressure on budgetary requirements, the Government believes there is no logical reason for continued public ownership of a fully commercial enterprise such as SGIC which operates in highly competitive insurance markets. The SGIC of today differs greatly from the entity which was established in 1972 to provide an alternative insurer of motor vehicle and general insurance for South Australians. There is a vast range of products and services now available on the market, and tremendous change is occurring in the industry itself.

It is under this scenario that Cabinet yesterday approved the sale of SGIC to joint purchasers, Western Australian based SGIO and Legal & General, a subsidiary of UK-based life insurance company Legal & General Group Plc. The transaction involves SGIO acquiring 100 per cent shares in SGIC Holdings, Health, General and Insurance while Legal & General Life will purchase 100 per cent shares in SGIC Life and its subsidiary, SGIC Superannuation.

SGIO was previously a State Government-owned insurance office of Western Australia and was publicly listed in 1994. It is the leading general insurer in Western Australia and achieved a gross written premium of $191 million in 1994-95. SGIO's current management is well versed in the process of transferring an insurance business from the public to the private sector, experience which will be of great assistance to the staff and policy holders of SGIC in coming months.

The Legal & General Group Plc was founded in 1836 and today has $70 billion of funds under management. It commenced operations in Australia in 1956 and has $2.8 billion worth of funds under management nationally. Total proceeds from the sale are $169.9 million, which includes the price to be paid for SGIC's head office building in Victoria Square. The purchasers plan to maintain SGIC's headquarters in Adelaide with a local board and management structure. The purchasers will jointly acquire the registered trademark and logo 'SGIC' and consider it to be fundamental to the successful operation of the SGIC businesses. They will continue to rely on local service providers such as brokers, loss adjusters, repairers, accountants, actuaries and lawyers. The two companies also intend to market some SGIC products nationally.

Importantly, there is little need for rationalisation because SGIO does not have a pre-existing operation in South Australia, and Legal & General Life has a relatively small operation here. SGIO and Legal & General have indicated that they will introduce new products and services into the market, which may lead to increased employment opportunities over time. In summary, the final offer for SGIC from SGIO and Legal & General involves substantial economic benefits for the State including:

- the development of SGIC's telebusiness centre as the main telebusiness operation for the Australian operations of SGIO and Legal & General;
- the transfer of information technology and data processing activities to SGIC in Adelaide, resulting in a large, centralised processing capacity for the combined operations of all companies and;

- the development of South Australian infrastructure bonds for marketing to SGIC clients and other clients throughout Australia to assist the funding of infrastructure development in South Australia.

These initiatives, which are the subject of a memorandum of understanding between the companies and the Government, will result in a direct increase in staff numbers in the telecentre and the information technology area as well as associated flow-on benefits. The sale is to be settled on 30 November 1995 with the new owners taking over immediately after that date. The results achieved by the Asset Management Task Force in the sale of SGIC highlight once again the success of the sale process adopted by the task force.

The professionalism of the task force, headed by Dr Roger Sexton, has been praised time and again by the purchasers of assets placed under its control, and the purchasers of SGIC are no exception. As mentioned previously, a great deal of restructuring and preparatory work was required to put SGIC in a saleable form, and the way in which this and other aspects of the sale were accomplished is a credit to the task force.

I would also like to take this opportunity to thank the management and staff of SGIC for their cooperation during this very difficult period and congratulate them on their professional attitude. The current board, chaired by Mr John Lamble, and current management, led by Mr Malcolm Jones, have guided SGIC through a rocky period and restored the financial health of the organisation. It is fair to relate that Mr Lamble said to the buyers that they have a fine organisation and a good body of business.

It is pleasing to note that the purchasers have stated that any job losses will be kept to a minimum and will be primarily through natural attrition. SGIC has reduced its staff from around 900 to 685 in the past three to four years, with a vast majority of these reductions achieved through natural attrition. SGIC has an average staff turnover of around 10 per cent each year. SGIO believes that it will not need to replace 38 positions of the expected 60 staff who choose to pursue other opportunities over the next 12 months. They have also indicated that they will maintain SGIC's strong community role, including the retention of the SGIC rescue helicopter for at least three years. Other road safety and community education initiatives such as drink driving and speed prevention campaigns will continue to be sponsored by the Motor Accident Commission, along with medical research and rehabilitation programs related to road crash victims.

I conclude by saying that this sale is an extremely satisfying result in terms of debt reduction, economic benefits for South Australia and the fair and equitable treatment of employees. Not only will SGIC continue to be a major financial institution in this State but also it will have an opportunity to flourish and expand nationally without the unnecessary hindrance of public ownership.

FISHERIES MANAGEMENT

The Hon. D.S. BAKER (Minister for Primary Industries): I seek leave to make a ministerial statement.

Leave granted.

The Hon. D.S. BAKER: South Australia has entered a new era of fisheries management, using a cooperative management approach—

An honourable member: And there's more!

The Hon. D.S. BAKER: —and there is more; there is a lot more—which involves commercial and recreational fishers working together with the Government for the sustainable use of the resource. Under this fresh approach, the State's major fisheries, including aquaculture, are now being managed by integrated management committees working within the Fisheries Act. The committees will, of course, be working with both the South Australian Fishing Industry Council and the South Australian Recreational Fishing Advisory Council. This more cooperative style of management is now firmly established in the framework for responsible fisheries management, and new regulations have been gazetted covering the establishment, membership, functions and powers of the new committees. South Australia has pioneered this concept of co-management in Australia. In fact, the technique is now being used by the Commonwealth in the establishment of management advisory committees.

The functions of our State's management committees include planning, arbitration and leadership of each fishery. Committee members will help the Government ensure that these precious fishing resources are used in an ecologically sustainable way which encourages responsible economic development. As part of the planning process, each independent selected chairman voluntarily attended a strategic management course at the Australian Maritime College in Tasmania. The course was funded by the Federal Government's Fisheries Research and Development Corporation. These new committees face important challenges and their members deserve the respect of their particular industry sectors as they grapple to introduce modern management techniques into this important South Australian industry.

The difficulties facing a number of fisheries, which have been under continual pressure, are well understood by the Federal Government and all State Ministers. In fact, at the ministerial council meeting in Perth just last Friday, it was agreed to establish a framework to develop a national restructuring scheme to enable adjustment to occur in fisheries which are currently under pressure and are not viable for a number of licensed operators. The new scheme will be based on principles similar to the rural adjustment scheme and will be funded on a national cooperative basis. At this stage, the Victorian and Federal Governments are working on a draft framework to be considered early in the new year.

South Australia's fishing industries are worth about $200 million to our State, plus, of course, the additional benefits of value adding. The fisheries are important export earners and the quality and range of our seafood(rock lobster, prawns, oysters, tuna and abalone—and, of course, our whiting) are recognised around the world. These new cooperative management committees are an important step in the long-term responsible development of these industries, and will allow our children to enjoy access to a resource at least as good as, and hopefully better than, we enjoy today.

Turning now to South Australia, a working group is currently finetuning the details of membership of the integrated management committees and selection process from licence holders. This group will report to me in the near future. This will complete the new management structure aimed at transparent decision-making and accountability within an agreed management plan. It will enable the Government in partnership with the key stakeholders to effectively undertake what is a most difficult task—the management of the fishing resource for all South Australians in a sustainable, cost efficient and fair manner.

QUESTION TIME

WATER, OUTSOURCING

The Hon. M.D. RANN (Leader of the Opposition): My question is directed to the Minister for Infrastructure. Why did the Minister tell this House on 18 October that the company running South Australia's water supplies would be 60 per cent Australian owned within 12 months when it has been reported that Mr Malcolm Kinnaird, Chairman of United Water, told a select committee on Friday that the claim about local ownership was a beat up? It has been reported in today's *City Messenger* that the company structure being designed—

Members interjecting:

The SPEAKER: Order! The Minister for Industrial Affairs will come to order.

The Hon. M.D. RANN: It has been reported in today's *City Messenger* that the company structure being designed for the South Australian water contract will include two companies. According to the report, representatives of United Water told the select committee that the company operating Adelaide's water and sewerage services will be United Water Services, owned 100 per cent by France's CGE and Britain's Thames. So, who was telling the truth: the Government in October or Mr Kinnaird on Friday?

Members interjecting:

The SPEAKER: Order! To this stage the House has been conducting itself reasonably well. The Leader of the Opposition knows that the last part of his question is out of order. In relation to his question, I point out that any material provided to a select committee should first be reported to the House before it is in any way commented on. However, as the Chair is not aware whether the committee of its own volition decided to allow the public to be present, I will allow the question.

The Hon. J.W. OLSEN: I notice that in the past three weeks I have been somewhat under the attention of Alex Kennedy in her Messenger Press column—unwarranted and unnecessary attention, I would hasten to add. In recent weeks we have seen the Opposition, with a range of contracts, sort of muddying the water, going off at irrelevant tangents, so that the benefits of the contract are submerged publicly and politically to the constituents of South Australia.

The Hon. M.D. Rann interjecting:

The SPEAKER: The Leader of the Opposition.

The Hon. J.W. OLSEN: We know the objective and the course.

The Hon. M.D. Rann: Who's telling the truth?

The SPEAKER: Order! The Minister will resume his seat. The Leader of the Opposition knows Standing Orders. I refer him to rulings of Speaker Trainer and suggest he read them, because the Chair will enforce them. I do not want the Leader of the Opposition to interject again, because he has asked his question.

The Hon. J.W. OLSEN: I note that even Alex Kennedy, in her column, referred to the benefits of this contract, when she said:

> Each of the points mentioned [in a previous part] is really irrelevant to how good the outsourcing contract could be for South Australia.

There is a really independent assessment about how good this contract will be. Her article continues:

> They don't change the terms of the specifics of how the water management will proceed, or how Asian contracts will be sought.

My statement to this House that SA Water will contract with United Water International, which will involve 60 per cent Australian equity, with six out of the 10 directors resident in Australia, has not changed, will not change and will be the basis of any sign-off between the Government and United Water. We can be absolutely sure about that: that is the basis. Just to make sure that it is beyond any doubt—even for the Leader of the Opposition (and one would hope that it will sink in permanently)—I have a letter from Mr Doyle, dated today, directed to Mr Phipps (CEO, SA Water) which states—

The Hon. M.D. Rann: It's a 'Please explain.'

The Hon. J.W. OLSEN: No.

The Hon. M.D. Rann: From you to him.

The SPEAKER: Order! This is the second time for the Leader.

The Hon. J.W. OLSEN: This having been the lead question, I can understand that they now do not want to hear the evidence, because it will just kill off what they have been proposing. The letter states:

> There have been a number of reports in the media this morning concerning our proposal to increase Australian equity in United Water International. We are concerned that these reports have used evidence given before the select committee of the Legislative Council which has been taken out of context and which wrongly gives the impression there has been some change in relation to our proposal to increase Australian equity over the next 12 to 18 months.
>
> United Water International will be the company which will hold the contract with the South Australian Government and undertake the obligation to operate and manage the Adelaide water and waste water system in accordance with the conditions set out in the contract.

I do not think it can be any clearer, more specific or unambiguous than that. The letter continues:

> We would like to confirm unequivocally the commitment set out in our final submission to the SA Government that CGE and Thames Water will offer up to 60 per cent of the shareholding in United Water International to Australian investors within the given time frame.

Let me assure the House that that is the basis upon which negotiations are currently taking place, and that will be the basis upon which any sign-off will occur.

SA WATER EMPLOYEES

Mr ROSSI (Lee): My question is directed to the Premier. What action will the Government be taking to protect the health and well-being of many of my constituents, as well as people in other parts of the metropolitan area, from the impact of the illegal strike by some employees of SA Water? My office has been contacted by many people who are very worried and share my concern about what is happening as a result of the refusal of some SA Water employees to obey the orders of the Industrial Commission.

The Hon. DEAN BROWN: I can understand the concern of the honourable member, because there are now considerable problems in the community as a result of this illegal strike being imposed by a number of unions. There are now 240 sewer blockages, five pumping stations broken down, and 15 access holes overflowing. There have been two burst water mains today, and 45 people are without water in the Adelaide metropolitan area. The situation is quite serious in terms of this illegal dispute's adverse impact on people in the Adelaide metropolitan area. The Industrial Commission has repeatedly told the workers to go back to work. I realise that they have a mass meeting tomorrow morning at 10 o'clock. There was a meeting before the Industrial Commission at

12.30 today. The Industrial Commission has demanded that there be a mass meeting at 10 o'clock tomorrow and that the unions report back to the commission at 1 o'clock tomorrow.

I stress the fact that there is a clear order from the Industrial Commission for the strike to be lifted immediately, from 10 o'clock tomorrow. I urge all the workers involved in this dispute immediately to lift their ban tomorrow when they meet at 10 o'clock and resume work, and immediately fix up the various breakdowns in the water and sewer system. It is entirely unsatisfactory to have five unions in this State continuing to flout a ruling of the Industrial Commission. That ruling was handed down on Saturday; it was repeated yesterday by the full bench; it has been repeated again today; and I would hope, for the sake of South Australians and for the sake of commonsense, that the unions now listen to the Industrial Commission, lift their bans, go back to work tomorrow and make sure they fix up the water system of South Australia.

WATER, OUTSOURCING

Mr FOLEY (Hart): My question is directed to the Minister for Infrastructure. What legal obligations exist to ensure that foreign companies will sell down their shares in United Water International, and what have United Water executives been informed of these obligations? It is understood that, at a select committee meeting last Friday, United Water officials agreed that in five years we could still have Kinhill with a 5 per cent share and 95 per cent of the company owned by overseas interests.

The Hon. J.W. OLSEN: I suggest the Opposition reconstruct its Question Time because, given the answer from United Water that I read out, it renders irrelevant the sorts of questions now being asked. Even if Opposition members have the questions prepared, they should re-think and restructure them. It will be in the contract—a requirement for them to sell down for 60 per cent Australian equity.

STATE GOVERNMENT INSURANCE COMMISSION

Mr BECKER (Peake): With the sale of SGIC to be completed by 30 November, will the Treasurer inform the House what arrangements will be made to ensure a smooth transfer of the operation and, most importantly, staffing matters?

The Hon. S.J. BAKER: In any sales process, it is very important that there be a smooth transition. It has occurred with the sale of the bank, the sale of the pipeline, and we intend that it will be no different in this case. Arrangements were made prior to the sale, and they were part of the information provided to all buyers on what transition provisions would be put in place. It is a protection of the benefits and the contract arrangements as between the employees and the new purchasers. All staff entitlements are being preserved, including superannuation, enterprise agreements and other benefits, including sick leave, because that was the deal that was signed up by the board to ensure that the quality staff we had within SGIC would not feel alarmed or upset about the future but would, in fact, look forward to the future under conditions similar to those under which they had been working for SGIC.

The matter has been progressed. Certainly, as soon as the sale was announced, information was flowing to the members and the employees. Information kits have been provided to all employees to ensure that they are well aware of all the prevailing circumstances. Meetings have been held with the FSU, and they will continue to ensure that everybody understands what changes are taking place and how we can work together to ensure that the process is a very smooth one.

The time frame between the signing of the contract and the contract fulfilment is a short one. However, I am assured that it is feasible, one that can be met, and that there will be a smooth transition from the old into the new business. A lot of goodwill is being exercised in the process, and I expect the transition process to be very smooth indeed. All those matters are taken into account in any sales process because, after all, the business is nothing without the employees: they are the most important part of the business. At this stage, my understanding is that there is a great deal of acceptance of the changes about to take place.

WATER, OUTSOURCING

Mr FOLEY (Hart): Has the Minister for Infrastructure approved plans by United Water International to subcontract to a 100 per cent foreign-owned company its agreement with the South Australian Government to operate our water services and, if so, why was this arrangement not announced on 17 October?

The Hon. J.W. OLSEN: The member for Hart knows full well that the negotiations are still proceeding between United Water International and SA Water to finalise the contract. I can give an absolute guarantee, which is consistent with my previous public statement and I will repeat it again in the House, that the statements in the letter from United Water that I read to the House and my commitment that the obligations, operation and management as detailed in that correspondence, as I have mentioned before, are clear and specific and will be met.

STATE GOVERNMENT INSURANCE COMMISSION

Mr CAUDELL (Mitchell): Can the Treasurer inform the House of the future plans for the Asset Management Task Force following his earlier statement to the House on the successful completion of the sale of SGIC to SGIO and Legal & General? The Government originally set up the Asset Management Task Force in 1994 for a two-year term as part of its debt reduction program and its term is due to expire next year.

The Hon. S.J. BAKER: The Government has decided and announced that the Asset Management Task Force will have an extended life of one additional year. We set a task, and the task is being met. Additional areas have been put under its responsibility, and we believe it is appropriate to extend the life of the Asset Management Task Force to take account of those matters. There is the issue of the shacks, the South Australian Meat Corporation and the finalisation of Forwood sales, and other smaller items will be looked after by the Asset Management Task Force over time. It has been a great success and it has been professionally managed. I believe we have maximised the opportunities in terms of dollars from sales and the economic opportunities that have flowed from the new partnerships being formed as a result of the sales process.

We are delighted with the progress that has been made on debt management. We are also delighted with the way in which we are perceived by the wider world, because we have

gone through this process in a very smooth fashion. I should like to contrast what has happened in South Australia with what has happened over the borders, and I look both east and west when I say that. Their programs have been surrounded by a great deal of controversy, they have not met the targets generally that they have set themselves and there have been some significant failures. It is a great credit to the Asset Management Task Force that it has—

Members interjecting:

The Hon. S.J. BAKER: It has gone about its task very quietly and diligently and it has met and succeeded in its targets. We are giving it one extra year, but that will be the end of the process. I am sure that we will all thank the Asset Management Task Force after its three-year term is up for a job well done for South Australia.

WATER, OUTSOURCING

Mr FOLEY (Hart): My question is again directed to the Minister for Infrastructure.

Members interjecting:

Mr FOLEY: Well, you will let these people come to a select committee. Is the planned share offer to—

Members interjecting:

Mr FOLEY: I will start again, Sir. I have all day.

The SPEAKER: No, the honourable member does not have all day. The honourable member will ask his question or I will call the next question.

Mr FOLEY: I am sorry, Sir, but the noise to my left—

The SPEAKER: The member for Custance will cease interjecting.

Mr FOLEY: Thank you, Sir. Is the planned share offer to Australian institutional investors by United Water International and its ability to meet the Government's export targets now in serious doubt following comments by a senior executive of Thames Water? It is understood that at a select committee last Friday Mr Ian Ritchie, a senior executive with Thames Water, said that, if within 12 months from the start of the contract United Water International has not managed to put in place other contracts, he did not believe anybody would be interested in paying any more than a par figure for the shares.

The Hon. J.W. OLSEN: Obviously the member for Hart has been so preoccupied with trying to muddy the waters with EDS that what has escaped his attention so far are the announcements I have made pointing out that a number of South Australian companies have already had meetings with Thames and CGE in relation to fulfilling contracts in Asia. They have already been invited to participate in the supply of a range of goods and services in those contracts, one of which, several weeks ago, was the awarding of a contract to build a power station in Indonesia. It was two days before Thames Water met and briefed South Australian industry about the availability of contracts for the Asian region and that the provision of the cooling system for that power station would be offered to South Australian companies.

We have not even got the contract signed, and already Thames and these international companies are offering business to South Australian companies. In addition, since we announced United Water as the preferred bidder, it has won contracts in the Asian region and is bringing the business to South Australia. I know that the member for Hart might not like it, but the simple fact is that this is a good deal. This deal will deliver real jobs to South Australians, and it will be sooner rather than later.

Members interjecting:

The SPEAKER: Order! It has been brought to the attention of the Chair that on a regular basis a number of interjections come from the cross benches on my left. I suggest that it sometimes causes certain members to have difficulties when addressing the Chair.

YOUTH EMPLOYMENT

Mrs ROSENBERG (Kaurna): Can the Minister for Employment, Training and Further Education indicate whether there are sound employment prospects for young South Australians in the near future?

The Hon. R.B. SUCH: I thank the member for Kaurna for her question. I know of her strong support for youth in her area. Recently we have had quite a bit of publicity about a so-called jobs crisis for young people in our State. The record needs to be made clear. In South Australia, approximately 90 per cent of 15 to 19 year olds are in full-time employment or study at school, TAFE or university. It is important that we put that in context, because the negative message impacting on young people will do them a lot of harm.

There are many opportunities for jobs in South Australia. Indeed, we have come to the end of the tariff reduction cycle, so the major restructuring of manufacturing is virtually complete and we are seeing our manufacturing industry very much in the export area. We have tremendous opportunities as a result of the improvement in outlook for the rural sector, information technology, aquaculture, tourism, the wine industry, and so it goes on. Therefore, it is important that every member of this House, including the Opposition, should convey to young people that there are job prospects here, that this is a great State in which to live and that they have a future. We need to keep those statistics in their proper context.

As the Premier and I have said, we do not accept the level of youth unemployment as being satisfactory, but that does not mean that there is a crisis. We are talking about a small percentage of the 100 000 15 to 19 year olds. Despite the policies of the Federal Government, the future for those young people in South Australia is good. I would encourage them and their parents to ensure that our young people have the skills and the training to access an expanding jobs market. In recent times we have announced Motorola, EDS and other companies coming here to invest. Young people will be able to work directly in those industries as well as in the spin-off industries. The future is good, job prospects are good, and young people should believe in themselves and in South Australia.

WATER, OUTSOURCING

Mr FOLEY (Hart): Is the Minister for Infrastructure concerned by Mr Malcolm Kinnaird's admission of his company's inexperience in operating water supply systems given its involvement in the private water consortium contracted to take over the running of Adelaide's water? It is understood that at a select committee last Friday Kinhill's principal, Mr Malcolm Kinnaird, stated that Kinhill is not an operating company and does not know how to operate water plants.

The Hon. J.W. OLSEN: I am not the least bit concerned, because this company—as I have told the House before, and I will repeat it very slowly for the member for Hart so that it sinks in—will operate and maintain Adelaide's water and

waste water system with its experience as the world's largest water and sewerage firm; the United Kingdom's largest water firm; and its international—

An honourable member interjecting:

The Hon. J.W. OLSEN: It will bring international best practice and, as has been demonstrated, save 20 per cent on the cost of operating and maintaining the service for South Australia. That is the bottom line. It will not only be bringing this international experience to South Australia but, as I have said and has been reported before, CGE and Thames will underpin this contract with United Water International with a whole-of-life 15 year separate guarantee, first, to operate and maintain Adelaide's metropolitan water and sewerage system to the standard to which we have become accustomed, and improve on those standards; secondly, to generate 1 100 new real jobs in South Australia; thirdly, to generate, over the next 10 years, $628 million worth of exports out of the State of South Australia; and, finally, in its first year of operation under a requirement of the contract it will deliver $38 million worth of exports out of the State of South Australia. If the company fails to meet any one of those benchmarks CGE and Thames, under the separate, unconditional whole-of-life guarantees, must pay the taxpayers of South Australia. In other words, South Australia has nothing to lose and everything to gain.

BANKERS TRUST AUSTRALIA

Mrs HALL (Coles): Will the Minister for Industry, Manufacturing, Small Business and Regional Development outline to the House the economic benefits to South Australia of the decision by the national fund management company Bankers Trust Australia to establish a new regional operation in Adelaide?

The Hon. J.W. OLSEN: This is another important announcement for the rebuilding of South Australia's economy and focusing on the future. The trend in the United States is for back-office companies that handle accounting functions, information services, data processing and the like to move out of the cities, such as Detroit, Chicago and New York, into the smaller lifestyle cities. This trend has been obvious in the United States over the past 10 years and, in fact, the latest edition of the *Fortune 500* magazine identifies those cities in America that have had very significant growth patterns as a result of that policy.

We are seeking to create a niche economic opportunity for South Australia by attracting back-office information data, accounting and information services to South Australia. As a result of advances in telecommunications we now have a global village: it does not matter where these functions are located because they can access the marketplace and their business environment. South Australia's advantage is that its cost of operation is about 8 per cent below that of the eastern seaboard, and about 30 per cent below that which applies in Hong Kong, Singapore and Kuala Lumpur. It is on that basis that we are attracting industries to South Australia, thereby generating real jobs in this State.

Now that South Australia has at least three new companies on deck it can no longer be considered a fluke, as the Opposition might want to describe it in relation to Westpac and Galaxy. This is now a clear and emerging trend for South Australia. Out of Westpac, Galaxy and now Bankers Trust some 2 500 jobs are being created in this State in the provision of customer service centres.

The Hon. Dean Brown interjecting:

The Hon. J.W. OLSEN: I am sorry; I forgot to mention Telstra. The trend is emerging and we are winning. Bankers Trust looked at four locations: Adelaide, Wollongong, Newcastle and Brisbane. Competition was fierce between those locations as to where Bankers Trust would locate. It selected Adelaide for a whole raft of reasons, and not only because we encouraged it to locate here and because South Australia has a Housing Trust purpose-built factory and office accommodation scheme that is the best scheme of its type in Australia in assisting companies of this nature. That scheme, which was put in place by Sir Thomas Playford, is as valuable today as it was when that policy was first put in place.

Importantly, South Australia is winning a number of these projects on merit. I would like to compliment officers of the Economic Development Authority, in particular Sharon Cosgrove and Barry Orr. I refer to the American Express bid. Although South Australia did not win that bid, interstate and overseas American Express senior executives said that South Australia's presentation, through the Economic Development Authority, left the other States for dead.

Yesterday, Bankers Trust indicated that we had the best representation of any State in Australia, because the Economic Development Authority is being timely; it is being responsive; and it is addressing the needs of the customer, such as Bankers Trust, in removing the disadvantages to companies considering South Australia as a location. A whole range of companies are being targeted for back-office operations in South Australia. We are knocking on doors to open up dialogue by saying, 'Have you thought about South Australia? Consider South Australia in the new light of the policies being pursued by this Government.'

One new policy, as was announced recently by the Premier, is the opening up of telecommunications for contracting out which, when those bids come in, will hopefully remove call disadvantage between South Australia and the eastern seaboard; but, more importantly, it will open up an opportunity and a competitive advantage for South Australia in the Asian marketplace. Out of this will emerge a range of Government policies that will knit together to underpin South Australia's economic rejuvenation, redevelopment and rebuilding. We do not want to duplicate what the other States are doing but create a real niche opportunity for the State of South Australia. Facts speak louder than words. The facts are: we are starting to perform and deliver in terms of creating back-office operations in the State of South Australia, and that means, as it does with the water contract, more jobs in this State for South Australians.

Members interjecting:

The SPEAKER: Order!

Mr CONDOUS: For goodness sake, Mr Speaker, can we bring on Salim Malek from Semaphore?

The SPEAKER: Order! The honourable member is completely out of order.

Members interjecting:

The SPEAKER: Order! I must point out to the honourable member that it is quite contrary to Standing Orders to make those sorts of comments.

WATER, OUTSOURCING

The Hon. M.D. RANN (Leader of the Opposition): My question is directed to the Minister for Infrastructure. Given the size of the water contract, is the Minister aware of the identity of the shareholders or directors of United Water

Services Pty Ltd, and will he advise the House of their identity? It has been reported that the Chairman of United Water International, Malcolm Kinnaird, and his assistants were unable to identify the shareholders or directors of the company when questioned by a parliamentary select committee on Friday, even though the company, United Water Services, will be subcontracted to run Adelaide's entire water and sewerage services. Can the Minister tell us if they cannot?

The Hon. J.W. OLSEN: United Water International and other companies associated with this bid are in the process of forming companies. The directorship in relation to United Water International and others is not yet finalised. As was explained—

The Hon. M.D. Rann interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: —to that select committee, this will be the basis of negotiations that are currently taking place between SA Water and the company. When the contract is signed, the company, the directors and $3 million in equity will be put into place, as is required by the Government. In addition, at the time of putting the contract into operation on 1 January, $5 million will be put into place for operating capital. During the past 12 months, this consortium has addressed a range of Government concerns regarding what it wanted in place to meet its and our requirements for delivering this service to South Australians in the future. And minimum requirements were to be put in place.

The simple fact is that the Opposition Leader knows full well that this is in the process of being put into place, and my press release and statement indicate what will be required at certain benchmarks in the contract, that is, at the date of signing and the date of operation, which will be 1 January. So, let the Leader be a little patient. Let him recognise the commercial requirements that are being put into place to meet the South Australian Government's minimum requirements for the delivery of this service and the protection of consumers in South Australia. It is commercially naive for the Leader of the Opposition to pursue these questions when we are simply negotiating a position at this stage.

BLACKWOOD FOREST

Mr EVANS (Davenport): Will the Minister for the Environment and Natural Resources provide details on the outcome of the community consultation about the future of the Blackwood Forest and the former agriculture research station at Hawthorndene? In 1985, the then Labor Government established a committee to consult about the future of the land but no decision was taken. Just prior to the 1993 election, the Labor Government secretly negotiated with the Mitcham council, which wished to purchase the land and develop 75 houses on it. Prior to the 1993 election, when in Opposition, this Government promised to consult about the future of the land. There has now been an 18 to 20 month period of consultation, and I seek the details of that consultation process.

The Hon. D.C. WOTTON: I thank the member for Davenport for his question and, in particular, for his involvement in this matter. The future of the 20 hectare Blackwood Forest site and the former agriculture research station at Hawthorndene has aroused immense local interest and representation, as the honourable member has indicated, over a very long period. The work that went into achieving the final outcome represents the most intensive and ongoing consultation ever undertaken by my department in ensuring that the needs of all sectors of the local community are taken into account to achieve a balanced decision, and there is no doubt that a balanced decision has been gained.

The result is one that will be supported by local residents, not the least of which is the Coromandel Primary School, which will receive a $2.65 million upgrade as a result of the sale of the land. In addition, the Lutheran community will build a 230 pupil school and church. In the first instance, however, the Mitcham council is being offered the site for a competitive $2 million, minus of course the 1.5 hectares allocated for the Lutheran school. If the council decides against buying the land, a supplementary plan has been endorsed that will also allocate 1.2 hectares for aged accommodation to allow local people to retire within their own area rather than seek accommodation in other centres and areas away from their families and interests.

Additionally, the supplementary plan allows for 44 housing blocks, yet it still provides a majority of 55 per cent (11 hectares overall) to be set aside for open space and wetlands. This will be achieved in a manner that preserves and enhances the quality of life and brings many benefits to the local community. I believe that the sale will be enacted in a way that will satisfy the community now and in the future. In short, the council asked for first right of refusal, and the Government has given it that; the local school asked for redevelopment on its current site, and the Government has seen to that; the Lutheran community asked for its needs to be met, and the Government has met them; and the ageing community has highlighted its special requirements, which the Government has met. On top of that, 11 hectares (55 per cent) has been earmarked as open space in the supplementary plan.

In conclusion, I pay tribute to the member for Davenport for facilitating the many approaches and deputations that I received on behalf of his community, because there were many—the member for Davenport and I spent an inordinate amount of time talking over this issue with local people from the community—and I would also like to thank him for the way in which he has represented his constituents to gain a logical and balanced outcome. There is no doubt that this outcome and the response is a win-win situation for all involved.

BRIGHTON-GLENELG COMMUNITY CENTRE

Ms STEVENS (Elizabeth): My question is directed to the Minister for Family and Community Services. Has the Minister's department taken into consideration the considerable impact on the community that the cessation of any services provided by the Brighton-Glenelg Community Centre, particularly those for elderly people, children with disabilities and people with a mental illness, will have? the Opposition has been informed that FACS funding for maintenance was withdrawn last week and that there is no longer any hot water, that provision of power to the centre will be guaranteed by FACS only until the end of this week, and that one of the options for the future is to relocate to the Mawson High School, which will not be available until 1997.

The Hon. D.C. WOTTON: I say at the outset that I have had ongoing negotiations with the local member who has brought his concerns regarding this matter to my attention over a period of time. However, I thank the honourable member for the opportunity—

Mr Foley interjecting:

The SPEAKER: Order! The member for Hart.

The Hon. D.C. WOTTON: —at least to lay the facts on the table regarding the Brighton-Glenelg Community Centre rather than some of the distortions and misrepresentation that has been going on over time. Fact No. 1: the Government has made a commitment that the Brighton-Glenelg Community Centre will continue. Fact No. 2: to ensure this, the Government has offered to give the community one of two options, and we hope that the two councils concerned (Glenelg and Brighton) will accept one of those on behalf of their community. The options are: either part of the Mawson High School site, which includes a portion of land that may be sold to raise funds for development, or to retain a section of land on the current Tarlton Street site at Somerton Park together with $300 000 in capital funding towards the building of a new centre on that site.

Fact No. 3: the Government has made its commitment; the councils are yet to make theirs. Fact No. 4: this Government is not kicking anyone out—how can it be if it is providing property for a new centre in which those people can be housed? Fact No. 5: I put the councils on notice many months ago—in fact, it was in June this year that I met with the councils for the first time in a formal capacity—that responsibility for maintenance and power would be handed over, quite rightly, from Family and Community Services to the councils at the end of June. That is the case elsewhere. FACS is not in the business of paying electricity bills which councils should meet on behalf of local communities, and I would have thought that the Opposition spokesperson on Family and Community Services would recognise that.

The Government has continued to meet these power and maintenance costs for an extra four months to allow time for the councils to consider the options. I would have hoped that within the past four months some clarity would have been reached about the long-term future of the community centre. In the absence of that clarity, the department is not able to keep meeting these costs, and we have pointed that out quite clearly. On the other hand, if and when councils are able to commit to a particular solution, I expect that it should be possible to negotiate an appropriate arrangement for maintenance costs and an interim plan for centre accommodation for whatever finite period may be involved. We have made that very clear to the councils.

There have been two reports on conditions of the Mawson property to which the honourable member has referred. One is an audit dated 30 September which details the condition of the Mawson property and which lists its condition as satisfactory. The second report is an architect's report detailing redevelopment possibilities with the council and community centre. There have been a number of meetings with the architect: the architect continues to provide feedback as questions are asked.

Finally, in response to the matter that the honourable member raised regarding mental health, the existence or lack of a community centre had nothing to do with the Glenelg shooting—and I presume that is what the honourable member was referring to. Any effort to link the two together is quite wrong and, I would suggest, very distasteful. The Government has been very generous in the responsibility that it has and we will continue to negotiate. We will not kick these people out of their centre. We recognise the work that they are doing. I suggest that this Government has done a hell of a lot more than the previous Government, because it wanted to sell the site in any case and did not want anything to do with it whatsoever. It is pretty hollow for the Opposition spokesperson to stand up now and blame this Government for the situation in which we now find ourselves.

Members interjecting:

The SPEAKER: Order! I do not know whether the member for Elizabeth would allow students in her classroom to behave in that way and to have the last word, but it will not take place in the Chamber.

RABBITS

Mr KERIN (Frome): Will the Minister for Primary Industries provide the House with the latest information relating to the spread of the rabbit calicivirus disease, and will he also outline the situation regarding the general release of RCD and the program to protect pet rabbits?

The Hon. D.S. BAKER: I thank the honourable member for his question and continued interest in this matter. As I have kept the House informed all along, I wish to report that not only has the calicivirus spread to Yunta but that it is now through the Flinders Ranges and has been confirmed at Port Augusta. It has moved east into New South Wales and, in fact, New South Wales will set up its own testing facility. It would be expected that the virus will spread around that State. Yesterday, it was confirmed that there was an outbreak at Gawler.

I have to relate to the House that at 6 a.m. when I was halfway through my housework I received a telephone call from a reporter representing the *Sun Herald* in Melbourne. He asked, 'Are you concerned that the virus will spread to Adelaide?' I said, 'Why would I be concerned about that?' He said, 'What about all those pet rabbits in Adelaide?' I said, 'What about all the pet rabbits in Gawler; what about all the pet rabbits in Port Augusta?' He said, 'Oh, I don't know.' I said, 'There is ample provision made for vaccination. In fact, there are 4 000 rabbits in South Australia that have been vaccinated. There are 6 000 doses of vaccine held in reserve ready for vaccinations for those people who require them, and there are another 100 000 doses on the way.'

An honourable member interjecting:

The Hon. D.S. BAKER: I will make some available to the Opposition if it wants them. As I explained to the reporter, of course we have a concern for all the people in the State who have pet rabbits; adequate provision will be made. People do not quite understand that, generally, the death of the rabbit population is saving Australia $600 million in damage that rabbits do to the rural communities and, of course, untold damage to the environment in Australia. I said to the reporter, 'It is about time you started to focus on the good this will do, because we have made adequate provision in South Australia for the vaccination of pet rabbits, whether they be in Adelaide, Gawler or Port Augusta.

The Hon. D.C. Wotton: Bring on the bilby.

The Hon. D.S. BAKER: That is exactly right. I think it is irresponsible for the press to be scaremongering about people who have pet rabbits. We have a hotline available for those people who want information on it.

The Hon. M.H. Armitage: Is that a hopline?

The Hon. D.S. BAKER: We have a hopline for those who do not get through. Adequate provision will be made for all those pet owners who want vaccination for their rabbits. We have to make sure, now that the virus is out, that we focus on the good that it is doing for the environment in Australia, which has been decimated in the past by rabbits. We will continue to urge all farmers to participate adequately in the

clean up of the rabbit scourge as this virus spreads around South Australia.

MENTAL HEALTH SERVICE

Mrs GERAGHTY (Torrens): My question is directed to the Minister for Health. Is it the case that all employees in the mental health system will be forced to reapply for their current employment position as outlined in the draft mental health realignment report? On reading the draft mental health realignment report, it came to my attention that staff will be forced to apply for positions within the mental health system. This appears to apply to all staff, even if they are currently employed in the system. This unquestionably equates with some staff applying for their own jobs but, more importantly, it goes against the document itself which guarantees staff employment security.

The Hon. M.H. ARMITAGE: The matter in question is that the realignment document to which the member for Torrens refers is just as she identified: it is a draft. It has gone out for consultation, and those matters will be discussed. When the final document is brought down, those matters will be evident. At the moment, it is nothing more than a draft.

SENSATIONAL ADELAIDE INTERNATIONAL TATTOO

Mr LEGGETT (Hanson): Will the Minister for Tourism inform the House of what spectators attending the Sensational Adelaide International Tattoo can expect when the event starts its season at the Glenelg foreshore this week? This is the first significant event to follow the Grand Prix, and I understand that organisers are also staging a charity night to support the Royal Flying Doctor Service.

The Hon. G.A. INGERSON: I thank the member for Hanson for his question: I know he is interested in and closely linked to this magnificent tattoo that will be held at Glenelg this week. I also know, of course, that the local member is very interested and might even be playing his bagpipes on one of the nights. We expect some 30 000 visitors in South Australia over the next 10 days to see this tattoo. It is the first of the major events that we are running in South Australia in the next 12 months. It is expected that more than $1 million will be spent in the next 10 days.

On Thursday evening, the first of the concerts is in favour of the Royal Flying Doctor Service, and I encourage all members of Parliament and the community to come along and give graciously to that very excellent organisation. The most important performers will include the famous Royal Scots Dragoon Guards, the Band of the Brigade of Ghurkhas, the pipes and drums of the Third Battalion of the Royal Ghurkha Rifles and the Umbrian Flagwavers, all of whom flew into Adelaide on Sunday. It should be a magnificent event and I encourage everyone to go to Glenelg to see the tattoo.

MENTAL HEALTH SERVICE

Mrs GERAGHTY (Torrens): Will the Minister for Health guarantee that, when Mental Health Service operations are mainstreamed under the general health system, strict controls will be placed on hospital administrations so that this vital service is not starved of funding? The Minister and the Government should be aware and concerned that, when Mental Health Service operations are mainstreamed under the general health system, there is a real danger that funding for that service will be in competition with other general hospital services. It is crucial that the Minister should act to ensure that the long-term protection of funding is not channelled away from this vital service.

The Hon. M.H. ARMITAGE: The member for Torrens said it is essential that I work to make sure that the long-term future of funding in the mental health area is not siphoned from one area to another. What a joke, coming from the Party that closed Hillcrest Hospital with the desire of moving services into the community with an identified $11 million to provide those community services! When we had our first investigation on coming to Government as to why there were no or very few community services, what did we find? There was no money left because it had been siphoned off into other areas of more and greater priority to the then Government. What a joke that the member for Torrens would say that it is up to this Government to ensure that funding is not moved from one area of mental health out into others. What a joke!

The simple fact is that the draft document, which the member for Torrens spoke of before in a recent question and which I emphasise was a draft report, talks of a number of models as to how the services will be provided. I assure the member for Torrens and the House again, because I have done it before, that the whole question of mainstreaming, which was ignored completely by the previous Government but which has been actioned by this Government, will not be put in jeopardy by the sorts of things that the member for Torrens is speaking about.

Before finishing (recognising the time frame), I want to talk about the process of mainstreaming. What it actually means, for those people who are not completely *au fait* with the mental health area, is putting mental health beds (if you like) into public hospitals so that the stigma of being hospitalised with a mental illness, which can affect so many people, is decreased, because people with a mental illness can go to Royal Adelaide Hospital, Lyell McEwin or Noarlunga. I utilise the examples of Lyell McEwin and Noarlunga specifically because this Government has opened 20 bed units in both those hospitals, which is completely in line with the national mental health strategy, completely in line with what Burdekin would say and a concept that was completely ignored by the previous Government.

The one hospital that I do not mention as being able to take mainstream beds at the moment is Queen Elizabeth Hospital. Why am I not mentioning that hospital, which serves all those constituents of the member for Hart, who sees me and writes to me regularly asking why more is not happening? More is not happening in the western suburbs because there is a green ban on the destruction of a non-heritage listed building, which means that we are unable to provide the appropriate in-patient services at Queen Elizabeth Hospital.

Members interjecting:

The Hon. M.H. ARMITAGE: Members opposite are saying, 'It's nothing to do with me', but it is their industrial arm that is putting at risk the appropriate care of people in the community in community settings as should occur in their local hospitals. Mainstreaming is very much a part of what this Government is doing for mental health and we will not stand by and see it jeopardised.

EYRE PENINSULA

Mrs PENFOLD (Flinders): Can the Minister for Primary Industries bring the House up to date with the latest developments in the implementation plans for Eyre Peninsula, following the report of the Eyre Peninsula Task Force?

The Hon. D.S. BAKER: I thank the member for Flinders for her question and continued interest in this matter. As members would know, we set up a task force to look at problems on the West Coast. The task force was chaired by the Hon. Caroline Schaefer and, of course, the member for Giles was a member of the task force. From that comprehensive report came 27 recommendations on what should happen there, including sustainable development, education measures, financial measures and a range of regional development measures. A great deal of work has taken place between our Federal colleagues and officers of my department and, as all members would know, the Prime Minister visited the West Coast and announced a Federal initiative of some $5 million towards the program. I am delighted to announce now—

An honourable member interjecting:

The Hon. D.S. BAKER: No, it was not Bob Hawke; it was Prime Minister Keating. I am now delighted to announce that Federal Minister Collins will be accompanying me to Eyre Peninsula on 14 December to sign a Commonwealth-State agreement covering the first stage of initiatives by the task force. That augurs well for the future of the task force. We will also be meeting the task force itself in Wudinna that day to thank it for the work it has done. With the cooperation and commitment of the Federal Government, I hope—

Members interjecting:

The Hon. D.S. BAKER: I have always given the Federal Minister for Primary Industries credit for helping those people on the West Coast, just as I have given credit to the member for Giles. Hopefully, help will be coming soon to those people in the ongoing restructuring in order to make those people financially viable.

CROSSBOWS

Mr De LAINE (Price): Will the Minister for Emergency Services take action to control the sale of crossbows in a similar way to the provisions in place to control the sale of firearms? It has been put to me that crossbows are virtually as dangerous as firearms, but they can be purchased without restriction.

The Hon. W.A. MATTHEW: There are some restrictions on the sale of crossbows but, in order to provide the member for Price with accurate information on the constraints that apply under existing legislation, I will take his question on notice and bring back a report to him.

SHOPPING CENTRES

Mrs ROSENBERG (Kaurna): Will the Minister for Housing, Urban Development and Local Government Relations inform the House what progress has been made in the sale of Elizabeth Shopping Centre and the Noarlunga Regional Centre?

The Hon. J.K.G. OSWALD: I thank the honourable member for her question and recognise her interest, particularly in the Noarlunga Centre. I am pleased to announce that some three weeks ago, on 31 October, we concluded a satisfactory contract in respect of the Elizabeth Centre. The property was sold to Elizabeth Centre Pty Ltd for some $28 million. It is a joint consortium between Coles-Myer and Advance Property Fund. I congratulate the negotiating team on behalf of the Government which succeeded in really clinching an excellent deal. The $28 million will be used to retire debt which, of course, will be of great benefit to the provision of further public housing.

As to Noarlunga City Centre, some members may know that the significant and main lease there is held by the AMP Society and there are about 16 other minor leases covering a wide range of actual properties and buildings. The trust is now engaged in the due diligence process. Interim approval has been granted to the Noarlunga Centre Planning PAR and that should be with me very soon. It is anticipated that the same proven tender process used at Elizabeth will be used at Noarlunga and, as a result of that, I would expect that the land and lease assets will be available and the sale completed somewhere in about June 1996. As I said initially, as the asset is sold the funds received are used to retire debt and the win:win situation for the Housing Trust is that every dollar we can retire in debt can be invested in public housing for the benefit of our tenants.

PUBLIC HEALTH

The Hon. M.H. ARMITAGE (Minister for Health): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.H. ARMITAGE: SA Water and employees of SA Water are currently engaged in an industrial dispute. Industrially, that is a matter for other Ministers. What does concern me is the threat that this industrial dispute represents to the public health. I rise to inform the House and the South Australian public of actions being taken to address public health concerns and actions that members of the public can take to identify and mitigate against public health risks they may face. I should point out that the advice I have is that the risks are slight. However, I believe that this is an important public health issue about which the public should be informed.

I have received reports that raw sewage is entering households because of blocked drains, and there has been some concern over the partially treated effluent being discharged into the Port River. There are also reports that due to lack of maintenance of the sewerage mains there are instances where raw sewage is being discharged in or near households. Parents of young children should be particularly vigilant to ensure that their children do not make contact with that sewage.

I am advised that householders may block the floor drain by use of a sand bag or a plastic bag full of water so that any discharge is forced outside. If this occurs, outside areas affected by the discharge should be blocked off from child access. Should access occur, children's hands and clothing and any items that have had contact with the sewage should be fully cleaned with soap and water. Householders are advised to contact their local plumber to ensure that the blockage is not sourced from within their own property. If it is not, they can contact the SA Water emergency number 216 1541 at Thebarton. If discharge is occurring in the street, householders should notify the local council or telephone the SA Water emergency number (216 1541). Children should

be kept away from the street where the public health problems might occur. Generally, adults should exercise normal hygiene measures such as thorough hand washing before food preparation, eating or smoking.

I wish to remind members of the public that warnings have been issued against eating shellfish from the Port River or water contact sports such as swimming, diving and water-skiing. The public is also advised against taking any dead fish. SA Water has been in contact with the South Australian Health Commission to convey information that it has on the extent and location of any failure in the water and sewerage systems. I understand that the Environment Protection Authority has moved to resolve the problems at the Port Adelaide treatment plant. I remind the House and the people of South Australia that if the unions lifted their bans the public health concerns would dissipate immediately.

The SPEAKER: Order! Could I suggest to the member for Hart, who has had a pretty good run this afternoon, that he contain himself.

GRIEVANCE DEBATE

The SPEAKER: The question before the Chair is that the House note grievances

Mrs KOTZ (Newland): The Labor Party and the Opposition have continued to promote their fear and scare campaigns unabated over the past 22 months. When we talk about fear and scare campaigns it should be understood that we are talking about the Labor Party and the Opposition feeding incorrect information into the public arena: misinformation to the public on almost every Government initiative since we were duly elected to Government some 22 months ago. This misinformation is always contrary to the facts, and therefore is untruthful. When untruthful information hits out at essential services such as water and sewerage, it is also unethical. Not one Opposition member in this House should not feel immense shame at the outcome of their actions, which are disgraceful. We have sewage running down the streets of metropolitan Adelaide, and Opposition members are literally up to their necks in it because of their despicable actions which have taken the word 'fabrication' well and truly into the gutter.

They have continually fed unions and their members with a ludicrous interpretation of 'outsourcing', which, if it was not so anti the State and its people—so anti health, so anti the State's delicate economy and therefore so very dangerous—would be almost childlike in its naivety. The Opposition in this Parliament is the remnant of the most infamous group of people ever to have the misfortune to run this State—and run it into the ground. No-one from the Labor Opposition has had the guts or found a trace of integrity to stand in this place or outside and apologise to the people of this State for taking us into a position where we have almost a $9 billion debt—a legacy of their incredible mismanagement of Government and taxpayer funds. Instead, they continue to create further havoc and confusion with their fabrications and their out and out untruths.

To have the State's effluent running down our streets must seem like some misbegotten victory to the Labor Party, having put so much energy, effort and financial resources into this farcical campaign. It is supported by a group of ill-advised, mischief-making individuals who greet each other, would members believe, with the words 'Hello, comrade.' They did so at a so-called public meeting held at the Tea Tree Gully TAFE College last week, which I attended with the member for Florey: 33 people attended—

The SPEAKER: Order! The member for Hart will come to order.

Mrs KOTZ: —led by a motley crew of left-wing socialists—

The SPEAKER: Order! I have no alternative but to warn the member for Hart.

Mrs KOTZ: —headed by Peter Duncan, supported by Clare McCarty's better half, Doug; George Apap, retired union leader, who does not know he is retired; and further supported by the Hon. Sandra Kanck in the persona of Eugene, personal adviser. What kind of mentality do these people possess if they believe that effluent running in our streets where our children play and past the schools where our children attend—the outcome of their fear and scare campaign—is a victory and an achievement? What type of mentality do these 'Hello, comrade' individuals possess who set out deliberately to sabotage the public utilities that service the essential requirements and the needs of the South Australian people? Water supplies have also been cut to hundreds of homes over the past week due to union industrial action.

An honourable member interjecting:

Mrs KOTZ: Yes, last week. The utter irony of this circumstance should be clearly understood. The Leader of the Opposition, who initiated this campaign by making statements in this Parliament and by sending thousands of letters to constituents throughout the whole of South Australia, has actively warned South Australians that disaster would befall this State because of Government action to 'sell off South Australian water'. South Australian water has not been sold off, and it will not be sold off. But, just look at the disaster that he, his union mates and his 'Hello, comrades' have caused. The disaster that the Leader of the Opposition has been predicting has indeed occurred and it has been by the Leader of the Opposition's own making. His prediction has indeed come true. I imagine that that is another apology owed to the people of this State that will not be forthcoming.

The Hon. M.D. RANN (Leader of the Opposition): My prediction has come true. A month ago, when the big announcement of the deal was made with United Water over the running and management of our water supply, the people of this State were told that it would be an Australian company. The people of this State were deceived. They, and the media, were lied to. The company running the water supply will be about as Australian as the Eiffel Tower. Let us remember that on Friday in a select committee of the Upper House the principals of United Water completely ruled out the very things that the Minister for Infrastructure and the Premier said on the day of the announcement. I said when the deal was announced—and it has been proven to be true—that it will be foreign ownership of United Water. United Water International will be a laundromat for money to be repatriated back to CGE in France and Thames in Britain.

The Government's water deal has been exposed, and exposed by the heads of the companies themselves. I tell members that Mr Kinnaird, Mr Doyle and Mr Anderson will be recalled before the select committee and asked under oath why their statements on Friday totally ran against everything the people of this State were told by the Premier and by the Minister for infrastructure. The people of this State have been lied to, and this Parliament has been misled. As I said, the

source for today's media stories and interviews were the people—

The Hon. R.B. SUCH: I rise on a point of order, Mr Deputy Speaker. I understand that to suggest that this House has been misled requires a substantive motion, and the Leader of the Opposition should move accordingly.

The Hon. M.D. Rann: There's no point of order.

The DEPUTY SPEAKER: Order! The Leader would be aware that, if allegations of impropriety are made against any member of the House (and I am afraid my attention was distracted by an honourable member who was seeking advice), a substantive motion has to be put. It is quite out of order for any honourable member to make an allegation of impropriety against a fellow parliamentarian.

The Hon. M.D. RANN: I was referring to the Government. Two stories are being put around at the moment. One story being put out by the Government is that the company that will run and manage our water supply will be locally owned—Australian—with a kangaroo in the corner of the letterhead. However, the heads of the company completely refuted that notion in evidence before a select committee of this Parliament on Friday.

Mr BROKENSHIRE: I rise on a point of order, Mr Deputy Speaker. The Leader of the Opposition continually talks about behaviour within this Chamber. I believe that he needs to address his debate through the Chair. For 2½ minutes he has looked at the cameras. He should be addressing his remarks through the Chair.

Members interjecting:

The DEPUTY SPEAKER: Order! I remind members not to make frivolous points of order; I am quite prepared to take serious ones.

Mr BRINDAL: By way of a point of order, Mr Deputy Speaker, the Deputy Leader made an interjection across the Chamber which I find totally offensive, and I ask him to withdraw.

Mr Clarke: For the second time, I withdraw.

The Hon. M.D. RANN: It is the same tactic here today, because there are two questions, and there are questions that will be asked of Mr Kinnaird. Why is it that what was read out in Parliament today from his offsider Kevin Doyle is totally in disagreement with what he said in evidence? He said that what the Premier and the Minister for Infrastructure said was a beat up, and every journalist in this State knows what a beat up is. The public have been told a complete pack of lies about the ownership of United Water, and we will pursue it.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. M.D. RANN: It is very interesting that we were told some other things today. We were told that United Water is 47.5 per cent French, 47.5 per cent British, and 5 per cent Australian—that is the kangaroo in the corner of the letterhead. It is that company's clear understanding that in five years that situation could be exactly the same. Today we heard from the Minister for Infrastructure that United Water International remains committed to offering shares, but we have heard nothing about United Water Services—the real operator of our water supply. It will be run from France and Britain, and members opposite know it.

The DEPUTY SPEAKER: Order! The Leader's time has expired. The member for Custance.

Mr VENNING (Custance): Before I begin, I point out that the remarks the Deputy Leader of the Opposition just made to the House relate to the integrity of the Leader and the Minister. I know who I believe. The Minister has said time and again that this company is part of the contract and that it will be 60 per cent Australian owned. It is a matter of whom one believes. I know who I believe: my judgment is with the Minister.

Today I want to be positive and inform the House of South Australia's wonderful harvest. The weather has been good, and harvesting is in full swing across three quarters of South Australia. The crop is estimated to be worth at least $1 billion to the economy—weather and circumstances permitting. Farmers across South Australia are probably having their best season in 10 years at least. Nearly all regions of South Australia are experiencing a wonderful and bountiful harvest. The Mid North and Yorke Peninsula are having a fantastic year, from Kapunda right up to Orroroo and from Booleroo down to Maitland. It is an excellent season, and the crops in many areas have never been better. The Murray-Mallee is good, but there are some poorer patches. It is the same with the West Coast: it is generally good, but there are some poorer areas. The yield has been good and, as I said, many of the yields are creating records.

It is unusual to see these high yields and, at the same time, we are seeing high protein levels. It is unusual for the two to go together. Usually high yields mean a poor protein level, but this year we are seeing high protein with the high yields. Those farmers who have kept up with their fertiliser levels, especially their nitrogen levels, this year are reaping a big bonus. Twelve per cent protein is common in wheat, and that is quite common right across the State, and it will maximise the price. Twelve per cent is good. That is what the world market requires, and that is as good as we can ever expect to have. To finish off this trifecta, we are experiencing good commodity prices. The price of Australian hard wheat No. 13 is $260 a tonne. That is a good price, when you compare it to a bit over $100 a tonne two years ago. The cost of Australian hard wheat No. 1 is $241.

Mr Clarke: Is it your shout tonight?

Mr VENNING: It's my shout if you like. The price of Australian prime wheat, with 10 per cent protein, is $238; for Australian standard white, with 10 per cent protein, it is $233; for Australian general purpose, which is the low grade wheat, it is $223; and for durum, which is used for pasta in Australia, it is $285, delivered Wallaroo. These are exceptional prices and, because of the yields, many of our farmers have a broad smile. The barley pool estimates are as follows: malted, $217 a tonne; and for feed, $162 a tonne. When we realise that, less than two years ago, the price was only $50 a tonne we can understand why farmers are smiling. The price for peas is $235. However, the highest price is for our faba beans: today they are a staggering $312 a tonne. The scene in South Australian fields is fantastic, and the prospects have never been better. We hope the weather holds—not like in New South Wales and Victoria—and that there are no disruptions, particularly industrial disruptions or anything else.

Speaking of disruptions, it is concerning to learn of the police blitz, which began on 16 November. I hope that this will not detract from the harvest, because I know what could happen if the police carry out these inspections and delays occur. South Australians are benefiting today, and all South Australia will benefit. Farmers will replace their old and worn out plant, repair fences and gates, paint the house—even lash out and buy a newer motor car. Most will pay off a large debt,

and the South Australian farm debt is approximately $180 000 per unit.

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

Mrs ROSENBERG (Kaurna): In my grievance today, I would like to draw this Parliament's attention to the very disturbing program being followed by the Federal Labor Party and, in South Australia, the State ALP, managed by the State Secretary, Mr John Hill. In October, I raised the issue of the Federal Government's intention to charge $20 000 for businesses to have access to the Prime Minister Mr Keating and to his Federal Ministers. At that time, it was also mentioned that the State ALP intended to invite South Australian businesses to pay $500 to sit in a corporate box and watch the performance of the comrades at Trades Hall during the ALP convention. I understand that the ALP received no responses to this request from business, so it has now decided to offer even more for the $500.

One thousand businesses have received a letter asking for $500 in return for newsletters, communications and papers from the Labor Party and Labor MPs. Also for the $500 Mr Hill has promised businesses that they will get greater access to MPs and Opposition spokespersons to discuss policy issues. To top it off, they will be invited to fundraising dinners, speech nights and the annual State convention. This is set up as the Business-Labor Liaison Scheme. Mr Hill claims that this is being done to 'set up more direct lines of communication between business and the Labor Party'.

When directly compared with the Liberal Party's stand by Mr Cameron, who has indicated that if businesses want Liberal Party material it is just simply sent out to them, Mr Hill has said that if businesses did not want to pay the $500 they would not be denied access to the information or to MPs. So what really is the Business-Labor Liaison Scheme designed for? Quite bluntly, it is designed as a fundraising exercise set up by a misdirected, inappropriate and out of touch ALP State Secretary.

This can be clearly seen by the attachment sent out to all businesses by the State Secretary. This registration form has a half page photograph of—guess who?—the State Secretary, who, I am sure, is more interested in his candidacy for the electorate of Kaurna than in the ALP-business liaison group. This funding is now necessary by Trades Hall because the people who traditionally funded the Labor Party—the unions—are leaving in droves. We have to ask: what liaison processes were in place for the 11 years that Labor was in power? Did it ever negotiate with business during those 11 years? Obviously, no liaison happened, because, if it had ever spoken to business, it would never have allowed shops to open for five nights a week for late night shopping without any negotiation with small business.

If it was not such a serious attack on our democratic process, it could be laughed at, but it is serious. Unfortunately, Mr Hill is serious, and that is what makes the whole process so disturbing. Only a politically bankrupt Party like the ALP would think of charging $500 for 'easy access' to Labor shadow Ministers and MPs. It says a lot about the lack of ethics of the Australian Labor Party in South Australia that its State Secretary, John Hill, is prepared to trample all over the democratic process. Whatever happened to the traditional rights of people to communicate directly with their political representatives free of charge, as happens in the Liberal Party? It seems that only the ALP is so money hungry that it would charge businesses for something that should happen naturally.

Of course, we should not be surprised that Hill and his cronies are so desperate that they are resorting to such tactics. I might add that Mr Hill's attention to his job is somewhat less than wholehearted, as he obviously wants to dump his position as Secretary of a bunch of assorted losers, non-performers and malcontents to become the next member for Kaurna. I have news for him. If he is charging $500 for easy access to his Labor mates in Parliament, I can assure him that he will not get away with that sort of tactic with the voters in Kaurna. Mr Hill will soon learn that the only person he is fooling is himself.

Members of Parliament are democratically elected by all the community. All in the community should have equal ability to reach and speak to their members of Parliament and not be expected to pay for the privilege. Obviously would-be politicians like Mr Hill have an impression and opinion of themselves to the effect that people should pay for the privilege to speak to them. This is not so, and I really do not care. This type of attitude is typical of the loss of contact that the Labor Party has had with the real world. If the Labor Party wants businesses to join the Labor Party, it should be honest and simply ask them to pay membership, not to use the pay off system to try to trick businesses into membership. The *Advertiser* Editor described this process as 'enterprising open-mindedness.' I call it disturbing small-mindedness.

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

Ms STEVENS (Elizabeth): I want to return to the issue of the Brighton-Glenelg Community Centre. I wish to refer to some information that I have about a delegation that went to the Minister for Family and Community Services on 9 August 1994. That delegation from the management committee of the centre was accompanied by the local member for Morphett. The members of that delegation were very pleased with the result of the meeting with the Minister. In fact, they have given me information about five points that were agreed at that meeting. They were: first, that the property is to be declared 'surplus to requirements'; secondly, that developers are invited to present proposals for the sale and development of the site; thirdly, that such proposals shall include the retention of the community centre in green space on the site; fourthly, that the centre shall have equivalent useable space to that which is presently available and that services will be retained at the present level; and, fifthly, that the management committee be involved in the development and approval of the design of any new building or upgrade of the old.

The Minister did not refer to that meeting. Instead, he referred to correspondence and meetings that he had in June this year. It was in June that things changed. In June, the Government offered two options to the community centre. The first option was that it could have either 2 200 square metres of land on the current site, as indicated in an attachment, plus $300 000 to construct a centre; or, secondly, it could have 8 500 square metres of land on the current Mawson High School site, indicated on another attachment.

The Minister referred to that today. Neither option is satisfactory, and neither of those options upheld the undertaking given the year before. First, 2 200 square metres is not enough land, and that was not what he agreed to the year before. Therefore, the first option was not satisfactory. The second option related to Mawson High School, and we know

that Mawson High School will not become available until 1997.

Community centres are more than just buildings. Community centres involve people, and they are very important in the places where they are situated. To shift a community centre four or five kilometres and to expect that everything will remain as it is is unrealistic and indicates that people do not understand the way that these places work within local neighbourhoods.

Another point that I wish to make this afternoon is that the Minister was quoted in the press today as saying that the department had been very generous in terms of the costs that it had been paying for that community centre. I note in correspondence from the CEO of the centre that those costs are $12 000 per annum for gas, electricity and maintenance; $10 000 per annum for gardening; and there is a third of a coordinator's salary of $9 000. That is a total of $31 000 a year that FACS pays.

Let us look on the other side of the ledger and see what this centre does for the community. Each week 1 000 people attend the centre. The centre runs programs for a whole range of people. I got information this morning on a few of those programs: playgroups, kindergyms, programs for elderly, frail and aged people, programs for adolescents, programs for children with intellectual disabilities and, as I mentioned earlier today, it is about to set up a program for people with mental illness. I wonder how much that is worth. I would say it is worth up to 10 times more than $31 000 a year, so let us be fair about this.

Finally, I should like to quote from the *Advertiser* the words of Mr Brian Nadilo, the Mayor of Glenelg, who said:

> Coming only a day after Brighton residents rallied to save the Bowker Street sporting reserve from being sold by the Education Department, the Government is selling off these assets because they have identified them as surplus to their needs. These assets are not surplus to community needs and once lost will never be replaced.

We need to think about those words, because they are true.

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

Mr LEWIS (Ridley): The fire season is upon us again. Notwithstanding what that means to us, here and there across the length and breadth of this State there are some matters to which, in my judgment, we should draw attention. I had the good fortune, at last, to attend the celebration of the opening of the new CFS facilities at Karoonda on Friday. That will provide the community there with the means by which it can undertake training for the numerous brigades in the large area covered by the Karoonda-East Murray District Council and CFS regional commanders.

Another matter to which I wish to draw attention is amply illustrated in a letter, dated 18 November, that I have received from Merrilyn Gregory of Mitchell Park, who says:

> I have just returned from a week in the area and the local landowners and workmen are, of course, preparing themselves and the Bunbury/Laffer truck for the oncoming fire season.

This is around the national parks in the Tintinara area. She continues:

> Once again, the lack of fire breaks around the parks are quite evident, and how many men in the area would be available to fight a fire if it again starts in the parks as it did last year on more than one occasion.
>
> On the weekend I attended a seminar on green chip companies of our State and one of the speakers was the Executive Director of Auspine and I could not help thinking how close the area is to the parks that I am writing to you about. As I received more positive action from you on the matter . . .

The author had written to me on a previous occasion. I place on record that I believe it is high time—indeed, it is well nigh time—that fire breaks were put in place by private land owners as well as Government land-owning agencies.

The next matter to which I wish to draw attention is something which I think we ought to do from time to time, that is, the kind of substance in our daily press which helps us understand—and those who may revisit the proceedings of the Chamber from time to time—how we in this Chamber are acting and/or reacting to problems that arise from the general public. In this instance the matter to which I wish to draw attention is the editorial headed, 'Selling political showbags', which states:

> We have become accustomed to living in a topsy turvy, assume-nothing world. Royals hang out the dirty washing in books and TV interviews. Bob Hawke—

and, Mr Deputy Speaker, you would know him as the old, silver bodgie—

> is the born-again 'great conciliator'. A Federal Minister is branded a liar and so is immediately endorsed as a valued colleague by the Prime Minister.
>
> But South Australian Labor Party is the Party on the cutting edge of private enterprise? That still raises an eyebrow or two. The ALP's plans to charge businesses $500 or more to get an inside edge on Party decisions and functions drew a predictable response.
>
> Disturbing, huffed some critics. Potentially dangerous, puffed others. But as with the earlier and sloppier Queensland ALP rent-a-minister scheme, it is difficult for those not actually running candidates against the ALP to get greatly excited.
>
> This is a country where Parties are always crying poor and seeking donations at anything from a chook raffle to a $1 000-a-plate dinner. Being pure in heart it is always stated that however much is given, there will be no special favours in return.

I tell you straight out, Mr Deputy Speaker, as you would know, that is the case in the Liberal Party. It continues:

> Indeed, these strenuous protestations of virtue sometimes make it seem that giving a donation is a guarantee of being ignored if not actually discriminated against.
>
> But SA Labor, in the person of State secretary John Hill, will have none of this. A trifling $500 gets the donor a veritable political showbag of goodies, from greater access to such commanding figures as Mike Rann and John Quirke to newspapers and newsletters, speech nights and even the party's annual convention.

I wonder how much the Editor had his tongue in his cheek when he wrote this. The editorial further states:

> The *Advertiser* is charmed by this enterprising open-mindedness. Indeed, we suggest to the Liberals that they may care to circulate Trades Hall with bargain offers of their own with union stalwarts getting their own showbag of press releases, dodgers and first preference lunches addressed by John Howard and Jeff Kennett.
>
> The Australian Democrats could appeal to both constituencies, though we would suggest that commercial prudence would indicate something rather less than $500 might be the going rate for them.
>
> Once this concept has been bedded down, the parties might like to contemplate the really nice little earner with full naming rights. The CRA Labor Party. The ACTU Liberals. The Japanese Minke Whales Democrats.

The mind boggles. The other matter to which I wish to draw attention is the way in which, in the past, the native vegetation branch and the authority that operated it acted illegally and unlawfully and, indeed, the way that has been described at page 10 of this week's *Stock Journal* by one person who was adversely affected, and many others who have said to me, 'Me too', namely Mrs Helen Mahar of Ceduna.

The DEPUTY SPEAKER: Order! The honourable

member's time has expired.

SENATE VACANCY

Her Excellency the Governor, by message, informed the House of Assembly that the President of the Senate of the Commonwealth of Australia, in accordance with section 21 of the Constitution of the Commonwealth of Australia, had notified her that, in consequence of the resignation on 20 November 1995 of Senator John Richard Coulter, a vacancy had happened in the representation of this State in the Senate of the Commonwealth. The Governor is advised that, by such vacancy having happened, the place of a Senator has become vacant before the expiration of his term within the meaning of section 15 of the Constitution of the Commonwealth of Australia, and that such place must be filled by the Houses of Parliament, sitting and voting together, choosing a person to hold it in accordance with the provisions of the said section.

MEMBER'S LEAVE

Mr De LAINE (Price): I move:

That the member for Spence (Mr M.J. Atkinson) be granted leave from the sittings of the House for this week and next (a total of six sitting days), owing to family responsibilities.

Motion carried.

CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

Second reading

The Hon. S.J. BAKER (Deputy Premier): 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 special provisions of the criminal law dealing with major issues which arise when a person suffering from a mental illness comes before the courts of this State are to be found almost entirely in the common law. In general terms, the two major issues are the law concerning what is known as "fitness to plead" and the law dealing with what is generally known as the "defence of insanity".

The rules about "fitness to plead" are rules which deal with the situation where a person, accused of a crime, cannot give full answer and defence, or instruct counsel to do so. This is generally linked to a capacity to understand legal proceedings, but not invariably so. It is usually the case that the reason why the accused cannot give full answer or defence and hence is not fit to plead is due to a mental illness of some kind. But, again, that is not invariably so. A person with a severe intellectual disability may also be in that position. Recently, a court in South Australia ruled a person unfit to plead due to severe physical illness. Moreover, there are cases on record where an accused has been found unfit to plead due to a combination of strong language and cultural differences.

The rules about when a person is or is not "fit to plead" have not caused great difficulty and are preserved in this Bill. The same, however, cannot be said of the consequences of being found unfit to plead.

The "defence of insanity" deals not with an existing mental illness or impairment suffered by the accused at the time of trial, but an existing mental illness or impairment suffered by the accused at the time at which the accused is alleged to have committed the offence. The rules dealing with the question of criminal responsibility are still taken from an English judgment of 1843, referred to as the *McNaughten Rules*. In addition, in this State, there are some legislative provisions concerning detention contained in the *Mental Health (Supplementary Provisions) Act 1935* which were derived from the English *Criminal Lunatics Act 1800*.

The test for legal "insanity" and criminal responsibility, the court procedures by which this matter is dealt with and the outcome of a successful defence have all occasioned increasing disquiet and dissatisfaction in recent times. So far as the test is concerned, it has remained unchanged in form since 1843. Varying interpretations by the courts since that time have held that a severe anti-social personality disorder is not, or may not be, a mental illness, while, on the other hand, psychomotor epilepsy has been held to be a mental illness. In the code States of Queensland and Western Australia, a mental illness leading to a complete inability to control behaviour may lead to a defence of insanity, but not in the common law States.

The fact that the defence of insanity must be put to the jury as a part of the general issue of guilt or innocence has occasioned judicial criticism of the procedures by which the issue is tried. The procedure is confusing for juries.

In addition, the common law is that if a person is found unfit to plead, or is found to be not guilty by reason of insanity, the only possible outcome is detention at the pleasure of Her Majesty—*ie* indeterminate detention. As a consequence, it is only those charged with the gravest of crimes who elect to invoke these legal procedures. Who would want to risk being labelled as criminally insane and confined for an indefinite period when the alleged crime is one of, say, common assault, carrying a maximum penalty of two years imprisonment?

There has been general agreement for many years that the law on these subjects is unsatisfactory. The Commonwealth enacted substantial legislation in 1989 and New South Wales made major amendments to its law in 1990. The Victorian Law Reform Commission recommended substantial change to the common law in that State in 1990 and in England reforms of a similar kind were enacted in 1991.

The defects of the common law may be summarised as follows:

(1) The current law operates badly—

- accused people avoid the defence of insanity except where the offence is very serious indeed, because the result of a "successful" defence is indefinite detention;
- the legislation is archaic and offensively worded and is, in many respects, ignored in practice;
- those detained as mentally ill under the criminal law have few effective rights.

The result of all of this is that the role of mental impairment and intellectual disability in the criminal justice system is massively understated with consequent personal and systemic injustice.

(2) Other jurisdictions in this country have acted to reform their laws on the subject. While the results cannot be described as uniform, there are common themes. Most importantly, the Commonwealth enacted substantial reforms in 1989 and, unless South Australia acts to achieve some kind of consistency, it will result in drastically different treatment for State and Federal detainees. The Government is not urging complete uniformity but some degree of fair consistency is highly desirable.

(3) It is highly likely that the current law in this State is contrary to the *International Covenant on Civil and Political Rights*. In addition, the current state of the law does not conform to the *UN Draft Guidelines and Principles for the Protection of the Mentally Ill*. These matters have been detailed with considerable force by the *Burdekin Report*.

In this State, the first major statutory reform to the system was by the *Criminal Law Consolidation (Detention of Insane Offenders) Amendment Act 1992*. This Act was introduced as a Private Member's Bill by the Hon RJ Ritson. In general terms, it did three things—

(1) it removed decisions about the release on licence of detainees from the Governor in Council and gave the decision to the relevant court;

(2) it provided for the notification and consultation of next of kin and victims in decisions about release on licence; and

(3) it required the formulation of "treatment plans" for detainees.

The Bill was passed by Parliament with the support of all parties and stands as a testament to the interest and tenacity of Dr Ritson.

In the meantime, the whole set of issues had been taken up by the *Standing Committee of Attorneys-General* and referred to a subcommittee of officers, known then as the *Criminal Law Officers Committee*. That Committee produced a report to the Standing Committee in December 1992 that contained recommendations

generally consistent with the trend of reform, both in this country and overseas. This Bill has been drafted in order to take up those recommendations.

In general terms, the Bill is intended to achieve the following reforms:

(1) It defines "mental illness" using the words chosen for the purpose by the High Court.
(2) It defines the roles of judge and jury;
(3) It isolates the question of the defendant's fitness to plead or the question of whether the defendant was, at the time of the alleged offence, suffering from mental impairment from other questions that may be at issue in the case. This enables judge and jury to concentrate on the issues affecting those fundamental questions.
(4) It ensures that if the question of fitness to plead or mental impairment is raised, the court must first be satisfied that there is sufficient evidence available to show that the accused actually committed the acts in question.
(5) It empowers a court that finds that the accused is unfit to plead, or was not criminally responsible (due to mental impairment), to make the most appropriate disposition with respect to each accused (including detention or community based treatment programs).
(6) It requires a court to set a limit to the exposure of the accused to any supervision order made—the limit being fixed in relation to the penalty that would have been applicable had the accused been found guilty of the offence with which he or she was charged.
(7) It retains the 1992 reforms sponsored by the Hon Dr Ritson, with some tidying up and clarification of the roles and responsibilities of those participating in the system who have legal responsibilities in relation to such people.

These reforms have been the subject of extensive consultation both within Government and in the general community. They have been overwhelmingly supported. The Government hopes that, as with the reforms of 1992, these long overdue reforms will attract the support of all parties.

I commend the Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Insertion of Part 8A

PART 8A
MENTAL IMPAIRMENT
DIVISION 1—PRELIMINARY

269A. Interpretation

This provides for definitions of words and phrases used in the Bill. In particular, mental illness and mental impairment are defined. Mental impairment is defined to include mental illness, an intellectual disability or a disorder or impairment of the mind as a result of senility. For the purposes of new Part 8A—

- the question whether a person was mentally competent to commit an offence is a question of fact;
- the question whether a person is mentally unfit to stand trial on a charge of an offence is a question of fact.

269B. Distribution of judicial functions between judge and jury

An investigation by a court into—

- a defendant's mental competence to commit an offence or a defendant's mental fitness to stand trial; or
- whether elements of the offence have been established,

is (unless the defendant has elected to have the matter dealt with by a judge sitting alone) to be conducted before a jury. Except where the trial judge thinks there are special reasons to have separate juries, the same jury may deal with issues arising about a defendant's mental competence to commit an offence, or fitness to stand trial, and the issues on which the defendant is to be tried. Any other powers or functions conferred on a court by new Part 8A are to be exercised by the court constituted of a judge sitting alone.

DIVISION 2—MENTAL COMPETENCE TO COMMIT OFFENCES

269C. Mental competence

A person is mentally incompetent to commit an offence if, at the time of the alleged offence, the person was suffering from a mental impairment and, as a result—

- did not know the nature or quality of the conduct; or
- did not know that the conduct was wrong; or
- was unable to control the conduct.

269D. Presumption of mental competence

It will be presumed that, unless a person is found on investigation under this new Division, to have been mentally incompetent to commit a particular offence, the person was mentally competent to have committed the offence.

269E. Reservation of question of mental competence

This sets out the procedure to be followed if, during a trial, the question of mental competence is raised as a defence or if the court decides that the defendant's mental competence should be investigated. The question of the defendant's mental competence to commit the offence must be separated from the remainder of the trial and the trial judge has a discretion to proceed first—

- with the trial of the objective elements of the offence; or
- with the trial of the mental competence of the defendant.

269F. What happens if trial judge decides to proceed first with trial of defendant's mental competence to commit offence

If the court is not satisfied on the balance of probabilities (the civil burden of proof) that the defendant was, at the time of the alleged offence, mentally incompetent to have committed it, the defendant will proceed to trial on the offence in the usual way.

If, however, the court is satisfied that the defendant was not mentally competent to have committed the alleged offence, the court must record such a finding and then proceed to hear evidence and argument relevant to the question of whether the objective elements of the alleged offence can be established.

The court must record whether the objective elements of the alleged offence are established beyond reasonable doubt (the burden of proof required in criminal matters). If they are, the court must declare the defendant not guilty but liable to supervision under this new Part. If the objective elements are not established, the defendant must be found not guilty and be discharged.

269G. What happens if trial judge decides to proceed first with trial of objective elements of offence

If the court is satisfied beyond reasonable doubt on evidence and argument put before it, that the defendant physically committed the act in question, the court must record a finding that the objective elements of the offence are established. If the court is not so satisfied, the court must record a finding that the defendant is not guilty of the offence. In that case, the defendant is free to go.

If the court is satisfied beyond reasonable doubt that the defendant physically committed the act in question, the court must then proceed to hear evidence and argument by both sides on the question of the defendant's mental competence to commit the offence. If the court is satisfied on the balance of probabilities that the defendant was not, at the time of the alleged offence, mentally competent to have committed it, the court must record a finding that the defendant is not guilty. The defendant will then be liable to supervision under this new Part (*see, in particular, Division 4, ss. 269O—269V*).

If the court is not so satisfied that the defendant was, at the relevant time, mentally incompetent to have committed the alleged offence, the defendant will proceed to trial on the offence in the usual way.

If there is agreement between the parties, the court may dispense with an investigation into a defendant's mental competence and declare the defendant mentally incompetent and liable to supervision under this new Part.

DIVISION 3—MENTAL UNFITNESS TO STAND TRIAL

269H. Mental unfitness to stand trial

A person is mentally unfit to stand trial on a charge of an offence if the person's mental processes are so disordered or impaired that the person is unable—

- to understand the charge, or to respond rationally to, the charge or allegations made against him or her; or
- to exercise, or give rational instructions about the exercise of, his or her procedural rights; or
- to understand the nature of the proceedings or to follow the evidence or the course of the proceedings.

269I. Presumption of mental fitness to stand trial

It will be presumed that a person is mentally fit to stand trial unless it is established that the person is not.

269J. Order for investigation of mental fitness to stand trial

If there are reasonable grounds to suppose that a person is mentally unfit to stand trial, the court may order an investigation under this new Division into the matter.

If a court of trial decides that the question of the defendant's mental fitness to stand trial should be investigated after the trial

has begun, the court may adjourn or discontinue the trial and proceed with such an investigation.

If the question of a defendant's mental fitness to stand trial arises at the preliminary examination of a charge of an indictable offence, the question must be reserved for determination by the court of trial.

269K. Preliminary prognosis of defendant's condition

Before commencing a formal investigation under this new Division, the court may require the production of any expert reports that may exist in respect of the defendant's mental condition or, in its discretion, require that a report be made.

The court may adjourn such an investigation for up to 12 months if it appears from a report that, while the defendant is currently unfit to stand trial, he or she has a reasonable prospect of becoming fit some time within the next 12 months.

If after such an adjournment, the court reaches the opinion that there is no longer a need to proceed with an investigation under this new Division, the court may revoke the order and proceed to try the defendant in the usual way.

269L. Trial judge's discretion about course of trial

If the court orders an investigation into a defendant's mental fitness to stand trial, the trial judge has a discretion to try the question of the defendant's mental fitness to stand trial separately—

- before any other issue that is to be tried; or
- after a trial of the objective elements of the alleged offence.

269M. What happens if trial judge decides to proceed first with trial of defendant's mental fitness to stand trial

The court must hear evidence and argument put to it on the question of the defendant's mental fitness to stand trial and may require the defendant to undergo an expert examination and require the results of the examination to be reported to the court.

If the court is not satisfied on the balance of probabilities that the defendant is mentally unfit to stand trial, the court must proceed with the trial of the offence in the usual way.

If the court is satisfied on the balance of probabilities that the defendant is mentally unfit to stand trial, the court must record a finding to that effect.

If the parties agree, the court may dispense with or terminate an investigation under this new Division and record a finding that the defendant is mentally unfit to stand trial. If the court makes such a recording, the court must hear evidence and argument put to the court by the parties relevant to the question whether a finding should be recorded that the objective elements of the offence are established.

If the court is satisfied that the objective elements of the offence are established beyond reasonable doubt and there is no defence to the charge that could be established on the assumption that the defendant's mental faculties were not impaired at the time of the alleged offence, the court must record a finding that the objective elements of the offence are established and declare the defendant to be liable to supervision under this Part. Otherwise the court must find the defendant not guilty and discharge the defendant.

269N. What happens if trial judge decides to proceed first with trial of objective elements of offence

The court must first hear evidence and argument by the parties relevant to the question whether the court should find that the objective elements of the offence are established.

If the court is satisfied that the objective elements of the offence are established beyond reasonable doubt and there is no defence to the charge that could be established on the assumption that the defendant's mental faculties were not impaired at the time of the alleged offence, the court must record such a finding. Otherwise the court must find the defendant not guilty and discharge the defendant.

If the court finds that the objective elements of the offence are established, it must then hear evidence and argument on the question of the defendant's mental fitness to stand trial. It may also require the defendant to undergo an examination by an appropriate expert with the results being reported to the court. If the court is satisfied that the defendant is mentally unfit to stand trial, the court must record that and declare the defendant to be liable to supervision under this new Part.

If the court is not satisfied that the defendant is mentally unfit to stand trial, the court must proceed with the trial of the remaining issues (or may, at its discretion, re-start the trial).

The court may, if the parties agree, dispense with or terminate an investigation under this new Division, declare that the defendant is mentally unfit to stand trial and that he or she is liable to supervision under this new Part.

DIVISION 4—DISPOSITION OF PERSONS DECLARED TO BE LIABLE TO SUPERVISION UNDER THIS PART

269O. Supervision orders

The court by which a defendant is declared to be liable to supervision may—

- release the defendant unconditionally; or
- make a supervision order committing the defendant to detention under this new Part or releasing the defendant on licence on conditions.

If a court makes a supervision order, the court must fix a limiting term equivalent to the period of imprisonment or supervision that would have been appropriate if the defendant had been convicted of the offence of which the objective elements have been established.

At the end of the limiting term, a supervision order in force against the defendant lapses.

269P. Variation or revocation of supervision order

The court may, at any time during the limiting term, on the application of the Crown, the defendant, Parole Board, the Public Advocate or another person with a proper interest in the matter, vary or revoke a supervision order. An application by or on behalf of a defendant for variation or revocation of a supervision order cannot be made, except at the discretion of the court, within six months after the court has refused any such application.

269Q. Report on mental condition of the defendant

The Minister for Health must, within 30 days after the date of a declaration that a defendant is liable to supervision under this new Part, submit to the court a report on the mental condition of the defendant containing a diagnosis and prognosis and a suggested treatment plan prepared by an expert such as a psychiatrist.

For the duration of a supervision order, the Minister for Health must arrange to have submitted to the court (at intervals of not more than 12 months during the limiting term) a report containing a statement of any treatment that the defendant has undergone since the last report and any changes to the prognosis of the defendant's condition and the treatment plan for managing the condition.

269R. Report on attitudes of victims, next of kin, etc.

To assist the court in determining proceedings under this new Division, the Crown must provide the court with a report setting out the views of the next of kin of the defendant, the victim (if any) of the defendant's conduct and, if a victim was killed as a result of the defendant's conduct, the next of kin of the victim. However, a report is not required if the purpose of the proceeding is to determine whether a defendant released on licence should be detained or subjected to a more rigorous form of supervision or to vary, in minor respects, the conditions on which a defendant is released on licence.

269S. Principle on which court is to act

The court must apply the principle that restrictions on the defendant's freedom and personal autonomy should be kept to the minimum consistent with the safety of the community when deciding whether to release a defendant under this new Division, or deciding the conditions of licence.

269T. Matters to which court is to have regard

The court should have regard to—

- the nature of the defendant's mental impairment; and
- whether the defendant is, or would if released be, likely to endanger another person, or other persons generally; and
- whether there are adequate resources available for the treatment and support of the defendant in the community; and
- whether the defendant is likely to comply with the conditions of a licence; and
- other matters that the court thinks relevant.

The court cannot release a defendant under this new Division, or significantly reduce the degree of supervision to which a defendant is subject, unless the court—

- has obtained and considered the reports of at least three experts on the mental condition of the defendant and the possible effects of the proposed action on the behaviour of the defendant; and

- has considered the report most recently submitted to the court by the Minister for Health; and
- has considered the report on the attitudes of victims and next of kin; and
- is satisfied that the defendant's next of kin, the victim (if any) of the defendant's conduct and, if a victim was killed as a result of the defendant's conduct, the next of kin of the victim have been given reasonable notice of the proceedings (where possible).

269U. Cancellation of release on licence

A court that released a defendant on licence under this new Division may, on application by the Crown, cancel the release if satisfied that the defendant has contravened, or is likely to contravene, a condition of the licence. If a defendant who has been released on licence commits an offence while subject to the licence, and is sentenced to imprisonment for the offence, the release on licence is, by virtue of this new subsection, cancelled and the detention order is suspended while the defendant serves the term of imprisonment.

269V. Custody, supervision and care

A defendant who is committed to detention under this new Part is in the custody of the Minister for Health who may give appropriate directions for the custody, supervision and care of the defendant.

Supervisory responsibilities arising from conditions on which a person is released on licence are to be divided between the Parole Board and the Minister for Health in the following way:

- the supervisory responsibilities are to be exercised by the Minister for Health insofar as they relate to treating or monitoring the mental condition of the person;
- the supervisory responsibilities are in all other respects to be exercised by the Parole Board.

DIVISION 5—MISCELLANEOUS

269W. Counsel to have independent discretion

Counsel may act in what he or she genuinely believes to be the defendant's best interests if the defendant is unable to instruct counsel on questions relevant to an investigation under new Part 8A.

269X. Power of court to deal with defendant before proceedings completed

If a question of a defendant's mental competence, or mental fitness to stand trial, is reserved for investigation under new Part 8A, the court may release the defendant on bail or commit the defendant to some appropriate form of custody until the conclusion of the investigation. Prison is to be used for custody only where the court is satisfied that there is no practicable alternative.

If a court declares a defendant to be liable to supervision under new Part 8A but unresolved questions remain about how the court is to deal with the defendant, the court may release the defendant on bail or commit the defendant to some appropriate form of custody until some subsequent date when the defendant is to be brought again before the court. Again, prison is to be avoided except where the court is satisfied that there is no practicable alternative.

269Y. Appeals

An appeal lies to the appropriate appellate court against—

- a declaration that a defendant is liable to supervision under new Part 8A in the same way as an appeal against a conviction;
- a supervision order in the same way as an appeal against sentence.

However, an appeal lies only by leave of the court of trial or the appropriate appellate court against an order or decision made under new Part 8A before the court declares the defendant to be liable to supervision or decides that the trial of the defendant should proceed in the usual way.

269Z. Counselling of next of kin and victims

If an application is made under Division 4 of new Part 8A that might result in a defendant being released from detention, the Minister for Health must ensure that counselling services in respect of the application are made available to certain persons. A person does not, in disclosing information about the defendant during the course of providing counselling under this proposed section, breach any code or rule of professional ethics.

269ZA. Exclusion of evidence

This clause is declaratory and makes it clear that a finding made on an investigation into a defendant's fitness to stand trial is a finding for that time and for that purpose only. In any proceedings taken against a defendant, whether civil or criminal, subsequent to such an investigation but arising from the same set of circumstances, evidence of a finding made during that investigation is not admissible.

269ZB. Arrest of person who escapes from detention, etc.

A person who is committed to detention under this new Part who escapes from detention, or who is absent without proper authority from the place of detention, may be arrested without warrant and returned to the place of detention by a member of the police force or an authorised person.

A Judge or other proper officer of a court may, if satisfied that there are proper grounds to suspect that a person released under a new Part 8A licence may have contravened or failed to comply with a condition of the licence, issue a warrant to have the person arrested and brought before the court.

SCHEDULE—Repeal and Transitional Provisions

The schedule contains repeal and transitional provisions.

Mr CLARKE secured the adjournment of the debate.

SECURITY AND INVESTIGATION AGENTS BILL

Second reading.

The Hon. S.J. BAKER (Deputy Premier): 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 *Security and Investigation Agents Bill 1995* is introduced to regulate the activities of the security industry in this State. The Bill will replace the *Commercial and Private Agents Act 1986*.

A review of this industry was long overdue, as there has been considerable growth in the security market, and new technologies together with the development of other legislation such as the *Commonwealth Privacy Act* have resulted in changes to the way in which the industry operates.

This Bill forms part of the review of all consumer legislation in the Consumer Affairs portfolio which has taken place over the last eighteen months.

As a result of the release of the draft Bill for consultation, eighteen oral and written submissions were received from:

Adelaide Institute—TAFE
Alcohol, Drugs and Crime Working Group
Australian Finance Conference
Australian Institute of Conveyancers
CEPU (Communications Electrical Electronic Energy Information Postal Plumbing & Allied Services Union of Australia)
Commissioner For Police
Consumers Association of South Australia
Mr Gary Edwards—Project Officer, Adelaide Institute of T.A.F.E.
Ms Roseanne Healy—Member, Commercial Tribunal
Institute of Mercantile Agents
Mr Jim Langley—Hindley Street Police Station
M.S.S. Security
Savic Investigations P/L
Seeca Investigations
Security Institute Of South Australia
Mr Keith Wakelam—Member, Commercial Tribunal
Wormald Security

As a result of this consultative process and taking into account recommendations received prior to the draft stage, a large number of proposals were incorporated into the Bill. Other recommendations will be addressed in the drafting of the Regulations under the Bill.

The new Bill is directed towards greater efficiency in the administration of the licensing system for this industry by transferring licensing from the Commercial Tribunal to the Commissioner for Consumer Affairs, and by changing the licensing system from one licence with 8 endorsements to 3 distinct licences. The 3 licences are grouped to reflect the different functions of this diverse industry. The 3 licence model consists of—

(1) Investigation Agent;
(2) Security Agent, and;
(3) Restricted Licence, which allows for the scope of work to be limited in any way.

Process Servers will be negatively licensed under the Bill.

The licensing model in the Bill is designed to emulate, where possible, the provisions of the *Plumbers, Gas Fitters and Electricians Act 1995*. Administrative benefits and cost savings will be derived from the use of similar legislative processes. These include, reduced computerisation costs and ongoing benefits through streamlining of staff training procedures.

There are considerable benefits to be derived from this model for business. Commencing with two general unconditional categories it will be possible to tailor the licence through the use of specific functions, and to add any restrictions that may be appropriate to an individual licence. This will meet the needs of individual businesses in the industry.

Specific training courses can then be developed to suit the ongoing needs of the industry.

The disciplinary forum for licensees will be the Administrative and Disciplinary Division of the District Court. This move and the change to make the Commissioner the licensing authority, is a common feature of all consumer legislation which has been subject to the current review process. As with other jurisdictions, the Court will sit with industry and consumer assessors, as directed by the presiding member.

Also in common with other reviewed Acts, is the power of the Commissioner for Consumer Affairs to enter into agreements with relevant industry bodies in order that those bodies may, with Ministerial approval, carry out certain functions under the Act, on the Commissioner's behalf.

The Bill is directed towards the lifting of educational and competency standards in the industry as there will be training requirements for new licence applicants. The exact nature of the qualifications required will be contained in the Regulations, along with recognition of prior learning.

The move to the Commissioner as the licensing authority will also lift standards in the industry, as the Commissioner will be able to refuse a licence to any person who has previous criminal convictions which fall within categories prescribed by Regulation. Persons who are disqualified from other occupations or who have been insolvent will also face the same barrier.

The Bill requires agents to be fit and proper persons, to have sufficient business knowledge and experience, and to have sufficient financial resources. As the assessment of these criteria involves a judgement on the part of the Commissioner, there will be a right of appeal from his decision to the Administrative and Disciplinary Division of the District Court on these criteria.

Where a licensee disputes the fact that he or she has been disqualified from another occupation, or has been insolvent or convicted of a prescribed offence, there is also a right of appeal. Persons refused on these grounds cannot appeal on the grounds that there were mitigating circumstances relating to the disqualification, insolvency or conviction. A general power of Ministerial exemption is available as under other reviewed Acts.

I commend this Bill to the House.

Explanation of Clauses

PART 1—PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

The term agent is used to cover the following classes of agents:

- a security agent: a person who for fee or reward—
  - protects or guards a person or property or keeps a person or property under surveillance; or
  - hires out or otherwise supplies dogs or other animals for the purpose of protecting or guarding a person or property; or
  - prevents, detects or investigates the commission of an offence in relation to a person or property; or
  - controls crowds; or
  - provides advice on security alarm or surveillance systems (as defined);
  - hires out or otherwise supplies security alarm or surveillance systems;
  - installs or maintains security alarm or surveillance systems);
- an investigation agent: a person who for fee or reward—
  - ascertains the whereabouts of or repossesses goods that are subject to a security interest (as defined); or
  - collects or requests the payment of debts; or
  - executes legal process for the enforcement of a judgment or order of a court; or
  - obtains or provides (without the written consent of a person) information as to the personal character or actions of the person or as to the business or occupation of the person; or
  - searches for missing persons; or
  - obtains evidence for the purpose of legal proceedings (whether the proceedings have been commenced or are prospective);
- a process server: a person who serves a writ, summons or other legal process for fee or reward.

Security agents and investigation agents are required to be licensed under the Bill but process servers are not.

The definition of security alarm or surveillance system is new to the proposed Act but draws on the regulations under the *Commercial and Private Agents Act 1986* (the current Act) setting the scope of the security alarm agent endorsement.

The definition of security interest is equivalent to that contained in the current Act.

Court is defined as the Administrative and Disciplinary Division of the District Court. As in the other occupational licensing schemes recently reviewed, the current role of the Commercial Tribunal in disciplinary proceedings is transferred to the District Court.

Director of a body corporate is defined broadly to encompass all persons who may effectively control the body corporate. All such persons must be considered for eligibility if the body corporate applies for a licence and all such persons are subject to discipline under the proposed Act.

Clause 4: Application of Act

This clause sets out various exemptions and is equivalent to section 5 of the current Act except for—

- the inclusion of a definition of loss adjuster for the purposes of the exemption of loss adjusters and the inclusion of an exemption (currently contained in the regulations) for a body corporate carrying on a business as a loss adjuster under the management of a qualified loss adjuster;
- the inclusion of examples in the paragraph exempting a person employed under a contract of service who acts as an agent only as an incidental part of the duties of that employment;
- a new paragraph exempting persons who collect debts on behalf of a licensed agent only by use of a telephone;
- necessary updating of references.

Clause 5: Commissioner to be responsible for administration of Act

This clause places responsibility for the administration of the proposed Act on the Commissioner for Consumer Affairs, subject to the control and directions of the Minister.

The current Act is similarly administered by the Commissioner for Consumer Affairs under section 8.

PART 2—LICENCES

Clause 6: Obligation to be licensed

This is the central provision requiring a person to be licensed to carry on business or to act as an agent (other than as a process server).

The clause is similar in effect to section 10 of the current Act.

The clause also provides that commission or other consideration paid to an unlicensed person acting as an agent is not recoverable unless a court is satisfied that the person's failure to be licensed resulted from inadvertence only. This is similar to section 15 of the current Act, although that section does not allow recovery in any circumstances.

Clause 7: Classes of licences

This clause sets out the classes of licences that may be granted under the proposed Act:

- security agents licence;
- investigation agents licence;
- restricted security agents licence or restricted investigation agents licence.

This classification replaces the system of endorsements set out in the regulations under the current Act.

- The security agent category covers the following current endorsements: security agent, security guard, security officer, crowd controller and security alarm agent.
- The investigation agent category covers the current commercial agent and inquiry agent endorsements.

The restricted licence categories allow licences to be individually tailored according to an applicant's requirements and qualifications, business knowledge, experience and financial resources. This is similar to the approach taken in the recent plumbers, gasfitters and electricians legislation.

The types of conditions that may be imposed on a restricted licence are:

- a restricted function condition (limiting the functions that may be carried out under the licence; *eg* to crowd control or to debt collection functions)
- an employee condition (prohibiting the holder from carrying on business as an agent);
- an employee (supervision) condition (additionally requiring the person to be supervised by a licensed agent);
- a partnership condition (requiring the holder to carry on business as an agent with a specified partner or other person approved by the Commissioner)
- a partnership (business only) condition (prohibiting an unqualified partner from personally performing the work of an agent).

The employee and employee (supervision) conditions are equivalent to those that may be imposed under section 11 of the current Act.

The partnership conditions are new (allowing an unqualified person to carry on business as an agent in partnership with a qualified person or a person without financial resources to carry on business as an agent in partnership with a person who has resources) and similar to that included in the *Plumbers, Gas Fitters and Electricians Act 1995*.

There is no equivalent to the current process server endorsement. However, the Bill applies the disciplinary provisions to process servers and makes it an offence for a person to act as a process server if the person does not have prescribed qualifications or has been convicted of a prescribed offence.

Clause 8: Application for licence

The Commissioner is to determine the form of application. The regulations are to fix the fee.

Under section 12 of the current Act applications are made to the Tribunal in the prescribed form. The current requirements for advertisement of an application and the ability of any interested person to object are not retained.

Clause 9: Entitlement to be licensed

This clause sets out the eligibility of a natural person and of a body corporate to obtain a licence under the proposed Act.

The requirements for a natural person are—

- the qualifications and experience required by the regulations (or, subject to the regulations, qualifications and experience considered appropriate by the Commissioner) [Section 12(9)*(a)*(iv) of the current Act contains a similar provision although without the ability of the Commissioner to recognise alternative qualifications and experience. However, regulations have never been made in support of the provision.]
- no convictions for offences as specified in the regulations [This is a new requirement in line with other occupational groups recently reviewed.];
- no current suspension or disqualification from an occupation, trade or business [This is a new requirement in line with other occupational groups recently reviewed.];
- fit and proper person to hold the licence [This is equivalent to the current requirement in section 12(9)*(a)*(iii) of the current Act.];
- if the person is to carry on business as an agent—
  - the person must not be an undischarged bankrupt or subject to a composition or deed or scheme of arrangement with or for the benefit of creditors;
  - the person must not, within the last 5 years, have been a director of a body corporate that has been would up for the benefit of creditors;
  - the person must have sufficient business knowledge and experience and financial resources.

  [This is in line with provisions recently enacted in relation to other occupational groups. Section 12(9)*(c)*(i) of the current Act requires persons who wish to operate a business as an agent to show that they have made suitable arrangements to fulfil the obligations that may arise under the Act. This broader requirement is not retained as it is thought that it is vague and unhelpful.]

The age and residency requirements in section 12(9)*(a)*(i) and (ii) of the current Act are not retained.

The requirements for a body corporate are similar to the requirements recently enacted in relation to other occupational groups and expand on the requirement in section 12(9)*(b)* of the current Act for directors to be fit and proper persons to hold the licence.

The ability to consider partners together for the purposes of the requirements relating to qualifications and business acumen and licence them subject to partnership conditions is found in this clause.

Clause 10: Conditions

Conditions may be imposed on the grant of the licence and may be varied or revoked by the Commissioner at any time on application by the holder of the licence.

Clause 11: Appeals

An applicant who is refused a licence or who is granted a conditional licence may appeal against the decision of the Commission to the Administrative and Disciplinary Division of the District Court. This is equivalent to provisions recently enacted in relation to other occupational groups. Currently the question of appeals is dealt with by the *Commercial Tribunal Act*.

Clause 12: Duration of licence and annual fee and return

Licences are continuous, but annual fees and returns are required. This is similar to current section 13 of the current Act, although the process for cancellation of a licence for non-payment of a fee or failure to lodge a return has been simplified and shortened. The requirement for the Commissioner to consent to surrender of a licence is not retained as it serves no useful purpose.

PART 3—REGULATION OF ACTIVITIES

This Part covers matters contained in Parts 3 and 4 and section 14 of the current Act. The proposed Act does not contain equivalents of—

- section 23 (notices to be displayed);
- section 26 (excessive charges may be reduced by Tribunal);
- sections 28-37 (trust accounts)—it is thought that detailed regulation of commercial agent's trust accounts does not serve a useful purpose; provision is made in clause 13 for the regulations to be able to specify general accounting requirements;
- sections 38 (recovery of moneys from debtors)—this provision has never been brought into operation;
- section 40 (form of letters of demand)—this provision has never been brought into operation;
- section 41 (place of business).

Clause 13: Operation of licensed agent's business

A body corporate licensed agent is required to ensure that the business is properly managed and supervised by a natural person with an appropriate licence (similar to section 14 of the current Act).

A licensed agent (whether or not a body corporate) carrying on business as an agent is required to ensure that the actual performance of the functions as an agent only takes place through appropriately licensed persons.

Clause 14: Accounts of licensed agent

This clause enables the regulations to specify requirements relating to the keeping of accounts by any class of agents.

Clause 15: Licensed agent not to purport to have powers outside licence

This clause states that a licence does not confer on an agent power to act in contravention of, or in disregard of, law or rights conferred by law (equivalent to section 19(1) of the current Act) and makes it an offence for a licensed agent to hold himself or herself out as having powers under the licence that he or she does not have (equivalent to section 19(2) of the current Act).

Clause 16: Prohibition against assisting another to pretend to be agent

This prohibition is equivalent to that contained in section 42 of the current Act.

Clause 17: Misrepresentation

The offence of misrepresentation by an agent is equivalent to section 21 of the current Act.

Clause 18: Name in which licensed agent may carry on business

As an aid to enforcement, a licensee who carries on business as an agent may only do so in the name appearing in the licence or in a registered business name. This is equivalent to section 20 of the current Act.

Clause 19: Publication of advertisements by licensed agent

Advertisements are required to contain the name in which the agent lawfully carries on business. The requirement for an address for service to be included in the advertisement (see section 22 of the current Act) is not retained.

Clause 20: Licence or identification to be carried or displayed

Agents are required to carry their licences and produce them at the request of any person dealing with them as an agent or of a police officer. This is similar to section 24 of the current Act.

A new provision enabling the regulations to require certain classes of licensed agents to wear identification is inserted.

Clause 21: Limitations on settling claims relating to motor vehicles

As in section 27 of the current Act a licensed agent is prohibited from attempting to settle a claim in a motor vehicle case once court proceedings have been commenced.

The current provision extends to work related injuries but this is no longer appropriate in light of the workcover legislation.

Clause 22: Repossession of motor vehicles to be reported

As in section 39 of the current Act the police are required to be informed of any repossession of a motor vehicle by an agent.

Clause 23: Entitlement to be process server

This clause provides that a person may not carry on business or act as a process server unless the person is qualified in accordance with the regulations and has not been convicted of an offence specified by regulation. It also makes it an offence to employ an ineligible person as a process server.

As noted above, although process servers are no longer required to be licensed this provision regulates who may act as a process server and later provisions provide that process servers are subject to disciplinary proceedings.

PART 4—DISCIPLINE

This Part is generally equivalent to Part 2 Division 2 of the current Act except that disciplinary proceedings are to be taken in the District Court rather than in the Commercial Tribunal.

Clause 24: Interpretation of Part 4

Agent is defined to ensure that former agents and licensed agents not currently in business may be disciplined.

Director is defined to ensure that former directors may be disciplined. (Note that director is broadly defined in clause 3.)

Clause 23(4) ensures that conduct occurring before the commencement of the proposed Act may lead to disciplinary action (equivalent to section 16(11) of the current Act).

Clause 25: Cause for disciplinary action

The grounds for disciplinary action are set out as follows:

- the agent has acted contrary to an assurance accepted by the Commissioner under the *Fair Trading Act 1987*; or
- the agent has acted contrary to this Act or otherwise unlawfully, or improperly, negligently or unfairly, in the course of performing functions as an agent; or
- in the case of an agent who has carried on business as an agent—the agent or any other person has acted contrary to this Act or otherwise unlawfully, or improperly, negligently or unfairly, in the course of conducting, or being employed or otherwise engaged in, the business of the agent; or
- in the case of an agent who has been employed or engaged to manage and supervise an incorporated agent's business—the agent or any other person has acted unlawfully, improperly, negligently or unfairly in the course of managing or supervising, or being employed or otherwise engaged in, that business; or
- the licence of the agent was improperly obtained; or
- events have occurred such that the agent would not be entitled to be granted the licence if he or she were to apply for it.

(The grounds for disciplinary action are set out in the current Act in section 16(10).)

The clause also provides for the following results:

- if a body corporate may be disciplined, so may the directors;
- an employer is excused in relation to the act or default of an employee if the employer could not reasonably be expected to have prevented the act or default of the employee.

The standard of proof required is expressly stated to be on the balance of probabilities.

Clause 26: Complaints

As in section 16(3) of the current Act any person may lay a complaint.

Clause 27: Hearing by Court

The clause allows the Court to adjourn the hearing to allow for further investigation.

Clause 28: Participation of assessors in disciplinary proceedings

The presiding judicial officer is to determine whether the Court will sit with assessors. This is similar to the provisions of other occupational licensing legislation recently reviewed.

Clause 29: Disciplinary action

This clause sets out the orders that may be made if disciplinary action is to be taken as follows:

- a reprimand;
- a fine;
- suspension or cancellation of a licence or imposition of conditions;
- imposition of conditions after the end of a period of suspension of licence;
- disqualification from holding a licence or a particular kind of licence or prohibition from carrying on business as an agent or as an agent of a specified class;
- prohibition from being employed or otherwise performing functions as an agent or as an agent of a specified class;
- prohibition from being a director of a body corporate that is an agent or an agent of a specified class.

This provision is similar to that contained in section 16(6) of the current Act, although the maximum fine that may be imposed has been increased from $5 000 to $8 000 and the ability to prohibit a person from being involved at all in the industry is broadened.

Subclause (3) is equivalent to section 16(7) of the current Act.

Clause 30: Contravention of orders

This clause makes it an offence to contravene a condition or order imposed in disciplinary proceedings and is equivalent to sections 16(9) and 17 of the current Act.

PART 5—MISCELLANEOUS

Clause 31: Delegations

This clause provides for delegations by the Commissioner or the Minister.

Clause 32: Agreement with professional organisation

This clause allows the Commissioner, with the approval of the Minister, to enter into an agreement under which a professional organisation takes a role in the administration or enforcement of the proposed Act. The agreement cannot contain a delegation relating to discipline or prosecution or investigation by the police.

The agreements are required to be laid before Parliament as a matter of information.

Clause 33: Exemptions

This clause provides the Minister with power to grant exemptions.

Clause 34: Register of licensed agents

The Commissioner is required to keep the register and to include in it a note of disciplinary action taken against a person (the latter requirement is similar to section 18 of the current Act). The requirement in section 18A of the current Act to advertise disciplinary action is not retained.

Clause 35: Commissioner and proceedings before Court

This clause sets out the entitlement of the Commissioner to be joined as a party and represented at proceedings.

Clause 36: Return of licences

This clause enables the Court or the Commissioner to require a person whose licence has been suspended or cancelled to return the licence and is similar to section 49 of the current Act.

Clause 37: False or misleading information

It is an offence to provide false or misleading information under the proposed Act. This is similar to section 48 of the current Act.

Clause 38: Statutory declaration

The Commissioner is authorised to require information provided under the proposed Act to be verified by statutory declaration. Section 12(2) of the current Act allows this in relation to an application for a licence.

Clause 39: Investigations

The Commissioner of Police is required, at the request of the Commissioner for Consumer Affairs, to investigate matters relating to applications for licences or discipline.

Clause 40: General defence

The usual provision is included allowing a defence that the act was unintentional and did not result from failure to take reasonable care.

Clause 41: Liability for act or default of officer, employee or agent

Acts within the scope of an employee's etc. authority are to be taken to be acts of the employer etc. This clause is similar to section 43 of the current Act.

Clause 42: Offences by bodies corporate

The usual provision placing responsibility on directors for offences of the body corporate is included. This is equivalent to section 50 of the current Act.

Clause 43: Continuing offence

A continuing offence provision is included as in section 51 of the current Act.

Clause 44: Prosecutions

The time within which prosecutions may be taken is extended from 12 months (see section 53 of the current Act) to 2 years or 5 years with the Minister's consent.

Clause 45: Evidence

An evidentiary aid relating to licences is included.

Clause 46: Service of documents

This clause provides for the method of service and is similar to section 47 of the current Act except that provision for facsimile transmission is included.

The requirement for an agent to provide the Commissioner with an address for service is similar to the requirement in section 25 of the current Act.

Clause 47: Annual report

As in section 46 of the current Act the Commissioner is to provide an annual report which is to be tabled in Parliament.

Clause 48: Regulations

The clause is similar to section 54 of the current Act and, so far as the ability of the regulations to provide for exemptions, section 6 of the current Act.

SCHEDULES

Schedule 1: Appointment and Selection of Assessors for Court

The provisions for selection of assessors for disciplinary hearings are similar to those recently enacted in relation to other occupational groups.

Schedule 2: Repeal and Transitional Provisions

The *Commercial and Private Agents Act 1986* is repealed. Transitional provisions are included in relation to equivalent licences and orders of the Commercial Tribunal.

Mr CLARKE secured the adjournment of the debate.

BUILDING WORK CONTRACTORS BILL

Second reading.

The Hon. S.J. BAKER (Deputy Premier): 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.

Since coming to office, one of the key objectives of the State Government has been to undertake a comprehensive micro-economic reform program to ensure competitive market outcomes which provide benefits to consumers and businesses alike.

In early 1994, a Legislative Review Team within the Office of Consumer and Business Affairs was established.

The Government's key objective in the review process was:

- to ensure that fair trading occurs in an efficient, competitive and informed marketplace, where there is a balance between the rights of individual consumers, businesses, landlords and tenants;
- to develop and maintain an effective framework for fair trading with the minimum regulation necessary;
- to encourage a tripartite approach to consumer and business issues—Government, consumers, business.

While there have been a number of ad hoc reviews of single Acts since the inception of the majority of consumer legislation during the late 1960s and early 1970s, this major review of all legislation is the most comprehensive and far-reaching review conducted in the Sate in the last 30 years.

The review was aimed at going back to first principles, to examine every aspect of the regulatory framework of each Act and to determine whether the provisions met the contemporary needs of Government, consumer and industry.

The team has now completed the comprehensive review of 16 Acts and has undertaken intensive and detailed consultations with the peak building industry organisations, unions, relevant Government agencies and other interested parties. The views of all these parties have been taken into account in developing the proposals.

The following outline of the extensive consultation process which has been undertaken over the last 18 months demonstrates the Government's commitment to canvassing and reaching agreement on the key policy issues in the building industry.

- The review of the Builders Licensing Act was part of the overall review of all consumer legislation administered by the Office of Consumer and Business Affairs. This review began with a public forum for industry conducted in January last year. Following this, written submissions were invited on all of the relevant legislation. During this period a number of submissions were made by representatives of the building and construction industry.
- The written submissions were then reviewed by the Legislative Review Team which proposed that as any amendment to the Builders Licensing Act would require full and complete consultation, a Discussion Paper summarising the issues and options for solutions should be released for a further period of public consultation with the building industry. The Discussion Paper was released during March and April of this year.
- This Discussion Paper acknowledged the work of other organisations contributing to the process of reform of the building industry. In particular, it requested industry parties and any other relevant agencies to feed their proposals into the current review process to avoid any duplication in the consideration of issues.
- Thirty-five written submissions were received on the Discussion Paper and were considered by the Legislative Review Team. Following this process a draft Bill was prepared based on the Review Team's recommendations and this was released for a further period of public comment during August and September. Further written submissions were received and on 20 September 1995 a major meeting was held with a wide range of representatives of the industry and Government agencies to discuss the draft Bill.
- At this meeting, a committee of key industry representatives, including the Executive Directors of the Master Builders Association and the Housing Industry Association, representatives of the specialist contractor groups for both the domestic and industrial/commercial building sectors and union representation, was convened to consider and seek resolution on a number of issues. This group carried out an intensive review of all comments received on the draft Bill.
- The work of this Committee, and all other associated work, enabled a final draft Bill to be prepared.

The intention of the Bill is to repeal the Builders Licensing Act 1986 and update the legislation by removing problems encountered since the 1986 Act's inception, with the aim of improving standards of practice within the industry and providing appropriate systems for the involvement of industry in a co-regulatory system. A major element of the approach is to minimise the number of disputes which require formal judicial process for resolution, through the involvement of industry in conciliatory dispute resolution mechanisms.

Another objective of the Bill is to bring the legislation into line with the changes that have been incorporated in the reviews of other consumer legislation during 1994-95. In particular, the Bill is, where possible, consistent with the new Plumbers, Gas Fitters and Electricians Act, 1995 enabling streamlining of licence and registration systems relevant to these industries.

Other changes consistent with new consumer legislation include a change in licensing/registration authority from the Commercial Tribunal to the Commissioner for Consumer Affairs, moving the judicial authority for disciplinary matters to the District Court and dispute resolution to the Magistrates Court, Civil (Consumer and Business) Division (to the extent that disputes fall within the financial limits of matters heard by the Magistrates Court).

In general, the Bill reflects the industry parties support of the proposal to introduce a competency-based system for licensing and registration and to significantly streamline the administrative processes associated with the system.

The industry parties also indicated strong support for the formation of an industry advisory committee similar to those recently established under the Retail Shop Leases Act, 1995 and the Plumbers, Gas Fitters and Electricians Act, 1995 and this concept has been included in Part 6 of the Bill. The role of this committee will be to advise the government on policy matters relevant to the licensing and registration system, including the introduction of competency-based standards, training and assessment procedures and standards of practice in the industry.

A number of the changes particularly sought by industry parties will be able to be accommodated in the regulations under the Act (e.g. competency-based educational requirements), or through the increased flexibility of the administrative arrangements (e.g. photograph, expiry date and format of the license/registration).

Summary of the Major Changes Proposed

Licensing and Registration

The Bill proposes to streamline the current four categories of builders licences and building work supervisors registrations to two major categories for licences and two for registrations. The categories can then be detailed in the regulations and updated in response to the industry's changing needs.

This system is the same as that recently introduced for plumbers, gas fitters and electricians under their new legislation. It means that the licences and registrations can effectively be tailor-made to each

individual's level of competence (or financial capacity and so on). When combined with a flexible administrative system that allows the precise scope of work to be clearly defined on the actual licence, the adjustment of fees for multiple licence/registration categories and the simplification of forms and procedures, the benefits to consumers as well as industry participants will be maximised.

The industry parties were concerned to ensure that adequate measures exist to prevent directors of insolvent companies from operating in the building industry. The Bill includes tightened provisions in this area so that a Director who was involved with a company during a period of 12 months prior to the insolvency of the company will not be eligible for a licence in future (for a period of 10 years).

To address industry concerns about licence swapping and other forms of cheating, it is also proposed to administratively introduce photographs on the licence cards and a mechanism which identifies that the licence is current (without affecting the continuous licensing process).

Competency Standards

The use of national competency standards as base requirements for both technical qualifications and business skills was strongly supported by industry. The licence/registration system outlined above will allow each competency standard relevant to the industry to be adopted as a standard licence/registration endorsement as soon as it is finalised at a national level and accredited training and assessment is available.

It is anticipated that the industry advisory panel established under Part 6 of the Bill, will provide advice concerning appropriate competency standards particularly as they relate to the business skills of the building contractor. Regard will also be given to the development of nationally consistent requirements in this area.

Industry Advisory Panel

The introduction of a flexible and responsive licensing/registration system based on competency, will be assisted by the establishment of an industry advisory forum which can meet as required to provide advice on the myriad of associated issues. In particular, the forum will assist the authority to pro-actively address the concerns of industry and consumers when problems emerge.

This type of forum has recently been established under the Plumbers, Gas Fitters and Electricians Act 1995 and the Retail Shop Leases Act 1995 and is seen as an effective mechanism to assist the development of a successful co-regulatory approach to consumer legislation.

It is further intended that the building industry forum would provide a link to other industry forums which exist for the purpose of providing advice on issues relevant to other building industry authorities. These forums include the Building Advisory Forum (Development Act) and the Construction Industry Advisory Council.

Partnerships

The single most common complaint from licensees to the current licensing authority concerns the lack of arrangements for the recognition of partnerships. In particular, concerns centre on the fees and paperwork currently required of each partner. To address these concerns, the Discussion Paper proposed that a system involving less prescriptive administrative requirements would allow the licensing authority to operate with a policy of reducing the fees and paperwork applying to partnerships. The Government has accepted this approach, but as a consequence of the reduced fees for this group, it will be necessary to marginally increase the other fees applying under this legislation.

Owner Builders

A number of options have been proposed by various interest groups to address perceived problems concerning owner-builders who are not required to be licensed under the existing legislation. The two main issues of concern are allegations that speculative builders use the owner-builder exemption to avoid obtaining a licence and that the purchasers of owner-built houses are unable to obtain redress for substandard work.

The views expressed on these issues were varied. The Government, in consultation with the industry, has considered a wide range of options for controlling the work performed by owner builders including a registration/permit system, statutory warranties, indemnity insurance, inspection requirements, and disclosure statements. While the industry's preference is for the introduction of substantial regulatory controls, it is the Government's view that there is insufficient evidence to justify such an approach.

There is little factual information regarding the extent of problems experienced by consumers as a result of building work performed by owner-builders. However, as a means of addressing the industry concerns on this subject, the Commissioner for Consumer Affairs has been asked to establish a project to collect information and to identify what really are the problems and complaints arising from work performed by owner builders. This work will then be used in due course to evaluate the need for an extensive regulatory system over owner/builders such as that proposed by the industry parties.

In order to address the problem of those seeking to avoid licensing requirements, it is proposed in the Bill (in clause 59) to limit owner builders to building one house every 5 years instead of the one per 12 months under the existing Act. The period of 5 years ties in with the period for statutory warranty applying to licensed builders.

In addition, the Government is in favour of a disclosure statement requirement at point of sale, which would ensure that potential purchasers of an owner-built house less than 5 years old, are fully aware of the fact that no statutory warranty applies. The appropriate means of achieving this are being investigated.

Licensing/Registration Authority and Judicial Forum

Consistently with other recently reviewed consumer legislation, the Bill proposes to change the licensing/registration authority from the Commercial Tribunal to the Commissioner for Consumer Affairs and to move appeals and disciplinary matters to the Administrative and Disciplinary Division of the District Court.

Discipline and Dispute Resolution

Industry representatives were concerned to ensure that the new Act will contain provisions which will ensure that effective disciplinary action can be taken where appropriate.

The Commissioner's powers under this legislation arise from the Fair Trading Act. As this Act is currently under review the Government will be ensuring that the adequacy of the Commissioner's powers are examined as part of the review process. As with other new consumer legislation, the Bill provides for the industry organisations to enter into formal agreements with the Commissioner as part of the new co-regulatory approach.

The Bill proposes that the appropriate forum for the hearing of disputes is the Civil (Consumer and Business) Division of the Magistrates Court, and that where a dispute involves an amount greater than the Magistrates Court financial limit, the District Court be accessed as appropriate.

Further, provision is made (in Schedules 1 and 2) for industry experts to be appointed as court assessors to provide technical assistance to the judiciary. Appropriately skilled and competent persons will be nominated as assessors after consultation with relevant industry organisations.

Finally, the Bill replaces the 1986 Act and at the building industry's request, has been retitled the Building Work Contractors Bill to more accurately reflect the current nature of the industry.

I commend the Bill to Honourable Members.

Explanation of Clauses

PART 1—PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

The terms building work contractor, building, building work, domestic building work, domestic building work contract and minor domestic building work are substantially the same as those terms under the Builders Licensing Act 1986 (in the Bill defined as the repealed Act but in these explanatory notes referred to as the current Act).

District Court is defined as the Administrative and Disciplinary Division of the District Court. As in other occupational licensing schemes recently reviewed, the current role of the Commercial Tribunal in disciplinary proceedings is transferred to the District Court. Magistrates Court is defined as the Civil (consumer and Business) Division of the Magistrates Court and it is to this Division of the Magistrates Court that the current role of the Commercial Tribunal in relation to statutory warranties and domestic building work contracts is transferred.

Director of a body corporate is defined broadly to encompass all persons who may effectively control the body corporate. All such persons must be considered for eligibility if the body corporate applies for a licence and all such persons are subject to discipline under the proposed Act.

Clause 4: Non-derogation

The provisions of this proposed Act are in addition to and do not derogate from the provisions of any other Act.

Clause 5: Commissioner responsible for administration of Act

This clause places responsibility for the administration of the proposed Act on the Commissioner for Consumer Affairs, (the Commissioner) subject to the control and directions of the Minister.

The current Act is similarly administered by the Commissioner for Consumer Affairs under section 7.

PART 2—LICENSING OF BUILDING WORK CONTRACTORS

Clause 6: Obligation of building work contractors to be licensed

This is the central provision requiring a person to be licensed to carry on business or to act as a building work contractor. The penalty for an offence against this proposed section is $20 000 while the current penalty is $10 000. The clause is similar in effect to section 9 of the current Act.

The clause also provides that commission or other consideration paid to an unlicensed person acting as a building work contractor is not recoverable unless a court is satisfied that the person's failure to be licensed resulted from inadvertence only. This is similar to section 39 of the current Act.

Clause 7: Classes of licences

There are 2 classes of licences for building work contractors—

1. a building work contractors licence; and
2. a building work contractors licence with conditions (ie: a licence subject to conditions limiting the work that may be authorised by the licence).

These classifications replace the system of categories of licence under section 8 of the current Act. For example, a building work contractors licence is the equivalent of a category 1 builders licence under the current Act.

Clause 8: Application for licence

The Commissioner is to determine the form of application and the regulations are to fix the fee. Under section 10 of the current Act applications are made to the Tribunal in the prescribed form.

Clause 9: Entitlement to be licensed

This clause sets out the eligibility of a natural person and of a body corporate to obtain a licence under the proposed Act.

The requirements for a natural person are that the person—

- has appropriate qualifications and experience; and
- is not suspended or disqualified from practising or carrying on an occupation, trade or business; and
- is not, and has not been, during the period of 10 years preceding the application for the licence, an undischarged bankrupt or subject to a composition or deed or scheme of arrangement with or for the benefit of creditors; and
- has not been, during the period of 10 years preceding the application for the licence, a director of a body corporate wound up for the benefit of creditors when the body corporate was being so wound up or within the period of 12 months preceding the commencement of the winding up; and
- has sufficient business knowledge and experience and financial resources for the purpose of properly carrying on the business authorised by the licence; and
- is a fit and proper person to be the holder of a licence.

The Commissioner may grant a licence to an applicant who does not satisfy the requirements as to qualifications, business knowledge, experience or financial resources if satisfied that the applicant will only carry on business as a building work contractor in partnership with a person who does meet those requirements.

These requirements are not unlike those contained in section 10 of the current Act and are in line with provisions recently enacted in relation to other occupational groups.

The requirements for a body corporate are similar to the requirements recently enacted in relation to other occupational groups and expand on the requirement in section 10 of the current Act for directors to be fit and proper persons to hold the licence.

Clause 10: Appeals

An applicant who is refused a licence may appeal against the decision of the Commissioner to the Administrative and Disciplinary Division of the District Court. This is equivalent to provisions recently enacted in relation to other occupational groups. Currently, the question of appeals is dealt with by the Commercial Tribunal Act.

Clause 11: Duration of licence and fee and return

Licences are continuous, but annual fees and returns are required. This is similar to section 11 of the current Act, although the process for cancellation of a licence for non-payment of a fee or failure to lodge a return has been simplified and shortened. The requirement for the Commissioner to consent to surrender of a licence is not retained as it serves no useful purpose.

PART 3—REGISTRATION OF BUILDING WORK SUPERVISORS

Clause 12: Building work must be supervised by registered and approved supervisors

A licensed building work contractor is required to ensure that there is an approved registered building work supervisor in relation to the building work contractor's business at all times during the currency of the licence and that building work of any kind performed under the authority of the licence is properly supervised by an approved registered building work supervisor. (This clause is similar to section 14 of the current Act.)

Clause 13: Classes of registration

The 2 classes of registration for the purposes of this proposed Act are—

1. building work supervisors registration—registration authorising a person to supervise building work of any kind;
2. building work supervisors registration with conditions—registration as a building work supervisor subject to conditions limiting the work that may be supervised under the authority of the registration.

These classifications replace the system of categories of registration of building work supervisors under section 13 of the current Act. For example, a building work supervisors registration is the equivalent of a category 1 registration under the current Act.

Clause 14: Registered architect to be taken to hold registration

This clause deems a registered architect to hold building work supervisors registration and is similar to section 16 of the current Act.

Clause 15: Application for registration

The Commissioner is to determine the form of application and the regulations are to fix the fee. Under section 15 of the current Act applications are made to the Tribunal in the prescribed form.

Clause 16: Entitlement to be registered

This clause sets out the eligibility of a natural person to be registered under the proposed Act. A natural person only (and never a body corporate) can hold registration if the person has—

- the qualifications and experience required by regulation for the kind of work that the person would be authorised to supervise by the registration; or
- subject to the regulations, qualifications and experience that the Commissioner considers appropriate having regard to the kind of work that the person would be authorised to supervise by the registration.

Clause 17: Appeals

An applicant who is refused registration may appeal against the decision of the Commissioner to the Administrative and Disciplinary Division of the District Court. (See also comments in respect of clause 10.)

Clause 18: Duration of registration and fee and return

Registration is continuous, but annual fees and returns are required. This is similar to section 17 of the current Act, although, again, the process for cancellation of registration for non-payment of a fee or failure to lodge a return has been simplified and shortened.

Clause 19: Approval as building work supervisor in relation to licensed building work contractor's business

This clause provides that the Commissioner may approve a person as a building work supervisor in relation to a building work contractor's business and is similar to section 18 of the current Act.

A person is not eligible to be approved as a building work supervisor in relation to a licensed building work contractor's business unless—

- the person is a registered building work supervisor; and
- the person is—

a. if the building work contractor is a body corporate—a director of the body corporate; or
b. in any case—employed by the building work contractor under a contract of service.

If the Commissioner is satisfied that a person approved as a building work supervisor in relation to a licensed building work contractor's business is no longer eligible to be so approved, the Commissioner must cancel the approval.

PART 4—DISCIPLINE OF BUILDING WORK CONTRACTORS, SUPERVISORS AND BUILDING CONSULTANTS

This Part is generally equivalent to Part 4 of the current Act except that disciplinary proceedings are to be taken in the District Court rather than in the Commercial Tribunal.

Clause 20: Interpretation of Part

Building work contractor is defined to ensure that former building work contractors (and builders under the current Act) and licensed building work contractors not currently in business may be disciplined.

Director is defined to ensure that former directors may be disciplined. (Note that director is broadly defined in clause 3.)

Clause 21: Cause for disciplinary action

The grounds for disciplinary action against a building work contractor are as follows:

- licensing was improperly obtained; or
- the building work contractor has acted contrary to an assurance accepted by the Commissioner under the Fair Trading Act 1987; or
- the building work contractor or another person has acted contrary to this Act or otherwise unlawfully, or improperly, negligently or unfairly, in the course of performing functions as a building work contractor; or
- the building work contractor has failed to comply with an order made by a court under Part 5; or
- events have occurred such that the building work contractor would not be entitled to be licensed as a contractor if the contractor were to apply for a licence.

The grounds for disciplinary action against a building work supervisor are as follows:

- registration of the supervisor was improperly obtained; or
- the supervisor has acted unlawfully, improperly, negligently or unfairly in the course of acting as a building work supervisor.

The grounds for disciplinary action against a building consultant are as follows:

- the consultant has acted contrary to an assurance accepted by the Commissioner under the Fair Trading Act 1987; or
- the consultant has acted unlawfully, improperly, negligently or unfairly in the course of acting as a building consultant.

(The current grounds for disciplinary action are set out in section 19(11) of the current Act.

The clause also provides for the following results:

- if a body corporate may be disciplined, so may the directors;
- an employer is excused in relation to the act or default of an employee if the employer could not reasonably be expected to have prevented the act or default.

Clause 21(6) ensures that conduct occurring before the commencement of the proposed Act may lead to disciplinary action (equivalent to section 19(13) of the current Act).

Clause 22: Complaints

As in section 19(3) of the current Act, any person may lay a complaint.

Clause 23: Hearing by District Court

This clause allows the District Court to adjourn a hearing to allow for further investigation.

Clause 24: Participation of assessors in disciplinary proceedings

The presiding judicial officer is to determine whether the District Court will sit with assessors. This is similar to the provisions of other occupational licensing legislation recently reviewed.

Clause 25: Disciplinary action

This clause sets out the orders that may be made if disciplinary action is to be taken as follows:

- a reprimand;
- a fine;
- suspension or cancellation of a licence or registration or imposition of conditions;
- imposition of conditions after the end of a period of suspension of licence or registration;
- disqualification from being licensed or registered;
- prohibition from being employed or otherwise being engaged in the business of a building work contractor or building consultant;
- prohibition from carrying on business as a building consultant;
- prohibition from being a director of a body corporate that is a building work contractor or a building consultant.

This provision is similar to that contained in section 19(6) of the current Act although the penalty for contravention of an order has been increased from $5 000 to $8 000 and the ability to prohibit a person from being involved at all in the industry has been broadened.

Clause 26: Contravention of orders

This clause makes it an offence to contravene a condition or order imposed in disciplinary proceedings. A maximum penalty of $35 000 or imprisonment for 6 months may be imposed for such a contravention.

PART 5—PROVISIONS WITH RESPECT TO DOMESTIC BUILDING WORK

DIVISION 1—REQUIREMENTS IN RELATION TO CERTAIN DOMESTIC BUILDING WORK CONTRACTS

Clause 27: Application of Division

With minor exceptions, this Division applies to a contract entered into on or after 1 May 1987 (i.e. the date of commencement of the corresponding Division of the current Act).

Clause 28: Formal requirements in relation to domestic building work contracts

This clause sets out the formal requirements that must be complied with in respect on a domestic building work contract and is the same as section 23 of the current Act (although the penalty for contravention of this proposed section has been increased from $2 000 to $5 000).

Clause 29: Price and domestic building work contracts

This clause sets out the requirements in relation to price for the performance of domestic building work and is similar to section 24 of the current Act (although, again, the penalty for contravention of this proposed section has been increased from $2 000 to $5 000).

Clause 30: Payments under or in relation to domestic building work contracts

This clause is the same as section 25 of the current Act and prohibits a person from demanding payment under a domestic building work contract unless the payment constitutes a genuine progress payment or is allowed by the regulations. The penalty has again been increased from $2 000 to $5 000.

Clause 31: Exhibition houses

This clause is similar to section 26 of the current Act but the plans and specifications are not required to be displayed at the house but are to be available on request and the penalty has been increased from $2 000 to $5 000.

DIVISION 2—STATUTORY WARRANTIES

Clause 32: Statutory warranties

This proposed section applies to a contract entered into on or after 22 January 19871 (ie: the date of commencement of the corresponding section of the current Act) and is the equivalent of section 27 of the current Act.

The clause provides that the following warranties on the part of the building work contractor are implied in every domestic building work contract:

- a warranty that the building work will be performed in a proper manner to accepted trade standards and in accordance with the plans and specifications agreed to by the parties;
- a warranty that all materials to be supplied by the contractor for use in the building work will be good and proper;
- a warranty that the building work will be performed in accordance with all statutory requirements;
- if the contract does not stipulate a period within which the building work must be completed—a warranty that the building work will be performed with reasonable diligence;
- if the building work consists of the construction of a house—a warranty that the house will be reasonably fit for human habitation;
- if the building owner has expressly made known to the contractor, or an employee or agent of the contractor, the particular purpose for which the building work is required, or the result that the building owner desires the building work to achieve, so as to show that the building owner relies on the contractor's skill and judgment—a warranty that the building work and any materials used in performing the building work will be reasonably fit for that purpose or of such a nature and quality that they might reasonably be expected to achieve that result.

Proceedings for breach of statutory warranty must be commenced within 5 years after completion of the work to which the proceedings relate and this period may not be extended. (This is the same as under section 27(5) and (6) of the current Act.)

DIVISION 3—BUILDING INDEMNITY INSURANCE

Clause 33: Application of Division

This proposed Division applies to domestic building work commenced on or after 1 May 1987 (the date of commencement of the

corresponding Division of the current Act) performed, or to be performed, by a building work contractor under a domestic building work contract or on the contractor's own behalf.

This proposed Division does not apply to—

- domestic building work for which approval under the Development Act 1993 or the current Act is not required; or
- minor domestic building work.

This clause is equivalent to section 28 of the current Act.

Clause 34: Requirements of insurance

This clause is substantially the same as section 29 of the current Act except that the penalty for failure to have the required insurance in place in relation to building work has been doubled to a maximum fine of $20 000.

Clause 35: Nature of the policy

This clause is the equivalent of section 30 of the current Act.

DIVISION 4—RIGHT TO TERMINATE CERTAIN DOMESTIC BUILDING WORK CONTRACTS

Clause 36: Right to terminate certain domestic building work contracts

This Division (comprising clause 36) is substantially the same as Division IV of Part V of the current Act (section 31).

DIVISION 5—POWERS OF COURT IN RELATION TO DOMESTIC BUILDING WORK

Clause 37: Powers of court in relation to domestic building work

This clause is substantially the same as section 32 of the current Act except that the court that has the powers in relation to domestic building work is the Civil (Consumer and Business) Division of the Magistrates Court instead of the Commercial Tribunal. The penalties have, again, been doubled to $10 000.

DIVISION 6—HARSH AND UNCONSCIONABLE TERMS

Clause 38: Harsh and unconscionable terms

This clause applies to a contract entered into or after 22 January 1987 (the date of commencement of the corresponding section 33 of the current Act). This clause is the equivalent of that section.

DIVISION 7—PARTICIPATION OF ASSESSORS IN PROCEEDINGS

Clause 39: Participation of assessors in proceedings

In any proceedings under this proposed Part, the Magistrates Court will, if the judicial officer who is to preside at the proceedings so determines, sit with assessors selected in accordance with schedule 2.

DIVISION 8—MAGISTRATES COURT AND SUBSTANTIAL MONETARY CLAIMS

Clause 40: Magistrates Court and substantial monetary claims

This clause does not have an equivalent in the current Act but has been included because of the jurisdictional limits imposed on the Magistrates Court and the amounts that may well be claimed in a proceeding for damages or relief under this proposed Part. This clause provides that if proceedings before the Magistrates Court involve—

- a monetary claim for an amount exceeding $30 000; or
- a claim for relief in the nature of an order to carry out work where the value of the work exceeds $30 000,

the Court must on the application of a party to the proceedings refer the proceedings into the Civil Division of the District Court.

If proceedings are referred to the Civil Division of the District Court, the whole of this proposed Part applies in relation to the proceedings and parties to the proceedings as if a reference to the Magistrates Court were a reference to the Civil Division of the District Court.

PART 6—ADVISORY PANEL

Clause 41: Advisory panel

This clause proposes a new idea in relation to building work contractors licensing and provides that the Minister must establish an advisory panel with the following functions:

- to advise the Commissioner in respect of licensing and registration of building work contractors and building work supervisors;
- to advise and assist the Commissioner with respect to competency within the building industry and the assessment of building work;
- to inquire into and report to the Minister or the Commissioner on any other matter referred to it by the Minister or Commissioner relating to building work or the administration of this proposed Act;
- any function that the panel is requested or required to perform by an authority responsible for regulation of technical or safety aspects of the building industry;
- any other functions prescribed by regulation or prescribed by or under any other Act.

Advisory panels have been established in respect of occupational groups such as gas fitters, plumbers and electricians and it was thought equally appropriate in respect of building work contractors.

PART 7—MISCELLANEOUS

Clause 42: No exclusion, etc., of rights, conditions or warranties

This clause is equivalent to section 34 of the current Act and provides that a purported exclusion, limitation, modification or waiver of a right conferred, or contractual condition or warranty implied, by this proposed Act is void.

Clause 43: Delegations

This clause provides for delegations by the Commissioner or the Minister.

Clause 44: Agreement with professional organisation

This clause allows the Commissioner, with the approval of the Minister, to enter into an agreement under which a professional organisation takes a role in the administration or enforcement of this proposed Act. The agreement cannot contain a delegation relating to discipline or prosecution or investigation by the police.

The agreements are required to be laid before Parliament as a matter of information.

Clause 45: Exemptions

The clause provides the Minister with power to grant exemptions.

Clause 46: Registers

The Commissioner is required to keep the register and to include in it a note of disciplinary action taken against a person (the latter requirement is similar to section 21 of the current Act). The requirement in section 21A of the current Act to advertise disciplinary action is not retained.

Clause 47: Commissioner and proceedings before District Court

This clause sets out the entitlement of the Commissioner to be joined as a party and represented at proceedings.

Clause 48: False or misleading information

It is an offence to provide false or misleading information under the proposed Act. This is similar to section 47 of the current Act although the penalties are higher—$10 000 if the person made the statement knowing that it was false or misleading or, in any other case, $2 500.

Clause 49: Name in which building work contractor may carry on business

This clause is equivalent to section 36 of the current Act but the penalty has been raised from $1 000 to $2 500.

Clause 50: Publication of advertisements

This clause is equivalent to section 37 of the current Act with a higher penalty of $2 500.

Clause 51: Statutory declaration

The Commissioner is authorised to require information provided under the proposed Act to be verified by statutory declaration.

Clause 52: Licensed building work contractor to have sign showing name, etc., on each building site

This clause is the equivalent of section 38 of the current Act with a higher penalty (in line with other penalties) of $2 500.

Clause 53: Investigations

The Commissioner of Police is required, at the request of the Commissioner for Consumer Affairs, to investigate matters relating to applications for licences or discipline.

Clause 54: General defence

The usual provision is included allowing a defence that the act was unintentional and did not result from failure to take reasonable care.

Clause 55: Liability for act or default of officer, employee

Acts within the scope of an employee's etc. authority are to be taken to be acts of the employer etc. This clause is similar to section 41 of the current Act.

Clause 56: Offences by bodies corporate

The usual provision placing responsibility on directors for offences of the body corporate is included. This is equivalent to section 49 of the current Act.

Clause 57: Continuing offence

A continuing offence provision is included as in section 50 of the current Act.

Clause 58: Prosecutions

The time within which prosecutions may be taken is extended from 12 months (see section 51 of the current Act) to 2 years or 5 years with the Minister's consent.

Clause 59: Evidence

An evidentiary aid relating to licences or registration under the proposed Act is included.

Clause 60: Service of documents

This clause provides for the method of service and is similar to section 46 of the current Act except that provision for facsimile transmission is included.

Clause 61: Annual report

As in section 45 of the current Act the Commissioner is to provide an annual report which is to be tabled in Parliament.

Clause 62: Regulations

The clause is similar to section 52 of the current Act and, so far as the ability of the regulations to provide for exemptions, section 5 of the current Act.

SCHEDULES

Schedule 1: Appointment and Selection of Assessors for District Court

The provisions for selection of assessors for disciplinary hearings are similar to those recently enacted in relation to other occupational groups.

Schedule 2: Appointment and Selection of Assessors for Magistrates Court

The provisions for selection of assessors for hearings relating to domestic building work are similar to those provided in schedule 1 except that there is provision for only one panel comprised of persons who have expertise in building work.

Schedule 3: Repeal and Transitional Provisions

The Builders Licensing Act 1986 is repealed. Transitional provisions are included in relation to equivalent licences, registration and orders of the Commercial Tribunal.

Schedule 4: Consequential Amendments

Consequential amendments are made to the District Court Act 1991 and the Magistrates Court Act 1991.

Mr CLARKE secured the adjournment of the debate.

STATUTES AMENDMENT (COURTS) BILL

Adjourned debate on second reading.

(Continued from 25 October. Page 400.)

Mr CLARKE (Deputy Leader of the Opposition): In the absence of the member for Spence, I will be taking—

Mr Brindal: Where is he?

Mr CLARKE: By the side of his wife, who is in hospital at the moment giving birth to their fourth child, as I understand it.

Mr Brindal interjecting:

Mr CLARKE: I am, and I do—

The DEPUTY SPEAKER: The member for Unley should realise that, only a few moments ago, the House granted leave of absence to the member for Spence.

Mr CLARKE: As you, Sir, pointed out, if the member for Unley were more often in this House he would know what was going on. The Opposition supports the second reading.

Mr Brindal interjecting:

The DEPUTY SPEAKER: Thank you, the member for Unley.

Mr CLARKE: The Bill improves the legislation pertaining to various courts in differing ways.

Mr Brindal interjecting:

Mr CLARKE: Where was I? I always wanted to be here, but unfortunately others amongst us did not wish to have my presence. In amendments to the District Court Act and the Supreme Court Act, registrars will potentially have expanded powers to enable them to be utilised more efficiently at the direction of the Chief Judge and Chief Justice, respectively. The District Court Act and the Supreme Court Act are also amended to permit the service of court processes, such as summonses on Sundays. The law, which allows some flexibility—

Mr Lewis: Are you sure?

Mr CLARKE: —I have read the Bill, even if the member for Ridley has not—as to service of court processes by alternative means, is also extended to ensure that it applies to criminal as well as civil proceedings. In the Supreme, District, Magistrates and ERD Courts, public access to some of the more sensitive or sensational types of evidence, for example, photographs of victims of crime, victim impact statements, pre-sentence reports and the like, are restricted by this Bill. However, the Opposition does not consider that these restrictions are unduly restrictive, and the requirement for the leave of the court will generally lead to improvements in the administration of the justice system for the reasons given by the Attorney.

The Opposition also sees the force of the Attorney's arguments in relation to there being no right of appeal from a judicial decision to refuse access to sensitive material. Witnesses should not be required to raise money to defend an appeal by a television station. The Opposition is satisfied with the need for amendment to the provisions regarding the appointment of magistrates with respect to both industrial magistrates and magistrates appointed to other positions for fixed terms. The amendment which allows transfer of proceedings from the District Court to the Magistrates Court by masters of the District Court rather than judges in every case is sensible. These requests for transfer became very common for a while following the 1991 changes to jurisdictional limits combined with the costs penalties faced by even successful litigants if they found themselves in the wrong court at the end of the day, by which I mean if the award of damages to the successful litigant failed to meet the acceptable District Court minimum. As the Attorney says, the issue of transfer to the Magistrates Court is not in dispute in many cases.

The Opposition also endorses the right of interested parties to apply to the court for an order prohibiting vexatious litigants—unfortunately, we cannot get a similar law with respect to vexatious members of Parliament, such as the member for Unley—from initiating further proceedings without leave of the court. There is no justice in being pursued by a vexatious litigant with a spurious claim, and this amendment does not entirely restrict the right of citizens to sue for their rights in court. In practice, I suspect that leave will generally be granted where there is a shadow of a reasonable basis for litigation. In other words, the court will tend to give the benefit of the doubt to a litigant who earnestly brings his or her claim. In all these matters and with a couple of minor amendments, to which I have not referred, the Opposition approves the amendments. Accordingly, the Opposition supports the second reading of this Bill.

Mrs KOTZ (Newland): I support this Bill and commend the Attorney-General for the greater efficiencies in the administrative procedures of our various courts that the amendments to this Act will provide. The amendments deal with certain difficulties previously experienced through our courts system. In the Supreme, District, Magistrates and ERD Courts, public access has been restricted in some areas where sensitive or sensational types of evidence are involved. I do not believe that any of us take lightly any restrictions placed on public access to information. However, I believe that in this case the restrictions are not unduly restrictive. The requirement for leave of the court will improve the administration of the justice system.

The provisions currently in the Magistrates Court Act, the Supreme Court Act and the Environment, Resources and Development Court Act enable public access to court files, and a person who does not sit through the court proceedings will have the same information as a person who attends the

court sittings. However, material held for evidentiary purposes, such as photographs of victims of crime, has been accessed under these current provisions and published in the media. Certain other documents made available to the courts which should not be available for public consumption, such as victim impact statements, pre-sentence reports and bail assessment reports, can be inspected and photocopied. Evidence which is produced for the purpose of enabling a court to determine whether or not it has evidentiary value is available for public inspection and copying, as is material admitted for the purpose of a preliminary hearing even though its admissibility has not been finally determined.

In the District Court, judges have had to make available for public inspection and copying the transcript of evidence, submissions of counsel, the transcript of the judge's summing up, the transcript of sentencing remarks, and the formal order of the court, even though suppression orders have been made and the court closed. I, therefore, fully support the amendments to the Act that provide that some material will be available for inspection and copying only by leave of the court. This is material that is not taken or received in an open court, material that is suppressed from publication, material that is placed before the court during the sentencing process, material that is admitted at a committal hearing pursuant to section 107(1)(b) of the Summary Procedure Act, a transcript of any oral evidence taken at a preliminary examination, photographs and films, and video and audio tapes.

Provision is also made for material prescribed by regulation to be available for inspection and copying only with the leave of the court. There is a further category of material which the courts must make available for inspection or copying. Where the court refuses access to material, there will not be a review or appeal available on that decision. I support the Attorney-General's explanation given in the second reading of this Bill.

The District Court Act and the Supreme Court Act are also amended to permit the service of court processes, such as summonses on Sundays. The law which provides some flexibility to court processes by alternative means is also extended to ensure that it applies to criminal as well as civil proceedings. The Bill before us provides greater efficiencies and seeks to solve many other minor difficulties previously experienced in the courts system. I support the Bill.

The Hon. S.J. BAKER (Deputy Premier): I thank both contributors to this debate. The Deputy Leader is a very quick learner on matters legal: he shows astounding knowledge gained in a very short space of time. It is a pity that he cannot get matters behavioural right, because we would then have a very effective Parliament. However, I thank the Deputy Leader for his contribution to this debate. The member for Newland concentrated on the most important aspect of this Bill, that is, the handling of sensitive evidence and the extent to which it can be accessed by outside persons, in particular, media outlets. It is important to ensure that everyone knows exactly what access arrangements have been put in place and that people are not embarrassed or do not have to go through appeal procedures in order to protect their interests. So, I thank both members for their consideration of the Bill and their support.

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

STATUTES REPEAL AND AMENDMENT (COMMERCIAL TRIBUNAL) BILL

Adjourned debate on second reading.

(Continued from 26 October. Page 457.)

Mr CLARKE (Deputy Leader of the Opposition): As the Deputy Premier pointed out, I have had to be a very fast learner in matters legal in the absence of the member for Spence. Once more, it is at a moment's notice that I will debate the Bill. Although the Opposition does not agree with the Government's policy of abolishing the Commercial Tribunal, we accept that abolition is part of its mandate, and there has previously been an accommodation between the two Houses of Parliament on this matter. It has been agreed that the functions of the Commercial Tribunal will now be shared by the Consumer and Business Division of the Magistrates Court and the Administrative and Disciplinary Division of the District Court.

The Bill repeals the Commercial Tribunal Act and diverts matters arising under the Trade Measurement Act, the Trade Measurement Administration Act, the Survey Act, the Goods Securities Act and the Fair Trading Act. Those Acts that still need the Commercial Tribunal are the Travel Agents Act, Builders Licensing Act, Commercial and Private Agents Act and the Consumer Transactions Act. These Acts will be amended by other Bills yet to be introduced, but this Bill will not be proclaimed until the coming Bills are passed, and then their provisions relating to the Commercial Tribunal will be proclaimed simultaneously. The Opposition acquiesces in the Bill.

Mrs KOTZ (Newland): This Bill transfers the miscellaneous jurisdiction from the Commercial Tribunal. The Bill also repeals the Commercial Tribunal Act 1982 under which the tribunal was, in fact, established. Parliament has already set the precedents inherent in this Bill by having passed a number of Acts in the commercial affairs portfolio which transferred jurisdiction from the Commercial Tribunal to either the Administrative and Disciplinary Division of the District Court or the Consumer and Business Division of the Magistrates Court. One example is the Second-hand Vehicle Dealers Act. There is a multiplicity of courts dealing with a varied array of matters throughout our justice system, and this Bill is consistent with previous Government policy to rationalise the various jurisdictions and to bring proceedings within the jurisdiction of existing courts.

The Commercial Tribunal was essentially structured in much the same way as the District Court in its Administrative and Disciplinary Division and the Magistrates Court in its Consumer and Business Division. They are not bound by the rules of evidence. They must consider all relevant matters, acting in equity and good conscience and assisted by assessors. There is no obligation to have legal representation. The administration of the system will be brought under the responsibility of the Courts Administration Authority. Advantages will arise in that the authority has the expertise in the management of lists in dealing with matters that need to be considered by courts, tribunals and divisions of the courts, and has the capacity to properly administer the functions of the Administrative and Disciplinary Division of the District Court or of the Magistrates Court's Consumer and Business Division.

As well as the practical circumstances rationalised under this Bill, there will be financial gains through cost savings

such as the presiding member's salary, which is equivalent to a magistrate's salary of approximately $109 000 a year, plus a car and a car park; an amount of $51 000 a year from the budget of the Office of Consumer and Business Affairs paid to tribunal members; the provision of a secretary to the tribunal; the lease of the office costing about $78 000 a year; associated services; a law library costing $8 000 a year; and court reporting costs amounting to about $80 000 a year. The processes of amendment in this Bill will enhance the matters undertaken previously by the Commercial Tribunal. I support the Bill.

The Hon. S.J. BAKER (Deputy Premier): I thank both members for their contributions. The Bill represents a tidying up or, if you like, the 'last act' which will, as the Deputy Leader explained, be the winding out of the Commercial Tribunal and its various responsibilities into the two court jurisdictions, namely, the District Court and the Magistrates Court. It is a machinery measure, and the relevant matters have been argued, tested and debated. We believe that it will lead to a better utilisation of resources and that through these changes some of the legal aspects which have not necessarily been embraced by the tribunal in its deliberations in the past will now be actively pursued. We also believe that the level of expertise brought to these matters will increase; however, we are also assured that the less legal framework of the tribunal in terms of strict adherence to court procedures will remain a feature of examination of these matters.

From the Government's point of view, there will be better utilisation of resources, greater capacity to look at some of the legal arguments and a more effective dispensing of cases. I believe that many people have over a long period escaped scrutiny and committed various offences which the tribunals themselves have been unable to address. The Bill is welcome because, together with the other Bills, it will provide a different direction for this process, and I believe that will be to the benefit of South Australia.

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

ADMINISTRATIVE DECISIONS (EFFECT OF INTERNATIONAL INSTRUMENTS) BILL

Adjourned debate on second reading.

(Continued from 26 October. Page 458.)

Mr CLARKE (Deputy Leader of the Opposition): The High Court held in the case of *Minister of State for Immigration v. Ah Hin Teoh* that if Australia ratifies an international treaty all people, not just Australian citizens or permanent residents, may have a legitimate expectation that the departments of the Commonwealth Government will administer Australian law in accordance with the treaty even if the treaty has not been incorporated into Australian domestic law by the Commonwealth Parliament under section 51(xxix) of the Constitution.

This last provision is the authority to make laws with respect to external affairs. If that legitimate expectation is not to be fulfilled, it was held that natural justice required the person affected to be given notice and an opportunity to be heard in reply. This requirement could cost millions of dollars if a high standard of procedural fairness were to be expected of Commonwealth officials dealing with thousands of illegal immigrants in northern Australia or a convoy of boat people in territorial waters. The High Court added that the legitimate expectation could be displaced by statutory or executive indication to the contrary. This Bill is a statutory indication to the contrary.

There are about 50 000 international instruments and about 2 000 international agencies making rules for the world. Australia has surrendered some of her sovereignty in recognition of our need for internationally coordinated action on many matters. Owing to the external affairs powers, the Commonwealth Government has been pleased to surrender some of the sovereignty of the Australian States also. As the former High Court Judge and Governor-General, Sir Ninian Stephen, wrote in the January edition of *Quadrant* magazine this year, the process has 'been by no means a plan and carefully programmed affair, but rather a largely involuntary reaction to external forces'. Sir Ninian is a supporter of the United Nations and increasing the reach of international law, but he points out the adverse affect this is having on democracy and writes:

> At the stage when adhesion to some treaty or convention is being decided upon, the democratic deficit becomes apparent in the case of Westminster-type Governments because with them the process of treaty making is a purely executive act; Parliament has no formal, constitutional role in the process.

He continues:

> The doctrine familiar to English law. . . that treaties entered into by the executive do not have effect as law of the land unless implemented by legislation may be thought to mitigate the absence of parliamentary consultation. . . However, its mitigating effect is reduced by the fact that, once the executive ratifies a treaty, so that the state becomes a party to it, the legislature will have little option but to enact any necessary enabling legislation; not to do so would be tantamount to repudiation, to a failure to honour the country's international obligations.

I am worried—

Mr Brindal interjecting:

Mr CLARKE: The member for Unley interjects, 'That's not right': I point out that I was quoting a former High Court judge and a former Governor-General of Australia, Sir Ninian Stephen. If I had to stack up his thoughts with respect to this issue as against those of the member for Unley, there is no contest and I would think that there would be 45 other members of this House who would think likewise.

The DEPUTY SPEAKER: The member for Unley is really contributing little further scholarship to the debate.

Mr CLARKE: Thank you, Mr Deputy Speaker. The member for Unley adds little to this House full stop. I am worried that the passage of authority from our Parliament to an international legislature makes local voters unable to influence the laws that govern them. That is why it is important that international law does not become part of South Australia's law until the South Australian Parliament has deliberated on it. If we are going to internationalise much of our law, good as that might be in some respects, we should at least do it consciously instead of sleepwalking into it as the High Court proposes. It is important that the Commonwealth support in international forums the old catholic principle embraced by the European community whereby the central authority delegates administration to national or regional Parliaments, keeping only so much power as is necessary to preserve the principle at stake.

The Deputy Premier tells us that the Commonwealth has ratified 900 treaties and makes the point that Government departments cannot possibly cope with this tidal wave of new law. The Commonwealth has passed a Bill such as the one before us, and it is important that we pass a Bill of our own and not rely on the Commonwealth Bill to oust the legitimate

expectation. To rely on the Commonwealth Bill, as has been proposed in another place, would send the wrong message about our Federation to the Commonwealth. Section 51 (xxix) has had the result that ratification of international treaties by the Commonwealth Parliament drives out State legislation in favour of the Commonwealth legislation. Sir Ninian mentions that there may be a need for greater transparency and consultation in the applications of treaties to Australian domestic law. He writes:

> Other federations, among them Austria, in some respects Malaysia and, by quite idiosyncratic routes, Canada and Germany, have found various ways to safeguard to a degree the legislative power of their component parts from invasion through the Federal treaty power.

Mr Brindal interjecting:

Mr CLARKE: You should pick on the member for Spence, whose speech it is. In conclusion, I commend the Bill to the House and Sir Ninian's ideas to the Commonwealth.

The Hon. S.J. BAKER (Deputy Premier): It was a finely put argument by the Deputy Leader of the Opposition, which no doubt did reflect the thoughts of the member for Spence. It seems that waiting for the birth of the child has actually focused and sharpened his mind, and his arguments are very cogent in this regard. If we look at the High Court decision in the Teoh case, we would question the decision in such circumstances because, as we are all aware, and particularly the Deputy Leader of the Opposition, when we sign treaties they are an expression of goodwill and intent and are not signed to bind countries unless they determine that they should be so bound. The Teoh case was strange from an outside observer's point of view because the general expression of intent would be binding on the Commonwealth. Certainly, there are some real reservations about some of our Government leaders going overseas and expressing a common interest with someone and we then find that we have some requirement to meet in that regard.

Even in the most developed countries some of the treaties signed and declarations made are honoured in the breach rather than the observance, and that was always clearly understood. It is a hard ask for any Government, if it is in a spirit of cooperation, to refuse that treaty because it may well have some important principles associated with it to which the country might be happy to be a signatory but, in the delivery of those sentiments, it means that particular people's rights are taken away or there are ramifications which need to be examined strenuously.

It concerns me that we have had 920 of these matters signed. They may have been signed with the best of intention but the practical reality is that they can damage the country that implements the agreement to the letter that has been agreed to. I have seen some ILO declarations put up by some European communities and I have seen some human rights declarations and other United Nations declarations and, whilst many of them make a great deal of sense, the practical reality of course is that the countries which are often the sponsors of these items are, for political and positioning reasons, not inclined to implement them in the spirit with which they have been put forward. It is important to separate fact from fiction. There is only one fact: it should be that a country should have the right to determine its own future. It should not be bound by treaties, although treaties should be a general guidance to the people who are making laws. The Bill provides an important safeguard to the State of South Australia and the Commonwealth itself. Obviously, we appreciate the support that we have received from the Opposition.

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

OFFICE FOR THE AGEING BILL

Adjourned debate on second reading.

(Continued from 26 October. Page 447.)

Ms STEVENS (Elizabeth): The Opposition supports this Bill, with one minor amendment, which I will describe as we progress through the debate. I will take some time to look briefly over what has happened in the past in relation to the present Act, reflect on some of the issues for today, look at the second reading explanation and the Bill itself and make a few other comments. The Commissioner for the Ageing Bill was introduced in the House of Assembly and read a second time on the 15 August 1984, with the second reading reply from the Liberal Opposition on 28 August 1984. During the debate that accompanied the Bill it was mentioned that, during the 1982 election campaign, both the Liberal and the Labor Parties had promised to form such an office, that New South Wales already had a Commissioner for the Ageing and that many organisations in South Australia had asked for the Commissioner to report to the Premier rather than to the Minister for Community Welfare.

The Commissioners had in fact reported to the Minister for Community Welfare until 1987-88, to the Minister for the Aged from 1988-89 until 1992-93, then to the Minister for the Ageing from 1993-94 to this day. The positions of Commissioner for the Ageing have been held by two people to this date. Adam Graycar was the first person to occupy the office, then he was followed by Lange Powell. In reflecting over what has happened in the time since that Bill was introduced, people would agree that good things have occurred. Many changes to policy and many important additions to our knowledge, our policy and our approach to the ageing have occurred.

I will take a small amount of time to read some very brief excerpts from the Hon. Greg Crafter's second reading speech of 15 August 1984, make a few points and illustrate them further in relation to the new Bill. The Hon Mr Crafter began that explanation of the Bill by remarking on the increase in the proportion of older members of the community in the population of South Australia. We know that this continues and will increase at an even faster rate over the next 10 or 15 years. He states:

> Within the older population, there are many other important social and demographic characteristics which warrant the interest of governments and the wider community. For example, it is estimated that between 1981 and 1986 the number of Italian-born aged people will increase by one-third, and those from Greece and Germany by one half. Women comprise 65 per cent of people over 65 years of age and 72 per cent of people over 80 years. Also, 70 per cent of women over 65 years do not have the support of a husband, and many lack other family ties.

Further down in the speech he states:

> To help fulfil this commitment the Labor Party, in its election platform, stated its intention to appoint a Commissioner for Aged Care and Services. It was envisaged that the Commissioner would provide a prime contact point for issues concerning the ageing and coordinate services and assistance available to them.

He further states:

> The Government has perceived that many people in the community think that it would be appropriate that the functions of a Commissioner be contained in legislation, and it is certainly the

case that an office prescribed by statute will acquire a status that is, in the opinion of the Government, desirable because of the special needs and position of the ageing within our community.

Then, in relation to the title—the Commissioner for the Ageing—he goes on to state:

The new title more clearly represents the Government's intention that the Commissioner will have responsibilities to all the ageing with their skills, experience, enterprise and resourcefulness, whilst giving special attention to their need for 'care and services' when required.

He also states:

The primary responsibility of the Commissioner will be to provide informed advice and commentary to State Government Ministers. . .

He further states:

The Commissioner will try to identify and promulgate inclusionist rather than exclusionist practices at all times.

Further down he states:

The Commissioner will consult widely with individuals and organisations about issues and needs of the ageing.

Further down again he states:

Wherever possible, the Commissioner will seek their wider participation on Government committees, boards of management and in other community structures—particularly where decisions and actions are being taken which affect them.

Still further down he states:

The Commissioner will liaise with such bodies and support the coordination of their endeavours.

Finally, he states:

It is not the Government's intention that the Commissioner should be responsible for the administration of services for the ageing. As far as possible, this Government will provide policies and services which are inclusive—for the all the people—and it will be the task of the Commissioner to seek to ensure that they are sensitive to the needs and aspirations of older people.

I want to draw attention to those points. Some of those concerns carry through into the new legislation before us, and one or two are different, and I will refer to them a bit later.

In looking at the situation that faces us today, I will quote from my newly acquired draft of the 10 year plan for aged services, in which a section at the beginning gives a demographic and socioeconomic overview of older populations in South Australia. Again, we have a very high proportion of people in these age groups. Under the heading 'The older population of South Australia', the report states:

On 30 June 1994, 199 174 people living in South Australia were aged 65 years and over, representing 13.6 per cent of South Australia's population. This proportion has grown from 4.1 per cent in 1901, and is expected to rise to 14 per cent by the turn of the century. It is projected that there will be a further large increase by the year 2021 to 19.1 per cent, when 310 170 people will be in this age group.

Further:

The 196 000 people aged 65 years and over comprised 111 760 females and 84 240 males, which is a ratio of 133 women to 100 men. This ratio has fluctuated during this century, particularly in line with the effects of the two World Wars. However, once these effects have worked through by the year 2000, the projected number of females per 100 males is still significantly high, increasing dramatically with age.

So, there is that issue of gender in the older population. Under the heading, 'Growth of the older population', the draft report states:

The older population is expected to grow substantially over the next 30 years (61.5 per cent for men and 51.3 per cent for women). For both men and women, the older the age group, the greater the growth. In almost every age group over 65 years, South Australia has a higher proportion of older people than any other State. . . The exception is the 85+ age group, which is equal highest with Victoria.

I refer to that because it is absolutely crystal clear that, as a community, we need to have a special focus on the ageing and their needs.

Moving a little further on through that report, I should like to quote from a section about people with special needs. The first group that I want to speak about is Aboriginal people. I have a small amendment to move in relation to this matter because I believe that the legislation needs to make particular note of Aboriginal people of all ages. The draft report states:

Aboriginal people have a very different age profile from the rest of the population, with a population 'pyramid' that indicates high birth rates and high death rates from quite young ages. The pyramid narrows from the 10 to 14 year age group and continues to do so until around 60 years of age where there is a slowing of the rate of death, more so for females than for males.

Of Aboriginal people in South Australia, 14 per cent are aged four years and under compared with 7 per cent of the rest of the State's population in that age group. The large proportion of the Aboriginal population in the younger age groups is accentuated by the relatively small number of Aboriginal people who live beyond 55 years. Aboriginal people, therefore, have a markedly lower life expectancy than the rest of the population. An Aboriginal male born in 1989 could expect to live to about 49 years of age; an Aboriginal female to about 62 years of age. This compares with average life expectancy for all South Australian males born in 1989 of about 74 years and of about 80 years for all South Australian females.

Estimates of survival rates (based on 1991 data) show that, of each 100 Aboriginal males, 31 will survive to 65 years, compared with a ratio of 82 survivors for all South Australian males. Only about 14 of every 100 Aboriginal males will survive to the age of 75, compared with the ratio of 59 survivors to that age for all South Australian males. Although the figures for Aboriginal females are closer to those for all South Australian females, a marked difference still exists.

With that sort of information and knowledge about the Aboriginal community, it is absolutely incumbent upon us to take particular note of outcomes, programs and changes in relation to those figures, and that is why I will move an amendment so that the outcomes of that group are reviewed and monitored closely.

In referring to the Bill itself, I should like to make some comments and ask some questions, which I hope the Minister will expand upon when he makes his reply. Essentially, the Bill establishes the Office for the Ageing and an advisory board. As has been stated in the second reading explanation, the objectives are the same and the functions are almost the same as in the previous Bill. I have to say that, as I was reading the second reading report, a number of questions came to mind, so I will just read a sentence and ask the Minister the question that I asked myself. The Minister stated, 'It is the Government's view that this legislation is necessary to give effect to needed reform of the Government's responsibility for the aged.' I am not sure why this new Bill will change the ability of the Government to carry out its responsibility for the aged. I am not sure that I see the difference in this new Bill compared with the legislation that we are operating under now, and I am anxious to hear from the Minister about that.

The next point of interest is the statement that, 'This Government has a long-term commitment to the aged in our community and this Bill will provide a strong public profile.' Again, I believe that the strong public profile is already being shown and is already part of the present legislation under the Commissioner for the Ageing. The Minister's explanation also stated that, 'The Bill will allow the development of a plan for aged services.' That would have happened anyway under the legislation that is already in place.

However, I acknowledge that there is a difference in function, particularly because it provides a function of program responsibility for the Office of the Ageing, with its Director. That has been explained as allowing for the administration of particular programs such as the Home and Community Care program (HACC program). I should like to comment about that and ask some questions. The HACC program has a budget in the vicinity of $60 million, which is quite large. Does the Minister have any concerns that this could develop into a situation where we see a very large tail wagging a small dog? Will this very large program responsibility tend to swamp the office in terms of its priorities, its functioning and its time? Will the office's ability to perform its other roles, such as policy advice, needs determination and consultation, be affected? Will there be a problem in its being able to carry out those things just as effectively when it has a very large program responsibility in terms of HACC funding?

What precisely will happen with the HACC funding, because it is not only for the frail aged but also provides support for young disabled people. How will that work out? How will the division be made? How will the Minister determine how much of the cake the two sections will get? I presume that the Disability Service Office will manage its side of things, and, again, that is part of the Health Department. Does the Minister see any problem in relation to those issues?

Over the past year or so, concerns have been raised with me about the current management of the HACC program, and it would be good to know that, with this change, some of these issues can be addressed and corrected. For instance, some of the feedback that I have had in relation to the management of the HACC program includes the suggestion of longstanding problems, of a large turnover of staff and managers of the program, and of poor customer relations.

Mr Brindal: What sort of things?

Ms STEVENS: I am just mentioning them. It has been suggested that the communications coming from that section have been poor, that strategic planning is not as good as it could be, that there are problems with the level of State contribution in terms of Home and Community Care funding, and that increasingly large amounts of money are coming from non-government organisations, which means that the distribution of HACC funds are skewed and that services are planned where the money is available rather than where the need is. The other thing—

Mr Brindal interjecting:

Ms STEVENS: No, not only the Commonwealth. There is an issue here, too. The Minister will know that there was a call from people last year to put up money for State one-to-one joint funding in order to qualify for that money. The other issue relates to the slippage money in the HACC program where it is agreed that projects will be funded. I am sure that this is not only a State issue, whereby there is agreement to fund a project and then there are long delays and the money does not come. We know that these sorts of problems tend to be endemic in large bureaucracies. I hope we might be able to address that problem by having a better operation because those HACC funds are very critical to both the frail aged and the young disabled in our community. I will be very interested to hear the Minister's response to those issues.

The other issue is that of resourcing. Will the Minister comment on the resourcing of the Office for the Ageing when it takes on responsibility for HACC funding so that we can be assured that we are not losing out and that all the functions of that office are performed effectively with appropriate resources? In relation to the establishment of the advisory board, I know that the Older Persons Advisory Committee is already in operation. Will the Minister comment on the differences in their roles? For instance, will there be any overlap; how will they operate; and will there be any duplication of roles? Also, will members of the advisory board be paid or will this be voluntary from their point of view?

I congratulate the Minister and through him his officer, Mrs Judith Roberts, for the process that was undertaken in arriving at this legislation. I received virtually no negative letters from people. When I contacted people, wrote to them or sent them information and asked whether they had any comments they would say, 'No, we have been fully consulted and we are okay with it.' This is a wonderful change from the previous time I led debate on legislation to restructure a department, and it is a credit to the process that the Minister has put in place.

Some small concerns have arisen about the independence of the office when we change from a Commissioner to a Director. I must admit that, when I read the objectives and the functions, it occurred to me that it is a matter of terminology and probably not a matter of concern, but it has been raised with me so I would like the Minister's comment. People have said that in the past the Commissioner's role has been valuable because of his or her ability to be independent, to provide advice and not to feel constrained by particular positions. Will the Minister give some reassurance about those issues in relation to the new structure?

The other point was made to me by the Older Women's Health Network, which raised the issue of the advisory board. The network sent me a letter and a copy of the letter that it sent to the Minister. My letter states:

> We speak for many older women when we ask that the advisory board includes members who are themselves no longer young. We sometimes get tired of being done to and spoken for.

In the letter to the Minister the network said:

> In relation to the advisory board we would like to underline our belief that there should be as many consumers as service providers—as many doers as those done to—so that unfortunate power imbalances do not develop.

I believe that is reasonable, and I hope that the Minister will agree. As I have said, I congratulate the Minister and his officers on the process of the Bill. It is a good Bill, and the community believes that, too. I also welcome and congratulate Mr Jeff Fiebig on his appointment as the new Director. I wish him well and look forward to working with him.

Mrs KOTZ (Newland): I support the Bill. The legislation establishes the Office for the Ageing, which will be led by a Director, and it sets up an advisory board on ageing. The Bill strengthens the Government's focus on ageing, and it will ensure that the recommendations inherent in the Government's 10 year plan for aged services can be implemented in an effective way across the whole of Government and the community. The 10 year plan for aged services is a very substantive draft document, which, I am sure all members are aware, is in the process of extensive consultation with community groups. I believe some seven regions across the State will be visited by a consultative team seeking the views of older people and others who may have an interest in that area.

The consultation process has been welcomed by many people across the State, particularly in the rural areas. As we are all aware, people who reside in those areas tend to be forgotten perhaps because of the distance that they are from the city or perhaps that in itself is a form of isolation that keeps them from their city counterparts. The process of consultation has certainly been undertaken in an extensive manner; and, as we have heard from the member for Elizabeth, it has drawn congratulations from all sides of the spectrum.

The issue of ageing in our community is one of ever increasing importance. Population predictions clearly show that there will be significant growth in the proportion of people over the age of 65 in Australia in the next decade, and in particular in the numbers of the very old. At the same time there are changing community expectations about the role and contribution of older people within our communities. Older people have expectations about their lifestyle and about the way that services are provided— services that protect and promote their independence, and indeed their dignity.

The Bill also proposes to establish an advisory board on ageing, which will be a mechanism that will provide broader input to the Minister for the Ageing on ideas for the future, issues of concern and any related matters regarding ageing and the needs of older South Australians. The objectives and functions that will be set up under the Office for the Ageing will ensure that Government policies, strategies and programs provide maximum benefit to older persons and certainly promote and support safe, healthy, contributive and satisfying roles for older people in our community.

The Office for the Ageing will be responsible for providing the strategic planning and policy development required to lead the Government's public policy for older persons. It will also be responsible for consulting with organisations of older people, service providers, community organisations, universities and other relevant groups in order to ensure that their views are heard and incorporated into Government policy. Of course, they are admirable goals. The appointment of staff to that office under this Bill will include a director and any other staff that the Minister sees fit, appointed on any terms and conditions that the Minister may deem apply. I commend the Minister for his initiative in giving due prominence to this important issue and support the fact that the Bill provides a legislative framework that will allow what is its basic intent, that is, a strong public profile for the ageing. I support the Bill.

Mr WADE (Elder): I thank my colleague the member for Newland for going through the Bill in some detail. I also thank the member for Elizabeth for providing some facts and figures behind it, thereby saving me a bit of time. I also thank the member for Ross Smith for his kind comments. This Bill reflects this Government's responsibility for the aged. We are an ageing population—as the member for Ross Smith is well aware—and steps must be and have been taken to address the needs, hopes and aspirations of our ageing population. As the House would be aware, in the late 1800s the average life expectancy of children in the city of London—in fact, the lower part of England—was nine. In Australia in the late twentieth century people are retiring from their normal work and looking forward to 20 or more years of a healthy life. Years ago, a retired person in this country was virtually thrown on the scrap heap. They were ignored, apart from such marvellous social activities as bingo and bowls.

The ageing do not deserve to be given a lifestyle determined by others. They have a right to enjoy a lifestyle of their choice. This Bill sets up an office to compile, collate and disseminate information concerning the ageing. The office will consult with the ageing, promote their interests and present the views of the ageing to the Minister. The Bill sets up an advisory board on the ageing, which is a new and innovative step by this Government to ensure that those with the knowledge, experience and standing in the ageing field have a direct and independent line to the Minister.

I note, as did the member for Elizabeth, that clause 8(4) of the Bill does not indicate any intention to have a representative of a consumer organisation of the aged on the board, that is, an elderly person who can reflect the views of our ageing population. It should not be automatically assumed that persons from public or private organisations will be from the generation to which this Bill is aimed. It is more than likely that such persons will come from organisations that are there to assist the aged, and this should not be discouraged. Rather, it would be advantageous to encourage participation of the aged on the board, which I am sure the Minister will agree with and promote. I will suggest three minor amendments by way of clarification during Committee. In the meantime, because of the excellent presentation of the member for Newland, I am left only to commend the Minister. I commend the former Commissioner for the Ageing on his tireless work towards the betterment of the ageing population, and I commend the Bill to the House.

The Hon. D.C. WOTTON (Minister for the Ageing): I take this opportunity to thank the Opposition spokesperson and members on this side for the strong support they have given this legislation. At the outset, I consider myself to be very fortunate to have the portfolios that I represent, and the diversity of those portfolios is something that I enjoy immensely. I enjoy immensely the responsibilities I have as Minister for the Ageing. In the short time I have been Minister, I have been very fortunate to have the opportunity to work through the preparation of this legislation for the changes within the office and also to have a part to play in the preparation of the 10 year plan. They are both very significant achievements that would not have been possible without the strong support of the staff within the Office for the Ageing, and in particular the strong support that has been provided by Mrs Judith Roberts as the Director during this intervening period. I am delighted that we have now been able to appoint a permanent Director. I look forward to working with Mr Fiebig through this legislation, and particularly through the outcomes that will follow the release of the 10 year plan.

The member for Elizabeth referred to the good things that have come out of the office of the Commissioner for the Ageing, and there have been good things. I enjoyed very much the opportunity to work with the Commissioner for the Ageing, Lange Powell. I was not privileged to work with the previous Commissioner. However, I saw that it was necessary to broaden the focus. I will explain it as I have done on numerous occasions: I was particularly keen to open up the funnel to provide more opportunity for advice to come into Government and to the Minister. I believe strongly that the appointment of the Director and the appointment of the board will enable that to happen.

I was also keen to strengthen the role of the office. The member for Elizabeth mentioned how we will do that through this legislation. We will be able to do that because of the appointment of the board, and also because of the direct link

there will be between the board and the Minister, and it is certainly my intention that that link be extended to the Cabinet as well. It is totally appropriate that the workings of the office and the issues that are raised within that office are made known to the full Cabinet. It is my intention that that should happen.

The member for Elizabeth mentioned the changes that have taken place with the addition of the responsibility for home and community care. I am particularly pleased about that. The honourable member mentioned some of her concerns about the way HACC has been handled in the past, and I have shared those concerns. I believe that the changes that have been made will be beneficial to all.

I am not concerned, as the member for Elizabeth indicated, that it may be a case of the tail wagging the dog. I do not believe that will be the case. HACC has a very clear program and guidelines which are set down. As the honourable member will be aware, it works under a very detailed State-Commonwealth agreement. The program and guidelines are binding and are very detailed.

I make the point that HACC is a funding unit, not a service provider, and that needs to be recognised. The young disabled are part of the program now, as are the frail aged. I do not see any difficulty in determining how funding should be provided. As the member for Elizabeth will be aware, all the changes in priorities for funding are guided by the HACC Advisory Committee and the Ministerial Advisory Committee. We are very fortunate to have such a strong committee, and we need a strong committee in that area. Jim Giles, as the Chair of HACC-MAC, does a terrific job in working through those priorities to ensure that the funding goes to those who are most in need. This legislation is strongly supported by that committee and by those who are involved in the HACC program.

I believe that HACC will enjoy a much better profile than in the past, and it is important that that should be the case. I see the HACC and SAAP programs as being vital. I think it is recognised generally that the agreement between the Commonwealth and the State regarding both programs will result over a period of time in strong support being provided for those people in need. I want to ensure that HACC particularly is strongly supported and that it has a clear understanding of its responsibilities. I do not see any problems in that respect. I know that the position will be monitored closely because the Opposition has a strong interest, as does the Government.

The member for Elizabeth referred to the problems associated with matching funding. I know that previous Governments have had the same difficulty. Again, I see this as a very strong priority. It is essential to work towards the matching of that funding. As was indicated, last year we were able to involve some of the non-government sector organisations as well, and that is something that we need to continue to work through.

The member for Elizabeth also asked about the responsibilities of the Older Persons Advisory Committee and whether there might be a duplicating role between that committee and the new board. That will not be the case. OPAC serves the consumer organisations. I have been a strong supporter of OPAC and I am keen to ensure that it continues to work effectively. I would not want to see a duplication. Obviously there will be an interaction between the two, and it is important that that should be the case, but I do not want to see a duplication of roles.

The member for Elizabeth referred to the need for the Director and the office to be independent. I am very keen to ensure that that happens. I suggest that the advisory board will probably be more independent than one commissioner. The people who will make up the board will have particular expertise, and I am sure that they will want to act independently and ensure that the advice is passed on. Again, I do not have any difficulties with that aspect.

I have made it quite clear that the Director will report directly to me, as will the Chair of the advisory board. I believe that is essential. In the consultation that has taken place, many organisations and individuals have pointed out that they would be concerned if that independence was removed. An important part of the role of the commissioner, who was appointed some time ago, is independence. It is important that that should continue with respect to the Director and the board.

The member for Elizabeth referred to the Older Women's Health Network, which has made strong representations to me. The honourable member referred to the correspondence that it has provided to me, and I know that it has written to her. I agree totally that, first, we need to ensure that consumers have a strong voice and, secondly, that older people are advising me about issues relating to older people. However, it is also important to recognise that by having one or two younger people not only are we looking at the immediate situation but we are looking ahead to the next decade and the decade after that.

I thank the members for Newland and for Elder for their contributions. Both referred to the special circumstances in South Australia relating to our ageing population. The member for Elder referred to the need for older people to have their independence and to the significant contribution that older South Australians continue to make. One of the things I enjoy immensely as I move around and meet with people from various organisations representing older South Australians is the significant contribution they make and the significant opportunities that those people have in so many different ways. I thank the Office for the Ageing for the strong support it has provided in assisting with the preparation of this legislation and commend it to the House.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Functions of office.'

Ms STEVENS: I move:

Page 3, line 15—Insert 'Aboriginal peoples,' before 'those who'.

I am putting into action comments I made in my speech, namely, that Aboriginal people are a particular group within our community whose needs require special recognition.

The Hon. D.C. WOTTON: The Government supports this amendment. I meant to refer to comments made by the member for Elizabeth concerning older Aboriginal people, who do have very special needs. I recognise that and totally support the amendment.

Amendment carried.

Mr WADE: I move:

Page 3, line 23—Insert 'relating to the ageing' after 'function'.

Paragraph (p) provides:

to carry out any other function assigned by the Minister.

People will say that any other function is defined and enclosed within the four walls of this Act. I must fall back on

many years of industrial and personnel experience, and I would prefer—

Mr Clarke interjecting:

Mr WADE: As the member for Ross Smith would be well aware, I did not lose one case in the Industrial Commission in all the years that I fought them. I wish to insert between the words 'function' and 'assigned' the words 'relating to the ageing', which makes clear that the Office of the Ageing may perform any other function but that it must still relate to the ageing.

The Hon. D.C. WOTTON: I am not convinced that it is absolutely necessary, but I do not see anything wrong with it so I will support it.

Amendment carried; clause as amended passed.

Clause 6—'Annual report.'

Mr WADE: I move:

Page 3, line 26—Leave out 'for the 12 months ending on 30 June' and insert 'during the preceding financial year'.

This is purely clarification. The clause is unclear, especially the last part of it. June 30 is not specifically forward or backwards in time. With my amendment we will know exactly where we are going and what we are talking about, and it will be as clear as a bell.

The Hon. D.C. WOTTON: The Government supports this amendment. I am not sure how you can prepare a report if it is not for the preceding year, but I am happy to accept the amendment.

Amendment carried; clause as amended passed.

Clause 7 passed.

Clause 8—'Advisory Board.'

Mr WADE: I move:

Page 4, line 6—Insert '(who is to be a member *ex officio*)' after 'Ageing'.

The Minister, in his second reading explanation, made particular note of the fact that the Director of the Office of the Ageing would be a member of the board, but in an *ex officio* capacity only. Those of us who heard or read the second reading explanation were in no doubt about that. I noted that, under clause 8(2)(a), the board includes the Director of the Office for the Ageing. This clause gives no indication whether the Director would be *ex officio*. My amendment would clarify the Minister's intention.

The Hon. D.C. WOTTON: The Government supports the amendment.

Amendment carried; clause as amended passed.

Clause 9, schedule and title passed.

Bill read a third time and passed.

FRIENDLY SOCIETIES (MISCELLANEOUS) AMENDMENT BILL

Returned from the Legislative Council without amendment.

STATUTES AMENDMENT (SUNDAY AUCTIONS AND INDEMNITY FUND) BILL

Received from the Legislative Council and read a first time.

CONSUMER TRANSACTIONS (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

STAMP DUTIES (VALUATIONS—OBJECTIONS AND APPEALS) AMENDMENT BILL

Returned from the Legislative Council without amendment.

WATER RESOURCES (IMPOSITION OF CHARGES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 511.)

Mr CLARKE (Deputy Leader of the Opposition): The Opposition supports the second reading of this Bill. However, our shadow spokesperson, the Hon. Terry Roberts from another place, is still in the process of consulting particular interest groups. He may, in another place, seek to expand on some of the points in relation to the Bill, or even perhaps put forward some amendments. The reason for that, as the Minister is aware, is that both this and a subsequent Bill, the Environment Protection (Forum Replacement) Amendment Bill, have been brought on today short of the normal full week's lay over on the table of the House to enable the Minister to deal with this matter today because of his planned absence interstate on Government business later in the week.

The Opposition is prepared to cooperate with the Minister in that regard, but our shadow spokesperson has not quite had the full amount of time necessary to complete his consultation processes because of our preparedness to help the Minister. Of course, this Opposition is only too happy to cooperate with this particular Minister in these sorts of normal courtesies, because the Minister has shown courtesy to the Opposition; he has been of assistance and has consulted with us, something which other members of the Government could do well to emulate. Indeed, I see that he is sitting in the Premier's seat, and that is his appropriate and proper place, without a doubt. We on this side of the House would wish him well.

I might also say that, when the Minister spoke to me on Friday, I was only too happy to agree to bring forward this matter for debate today because he has promised me a very sumptuous lunch when I am in London and when he is the South Australian Agent-General!

The SPEAKER: I suggest that the Deputy Leader come back to the Bill.

Mr CLARKE: Sorry, Sir. I will address the Bill in a little more substance. Whilst the Opposition does support the clean-up of the River Murray—and I do say we support it, contrary to some reports that seem to have reached the *Sunday Mail*—an article in that journal only a matter of a few weeks ago tended to suggest that the Leader of the Opposition was not supportive of the clean-up of the River Murray. We are supportive of the project.

However, whilst it makes some members of the Government uncomfortable, nonetheless we point out to Government members that there was a solemn promise given by the Premier, prior to his Government's election, that he would not impose any new taxes, nor would he increase taxes with respect to—

Ms Hurley interjecting:

Mr CLARKE: I thank the member for Napier for drawing my attention to something which is very pertinent to what I am saying. The Premier promised no new taxes and no extension of existing taxes. I appreciate that this Minister is forced to jump through hurdles and invent new titles to

disguise the fact that he is imposing new taxes, so the word being used by this Government is 'levy'; not 'taxes'. Any word other than 'taxes'—

The Hon. D.C. Wotton: It's a levy.

Mr CLARKE: The Minister describes it as a 'levy'. We had this rather interesting debate on the water catchment legislation, when I put the same proposition to the Minister then, that he and his Government were imposing a new tax. I note that a significant number of amendments have just been circulated by the Minister with respect to this Bill, given that this is the Government's own Bill. It has deleted the word 'charges' wherever it appears in the Bill and inserted the word 'levy' or 'levies'.

The Hon. D.C. Wotton: There is a very good explanation for that and I'll tell you about it in a minute.

Mr CLARKE: I am sure the Minister has a good explanation for it, because 'charges' is a little too close to 'taxes'. We all know that, prior to the last election, the Premier made a solemn commitment to resign if he increased or introduced new taxes.

The Hon. D.C. Wotton interjecting:

Mr CLARKE: The Minister says he made a solemn commitment to clean up the River Murray. As I have said, we do not oppose that. What we do oppose is the Government's trying to hide behind its promise not to increase taxes. The way in which any average member of the community, including punters, would view this Bill is that, if you are having taken out of your pocket something that you have never had to pay before, that is a tax.

The Hon. D.C. Wotton: No, it's a levy.

Mr CLARKE: The Minister interjects that that is a levy: that is a wonderful piece of convoluted logic. If it is coming out of your hip pocket, and if you have never had to pay that amount before, that is a tax, and no amount—

Mr Rossi interjecting:

Mr CLARKE: The member for Lee interjects. Well, if it is not the intellectual giant of the House interjecting on this occasion! I suggest that he resume his occupation of spaying cats and dogs rather than interjecting on this piece of legislation. I would like to draw to the attention of members that, as a result of not only this legislation but also the Government's water catchment taxing powers, we will now have a situation in which water users will have to meet not only the normal EWS costs—and I do not know whether water meters will have to be changed to record the cost in francs or pounds sterling when they receive their account because of this move by the Government to privatise our water supply system—

Mr Caudell: It's not being privatised.

Mr CLARKE: Oh, it is being privatised. There is absolutely no doubt about the privatisation of our water supply, because one only has to ask the average punter in the street to find that they know that this is privatisation. It does not matter how the Minister for Infrastructure tries to build this elaborate pyramid of shelf companies, subcontracting companies and whatever else: the fact of the matter is that when you pay your water bill cash registers in Paris and London will ring up the payment.

However, returning to this legislation, the water users of this State who use water from the River Murray will have to meet not only the usual costs associated with the supply of water but additional taxes imposed under this Bill. Of course, those same users may well, and in many cases will, meet those additional taxes which the Minister has imposed under the water catchment Bill.

The Hon. D.C. Wotton: The levy.

Mr CLARKE: The Minister keeps interjecting 'The levy', but that is not the case. Many South Australian residents, rather than facing the solemn compact promised by this Government not to increase taxes or introduce new taxes, will now have to pay in either francs or pounds sterling the base rate—the River Murray charge, tax, levy or whatever you want to call it, but more appropriately entitled a tax—plus the water catchment tax, which is a significant cost impost on the taxpayers of South Australia.

No doubt in his reply the Minister will say: 'Well, we have to clean up the River Murray. It is an important resource. It must be done, and we are doing it. I am the Minister who is gutsy enough to do it, and I will impose a tax under another name to do just that.' Well, I will support the Minister in his objective of cleaning up the River Murray. If the Minister and the Government came clean and said, 'The only way we can do this is by imposing a tax, and we will do that fairly in accordance with the means of those who are best able to pay for it', that might find some sympathy not only with the general community but also with the Opposition, because the Government would be saying openly and honestly what it is about: 'This is what we have to do, and it is a tax.'

I know that the Premier has schooled every one of his Ministers and backbenchers never to utter the pornographic word 'taxes'. The Premier knows that if that word is ever uttered in this House he will be forced to honour his pre-election pledge to resign. I know that a number of members opposite would welcome that. The Minister for Infrastructure would be only the first of many to jump forward and offer themselves in service as Premier of this State.

Mr VENNING: I rise on a point of order, Mr Speaker. I ask you to rule on relevance as the question of the Minister for Infrastructure has nothing to do with the Bill before the House.

The SPEAKER: The Chair cannot uphold the point of order. This is a fairly wide-ranging debate, and the Minister for Infrastructure does have responsibility for certain aspects of water in this State.

Mr CLARKE: I can well understand why the member for Custance is so sensitive on this issue: we have all seen how he has cravenly sought favour with the Premier in pursuit of his ministerial ambitions. The honourable member is even more craven than the member for Unley. I thought that the member for Unley had gravel rash, but in the case of the member for Custance it exceeds all bounds of decency. I realise the heavy duties and responsibilities that the Minister has before him with respect to this legislation. Whilst I also appreciate that he will try again and again, as he has indicated in these amendments, to delete the words 'charge or charges' and insert 'levy or levies', we all know what we are talking about in this Chamber: new taxes. It is a heavy extra cost impost on the public of South Australia.

Again, if the Minister and the Government would only come clean on it they might be surprised to find that the community of South Australia actually welcome a bit of frankness and honesty from the Government in this area. They might actually admire the courage of a Minister who says that he has to impose a new tax if we are to clean up the Murray River. The Minister might be surprised to find that the public of South Australia are not fools and that they support the clean-up of the Murray River. They will support a Government which has the guts and the courage to confront those issues and to say quite openly and honesty that it will

do this but that it will have to impose a tax on it, and that these are the consequences.

In conclusion, I appreciate that the Minister has a very hard row to hoe in this area to try to convince the public that the money coming out of their hip pocket in this area is a levy and not a tax. I do not think that the general public can draw that distinction. They only know that they do not have another $20 in their pocket, or whatever the cost may be over a year or more. They know that, as a consequence, it is a tax, no matter how described. I know that the Minister will make a valiant attempt but, at the end of the day, the sheer logic cannot escape even the member for Lee, the member for Ridley or, in particular, the member for Custance, no matter how much he will try to further ingratiate himself in his pursuit of ministerial ambitions. Heaven forbid, Sir, I also know that the honourable member has his sights on your Chair. I have warned the member for Custance that the only way he will get to your Chair, Sir, is if he shows defiance of the Chair and stands up to you and the leadership of the Liberal Party. That way he will be brought to the attention of the public and be in pursuit of his ambitions.

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

Mr ANDREW (Chaffey): I am pleased to support the Bill, because I endorse the principle that irrigators in South Australia need to be paying some form of resource levy, first, so that additional warranted funds can be spent on upgrading the Murray River or other catchment areas throughout the State, from where the water is sourced, and, secondly, because irrigators increasingly need to value the resource they are using. From the outset, I declare an interest in this matter because, before entering this Parliament, I did derive the majority of my income as a horticultural irrigator. South Australian irrigators are lagging behind interstate irrigators in contributing in the form of a resource levy for the irrigation water they use. Notwithstanding that, I am pleased and particularly proud to say that I have no doubt—and the evidence under almost any form of assessment, scrutiny or criteria, will support the facts—that South Australian irrigators are by far the most efficient irrigators per property or crop compared to interstate irrigators and users of Murray-Darling water.

This is evidenced in terms of the quality of management, method of irrigation practices, progress in adopting new irrigation technology in terms of not just the irrigation techniques themselves but in terms of soil and crop measurement and technology to more accurately determine the amount of water to supply to a given crop in a given combination of soil types. In this process not only is an optimum amount of water applied to produce the best combination of crop quantity and quality but, as importantly, an optimum amount of irrigation water is applied to minimise the excess drainage from the soil profile and thus minimise any further environmental degradation.

I want to comment on the invention of these forms of irrigation technology, because a number of companies in South Australia are now leading the world and we are exporting this technology and expertise overseas and around the world. I am particularly aware that one of the South Australian Government's instrumentalities, the South Australian Centre for Manufacturing, has been helpful in assisting in the manufacture and development of this technology in terms of construction and marketing of this export technology.

Although the Bill refers to a water charge levy on all sources of proclaimed waters in South Australia, because of the direct significance of the Murray River to my electorate I will focus the majority of my comments to the region, although I am sure they will be applicable generally to the other proclaimed areas, and I am sure that my colleagues, for example, the member for Ridley, will make special mention of the proclaimed sources in the form of underground supplies which may be more relevant to his electorate.

From the outset, I am pleased that the Bill provides only the broad legal framework for a mechanism to permit such a levy. It does not specify the specific mechanism, nor does it specify the specific amount. This is important, and I will come back to this aspect later. The justification for a levy of this kind is influenced by a number of significant factors. I alluded to some of these recently in a grievance debate in this House only last week before the Bill was introduced because I have had discussions on many public occasions and at meetings, formal and informal, and have received public comment about the proposed levy. I have discussed aspects of it and, in particular, I have conveyed responses from the electorate to the Minister and the Premier on this topic. In the second reading debate I want to focus on these major aspects and, where appropriate, I will make reference to local public response to some of these issues.

Mr Clarke interjecting:

The SPEAKER: Order! The member for Chaffey should be heard in silence.

Mr ANDREW: In most cases the public reaction I have found in my electorate and amongst irrigators has been consistent with the principles and intent contained within the Bill. First, I want to recognise the significant impact of Premier Dean Brown and this Government in terms of his leadership specifically at the Murray-Darling 2001 Project and the influence it has had on initiating and leading the progress towards achieving additional funds from interstate, from our neighbouring States of Victoria and New South Wales, and from the Commonwealth, to ensure that additional funds over and above what is already contributed to the Murray-Darling Commission are found and so can be further applied to the improvement of the Murray-Darling system.

The reality is (and it is well documented) that, on whatever criteria it is measured, whether it be salinity or nutrient status, the quality of the water of the Murray-Darling system unfortunately is continuing to deteriorate. Unless we make further attempts to reverse this process, this resource will not maintain itself as an asset for our future generations. Moreover, the significance of the leadership in this project is that, by South Australia's putting its hands in its pocket, we will gain the ability to have this matched with favourable additional Federal funding. I understand that Premier Brown has already had very favourable consideration from the Premier of New South Wales and particularly favourable support in principle from the Federal Leader of the Opposition as Leader of the Coalition, so that a future Federal Coalition Government will indeed support this proposal.

The reality is that, without additional funding for the Murray River, South Australia has the most to lose and, with additional funding, South Australia has the most to gain. I would have to add that from my discussions around the electorate it would be fair to say that there is almost unilateral acceptance that more effort and dollars need to be spent on the clean-up of the Murray. It is important that this Bill proceed to this stage to set the example and facilitate this potential increase in funding, particularly from Federal

sources and, hopefully and presumably, from the next Federal budget, 1996-97. That is unless the Federal Labor Government is too scared to go to the polls early next year. As has been intimated by Federal Treasurer Willis in the past day or two, it may even consider reverting to an August budget. It is totally scared of going to the polls and facing the people it should face at the moment.

Another aspect that impinges on the principle of this levy is the fact that most are well aware of this State Government's intention to give a high priority to environmental issues. This has been reflected by our commitment to proceed as swiftly as possible with the creation of catchment management boards and the appropriate legislation for the initial clean-up of the Patawalonga and the Torrens Valley. When this legislation was brought in earlier this year to have those catchment management boards operating from July this year, I understand it was always envisaged—and I supported the principle—that this would be followed up at some time in the future, certainly in the life of this Government, by the creation of a catchment management board for the Murray River. Indeed, the Government has already established a Murray River catchment management board working committee to investigate the issues associated with its future creation, implementation and operation. This steering committee has been in existence for two or three months. It has already held a number of consultative meetings, and these are continuing.

I understand that what has become particularly clear from the outset of these preliminary meetings is that, although the principle of environmental improvement is similar to that for the catchment management boards already in operation, there is certainly a different set of circumstances with respect to the Murray in comparison with those already existing for the Patawalonga and for the Torrens Valley. For this reason I believe that it has become very clear that a levy based on capital value, as it applies to the Patawalonga and Torrens Valley clean-up, would not necessarily be the best or the most practical mechanism for funding the operation of further improvements in the Murray River or for the funding of the Murray River catchment management board. That is particularly so in this case, where the applicable principle is that it should be the beneficiaries of the Murray River system who contribute, recognising that the irrigation sector—irrigators in particular—are direct beneficiaries of this water. Consistent with this intent, it is important in this process of creating a catchment management board for the Murray River, which will commence in July 1996, that some legal ability be in place to fund the operation of the board and the programs that it desires to implement.

While I am on the subject of the catchment management board, two specific issues come to mind. The first is that I am pleased with the commitment from the Minister that, early in the coming year, the catchment management legislation will be introduced under the Water Resources Act on the basis that it will be a more practicable and efficient administrator in terms of allowing these boards to operate under a broader umbrella. The second aspect relates to how the money will be spent. One of the most significant concerns raised with me by my constituents, particularly irrigators, related to the fact that, to be consistent with other catchment management boards, it is envisaged that the Murray River catchment management board will be the authority to investigate, to determine the options for the expenditure of these funds and then to set the priorities for that expenditure.

Examples of this may range from formal infrastructure projects, for example, engineering and drainage schemes, to a range of alternatives that may include some forms of direct incentives for irrigators to adopt new irrigation technology or, indeed, specific education products to allow irrigators to adopt and understand new technology. The important thing in supporting this Bill is that funds raised will be spent in South Australia on projects that are over and above existing Murray-Darling Basin Commission commitments and they will be irrespective of the funding of that body. The important thing about this levy is that it will not be siphoned off into State revenue and that the decision-making process will incorporate some form of local representation by way of the Murray River catchment management board.

Another major aspect that is applicable to the levy is the need for South Australia to increase flows into the State through the Murray-Darling system on the basis of two distinct and not always mutually exclusive aspects. The first is increased environmental flows and the second is the potential increase for additional development from further irrigation. The current inflow into South Australia under the Murray-Darling Basin agreement of 1.85 million megalitres is guaranteed and, although almost half that is lost to evaporation, this supply meets South Australia's consumption. However, arguably, over and above this, additional environmental flows are required to increase the flows over some of our wetlands. Recent evidence and research indicate that, if some of our Murray-Darling wetlands are allowed to flood more often, that will have a positive influence on improving the environment for native flora and fauna.

In near proximity to the river, South Australia not only has a plentiful supply of quality soil for horticulture and irrigation development but we are also well supplied with irrigation and drainage infrastructure. Indeed, in some areas we are oversupplied with drainage infrastructure because of the engineering that was implemented some 20 years ago, and I cite the easy example of the Noora Basin, east of Loxton. Because of improvement in irrigation technology and efficiency implementation by irrigators, that system is now operating with more than 50 per cent capacity to spare. Notwithstanding that, there are tremendous opportunities for further horticulture development in South Australia along the river or in association with it, with the biggest limiting factor being the availability of irrigation water.

If we look over the border to Victoria—it is probably the easiest visible example, and I have seen it fairly recently from the air—in areas such as Kerang or Shepparton, it can be seen that a combination of historic irrigation practices and the make-up of the soil, its geological formation and the drainage outcomes has resulted in significant increases in the area of salt degraded land. Certainly, in that area local measures are being implemented but, in some cases, it is almost too late to restore land that has already suffered this cancerous effect. I suggest, particularly from Victoria's aspect, certainly it is much more limited in terms of where it may resupply that irrigation water. So, there is the opportunity for interstate trade of water allocation. One of the major impediments to this is the fact that Victorian irrigators arguably evidenced that they already pay, as does New South Wales, a resource levy. The Victorians say that they pay a resource levy of about .5¢ a kilolitre. That money goes direct to the current operation of the Murray-Darling Basin Commission. By way of comparison, our funding for the Murray-Darling Basin Commission is about $14 million and comes direct from SA Water. Understandably, it is a very difficult process to

attempt to negotiate interstate transfer when our counterparts see our irrigators negotiating from a higher end of an unequal field.

I also add a further dimension to this philosophy for a water levy; that is, whether we like it or not, it encompasses not just the issue of water levies but it also impacts on the whole operation and the provision of Government services throughout Australia. I refer to the aspect of the national competition policy. In 1992 the Council of Australian Governments agreed on a policy of economically sustainable development for our river system. This was to encompass a national policy on water pricing and it was reconfirmed this year by the Ministers concerned. In this case South Australia has little to fear because of the efficiencies of South Australian irrigators, the high value of return of horticultural crops and the fact that we already have the infrastructure provision. In this regard irrigators will be more than competitive compared with our Eastern State counterparts.

A number of significant cogs are driving the wheel in relation to the need for some form of levy on our water resources. I also refer to other major concerns of irrigators which have been conveyed to me in recent weeks. They include the concern—and I totally endorse it—that if irrigators, as beneficiaries of the river, need to pay then the beneficiaries of the water in other areas should also pay. I feel satisfied with the commitment given by the Minister for the Environment and Natural Resources and the Minister for Infrastructure prior to the introduction of this Bill, that urban water users of Murray water will contribute to the fund for this Catchment Water Management Board. It is appropriate and consistent that the annual assessment of urban water charges announced by the Government last week reflects this and, in doing so, the commitment is given for and on behalf of urban users that 1¢ a kilolitre will go directly to this source from July next year.

The major issue to be resolved over the next few months will be the specific aspects of this charge which includes a mechanism of how the levy is to be raised and the amount of the levy. The legislative framework provides for flexibility at this stage and I am sure it will be open to further amendment which will be recommended by the Catchment Water Management Board. The current mechanism within the existing legislation provides for the flexibility to put this charge with discretion from two areas: first, with respect to water usage and, secondly, with respect to water allocated to the irrigator. Obviously, there are arguments supporting the bias in either direction. For example, arguments can be justified on the basis of usage. It is an incentive to use less water and be more efficient. In respect of allocation, it will encourage transfer to the open market.

With regard to the amount of the levy, I have had said on the public record that, from an irrigation perspective, I believe 1¢ a kilolitre is far too high: it is unrealistic. I believe ½¢ is also far too high. I have said that it needs to be fair and reasonable, affordable and should not threaten the viability of irrigators. If possible, it should reflect and provide for the positive incentive for irrigation efficiency. The bottom line is that I want the Murray River system to be sustained and enhanced for future generations. This will be achieved by a continuing effort through the implementation of the levy.

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

Ms HURLEY (Napier): I am disappointed about what the Minister and the member for Chaffey have had to say about this Bill. I expected the member for Chaffey to defend the interests of his constituents, but he gave a weak justification of the way in which this Bill is implemented. I was in the Riverland a week or so ago and I can report, contrary to the member for Chaffey, that there is great deal of concern about the imposition of these charges on growers in the Riverland. It does not matter to them whether it is called a tax, charge or levy: the end result is that the growers will pay more out of their pockets. It is one more imposition on these growers, one more cost to be factored in before the growers can get their crops to market.

The member for Chaffey is providing a very good justification of why there should be a clean-up of the Murray River. We all recognise this and all strongly support it. There would not be a South Australian who does not recognise the importance of the Murray River to our State and our economy. Many South Australians have supported the need for a national campaign to ensure that people along the river work together to make the Murray River safe. The Labor Party agrees with that absolutely.

Mr Brokenshire: You sat on your hands and did nothing.

The SPEAKER: Order! The member for Mawson.

Ms HURLEY: This Bill provides for a clean-up of the Murray River—everyone agrees with that—but, when one looks at the mechanisms to achieve that, in a vague way the member of Chaffey talks about how it is important that the Bill does not specify the way in which the charges will be levied. I find that absurd. The growers in the Riverland do not know how this will happen or how much the charge will be: they only know that whatever the charge is they probably cannot afford it.

The Deputy Leader talked about honesty in setting taxes on this issue, yet the member for Chaffey is saying that it is not appropriate to base it on capital value, with people who are wealthier in assets paying more. No; he is supporting a situation where it is based on volume. He does not want capital value to be included—and neither does the Minister, apparently.

Mr Andrew interjecting:

Ms HURLEY: The member for Chaffey is not supporting the poor blockies who are struggling to make a living or the people who are trying to build up the viticulture industry in the Riverland. He is supporting those who are already wealthy in assets and he does not mind if the poorer people in the Riverland pay the same or more than those who have more assets. That is the type of local member we have in the Riverland, and there are people in the Riverland who are not happy with his attitude.

Mr Andrew: Name them.

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

Ms HURLEY: He is not here to defend the Government's position on this matter: he is here to defend the interests of the people he represents and I do not believe that he is doing that adequately.

Members interjecting:

The SPEAKER: Order! Interjections are out of order.

Ms HURLEY: He says that the—

An honourable member: Who says?

Ms HURLEY: The member for Chaffey says that people will have representation on the Catchment Management Board. I can tell him that that still will not be very effective, given that these growers will be paying money they can ill afford into an additional tax that this Government is imposing upon them without due consultation. We want to see the

Murray cleaned up and Federal money allocated to help that. However, we also want to know more about what this Government has planned for the struggling growers in the Riverland, because we do not see the local member supporting them a great deal. They will not be any more comforted when they see the provisions of this Bill because, if they do not pay this additional tax, the levy, they allow for their land to be sold off. We have struggling people on fruit or viticultural blocks in the Riverland—

Mr Brokenshire interjecting:

The ACTING SPEAKER (Mr Venning): Order! The member for Mawson is out of order.

Ms HURLEY:—who have hung on all these years and who have clung on to their family block. If they do not have the money to pay this levy—this charge or tax that the Government is imposing upon them—the Government will walk in and sell their land from under them. That is the sort of Bill we have. The Government does not want to admit that it is imposing an extra tax. It wants not to include it in State taxes and admit that the Murray River has a bearing on every South Australian but to impose it on the users of that water without adequate justification from either the Minister or the member for Chaffey.

I am extremely disappointed that, although we have a long awaited Bill to clean up the Murray, a tax has been imposed which we do not know about or on which we have insufficient information to enable us to vote on it. However, it looks as though it will be imposed in an inequitable way that will place an additional impost on struggling growers in the Riverland. I am surprised to hear the member for Chaffey say that he was a horticultural irrigator, yet he does not have the courage to come into this House and defend existing horticultural irrigators in the Riverland. I am extremely disappointed to see that. I would have thought better of the member for Chaffey.

Mr LEWIS (Ridley): Let me disabuse both the member for Napier and the Deputy Leader, the member for Ross Smith, of one matter. What they fail to understand is that a tax—

Mr Clarke: We'd just better check whether there is a full moon tonight.

Mr LEWIS: Well, you'd know.

The ACTING SPEAKER: Order! Members should not react to interjections.

Mr LEWIS: Mr Acting Speaker, it is not that I willingly help the honourable member understand that it takes one fool to find another. Should he believe me to be a fool, I am not certain, therefore, what he regards himself as being. Equally, let me help him understand that a tax is revenue raised, by properly authorised bodies of either Government or agencies of Government, for any purpose whatsoever. On the other hand, levies are revenue raised for a specifically stated purpose and nothing else, and a charge is a fee for a service. Given that that is the case—

Mr Clarke interjecting:

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

Mr LEWIS:—and I hesitate to use the term 'gay abandon', but in some respects it is appropriate—and given the gay abandon with which the Labor Party attacks the population of South Australia, with the sort of irresponsible or non-existent policies it had during its term in office, it brought us to a sorry pass indeed. It now comes in here and bleats about it, having presided over losses exceeding $3.15 billion. It now comes in here and says that it is the protector of public interest and the purveyor of truth and justice in policy making, when we seek to raise a levy expressly for the purpose of cleaning up the Murray, in this case to provide us with a sustainable future. We have no future without that river—none. Any members who think otherwise obviously do not know that they do not have any brains; they are not thinking.

For that reason, then, given that no-one else has addressed this problem to date, despite the fact that there have been rising levels of nutrients in the water we receive, and also despite the fact that there have been rising levels of dissolved solids called salts in the water we receive, and despite increasing levels of turbidity, month in and month out, for whatever reasons, they have ignored the inevitable consequence of allowing that to continue—

Mr Andrew interjecting:

Mr LEWIS: Certainly, they don't. During the time they were in office, goodness knows, often enough I and members of the Murray Darling Basin Association and its forerunners, the Save the Murray Campaign, and the Murray Valley League, told them that now was the time to act if we were to get the benefits at the lowest possible cost—act to educate the public about the implications of continuing to pollute the Murray; act to stop people who were polluting from doing so; act to support what the Hon. Peter Arnold had been doing during the time that he was Minister, when he took the Eastern States (particularly New South Wales) to court, in their own courts, over what they were doing to us and to the river system. The evidence was there for them to see year in, year out.

For instance, the readings of the depth of the main channel at Mannum back in 1920 were something approaching 80 feet; in 1944 they were 60 feet; now they are less than 20 feet. And the millions of tonnes of sediment that have settled in the centre of the main channel of the river, in all the pools that used to exist (some of them over 100 feet deep), since the turn of this century, since soundings were taken, have clearly indicated to any of us who wanted to take an interest in the problem that something had to be done. We could not go on doing what we were, yet during the time that the Party to which the member for Ross Smith belongs was in office those members presided over a more rapid deterioration of the Murray Darling system overall than any other Government.

Whatever the cause (and I am not sure that it was the member for Ross Smith—I know he regards himself as something of a bunyip; but I do not think it was his wallowing that did it), the only solution we have before us, if we allow the Murray to deteriorate to the point where it is no longer useable either by irrigators or for the purposes of providing Adelaide, the Iron Triangle, Woomera, Keith, Tailem Bend and Meningie as well as all the river towns, the Barossa Valley and the Mid North and the Yorke Peninsula with potable water, involves the consequence of our having to meet the cost of desalinating, using solar energy applications, because they are in the long term the cheapest available to us.

That will put our water not in the price category where we have it at the present time of about 90 cents a kilolitre, I think it will be, on a user-pays principle calculation, for potable water, but about four times that figure. How many people will choose to live in South Australia if water costs that much? How many firms will choose to locate here if their manufacturing enterprises are confronted with that kind of charge on their water? No matter what else we can offer, if we cannot

offer water at less cost than that, the population will simply migrate from this part of the continent to somewhere else where water is cheaper. That is the stark reality with which we are confronted; there is no way around it. You either face that squarely or accept the fact that your arguments are otherwise inane. I know that yours, Mr Deputy Speaker, are not and will not be.

I have my doubts about the member for Ross Smith and the member for Napier, who seek simple, cheap shots and political advantage on an issue on which there ought to be—

An honourable member: Bipartisan support.

Mr LEWIS:—unanimous support, regardless of any political Party to which any of us is affiliated. We must clean up that river if we are going to continue to survive as a State and as a community; otherwise, we will have to save to enable us migrate. There are no other options.

I will focus attention on the two groups of users. First, there are the irrigators who only require water to be of low salinity to enable them to continue their operations. For most irrigators the level of turbidity in the water does not matter. Of course, the higher the level of turbidity, the less likelihood there is of our being able to use trickle irrigation technology, because the drippers block up. It costs too much to remove those suspended fine solids—not colloids—which would otherwise have to be removed so that we could use the water. Using less sophisticated irrigation technology will result in less efficient production, so we ought to try to clean up that turbidity, but the water does not need to be potable for irrigators.

However, it does have to be potable for the other category of users—the majority of South Australians who use it for domestic purposes. For that reason, irrigators who do not require the same high standard as domestic potable water users, in my judgment there needs to be a differentiation in the charge, if that is what the member for Ross Smith wants to call it, or the levy which we are expressly imposing on the unit volume used. It is quite ridiculous to make the levy on any other basis than the volume of water used or allocated for use.

I think that SA Water (the EWS, as it used to be known) and any other user, including irrigators, ought to pay a greater amount for the allocation that they hold than the amount that they use. That will ensure that two things happen: they will not hold allocations unnecessarily, and they will allow them to be transferred to those who can make better use of them in a market context, where they can sell the volume allocated to them that they do not need on the open market and pay a transfer fee in the process. That will make sure that the most efficient irrigators get the water and that the EWS does not hold on to more of the water than is necessary to provide supplies to those who rely on potable water, even during the most severe drought, and since 1982 we have good figures on that now. For that reason, I advocate that of the total fees paid in the levy there should be more for the allocation in the initial instance than on the amount that is used. That will ensure that we get the greatest efficiency in our application of the water that we have in our total State entitlement.

It has been estimated that we need about $35 million over five years to address these problems—$7 million a year. A charge of about 1¢ a kilolitre would raise that much money. However, in my judgment, that is far too high a price for irrigators to pay. Indeed, I share the sentiments expressed by the member for Chaffey that it becomes a matter for consultation with and analysis by people in the wider community to put to the Government to decide what can be raised by way of the levy to address the problem at this point without destroying the very industries which depend upon this God-given essential component of a civilised society, whether for irrigation or domestic use.

Mr Clarke interjecting:

Mr LEWIS: I doubt whether you would want to pay it anyway. The member for Ross Smith plays games. As I have pointed out, the Labor Party spent money without caring where it came from and what the things it was spending it on would cost. However, we are seeking to do it through a process of consultation over the next month or three. Indeed, the legislation presupposes this to be the process by which the final levy will be fixed as between irrigators and potable water users. There has to be a differential.

I have spoken to children in the schoolyard, I have spoken to men and women in a saleyard and I have spoken to churchgoers outside church for several weeks now about this matter. The children in the schoolyard would gladly forgo not one, not two and not three weeks of their pocket money but a month or more of their pocket money if in return the Government could say to them that it will guarantee the continuing capacity to depend upon the Murray as a fresh water stream that can supply potable water for domestic use in their homes and for them to put on their gardens as well as to help grow the vegetables and fruit they need to live on.

Mr Andrew interjecting:

Mr LEWIS: That is exactly so and they are consumers. They do not believe, as does the member for Elizabeth, that you should tax somebody simply because they have capital assets. They believe that everybody should make a contribution and they are prepared to pay $10 a year. All we are implying, by suggesting 1¢ a kilolitre for an average household in the metropolitan area, is around $2 or $3 a year, yet the member for Ross Smith thinks he has a political point by opposing it. I do not know what he has got for brains if he does. All members here ought to congratulate the Minister for the trouble he has taken to analyse the problem, to define it in legislation and to get the Bill in here as quickly as possible so that we can begin to address it immediately.

Today is not soon enough: it ought to have been done a long time ago. When the Labor Party was in office this work should have begun. Of the 1.85 gigalitres of water we get as our State allocation, as the member for Chaffey pointed out, we lose about 50 per cent through evaporation. We cannot change that, but we can change the effectiveness and efficiency with which we use the remainder, and the way to ensure that we can do that in perpetuity is to enable the users—the beneficiaries—to pay a levy which will secure for them that certainty.

Mr Clarke: A tax.

Mr LEWIS: No. The honourable member did not listen to my opening remarks. A tax is general revenue raising for any purpose whatsoever undertaken by Government or Government agencies. Levies are specific revenue raising for a specific purpose, stated in law. That is where it will go—to the purpose for which it was raised and for no other purpose.

Mr Clarke interjecting:

Mr LEWIS: Be careful, Mr Speaker: I think that the member for Ross Smith is in grave danger of being regarded as being prone to infection from calicivirus. A charge is what is made for a service provided. You do not have to take the service and you do not have to pay if you do not take it. You are charged for a carton of milk and for a loaf of bread: it is the price paid in exchange for goods or services. This levy is not a charge because it is paid for the purpose of securing the

continuation of a service—not for a specific quantity of anything but just to secure the availability of it. That is why it is a levy, and the member for Ross Smith, for political purposes, and any of his colleagues who, for the same or any other reason, want to label it anything else should think again, because the community does not see it as such. We are open, honest and frank about it. We are consulting them about it, and the process of consultation will fix the amount of the levy.

Mr Clarke: It will be more than a pigeon that will strike you as you walk out of this place.

Mr LEWIS: No pigeon has ever struck me. Regrettably, a pigeon struck one of my guests—people, I am sure, the member for Ross Smith would never countenance entertaining, because he does not understand how important it is for us to have not only potable water but also viable industries that enable us to export and earn money to sustain the standard of living to which he has become accustomed—without, very often, doing anything to deserve it, in my judgment. Bearing that in mind, if we are to address the problems of excessive nutrition and salinity, as well as the problems of a continuing build up of sediment in inappropriate places, and if we are to ensure then that the river is a source from which we can get water for not only domestic use but also irrigation and further provide incentives for the most efficient use, whether it is to be fish farming or irrigation, or a combination of both—and it ought to be—we must act and act very fast, indeed. Hence—

Mr Clarke interjecting:

Mr LEWIS: I am pleased to hear the member for Ross Smith say something sensible. He finds for himself, at last, the means of obtaining his political redemption by agreeing with me that we must act quickly.

Mr BROKENSHIRE (Mawson): I am very proud to support this Bill tonight. Before getting to the crux of the Bill I will quote a few remarks. I received a letter from the Leader of the Opposition, the first paragraph of which ties in very well with the Bill and this whole debate. It states:

> Dear Resident,
>
> In South Australia we have worked hard to be a positive and constructive Opposition. That's important for our State. We must all put the needs of South Australia before Party politics. But I am writing to let you know that Labor is totally opposed. . .

I receive rubbish such as that in my letterbox and hear such rubbish in this Chamber day in and day out. Nothing has changed with the Labor Party, which will become obvious as we debate this Bill. I refer to a reprint of an article which appeared in *The Country* headed 'The United Labor Party and the Producers' and states:

> The *Weekly Herald* is the official organ of the United Labor Party. On 31 January 1896, under the heading 'A Liberal Organisation,' it says: 'The platform of the Labor Party stands out in very bold and striking relief. . . It has formulated a policy, which cannot fail to benefit all the masses of the people. . . It seeks to relieve the burdens of the farmer, the dairymen and the small producer. . . ' It may therefore be interesting to many to compare these remarkable statements with some of the actual actions of the Labor Party, taken from the official records, during the three years its members sat in Parliament:

Guess what? On 20 July 1893, the second reading of the Butter Bonus Bill was opposed by six Labor members; on 18 December, a motion for grant for establishing a wine and produce depot in London was opposed by nine Labor members; on 26 September, cream separators—

The SPEAKER: Order! The Deputy Leader of the Opposition has a point of order.

Mr CLARKE: Thank you, Sir. My point of order relates more to relevance. I appreciate that the member for Mawson's ideology is stuck at the turn of the century, but is it actually relevant to tonight's debate and the matter before us?

The SPEAKER: The Chair was having some difficulty in—

Mr Kerin: Remembering!

The SPEAKER: No, the Chair was having some difficulty in seeing exactly how the comments of the member for Mawson related to the Bill currently before the House. I will give the member for Mawson the opportunity to link up his remarks, otherwise he will be out of order.

Mr BROKENSHIRE: Thank you, Sir. I will link it in fairly quickly. Being a country boy and so supportive of this Bill, I will speak slowly, as I know it does take me a little longer to get my message across. Referring to the article again, a motion to reduce railway rates for the carriage of firewood was opposed by nine Labor members. In relation to an undecided motion on land tax to allow mortgagors—

The SPEAKER: Order! I ask the honourable member to link up his remarks.

Mr BROKENSHIRE: What I am trying to highlight is that once again here tonight in this Chamber a Bill crucial to South Australia's future sustainable economic activity, particularly agriculture, is again in many ways being pulled apart by a negative, carping Labor Party. So, what I am saying is that nothing has changed. The Deputy Leader of the Opposition keeps saying that this is a tax and not a levy. Well, I would like to say that this is actually a toll or a levy. Let me quote from the *Oxford Dictionary* the definition of 'toll':

> a cost or damage necessarily and regrettably caused by disaster or incurred in achieving something.

It has been one hell of a disaster with 11 years under Labor when it comes to the environment, and particularly the River Murray where for 11 years members opposite sat on their backsides and did absolutely nothing about trying to clean up the River Murray. We know that the definition of 'tax' in the *Oxford Dictionary* is something that is oppressive, so clearly I have established the fact that it is not a tax. This measure is something that has been put in place to further enhance this State. This Bill clearly shows that it is the Government's intention to ensure once and for all security of a supply through more careful management of the demand of that service.

Mr Clarke: What's it going to cost?

Mr BROKENSHIRE: If I had my way as a member of Parliament, it would cost the member for Ross Smith a hell of a lot, because I would like to see this levy applied right across the board. I hope that this is only the start of what will become a levy for water right across South Australia because, first and foremost, the most vital resource we have in the driest State—

Mr Clarke interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition ought to either have a cup of tea or learn to keep quiet. The member for Mawson.

Mr BROKENSHIRE: Thank you once again, Sir, for your protection from the member for Ross Smith. We have to start to address the fact that ours is the driest State in the driest continent in the world. We also have a situation where

agriculture—and I can say this after where I have just been, and particularly as a result of the APEC agreements on Sunday—and its multiplier effect will lead South Australia out of the recession we did not have to have had we not had a former Government that could not manage. We will come out of it because we will clean up our act and have a sustainable clean water supply for South Australia from the River Murray.

As a farmer, every month when I get my cheque, I pay a levy. I do not have any problems in paying that levy because it goes into a number of areas, including research and the development of our industry. That levy probably costs me a few thousand dollars a year, but I know it is being spent to protect and enhance the valuable agricultural industry in which I am involved. The member for Ross Smith asked, 'What will it cost?': I would reverse that and say, 'What will it cost if this Bill does not pass?' It will cost the Riverland region millions and millions of dollars, and it will also cost the whole of South Australia millions and millions of dollars, because we will not be able to produce the commodities that will be demanded by the affluence of Asia—two billion people, half the world's population, on our doorstep. What will it cost the individual? Not a lot.

No-one wants to see any extra cost to farmers, but if it is a positive measure, one that will turn their activities around and guarantee them a sustainable future not only for themselves but for generations to come, effectively in real terms it is not a cost but something that is putting money in their pocket. One to two tonnes of grapes per year would probably be about all it would cost the average producer.

In conclusion, as there has been a fair bit of debate on this Bill already, I say once again that I hope this Bill develops further initiatives for South Australia. I pull water out of the aquifer myself, and I try to make sure that I look after that aquifer but, as well as my having to pay a small amount of money to guarantee that it is looked after, that the management practices are in place, that we are not putting into that aquifer or the river heavy metals, nutrients and other pollutants that can stop production, I would like to see the Bill go further.

I would like to see it encompass the whole of Adelaide, because I would love to see the member for Ross Smith pay some money as well. The member for Ross Smith goes outside his home in the morning, he walks around the corner and buys oranges and grapes without having to think about the work that is done by the hard workers in the Riverland, he turns on a tap to get water for his coffee and does not think about all this infrastructure that is coming from the Murray, he gets his milk from me every morning and does not think about the fact that we have to get up at 5.30 a.m., and all the rest of it. So, I think this levy should be shared right across the State, and I hope to argue that point in this Chamber during the coming months and years.

This Bill is a further indication of the absolute commitment that this Government has under both the Premier and Minister David Wotton who have driven this Bill to look after the environment. We all know that a lot of work must be done in this State to get our environmental ecology back into a sustainable format, but clearly this is a step in the right direction. This is not lip service or the diatribe that we hear from the other side day in and day out and in the broader electorate; this is clear evidence of a Government committed to getting on with the job of protecting the environment. The Government is committed. I sit on the Minister's back bench with many of my colleagues, and I know how passionate we are and how much we enjoy our work in respect of the environment, natural resources and everything else that Minister Wotton is responsible for in his portfolio.

I also want to congratulate Mr Hoey and his team for the initiatives that they have put forward. They do a lot of behind the scenes work as well. This is a positive step for South Australia and for our farmers, and it will benefit us for many decades to come. We will gain millions and millions of dollars on an annual basis for a cost that will be no more than about $3 million to $10 million a year over a five year period. I congratulate everyone on the Government side who has been involved with this Bill, and I look forward to seeing the Murray River cleaned up and, most importantly, that levy being put back into further economic development for the Riverland and Murraylands regions where both the members for Chaffey and Ridley work so hard for their electorates. I congratulate everyone who has been involved.

The SPEAKER: Order! I point out to the Deputy Leader—I am aware that he is very familiar with Standing Order 137—that Standing Order 142 provides:

> No noise or interruption allowed in debate. While a member is speaking, no other member may make a noise or disturbance or converse aloud or speak so as to interrupt the member speaking except on a point of order.

Standing Order 144 provides:

> The Speaker is responsible for the orderly conduct of proceedings of the House and for maintaining its decorum and dignity.

The Chair has been particularly tolerant, as the Chair always is, and the Chair does not want to have to use those other provisions of the Standing Orders. I now call the member for Custance.

Mr VENNING (Custance): I support this Bill moved by the Minister on behalf of the Government. My support is conditional upon the basis that the Bill is purely to amend the Water Resources Act to allow the imposition of a levy in respect of water taken from the water resources proclaimed under the Act. Whether it is referred to as a levy, a charge or even a toll, quite clearly it is definitely a levy, because it is raised for a specific purpose to do a specific job and, on my calculation and in my estimation, that is definitely a levy. The Bill amends the Water Resources Act 1990 to allow for a charge to be introduced on all users of Murray River water to fund catchment works and particularly the Murray-Darling 2001 project in the Murray River.

The levy is important because we hope it will attract funds on a one-for-one basis from the Federal Government, and that is one of the key reasons for doing this. As the members for Ridley and Chaffey said, it will cost approximately $35 million over five years ($7 million a year) to clean up the Murray River. I agree with what the members for Ridley and Chaffey said in that that figure would equate to 1¢ for every kilolitre used. When you work out what irrigators use, that amount is clearly too big a cost for our irrigators to bear. As a consumer using water out of the tap in Adelaide, Crystal Brook or Port Pirie, I am quite happy to pay that 1¢ per kilolitre because it is well and truly worth it.

We have to encourage the efficient use of our very valuable Murray River water. At a seminar in the Barossa the other evening I found out what one megalitre of water can return. If you are growing rice one megalitre of water can return $89. Cotton can return $308 per megalitre of water while wine can return $1 100. We in this State have to realise that we are sitting on a magnificent resource that can get the South Australian economy up and running: our world class wine industry. But this can only be done if you have good

quality water in the first instance. If we do not clean up the Murray none of us will be able to take advantage of its benefits. As the member for Chaffey said earlier, without the Murray this State is doomed.

I also note that this legislation is consistent with the South Australian obligations under the COAG strategic framework for national competition and related reforms. Most importantly, this Bill only provides a legislative mechanism for the introduction of a charge on water use and does not address the amount to be raised nor the formula to be utilised in raising that amount. I gather that the Minister and the powers that be will make these decisions later when they work out the full impact of what this Bill will do. I welcome that particular amendment, because it will be difficult to work out how these charges will be levied: whether it be on the actual amount of water used or on the water allocation.

Normally, I would support a user-pays system being used, but there is a strong argument in this instance for both theories. First, the user-pays principle should always apply. My gut feeling is that a person should always pay for water used. On the other hand, the amount charged should also be calculated on the allocation, because if irrigators are sitting on allocations which are continually not used and which they do not require or need, there should be some incentive to encourage the irrigator to sell off that allocation. We should split water use versus water allocation 60/40 in the user's favour. The Bill also mentions other characteristics pertaining to the type of allocation of that resource; in other words, the requirement of a particular resource for funding works to combat degradation. This should always be a consideration that the Minister can make from time to time.

I also support the flexibility which the Bill gives the Minister to treat each case on its merits. It does not oblige the Minister to specify any of the characteristics, and nor can it lead to any challenge to the Minister's decision making, therefore leading to unnecessary and expensive scrutiny of the precise analysis undertaken by the Minister. I also note that neither the New South Wales nor the Victorian legislation limits the basis upon which the charge may be set. I appreciate the flexibility within the Bill which allows the Minister of the day to levy charges, to exempt charges and to take into consideration any other factors or characteristics. I also note that the charges may be paid in instalments if the Minister is prepared to accept instalments. The Bill gives the Minister this flexibility.

I have some concern about new section 38E, which provides that meter readings will be used as a first preference but, if a meter is not installed, the Minister may base a determination on the pumping capacity of the pump used or the type of crop or area irrigated or on any other basis as the Minister thinks fit. I am concerned that this area could create difficulties, particularly when an irrigator disagrees with the amount said to be used. It would then be open to conjecture as to who was right or wrong. This situation places the Minister in a difficult position because he is advised what to charge and he then has to support that charge when it is disputed.

I hope in the future that we are able to see a more reliable water metering system, that is, by the use of meters themselves. Although meters are expensive, it would not be out of the question for large water users to purchase and install meters, which would avoid much argument and dispute. The fact that there are no appeal rights in respect of these methods, other than the use of meter readings, concerns me. I understand that the situation could rapidly become unworkable.

New section 38J provides for automatic appropriations of the revenue raised by the Minister, that is, funding activities of a catchment water management board or any other purpose relating to the management, or improving the quality, of the State's water resources. This provision is broad enough to cover the use of funds to contribute to works carried out under an agreement such as the Murray Darling Basin agreement.

I am most impressed by new section 38J, which clearly provides that the revenue will not be included in the Consolidated Account, that is, it cannot be siphoned off into general revenue. I compliment the Minister and the Government for that, and no doubt the previous Government would not have included such a provision. Also, I note that water taken for stock and domestic purposes will be disregarded in determining the volume of water taken. Domestic purposes are restricted to the watering of gardens of less than .4 hectares. It also excludes the use of water to carry on a business. Stock use is the provision of drinking water for stock.

SA Water is also a water user with an allocation of 160 gigalitres, yet it uses only 116 gigalitres per annum and so has an unused allocation. I would encourage SA Water to sell off that excess allocation in good years, particularly to vignerons in the Barossa. As I said earlier, it should do that because it will return a better deal per megalitre than any other water use. Water should be piped from the Swan Reach pumping station into the Barossa and sold at an attractive and competitive rate. I hope the money raised will be matched by the Federal Government because, whether it is $3 million or $7 million, I understand the Federal Government will match it dollar for dollar.

As we already know, households will pay an increase in water charges this year of 4.5 per cent, as we found out last week. However, 1 per cent is the levy, so the people of Adelaide and anywhere else with a metered supply are getting a very good deal from the Government. The CPI has gone up 4.5 per cent, so if you take out the one per cent their water rate has increased by only 3.5 per cent. Water consumers in Adelaide and anywhere else lucky enough to have a reticulated supply are getting a good deal because that increase in water charges is well below the CPI increase.

The Murray River is a most valuable resource, as the members for Chaffey, Ridley and Mawson have said. Without it, I would hate to think what South Australia's scenario would be. People take it for granted, whether you be a person in Adelaide with a swimming pool, whether you be a person in Whyalla who just turns on the tap and out comes crystal clear filtered Murray water. I want to congratulate the powers that were in the Liberal Government many years ago who mooted and put in the Morgan to Whyalla pipeline and yet another Liberal Government many years later which duplicated it. That pipeline is the life blood of northern South Australia, and I am sure the people of Whyalla, Port Augusta and Port Pirie and all those who live in between are eternally grateful that they can turn on a tap and out comes water. In just about every instance, it is Murray water. The clean-up campaign is very critical to the future of South Australia. No member of Parliament, from whatever side, would disagree that we have to spend this money. This is the fairest way of raising that money, and I give the Bill my full support.

The Hon. D.C. WOTTON (Minister for the Environment and Natural Resources): I express my thanks to those

who have participated in the debate this evening. I thank the Opposition for the support I think it is giving the legislation. It is a little difficult to know to what extent that support is forthcoming, but I thank all members of the House who have contributed. I want to be brief, because the Deputy Leader of the Opposition and other members have canvassed most of the issues that need to be addressed. The member for Ross Smith has continued to be rather frivolous about the matter of a levy or a tax. I remind the Deputy Leader that a Labor Government introduced the first environment levy.

Mr Clarke: And you attacked it.

The Hon. D.C. WOTTON: I did attack it, and I was the only one who did.

Mr Clarke: You called it a tax.

The Hon. D.C. WOTTON: I didn't call it a tax. I make that point, because it is rather farcical for the Deputy Leader to accuse this Government of introducing levies when in fact it was a Labor Government that introduced the first levy. Enough comment has been made about the definition of a levy and how it differs from a tax. It is quite obvious that the Opposition has continued to say that it supports the clean-up of the Murray River. It says that it does not support any levy, although it has indicated that it will support the legislation. In other words, it seems to me that we have an Opposition that wants all care and no responsibility in this whole issue.

As has been pointed out, a levy is not a tax: a levy is a specific purpose payment for a specific benefit. This levy will ensure the sustainability of the Murray River for future generations. We need to take the long view. Just about every speaker in this debate has indicated that as far as the Murray is concerned the situation is desperate. We need to take a firm stance on this matter and we need to consider future generations, and that is what this legislation is all about. The levy merely reflects the high value of a scarce resource. We recognise that water, particularly in this State, is the most important resource that we have, and we recognise that the Murray River is the most important supply of that water. Good quality water in the Murray River is a scarce resource, and we all realise that the water quality within the Murray has deteriorated significantly in recent years. The levy is needed and will provide for remedial action.

The majority of members in the House recognise why we are moving towards the establishment of this levy and that is to support, in particular, the Murray-Darling 2001 project, which was initiated by the South Australian Premier as a result of his concern and that of this Government at the alarming rate of deterioration of the health of the Murray-Darling Basin, particularly the Murray River. The project was first put forward in the South Australian Government submission to the Centenary of Federation advisory committee, recognising that progress in tackling problems confronting the Murray-Darling Basin has been made at a far too slow rate. The project aims to greatly accelerate this program and its progress by providing additional funds for priority tasks so that meaningful change can be achieved in a reasonable time frame.

I remind members that the project has several main goals, namely, targeting development and implementation of catchment plans throughout the basin; sustainable disposal and reuse of treated urban effluent and stormwater; integrated flow management strategies for key river systems to ensure adequate water for maintaining river health; and healthy floodplains and riparian zones along all major river systems. I am sure that all members of this House and the vast majority of people in this State would very strongly support that project and the aims of the Murray-Darling 2001 initiative.

On a number of occasions, the member for Ross Smith has interjected about the cost of this levy and how it will be determined. As a number of my colleagues have said, let us extend that question. What will be the cost if we do not do something about cleaning up the Murray? We just will not have a Murray, and that is recognised. If we do not do something about it immediately, we will not have a sustainable future and we will not have a sustainable river.

This amendment to the Water Resources Act is not about the size of the levy: it merely provides the mechanism to impose a levy, if a water resource is under stress, particularly the Murray River. Where a levy is to be set, it will be set by the Minister of the day on the advice of the relevant catchment board for the area and, as far as the Murray River is concerned, it will be set by the local people who make up that catchment. It will not be a matter of the department or the agency in Adelaide, or the Minister alone, determining what that levy should be. The levy will be determined after full consultation and after total involvement on the part of the local community.

The amount to be raised will relate to the management plan for the resource in question and, has been explained, the money that is raised will go directly into improving the catchment, for example, the Murray River. Because there is no loophole, there is no opportunity for that funding to find its way into general revenue, and that is what has made the catchment levy for the Torrens and the Patawalonga in the metropolitan area so successful, and they are successful and very well supported. I am sure that members of the Opposition would have seen the support for the catchments that have been referred to in recent articles in the media. The Torrens and the Patawalonga catchment levy is very strongly supported, and I am particularly pleased to see that the support is very strong from the younger people, from the people between 18 and 25 or 30. Those young people recognise the importance of these levies.

Rather than sitting on our hands and doing nothing about it, as has been the case for decades, we do need to make an effort and, if that effort involves each one of us making a financial contribution, then that can be generally supported. I particularly commend the members for Chaffey and Ridley for their contributions. I know that both of these members have discussed this proposal with their local constituencies. They have an excellent understanding of the issues that are relevant within their constituencies. As this Bill progresses and as the work commences as a result of this levy being established, I know that they will both be working closely with the management board and playing a positive part in the vital work that will be carried out.

As the member for Chaffey has indicated, those that live and rely on the river understand only too well the needs for improved environmental flows and for trading of water between States. South Australia is very keen for that to progress and the passing of this legislation will help with that goal. I also commend the members for Mawson and Custance for the stance that they have adopted and the support that they have given to this legislation.

I was particularly disappointed with the contribution of the member for Napier. Once again, it was a typical negative approach on the part of that member, who said that although she supported the clean-up it was unsatisfactory that people should have to pay. In other words, let us continue to sit on our hands—as has been the case with the Labor Party for far

too long—do nothing about it and hope that the situation will improve. She indicated that she thought that all this could be resolved with Federal support but, regrettably, the Opposition has not been able to convince its Federal colleagues of the need to provide funding to enable that work to continue.

This legislation is vitally important to this State. Recently, I had the opportunity to meet the presiding officers of the Water Resources Advisory Committees from various parts of the State. There is strong support for the stance being adopted by this Government and for this legislation. It has been recognised for some time that people will have to make a contribution and that contribution will be used efficiently and effectively, in this case particularly in the cleaning up of the Murray River. I recognise the support that has been provided by the members of this House and I commend the legislation to the House.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. D.C. WOTTON: I have a series of amendments in my name. It might be appropriate to move the first amendment as it relates to clause 1. I presume that it will be determined whether support is provided for this particular amendment and the others will proceed. I move:

Page 1, line 10—Leave out 'Charges' and insert 'Levies'.

I indicate that there has been considerable discussion concerning this matter. As other members and I have said, I do not think it matters whether it is called a levy, a charge or a toll—

Mr Clarke: A tax.

The Hon. D.C. WOTTON: It is not a tax. I hope that has now been put to bed: it is not a tax. We are bringing this into line with the other legislation. The water catchment legislation refers to 'a levy'. People understand what a levy is: it is for a specific purpose, it can be used only for that specific purpose and it is appropriate that the change be made.

It could be said that this should have been determined previously, so that, as Minister, I was not standing here amending my own legislation. However, this matter is important. I felt that it was necessary to propose these amendments to bring it into line with other legislation. As has been explained previously, it is our intention significantly to amend the Water Resources Act next year, and the catchment management legislation will then become part of the Water Resources Act. To bring it all into line, it has been determined that the appropriate terminology is 'levies' rather than 'charges'. Hence, the amendment has been moved.

Mr CLARKE: The Minister would be expecting this question and, in the interests of time and the usual constructive fashion of the Opposition on amendments such as these, my question relates to the reasons why the Minister wants to change the word 'charges' to 'levies' in this clause. I will not repeat *ad nauseam* the three typed pages of amendments that the Minister proposes to his own legislation. We will deal with this as an 'in principle' position and, thereafter, it will flow.

This situation is somewhat unique. The Minister introduced this legislation in the House last week—indeed, I think it was only last Thursday. Throughout the legislation was emblazoned the word 'charges', yet this evening we have three pages of close typed amendments: wherever the word 'charge' or 'charges' appears in the Bill the word 'levy' or 'levies' is to be inserted in lieu thereof.

Will the Minister explain to the public of South Australia the difference between the Government's coming along to me, putting its hand in my hip pocket and saying, 'That is $20 that we are taking out of your hip pocket as a levy', and its putting its hand in my hip pocket and saying, 'That is $20 I am taking out of your hip pocket as a tax.'? At the end of the day, the punter is still $20 light on.

Mr Lewis interjecting:

Mr CLARKE: Now the member for Ridley sees my point.

Mr Lewis: It is all about purpose.

Mr CLARKE: It is $20 that the punter does not have to spend on cigarettes, a bottle of wine, a beer, a meal with his wife, a sheath of flowers, whatever—

An honourable member: Membership of the Labor Party!

Mr CLARKE: Or indeed membership of the Labor Party, which is increasing in the seat of Chaffey.

An honourable member: It's tax deductible, though.

The ACTING CHAIRMAN (Mr Bass): Order!

Mr CLARKE: Whilst I appreciate that the levy is dedicated supposedly to a special term—and I have some other points to raise on that—if $20 is ripped out of your pocket, whether it is called a levy or a tax, you are still $20 light on. It is $20 you had previously that you no longer have. What is the difference?

The Hon. D.C. WOTTON: As has already been explained by me and other colleagues on this side, the major difference is that, if you take $20 out and it is a tax, you have no idea where it will go, other than that it will go into general revenue. You have no say whatsoever in relation to the use of that funding. In this case, it is a specific levy for a specific purpose. People understand very clearly what it will be used for. They know that their $20 will be used to clean up the Murray River or to improve water quality. So, it is very simple. It is $20, but I would rather pay $20 in a levy such as this and know that it was going for a specific purpose—a purpose as important as cleaning up the Murray River—than pay $20 as a tax that will disappear into general revenue. I should have thought that that would be easily understood.

We are not even talking about $20. As has been explained with the 1¢ that people are paying, the SA Water contribution will be $3 or $4. For the member for Ross Smith and members opposite to quibble about having to pay that sort of money and then put all this effort into determining whether it is a tax, levy, toll, charge, or whatever it is, is a bit pointless. That is the reason why, and we want it to be consistent with the legislation that is already in place.

Very recently, when we had the debate about the catchment management Bill, I can recall that exactly the same arguments were going across the floor. As I said earlier, the proof of the pudding is that that levy under the catchment management legislation for both the Torrens and the Patawalonga is very strongly supported, and so will this levy be strongly supported.

Mr FOLEY: Like my colleague the Deputy Leader, I am trying to find the rationale for a levy versus a charge versus a tax. The former Government introduced a levy for the Environment Protection Authority. As a former Minister and as someone who has served this Parliament for many years, what was the Minister's position, in Opposition, in respect of that levy?

Members interjecting:

The ACTING CHAIRMAN: Order! The member for Mawson is out of order.

Mr LEWIS: I rise on a point of order, Mr Acting Chairman. My point of order is on the ground of relevance. An inquisition—call it whatever else you will—on the basis of what a member or a member's Party may have thought about another matter under Labor legislation that was before the Chamber or indeed the clause we are considering in Committee, is totally irrelevant.

The ACTING CHAIRMAN: Order! The honourable member has made his point of order. I accept the point of order. The matter is not relevant to this Bill. I will leave it in the Minister's hands as to whether he wishes to answer it.

The Hon. D.C. WOTTON: Again, I make the point that I support the levy introduced by the previous Labor Government that now seems to have disappeared. At least the levies that we are introducing are transparent. People can see them on their rates bill or whatever. The environment levy which was introduced by the previous Government just seems to have disappeared into thin air. I do not care whether it is an environment levy, a levy for cleaning up the Murray River, the Patawalonga or the Torrens: it is for a specific use, and the majority of the people, because it is transparent and because they know what it is being used for, will have the opportunity to know what it will be used for before they pay the levy.

Members interjecting:

The Hon. D.C. WOTTON: They know what it will be used for. Members opposite know that, if they pay a levy under this legislation to clean up the Murray River, that is what it will be used for. And that is the difference between this proposal and the honourable member's suggestion of $20 as a tax or a levy. If you pay a tax of $20, you do not have a clue where it is going, other than into general revenue.

Members interjecting:

The Hon. D.C. WOTTON: It is true. This levy is a specific cost, and people understand before they pay it what it will be used for.

Mr FOLEY: Is it not interesting to note that members must rapidly rise to their feet to avoid some embarrassment for the Minister? The purpose of my question was very important. I was sitting here as a member of this Parliament, trying to understand the arguments of my colleague the Deputy Leader and, of course, the Minister across the Chamber, to work out whether this is a levy, a charge or a tax. It is very important that we understand the consistency of the Minister on this. From my many years sitting in the gallery as a minder, watching this Parliament, I remember the debate on former Government policies that were all about levies.

We all know what the Minister in his capacity as shadow Minister thought about levies under the former Government. I can tell you that, word for word, you could have had the Minister for the Environment and Natural Resources sitting in the place of the Deputy Leader arguing against the environment levy. But times change when you are in government; things have a different perspective, they become a little different when you are in government. All I want to do as part of this process is to highlight the hypocrisy of the Minister as he sits there and tells us all the reasons why you cannot compare a tax with a levy. But about three or four years ago in this Chamber that was the line this present Minister was putting forward.

So, as part of my education process for the new members of Parliament such as the member for Mawson and, of course, my good friend and colleague the member for Chaffey, not to mention the member for Hartley and others, it is important that they be aware of the hypocrisy of the Minister. I simply finish by asking the Minister this very important question: if the issue of a charge or a levy is neither here nor there, why is he changing the word 'charge' to 'levy'? And if the Minister felt so strongly about this, why did he allow the legislation to be drafted in the form in which it was drafted, and why did he not ensure that before the Parliament received this legislation he had that uniformity?

I suspect the reason is that some of his backbenchers—perhaps the member for Chaffey—get very nervous about the word 'charge', so they start with a tax, make it a charge but, because they are still a bit sensitive, they say 'Let's whack it in as a levy.' It is all about the word 'levy' being less politically sensitive than the words 'charge' or 'taxation.' The Minister should be honest and admit that he is changing the word 'charge' to 'levy' because the word 'charge' gives him some political difficulty.

The Hon. D.C. WOTTON: If the member for Hart had bothered to be in the House during the debate, he would have understood what this is all about. The member for Hart has a bit of a hide coming in here at this hour of the evening, when the second reading debate has concluded, saying that he does not know what it is about. I have explained about four times now: for the fifth time, the main reason is for continuity, because of the changes that will be made to the Water Resources Act next year. The Water Resources Act will take under its wing the water catchment management legislation. That already talks about a levy, so it is continuity.

Mr Foley: The question is irrelevant.

The Hon. D.C. WOTTON: It is important to know, when we talk about a tax or a levy, that this at least is going in to clean up the Murray River and not to pay off the debt that was left to us by the previous Government, which would be the case if this were going into general revenue.

Members interjecting:

The ACTING CHAIRMAN: Order! We have a long night before us. I ask members not to interject but to allow members to ask questions and the Minister to reply without interference.

Mr CLARKE: I would never accuse the Minister of being a bald-faced hypocrite on this issue because I want to be looked after in London when he becomes the Agent-General.

Members interjecting:

Mr CLARKE: I would never accuse him of being a two-faced hypocrite when I am looking forward to the best theatre seats in London when I eventually get there and he is the Agent-General.

Mr Foley interjecting:

Mr CLARKE: I think the announcement is probably coming soon—some time prior to Christmas. It will be a nice Christmas present, Minister.

The Hon. D.C. Wotton interjecting:

Mr CLARKE: Certainly; I am getting towards clause 1. The Minister said that the levy is imposed for a specific purpose and that everyone will feel happy about paying an extra $20 out of their pay packet because it will be a levy rather than a tax. I am sure people will be overwhelmed and will rejoice at knowing why they are $20 light in their pocket.

As far as I can see, there is no sunset clause with respect to this levy. Ordinarily, a levy is set for a specific purpose and period of time to accomplish it. This is an ongoing levy, a bit like taxes, as far as I can tell. What assurances or guarantees has the Minister from his very generous Treasurer and other Cabinet colleagues that the money raised through

this tax, called a levy by the Minister, will not be diverted? I do not know how much it will be but, if it is $5 million, what guarantee is there that the department will not have that amount ripped out from underneath it by the Treasurer? In effect, a tax is being imposed. Notwithstanding the fact that it is claimed that a tax goes into general revenue and gets lost, at the end of the day the same thing happens. For example, the Federal Government pours money into the State's health system, only to have the Treasurer rip the guts out of the health system by way of a tax cut—

Mr Brokenshire interjecting:

The ACTING CHAIRMAN: Order! The member for Mawson is out of order.

Mr CLARKE: —so that the State is all the poorer because of that decision. What assurances has the Minister received that this levy money, this new tax, that is to come into the existing budget will be protected and directed wholly and solely to the protection of the Murray River? Also, when, if at all, will there be a cessation of this tax? I do not see a sunset clause in the Bill.

The Hon. D.C. WOTTON: There is no need for a sunset clause. If the board finds that its work has been completed—I should like to think that could be so as regards the Murray River, but I very much doubt that it will be—it can then determine that the levy is no longer required.

Mr Clarke: It is like a tax.

The Hon. D.C. WOTTON: That would be so only if the specific purpose for the levy had been achieved, and we both recognise that that is unlikely. I am sure that both of us hope that one day in the near future we will get everything so much in order in relation to the Murray River that we will not have to worry about further expenditure on cleaning it up, but that will not be the case. There will always be a need for further funding to be provided. As far as an assurance from the Treasurer is concerned, it is spelt out clearly in the legislation what the money can be spent on. I have already said that there is no opportunity for—

Mr Clarke: What about safeguarding your budget?

The Hon. D.C. WOTTON: I do not know about the member opposite. He is a very new member and has had no opportunity to work in Government. I have the respect of my Treasurer and of people on my side in this Government and I believe that that will not happen.

Members interjecting:

The ACTING CHAIRMAN: Order!

The Hon. D.C. WOTTON: This is quite frivolous. Everyone in this Chamber knows what we are trying to achieve and, if the Deputy Leader of the Opposition wants to keep throwing up all these problem areas, let him do so. We are determined to get on with a specific purpose. The legislation indicates very clearly what that specific purpose is, and the levy established under this legislation is clearly for a specific purpose as well. If the member for Ross Smith wants to continue to argue about that, let him do so.

Mr LEWIS: On a point of order, Sir, I respectfully ask how many times upon this clause the Deputy Leader has risen?

The ACTING CHAIRMAN: He has risen twice and he is now speaking for the third time. The Deputy Leader.

Mr CLARKE: I can see that I could be arguing on this point with the Minister until hell freezes over. The simple fact is that I am right and he is wrong.

The Hon. Frank Blevins interjecting:

The ACTING CHAIRMAN: Order! The member for Giles is out of order and also out of his place.

Mr CLARKE: Depending on the Minister's acceptance, and in trying to assist in getting this Bill through tonight, I have only four or five more questions, partly on charges. I can put those questions on other clauses of the Bill or I could ask them all now and that would dispose of the questions as far as I am concerned as the lead person for the Opposition. It may expedite the passage of this legislation.

Mr LEWIS: Mr Acting Chairman—

The ACTING CHAIRMAN: Is it a point of order?

Mr LEWIS: No, it is not a point of order at all. I rise to speak on this clause.

The ACTING CHAIRMAN: Would the honourable member please take his seat. The Deputy Leader of the Opposition has just spoken. Does the Minister wish to reply? I ask the member for Ridley to take his seat until I deal with this matter.

Mr LEWIS: Mr Acting Chairman, under what Standing Order?

The ACTING CHAIRMAN: I ask the member for Ridley to resume his seat. Does the Minister wish to answer the question?

Mr Lewis: He doesn't have to say anything.

The Hon. D.C. WOTTON: The Deputy Leader has put a proposition: he wishes to ask a number of questions relating to charges. I would have thought that it was the prerogative of the Chair to determine whether he could refer to other clauses at this time. So that the Deputy Leader can go and have a cup of tea, I will answer the questions now.

The ACTING CHAIRMAN: The Deputy Leader has asked three questions in relation to this clause and that is what he is allowed. The member for Ridley.

Mr LEWIS: My point is quite simply that the Deputy Leader, during the course of the remarks he made the time before last, clearly illustrated to the Committee the way in which he approaches this and other matters and, by his own statement, this is a matter of considerable gravity. Yet, he was prepared to say that he would compromise his attitude in return for a favour.

The ACTING CHAIRMAN: Order! Has the member a question in relation to clause 1?

Mr LEWIS: I do not have a question; I have a statement relevant to clause 1, the debate thus far on it, including the Deputy Leader's statement that he would not cause, by whatever means at his disposal, subjectively in his opinion, embarrassment to the Minister in return for the favour the Minister might grant him some time later. To my mind then, that was not only a reflection on his own values but a reflection on the Minister. As it relates to this clause, of course, I guess he put that view simply because there is no tenable argument about the purpose for which we seek to raise the revenue.

It is and can only ever be used for the purpose of the rehabilitation of the Murray River; it is therefore appropriate to refer to it in these terms and to argue for it on these grounds and these grounds alone. As for anyone suggesting that they could make a trade-off between their responsibility in either supporting or opposing that, if they were inane enough to do so, and some other perceived benefit, I find grossly offensive.

Amendment carried; clause as amended passed.

Clauses 2 to 6 passed.

Clause 7—'Taking water from a proclaimed watercourse, etc.'

The Hon. D.C. WOTTON: I move:

Page 3, line 6—Leave out 'charges' and insert 'the levy'.

Amendment carried; clause as amended passed.

Clause 8 passed.

Clause 9—'Contravention, etc., of licence.'

The Hon. D.C. WOTTON: I move:

Page 3, line 14—Leave out 'charged' twice occurring and insert, in each case, 'the levy'.

Amendment carried.

The Hon. D.C. WOTTON: I move:

Page 3, line 15—Leave out 'charges' and insert 'levy'.

Amendment carried; clause as amended passed.

Clause 10—'Insertion of Division 3A in Part 4.'

The ACTING CHAIRMAN: We have groups of amendments virtually all saying the same thing in clause 10 on pages 3 and 4. With the agreement of the Committee, could we deal with the amendments for each page as a block?

Mr CLARKE: If I may at this stage indicate that, contrary to what the member for Ridley had to say earlier—to which I take great offence—I was not seeking any favours whatsoever out of the Government. I, frankly, do not care whether we sit here until midnight or beyond, and I am quite happy, as members opposite know, to dig in my heels on some things, and go through it painstakingly, trench by trench, door to door, hand to hand combat. That does not bother me.

However, in the interests of the expedition of time, I was trying to indicate to the Committee and to the Minister that I had only three or four more questions, and once they had been answered—I doubt if they would be satisfactorily answered—that would conclude, at least for my part as lead spokesperson for the Opposition, our responsibilities in this area. We have dealt already with the issue in principle of the definition of charges and levies. I would not want to take up the time of the Committee any further with respect to that matter, and would be quite happy to have them dealt with *en bloc*. I certainly do have a few more questions, which I am entitled to ask, with respect to clause 10, and once they are dealt with, that will be it so far as I am concerned. I do not know whether any other members of the Opposition have any matters to raise.

The ACTING CHAIRMAN: Therefore I ask the Minister to move the 55 amendments to clause 10 *en bloc*.

The Hon. D.C. WOTTON: I so move the 55 amendments:

Page 3—
- Line 18—Leave out 'Charges' and insert 'Levies'.
- Line 22—Leave out 'charges are' and insert 'a levy is'.
- Line 29—Leave out 'charges' and insert 'levies'.
- Line 30—Leave out 'charges' and insert 'levies'.
- Line 32—Leave out 'Charges' and insert 'Levies'.
- Line 34—Leave out 'Charges' and insert 'Levies'.

Page 4—
- Line 3—Leave out 'Charges' and insert 'Levies'.
- Line 5—Leave out 'charge' and insert 'levy'.
- Line 10—Leave out 'charges' and insert 'levies'.
- Line 19—Leave out 'charge' and insert 'levy'.
- Line 20—Leave out 'charge' and insert 'levy'.
- Line 31—Leave out 'Charges' and insert 'Levies'.
- Line 32—Leave out 'charge' and insert 'levy'.
- Line 34—Leave out 'charge' and insert 'levy'.
- Line 35—Leave out 'charge' and insert 'levy'.

Page 5, lines 2, 3, 5, 6, 7, 10, 12, 14, 15, 18, 21, 22, 28 and 38—Leave out 'charge' wherever occurring and insert, in each case, 'levy'.

Page 6—
- Line 4—Leave out 'charges' and insert 'a levy'.
- Line 6—Leave out 'Charges' and insert 'Levies'.
- Line 15—Leave out 'charge' and insert 'levy'.
- Line 18—Leave out 'Charges for the right to take water are' and insert 'A levy from the right to take water is'.
- Line 20—Leave out 'Charges (whether payable in instalments or not) become' and insert 'A levy (whether payable in instalments or not) becomes'.
- Line 22—Leave out 'Charges' and insert 'A levy'.
- Line 22—Leave out 'charges' and insert 'a levy'.
- Line 23—Leave out 'charges' and insert 'levy'.
- Line 26—Leave out 'charges' and insert 'levy'.
- Line 28—Leave out 'charge' and insert 'levy'.
- Line 30—Leave out 'charges are' and insert 'levy is'.
- Line 31—Leave out 'or both'.
- Line 32—Leave out 'charges' and insert 'levy'.
- Line 34—Leave out 'charges are' and insert 'levy is'.
- Line 36—Leave out 'charges' and insert 'levy'.

Page 7—
- Line 4—Leave out 'charges are' and insert 'a levy is'.

Page 8—
- Line 5—Leave out 'charges' and insert 'a levy'.
- Line 11—Leave out 'charges are' and insert 'the levy is'.
- Line 29—Leave out 'unpaid charges' and insert 'an unpaid levy'.
- Line 30—Leave out 'charges' and insert 'a levy'.
- Line 33—Leave out 'charges are' and insert 'a levy is'.

Page 9—
- Line 1—Leave out 'charges' and insert 'a levy'.
- Line 2—Leave out 'those charges' and insert 'the levy'.
- Line 3—Leave out 'Charges' and insert 'Levy'.
- Line 4—Leave out 'Charges' and insert 'A levy'.
- Line 6—Leave out 'those charges' and insert 'the levy'.
- Line 8—Leave out 'charges' and insert 'a levy'.
- Line 9—Leave out 'Where charges, or interest in relation to charges, are' and insert 'Where a levy, or interest in relation to a levy, is'.
- Line 10—Leave out 'have' and insert 'has'.
- Line 13—Leave out 'charges' and insert 'levy'.
- Line 15—Leave out 'charges' and insert 'the levy'.
- Line 20—Leave out 'charges' and insert 'levy'.

Page 10, line 5—Leave out 'charges' and insert 'the levy'.

Page 11—
- Line 1—Leave out 'charges' and insert 'levies'.
- Line 2—Leave out 'charges' and insert 'a levy'.
- Line 3—Leave out 'charges' and insert 'levy'.
- Line 4—Leave out 'charges' and insert 'levies'.
- Line 5—Leave out 'charges' and insert 'levies'.
- Line 22—Leave out 'charges' and insert 'a levy'.

Mr CLARKE: Again the Minister has been able to take advantage of my good nature. With respect to this clause, a number of figures have been bandied around, but has the Minister been able to calculate what the cost will be on average to users of River Murray water, and will that amount be applied as a flat charge to the users or will it be done, if you like, as a percentage? As I understand it, the capital value of the property is being excluded in this area. In other words, can those with the greatest assets in fact pay proportionately the least compared with the less well off citizen who has to use River Murray water?

The Hon. D.C. WOTTON: It is not possible to give an average. As I pointed out in the second reading debate, before any decision is made about the size of the levy, there has to be total consultation, and I have given a commitment that that will be the case. There will be total consultation with those people who will be affected. I have certainly acknowledged that some irrigators will be impacted upon more than others; for example, dairy farmers below Mannum who are growing marginal crops, and the Loxton irrigators who are not yet irrigating from the modern system of piped water but who are still working from channels, etc. We have not yet determined how the levy should be formed. I indicated during the second reading debate and in my response how the levy will be determined in consultation with the board or in full consultation with the people involved.

The member for Chaffey indicated that on a couple of occasions the Premier has talked about an overall levy of 1¢ per kilolitre. I am perfectly happy to inform the Committee that, as far as the Riverland is concerned, the levy will be well under 1¢, but I am not prepared at this stage to say exactly what it will be any more than I was when we debated the catchment management legislation in respect of the Patawalonga and the Torrens. I recognise that this is a significant issue as far as water users in the Riverland are concerned. I am having continuing consultation with the member for Chaffey and the member for Ridley on that matter, but I am not in a position to make an announcement nor should I be because the levy is to be determined in consultation with the local community, and when the board is in place it will make a recommendation to the Minister before the final levy is determined. We have a long way to go. This Bill provides the mechanism for that levy to be established, but it will be established only after full consultation and when all the other matters have been considered.

Mr CLARKE: If the Minister is to bring in this levy and if he cannot tell us how much it will be because he has to wait upon these advisory groups to advise him on how much he ought to charge, I ask: what projects has the department or the Government drawn up already or what projects are in the pipeline to clean up the Murray River now? What is the time frame and what is the projected cost of those projects? Prior to submitting this legislation to the House, presumably the Minister's department actually formed some views as to what projects would need to be implemented to clean up the Murray River, the time line it would take and what the cost of those individual projects would be. I find it a bit incomprehensible that legislation can be drafted that will give the Minister power to impose a charge when he does not know how much he will charge because he has to wait for advice. We do not know whether the Minister will be obliged to take that advice. We certainly want to know whether the Government has any firm proposals for immediate implementation to give effect to its stated policy of cleaning up the Murray.

The Hon. D.C. WOTTON: I cannot say any more than I have. Does the honourable member want us to set the levy in this place or in the agency without consultation with the people in the Riverland or a management board being established? Surely, that is not the appropriate way to go about it. First of all—

Mr Clarke interjecting:

The Hon. D.C. WOTTON: Yes, we do have projects, and I referred to them in my second reading explanation. I referred to targeting such things as: revegetation of stream banks; wetland management on the flood plains; removal of the remaining sewage effluent lagoons adjacent to the Murray River; rehabilitation of ageing irrigation infrastructure, which is very important; incentives for improved irrigation methods and equipment; accurate measurement of water diversions, particularly in the gravity irrigated areas of the lower Murray; and much needed research into fish management. They were all spelt out in my second reading explanation.

I indicated also when dealing with the achievements that we are working towards as far as the Murray-Darling 2001 project is concerned that we are also looking at: the development and implementation of catchment plans throughout the basin; sustainable disposal and reuse of treated urban effluent and stormwater; integrated flow management strategies for key river systems to ensure adequate water for maintaining river health; and healthy flood plains and riparian zones along all major river systems. So, I could go on. There are plenty of projects that are being considered for this purpose.

Mr CLARKE: The Minister has expanded on what he would like to see happen as far as State Government projects are concerned in respect of cleaning up the Murray. Will the Minister advise the Committee of what he knows about the upstream work of the other States and the Federal Government's attitude to projects like the Murray-Darling Basin in Queensland and the like? In the past, the Premier has quoted $35 million as the South Australian Government's contribution for cleaning up the Murray River but, unless we have a firm knowledge of what the other States and the Federal Government are prepared to do in matching those costs and doing the necessary work further upstream, we could be wasting a lot of our own time and energy. I am not saying that we should not try ourselves but, nonetheless, whatever effect we want to have insofar as this area is concerned is obviously very much dependent upon what other State Governments do in the Murray-Darling Basin.

The Hon. D.C. WOTTON: Project 2001 is very much on the agenda of the Murray-Darling Ministerial Council of which I am lead Minister for South Australia. There is a lot of work being done in the Eastern States. The last point that the honourable member made is important. We should not be just waiting to see what happens in the Eastern States. We need to get on and do it, and that is all there is about it. We have made that commitment; that is what this legislation is all about. Victoria and New South Wales have a charge on water. For example, in the discussions that we have had with the Victorian Government as far as water trading is concerned, the Victorians have insisted that, if we are to be successful with that program to commence water trading between South Australia and Victoria, we have to have a level playing field, and at this stage we do not have that. Victoria and New South Wales have that charter but South Australia does not.

There are lots of reasons for this of which we are very much aware. I went to Queensland recently and had discussions with my ministerial colleague there to find out what direction they were taking. At the last ministerial council meeting I had the opportunity to discuss with Minister Coleman where Victoria was going and to talk with the New South Wales Minister. We are all working towards this. There is a strong commitment on the part of the States to work towards the 2001 initiative and its objectives. Apart from all that, we are committed to cleaning up the Murray River in South Australia, and that is what we will do as a result of this legislation.

Mr ANDREW: I refer to section 38B(8) of the principal Act. Although there is provision for implementation of a levy in 1995-96, will the Minister confirm that the Government does not intend to introduce this proposed levy until 1996-97?

The Hon. D.C. WOTTON: I am happy to confirm that. It has always been the case that the levy would not come into place until after July 1996. No levy will be applied in 1995-96.

Ms HURLEY: I note that the interest in relation to the levy is first charged on the land and if it has been unpaid for one year or more the Minister may sell the land. What precedent is there for this sort of penalty for non-payment of the levy, and does the Minister believe it is necessary for the good working of the legislation?

The Hon. D.C. WOTTON: Precedents are established for this. I should explain, for example, that the Attorney-General plans to review the whole issue of State charges taking

priority on the sale of land as it does raise broader policy issues. If appropriate, amendments will be achieved consistently across all relevant legislation by a statutes amendment Bill. Precedents have been established. I have been having discussions with the Attorney-General over a couple of issues that have concerned me in another part of my portfolio responsibility.

Mr ANDREW: The current mechanism for collecting the levy is clearly based on two aspects with respect to irrigation being either allocation or usage. Will the Minister confirm my understanding of the need for this flexibility? I alluded to some of this in my second reading contribution. If the levy is based entirely or predominantly on usage, it is a direct incentive to improve irrigation practices and for irrigators to adopt improved technology and become more efficient irrigators and so produce a less negative impact on the environment. The other option is an emphasis on the allocation. As members might know, if we tallied up the allocation for irrigators in South Australia, usage compared to allocation would be about 75 per cent, notwithstanding the specific licences where individual irrigators use substantially less than their allocation, which would be regarded as a sleeper allocation entirely or largely unused.

Any method to provide an emphasis on the mechanism of allocation would be a direct incentive for that sleeper or unused allocation to be put back into the market for extra development. I would see it as logical that, as improved irrigation practices are instituted and irrigators become more efficient, so there may be a need to reflect a change in balance between those two criteria which are the total criteria in the levy. Is there a need to have flexibility within those criteria as time passes and improved practices are instituted?

The Hon. D.C. WOTTON: The honourable member has answered his own question, because that is exactly the situation. This is a matter over which I have had some prior discussion with the member for Chaffey. I would want to monitor the situation as time passes. The member for Chaffey has answered his own question.

Mr ANDREW: The Minister alluded to some options or examples in terms of how the money collected under the levy arrangement will be spent, and in future it will be at the discretion or under the control of the proposed Murray River catchment management board. The Minister may have alluded to the Loxton irrigation area, and I seek the Minister's comment and reaction to the unique circumstances of the Loxton irrigation area within the Government irrigation scheme, bearing in mind that it is a Federal scheme, even though it is designated for management under the South Australian Government through SA Water.

We must bear in mind and recognise that at present the Federal Government is being extremely uncooperative and tardy in its willingness to negotiate the upgrading and rehabilitation of that important area in the Riverland. As I understand it, if that important area in my electorate were to be rehabilitated, with pipelines replacing channels, it would not only provide for less wastage of irrigation water in terms of physical distribution but it would also make water available to be ordered and used as required by the irrigator for the crop concerned, so saving more water and providing additional drainage benefits. Given that, how does the Minister believe future funds will be applied? Given the tardiness of the Federal Government in this regard, would he see the injection of funds from this levy as applicable to the improvement and rehabilitation of the Loxton irrigation area at some future date, when hopefully we can negotiate a fair arrangement for the State Government's getting involved in this scheme?

The Hon. D.C. WOTTON: There is nothing to stop assistance being provided in a particular case such as that, as I indicated earlier. I acknowledged that some irrigators will be impacted upon more than others. I referred specifically to the situation in Loxton. I understand the difficulties that are being experienced because of the lack of support at the Federal level. All I can say (and I reiterate what I said earlier) is that we are watching that situation very closely. We are listening and consulting in that area, and that will continue. But, depending on the management plan and the advice that comes out of the board when it is established, I do not see that it means that extra funding would be excluded in helping a situation like that. At this stage, it is just a matter of having ongoing consultation.

Amendments carried; clause as amended passed.

Remaining clauses (11 and 12) and title passed.

Bill read a third time and passed.

ENVIRONMENT PROTECTION (FORUM REPLACEMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 510.)

Mr CLARKE (Deputy Leader of the Opposition): The Opposition supports the second reading of this Bill, as it did the last Bill. As I indicated in the debate on the previous Bill, our shadow spokesperson, who is in another place, is still consulting with a number of people because this Bill was brought on earlier than was scheduled to facilitate the Minister's timetable, which we are quite happy to do, for all the reasons that I stated previously. Without taking it any further at this stage, my only comment is that, under the heading of 'Division 2—Round Table Conference', provision is made for a round table conference, but the Bill does not contain any definition of 'round table'. I would hope not to see a situation whereby, if this body met around a rectangular or angular table, it would breach the legislation in respect of this matter.

In terms of the number of people who are eligible to sit on this authority, a quick reading of this legislation suggests that the numbers are not dictated in its provisions, so I would be interested to learn from the Minister's reply the number of people he envisages appointing to this round table conference. The Opposition is also interested to learn, depending on the number of people who are appointed to the round table conference, whether the Minister will insist on an appropriate gender balance with respect to that conference, and I should like some assurances on that question.

Mr BROKENSHIRE (Mawson): I support this Bill and, given the hour, like the Deputy Leader of the Opposition I will be reasonably brief. There is a lot of common sense in what has been put forward. From time to time, most of us have been involved in forums *per se*, and it is generally difficult to reach a consensus, particularly when there is some sort of compromise. It is difficult for people who represent an organisation when they have to compromise some of the interests, desires, commitments and directions of that strong body or organisation.

The authority will be bound to consult with and consider the advice provided by prescribed bodies on the provisions of the draft policies, as was indicated earlier by the Minister.

The Bill has an inclusive measure for stakeholders, as is the situation in the current forum arrangement. The Environment Protection Authority is bound to consider consulting advice, and it has to hold a round table conference at least annually. I believe it is a much better and far more productive way of getting an assessment by having such a round table conference. The Environment Protection Authority is headed by Rob Thomas, and, having had the pleasure of meeting Stephen Walsh and some of the other people who are involved in this area, I feel very confident that some very positive things will come out of the EPA legislation. This Bill makes a lots of sense. Therefore, as a backbencher on the Minister's portfolio committee, I support this amending Bill.

The Hon. D.C. WOTTON (Minister for the Environment and Natural Resources): I thank members for their support. The Deputy Leader of the Opposition raised some concern about the size of the forum that is suggested in the legislation. Having had the opportunity to look back at the second reading debate at the time of the introduction of the EPA Bill, I am aware that quite a bit of concern was expressed by a number of members, particularly in another place, about the size of the forum and the fact that it would be extremely difficult to work effectively, particularly because it deals with policy issues, etc. It was considered that it would be totally inappropriate.

In its place we are looking at the provision of specialist committees, so that committees can be established to deal with a particular issue. For example, if it relates to clean air or to noise, we can bring in specific people who can assist with the preparation of, or work through, that policy. As far as the round table is concerned, the honourable member opposite may not understand what we envisage. A number of round table conferences have been held recently, one of the most successful of which was the Natural Resources Council. It provided an opportunity for members of the public to come in and question the members of the council.

With the EPA I would envisage that a specific day would be set aside for the authority to provide answers to questions that might be put to them by members of the community, in a similar way to an exercise that we went through with the committee that has been established in both Houses to examine living resources. We provided an opportunity for members of the public to come in and ask questions of the members of that committee. In this case, the authority would be under scrutiny and, rather than its having a specified agenda, people could come in and question the authority about any matters that they wished.

It is a general situation. We are not looking at specific numbers or gender balance. Purely, it is providing a well advertised opportunity for the community to come in and question or to put points of view to the authority. That should work well and will be more effective than anything that is provided in the legislation as it now stands. I hope that members will recognise the importance of this legislation.

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

The Hon. D.C. WOTTON (Minister for the Environment and Natural Resources): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

CONTROLLED SUBSTANCES (GENERAL OFFENCES—POISONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 October. Page 440.)

Ms STEVENS (Elizabeth): The Opposition supports this Bill. In contributing to the second reading debate, I will refer briefly to parts of the Bill and also ask some questions and raise some issues of concern which were referred to in our discussions on the Bill and which also have been raised with me by various members of the community.

Essentially, as the Minister stated in his second reading explanation, the Bill is largely a machinery Bill which will enable the introduction of new comprehensive poisons regulations and, as such, we support it. We support the large number of penalties which have been increased to make them more realistic in today's terms. We do not have any problem with any of them: we realise that this needs to be done. After all, the initial Bill was enacted in 1984 and we are now in 1995.

The amendment to clause 18 in relation to prescription drugs is more extensive than the other amendments. Again, we support all the aspects of that clause. The change, relating to veterinary surgeons, is obviously common sense. We fully agree with the point that was made in the second reading explanation about this enabling or assisting in the policing of situations whereby prescription drugs are obtained illegally to treat food animals without proper diagnosis of an alleged disease and without professional advice about dosage or withholding periods.

We make the point that the further amendment in relation to the offence of being in possession of a prescription drug without lawful authority has a reverse onus of proof, but we acknowledge the importance of that and the reason for it and, again, we concur. We also note and agree with clause 20, which provides for the creation of a defence to the offence of giving a false name or address to a pharmacist or doctor.

In relation to that part of the Bill which refers to prescription drugs, I refer to an example which was highlighted in an article in the *Advertiser* of 26 October 1995 and which concerned over-prescription of the drug Rohypnol. I will ask the Minister some questions which I hope he will address in his reply. I quote from the article, as follows:

South Australian doctors will be investigated by police over a blackmarket trade in the mind bending drug Rohypnol. Police believe Rohypnol, a sedative, is being over-prescribed by some doctors and resold among drug users for $5 a pill . . . One Adelaide drug centre manager claimed yesterday up to 70 per cent of all its clients were under the influence of prescription drugs such as Rohypnol. Youth workers have told the *Advertiser* that some doctors are known as 'soft touches', prescribing Rohypnol too readily . . . The Australian Medical Association State President, Dr John Emery, said drug users travelled to several general practitioners seeking prescriptions for Rohypnol . . . The illicit trade in Rohypnol has prompted the Health Commission to launch a crackdown on the issuing of prescriptions of the drug . . .

The Health Commission's Director of Public Health, Dr Kerry Kirke, said the use of Rohypnol was a 'major issue' . . . One option being considered by the State Government was to classify Rohypnol as a 'drug of dependence' which would force all prescriptions to be sent to the Health Commission for analysis . . . Within the next few weeks all medical practitioners will be contacted by the commission about the dangers of Rohypnol. Dr Emery said, 'Every GP has been approached by someone wanting to get them (Rohypnol prescriptions)'.

Finally, I quote Mr Tony Myers of Mission SA's Hindmarsh Drug Centre in relation to children as young as 12, as follows:

> They seem to have no problem getting it and there seems to be an unlimited supply.

The issue was raised during the Caucus discussion in relation to this Bill, and I ask what actions can be taken in relation to doctors and their role in over-prescription. I would appreciate the Minister's comments in relation to the quotes to which I have just referred in relation to the penalties and the work done with doctors, and also regarding the actions of the Health Commission in dealing with this issue. I note that it is not just a South Australian problem: it has been highlighted in the press in other States. Certainly, it is one of great concern to the community as a health issue.

I have been given a copy of a letter sent to the Minister by the Northern Youth Agencies and Police Delegates Network on 30 June 1995. I note that, when the group gave me this, it had not received a letter back from the Minister: it had just an acknowledgment of receipt. I will read the letter, ask the Minister to comment on it and say whether some of the issues will be covered by the regulations that come as a result of passing this Bill. The letter states:

> Dear Minister,
>
> The Northern Youth Agencies/Police Delegates Network wish to voice their concern over the availability and abuse of glue and solvents by young people, in particular, from the northern suburbs.
>
> The network group consists of members from such varied backgrounds as the:
>
> South Australia Police
> Young Offender Unit
> Multicultural Services
> Community Liaison
> Department for Education and Children's Services
> Student Attendance Counsellors
> Principals
> Aboriginal Project Officers
> Family and Community Services
> Centacare Youth Services
> The Second Story
> Drug and Alcohol Services Council
> Local councils
> Youth and Parent Services
> Elizabeth/Munno Para Together Against Crime
> Para Youth Team
> Department of Social Security.
>
> We ask that you address the problem of easy access to these products, most especially in the likes of department stores and supermarkets. Selleys 'Kwik Grip' glue is just one of the particular products being sniffed by youth.
>
> Young people affected by such glue sniffing may exhibit violent behaviour. Certainly it is extremely deleterious to their health.
>
> At this time no specific legislative offence occurs by a person abusing these products and substances. Is this being addressed?
>
> Our concerns therefore are aimed at deterrence through education, with legislative support.
>
> Your urgent attention to this matter is sought.

It is signed by the Chairperson of that group. I would appreciate some response and some comment on their concerns.

The final issue I would like to raise is in relation to correspondence I have had from the Asthma Foundation of South Australia. In the Minister's speech, I was pleased to see that, when these regulations are promulgated, the rescheduling of bronchodilators to facilitate their inclusion in school first-aid kits will occur. I know that the Asthma Foundation of South Australia, which has been lobbying for some time for this to occur, will be very pleased, indeed. In relation to that issue and to the provision of care in schools for students suffering from asthma, I will quote briefly from the position paper entitled 'A national policy on asthma management for schools,' because it relates to the bronchodilator and other issues, as follows:

> To provide optimal care of asthma in the school setting, the committee made the following recommendations: (i) improved guidance and training of school teachers and ancillary staff in appropriate asthma care; (ii) improved recognition by schools of those students with asthma; (iii) schools should encourage a policy of exercise for all students with asthma; (iv) asthma medication should be readily available at all times to those students with asthma; (v) the safety of school excursions and school camps should be improved by having available personnel competent in acute asthma management; a mobile asthma first-aid kit; and by ensuring the student continues taking their usual asthma medications throughout the excursion; (vi) the early introduction of a 'lung health' education program for all students, with particular emphasis on asthma being encouraged. We believe that asthma management in schools would be optimised if this national policy were adopted throughout Australian schools.

I wanted to put that on the record and to say that, obviously, I strongly support the regulation I mentioned before coming in, but I hope that the Minister for Health would point out to the Minister for Education and Children's Services that, if schools are going to be in any way able to implement the national policy, of which the bronchodilator issue is a part, the resourcing and the lack of resources in schools and the cutting back of school services officers will have a great impact on their ability to do that. With that, I conclude my remarks: the Opposition supports the Bill. I presume that this means that the entire original Act will now be proclaimed and enforced, hopefully, as soon as possible.

Mrs HALL (Coles): I support the Bill and would like to speak briefly on just one aspect of it. The reason I am so pleased to support the Bill is that it will enable regulations to be drawn up to see asthma treated more realistically. As we know, young children are, to say the least, forgetful but, until they mature, we surely do not resent their carefree attitude and at times we positively look with envy on their world that is so free of responsibility. Children misplace their homework, they leave clothes at school and they lose their lunch money. But what potential consequences of their lapse await them when children are asthmatic and the item left at home, misplaced or lost is their inhaler? As the Asthma Foundation slogan says, 'It is a matter of life and breath.'

Commonsense would dictate that there would be a spare inhaler in the school's first aid kit. Not so; at least, not until we pass this Bill to amend the Controlled Substances Act. I support this legislation and enthusiastically endorse the long overdue provision for bronchodilators such as Ventolin and Respolin to be stocked in standard asthma first aid kits in schools, sporting clubs and emergency organisations. The passage of this Bill will provide some good news for young South Australians who suffer from asthma. And, sadly, there are many of those. Nationally, the number of primary school children with diagnosed asthma approaches 20 per cent. In terms of both those afflicted and the severity of attacks, asthma is on the increase.

Unfortunately, Australia and New Zealand have the highest percentage of asthmatics in the world, and our State is far from immune. According to the 1993 study conducted by the Magarey Institute, one in four preschool children suffer asthma attacks. Asthma is the main reason for admission to the Women's and Children's Hospital and the principal reason for absenteeism in our schools. Simply put, it is the most chronic illness in childhood. Whilst it is encouraging to note that some children will become symptom

free from asthma in mid to late childhood, that in no way diminishes the very real threat to those who remain susceptible. In fact, 750 Australians die from asthma attacks each year; here in South Australia we have one death per week. Authorities argue that the vast majority of these deaths could be prevented. Asthma is unpredictable and attacks can be brought on by any number of factors. Respiratory infections, smoke, pollen and change of temperature are common causes, but each asthma sufferer is different.

For approximately 70 per cent of children with asthma, exercise is a trigger factor. A severe attack that is untreated can cause death, because when the airways are constricted the person just cannot breathe. Quick action is the key, and bronchodilators are the asthmatic's best friend. Currently they are available in South Australia by prescription only as an S3B, and then only to confirmed asthmatics. This situation does nothing to aid those who are previously undiagnosed with asthma and have not been issued with a puffer; nor does it help those who have a rare attack and may not be carrying one. As well as providing a further safeguard for children, this legislation will benefit teachers and school health officers who are responsible for their safety for a large part of the day.

The risk extends well beyond the classroom, too. Coaches, sports trainers and athletes will also benefit. *Sports Medicine Australia* points out that some 85 per cent of asthmatics may develop symptoms during exercise. It stresses the need for asthmatics to have access to bronchodilators while at sport or play, and also that some children will experience their very first attack during vigorous activity. As our law currently stands, it is not an offence to administer an inhaler during an asthma emergency. However, as bronchodilators must be prescribed and supplied to confirmed asthmatics only, it is illegal to sell them to teachers and school officials for them to hold for emergency use only.

As with many health problems that prove a scourge on a large cross-section of our community, asthma has been the subject of much research. The Thoracic Society of Australia and New Zealand has produced a 'National Policy for Asthma Management'. It is its recommendation that puffers be included in asthma first-aid kits. This group—the Thoracic Society of Australia and New Zealand—comprises some of the top respiratory paediatricians in Australia, and they have stated that it is perfectly safe to administer a bronchodilator to a person having an asthma attack for the first time and that the danger of not administering, of course, is far greater than giving it.

Earlier this year the Asthma Foundation of South Australia made a submission to my colleague the Minister for Health. Its submission was the result of lengthy consultation with many organisations, which included the National Asthma Campaign, the Pharmaceutical Society of South Australia, the Medical Board of South Australia, St John Ambulance, the Australian Sports Medicine Foundation, the South Australian Asthma Reference Panel, Foundation SA Asthma Project, the Cove Community Health Centre, the Southern Division of General Practice and the Laura and Districts Hospital. These bodies have conducted extensive research on the treatment of asthma and recommended the initiative that this legislation will finally bring about.

The National Schools Policy recommends the inclusion of bronchodilators in asthma first-aid kits. The policy reaches the conclusion that serious side effects from an asthma attack are far more likely than side effects from treatment. It also states:

> . . . this treatment could be lifesaving for a student whose asthma has not been previously recognised as it will not be harmful if the collapse was not due to asthma. Bronchodilator puffers are extremely safe, even if the student does not have asthma.

Asthma management in schools was first addressed by the Asthma Foundation of South Australia in 1992. A national best practice document was produced the following year and much work has been done since then to bring about its implementation. The Asthma Foundation has worked closely with our Education Department to develop a code of practice, an asthma attack plan, student asthma record cards and an updated guide for asthma management in schools. They are ready to roll into action as soon as this Bill receives assent. As many supporters of the Bill have said, time means lives. I commend the Bill to the House.

The Hon. M.H. ARMITAGE (Minister for Health): I thank members for their support for what is identified in the second reading speech as primarily a machinery Bill to enable various regulations to be extended and redrawn. A number of questions were raised by the member for Elizabeth. In particular, she raised the matter of Rohypnol, and I inform her that section 57 of the Controlled Substances Act enables the Health Commission to prohibit a person from, in particular, prescribing a prescription drug where the Health Commission believes that that person has previously prescribed, supplied or administered a prescription drug in an irresponsible manner. A prohibition order was issued under section 57 of the Act some short time ago and six other high prescribers have received a warning shot across the bows. In relation to the person who has received a prohibition order preventing further prescription of Rohypnol, I am informed that an official complaint has been made with the Medical Board about that person. Glue and solvents are covered in the Act under section 19, which provides:

> A person shall not sell or supply volatile solvent to another person if he suspects, or there are reasonable grounds for suspecting, that the other person intends to inhale the solvent. . .

It is clearly a complex issue. It is thought that the best way of achieving this is a cooperative approach with the retailers. In one area in the north that cooperative approach is occurring and that is the most appropriate way of dealing with what is clearly a problem.

In relation to the remarks of the member for Coles, obviously one of the benefits or reasons for bringing this Bill into Parliament is to enable a rational treatment of asthma in schools. There is no doubt that people would be concerned if the bronchodilators were prescribed or utilised in a cavalier fashion, but the various projects that I have seen thus far in relation to these sorts of things have particularly rigorous protocols identifying how the medication should be given to the children and what to do if their bronchoconstriction is not relieved, and so on. That will be a way of providing relief for asthmatics, not as a substitute for longer-term and perhaps more practical and rational long-term asthmatic care but in the emergency situation I am sure it will help. I thank the members for their support for the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 7 passed.

Clause 8—'Sale, supply, administration and possession of prescription drugs.'

The Hon. M.H. ARMITAGE: I move:

Page 2, lines 18 and 19—Leave out 'or veterinary surgeon' and insert ', veterinary surgeon or member of a prescribed profession'.

I indicate that this amendment is essentially a drafting amendment. Section 18(1)(a) permits a medical practitioner, a dentist, a veterinary surgeon or a nurse to supply or administer a prescription drug while acting in the ordinary course of their profession.

Section 18(1)(c) permits a pharmacist to dispense a prescription written by a medical practitioner, dentist or veterinary surgeon. Section 18(1)(b) permits a member of a prescribed profession to supply or administer a prescription drug while acting in the ordinary course of their profession. Prescribed professions will include chiropodists and optometrists. Prescription drugs these prescribed professions may administer will be limited and will be listed in the regulations. It is intended that the current practice under regulation 127(2)(ca) of the poisons regulations of the Drugs Act will continue under proposed regulation 27(3): an authorised chiropodist may prescribe a limited range of prescription drugs for a limited time.

Section 18(1)(c), as presently drafted, does not permit a pharmacist to dispense these prescriptions written by an authorised chiropodist, or any other profession which may be so prescribed. It is a drafting anomaly, which, in fact, alters the present situation. The amendment moved in my name will permit the situation to revert and will allow a pharmacist to dispense prescriptions written by an authorised chiropodist, or any other profession which may be so prescribed. I ask for support for the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (9 to 26) and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 10.28 p.m. the House adjourned until Wednesday 22 November at 2 p.m.