HOUSE OF ASSEMBLY

Wednesday 10 March 1999

The SPEAKER (Hon. J.K.G. Oswald) took the Chair at 2 p.m. and read prayers.

LEGISLATIVE REVIEW COMMITTEE

Mr CONDOUS (Colton): I bring up the eleventh report of the committee and move:

That the report be received.

Motion carried.

QUESTION TIME

WESTERN MINING CORPORATION

Ms HURLEY (Deputy Leader of the Opposition): Can the Premier assure the House, absolutely, that in making its bid for the contract to supply power to Western Mining Corporation ETSA was not impeded in any way by this Government, by the Minister or by the Electricity Sale and Reform Unit from making that bid on a fully commercial basis?

Members interjecting:

The SPEAKER: Order!

Ms HURLEY: On 26 February last year the Minister for Government Enterprises directed ETSA and Optima in 10 areas of commercial operation. One of the directions states that ministerial approval must be sought before ETSA can enter into any contract with a total annual value in excess of $300 000. The Western Mining contract was valued at $12 million.

The Hon. J.W. OLSEN: The accusation, implications and perception that the Deputy Leader wants to set in this matter are outrageous. I will refer the matter to the responsible Minister and have a detailed reply put to the House, but I am confident it will be like the responses to many of the Deputy Leader's press statements of recent times where she has been embarrassed on the basis of her accusations made being wrong, the facts having been wrong, and I have every confidence that the Deputy Leader of the Opposition is wrong yet again.

TOURISM DEVELOPMENT

Mr CONDOUS (Colton): Will the Premier inform the House of the progress of major tourism developments in South Australia?

The Hon. J.W. OLSEN: I thank the member for Colton for his question because we are seeing very significant development in tourism infrastructure in South Australia, recognising that the tourism industry is an important industry, worth something like $1.8 billion. Recent figures have taken that up over the $2 billion mark. That has been brought about by some strategic planning and policy direction. The tourism market in South Australia is growing, and we have had a 6.6 per cent increase in the number of international tourists coming to this State each year since 1993. That is a track record that stands out and apart from the track record in Queensland, for example, where there has been a contraction in international tourism numbers.

Already completed or under construction in South Australia are a number of key projects: the Wilpena tourist facility upgrade; the Playford Hotel has been opened and is now operating; the Clare Country Club; the Glenelg Holdfast Shores redevelopment; the Barossa All Seasons Resort; the McLaren Vale Wine Centre; the Wheal Hughes copper mine at Moonta; and the Barossa Visitors Centre. The list goes on. Importantly, there are tangible benefits for an industry which provides traineeships to nearly 2 000 South Australians.

If I add to that the Adelaide Airport upgrade, the National Wine Centre, the expansion of the Convention Centre and the Mannum River Port Interpretive Centre, we have an impressive list which shows that the Government's policy and commitment to tourism and to putting tourism infrastructure in place is working. I contrast that to the Opposition's position. I am not sure who the Opposition spokesperson on tourism is. That person is so silent that we do not know who it is. It was suggested to me that, on Tuesday, the shadow Tourism Minister was last seen reading the Government's *Best Kept Secrets* book, which I point out for the benefit of the shadow Minister is a tourism promotion book. It is just like the ALP's policy agenda: it is still a best kept secret.

Members interjecting:

The Hon. J.W. OLSEN: I can understand why the Leader of the Opposition does not want to be reminded about his Party's policy free zone. Given the walk out of Caucus yesterday and the argument about some of the members yesterday, we can see how 'No policy' Rann and the Labor Party is starting to bite in the electorate. You have no alternative policies, you are taking some focus into the broader community on that.

Members interjecting:

The SPEAKER: Order! The House will come to order!

Ms HURLEY: Having drawn an extremely long bow—

The SPEAKER: Order! Does the honourable member have a point of order?

Ms HURLEY: —the Premier has now moved further from that and is debating something not related to the question.

The SPEAKER: Order! I know it is marginal but I do not think that the Premier is getting into pure debate at this stage.

The Hon. J.W. OLSEN: What the Labor Party and the Opposition in this State do not like is the contrast of no policies from the Labor Party compared with the clear example that we have set in this Parliament on regional development. At least when he was the Deputy Leader the member for Ross Smith used to get out into the regions. I do not suppose that the present Deputy Leader has been past Gepps Cross in terms of going out into the regions to champion the cause of the Labor Party. Well they might not go past Gepps Cross because, when they got out there, they would not be able to argue any policy direction. That is the point.

South Australians deserve an Opposition that has a policy concept or a policy idea. Just one would do: it does not have to have many. As is demonstrated by the infrastructure that is being put in place, the policy and strategic direction of the Government is delivering for South Australians. In 1993—

Members interjecting:

The Hon. J.W. OLSEN: Well might you laugh.

Mr Conlon: You are joking.

The Hon. J.W. OLSEN: I will come back to the member for Elder in a minute. In 1993 this industry sector had 383 traineeships compared with the 2 000 we have now. There is the contrast. We are creating traineeship opportuni-

ties for South Australians in the future in an industry where substantial capital investment is being undertaken.

Another statistic to underscore the importance that we have placed in the tourism industry and the benefit that is now being seen in the broader community is that, since 1994, the Government has secured events which have pumped an estimated $153 million into economic activity and promote us to a world wide television audience of up to some 950 million people. That is a clear policy direction of marketing South Australia and its benefits and putting in place the tourism infrastructure to cater for it.

Mr Koutsantonis interjecting:

The Hon. J.W. OLSEN: I beg your pardon?

Mr Koutsantonis interjecting:

The Hon. J.W. OLSEN: The fount of wisdom from the back benches has spoken up again. I am glad that he is awake in Question Time today to make at least some interjection and contribution to the debate. The contrast is that the Labor Party is not pursuing, and has not pursued, any policy development. Compare that with Kim Beazley and his comments only today, when he said that he will make an address next week to outline Labor's policy direction ahead of the next election. The Federal Leader is doing it within six months of the last Federal election. It has been 18 months since the last State election, and the Labor Party has not got onto policy development.

That is affirmed by no less than the member for Ross Smith, who has put out a leaflet in this tired old campaign of Labor Listens. The member for Ross Smith is inviting the public—and I hope they get more than the four or six that they have been getting to Labor Listens campaigns—to turn up to the session. The member for Ross Smith will be there—

Members interjecting:

The SPEAKER: Order! I think members have had a fair go here today. I ask members to be silent.

Members interjecting:

The SPEAKER: Order! I warn the Leader of the Opposition for interjecting after he has been called to order.

The Hon. J.W. OLSEN: The member for Ross Smith will be there, and he has invited the Leader of the Opposition and whomever this notice went to to turn up. I say to the member for Ross Smith I think he ought to have the member for Elder there, because it is the member for Elder who has been looking at branch numbers in Ross Smith and doing a lot of jogging—

Mr ATKINSON: I rise on a point of order, Sir—

Members interjecting:

The SPEAKER: Order! There is a point of order. I ask members to be silent.

Members interjecting:

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

Mr ATKINSON: Sir, can you explain to the House the relevance of the member for Ross Smith's Labor Listens meeting to a question about tourism?

The SPEAKER: Order! I do not have to explain the relevance of anything: I only administer the Standing Orders. I ask the Premier to keep his reply confined to the question that was asked of him.

The Hon. J.W. OLSEN: The relevance is this: the last sentence of the member for Ross Smith's leaflet says: 'We want people to talk to us in our forums to help us formulate a policy for the year 2002.' I thought the Leader said that 1999 was the year of policy development.

PELICAN POINT

Mr FOLEY (Hart): Given that the Treasurer is a month late in providing details of the agreement between the Government and National Power to develop the Pelican Point power station in my electorate, will the Premier provide all details to this House of the commitments made by the Government to National Power, including any infrastructure costs in providing transmission lines to the site?

The Hon. M.H. Armitage interjecting:

The SPEAKER: Order! I warn the Minister for Government Enterprises.

Mr FOLEY: I am safer in my seat than you, Michael. In the Treasurer's press release of 5 February, the Treasurer says:

> In the interests of accountability and transparency, a summary of the agreements between National Power and the Government will be tabled in State Parliament next week.

Today, of course, is 10 March: it is four weeks late.

The Hon. J.W. OLSEN: I am happy to refer the member's question to the Minister.

SENSATIONAL ADELAIDE 500

Mr HAMILTON-SMITH (Waite): My question is directed to the Premier. What are the positive impacts of the Adelaide 500 super car race on State tourism?

The Hon. J.W. OLSEN: I thank the member for his question—

Mr Foley interjecting:

The Hon. J.W. OLSEN: And the member for Hart said something about the Grand Prix.

Mr Foley: You used to knock the Grand Prix.

The SPEAKER: Order! I warn the member for Hart for interjecting after he has been called to order.

The Hon. J.W. OLSEN: Let us just remember that the Labor Party had a 60 day—

The SPEAKER: Order, the Premier! When I am on my feet giving a ruling, I ask that Ministers observe silence and take their seat.

The Hon. J.W. OLSEN: Let us not forget in relation to the Grand Prix that the Labor Government had 60 days in which to take up the option to extend the Grand Prix. Who was the Minister responsible? It was the Leader of the Opposition.

Members interjecting:

The SPEAKER: Order! There is just far too much interjection. If someone wants an early afternoon, I am perfectly happy to oblige.

Mr Condous interjecting:

The SPEAKER: I warn the member for Colton for interjecting when the House has been called to order.

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! I warn the Leader for the second time.

The Hon. J.W. OLSEN: Seven months ago there was no Adelaide 500, but in a few weeks we will have something like 6 000 new tourists coming into South Australia to watch the V8s. At this stage, I would like to acknowledge the amount of work and effort put in by a number of people to ensure that this event is outstandingly successful. Starting from scratch, we made an event and we sold the event to the rest of the country and overseas, and interstate people are now coming to see this event and what we have to offer. As I have indicated, I think about 91 corporate platforms have been sold

for this event and that is a greater number of corporate platforms than we had in the 1993-94 Grand Prix, and the 1994 Grand Prix was our largest event.

It is no mean feat to put on an event such as this starting from scratch in a six or seven month time line. Normally, planning is for a full year, that is, from one event to the other. To all those who are working extraordinarily long hours to ensure that this event is successful—Andrew Daniels, who is heading up part of that work, and the rest of the team who are undertaking it—I publicly acknowledge and thank them for their efforts on behalf of the State, because they are important efforts and it is important that this first event be particularly successful. The event will help in the marketing of South Australia, being a focus on tourism in this State, and that will assist again with tourism development, marketing and promotion.

We created the Tour Down Under and also the Classic Adelaide and the gold events. I contrast that with what we inherited. Yes, we did have the Grand Prix. Yes, it was brought to this State by the Labor Party when in government and it was a good event for this State. But when the Grand Prix went away, what did we do? Did we sit back and moan about it or get on and try to do something about it? What we did—and the former Minister spearheaded it—through Major Events was to put together a series of events which will bring about economic activity and which will make up for the lack of the GP. We have 56 events in South Australia this financial year, and that is expected to bring about 18 800 people into the State and generate approximately $46 million in economic activity.

That is about standing up, putting in place a series of events, marketing them, securing events and bringing them to the State. Rather than have an event lasting a week, we have a series of events now lasting throughout the year. Hopefully, that will be a contributing factor to further tourism facilities, which are urgently needed in the CBD and the metropolitan area of Adelaide.

Once again, I contrast the achievements, the work that has been undertaken and the success in securing those events to the previous decade. We well remember that, when the Opposition was in government, it promoted the redevelopment of Mount Lofty—and did not deliver. We well remember Marineland—and it failed. We well remember the Glenelg foreshore—it failed. We remember Jubilee Point. In fact, I think it announced a development at Glenelg, Jubilee Point, five times and not one of the five projects was delivered. We only have to look at the skyline on the foreshore at Glenelg to see the development rising some five or six levels, pre-sold off the plan. That we would pre-sell development such as that off the plan was unheard of previously in South Australia. Approximately 80 per cent of the western block has already been sold.

We well remember the marinas the Opposition was going to build at Kingston and Sellicks Beach; none of them were delivered. So, this House needs to note the contrast between the Labor Party, with no policy direction at all, and a strategic policy direction that is actually delivering for South Australians.

YOUTH AFFAIRS COUNCIL

The Hon. M.D. RANN (Leader of the Opposition): I direct my question to the Minister for Youth. How many members of the three person review into the Youth Affairs Council of South Australia are also members of the Liberal Party; and why did the Minister tell the House on 18 February that:

> . . . since the review was instituted and I spoke to them to welcome them to the panel, I have had no contact, nor have I sought any contact, nor has anybody I know had contact with anybody on that review committee, nor do I intend to until the review is completed

when the Opposition has been advised that the Minister's own adviser, Mr Paul Butler, has arranged and participated in meetings with the committee and has a hands-on role with the review? Don't you know your own adviser?

The SPEAKER: Order! Comment is out of order; the Leader knows that.

The Hon. M.K. BRINDAL: I told this House the truth. I have no knowledge of any contact between any of my staff and any member of the review committee. I will certainly—

Members interjecting:

The Hon. M.K. BRINDAL: I have no knowledge. I will check the details and I will report back in due course.

TOURISM, EMPLOYMENT

The Hon. G.A. INGERSON (Bragg): Given the enormous success of recent major events such as the Tour Down Under and the *Ring* cycle in promoting South Australia, will the Minister for Employment outline the benefits to this State from tourism from an employment perspective?

The Hon. M.K. BRINDAL: This Government is about addressing the problem of unemployment in a pro-active and effective way. Unlike the member for Ross Smith I do not rattle quite as easily, and unlike Opposition members who sit across the Chamber in their debilitating leadership crisis—

Members interjecting:

The Hon. M.K. BRINDAL: Well may you laugh; we will see who changes Leader first, and I will bet it is not on this side of the House.

Members interjecting:

The Hon. M.K. BRINDAL: Well, the member for Ross Smith can talk about rats. I can remember when he was sitting in the second seat and I do not think some of his friends supported him, either.

The SPEAKER: Order! The Minister will come back to the substance of his reply.

The Hon. M.K. BRINDAL: I am sorry, Sir; I should not respond to interjections. While Captain Rann's Labor love boat wallows around in a policy-free ocean—

The SPEAKER: Order! The Minister will come back to the substance of his reply or I will be forced to withdraw leave.

Members interjecting:

The SPEAKER: Order, the member for Elder!

The Hon. M.K. BRINDAL: Approximately 50 000 South Australians are employed in the tourism and hospitality related sectors. Indications are that with the Government's policy of job creation this sector will grow strongly.

Mr Clarke interjecting:

The SPEAKER: Order! I warn the member for Ross Smith for the second time.

The Hon. M.K. BRINDAL: In the four quarters to November 1998 the accommodation, cafes and restaurant sector accounted for 32 100 employees, or just over 5 per cent of this State's work force. The division of the tourism sector has experienced one of the fastest growth rates in the country. Indeed, under this Government, average employment over the

four quarters to November 1998 was up by 6.2 per cent on the average for the previous four quarters. This was the second highest employment growth rate experienced by any South Australian industry. Currently 2 775 young people are training in vocations linked to the tourism and hospitality sector. These include food preparation, customer service, tourism operations and general retail and clerical roles. In 1993 the Opposition had a total of 383 traineeships in this sector. In contrast, this Government has created 665 targeted traineeships in 1997.

To date there have been 1 974 successful traineeships created by this Government in the tourism industry and the number continues to grow. This Government is chipping away at the Opposition's unemployment legacy after years of gross strategic mismanagement by the Leader of the Opposition and his vacuous front bench. If quick fixes to this problem of unemployment existed, we would have used them years ago. What this Government acknowledges—which the Opposition did not do while in Government, and amazingly continues to ignore in this so-called year of policy—is that the best way to deal with unemployment is to work in partnership with the community. Tourism is a major part of that medium to long-term pathway to job creation strategies. It is one of the pathways towards this State's economic prosperity. Opposite, the only salvation is helmsmans Paddy, steering towards the bright red fire hydrant on the hill. We are not for fire hydrants: we are for jobs.

YOUTH AFFAIRS COUNCIL

The Hon. M.D. RANN (Leader of the Opposition): How many organisations has the Minister for Youth given the prospect of Government funding if they write a submission to the review into the Youth Affairs Council of South Australia which is critical of YACSA? The Opposition has a copy of a letter of complaint written by a major public corporation, the City of Charles Sturt, which states:

> Minister Brindal said to the meeting, 'If you do not think that YACSA represents you, then submit to the review and you may obtain funding.'

The letter continues:

> This raises serious issues about the validity of the review process as it clearly infers that the Minister is not at arm's length.

The Hon. M.K. BRINDAL: This is a question which I answered in this House a week or two ago. The meeting to which the Leader is referring was a meeting of the MEC held down in the City of Charles Sturt. Some concerns were raised by members of the ethnic community about YACSA and about funding arrangements flowing through YACSA. My answer was quite simple. My answer was this: that we were conducting a review; it would be improper for me to take part in the review; if they had any concerns, those concerns should be properly addressed to the review. I do not apologise for that. There was no promise of funding. The question of funding was—

Members interjecting:

The Hon. M.K. BRINDAL: Members opposite can make what malicious fun they want. Members of the community are obviously feeding the Opposition, possibly for their own reasons. That is up to them. But we are conducting a review. I am keeping at arm's length from the review. I will answer in this House honestly and without fear. I have done nothing wrong, and I will continue to act at arm's length from the review.

ECONOMIC DEVELOPMENT

Mr McEWEN (Gordon): Given that economic development boards are a key plank in the Government's regional economic development strategy and that boards generally, and the South-East Economic Board in particular, have recently been the subject of very unfair criticism from a member of his own Party, what action has the Deputy Premier taken to correct these activities of one of his own?

The Hon. R.G. KERIN: Quite frankly, it has not been raised with me. I did read that wonderful *Border Watch*. A front page suggested some issues to do with the local development board would be raised through either the local branch or whatever. To date, I have not seen anything. I would say that the South-East Regional Development Board has been quite successful over a period in attracting investment and jobs to that area, building local businesses and attracting other businesses.

However, as with all these issues—and anyone will know who understands regional communities—these boards will not always get local support. Obviously some questions have been raised. Certainly, if they are forwarded to me I will look at them, as will the Minister for Industry and Trade who is responsible for regional boards. We will look at any issues that are raised. I must say that the dealings I have had with that particular board have been very productive. There is certainly no doubt that boards are an important part of the regional development structure, and that is as true of the South-East as anywhere else as it has very rich resources. If and when I ever receive any official complaint, I will deal with it from there.

YOUTH AFFAIRS COUNCIL

The Hon. M.D. RANN (Leader of the Opposition): My question is, again, directed to the Minister for Youth. Given that the Minister is still claiming that the review into YACSA is being conducted at arms-length and that he will not have any contact with the committee until the review is completed, how does he reconcile that with the recent declaration of the chair of the review that he has written to the Minister regarding aspects of the review and is expecting further advice from the Minister? The Opposition has a copy of a letter written by the chair of the review, Mr James Shanahan, dated 2 March 1999, and on State Government letterhead, which states:

> I have written to Minister Brindal seeking input on several issues you raised, specifically I refer to points three and four, which I believe are matters between the Minister and YACSA.

The letter concludes as follows:

> I will contact you as soon as I receive further advice from the Minister regarding the other two points.

A few moments ago the Minister said that he would continue to be at arms-length from the YACSA review.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The House will come to order.

The Hon. M.K. BRINDAL: From memory, the chairman wrote to me asking for clarification, I think, in respect of—and I said 'I think'—the terms of reference. I have not replied—

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! The Leader will come to order.

The Hon. M.D. Rann interjecting:

The Hon. M.K. BRINDAL: I am afraid Her Majesty's mail is a free service and I cannot stop people from writing to me. I am very sorry. To the best of my knowledge and recollection I have not yet replied and, if I have, I will come back and correct that statement to the House. As I said, the letter was purely on a matter related to the terms of reference. I would like to give further input to the first question. The member of my staff which the Leader, with such alacrity, named—and if he wants to condemn me let him but let him not pick on staff; it is not a tradition in this place—is quite prepared to sign a statutory declaration which states that he has had no contact with any member of the review committee either, which is as I instructed the Leader previously.

Members interjecting:

The SPEAKER: Order!

ECOTOURISM

The Hon. D.C. WOTTON (Heysen): Will the Minister for Environment and Heritage advise the House on actions that the Government has taken to further advance the many ecotourism opportunities we have in South Australian parks!

The Hon. D.C. KOTZ: I certainly thank the honourable member for a very important question. The increased environmental consciousness of the community, and the growth and awareness of the importance of conserving our natural environment has led to a very healthy rise in ecotourism. It is clear that, as a result of that increasing interest in the environment, ecotourism is certainly expected to grow into the twenty-first century. It was this Government that introduced the agenda to revitalise our parks and wildlife management. The agenda provides us with a glimpse of the potential economic benefits that flow through to the community from a well- managed park system.

Already there are a number of successful ecotourism ventures which have been supported by this Government as part of our commitment to encourage growth in the number of visitors to our parks. The Head of the Bight Whale Watching Centre has been a tremendous success. The innovative environmental development allows people to view the whales from a purpose built viewing area and approximately some 40 000 people take advantage of this facility each season. It is also, most importantly, managed by the Yalata people. The State Government has ensured the ongoing success of the Whale Watch Marine Centre by proclaiming the complementary Great Australian Bight Marine Park in conjunction with the Federal Liberal Government. This has resulted in an appropriate level of protection for approximately 1.8 million hectares of our marine environment which is now the second largest marine park in the world.

In partnership with the Flinders Ranges Tourist Service we have also undertaken a major upgrade of the Wilpena Tourist Centre, mentioned earlier by the Premier, at a total cost of $6.5 million. We have also developed an innovative new solar power station at Wilpena at a cost of over $2 million and, of course, the new power station will provide efficient power well into the next century and, with underground reticulation, it avoids the use of unsightly powerlines in what is a very beautiful area of the State.

In the South-East of our State we are treated to what we believe is a truly unique experience at the Naracoorte Caves and the Wonambi Fossil Centre, which was opened recently by the Premier. Visitors are taken some 200 000 years back in time to experience what are 18 pre-historic animals which have been brought back to life by hi-tech animation. This is a $1.75 million fossil centre which was recently featured—and this is important to South Australia as well, where tourism is concerned—in a documentary screened on prime time television in Tokyo. The value of 50 minutes of prime time Sunday evening television promoting what is the world heritage significance of the Naracoorte Caves to millions of Japanese viewers is enormous and I am sure it can only whet their appetites to visit South Australia and to take part in the many natural attractions that we have to offer.

I would think that many Adelaidians also have fond memories of visits to Waterfall Gully, which is truly a natural treasure and which is close to the heart of Adelaide. Like all assets, natural assets require continual protection and maintenance. I am very pleased with the work that has recently been completed in upgrading facilities at Waterfall Gully and that has included providing more car parking space because of the increased number of visitors, the construction of two bridges and landscaping and upgrading of the walking trails. All of this clearly indicates that our natural heritage and recreational areas within our State are indeed a very clear attraction. Belair National Park attracted some 277 000 people during 1997-98 and Cleland Wildlife Park attracted approximately 110 000 people during the same period.

Members interjecting:

The Hon. D.C. KOTZ: I know that the Labor Opposition is not interested in the environment because, in this new session, not one question has come from the other side on the environment. I suggest the Opposition's record is not reflected in *Hansard* but I can assure the people of South Australia that the Liberal Government can well and truly put our record on the environment and our achievements in the *Hansard* record of this State. It is estimated that ecotourism is worth approximately $500 million per annum to this State's economy. The State's park assets are valued at some $2 billion and they cover an area of over 20 per cent of our State. Determined as we are to turn commitment to the environment to a greater advantage in the area of ecotourism, the Government has recently augmented a strategic approach to tourism on Kangaroo Island, and this strategic approach is called 'TOM'.

Mr CLARKE: Mr Speaker, I rise on a point of order with respect to Standing Order 107 and the opportunities for Ministers to make ministerial statements rather than abusing Question Time.

The SPEAKER: Order! There is no point of order. The Chair is restrained in this case to Standing Order 98. I cannot put words into the Minister's mouth. She is not straying into debate and is just delivering facts in relation to the question asked. There is the opportunity for ministerial statements and that is up to the Minister to decide.

The Hon. D.C. KOTZ: Thank you, Mr Speaker.

An honourable member interjecting:

The Hon. D.C. KOTZ: You are an absolute waste of space.

The SPEAKER: Order! The Minister will get on with the answer.

The Hon. D.C. KOTZ: In returning to this important discussion that we are having on the strategic approach to tourism—I know members opposite are not interested but I am sure members of the Liberal Government are interested in this area—the new strategic approach to tourism on Kangaroo Island is called 'TOM'.

Members interjecting:

The Hon. D.C. KOTZ: Before the member for Peake gets too excited, I indicate that he is not on our list of natural assets. TOM refers to the tourism optimisation management model. This is the model we will use to work with the islander community through a strategic framework that identifies, increases and promotes ecotourism outcomes. As Minister, I am extremely interested to see this strategic approach applied and, to this end, I have instructed the Department for Environment and Heritage and Aboriginal Affairs—

Members interjecting:

The SPEAKER: The member for Peake.

The Hon. D.C. KOTZ: —to develop a complete strategic framework that proactively targets ecotourism outcomes for South Australia. Our aim is to build on the good work that has already been done and ensure that South Australians continue to reap the rewards of responsible environmental management and tourist promotion which it only seems to appear to get from a Liberal Government.

CICCARELLO, Mr S.

Mr WRIGHT (Lee): My question is directed to the Minister for Industry and Trade. Why did Mr Sam Ciccarello receive a $378 000 consultancy in relation to Olympic soccer without that consultancy going to tender? When was the decision to hire Mr Ciccarello for this contract made and who authorised it? Mr Ciccarello has received more than $500 000 of taxpayers' money in two sporting consultancies, neither of which went to tender. Mr Ciccarello was previously paid $160 000 for a consultancy to restructure the Department of Sport and Recreation. Mr Ciccarello's plans to restructure the department were scrapped by Premier Olsen.

The Hon. I.F. EVANS: The consultancy for Mr Ciccarello was granted on the basis of experience in hosting and organising international events.

Members interjecting:

The Hon. I.F. EVANS: As the Opposition and the South Australian community well know, the Olympics are South Australia's and Australia's once in a lifetime opportunity to be involved in what are the world games, the Olympics. People in South Australia will probably only get a once in a lifetime opportunity to be involved in the Olympics. Obviously, when looking at who could help deliver the Olympics to South Australia, we had to look at someone who had experience in organising—

Members interjecting:

The SPEAKER: Order! The Minister will resume his seat. I warn the member for Hart and the member for Ross Smith.

The Hon. I.F. EVANS: —international events and there is no doubt that his experience is in the Grand Prix and the way it was run. The South Australian community and Governments of the day certainly got great accolades for the way in which the Grand Prix was run. The question remains: why would we not employ someone with that experience? For the interest of members, I understand the work started around March 1997. This Government makes absolutely no apology for helping to bring the Olympics to South Australia. Why would we not bring the Olympics to South Australia?

Members interjecting:

The Hon. I.F. EVANS: What we have done—

Members interjecting:

The SPEAKER: Order! The Chair has absolutely had enough of these scattergun interjections. I have warned the House many times in the past. I warn the member for Peake for the second time. I am not opposed to naming people on second warnings, either. I remind the member for Ross Smith that he has been warned three times: the next time he is gone. The Minister.

The Hon. I.F. EVANS: Through the consultancy we have helped to bring the Olympics to South Australia and it will be a good event for South Australia. We make no apology for giving South Australians a once in a lifetime opportunity to be involved through the soccer tournament at Hindmarsh, and we are happy with the investment that we have made in the stadium. I do not understand why the Opposition is being so negative about the Olympics and the soccer stadium in general. The fact that the Olympics have already brought something like $80 million worth of investment to South Australia—$60 million through various business investments and $20 million through various countries training here—is a good result: $80 million into South Australia 18 months out from the Olympics is a good result. I cannot work out why the Opposition is being so negative.

We have been quite open. We have released the fact that Mr Ciccarello did the consultancy and we have released the fact that it was $378 000. I invite the member opposite to release the details of the consultancy that advised the Government to underwrite hurricanes on the Florida coast. I invite you to release the cost of the consultancy that suggested that your Government underwrite investments at Wembley Stadium. I invite you to release the cost of the consultancies that advised that your Government underwrite holiday camps in London.

Members interjecting:

The SPEAKER: Order! I warn the member for Lee. It is the first occasion today and it is uncharacteristic for the member to be warned, but I do warn him. I remind him that he does not need three warnings.

The Hon. I.F. EVANS: I invite the honourable member to release the details on the cost of those consultancies.

Mr CONLON: I rise on a point of order.

The Hon. I.F. EVANS: Here he comes, the next Deputy!

The SPEAKER: Order! There is a point of order. The Minister will resume his seat.

Mr CONLON: The Minister has to answer the substance of the question and not engage in debate. He is plainly engaging in debate.

The SPEAKER: Order! There is no point of order. I caution members against frivolous points of order or points of order that are designed to disrupt the House.

The Hon. I.F. EVANS: I simply reiterate that the Government does not run away from the fact that it has invested $378 000 through the consultancy to help bring the Olympics to South Australia. The Government is quite happy to do so.

STUDENTS, OVERSEAS

The Hon. R.B. SUCH (Fisher): Will the Minister for Education, Children's Services and Training outline the benefits of having overseas students studying in South Australia?

Mr Wright interjecting:

The SPEAKER: Order! I warn the member for Lee for the last time.

The Hon. M.R. BUCKBY: It is with much pleasure that I answer the question from the member for Fisher. Overseas students through our schools, TAFE colleges and universities

contribute some $125 million to the State's economy. That is millions of dollars poured into our hotels, restaurants and the State's wider tourism industry every year. The number of international TAFE students has almost doubled to 700 since the last year of the previous Labor Government.

I remind members of the Regency Institute and its hospitality courses, which attract international students. The overseas accommodation at Regency has been doubled in the last 12 months and is currently being built. There is also the *Le Cordon Bleu* course, which is the only course in the world offering restaurant management, so attracting students from London, New York and Paris to the Regency Institute in Adelaide. But it is not only that.

Our secondary schools are now seeing quite a bonanza in terms of increasing numbers of students. Record numbers of students are attending South Australian secondary schools. Some 187 foreign students from 18 different countries are now studying in our secondary schools, and that number cannot be understated. It amounts to $1.5 million in tuition fees, and the flow-on effect of that in terms of their accommodation, their meals and their travelling around the State while they are here amounts to an estimated $2.5 million.

The increased number of students coming in can only improve the possibilities of post graduate students or post secondary school students coming into South Australia, as well. As we have seen, the students who come to South Australia do not just come here for schooling: they maintain their links over many years while they are in business at the same time. They often come back to South Australia because of the good experience they had here while studying. I am sure that the Opposition will join with us in celebrating these additional students who are coming to study here in South Australia.

It goes further than that, because the parents come to visit the students at least once or twice during the year that they are studying. They spend money and they visit tourism attractions such as the Barossa Valley, Kangaroo Island—

The Hon. R.L. Brokenshire: The Southern Vales.

The Hon. M.R. BUCKBY: As the member for Mawson says, the Southern Vales—

The Hon. M.H. Armitage: The parklands.

The Hon. M.R. BUCKBY: —the parklands and many other areas in South Australia that are of high international tourist interest. It is interesting to note that the bulk of these students come from South-East Asia despite the economic downturn. The bulk come from China, Hong Kong and Japan. It is good news that, in economically difficult times in those countries, we are still attracting record numbers of international students in South Australia. We can be sure that this is an endorsement of South Australia's excellent education system and of the quality of life that we have in South Australia, which attracts international students to come here. It is very likely that the relationships they form here will go on for the rest of their life, and that can only be good news for South Australia.

YUMBARRA CONSERVATION PARK

Mr HILL (Kaurna): My question is directed to the Minister for Environment and Heritage. Following the recent Government sponsored inspection of Yumbarra by members of Parliament, is the Minister aware that the former Director of Minerals disagreed with the Government's previous attempt to reproclaim the entire Yumbarra Conservation Park to allow mining; and does the Minister support mining in Yumbarra and other parks where mining is prohibited, including the western Flinders Ranges? A minute dated 24 October 1995 obtained under FOI written by the former Director of Minerals, Mr Ric Horn, to the Chief Executive of the Department of Mines and Energy, states:

> Let me make it quite clear that I do not agree with the approach being taken by the Minister and others in seeking the reproclamation over the entire core area of Yumbarra.

The Director said that that could seriously hinder efforts to gain access to more highly prospective parks such as Lake Gilles and the western Flinders Ranges. The Director also said:

> I believe that the reproclamation is for political reasons not prospectivity or economic reasons.

The Hon. R.G. KERIN: I thank the member for his question on the environment, but Yumbarra falls within my area of responsibility. The honourable member has been to look at Yumbarra. Ric Horn has been out of that position for some time and more information has come to light with the surveys done on Yumbarra. We are very keen to do some exploration and we are going through all the right steps in our attempts to do so, as the honourable member knows. We are consulting widely, and I know that people from Ceduna are coming over again next week. One of the questions that we will be looking at is the area that we will need to try to reproclaim. It will have to go through Parliament.

Mr Hill: Including the Flinders Ranges?

The Hon. R.G. KERIN: The Flinders Ranges?

Mr Hill interjecting:

The Hon. R.G. KERIN: They are not very close to Yumbarra. I am afraid that, with the amount of noise in the House, I failed to pick up that bit about the Flinders.

The SPEAKER: Order! The Deputy Premier will ignore interjections and answer the question.

The Hon. R.G. KERIN: Thank you, Mr Speaker. We will tell with Yumbarra in the fullness of time, but the honourable member has a very dated document.

TOURISM DEVELOPMENT

Mr SCALZI (Hartley): Will the Minister for Government Enterprises advise the House of any developments that will contribute to tourism growth in South Australia?

The Hon. M.H. ARMITAGE: I thank the member for Hartley for a very important and pertinent question about a real growth area in South Australia—and obviously I am delighted to answer the member for Hartley's question and to speak to the Parliament about one of the Government's most successful initiatives. Of course, I refer to the Glenelg-West Beach development, in which I know the Speaker has a particular interest and which this Government was able to bring to fruition after years and years of talk from members opposite when they were in Government, but no action. As the Premier said earlier, there were five identified proposals by the Labor Party when it was in Government to get up a project at Glenelg *a la* the Glenelg-West Beach project. All failed. To continue the motoring analogy—the V8 analogy—and to quote a friend of mine from Victoria in relation to this: the Labor Government was all wheel spin and no grip.

The upgrade of the boat ramp and recreational facilities, including the Adelaide Shores Yacht Club, will be unquestionably a major new recreational facility for coastal tourism in South Australia. I am informed that the boat facility will significantly enhance Adelaide's capacity to host international water sports events and, obviously, that will increase

tourism. Further, as the House knows only too well, it has, indeed, been a major bonus for the Sea Rescue Squadron—something which every single boatie in South Australia appreciates and acknowledges.

I know that the Premier will officially open these facilities this weekend. I am very much looking forward to being down there. I well remember the day about a year or so ago when I was down there with the member for Hanson. The member for Hanson was not actually there: she was there in spirit—or perhaps I should say in corflute, because her signs were used by the protesters to attempt to undermine the decision that had been reached in a bipartisan fashion in the Chamber. It is an interesting perspective on democracy—or parliamentary democracy. I suppose the member for Hanson would say that she was using her democratic right to undermine a decision of Parliament which she had been part of making. It was interesting to see the protesters with signs saying 'No boat harbors' on one side and 'Vote Stephanie Key' on the other—and that was frequently seen.

From a tourism perspective, the Adelaide Shores facility, combined with the Holdfast Shores project, will give a major focus for that area with a significant tourism opportunity. A major component of the Holdfast Shores project is the international class hotel, which will include 180 rooms, with all the associated features and functions which a high quality venue would be expected to have, such as a quality restaurant, a bistro, coffee shops, bars, extensive conference meeting and banqueting facilities, gyms and health facilities, and so on—another boost to international tourism thanks to the Government seeing the project through.

The development will certainly boost tourism at Glenelg and, indeed, there will be flow-on effects around the whole of Adelaide and South Australia. It is very informative and exciting to think how the new hotel development, combined with the boating facility that I mentioned, will boost tourism attraction and visitation to our State. I have been informed that hotel room occupancy rates have increased in Adelaide from 54.6 per cent in 1993 (that just happens to be the last year of the 11 that the Labor Government was in power) to 63.8 per cent in 1997—a 9 per cent increase. So, clearly, the Government's actions in encouraging and enthusing tourism and recreational infrastructure are flowing through into tourism bonuses for businesses. The Glenelg Holdfast Shores project is great for South Australia and the results are on the board already. It is galling to have the Opposition support the project in the Chamber and then go out and undermine it, but that—

An honourable member interjecting:

The Hon. M.H. ARMITAGE: As, indeed, the member for Elder did at a public meeting. We well remember the member for Elder's activities outside the Chamber, again undermining the decision which he had been part of making here. But why should we be surprised? That was the history of 11 wasted years of Labor Government.

LOTTERIES COMMISSION

Ms BEDFORD (Florey): My question is directed to the Minister for Government Enterprises. What improvement will be made to the Lotteries Commission's computer system to prevent agency loss or liability in the event of theft of tickets; and what improvements will be made to the warning bulletins sent to agents with respect to both speed of notification and description of offenders, especially their appearance and mode of theft when incidences of theft occur? One of my constituents recently suffered a financial loss following an offence, after several similar offences had already occurred in the north-eastern suburbs.

The Hon. M.H. ARMITAGE: My understanding of this—and I have not been formally briefed in the last little while but I am happy to update it—from the last briefing that I had was that there were a number of differences from the story that the member has just told the House. One of the inferences is that the Lotteries Commission could have predicted that this was going to happen, because people are saying that there was a known description of the person. I am informed that that is incorrect. Clearly, if someone has a perfect description and if that can be furnished to the various agencies, I dare say that that is something the Lotteries Board might well put forward with respect to the operational procedures in future. But the important thing is that I am also advised that there were a number of irregularities, in that the tickets in this particular instance were handed over to the potential purchaser before the money had been handed over, which is, I am informed, completely contrary to the rules of the Lotteries Commission.

It is most unfortunate that anyone has suffered loss from a person's dishonesty, and I deeply regret that. But my briefing at the moment is that an accusation that the Lotteries Commission is at fault, frankly, is not valid. I have already discussed with the Chief Executive Officer procedures that can be put in place to make sure that this sort of thing does not happen again. But I reject, on the information, the fact that the Lotteries Commission was at fault.

WINE AND TOURISM INDUSTRIES

Mr VENNING (Schubert): Will the Premier inform the House how the State's wine industry is assisting another important industry in this State, namely, the tourism industry?

The Hon. J.W. OLSEN: I thank the member for Schubert for his question and recognising that the wine industry is a key component of his electorate, and an expanding component, particularly with the forecast new private sector capital investment that has been attracted into the region.

Mr Venning interjecting:

The Hon. J.W. OLSEN: And the clean, cheap water that we are now giving him in the Barossa Valley, which reflects one of our regional development policies: to provide filtered water to people in country and regional areas of South Australia.

Members interjecting:

The Hon. J.W. OLSEN: I got .5 per cent somewhere.

The SPEAKER: Order!

The Hon. J.W. OLSEN: The importance is underscored by something like 170 wineries through 12 wine regions in South Australia. It is crucial to our export sector as well as our tourism sector. Wine exports were worth something like $564 million to South Australia in the most recent financial year and 70 per cent of Australia's total exports in wine emanate from South Australia. And, of course, wine exports now account for over 11 per cent of the State's total exports.

The industry is integral to the future prosperity of the South Australian economy. We are seeking to take an industry that is successful—the wine industry—and the tourism industry, which is showing growth and potential, and put them together so that the wine-tourism industry can be marketed and packaged to build a bigger industry sector for South Australia and, in so doing, bring benefits to regional economies of this State. That niche market within the tourism

industry will expose us to further tourism opportunities than has previously been the case. The wine industry currently employs about 11 000 South Australians. That expansion, with the tourism sector attached to it, will undoubtedly create more jobs in country and regional areas of South Australia.

We put together a committee that will market wine and food tourism under South Australia's key attributes: good living, heritage and culture, unspoilt nature and accessibility. We are taking those natural benefits and advantages of South Australia and industry sectors that have been highly successful previously and have good growth patterns for the future and building on each industry sector cooperatively and collaboratively to bulk up both wine and tourism opportunities. The benefit of that is regional economic development and jobs created in country areas for young South Australians.

SALMONELLA

The Hon. DEAN BROWN (Minister for Human Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DEAN BROWN: Immediately prior to Question Time today the South Australian Health Commission issued the following statement: the South Australian Health Commission has received confirmation today that the salmonella identified in a Nippy's fresh fruit product was the same strain involved in the current outbreak, that is, salmonella typhinurium phage type 135 A. The commission will continue to work with Nippy's in investigating how the salmonella appeared in the Nippy's fresh fruit juice product.

At the request of Nippy's, the South Australian Health Commission confirms that the order issued on Monday 8 March 1999 under the Food Act prohibits the sale of Nippy's, Orange Grove and Aussie Gold fresh fruit juice products. The order does not relate to pasteurised long-life products. It does not relate to products other than fresh fruit juice products.

More notifications of disease caused by this bacteria are expected when laboratory identification of bacteria from cases are finalised later today.

LOTTERIES COMMISSION

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I seek leave to make a very short ministerial statement.

Leave granted.

The Hon. M.H. ARMITAGE: In response to the question from the member for Florey at the end of Question Time, I believe I said that I was speaking with the Chief Executive Officer of the Lotteries Commission; it was my staff.

GRIEVANCE DEBATE

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

Mr HILL (Kaurna): Earlier today in Question Time the Minister for the Environment in her own unique, waspish fashion said in passing that I had not asked any questions of her on matters to do with the environment. When I did ask a question a couple of minutes later, she refused to answer it. I gave her an opportunity to stand up for the parks of South Australia—for the Conservation Park of Yumbarra and the Flinders Ranges in particular—and defend those parks and to say how she would protect them, and she refused to answer my question.

Ms White interjecting:

Mr HILL: No, she has not answered all the questions on notice, either. She has refused to stand up for the parks of South Australia. I referred in my question to a minute of which I received a copy just the other day from the former Department of Mines and Energy. The minute was from the then Director of Minerals, Mr Ric Horn, to the CEO of the then Department of Mines and Energy. This minute I think bells the cat when it comes to issues concerning Yumbarra. It is clear that this Government over previous Ministers (not just the current Minister) has been very desperate to allow the deproclamation of Yumbarra to allow mining in that park. Yet in 1995, when this minute was written, it makes it very clear why the Government was trying to do that and how foolish it was in that enterprise.

I will put on the record what Mr Horn had to say in 1995 because I think it makes very clear what the Government was up to. In part, Mr Horn says:

> First of all, following our altercation of 12 October 1995, let me make it quite clear that I do not agree with the approach being taken by the Minister and others in seeking reproclamation over the entire core area of Yumbarra. I believe that it is unnecessary from a prospectivity point of view and could seriously hinder our efforts to gain access to more highly prospective parks such as Lake Gilles and western Flinders Ranges.

I say in passing that that is why I asked that question in Question Time, because the Director of Minerals of the then Department of Mines and Energy pointed to the fact that his department then wanted to prospect in the western Flinders Ranges and Lake Gilles. He continues:

> The Yumbarra Conservation Park anomaly was identified in 1992 after the early flying of the SAEI aeromagnetics. The reproclamation was only sought after the area covered by the anomaly was applied for under exploration licence. If the Minister is so anxious to reproclaim the whole park then the Government should be considering joint proclamations over all other parks, a situation I believe is logical, but ludicrous.

One is forced to agree. He further says:

> Reasons for my concern about the reproclaiming the entire park are:

And I summarise the dot points. First, Western Mining Corporation cited lack of prospectivity outside the main anomaly area as its main reason for withdrawing. The second dot point is that other parks in the State have higher prospectivity and require a joint proclamation, for example Lake Gilles and the western Flinders Ranges. The minute further states:

> If we go for joint proclamation over the entire Yumbarra then all parks within South Australia should be reproclaimed.

He makes a number of other points and he says in his fourth dot point that there are no indications of mineralisation, other than an aeromagnetic anomaly, at Yumbarra.

Members interjecting:

Mr HILL: I am talking about the Director of Minerals. In another dot point he says:

> Government and the mining industry must recognise that there are areas of the State which are 'No-Go' areas; that is, areas which should be, or could be, reserved for all times. We preach economically sustainable development and yet we are now seeking to open up

the entire Yumbarra Park for mineral exploration and development. Why not go for all parks and reserves being accessible, even Belair Recreation Park, or the entire Flinders Ranges National Park.

This is the Head of Minerals in the Mines and Energy Department. He then says—and I have one minute left so I had best make this the last quote:

Finally, I have not been consulted by the Minister or yourself following the decision to go for reproclamation of the entire park. I believe that the reproclamation is for political reasons, not prospectivity or economic reasons. We should not lose sight of what we are promoting, that is, the prospectivity of the State, South Australia as a place to explore.

In conclusion he says:

In view of the obvious disagreement with the approach being taken I believe that I should not and must not in any way be involved in future discussions on Yumbarra.

It is signed by Ric Horn, Director, Minerals. Game set and match. The Government's whole attempt to deproclaim Yumbarra is based on politics, not on prospectivity. The reason the department is upset is not necessarily for moral reasons but that it thinks it might interfere with its exploration of other parks.

The Hon. R.B. SUCH (Fisher): I will comment briefly on the salmonella outbreak. At the outset, I say that I have great sympathy for Nippy's, an excellent South Australian organisation. I have no direct financial or other links to that company, but I hope that company gets back on its feet very quickly because, in my view, it makes some of the best products in the juice area and it has to be commended for being open and honest with the public. I look forward to its full range of products coming back on stream very quickly so that the people of South Australia and other Australians can enjoy the quality juices that it makes.

I would like to take the question of food hygiene and general hygiene a little further. As the Minister for Human Services has pointed out, we know that the Governments of Australia are moving quickly to tighten up in that area, but I believe that the South Australian Health Commission and local government should be putting a lot more effort into promoting hygiene amongst the general public, and in particular in relation to, for example, basic hygiene. I am not in the habit of loitering around toilets, but I am sure that members would be well aware that a large number of the community do not engage in basic hygiene, for example, they do not wash their hands. I have also noticed what I think is a very disgusting habit still occurring in Adelaide, that is, spitting.

Years ago on trams—and it is going back a while—there used to be signs which said 'No expectorating'. Sadly, today we still see—and unfortunately it is a male habit in the main—spitting in public and spitting on the streets. Just prior to the start of Parliament, I went for a walk by the Torrens and someone was kindly emptying their nose on the pathway. I think our community still has a long way to go in respect of basic hygiene, and the Health Commission and local government should be promoting greater public hygiene, particularly with respect to people doing basic things like washing their hands after they have been to the toilet. I would have thought it was an age five skill that should be well and truly understood.

Last Sunday I had the privilege of attending the opening of the extensions to the music centre and canteen of Woodcroft College by His Excellency the Governor, Sir Eric Neal. I have to give him 10 out of 10 for his speech. I do not have time to repeat the joke he told, but it was an excellent speech. It was about the walls of Jericho, and I will tell you about it later, because it has relevance to Parliament. The ceremony was very well attended, and the Chair of the Board of Trustees, Rex Keily, the Principal, Mr Mark Porter, and the Bishop of the Murray made up the official party.

I have very strong feelings towards that college because, not long after I became the member for Fisher, Woodcroft College almost ceased to exist; it went through a very tough time. I remember a meeting at Christchurch at O'Halloran Hill, where many council members of that time said they could not continue. It was really only through the efforts of a few people and the farsighted wisdom of a bank officer—and the flexible lending of a bank, which I guess is unusual in many ways—that ensured continuing finance. We find that today that college has an enrolment of more than 1 300 students. So, the determination and commitment of those founding parents and members of the community—

Mr Lewis: And the Anglican Church.

The Hon. R.B. SUCH: And the Anglican Church, as my colleague the member for Hammond says. The support, commitment and dedication of those people over time has seen that college grow to what is now an outstanding educational institution. So, I congratulate Woodcroft College. It is not an elitist college: it is open to all on a very minimal fee arrangement, and that is shown very much in the enrolment, which as I indicated earlier now exceeds 1 300 students. Well done to all those involved; I am sure the college will go on from strength to strength.

Ms BEDFORD (Florey): I advise the House of a visit I had yesterday with the Adelaide North East Division of General Practice, which is located in buildings attached to Modbury Hospital, and this is certainly one of the few good news stories coming out of Modbury Hospital at the moment. My association with the division comes through Dr Milton Hart, who is a local GP with whom I have had involvement over the past 22 years, as he is my family doctor as well. The North East Division of General Practice is now in its fifth year. It was established to encourage networking of general practitioners with other health care workers, local hospitals, medical associations and government bodies, both State and Commonwealth, with the view to decreasing the current fragmentation of patient care and restoring the general practitioner as a central influence in health care. Its vision statement has many fine aims, one of which is a particular interest of mine, which is to facilitate preventive health care activities in general practice. It is fairly apparent that the only way we will ever contain the health budget is to eliminate those health problems that we can.

One of the division's main thrusts this year is with information technology. Its aim is to increase members' confidence in installing and using computer systems in their practices in order to improve the quality of care, increase doctors' job satisfaction, decrease doctors' legal risks and improve practice efficiency. It is also providing training and education in practical computing and it provides a forum for advice and support from a group of doctors who are already competent in that area. Dr Hart was telling me that over 500 software packages are involved in medical GP practices these days, which is an enormous amount of software to have to wade through if you are not familiar with it at all.

There are several other projects. It is concentrating very heavily on diabetes and cardiovascular disease. In our discussions we were talking about the fact that diabetes is on

the increase. The *Advertiser* reported this morning that 70 new cases are diagnosed daily, which is an amazing figure. Already more than 80 000 Australians suffer from diabetes, and it is indeed a hidden disease of the 1990s. My constituents have approached me on more than one occasion to see what we could do at a State level to assist with the supply of needles for diabetics, because that is a huge impost. These people are mostly pensioners.

The division is also looking at domestic violence—all forms of domestic violence but most particularly, in this year of the older person, abuse of the aged. Quite a few older people at home or in nursing homes are very vulnerable to abuse of all varieties, and all that abuse is to be denigrated.

Some very happy news came out during the visit. Recently the service was advised that it had been successful in securing one of six nationally funded demonstration projects. When you consider the size of Australia the fact that we could achieve one of those at Modbury is excellent. It will be looking into developing models to best integrate hospital care and general practice. The project will build on existing activities, be sustainable and could completed by the end of this calendar year.

The overall focus of the project at Modbury is to do with streamlining continuity of care by improving a range of processes and activities focused around general practice and hospital communication, enhancing information sharing, admission prevention and improved post acute care. The specifics of the project include increased cooperation and resource sharing between the GP Homelink service and the division's service coordinator with the hospital's post acute care program. It will be looking at improving the hospital general practice interface at a clinical level by ensuring that each patient has their GP's name included on the bedside label, maintaining the current GP database with the hospital to include details of location and availability of GPs, and to have an input into the intern orientation process, encouraging, among other things, phone contact.

It will also look at reducing the duplication of tests or investigations by introducing procedures to enable hospital staff to access pre-admission investigation results and ensure that GPs receive copies of the relevant hospital investigations and tests. It will also be looking to introduce fax discharge notification prior to discharge as well as fax admission notification. The discharge planning liaison officer will be employed full-time for the duration of the project. At the moment the discharge planning position is only .4 of a full time equivalent.

Mr VENNING (Schubert): Today I rise to speak about rural issues raised in an article appearing on the front page of the *Advertiser* on Friday 26 February under the headline which read 'The battles of the bush'. That article reported on an inquiry by the Federal Human Rights Commissioner, Mr Chris Sidoti after a year of consultation with country people. The inquiry's report is titled *Bush Talks*, of which I have a copy. It examined health, education, employment and other social issues affecting rural Australians. On reading this *Bush Talks* report, I found that it painted quite a dim picture of the state of affairs in rural Australia. To be honest, I found it to be all doom and gloom. The report is largely made up of anecdotal evidence taken from public, private and general specific issue meetings held in every State and the Northern Territory. There are also quotes taken from publications by the National Farmers Federation, and welfare and other social issue groups.

Some of the evidence given at these meetings does have to be put in perspective in line with population density, access serviceability, economies of scale and the like, particularly when you are looking at what is classed as remote Australia. Some issues related to health care I found somewhat worrying. For example, the report states:

> Doctors in Busselton (WA) have developed practices which don't like to offer bulk billing on the cost of consultations. Reception staff are told to ask the potential patient, as they make their appointment, if they have the money to cover the cost and if not are denied access. I have seen young people in urgent need of medical tests being denied access at the front desk or over the phone.

The report goes on to state, however, that the young person could approach the doctor directly, who would allow bulk billing, but that it was usually the new patients or young people who lacked the confidence to take this approach, and were thus rejected. I find that slightly concerning. I believe that everyone in this country should be allowed unhindered access to medical assistance; that is why we all pay for Medicare.

I have spoken on many occasions in this House and at length about the plight of rural Australians and about the dying town syndrome, and this report just adds weight to that argument. We all know that the majority of people who live in rural Australia do not enjoy the same conveniences and levels of service that their city cousins do. I know that living in the bush has never been regarded as easy, but that in itself has helped form part of our culture: the Aussie battler comes from this.

This report is basically all doom and gloom; however, there are always two sides to every coin and every storm cloud has a silver lining. I would like to say that living in the country is not as bad and as difficult as some would have us believe. There are some definite advantages to living in the country. Most people choose to live in the country of their own free will. We have always said that it is a free country. People enjoy the freedom that country life provides—less hassles, less stress, less pollution, the relatively low cost of housing, the lower crime rate generally experienced in rural areas, and the openness and free nature of most country people. There are definite advantages—above all, seeing a lovely sunrise on your own property. We all know of people living in rural areas who commute to the city or to regional centres to work. They have to travel to work, but who doesn't these days? They still choose to live and to raise their families in a rural environment.

Mr Speaker, as you and most members know, before I entered Parliament I was a farmer and my family continues farming. Modern technology and machinery have taken a lot of the back breaking work out of farming these days. But, when I first started there was plenty of hard yakka to cope with, for example, bagging the wheat and barley after the seven bag box was full, then lumping it on to the stacks; hay cutting done by hand; milking cows—and the list goes on. It was hard physical work which I enjoyed. It made for a healthy and fit life—and it has been a while since I did that.

I admit we have done well, but we lived within our means and basically for ourselves, particularly when the depression years in the 1920s and 1930s hit hard and deep. Part of our community has become complacent and has been taught to rely too heavily on the State for assistance. They have to be encouraged to be more self-reliant. I am both very proud and fortunate to represent in this Parliament a region that is going ahead in leaps and bounds, namely, the Barossa and its

regions, although other parts of my electorate are not quite so fortunate.

Mr FOLEY (Hart): Like the member for Schubert, I rise to talk about an issue affecting my electorate. Last night, a public meeting was held in my electorate and was attended by, I would estimate, conservatively, 400 people plus protesting against the Government's decision to build a power station at Pelican Point in my electorate. I have spoken many times on this very matter in this Parliament; indeed, in Question Time today I again asked the Premier questions to which he would not provide an adequate reply.

Last night there were many speakers including the Mayor of Port Adelaide Enfield (Johanna McLuskey), the Leader of the Opposition, the Treasurer (Rob Lucas), the Australian Democrats represented by Sandra Kanck, and, of course, in no small part but importantly, me as the local member. There were a number of speakers from community groups in the area. It was not simply about listening to politicians. It was about the community having an opportunity to express its very real anger—a level of anger I have not witnessed before in my electorate—against the proposal to build the Pelican Point power station.

The Treasurer attended and I must say that he gave a somewhat extraordinary performance as he addressed the people of Port Adelaide like they have not been spoken to before. I mean, it was one of the most arrogant, abrasive—

The Hon. R.G. Kerin interjecting:

Mr FOLEY: I am talking about the Treasurer in another place—

The Hon. R.G. Kerin interjecting:

Mr FOLEY: I respect the Treasurer, as I do many in this place, but I was very disappointed with the way in which the Treasurer spoke to my community last night—to my neighbours, my friends and people in my electorate. I do not think it did him any good service and, indeed, did not do the Government good service—and perhaps, yet again, took a chink out of the armour in terms of people's views on the standing of politicians in our community.

The Treasurer would not answer the questions that were put to him in a way I thought was satisfactory. Most importantly, he left the community with many unanswered questions that will continue to cause them angst. Members might be interested to know that the Treasurer in a letter to the local community group threatened the community group with potential legal action, potential litigation. Litigation against ordinary citizens of South Australia protesting against a power station I think brings a whole new level of fear that people should have about the way this Government conducts its business.

Equally, when the question was put to the Treasurer (and I am glad the Minister for Industry is here), he would not rule out the long called for, and supported by the Government, ship breaking industry as a possibility for the Pelican Point site on Le Fevre Peninsula. We asked the specific question: will you rule out building a ship breaking industry at Pelican Point on Le Fevre Peninsula? He said that he would not. It was put to him further that the Government had put a 90 day moratorium on any development on the land at Pelican Point and he was asked to explain the 90 day moratorium. He said that the 90 day moratorium was for the ship breaking industry to prove its case to Government for the project to go ahead. People turned up at the public meeting last night trying—

Mr Scalzi interjecting:

Mr FOLEY: Yes, I did have a role in organising it—to allay their fears about a power station and left with the real prospect of a smelly, dirty, vile ship breaking industry coming along as well. The people of Le Fevre Peninsula, the Port Adelaide people whom I am elected to represent, will not take the decisions of this Government lightly. We will not be spoken to in the manner in which the Treasurer chose to speak to us last night. It was about community action to stop a power station at Pelican Point. I congratulate the organisers of Community Action for Pelican Point. They did a fabulous job in organising the meeting last night. The meeting was attended by over 400 locals. Bruce Moffatt and all the organisers of that group can be proud of their effort. We will not stop our fight to oppose the power station.

Mr SCALZI (Hartley): Today, I would like to talk about citizenship and civic education. Members would be aware that this is the fiftieth year of celebration of Australian citizenship. When members attended Australia Day celebrations, we were very much made aware of that, and my Federal member kindly gave me a citizenship badge which commemorates the 50 years. Members would know that until 1948—and the Act was enacted in 1949—there was no such thing as Australian citizenship and that we were British subjects. A lot has happened since those days. The concept of citizenship has changed to incorporate the composition and diversity of Australia's population, and the commitment to citizenship and the concept of being Australian has progressed from 1948. I do not wish to dwell on that. I am very much aware that civics and citizenship and Australian Government is taught in schools—and rightly so. Year 11 Australian Studies has a special topic on those matters, and I was involved in formulating some of those courses at the schools at which I taught.

In attending citizenship ceremonies I notice how important taking up citizenship is for many of our migrants. It means that they can participate fully and contribute to our society yet, when people become adults at age 18 and are able to vote, there is no recognition. Perhaps we should put something in place to recognise the fact that, when young people turn 18 and are able to vote at State and Federal elections, it is an important milestone in one's life. I believe we should do that because, as Australians, we are very fortunate when we compare ourselves with the rest of the world in respect of our wide ranging freedoms and benefits.

I also think that members could be given Australian and State flags to fly outside their electorate offices. In other words, we should be proud of our Australian system and our citizenship and, of course, our symbols, the flags, are very important. I believe that perhaps this year would have been a good time to put in place such measures. I also believe that we should give recognition to South Australia's milestones. I refer to the fact that this State gave indigenous people the right to vote and to be elected to this place much earlier than other States, and that women were given the right to vote in 1894 and to stand for Parliament.

As South Australians we should be very proud of our achievements but we do not often celebrate those achievements. As I have said before in this House, perhaps the glass panels around this Chamber could be replaced with leadlight to depict, in chronological order, South Australia's achievements.

SECOND-HAND VEHICLE DEALERS (COMPENSATION FUND) AMENDMENT BILL

The Legislative Council agreed to the Bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No.1. Page 1, line 17 (clause 3)—Leave out 'by striking out clause 2 and substituting the following clause' and insert:

(a) by striking out clause 2 and substituting the following clause:

No.2. Page 2, lines 7 to 9 (clause 3)—Leave out this paragraph and insert:

(b) applies to a claim relating to a transaction that occurs on or after the commencement of this paragraph only if the dealer was licensed, or the person making the claim reasonably believed the dealer to have been licensed, at the time of the transaction;

No.3. Page 2 (clause 3)—After line 20 insert the following:

(b) by striking out from clause 3(2)(b) 'certified by the Treasurer as having been';

(c) by inserting in clause 5 'to the extent of the payment' after 'subrogated';

(d) by inserting after the present contents of clause 5 as amended by this section (now to be designated as subclause (1) the following subclauses:

(2) If the Commissioner is subrogated to rights arising from an act or omission of a body corporate occurring on or after the commencement of this subclause, the persons who were directors of the body corporate at the time of the act or omission will be jointly and severally liable together with the body corporate for any amount recoverable by the Commissioner from the body corporate in pursuance of those rights.

(3) A director of a body corporate will not have a liability under subclause (2) in respect of an act or omission of the body corporate if the director proves, on the balance of probabilities, that the act or omission occurred without the director's express or implied authority or consent;

(e) by inserting after the present contents of clause 7 (now to be designated as subclause (1)) the following subclause:

(2) The regulations may provide for the payment or distribution of money remaining in the Fund on the expiry of this schedule and make any other provision that the Governor considers necessary or appropriate in consequence of the expiry of this schedule.

No.4. Page 2, lines 21 to 24 (clause 4)—Leave out the clause.

PUBLIC WORKS COMMITTEE: BOLIVAR WASTE WATER TREATMENT PLANT

Adjourned debate on motion of Mr Lewis:

That the eighty-ninth report of the committee, on the Bolivar waste water treatment plant—proposed activated sludge plant and ancillary works—be noted.

(Continued from 3 March. Page 934.)

Ms THOMPSON (Reynell): In commencing my remarks, I seek to amend the motion as it appears on the Notice Paper and, accordingly, I move:

After 'noted' insert 'and its recommendations adopted'.

The recommendations of the report relate to two matters concerning the possible further exploitation of what is generally seen as the waste products from sewerage treatment works and from Bolivar in particular, and also to the probity and the processes that are involved under the variation agreement with United Water. To recap briefly, this project involves the upgrade of Bolivar which was brought on by the big pong. Evidence indicated that it was proposed to take a 10 year plan to upgrade Bolivar because it was seen that it was a facility beyond its best use-by date, but the incident of the big pong has resulted in SA Water's bringing that development forward so that it will be undertaken in three years instead of the proposed 10 years.

In the committee's investigation of this matter it found that considerable gas is released—and I think that we probably all know that. However, not able to be answered were our questions about the possible commercial use of this gas. Committee members acknowledged that what may not have been commercially viable 20 or 30 years ago may now be commercially viable. We are concerned that this matter be investigated by the Government Energy Agency at the request of the Minister for Government Enterprises.

The other area available for commercial exploitation is the effluent from treatment works in various provincial cities. I want to emphasise that the committee's recommendations in relation to the third recommendation relate particularly to the treatment and possible sale of the effluent, not the possible sale of the treatment works, in case there is any uncertainty about the committee's intention on that matter. We were pleased to note the way in which the effluent from Bolivar is being used for commercial developments, and we consider, again, that the State may have a resource that is not being properly used. We recommend that the Minister investigate this matter and find out whether a commercially viable resource exists for use by this State. The method of the exploitation of that resource can then be determined at another date.

A couple of matters of considerable concern were raised in this investigation which, to some extent, are reflected in the committee's second recommendation, which is that agencies notify the Auditor-General of any contracts to be let not subject to competitive tendering before submitting their projects to the committee for consideration. This recommendation relates to the fact that, during the hearing in relation to Bolivar, we discovered that a variation agreement had been signed with United Water giving it right of access, effectively, for capital developments to be undertaken as part of the environmental improvement program.

This means that each project is not subject to the scrutiny of competitive tendering and therefore it is extremely important that stringent probity processes are in place. The processes that have been indicated so far are scrutiny by a cost accountant, but the process itself is not subject to any form of reporting to Parliament. Given the importance of accountability to the Parliament as an indication of good Government, the Public Works Committee considers that the best way of ensuring this is to ensure that the Auditor-General is aware of any contracts to be let by Government that will not be subject to competitive tendering. It is then up to the Auditor-General to determine whether or not this matter requires any further scrutiny and any report to the Parliament. The important aspect is that there is an opportunity for accountability to the Parliament when there is not a process of competitive tendering.

I have been somewhat alarmed by a series of inconsistencies between some of the evidence given to the Public Works Committee and the ministerial statement on United Water technologies delivered by the Minister for Government Enterprises to this House on 16 February. There are apparent conflicts which the Minister may be able to explain because I note that the statement relates specifically to United Water Technologies, whereas the evidence was taken in relation to United Water. But there are two areas of difference, one being the principal area of difference, relating to the time of the signing of the variation agreement. On 2 December

Mr Howard Lacy, Executive General Manager, Water Operations, SA Water, told the committee:

> Yes, that agreement is a signed variation to the Adelaide outsourcing contract, and it was approved by Cabinet in September 1997. It was subject to Crown Law advice.

At a later hearing (27 January), Mr Robert Thomas, Project Director, SA Water, told the committee:

> Accordingly, the United Water variation agreement was approved by State Cabinet in September 1997.

The officers of SA Water seem to be unanimous in their view that the variation agreement was approved by Cabinet in September 1997, in other words, just prior to the State election. What the Minister told the House on 16 February was that a variation to the outsourcing contract was approved in June 1997 to bring effect to the cooperative arrangement envisaged. This may be a small matter or it may not but I note a significant difference between June 1997 and September 1997 in terms of political accountability and the accountability to the people of South Australia. There is a similar matter in relation to the use by United Water of Currie and Brown as cost accountants, effectively auditing the process that is established through the variation agreement. This is a process whereby United Water undertakes work for SA Water without any competitive tendering. I refer to the following question by the Presiding Member on 27 January:

> . . . is there any connectiveness between the auditor and the companies that are principals to the agreement?

Mr Rose of SA Water replied:

> The only connection we are aware of is that, because of Currie and Brown's expertise, they do on occasion, I understand, do some work for United Water.

Informal chat about how often this has happened between the parties was not recorded and the witnesses between them were not sure on how many occasions this had happened, but I was given the distinct impression that it was more than once. However, the Minister told the House on 16 February:

> Since the inception of United Water Technologies, I understand that Currie and Brown has had only one commission from United Water Technologies and that was for a project relating to a centrifuge for the Happy Valley Water Treatment Plant for less than $5 000. . .

Again, there is a possibility of misinterpretation in that the Minister was talking about United Water Technologies, whereas the question was about United Water in general.

Ms HURLEY (Deputy Leader of the Opposition): I want to address the issue and I congratulate the Public Works Committee on the way it has gone about this inquiry. The Opposition raised the issue previously about the way in which the contract for the environmental improvement program at Bolivar had been let without its going to tender. The Government's response was that it had signed the contract with United Water on the general water deal and had then worked out the details of the contract later. In itself, that is a fairly extraordinary admission—that it signed the contract and committed itself to United Water undertaking the contract without working out the contract details and how it would all work. The fact is that other tenderers in the United Water deal, as we understand it, had an expectation of being able to tender for this very valuable environmental improvement project at Bolivar and they were not given that opportunity to tender.

This is becoming a pattern by the Government—that it gives out valuable contracts without going to tender. It does not ensure that it has the best available technology at the cheapest price and it does deals with preferred companies and then spends much time covering up those deals and trying to protect its own position in terms of who it awarded the contract to. United Water is the beneficiary of a contract that went to it without tender, without any competition. This places United Water in the position of being both a project manager and performing the design for this particular project.

It should be apparent to any normal person that a project manager would regard the design of a project as fairly critical. The design sets up the way the whole project will proceed and it is difficult to see that a project manager overseeing its own design work would be sufficiently critical or rigorous to ensure, in the event of anything going wrong, that the design process was done properly or, if it came to it, assigning blame if the design was not done sufficiently well.

Basically, we see a situation where, in the water contract, United Water was to be able to participate in the project management part of the contract, which is worth about 7 per cent of the contract, and is now in charge of project management and design, having 30 per cent of the project. I note that the Government has not been talking so much about it recently but, in its first term, the Government talked a lot about open government, accountability and how good and how much better at business Liberal Governments were than Labor Governments. This one contract alone, much less the many contracts that we have discovered to date that have been bungled, indicates that this Liberal Government at least is bad at business and in many instances it has let contracts where less expensive and better technology products were available, and it has given the contract to a preferred company.

Why the Government does these sorts of deals I am not sure. In the case of United Water, one wonders whether it might not just be an attempt to prop it up to help it achieve the targets set in the water contract so that the Government cannot be seen to have failed in allocating the water contract to United Water. The Government seems intent on assisting United Water to achieve its export targets and also its South Australian economic development targets. It seems intent on not imposing any of the penalties against United Water where there has been the opportunity when United Water has not fulfilled the terms of the contract.

This pattern of behaviour—and it is very much a pattern in this Government's second term—augurs badly for the future of this State. The Opposition will not let up in its criticism of these contracts. Certainly, we hope to be in government one day and we hope to minimise the number of these sorts of contracts that we are saddled with. We hope to minimise the economic damage that is being done to the State by these sorts of contracts, and we hope to restore this State's reputation in terms of contract negotiations.

Some of these international companies must be looking on with absolute amazement at the way the Government conducts some of these contracts, the way that money gets thrown at consultants, the way that money gets thrown at preferred companies, and the subsidies that are provided to these companies.

Mr Lewis interjecting:

Ms HURLEY: Well, yes. I am just amazed that the Government has any pretension left to economic management credentials. As I said, I note that of late it has not been parading them much at all. In conclusion, I congratulate the Public Works Committee on finding a possible solution to the problem that we have with contracts, and that is that there be an independent evaluation by the Auditor-General of whether

or not such contracts should go to companies without competitive tender.

It has been well demonstrated that we need some sort of independent evaluation and that Cabinet scrutiny has not been enough to ensure that we get a good deal and open and accountable government. I commend the solution of the Public Works Committee as being eminently sensible, practicable and able to be implemented immediately. It would increase the confidence of the Opposition in the way this State is being managed, and I very much hope that the Government takes up this solution.

I also commend the committee for the way in which it has looked at the possible commercialisation of effluent treatment gases. It may sound a bizarre concept on first blush, but these things have to be done. We have to embrace these possible recycling technologies and go ahead and use them. I expect that the Government will take up this opportunity to allow public or private organisations to look at whether use can be made of effluent gases.

Mr SCALZI (Hartley): I support the recommendations in the report and I agree with the Deputy Leader that the committee should be commended for its report. There is no doubt that the proposed work is necessary and the $72 million that is to be spent on this project should be spent, because Bolivar accounts for 60 per cent of the waste water and sewage of the metropolitan area.

There is no doubt that the construction of a new activated sludge plant and the ancillary works to replace the biological filters, which are the single most significant source of odour at the plant, will reduce the pollutant load of the existing maturation lagoons, which also minimise the release of odour. We all know how the release of odours can cause problems, especially if we live within the vicinity of the plant.

Also of importance is the impact that will have on the environment and the rehabilitation of seagrasses in the gulf. We cannot underestimate the importance of maintaining a clean environment and giving seagrasses a chance to regenerate because of their importance to the fishing industry. I believe that the new plant will assist in that. We know the work that SA Water and, prior to that, the EWS has done in making sure that the water has been clean, and it has been used on the northern plains to produce fruit and vegetables. It is an important project and, as outlined in the report, $72 million will be well spent.

I am a little bit surprised at members of the Opposition because, instead of concentrating on the importance of this project on the Virginia pipeline scheme, the effect it will have on the environment and the reduction of odour, they have concentrated more on questioning tenders, and so on.

Mr Conlon interjecting:

Mr SCALZI: As a member of the Public Works Committee, I assure the member for Elder that all the relevant questions were asked and everything is above board. The honourable member can rest assured that the Presiding Member, the member for Hammond, questions every aspect in the public interest, and the committee is quite satisfied that everything is above board. The project is necessary and the reduction of odour and the environmental impact will be of great benefit to South Australia. There will also be an increase in the amount of recycled water available to the Virginia plains.

I recommend to the House the adoption of the report. The Centre for Economic Studies conducted a study of the project and made assessments of the value of the benefit to the fishing industry, particularly the King George whiting fishery, if the discharge is stopped. This project will enhance those important things, especially the environmental impact on the gulf.

Ms WHITE (Taylor): I support this report by the Public Works Committee, I commend it for its work on this project and I support its recommendations for the upgrade of the Bolivar waste water treatment plant or, as my constituents refer to it, the Bolivar sewerage plant, because that is what it is. As members may know, Bolivar takes care of 60 per cent of all the metropolitan area's sewage waste, but most important on my constituent's list is what this upgrade will mean in terms of alleviating the odour problem. To the majority of my constituents, that is the number one problem. The second point is what the upgrade will do to improve the environmental impact in Gulf St Vincent as, in the future, we limit or decrease the amount of secondary treated sewage that goes out into the gulf.

This project has been long awaited by my constituents. This treatment plant has a history of capital works spending having slipped from year to year, with this Government announcing several times work to be done and my constituents being constantly disappointed that it has not been done. It is very long overdue. For people who live (as I have in the last four years) in the suburb of Paralowie, which adjoins Bolivar, and for all my other constituents who live nearby, the odour problem is tremendously huge—so much so that when people come to my house for dinner they screw up their noses and ask, 'What is that terrible smell?'

An honourable member: What were you cooking?

Ms WHITE: I am a very good cook—I am exaggerating. But I do not notice it. I wonder what they are talking about, because the local residents have become so immune over the years to the smell. So, when we complain that the smell at Bolivar is particularly bad—as it has been from time to time, depending on the shift of the wind—you can be guaranteed that it is, because we are immune to the normal smell of Bolivar. When we had the big pong in 1997, which started with a smaller pong, I constantly raised this issue in the media and with the Government in this place and it was ignored. It really was not until the pong travelled to annoy those in suburbs of more affluent means, or the public generally across the metropolitan area, that any notice was taken at all. That typifies this Government's response to many issues with respect to my electorate in the Salisbury and Elizabeth area.

Mr Scalzi: Mosquitoes.

Ms WHITE: The member for Hartley mentions mosquitoes. Well he might! There is a 13 kilometre outfall channel taking the effluent out to the sea. In that part of the world there are mangroves and wetlands: it is a pretty swampy place, quite frankly, and mosquitoes are a huge problem. In fact, last night at dinner I gained a new ally in my fight against the mosquito problem when the Minister for Transport, who had been in my electorate at St Kilda (the neighbouring suburb to Bolivar), came out for a celebration at the Tramway Museum at St Kilda. I thought it was a very good day: I did not think that there were many mosquitoes around. But the Minister thought that she was almost carried away by mosquitoes. She saw the problem and she knows what I am talking about. Now I have an ally in Cabinet, and I seem to be progressing. So, that is a good thing.

This upgrade will assist the process of the recycled effluent being used in the pipeline for agricultural purposes

at Virginia, Waterloo Corner and in the Adelaide Plains. That is something that is terribly necessary for my electorate. Members who are familiar with the horticultural activities in Virginia and the surrounding areas will know that we are desperately short of water. So, this effluent water is not before time and is very necessary with respect to the capacity of the market gardeners and horticulturalists to meet the growing opportunities that they have for export markets and for our own domestic consumption of vegetables and horticultural products.

One of the problems with the big pong was that the Government tried to tell us that it was not a lack of maintenance that caused it: it was just something that broke down—a filter arm that broke down—and that it could have happened at any time. I have spoken to a lot of the people out at the Bolivar plant and I have spoken to a lot of the people who know what happened, and I am convinced that, because maintenance has been wound down, because backup equipment is not kept on site, because that—

Ms Thompson: They selected staff who had commercial rather than engineering orientations.

Ms WHITE: As my colleague says. One of the suggestions that has been made is that, because certain values of contracts are paid for by SA Water—and this is an allegation that was made by certain staff—United Water would back up, or wait for a number of maintenance problems to arise so that it could package them at a sufficient value that SA Water would have to pay for them. So, this whole issue of maintenance and how it is being managed under the contractual arrangements of this privatised management of our water supply is a real issue. As the Deputy Leader said, this goes to the heart of how this Government does business.

I know that there is disquiet in the Liberal Party room about all these contracts and how this Government is doing business: who is being favoured for business and who is missing out on being favoured for business in this State. The concerns raised by the Opposition are not confined to the Opposition: they are being raised by the Auditor-General and by the public. It is so important that processes are transparent and, quite frankly, this Government is not keeping to processes that are transparent but is entering into a whole lot of risky and inappropriate behaviour. And that is on a number of fronts—deals with individual companies, side deals, and preferred status to individual companies that subsequently, as a result of that preferred status, derive extra business at the expense of their competitors. So, the whole way in which this Government is doing business is harming this State and the issue is coming to a boil not only with respect to the public generally but also, I believe, in the Liberal Party room.

The Hon. R.G. KERIN (Deputy Premier): I certainly support the project and, as the member for Taylor pointed out, the opportunities in her electorate for horticultural development are very important to the State. That area has really picked up an export focus in the last couple of years, and it is terrific to see. The point that I rise on concerns the recommendations and the amendment moved on the adoption, about which I have some concern.

I ask members of the committee to give a little more thought to what they hope to achieve by going down the line of adopting recommendations with several of their reports, and I perhaps even make a request that, if committee members are to take that track, a lot more care be given to the wording of the recommendations. I do not argue about the committee's right to do so: I just point out that I believe that, if we are to adopt recommendations, the wording needs to be somewhat clearer than is the case with the ones that face us at the moment.

In the first of the recommendations the Public Works Committee asks that the energy agency examine the commercial viability of the gas from out there. That is not a small job. I am the responsible Minister for energy in this State, and for the committee to try to adopt that recommendation, when it does not have a particularly good idea of the priorities as far as research into alternative energy and whatever, really begs the question as to where that would lie as far as priorities and cost effectiveness of the available resources. I would ask that that be given some thought. The wording is inconclusive as well as to what 'if not, why not' refers, in that it has two meanings.

In relation to the second recommendation, I think the tendering process and the Government policy on it is not really the responsibility of the Public Works Committee. I know from where it is coming but I would have thought that, on an individual basis, it gets to assess those tendering processes on each of the projects at which it looks. I think that, if it has a problem with the way in which the Government is doing its tendering processes, the best way to deal with that is to approach Executive Government rather than through a recommendation in the House. The wording of recommendation 3—and I have raised this with the members and I acknowledge the fact that the member for Reynell did clarify the wording—is of some concern and it could be taken in two ways. As far as we can put to competitive tender in the private sector, it could be read as either the 'effluent' or the 'operation'.

I know the member has made that clear in her contribution, but I think when we are to adopt recommendations perhaps a little more work needs to go into the wording of those recommendations. Certainly, I support the project. I ask the committee to perhaps think about those other comments because, if we are to take this track, then I think we need to be pretty tight concerning what the House adopts.

Mr LEWIS (Hammond): I thank members for their contributions in noting the report and debating the merits or otherwise of adopting the recommendations contained in the report. For the benefit of the Deputy Premier, I point out that the first recommendation comes in consequence of the bloody-minded indifference and the pig-headedness of the agencies from which we sought to get that information in not providing it. In any case, as I said in my remarks, the fact is that the testing standard for shale that contains hydrocarbons at an international level requires the shale to be broken up into pieces of smaller than 12 millimetres in diameter, and whilst all other shales in the world—

The Hon. R.G. KERIN: Madam Acting Speaker, I think that the Chair of the committee is somewhat confused about which report we are dealing with. This is the Bolivar report, not the Leigh Creek report.

Mr LEWIS: I thank the Deputy Premier for that information.

The Hon. R.G. Kerin interjecting:

Mr LEWIS: Yes, me too. Given that gas is produced in the process of fermentation of the sewage and that one way of disposing of it is to burn it, then I do not see any reason why the feasibility of burning it to generate heat in controlled circumstances and thus make steam or otherwise drive a turbine could not result in some electricity being generated. It does not mean that it has to be done. I do not think it is a

very expensive exercise to reassure the people of South Australia that we are not simply burning off a resource that could be used to generate electricity or otherwise getting no benefit in the process of burning it.

The second recommendation looks at the problems that arise out of some contracts that are let without competitive tender. Members have drawn attention to that. I trust that the Minister now will take note of the fact that the committee believes that the Auditor-General needs to be told—indeed all Ministers need to know—if they are not going to let contracts through competitive tender, so that the Auditor-General can comment upon the efficacy of that approach. Just because we recommend that this public work proceed does not mean that we think that the practice in this instance is a good way to go. It does not mean that we think it is a good idea to let contracts without their being open to competition; indeed we think the opposite is the case. That is the reason for recommendation 2.

Recommendation 3 is that the disposal arrangements for effluent from treatment works in other provincial cities be reviewed and in circumstances, where possible, they be offered for sale to the private sector—not the treatment works, but the effluent. That is grammatically correct as it stands. It is the effluent from treatment works in other provincial cities. We are talking about the effluent and that is the what the words say 'effluent from treatment works in other provincial cities' in circumstances where it is possible to offer it for sale to people who want to use it for any purpose whatsoever—irrigation probably. They would be private sector businesses, not Government agencies and, if they compete with one another, then they get access to the water and the cost of the water, if it is tenured over an eight year period (or whatever other period is determined), means that they can write off the cost of the water against the profits they make from using it.

If they buy the water outright it is a capital expense which they cannot write off against their income for taxation purposes. Therefore, it is important that the water be made available for a limited period. The other reason for so doing is to ensure that across time it is used for the best purpose possible. What is economically viable now may change within eight years; something else might become more profitable. A different tenderer will succeed because the crop on which he or she proposes to use it will be worth more and they can afford to pay more for it, so presumably they will bid more for it to get it. Then the public purse benefits in consequence. I thank all members for their contribution to the debate, as I have said, and I think we are getting somewhere down the track.

Amendment carried; motion as amended carried.

PUBLIC WORKS COMMITTEE: PLAYFORD B POWER STATION

Adjourned debate on motion of Mr Lewis:

That the eighty-fourth report of the committee, on the Playford B Power Station upgrade, be noted.

(Continued from 9 December. Page 556.)

Mr SCALZI (Hartley): I support the adoption of the report with regard to the Flinders power proposal, Playford B power station at Port Augusta and to restore the plant to the operational status, thus ensuring its continued operation. Members will be very much aware that the estimated cost is $5.72 million and that the proposed work is of great importance if we want to maintain the supply of power. On Monday 16 November, the committee visited the Leigh Creek mine in the morning, examined the Leigh Creek coal bridge and then proceeded to Port Augusta in the afternoon.

There is no doubt that both projects are necessary if we are to maintain power for South Australians in peak periods. We are fortunate that the remedial work and refurbishment of Playford B power station—as I said, at an estimated cost of $5.72 million—will enable us to ensure that power is maintained in peak periods at considerably less cost than the alternatives.

Indeed, we are fortunate that the Flinders Power Station B at Port Augusta can be refurbished, and I believe we are getting great value for the money spent. I support the adoption of the report. We visited the power station, and I saw at first hand the need for the upgrade and refurbishment. It is necessary; if South Australians expect a level of power then we have to upgrade the facilities to ensure that that power supply is maintained. There is no doubt that demand for power has increased over the years with our standard of living and expectations and the installation of (for example) airconditioners and so on; and the upgrade of Playford B has given us the opportunity to provide that at I believe a very good cost. Therefore, I support the adoption of the report.

Motion carried.

BARLEY MARKETING (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.G. KERIN (Minister for Primary Industries, Natural Resources and Regional Development) obtained leave and introduced a Bill for an Act to amend the Barley Marketing Act 1993. Read a first time.

The Hon. R.G. KERIN 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 Victorian and South Australian Governments commissioned, in 1997, independent consultants to conduct a public benefits test of the Barley Marketing Acts of South Australia and Victoria under National Competition Policy (NCP) principles.

The consultants recommended that the domestic markets for feed and malting barley in South Australia and Victoria be formally deregulated, and that the Australian Barley Board (ABB) retain its single desk for export barley sales for the shortest practicable transition period. They also recommended that all markets for South Australian oats be deregulated.

Since the release of the NCP review report in December 1997, the Government has consulted extensively with the Victorian Government and the grains industry on the outcome of the review and the marketing arrangements which will best serve all South Australian and Victorian barley growers in the future.

In a joint government response to the review, two key objectives were specified as being needed in future marketing arrangements.

The first objective was to achieve a fully commercial approach to marketing through the early establishment of a grower-owned commercial entity to take over the marketing responsibilities of the ABB.

The second objective was to protect the current value of the ABB by providing an appropriate period of transition to a fully deregulated market. The ABB is a valuable entity which has an enviable reputation and goodwill, and holds substantial grower assets.

The two Governments determined that a grower-owned commercial company to succeed the ABB would be established by a committee, with representatives from the South Australian Farmers Federation, the Victorian Farmers Federation, the ABB, the South Australian Department of Primary Industries and Resources, and the Victorian Department of Natural Resources and Environment.

The restructure committee is to be highly commended for its excellent work in developing and gaining grower support for the

structure of the companies and in meeting the tight deadlines set by the two Governments.

Two grower-owned companies have now been established to succeed the ABB: ABB Grain Ltd, which will receive the non-barley assets and liabilities of the ABB; and ABB Grain Export Ltd, which will receive the existing stocks of pooled barley and be granted the statutory marketing powers.

- ABB Grain Ltd will be an incorporated company based on the dual share class model.
- A class shareholders will be current growers who will elect the majority of the board of the company.
- The capital value of the company will be represented by B class shares which will be distributed to persons according to their contribution to the general reserves of the former ABB.
- ABB Grain Export Ltd will be wholly owned by ABB Grain Ltd and will be required by its constitution to maximise export returns to growers.

The two company structure is intended to ensure transparency between the export and domestic markets through:

- ABB Grain Export Ltd, with statutory marketing powers, operating the export pools;
- ABB Grain Ltd conducting domestic trading and other functions;
- trading rules for both companies will ensure that all grain sales and grain swaps are transparent and auditable.

With the domestic market for both feed and malting barley deregulated, all parties concerned will have an opportunity to observe market conduct and performance by the new grower-owned companies and by other market participants in these changed marketing arrangements. These observations, along with consultation with the Victorian Government, with growers and with barley markets, will help shape future decisions regarding the status of the 'single export desk' for barley in South Australia. Single desk powers are likely to continue in this State until it can be clearly demonstrated that it is not in the interests of the South Australian community to continue the arrangement.

The Minister for Primary Industries and Resources will consult with the Victorian Minister for Agriculture and Resources regarding any changes in the future to the barley marketing arrangements. The Ministers will also consult on the appropriateness of continuing any statutory marketing arrangements in the event of a merger, joint venture, acquisition or substantial corporate restructuring involving one or both of the successor companies and one or more other commercial entities prior to 30 June 2001.

Deregulation of the domestic feed barley market in South Australia was accomplished prior to the 1998 harvest. The *Barley Marketing (Deregulation of Feedstock Barley) Amendment Bill 1998* was passed in July 1998 and came into operation on 15 October 1998.

I now turn to the main provisions in the Bill now being introduced.

The Bill amends the *Barley Marketing Act 1993* to:

- deregulate the domestic malting barley market;
- deregulate all oat markets;
- transfer the assets, liabilities and staff of the ABB to the grower-owned successor companies;
- confer on ABB Grain Export Ltd marketing arrangements similar to those currently held by the ABB; and
- dissolve the ABB and the Barley Marketing Consultative Committee.

Once the law is in force, the domestic market for barley sold for malting and other processing purposes in Australia and all markets for oats will be deregulated.

The Bill confers on ABB Grain Export Ltd the single export desk marketing arrangements until 30 June 2001 through minor amendments to the existing restrictions on the sale, delivery, transport and purchase of barley harvested in South Australia.

To assure minor niche markets overseas are served, trading and transport of barley in bags and containers of capacity of up to 50 tonnes will be exempted from the marketing restrictions. The exemption for bags and containers is subject to any other requirements that may be prescribed in regulations from time to time in relation to the quality, quantity and description of barley packed in that manner.

The export of barley by ABB Grain Export Ltd and anything done by the company under the Act in connection with barley exports are specifically authorised for the purposes of section 51(1) of the Trade Practices Act 1974 of the Commonwealth and the Competition Code to ensure that the legislated activities of ABB Grain Export Ltd do not breach Part IV of the Trade Practices Act.

The Bill inserts a new Part 11 in the Act to transfer the business of the ABB to the successor companies and facilitate the transfer of shares to eligible growers.

Provision is made that the property, rights and liabilities of the ABB are transferred to ABB Grain Ltd and ABB Grain Export Ltd on a date to be proclaimed or, if the date is not proclaimed, on 30 June 1999.

The Bill provides that, immediately before the date on which the property of the ABB is transferred, A and B class shares in ABB Grain Ltd will be issued to the ABB in consideration for the transfer to ABB Grain Ltd of the Board's property. The numbers of shares will be equal to the total number of shares to which growers are entitled in accordance with an arrangement determined by the South Australian and Victorian Ministers and published in the Government Gazette. The A and B class shares will then be vested in eligible growers and these growers will become shareholders of ABB Grain Ltd. Following the distribution of shares, the ABB will be dissolved.

The Bill provides for the repeal of various parts of the Act dealing with the establishment or operation of the ABB which are no longer required after the ABB is dissolved.

The Bill makes the two companies the successors in law of the ABB through a number of provisions relating to agreements and legal proceedings.

The Bill provides that no stamp duty is chargeable in respect of any act or transaction that needs to be carried out by reason of the Act.

Provision is made for the transfer of employees of the ABB to ABB Grain Ltd on the basis that the employees' rights and entitlements are preserved and that they are not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of the ABB.

The Bill provides that ABB Grain Ltd must provide to the Minister and the Victorian Minister a copy of its annual report under the Corporations Law together with such additional information about the operations of the company or ABB Grain Export Ltd as the Ministers require.

Explanation of Clauses

General comments

The general purpose of the Bill is to deregulate the market for oats and the domestic market for malting barley and to dissolve the Australian Barley Board (the Board). The Board's assets and liabilities will be transferred to ABB Grain Ltd (a company registered under the Corporations Law) the shares of which will be issued to the Board which will then transfer those shares to persons in accordance with an arrangement determined by the South Australian and Victorian Ministers. It is proposed that ABB Grain Export Ltd (a subsidiary of ABB Grain Ltd) will assume the function of exporting barley.

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Definitions

Amendments are proposed that are consequential on the general purpose of the Bill. For example, definitions of ABB Grain Ltd and ABB Grain Export Ltd are inserted and definitions made obsolete by the amendments to the principal Act are deleted. All references to 'oats' are deleted.

Clause 4: Substitution of ss. 4 and 5

Current section 4 is no longer required as the principal Act (as amended) only deals with the marketing of barley.

New section 5 extends the application of Part 4 of the principal Act to barley harvested in each of the seasons until the end of the season commencing 1 July 2000.

Clause 5: Repeal of Parts 2 and 3

Part 2 provides for the establishment and constitution of the Board. Part 3 sets out the objectives, functions and powers of the Board. This clause provides for the repeal of these Parts.

Clause 6: Amendment of s. 33—Delivery of barley

Section 33 provides for the current marketing scheme for barley and oats. Currently, subsection (1) provides that a person must not sell or deliver barley or oats to a person other than the Board and subsection (2) provides that a person must not transport barley or oats sold or delivered in contravention of subsection (1) or bought in contravention of subsection (4).

The marketing scheme for oats is to be completely deregulated and, as a consequence, it is proposed to delete all references to 'oats' occurring in the section.

References to 'the Board' are substituted by references to 'ABB Grain Export Ltd' and the other amendments proposed achieve the deregulation of the domestic market for barley.

Subsection (6) containing the penalty provision is amended to remove the differences in penalties between natural persons and bodies corporate and to increase substantially the penalties for a contravention of this section (to $500 000 for a first offence and $1 000 000 for a subsequent offence).

Clause 7: Insertion of new section

33A. Authorisation

New section 33A provides that, for the purposes of Part IV of the *Trade Practices Act 1974* of the Commonwealth and the Competition Code, the following are specifically authorised:

- the export of barley by ABB Grain Export Ltd;
- anything done by ABB Grain Export Ltd in connection with the export of barley.

Clause 8: Substitution of s. 34

34. Property in barley passes to ABB Grain Export Ltd on delivery

New section 34 provides that on delivery of barley to ABB Grain Export Ltd, unless it is otherwise agreed or the barley does not meet the standards determined by ABB Grain Export Ltd—

- property in the barley immediately passes to ABB Grain Export Ltd; and
- the owner of the barley is to be taken to have sold it to ABB Grain Export Ltd at the price for the time applicable.

This amendment is consequential on the amendments proposed to section 33.

Clause 9: Amendment of s. 35—Authorised receivers

These amendments are consequential on the amendments proposed to section 33.

Clause 10: Amendment of s. 36—Declaration of season of barley delivered to ABB Grain Export Ltd

As well as making amendments that are consequential on the amendments proposed to section 33, the opportunity has been taken to increase the maximum penalty for breach of this section to $10 000.

Clause 11: Amendment of s. 37—ABB Grain Export Ltd to market barley

These amendments are consequential on the amendments proposed to section 33.

Clause 12: Repeal of ss. 38 and 39

The repeal of these sections is consequential on the amendments proposed to section 33.

Clause 13: Amendment of s. 41—No claim against ABB Grain Export Ltd in respect of rights in barley

These amendments are consequential on the amendments proposed to section 33.

Clause 14: Repeal of Parts 5 to 9

Clause 15: Repeal of ss. 69 to 73

Parts 5 to 9 (inclusive) and sections 69 to 73 (inclusive) of the principal Act are otiose as a consequence of the amendments proposed to section 33. Hence they are to be repealed.

Clause 16: Amendment of s. 74—Regulations

The amendment to the penalty provision of the regulation making power is to match current drafting styles and to increase substantially the penalty for a breach of a regulation (to a maximum penalty of $10 000).

Clause 17: Substitution of Part 11

It is proposed to repeal Part 11 of the principal Act (containing transitional provisions which are now exhausted) and substitute a new Part 11 to provide for the issue, and vesting of, shares in ABB Grain Ltd and for the transfer of property from the Board to the company.

PART 11: TRANSFER OF PROPERTY

75. Transfer of property and dissolution of Board

On the relevant date (*see s. 3*)—

- the property and rights of the Board, other than property and rights in residual grain (*see s. 3*) or shares in ABB Grain Ltd, vest in ABB Grain Ltd;
- the liabilities of the Board (other than liabilities in respect of residual grain) become liabilities of ABB Grain Ltd;
- the property and rights of the Board in residual grain vest in ABB Grain Export Ltd;
- the liabilities of the Board in respect of residual grain become liabilities of ABB Grain Export Ltd.

On the day after the relevant date, the Board is dissolved.

76. Issue and vesting of shares

Before the relevant date, in consideration for the transfer of property of the Board under new section 75, a number of A and B class shares in ABB Grain Ltd are to be issued to the Board.

The number of A and B class shares is to be decided in accordance with an arrangement determined by the Minister and the Victorian Minister and published in the *Gazette*.

On the day after the relevant date—

- a number of A class shares in ABB Grain Ltd are vested in the persons who are to have such shares vested in them in accordance with the arrangement determined by the Ministers, with each person receiving one share;
- a number of B class shares in ABB Grain Ltd are vested in the persons who are to have such shares vested in them in accordance with the arrangement determined by the Ministers, with each person receiving the number of shares determined in accordance with that arrangement.

Each person in whom a share is vested becomes a member of ABB Grain Ltd and will, for the purposes of the Corporations Law, be taken to have consented to be a member. This new section has effect despite anything in the *Corporations (South Australia) Act 1990*.

77. Substitution of party to agreement

If rights and liabilities of the Board under an agreement vest in or become liabilities of ABB Grain Ltd or ABB Grain Export Ltd—

- ABB Grain Ltd or ABB Grain Export Ltd (as the case requires) becomes, on the relevant date, a party to the agreement in place of the Board; and
- on and after the relevant date, the agreement has effect as if ABB Grain Ltd or ABB Grain Export Ltd (as the case requires) had always been a party to the agreement.

78. Board instruments

Each Board instrument relating to transferred property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to the Board were a reference to ABB Grain Ltd or ABB Grain Export Ltd, as the case requires.

79. Proceedings

If immediately before the relevant date proceedings relating to transferred property to which the Board was a party were pending or existing in any court or tribunal, then, on and after the relevant date, ABB Grain Ltd or ABB Grain Export Ltd (as the case requires) is substituted for the Board as a party to the proceedings.

80. Stamp duty

No stamp duty is chargeable in respect of anything done under this new Part or in respect of any act or transaction connected with or necessary to be done by reason of this new Part.

81. Staff

A person who immediately before the relevant date was an employee of the Board—

- becomes, on the relevant date, an employee of ABB Grain Ltd with the same rights and entitlements as he or she had immediately before that date; and
- is not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of the Board.

82. Operation of this Part does not place a person in breach of contract, etc.

To avoid doubt, the operation of this new Part is not to be regarded as—

- placing a person in breach of contract or confidence; or
- otherwise making a person guilty of a civil wrong.

83. Annual reports

ABB Grain Ltd must give to the Minister and the Victorian Minister a copy of its annual report under the Corporations Law together with such information about the operations of ABB Grain Ltd or ABB Grain Export Ltd under the Act or the Victorian Act as the Minister and the Victorian Minister require.

Clause 18: Repeal of Schedule

The Schedule of the principal Act is otiose as a consequence of the striking out of the definition of grain from section 3 and the repeal of section 4.

Ms HURLEY secured the adjournment of the debate.

EVIDENCE (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. I.F. EVANS (Minister for Industry and Trade): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill amends the Evidence Act, 1929, to remove arbitrary distinctions between the evidence of children and that of adults, and to clarify the requirements of competency to give evidence in respect of both children and adults. It also makes other minor amendments.

The present law distinguishes between the evidence of adults and children on the basis of age alone. It defines a "young child" to mean a child of 12 or under, and it in effect prevents such a person from giving evidence on oath or affirmation, unless the child evinces upon examination an understanding of and a belief in divine retribution for the giving of false evidence (R v Schlaefer, (1992) 57 SASR 423). In particular, the present law does not permit young children to affirm, even though an adult who does not hold a religious belief in divine retribution can do so. This anomaly means that a child must, as a preliminary to giving evidence, be examined in court as to his or her state of religious knowledge and belief. Such an inquiry is not usually helpful in determining whether the child is able to give the court reliable evidence.

Such inquiries are also apt to give rise to appeals of a technical nature which can lead to retrials, and which require the appeal court to delve deeply into technicalities which in no way usefully advance the law. A great deal of time and money may be wasted, child witnesses may be asked to give their evidence over again, and accused persons may wait a long time for a final resolution of the charges against them. This Bill will bring this anomaly to an end.

The present law also deals anomalously with the evidence of children who do not have competency to give formal evidence because they do not understand the legal obligation of telling the truth which this entails. It places special limitations on how the evidence of such a child is to be treated. These limitations do not extend uniformly to adults, even where the adult has similar limitations of understanding. In particular, corroboration is required for the evidence of a child who is unable to give formal evidence but not for that of an adult in the same situation.

No distinction ought to be drawn between the evidence of adults and that of children on the ground of age alone. What really matters is the ability of a witness, regardless of age, to understand the legal obligation of strict and complete truthfulness implicit in the giving of formal evidence, and to appreciate the consequences for the witness and the parties if false evidence is given. Failing that, the witness does not have competency to give formal evidence. However, the witness may yet have the capacity to distinguish between truth and lies, in which case they may be permitted to give informal evidence. It is to these matters, rather than to age or religious knowledge, that the court's inquiries should be directed in assessing which witnesses are able to give formal, and informal, evidence. That is the basis of this Bill.

This Bill removes arbitrary distinctions between the evidence of children and that of adults, and creates instead a uniform test of competency to give formal evidence, based on understanding alone and not involving any religious test.

Consequentially, the Bill also abolishes some of the more confusing provisions of the existing Act, which have grown up to deal with these issues. The old provision for the assimilation of children's evidence to the evidence of adults (s.12(2)) is not required as there will no longer be any inherent distinction between the two. Likewise, there is no need for any provision for interpreters to interpret without formality (s.9(3)). An interpreter will need to be competent, in the sense of having sufficient understanding, in order to interpret satisfactorily. A competent interpreter may take the oath or affirm, as may be binding on his or her conscience, and can therefore still give formal evidence regardless of whether he or she understands the oath, with its religious underpinnings. The provision creating an offence of giving false unsworn evidence (s.9(4)) is abolished, because it is unlikely that a person who lacks the understanding necessary to give formal evidence will be able to commit the offence.

The protections which the law currently provides for children and other vulnerable witnesses will remain unchanged. The child's right to be accompanied in court by a support person and the opportunity to use vulnerable witness equipment such as screens and closed-circuit TV will remain unaffected.

Some unrelated matters are also attended to. The Bill adopts the proposal of the Model Criminal Code Officers' Committee as to the warning to be given by trial judges to juries in sexual offence prosecutions, where the suggestion is raised that an alleged victim failed to make an early complaint of the offence. That is, the judge is required to explain to the jury that the delay or absence of complaint does not mean that the allegations made by the alleged victim are false, and must inform them that there may be valid reasons why the victim of such an offence may report it late, or not at all. This simply prevents the jury from jumping to a conclusion adverse to the alleged victim, without considering other explanations for the delay or absence of complaint.

The present provisions for the suppression of publication of reports of proceedings for sexual offences, and for mandatory reporting of the outcome of certain proceedings, are unchanged, except that the existing references to television, radio and newspaper reporting are supplemented by reference to the Internet and like forms of publication. This simply reflects the development of technology since those sections were enacted. Obviously, where the court is persuaded to suppress material from publication, it would not intend that such an order could be evaded by publishing the matter via the Internet.

In addition, the court's power to suppress publication of reports can, under this Bill, also be exercised to prevent undue hardship to a child. At present, the court may only consider a suppression order where such hardship is caused to a witness or an alleged victim. There may be situations, however, where a child, although not a victim or a witness, has some connection with the proceedings such that his or her welfare may be harmed by publication of his or her identity. As an example, the child may be related to or live with the accused or the victim. If identifying material is published, the child may be victimised at school, ostracised in social situations or may otherwise suffer hardship. This Bill permits the court to make a suppression order to protect such a child. For the exercise of this power, it is not necessary that the child fall into any particular category or establish any particular connection with the parties or the case. Rather, the sole criterion is the welfare of the child. The court will need to consider each case individually.

The Supreme Court no longer exercises jurisdiction in matrimonial causes. This is now the province of the Family Court of Australia. Section 34B which provides that findings of the Supreme Court in exercising this jurisdiction as to adultery may be admitted as evidence in other proceedings therefore has no application and is to be repealed.

I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 4—Interpretation

Clause 3 inserts a definition of 'sworn evidence' to make it clear that sworn evidence means evidence given under the obligation of an affirmation as well as evidence given under the obligation of an oath.

Clause 4: Amendment of s. 6—Oaths, affirmations, etc.

Clause 4 amends section 6 so as to include a requirement that a person should be offered the choice to make an affirmation rather than take an oath.

Clause 5: Substitution of s. 9

Clause 5 proposes a new section 9 to provide for the giving of unsworn evidence where a judge determines that a person does not sufficiently understand the legal obligation to be truthful when giving sworn evidence. In making such a determination, the judge may inform himself or herself as the judge thinks fit. Where the judge makes a determination that a person is not able to give sworn evidence, unsworn evidence may be given provided the judge is satisfied that the person understands the difference between the truth and a lie and tells the person that it is important to tell the truth and the person indicates that he or she will tell the truth.

If a person does give unsworn evidence under the proposed section, the judge must explain the reason for this to the jury and may give such warning as to the reliability of unsworn evidence compared with sworn evidence, or the person's cognitive ability, as the judge thinks fit.

The proposed section also provides that a person who has been accused of an offence and given evidence (whether sworn or unsworn) denying the offence, cannot be convicted of the offence on the basis of unsworn evidence unless it is corroborated in a material particular by other evidence implicating the accused.

Clause 6: Amendment of s. 12—Evidence of young children

Clause 6 amends the provisions dealing with the evidence of young children resulting in them falling under the provisions of the proposed section 9—whether or not young children are capable of giving sworn evidence is to be determined using the same criteria as for an adult.

Clause 7: Substitution of s. 12a

Clause 7 is a consequential amendment as a result of the proposed new section 9.

Clause 8: Amendment of s. 13—Protection of witnesses

Clause 8 is a consequential amendment as a result of the proposed new section 9.

Clause 9: Amendment of s. 14—Entitlement of a witness to be assisted by an interpreter

Clause 9 inserts a new subsection to provide that a person may not act as an interpreter unless the judge is satisfied of the person's ability to interpret the evidence and the person's impartiality and the person takes an oath or makes an affirmation to interpret the evidence accurately.

Clause 10: Substitution of s. 18a

Clause 10 is a consequential amendment as a result of the proposed new section 9.

Clause 11: Repeal of s. 34b

Clause 11 repeals an obsolete provision of the Act.

Clause 12: Amendment of s. 34i—Evidence in sexual cases

Clause 12 inserts a new subsection to provide that where proceedings occur in which a person is charged with a sexual offence and information is presented to the jury, or a suggestion is made in the presence of the jury, that the alleged victim failed to make a complaint, or delayed in making a complaint, about the alleged offence, the judge must warn the jury that the alleged victim's failure to make a complaint, or delay in making a complaint, does not necessarily mean the allegation is false and inform the jury that the victim of a sexual offence could have valid reasons for failing to make a complaint or for delaying in making a complaint.

Clause 13: Amendment of s. 34j—Special provision for taking evidence where witness is seriously ill

Clause 13 is a consequential amendment as a result of the proposed new section 9.

Clause 14: Amendment of s. 55—After notice, sending a message may be proved by production of copy message and evidence of payment of fees for transmission

Clause 14 is a consequential amendment.

Clause 15: Amendment of s. 67—Extension of provisions relating to affidavits to attestation, etc., of other documents

Clause 15 is a consequential amendment.

Clause 16: Amendment of s. 67ab—Taking of evidence in this State by foreign authorities

Clause 16 is a consequential amendment.

Clause 17: Amendment of s. 68—Interpretation

Clause 17 alters the definition of 'news media' to take account of the new definition of 'publish' and inserts a definition of 'newspaper' to replace the definition which currently occurs in a number of sections of the Act.

It also inserts a definition of 'publish' in order to cover the publication of information on the internet.

Clause 18: Amendment of s. 69a—Suppression orders

The current section 69a provides that the court may make a suppression order where satisfied that it should be made to prevent undue hardship to a victim or a witness. Clause 18 amends this to include the situation where it would prevent undue hardship to a child.

Clause 19: Amendment of s. 71a—Restriction on reporting proceedings relating to sexual offences

Clause 13 is a consequential amendment as a result of the proposed clause 17.

Clause 20: Amendment of s. 71b—Publishers required to report result of certain proceedings

Clause 13 is a consequential amendment as a result of the proposed clause 17.

Clause 21: Amendment of s. 71c—Restriction on reporting of proceedings following acquittals

Clause 13 is a consequential amendment as a result of the proposed clause 17.

Ms HURLEY secured the adjournment of the debate.

LOCAL GOVERNMENT BILL

In Committee.

(Continued from 9 March. Page 1068.)

Clause 3.

Ms WHITE: I have a question for the Minister following from a question that the member for Hammond asked yesterday about this clause.

Mr MEIER: Mr Chairman, I draw your attention to the state of the Committee.

A quorum having been formed:

Ms WHITE: Now that the Local Government Minister is in the Chamber, I wish to ask him a follow-up question from the question on clause 3(f) that the member for Hammond asked last night. Paragraph (f) provides that an object of this Act is to encourage—and I stress that word encourage—local government to provide appropriate services and facilities, etc. The Minister indicated last night that nowhere in this Bill was there a definition or suggestion of what 'appropriate services and facilities' means. So, if an object of this Act is to encourage local government to provide those appropriate services and facilities, how do you intend to encourage that if you do not know or cannot say what appropriate services and facilities are?

The Hon. M.K. BRINDAL: It is a very interesting proposition. I suggest that if the member wants to go down this burrow she look at many other Acts. Some Acts promote the well-being of the people of South Australia. I do not know that in any Act that promotes well-being you will find 'well-being' described. Similarly, this Act encourages local government to provide an appropriate level of services and facilities. Certainly clause 7, to which I referred members last night, does not constrain local government by limiting the services and facilities it would provide. I remind the honourable member and members opposite that this Act has not been reviewed in its entirety for well over 60 years.

An honourable member interjecting:

The Hon. M.K. BRINDAL: It is a shame that some of your Ministers did not do a better job years ago. Having said that, I believe that the problem is that, if this Act may have to last a decade or two, the services and facilities that may be needed to be provided by a council may simply not yet have been envisaged. For example, 30 years ago, while rubbish has always been a collection service of local government, the pre-eminent role of local government in recycling was not foreseen. If you seek simply to define, say, 'rubbish collection', and in so doing limit the ability of the council to provide for recycling, it would not be in the interests of this State. By keeping the objectives and the definitions broad, we seek to encourage but not limit local government in the things that, in future, through structural and functional reform, we might wish to achieve together.

Mr LEWIS: I understand that we are on clause 3. I guess the matter will arise again under clause 7, but I point out to the Minister that it is a mole's charter and it can be used by any local government organisation to do anything that it then argues is within its power because it says it is an appropriate service or an appropriate facility that it seeks to provide. This is the kind of clause that I think gave rise to the idiocy of Port Adelaide Council's flower farm, and other irresponsible commercial undertakings within that philosophical framework which are even more idiotic, such that, if a council can

go into a business which is profitable, and in so making those profits reduce the amount of money council will then have to collect from ratepayers, then you are doing your ratepayers a service. That is claptrap; it is pure garbage; it is bankrupt economic theory.

If you are competing with your ratepayers, as indeed you must be, you are reducing the value of their products and you are using their guarantee to ultimately pick up the losses which the enterprise might make—and in all probability it will make. The core business of local government is not commercial enterprises. That is why I believe the objects ought to at least be more prescriptive and define what it is that councils should not get involved in. Councils should not become the owners and operators of bakeries, market gardens, mechanical maintenance workshops and so on. That is the kind of thing which can be done by risk venturers in the private sector, by individual citizens and the companies which they own. They are the organs in society which pay the rates to local government and which need the services of local government which they, in turn, cannot provide in law. Indeed, they cannot provide them in law. The only person who succeeded in providing any such kind of service and who did it outside of the law was Al Capone.

It is, therefore, not appropriate in my judgment for us to have a statement of objects that sounds high and noble when we think about what councils ought to be able to do without describing somewhere that there are things they must not do. In my judgment, the objects statement of the Act is deficient.

The Hon. M.K. BRINDAL: I thank the member for Hammond for his observations. Perhaps this discussion is more properly reserved for clauses 6, 7 and 8. Clause 6 defines the role of the council and equates to why councils are created. It is very similar to section 35a of the current Act. Clause 7 relates to the functions or equates to what councils can do and clause 8 relates to the objectives and how they can do it. I plead guilty of coming into this place believing that local government is an autonomous level of government and should, as far as possible, be freed from the fetters of this Parliament. If there are members of this Parliament who believe, as the member for Hammond seems to be espousing, that the objectives are deficient and that local government needs to be more controlled by this Parliament, they should say so and we would need to radically rewrite the Bill.

The member for Hammond seeks to constrain councils, if I take him correctly, and to actually limit what they can do. The member for Hammond proudly represents a country electorate and I remind him that in Carrington, because nobody would run the garage and the store, the council did. It is a simple fact that the council believed that for the good of the community the community needed to retain a store and garage. Because of the lack of any entrepreneur in the free market who would do it, the council did it. If the member for Hammond believes that to look after the community is something council should not be doing, let him say so to all his country communities. I am sure that they will be very interested. For my part, I think the objects are good objects.

Clause as amended passed.

Clause 4.

The Hon. M.K. BRINDAL: I move:

Page 3, line 22—after 'council' insert:

(whether held under section 5 of the Local Government (Elections) Act 1999 or pursuant to a proclamation or notice under this Act)

This amendment is designed to assist readers by showing that a general election may be a periodic election under the Elections Bill or less commonly an election of all members brought about by an amalgamation proclamation or by the resignation of a majority of members under clause 57.

Mr LEWIS: Can the Minister say whether, under the definition of 'roadwork', the construction of drains and other structures for the drainage of water from the road is adequately provided for in terms of the way in which such water can then be disposed of?

The ACTING CHAIRMAN (Ms Bedford): Order! We are dealing only with the amendment.

Amendment carried.

The Hon. M.K. BRINDAL: I move:

Page 3, lines 29 and 30—Leave out the definition of 'independent living units' and insert new definition as follows:

'independent living units' means—

(a) units in a complex of residential units that are primarily occupied by retired persons and their spouses; or

(b) units in a retirement village under the Retirement Villages Act 1987 where a note of the use of the land as a retirement village is endorsed on the relevant certificates of title;

This amendment suggested by the LGA adds a specific reference to the scheme for retirement villages as set out in the Retirement Villages Act. The definition relates to rating provisions and specifies how minimum rates and differential rates are applied to independent living units.

Amendment carried.

The Hon. M.K. BRINDAL: I move:

Page 7, lines 27 to 29—Leave out the definition of 'senior executive officer' and insert:

'senior executive officer' means an employee of a council—

(a) who reports directly to the chief executive officer; and

(b) —

(i) whose total remuneration equals or exceeds $100 000 per annum; or

(ii) whose position is identified in the organisational structure of the staff of the council as a senior executive officer's position for the purposes of this Act;

This amendment relates to the provision in clause 105—and I know that the shadow Minister is interested in this because he mentioned it in his second reading speech—that senior executive officers of the council must be on performance based contracts. Its effect is that the provision will catch only those positions who report directly to the CEO and who earn more than $100 000 per year, although the council can itself expand this group by identifying other positions within the organisational structure which it considers should be contract positions.

Mr CONLON: I do not have a problem with the amendment but I have a couple of concerns and the Minister may be able to assist me. I do not have a great concern about the provision of total remuneration exceeding $100 000 per annum. I must say, too, that I believe the current definition is unsatisfactory. I will ask a question in a moment but I would prefer, however, that there be some more general and objective method of identifying senior executive officers given some of the provisions in the Bill that will apply to them, not only in terms of the contracting provision but in terms of the intention to make such people susceptible to provisions in regard to register of interest.

In particular, I ask the Minister whether any consideration has been given in that regard to a definition that sees senior executive officers as being those who exercise some important statutory discretion, certainly in regard to that second provision with respect of the register of interest.

The Hon. M.K. BRINDAL: This definition applies now only to contract positions because there are some later amendments to remove 'senior executive officers' as the definition which determines who must submit a register of

interest. The Opposition may be interested in the fact that we have wrestled with this issue several times and we would be most interested if, in this place or another, there was a better way of expressing it. It is a difficult matter to define. It has been pointed out that one can have quite low level officers, for instance, to whom a delegated power might be given, and it is not intended to catch those people. That is why we include now the fact that the council can, in some instances, despite a level of salary, declare that this is a position for which there may be a register of interest but, as I said, we are open to negotiation.

Mr CONLON: What possibility does this open up for a council to determine that someone is a senior executive officer for the purpose of fixed-term contracts, and in that regard remove them from the protection otherwise of a State industrial instrument against contract employment? Can it have that effect and what can we do about it if it does?

The Hon. M.K. BRINDAL: All existing appointments will be protected and will remain protected. As to the wider question, the shadow Minister will know that many people seem, at the conclusion of existing appointments, to want to move to contract appointments right through whole sectors of the community. This does nothing to facilitate that, nor does it do anything to actually keep people on tenured employment.

Mr LEWIS: The Minister may choose to take the question I wish to ask him on notice. Can the senior executive officer, so contemplated, or even the Chief Executive Officer, for that matter, be employed in that role for less than full-time and, if so, is it then possible for the council in question to retain that employee—the CEO or the SEO—as a consultant?

The Hon. M.K. Brindal interjecting:

Mr LEWIS: Yes; as a consultant. I am simply asking whether, under this definition, for want of a better place to ask it, it is currently lawful for a staff member of council in a senior management position to be employed part time for a salary of $80 000, or whatever, and then be retained as a consultant and be paid anything from $80 to $400 an hour for work similar to that which they are required to do as a salaried officer of the council. If it is lawful at the present time, under the provisions of this Bill will it still be lawful?

The Hon. M.K. BRINDAL: I will endeavour to provide a full and complete answer for the honourable member. The member for Peake might well laugh but the member for Peake probably does not understand what the question was about.

Mr Koutsantonis: Neither do you.

The Hon. M.K. BRINDAL: I do; I actually understand it and, as the member for Hammond kindly said, I may need to take it on notice because it is a fairly significant legal question. It is certainly a public office. Whether, in fact, it therefore is encompassed by the sort of concept of double gift under the Crown, I am not sure and, for that reason, I will need to get advice. I think it would be somewhat bizarre, but we should contemplate, nevertheless, the possibility of a council employing a part- time CEO on the one hand and then employing that same person—and that is what I understood to be the gist—as a consultant to basically complete the work that they are required to do under this Act. I will provide a complete answer for the member for Hammond.

Amendment carried.

Mr CONLON: What is the import of clause 4(3)? I find it just a little circular and hard to understand.

The Hon. M.K. BRINDAL: Legal questions were raised about when someone is required to act—whether that is when someone is officially on leave or just out of a room. This is Parliamentary Counsel's attempt to answer the legal question that was posed to us. The honourable member might like to discuss it later.

Mr McEWEN: Do we need another definition for the word 'lot'. In the other Bill, there is an explanation of how to exercise the choosing of a position by lot. Members might wonder what I am on about and I will give a brief explanation. It is not clear in some people's mind what it means to choose by lot, because it does not mean that the first one out is the winner: in fact, it means you continue to pick losers until there is one standing. The last one standing is the one to whom it falls and, by definition, 'lot' actually means 'to whom it falls'.

Some years ago the then District Council of Port MacDonnell found itself in a tied vote for chairman. Six people were in council and there were two nominations. The vote was three all. The clerk then erred in that he put the two names in a hat (and the Act stated 'you will choose by lot'), the clerk withdrew a name from the hat and announced that the name he had drawn was henceforth to be the chairman. He was fundamentally wrong due to a total misunderstanding of the word 'lot'. This Bill leaves itself wide open for that to occur. I think that it is very important, every time the word 'lot' is used, either to expand how choosing by lot is to operate or, by definition, where the word 'lot' is used, to insert a whole phrase: 'lot meaning last name standing'. The Local Government (Elections) Bill makes some attempt to define further what is meant by 'lot'. I am fearful that, if it is not explained throughout the Bill, there is an enormous opportunity for confusion.

The Hon. M.K. BRINDAL: In respect of the election of a chairperson, and remembering that a mayor is elected at large, the Local Government Association was strongly of the opinion that, rather than require the election of a chairperson, the wording later in the Bill is 'choosing a chairperson'. In doing that, it takes obvious responsibility for a council then having to define what that means. However, for the benefit of the member, I will check and discuss with him whether there are any places further on in the Bill where it appears to become necessary to do as he suggests and we will certainly take it on board.

Mr McEWEN: Clause 48(1)(q) in the Local Government (Elections) Bill states 'draw lots' and the candidates are excluded, which is what we are looking for. I acknowledge the further comment in relation to 'elected' being replaced by 'chosen'. Later tonight we will have a debate about using both words rather than one or the other but, irrespective of whether they are to be elected or chosen, you can still invoke the process which will require a definition of the word 'lot'. It will not lessen the problem by simply replacing 'elected' with 'chosen'. I am not suggesting that will even be successful but, even if it was successful, it does not lessen in any way the difficulty created by the lack of definition or the lack of an explanatory clause in relation to the word 'lot'. I suggest to the Minister for his guidance in relation to clause 48(1)(q) of the subsequent Bill that 'a candidate is excluded' is the way to address the issue.

The Hon. M.K. BRINDAL: I will take that on board and I suggest to the member that there is a set of definitions in the Local Government (Elections) Bill. Rather than defining it in this Bill, if we provide definitions in the other Bill, it may be the best place, unless there is a procedure in local government generally, in some voting procedure or something,

where they might have to draw lots. I am not aware of whether there would be, in the main body of this Bill.

Clause as amended passed.

Clause 5.

Mr CONLON: Why is it necessary to determine that 'land may be used for a business purpose even if it is not intended to make a profit'? Short of the Government getting involved in the EDS building, most businesses do like to make a profit.

The Hon. M.K. BRINDAL: That relates to the lands provision in order to do things for a business purpose on community land with council approval.

Mr Conlon: Why do you need it?

The Hon. M.K. BRINDAL: It prevents confusion about what is a business activity, because there are activities which can be set up and which are not designed to make a profit but people still perceive them as businesses.

Mr CONLON: It strikes me as being a very awkward sort of definition. We now know that a business does not have to make a profit, but what is a business? It strikes me as being almost a definition in the negative, which causes me to have concerns about just what will then be described for the purposes of activities of a business purpose.

The Hon. M.K. BRINDAL: I congratulate the member for Elder: he promised me a hard time in Committee and he is delivering.

Mr Conlon: Wait till we get to the substantive clauses.

The Hon. M.K. BRINDAL: Goodness me. I am told that this is the best that Parliamentary Counsel could do with this problem and, if the member for Elder has a better suggestion, I suggest he either apply for a job or table it here and we will change it.

Mr CONLON: One of my responsibilities as a member of Parliament and a shadow Minister is to ensure that legislation is drafted in the best way possible. I thank you for your explanation and I will no doubt consider it later when we deal with community land and whether it is an adequate definition.

Mr LEWIS: This is the nub of the stuff I was talking of earlier, where the Minister drew attention to the circumstances in Carrieton, which used to apply before local government amalgamations occurred. It makes it possible for the council to acquire land, get into business ventures and, whether or not they intend to make a profit with it, does not matter. I think it is dopey. This Bill and the current Act are often referred to as the constitution for local government, the same as this Parliament is governed by a constitution, as is the Government of this State. The State itself is constituted and was established by an Act of another Parliament in the first instance. In due course, the Constitution here in this State is capable of amendment, either by an Act of Parliament or, in other provisions, where it is said that the provision is entrenched, it cannot be amended without a referendum. A referendum requires the measure to pass both Houses of Parliament and then be put to the people.

In this case, this Bill is intended to provide the constitutional framework through which local government will operate to deliver the services that are not otherwise going to be provided in the community by private enterprise. We have gone through the pains of settlement of our arable lands and the establishment of our provincial towns, capital city and other cities, and we have reached the point where we no longer require a dependence on, as it were, trail blazing through the use of, if you like, legal devices and, in the more sophisticated future we contemplate in the twenty-first century, local government does not have to be involved in running delicatessens, general stores and other enterprises of the kind to which I referred earlier in the remarks. I just disagree that it is in any sense wise for local government to be involved in business enterprises.

Whilst this clause does not require the local government body in question that may own the land to be itself engaged in the business, and it contemplates circumstances then where local government owned land can be used under lease arrangements for business purposes by some other business, at this point in the course of the Committee stage of the Bill I direct some attention to what I think is at least a subset of the intention of this clause 5, in that it does contemplate the situation where local government can engage in a business and it does not matter if the business is unprofitable. I think that some council in the future, indeed some councils, may get involved in such enterprises in an ill-advised way and justify doing so by referring to clauses such as clause 5.

If I am mistaken, the Minister can correct me. I know he holds the view that it is okay, and we probably differ on that. I am not arguing that point: I am simply saying that I think this clause allows councils to contemplate becoming involved in commercial enterprises themselves, taking risks and ending up losing a lot of money. People will say, 'It is okay; it is in the Act that you passed', when they come to me and talk about it, or they will refer to 'the Government of which you were a part which passed the legislation.' I do not believe it is appropriate and that is why I am saying so now.

The Hon. M.K. BRINDAL: I thank the member for Hammond for his comments and note what he said which, as always, is consistent. In chapter 4, clauses 47 and 48 relate to commercial activities and restrictions and we will probably then have this debate more fully.

Mr Lewis interjecting:

The Hon. M.K. BRINDAL: They can also engage in commercial activities. We will certainly get to this in the body of the Bill. My advice from parliamentary officers is that this is not the intent of the clause. It is more to cover the case of a football club that is selling something and perhaps returning those profits into the community asset. As I said to the member for Hammond, I am sure that in later clauses we will get more fully into this debate as to whether or not councils should be involved in business enterprises.

Mr McEWEN: I take on board the comments that the Minister made in relation to commercial activities and restrictions, which can be found in Part 2, clauses 47 and 48, and at that time we will have a debate. That notwithstanding, what has been exposed at this time is lack of definition and another interpretation of what could be meant by this clause. I understand that what the Minister has suggested actually alludes to business purposes of a third party. It states that—

Mr Conlon interjecting:

Mr McEWEN: No, if it is by a third party, which is what the Minister is saying it is meant to say. That is the Minister's interpretation, but that is not the only interpretation, so we require a further expansion of this clause for it to read 'may be used for business purposes by a third party', even if it is not intended for the making of a profit. That will satisfy—

Mr Conlon: I still think it's a very bad definition.

Mr McEWEN: It is a bad definition but at least it can be improved to exclude the type of circumstances that have just been described, which are rightly captured in clauses 47 and 48.

The Hon. M.K. BRINDAL: Perhaps I am not explaining it very well. It relates not to who is using it so much as the

use of the land. It relates to the use of the land rather than whether a council, a church group or a sporting club is using it. It is meant to clarify later provisions such as clause 224, which provides that a person must not use a public road for business purposes unless authorised to do so. It relates to those sorts of provisions. It relates to rating provisions and such things rather than the matters alluded to by the member for Hammond.

Mr LEWIS: Why is it that it does not simply state that, for the purposes of this Act, land belonging to a local government body may be used for business purposes by a third party so authorised by the local government body even if it is not intended to make a profit? Why does it not say that if that is what it means?

The Hon. M.K. BRINDAL: It appears at the beginning of the Bill because it defines business purposes in terms of a couple of clauses later in the legislation. If people think that is confusing, we can put the definitions in the specific clauses to which they refer. In what has become usual practice in this place, counsel generally put the definitions at the front of the Bill. That is creating some confusion so perhaps we should shift it to a later place in the legislation where the relevance can be seen directly.

Mr CONLON: I now have more concerns about the meaning of the clause than I did before.

The ACTING CHAIRMAN: Order! The member for Elder has spoken three times on this clause.

Clause passed.

Clause 6.

Mr LEWIS: Here we see the first of the descriptions of the system of local government. I commend the Minister on the way in which the information has been aggregated into chapters, and parts within those chapters where it is relevant to have parts. I make that observation in passing and I mean no disrespect to him or the people who have worked for hundreds of hours with him in the course of doing the work. It is a much easier piece of legislation to understand than the current Act for that reason.

Here we find the system of local government defined in three clauses. The first one, 'Principal role of council', does not necessarily restrict the council to those paragraphs (a), (b), (c), (d) and (e). It is a general statement. That is commendable, but it leaves the council free to do so many things that States are not free to do and it creates an enormous feast for lawyers who may use the general statement to argue that it is legitimate for councils to do whatever they choose to do and justify the fact that they choose to do it that way by referring to this clause and the next two clauses in supporting their arguments.

Councillors will no doubt do likewise and ratepayers will be the people who suffer, and I mean suffer, because of the stupidity of some of the decisions that have been made by local government bodies in recent times in commercial ventures. To that extent, this clause tells us some of the things that councils can do. In particular, it says those things (a), (b), (c), (d) and (e), but it does not restrict it to that. I am disturbed by that approach in that to have a constitution that is so loose makes it ambiguous as to what is really intended and makes it possible for a council to do whatever it can get away with.

I am dealing with one situation where the council itself does not know what the cost factors are in the decisions that are being made by a group within the council who have formed themselves into a subcommittee and are driving the agenda. It is clearly not in the public interest, not in the community's interest, and the community is being denied any knowledge of factual information upon which it could engage in the debate about whether to acquire or sell off assets. I therefore worry and I will have something to say about the same matter in a specific way under clause 7.

The Hon. M.K. BRINDAL: The member for Hammond raised that point in his second reading speech and it is regrettable that his current experience with a particular council should perhaps cloud his judgment over councils in general or, indeed, over that council before it was the present council. This Parliament simply cannot confer on anybody a power that exceeds the power of this Parliament. I disagree with the member for Hammond. I read no measure in this Bill which this Parliament would not be capable of acting upon. We confer on them no greater power than we have.

The member for Gordon has fairly publicly berated me and said with due diligence that he believes this legislation should be rather slender and that local government should merely be created and left to get on with its own job and make its own decisions. It is a legitimate point of view, which he has long held and consistently argued.

The member for Hammond argues in contrast to that, that these principal roles are rather too loose. However, the member for Hammond does not acknowledge that, basically, the reasons why we create a council and have a council in being (and that is what clause 6 is about) are, in fact, tempered later on—and very much tempered later on—with some very specific accountability provisions, about which the local government sector itself has objected, because it does exactly what the member for Hammond says we should do: it actually fetters its role. I am sure that when we get to those accountability provisions the member for Gordon will get up and say, 'Minister, this goes rather too far. Take the fetters off and let them do what it is you want them to do.' So, I look forward to a healthy debate, not only between me and those opposite but all Parties in this House and this Committee.

Mr CONLON: This brings me to a point which I made in my second reading speech and which I will make again here as a preface to a question to the Minister. With this review of the Local Government Act there was an opportunity to look at the history (and I went into some detail on this) and the development of local government in Australia and to make a proper, informed decision of what its role is. It is here in these clauses—principally 6, 7 and, to a degree 8—that the principal role and what functions are included are set out. In a moment I will ask the Minister to try to explain the conceptual basis for local government as a level of government.

What we have and what should have been examined and what we really need to consider is the Australian system of government. I do not agree with the member for Hammond. Obviously, the State Government has plenary power within a Federal system. We have a Federal system of enumerated powers and State Governments with plenary legislative power, except where the Federal Constitution intrudes into that. What is the nature of local government if it is a level of government? I note that the principal roles are set out. It is obvious that principal roles include roles that are not principal roles. When we come to functions, we know what the functions include, so we know that they are not limited to that. Is local government the creature of statute, and is everything it should do found in the statute? Is it something that has at large powers that are limited by the statute specifically but, if they are not, are not otherwise limited? This is the fundamental question. I look forward to the

Minister's answer with respect to just what is the conceptual basis for the role of local government.

The Hon. M.K. BRINDAL: The shadow Minister is quite right: it is a very fundamental question. It is impossible, I am advised, to confer on local government plenary powers. Local government must exist by statute of this Parliament and, therefore, is limited by the very statute which creates it to certain bounds. However, what we have tried to do in this legislation is to say in so far as the community expects, and this Parliament requires, that local government is an autonomous level of Government, we will create a statute, so far as we can, which enables local government to exercise, so far as it can (given the constraints that it is created by statute of this Parliament) something which approaches a plenary power. Local government cannot have a plenary power but we can create legislation which enables and encourages it towards that goal. Legally, we cannot achieve it but we are trying to marry here the fact that, until the Constitution of Australia changes, local government must be a creation of the statute of this Parliament. However, within that statute that creates local government we can actually—as far as we can—grant to it as much measure of autonomy as is possible, given that it is constrained by statute.

Mr McEWEN: I want to put on the record the fact that I compliment the Minister in the framework that is set out here under the system of local government. It has gone a long way towards capturing, under 'principles, function and objectives,' what I believe local government to be about. It is what would be in a Local Government (Constitution) Act, if we had such an Act.

My criticism of the Minister is not in relation to this issue at all. This is the architecture that I was talking about. This is the framework that empowers and, to some degree, nurtures local government to become what will be the global villages, empowered by IT, into the next century. That is what we ought to be doing: facilitating the emergence of local communities in a global marketplace and a degree of empowerment. To that end, he has it right. The problem is that, melded into this, is the Local Government (Administration) Act, which is the thing that the Minister should be responsible for.

I suggested yesterday that this is what ought to be signed off between the Premier of the State and local government in terms of what we believe each other's role and function is: the interplays. We must keep in mind that there are something like 68 pieces of legislation that we deal with at a State level, for which this is the framework for the interaction and, if we had a sixty-ninth one, it would be the Local Government (Administration) Act. So, the Minister then would have one function along with 68 others in terms of the interaction between State and local government in terms of a shared constituency, and a whole lot of dual functions in that shared constituency. This would sit above that.

I am also respectful of the fact, of course, that the Australian people chose not to give constitutional recognition to local government. So, when I stand here as a strong advocate of local government I have to be respectful of that fact: that in a referendum, collectively, the people of Australia chose not to give that constitutional recognition. This is the next best thing.

Mr Conlon interjecting:

Mr McEWEN: I agree: it was politics that denied that opportunity. It was because a 'yes' amongst a whole lot of 'noes' was considered to be too difficult for the average mind to handle. So it was either all 'yes's' or all 'noes'. To go 'No, no, yes, no' was too much for the great unwashed, and therefore—

Members interjecting:

The ACTING CHAIRMAN: Order!

Mr McEWEN: —that particular enlightened referendum in relation to our Constitution failed. Notwithstanding that, I simply want to put on the record that I think this is right, and this will be used as a beacon when we have this local government-State Government debate around Australia over the next few years. I want others to appreciate how far-sighted some of this is and I compliment the Minister in relation to clauses 6, 7 and 8.

The Hon. M.K. BRINDAL: I sincerely thank the member for Gordon for that. I would like to put on the record some matters that he may well be interested in because, as I said earlier, he has consistently argued a point of view on this matter. As the member for Gordon quite rightly points out, the title Local Government (Constitution) Act in many ways would not be accurate for this Bill, in particular, because it would convey the misleading impression about the scope of the legislation, suggesting that it only deals with primary and fundamental matters—a point that he has just made. This also, as he again pointed out, covers operational, management, lands and corporations matters. The alternative title for this—Local Government (Constitution and Operations) Act—we disregarded as seeming unnecessarily cumbersome.

The point that I wanted to make to the member for Gordon is that different arrangements have been tried. The experiment of drafting two discreet Acts, as he is talking about—the Local Government (Constitution) Bill—containing only primary fundamental matters, was tried and tabled by the Labor Government in 1993. The Labor Government of the day found it necessary to accompany it with detailed notes explaining that the Bill did not and could not change the basis of local government, provide councils with powers as extensive as those of the State, entrench local government provisions in a way which would prevent them from being made, amended, repealed or in some other way in other legislation and comprise the whole of the legislative package, administrative lands and electoral provisions that would also be needed.

However, despite this explanation in 1993, people found the scope and provisions of the 1993 Constitution Bill difficult to understand in the absence of the accompanying operational provisions, so the Bill was abandoned. We learnt the lesson and have been looking for an arrangement that might break up the bulk of the Local Government Act because, in pure terms, I agree with what the member for Gordon is arguing for: it is the ideal position to be in. To make it more accessible, this Government circulated consultation draft Bills, as he will recall, consisting of the main Bill, the Lands Bill, and the Local Government (Elections) Bill.

In the end, we have only left the Local Government (Elections) Bill separate—and the local government sector argued for it all to be incorporated in one Bill—merely because, as the member for Gordon will know, having come from a long history in local government, at election time there is only one thing in which a lot of people are interested and that is the election section. So we simply thought it was easier to have a small, elegant electoral section that dealt with that and leave the Bill as two. I thank the member for Gordon for his comments and put that on the record because it was an historical context of which he may have been aware but I was not until recently and thought it was interesting to share with the House.

Clause passed.

Clause 7 passed.

Clause 8.

The Hon. M.K. BRINDAL: I move:

Page 11, line 10—After 'setting' insert:
public policy

This amendment, again requested by the LGA, recognises that it is one of the objectives of a council to participate with other councils and with State and national Governments in setting public policy and in achieving regional, State and national objectives.

Amendment carried.

Mr CONLON: I have a couple of questions. First, I take it that the use of the word 'must' in this section is deliberate. It appears to make some sort of imperative duty upon council to do the things listed, although I note that when you look at some of them it is very hard to see what that imperative duty is, if I, for example, 'seek to provide services, facilities and programs that are adequate and appropriate'. I am not quite sure what sort of imperative duty that is or how it is to be measured. What sort of effect that will have on the likelihood of judicial review of decisions of councils (or actions or inactions of councils)? Why was it decided to proceed in this fashion?

The Hon. M.K. BRINDAL: I thank the member for Elder for that question because I can answer it competently. The objectives of this clause—and they are the objectives of the council—have been carefully worded so that they seek not to expand the existing grounds on which council decisions can be exposed to legal challenge, and in particular, the use of the phrase 'seek to' at the start of objectives which individuals may feel give them some grounds. Nonetheless, the clause is also intended to allow communities to ask and question whether a council is meeting these objectives through the political process and the procedures for dealing administratively with complaints against councils.

What we are trying to do in the objectives clause is twofold. First, we show those people who are ratepayers the matters which we believe should be the objectives of the council so that, through dealing administratively or politically in the process with councils, they can ask for and receive some justification but, at the same time, limit the grounds by which excited or vexatious people may rush into court and drag councils into a court procedure. I am not a lawyer—the shadow Minister is—but I suppose it is more so that we give them a feeling of natural justice and some natural processes into council rather than creating a means whereby there are legal ramifications and it is the courts to whom everyone repairs *ad nauseam* and at considerable cost.

Mr CONLON: I do not want to labour the point unduly, but it strikes me that no-one could really ever enforce most of the things in the list, but they are prefaced by the imperative. In particular, it seems to me that the obligation to provide open, responsive and accountable government might well be a matter referred to should a decision of a council taken *in camera* ever be challenged. It is plain that there is an imperative on them to provide open government, open decision making, apart from anything else. I wondered whether that had been considered and it was decided that that should be available to people seeking judicial review of council decisions taken *in camera*, for example. When I say 'seeking judicial review', I mean seeking to quash or have considered null and void decisions taken *in camera* by councils.

The Hon. M.K. BRINDAL: I point out to the shadow Minister that 'seek to' is in respect of some specific provisions. There is not a 'seek to' in 'provide open, responsive and accountable government'. It is quite clear that the council must provide open, responsive and accountable government. There are other provisions elsewhere in the Act which specifically allow a very clear set of circumstances when council may go *in camera* and do things in secret. I hope the Opposition will back us on this, because we make no apology for saying, as a rule, councils must be open, responsive and accountable, that if they vary from the strict rule which says when they shall not be or when they may not be, then someone can and should—although I do not want it happening generally—take them to a process whereby they are rendered accountable. I make no apology for saying that, like this place, which is open every time we meet to anyone wanting to come in from the street, councils should be no less accountable to people who pay very good money to run them.

An honourable member interjecting:

The Hon. M.K. BRINDAL: This is a Parliament. We are talking about councils and Parliament. We are not talking about a Cabinet.

Mr CONLON: I am grateful for that explanation because one of my criticisms of this legislation is that it has not done much to ensure that the council activity is more open than it is at present. I do not think the Minister is quite right because discretions are to be exercised by councils in deciding when to close a meeting or when to deny access to documents. I want to ensure that the answer is that, when those discretions are exercised by councils, the overriding imperative is that contained in clause 8(a), that is, 'to provide open, responsive and accountable government'.

The Hon. M.K. BRINDAL: Completely, yes.

Mr LEWIS: The points I wish to make are best summarised by referring to my belief that it is nice to have motherhood statements but not very effective unless they do have explicit meaning in law. In this instance, the kinds of things we are saying in clause 8 are well and good but, at the present time, for one reason or another, they do not matter to the Murray Bridge Council. Let me put that on record quite plainly. I think that when a subset of a council decides to deny the rest of the members of council knowledge about the sale of assets, for instance—knowledge meaning what the cost effect will be on the council's budget; how much they expect to get for the sale of the land; what it will cost to shift the library; and so on—and to go into confidential session to have a row with the councillors who seek that information and to abuse them, and then to come into public session again, deny any debate of the matter, force the issue through the council and tell the CEO that he is neither required nor expected and indeed may not disclose any of that information to anyone is outrageous.

I think something better than clause 8 in this Bill needs to be included in the law that governs the way in which they conduct their business. That is the reason for my concern, I guess. Councillors in some councils could argue that what they are doing is in the public interest. The other thing that they have done is get involved in a commercial enterprise, or at least with someone who was involved in that commercial enterprise. I mean, you cannot make chocolates in a building where the temperature gets up to 48° and expect the proprietor to be happy with the arrangement when the proprietor either wants the council to install appropriate airconditioning or, on the other side of the argument, allow the proprietor to put in the airconditioning. The council says, 'No, we will not

put it in; no, you may not put it in; and yes, you are liable for the rent. If you leave to go somewhere where your chocolates will not melt, we will sue you.' I think that is as crook as hell, yet that is the kind of approach which this cowboy outfit has taken.

Members interjecting:

Mr LEWIS: There is enough masochism in this job. I therefore ask the Minister whether he believes that the law that we have at the present time is being improved upon by clauses other than this clause 8 in dealing with such problems and ensuring that what is done is indeed in the spirit of what clause 8 canvasses, and not what we currently see happening at Murray Bridge, as illustrated by the examples I have just given.

The Hon. M.K. BRINDAL: The answer to the member for Hammond's question is 'Yes.' However, given his comments I feel compelled to inform the House that I have spoken to members of the Murray Bridge Council, from both sides and without fear or favour.

Members interjecting:

The Hon. M.K. BRINDAL: There are apparently two groups in the Murray Bridge Council. If my reading of votes is correct, one represents eight councillors and the other represents three, and it is that to which I believe the member for Hammond refers. I have seen both groups; I take no part. The member for Hammond knows it is my function on behalf of this Parliament and as a Minister to see that the law as it relates to local government is properly administered. I can say to the member for Hammond that those who are disgruntled have seen me for more than an hour and have put a number of matters before me. My officers have looked at them and we can find no matter of substance to their allegations. As the member for Hammond would expect, I have given anyone on that council an open invitation to contact me if they believe there has been a breach of the law or process relating to the law. Until that happens there is nothing that I can do. However (going back to the original question), yes, I believe that this law considerably qualifies and improves on the law that I am currently asked to administer.

Clause as amended passed.

Clause 9.

Mr LEWIS: I know there are another 294 clauses to go, but this is an important piece of legislation. Clause 9 provides for the ways in which new councils can be formed, whether from areas of the State that are presently outside the hundreds or inside the hundreds and already covered by existing local governments. Outside the hundreds I do not mind: in the past decade or so, we have established local government for the residents of Coober Pedy and Roxby Downs, and that is entirely appropriate. The bit I am worried about is that, where amalgamations are to occur in the future, no referenda and no community consultation will be necessary under the provisions of this clause. It simply provides 'by proclamation, the Governor'—and that is the Government of the day, because the Governor will take advice from Ministers in Executive Council and will assent to their recommendations. There will be no debate of the matter in this place before it is a *fait accompli* in the wider community.

So, in future we can amalgamate local government in a more draconian way than it was in this most recent round of amalgamations. I know that historically the Labor Party has been quite happy to see councils expanded in area and has resisted requests for divisions of councils. The most recent was some time ago when the Hon. Barbara Wiese was Minister and she received a petition from residents of Keith and districts in the north and west of the District Council of Tatiara to form their own council. She chose to go through the petition with a fine toothcomb and discover certain minor, nit-picking irregularities, and thereby refused to grant partition. For better or worse, I recount that to the House.

Equally, if we adopt this clause we will now find ourselves confronted by the situation where the Governor can simply direct that Walkerville will be amalgamated with a neighbouring council, that Yankalilla will be amalgamated with a neighbouring council, and it will be done: nobody has any say in the matter. I do not know how *Hansard* will record the snap of my fingers, but I want to make it plain that the amalgamation can be undertaken in a trice.

That is a worry for me, because all the district councils in the electorate that I have had the honour and responsibility to represent in the nearly 20 years that I have been here have always held the view that no change to their boundaries should occur unless they are consulted and, in most instances, unless a poll of ratepayers agrees to it. We have had those provisions in law up to this point, and now we decide that they are not necessary, indeed, even to the point where if it suits the Government of the day it can abolish a council without consulting the existing ratepayers or electors in that council in any way—it can just do it. Does the Minister think this will lead to respect for the Act, if indeed this legislation becomes the Act? Will it indeed result in better local government where ratepayers and electors will be happier once they have had that done to them rather than have any say in the process involved?

The Hon. M.K. BRINDAL: The member for Hammond reads this clause somewhat too prettily and is in a number of instances wrong. There is no provision for the mandatory use of polls, but there has not been since the previous Liberal Government established the board some years ago. However, if the member for Hammond looks at section 11, he will see that the Governor cannot make a proclamation under the preceding section of this division, except in pursuance of an address from both Houses of Parliament.

So, if you wish to create a new council in an unincorporated area, it would be necessary either (a) to obtain an address from both Houses of Parliament before the Governor could make a lawful proclamation, or (b), in pursuance of a proposal recommended by the panel under Part 2. So, for an amalgamation of councils and other matters to proceed, the Act provides that either both Houses of Parliament have to agree to it or an entire panel process must deal with it. So, for the member for Hammond to contend that this section enables the Governor simply to snap his fingers and do something, even on the directive of Executive Government, is entirely wrong. Further in the Bill there is a whole structure that deals with the way by which it is made lawful for the Governor to actually make a proclamation. Frankly, the member for Hammond's contribution to this clause is spurious.

Clause passed.

Clauses 10 and 11 passed.

Clause 12.

Mr CONLON: What consideration in this brave review was given to requiring a certain minimum size of councils or, for that matter, a minimum quota for councillors to represent? Was any consideration given to establishing, at least in the urban areas, a provision to make sure it occurs? If there was, why was the consideration not followed through?

The Hon. M.K. BRINDAL: So, we come to the flight of leafy suburbs to greener pastures—a wonderful turn of phrase. We have moved through a series of council amalga-

mations to ever larger councils. I am sure that the member for Norwood and a number of others have privately and publicly questioned whether big is by necessity better. At the other end of the scale, this Parliament has not chosen to limit or constrain the size of councils. That is perhaps another aspect of the question asked by the member for Elder.

As we did not choose to limit the maximum size of councils, neither did we choose to consider the minimum size of councils or the representation, mainly because of the philosophy espoused earlier that we believe it is largely a matter between the ratepayers and the councillors. If I choose to live in a council of 15 000 people and I want to be represented by 55 councillors, that is the level of representation I choose; if I choose to pay the extraordinary rates that would result or get the extraordinary lack of service that would apply if there were not large rate increases, I think that is my democratic right. The answer to the question 'How does this work to best serve the ratepayers?' is in the fact that, in a later section, there is a provision whereby ratepayers may come to a panel for independent review and evaluation, so we leave the matter of size and of representation—the composition and representation of councils—as a matter between ratepayers and councillors cognisant of the fact that we have built into the Act a way by which ratepayers are no longer locked-in prisoners of their council and whereby they have rights to actually make representations, first, to their council in every case but, subsequently, to an independent body who can adjudicate on the matter.

Mr CONLON: The Minister could simply have answered 'No' to my question and saved a little time. I note that we will allow councillors to set allowances for themselves within prescribed limits, and there is no other limit on the councillors' setting rates for themselves. I note also in this place, when it comes to redistributions, it would have been far more comfortable for some of us to have done our own than to have endured the depredations of the most recent redistribution. I look at the member for Mitchell and, when I consider my own position, I understand that.

Mr Hanna: Not that I'm worried.

Mr CONLON: No, it would not pay you to be worried, would it? If there is no consideration to a minimum quota that councils have to represent—and this does not simply apply to small councils: it applies to large councils deciding to have a councillor on every corner if they so desire—was any thought given to prescribing in the later allowances that you had to represent more than three or four people up the road to get the full benefit of the prescribed allowance?

The Hon. M.K. BRINDAL: No, we believe that is a matter that, electorally, ratepayers will or should take care of themselves. If they are silly enough to pay a lot of money to too many people, frankly they can choose to do so.

Mr HANNA: I have two questions about clause 12(2)(b), first, a drafting point and, secondly, concerning the meaning. In relation to 'the area of the council', I query why it is drafted that way when 'area' is defined in clause 4 as 'the area for which a council is constituted'. Is not 'of the council' redundant in that context? That is the first question. The second question is how or why could a council alter the name of the area in which the council is constituted? I can understand a council changing its name from Port Adelaide to Outer Harbor, for example, but how on earth could a council change the name of the area upon which the council is situated?

The Hon. M.K. BRINDAL: The council's name is the corporate name, the name on the seal. It might choose to be 'the Corporation of the City of Port Adelaide Enfield', but then it might choose to designate the area that it represents 'the docklands area' for marketing and tourism purposes. It might call itself 'the wine vales'. The City of Onkaparinga which represents the Southern Vales may constitute itself and want to be on its common seal 'the City of Onkaparinga' but in terms of tourism and marketing, or the prize it has for painting and so on, it might like to market itself under a different image name. This merely facilitates that. It can be a corporation with a name as a corporation, but it can style its area something different from the name of the corporation.

Mr HANNA: Does the Minister mean to say that the altered name under clause 12(2(b) might simply be a name which has no legal significance whatsoever? From the Minister's answer, that is the only thing I could assume: he is not talking about a name which has any legal significance but just a nickname or a characterisation, such as 'the garden State'.

The Hon. M.K. BRINDAL: That is correct. This debate, in a different form perhaps, was with us in the naming of the City of Onkaparinga, which was hotly contested by the people who lived along the Onkaparinga River and in the Adelaide Hills area.

Mr Hanna: That is the name of a council.

The Hon. M.K. BRINDAL: Yes, I know. In that instance, the honourable member is correct. I said that there is a similarity, not that it is the same. In answer to the honourable member's question, yes, they could choose a quite gimmicky name. They could choose almost, if you like, a marketing name or a brand name. That is what they could choose.

Mr HANNA: Just to drive home the ludicrousness of this—

Mr McEwen: Ludicrousness?

Mr HANNA: Yes.

Members interjecting:

The CHAIRMAN: Order! Let us get on with it.

Mr HANNA: Is the Minister saying that clause 12(2)(b) allows a council to change the name of the geographical area in which it is situated, even though that is a name which only the council uses for its own purposes, a name about which no-one else in the world has to take any account? In other words, it is just choosing a name which has no legal significance. Therefore, surely it is something that the council or anyone could do at any time. I could give the name of the land between Sturt, South and Marion Roads any name I like but, if it has no legal significance and is no part of common discourse, then it is worth nothing.

The Hon. M.K. BRINDAL: Normally, the two names are the same. Normally, councils do not choose gimmicky or silly names, but it can happen. The member for Elder might be interested in this: the district councils of Kadina and Wallaroo might amalgamate and formally want to be known on its corporate seal as the District Council of Kadina and Wallaroo, but it might choose, and it has chosen in this case, to style the area of the new council 'the copper coast'. So, while its seal states—

Mr Hanna interjecting:

The Hon. M.K. BRINDAL: —yes—the District Council of Kadina—

An honourable member interjecting:

The Hon. M.K. BRINDAL: —I wish we had discovered gold there—and Wallaroo, its council literature describes and ascribes the name to that area, not the formal name of the corporation but the nomenclature 'the copper coast'.

Clause passed.

Clause 13 passed.

Clause 14.

Mr CONLON: My initial question in relation to this clause relates to the whole regime established under part 2. Given the different models we have had on boundary adjustment in recent years, what was it about the successors of the boundary adjustment facilitation panel model that led the Minister to decide that, of the two systems that have been tried, this was the best? What was more successful about the panel system than the previous system that led him to adopt it?

The Hon. M.K. BRINDAL: If the member wants to explore this, I would be interested in what he means by the 'previous system'. Does he mean the old, old system or the board?

Mr Conlon: The board.

The Hon. M.K. BRINDAL: We believe that the board served a useful purpose but that it was a rather foisted mechanism on local government.

Mr Atkinson: Foisted?

The Hon. M.K. BRINDAL: Yes.

Mr Atkinson: Foisted is an adjective?

The Hon. M.K. BRINDAL: It was a system which was foisted, somewhat by this Parliament, upon local government. We believe that this system is much enhanced: it is actually not as we put it in the draft consultation Bill but what we have evolved as a result of consultation with the local government sector. We put forward a proposition which was somewhat different from this. We had extensive consultations with the local government family about what it liked and what it did not like, and it generally liked the concept of a panel. It wanted some capacity to be involved, which is inherent in this measure. All the interest groups over the past year have evolved this structure which local government hopes, as a group—

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: We believe over the past year, yes. This Government, together with local government, has evolved. We can only lament that the member for Spence seems to be going backwards.

Mr CONLON: My hypothesis is this: it seemed to me some time ago that the Minister and the local government family, as he refers to it, were not very happy with the board, and they would really like not to have a board any longer. They did not know what to do, so they got themselves a panel. The Minister and the local government family are happy because the panel is not likely to do very much—certainly not anything like the board was doing. Is the basis for the local government family's happiness with the panel the fact that it is not likely to do many things to it?

The Hon. M.K. BRINDAL: No, quite the contrary: it is because it is representative of a shared cooperation and a shared sense of enterprise between the Government of this State, through State Parliament, and the local government sector. This panel is rather less resource intensive than was the previous board because the work expected of it will be different, but that does not mean that the work expected of it will be any less: it is expected to be different in nature. Already a number of councils, including the Port Adelaide Enfield Council—and the member for Elder would have seen a representation from that council; I am sure it sent one to the honourable member (it circulated them generally within this House)—the Council of the Mid Murray and one of the adjacent Riverland councils have a matter which will probably require some resolution.

I expect that, rather than be involved extensively in whole of council amalgamation, a lot of their work, at least in the first few years, will relate to consideration of boundary adjustments. No-one anticipates that the board will not be rather busy or fully occupied. What we are all happy about is that we believe this is a representative board that will be seen to be fair; it will be seen to be able to, if you like, examine things somewhat at arms-length from the Minister, which seems to be very important; and it will come to conclusions in which we can all have confidence.

[Sitting suspended from 6.01 to 7.30 p.m.]

Clause passed.

Clause 15.

Mr CONLON: I am sure that the member for Gordon will say more than I will on this clause, but it seems to be a panel with enormous power that is terribly much at the gift of the Minister. There is a panel of four with two persons being nominated by the Minister and then the Minister will select two from a panel of four put up by the Local Government Association. I am sure people would have asked the Minister for something other than that, so why did you settle on that?

The Hon. M.K. BRINDAL: It is a reasonably standard procedure that has been adopted by this Government in a variety of mechanisms and Acts and it was equally adopted by the last Government—your Government.

Mr CONLON: The Minister would concede that there are not many Acts that establish another level of government; is that not so?

The Hon. M.K. BRINDAL: That is correct but, in an attempt to meet the LGA and its concerns on this matter half way, we originally suggested a panel of six from whom the Minister of the day would choose two and we now suggest a panel of four. We believe that is a compromise in the right direction.

Mr McEWEN: I appeal to members opposite to consider introducing an amendment in another place to clause 15(1)(b). I will speak to that briefly because this is one of the first examples that I alluded to in my second reading speech where there is a total inconsistency between the philosophy and the administrative action. The philosophy is on about a level of autonomy for local government and an affirmation that local government collectively is a separate sphere of government from the State Government and ought to be able to make some decisions in its own right. Suddenly, we have the parenting hand and the Minister saying, 'It is not good enough that you should choose two of the panel. You will put to me four, of which I will choose two of the panel.' It is either politically motivated or it is a contradiction of the principles, objectives and functions spelt out earlier.

The second part of clause 15(1)(b) contains a difficulty that I do not know how we will get around and for the time being I suggest it remains, that is, the Local Government Association. I have enormous respect for the Local Government Association and I have had the privilege to be on the executive and to serve in a number of roles with the LGA, but it is no more than an association. There is no other vehicle whereby local government could collectively put forward its nominations. To that extent it serves a point. To actually specify the association could at some time in the future pose some difficulties if local government should choose to constitute itself in another way. I hope it never does; if it does

there is this slight difficulty, but that is not the major difficulty I have with the clause.

The major difficulty is that suddenly we see the parenting hand and we see the whole relationship unravelling again. Quite frankly, it is hypocritical. If we are really going to embrace the objectives, principles and functions, we must not allow this sort of thing to creep into the legislation. I understand the Labor Party will give some consideration to amending the clause in another place and, at this stage, I appeal to it to amend clause 15(1)(b) by deleting all the words after 'persons' and simply having 'two persons nominated by the LGA'. At this stage I can do no more.

The Hon. M.K. BRINDAL: It is important to note under clause 14(4) that the panel cannot be brought under the operation of the Public Corporations Act. In effect, the panel cannot be directed by the Minister. The member for Gordon highlights quite rightly that this is an apparent contradiction so that local government and people appealing to this panel can be assured of some sort of independence of the body. It is a four person panel: two are nominated by the Minister and two are selected from a panel of four nominated by the LGA. With respect to the LGA I take the member for Gordon's point. It was a matter I raised some time ago but, traditionally in this Act and in local government Bills previously, the LGA has been recognised. It is true it could dissolve itself, which would require revisiting this Act, but there is a reference to the LGA in the schedules. Schedule 1 states:

1(1) The Local Government Association of South Australia continues in existence.

There is a continuation of the LGA in the schedule. If the LGA as the peak body of local government—and I do not know why it would do this—ever decided to wind itself up, we would certainly have to revisit the Act. Similarly if the Governor, because of a referendum, ceases to be the Governor, we will have to revisit many Acts as well.

Mr CONLON: I am sure we can find a way of taking care of that little problem should we become a republic. I raised the point earlier about why the panel was selected over the previous system. I ask the Minister now, given that his answer was that this was thought to be a better idea and he could not offer anything more than that, why should we simply not have a sunset clause in the operation of the panel. Why should we not insert a clause which causes it to operate for two years and, if we want to keep it going, bring it back to Parliament and prove it is doing a good job? What would be wrong with that?

The Hon. M.K. BRINDAL: For the past 65 years in the Local Government Act—whether it has worked or not—there has always needed to be a mechanism to facilitate change if councils or ratepayers desire change. It simply is a board that will have an ongoing role.

Mr Conlon interjecting:

The Hon. M.K. BRINDAL: As I tried to explain to the shadow Minister earlier, the board was brought in for a specific purpose. I believe the previous Minister guaranteed to the Local Government Association that it would not continue in perpetuity because it had a specific and limited role which was guaranteed to be limited by a sunset clause. This board is considered to be necessary to fulfil an ongoing requirement of this Act and, therefore, it is proposed that it exists in perpetuity until such time as the Parliament decides to change the Act which, as the shadow Minister knows, it can do at any time.

Mr McEWEN: Although I am not moving my amendment, I appeal to the Labor Party to move it in another place because it is of such enormous merit.

The CHAIRMAN: The member for Gordon is not moving his amendment?

Mr McEWEN: No.

Clause passed.

Clause 16.

Mr CONLON: The panel is the gift of the Minister but should not the removal of office be for more than mere misconduct? Should it not be serious misconduct? I assume that misconduct covers a wide range of things, including dropping a cigarette butt in the street, one assumes.

The Hon. M.K. BRINDAL: This is the type of drafting that has been standard in this and previous provisions in this Act. If the shadow Minister thinks there is a problem by not having the word 'serious', we would be prepared to look at it in another place.

Clause passed.

Clause 17 passed.

Clause 18.

Mr CONLON: There are two obvious changes in this measure and I merely ask the Minister to explain them at this stage. There are three offences under the relevant provision in the Local Government Act 1934. The third penalty, which relates to divulging information without permission of the panel, is not there any more, unless I have read the Bill incorrectly. Why is that?

The Hon. M.K. BRINDAL: I am seeking clarification of that point. I suspect that, in the lack of any information to the contrary, it is purely because most of the matters dealt with by the panel are meant to be dealt with in a public and accountable manner, and we would not envisage situations in which non-disclosure of information would be a problem. It is not as if this panel will be talking about anything commercially confidential or sensitive in terms of employment, which is another reason that local government is allowed to keep matters *in camera*. If they are matters related to the public interest, if they are not matters that are in any way commercially or personally sensitive to any individual, there is no reason why any of the information given to the panel should be other than publicly available to anyone who wants to see it. Indeed, it is in line with what the shadow Minister espoused himself, which I agree with, and that is public, open and accountable government.

Mr CONLON: I am not sure that is a satisfactory explanation. Some of the information is such that it could be used by a panel member to gain an advantage, and that still has a penalty, but there is no penalty for information that might harm others if divulged. I do not understand the explanation and it does not seem convincing. My other question is that the penalties for the two remaining provisions, that is, the monetary penalty and the term of imprisonment, appear to have been doubled. What is the reason for that? It is hard to work out why one penalty would go as no longer important but the other penalties should be doubled.

The Hon. M.K. BRINDAL: Penalty provisions right through the legislation have been revised in accordance, not with CPI, but with other penalties consistent through other Acts. If the member is not satisfied with my answer in terms of the first provision, let me say that we felt that, with a smaller panel and a more simplistic way of operating it, a penalty was not necessary. If the shadow Minister thinks it necessary that we retain provisions, we will reinsert it. We wanted to simplify the Act and we wanted to make it as

slender as we could. We thought that this was an unnecessary provision, but if the Opposition feels that it may be necessary, we will revisit it.

In terms of the penalties being doubled, that is to achieve some sort of uniformity or consistency through various Acts of Parliament, but I put to the member that, if he looks at the two provisions that remain—a member or former member of the panel must not make use of the information required to gain directly or indirectly a personal advantage for himself, herself or another or cause detriment to the panel—he will see that that is about graft and corruption, which would not be tolerated in any sphere of public life. Those two provisions are reasonably important and the penalties are reasonably substantial because they reflect matters, a violation of which would cause the public to have every reason to have little confidence in either the person or, in some cases, the institution. They are penalties which reflect the severity of an offence where somebody entrusted to the public good seeks to abuse that office and use it for personal gain.

Mr CONLON: I am grateful that the Minister will let us amend it if we want, but that is not the point I make. My point is that in the legislation creating this panel, which was enacted not all that long ago, three offences applied, each of which attracted an equal penalty. I assume that the Government had some logic for that at the time. Now we have two offences, one offence has been dropped, and the penalty for the other two has been doubled. I want the Minister to disclose a chain of reasoning to me.

The Hon. M.K. BRINDAL: The honourable member is quite right in that the provisions came into force in 1995, but they were for a different panel with a different nature of work.

Mr Conlon: The same information surely.

The Hon. M.K. BRINDAL: We see it as being slightly different but, unless the shadow Minister is totally fascinated with this subject, I do not want to detain the Committee. It is not a matter of great import, I put to members, in the context of the Bill.

Members interjecting:

The Hon. M.K. BRINDAL: In response to the member for Spence's rude interjections, because he is only capable of being rude, I suggest that I have explained it once and I do not want to incessantly explain it. If he wants me to, I will explain it three times, and then three times, and then three times; but the answer will not change.

Mr ATKINSON: I have only just begun to fight.

Members interjecting:

The CHAIRMAN: Order! The member for Spence.

Mr ATKINSON: I notice in this clause that the penalty is rendered in dollars. The member referred to the consumer price index a little earlier in debate on this clause. Can the Minister explain why the perfectly sensible expedient of divisional penalties, which can be adjusted in accordance with the consumer price index, has been dropped from this legislation? I indicate to the Committee that, upon the accession to office of a Labor Government, divisional penalties will be restored in all legislation.

The Hon. M.K. BRINDAL: The Government decided some time ago to move away from divisional penalties because it was considered to be more user friendly for somebody reading an Act to understand within the Act what the penalties were rather than moving to a schedule but, as a matter of technical fact, no Government has ever adjusted even divisional penalties affixed in schedules to CPI.

Mr ATKINSON: I was not going to speak on this clause but I was provoked by the unseemly conduct of the Minister. Subsection (3) of section 16D of the Act provides:

> A member of the Panel must not, without the approval of the Panel, divulge information that—
>
> (a) the member knows to be commercially sensitive; or
>
> (b) the Panel classifies as confidential information.
>
> Penalty: $10 000 or imprisonment for one year.

Can the Minister explain to the Committee why that was an offence and why, after this Act is proclaimed, it will no longer be an offence? It was an offence that was punishable by imprisonment for one year and $10 000 and now it is no longer an offence. Why?

The Hon. M.K. BRINDAL: I was not responsible for leading that Bill for the House. Therefore, I cannot explain the Government's reasoning for that measure. I can explain that in this Bill we have chosen to not have that as an offence.

Mr ATKINSON: What has changed about the kind of information the panel deals with and why does this Government have a collective amnesia whereby this Minister for Local Government is not responsible for legislation passed a few short years ago by a Minister for Local Government in the same Government—in the Liberal State Government of South Australia? Why is it that this Minister cannot remember and cannot be responsible to the House for a sequence of events that occurred in a Government of which he was a member?

The Hon. M.K. BRINDAL: The member for Spence asked me what was the motivation of the previous Minister. I am responsible to this House for seeing that the law is maintained. I cannot answer for the motivation of a previous Minister, which I simply do not know. The heart of this matter goes to personal gain. What we seek to address here is people who improperly use an office for personal gain. That is why the two offences remain, because it is people who seek to use a position of trust for personal gain.

Mr HANNA: I think it is scandalous that the Minister will not answer the question put by the shadow Minister about the reason why that offence has been removed from the legislation. I also insist on a simple answer to that question. I do not think the point is why the offence was originally in the legislation, but it is very relevant to this Bill about why it has been taken out. And, after all, what is the difference between the information held by members of the panel that operated two years ago and the information that will be held by members of this panel constituted by this Bill?

The Hon. M.K. BRINDAL: I see no deep issue of policy here. There was not a problem with the previous Act on this. We have maintained what we considered to be the core offences here and the important matters, and we simply have not deemed this important enough to carry on with in the new Act.

Mr HANNA: What makes these two offences core offences and the offence that has, effectively, been deleted by this Bill a non-core offence? What is the reasoning behind it? Does the Minister know, or will he admit that he just does not know?

The Hon. M.K. BRINDAL: These two provisions are disclosure for personal gain. The disclosure of information, whatever the motivation of the person concerned, may well have been done in the public good or for what they considered to be the public good. They do not necessarily personally gain from the disclosure of information. If the member for Elder cannot understand that there is a vast

difference in the public mind, and I hope in this Parliament's mind, with respect to those sorts of offences, then I do.

Clause passed.

Clauses 19 to 27 passed.

Clause 28.

The Hon. M.K. BRINDAL: I move:

Page 31, line 32—After 'is binding and' insert:
the proposal

This amendment is purely technical. The relevant phrase should read, 'the result is binding and the proposal cannot proceed'.

Amendment carried.

Mr CONLON: I know that the Minister gave a lengthy second reading speech in conclusion, but I would like to know the policy rationale behind the inclusion of this new section—why it is limited and to whom it is limited in terms of bringing submissions? It is new, it is a great idea: why is it a good idea?

The Hon. M.K. BRINDAL: These publicly initiated submissions may be accepted by the panel if they come from eligible electors. There is no provision that I, as a ratepayer or the member for Unley, can in fact make a submission on matters concerning another council area. So, basically, eligible electors are people who pay their rates, who are electors within the council area, who may make submissions, first, to their own council and subsequently that submission may be referred to the panel on matters that affect them and their council area and proposals that may affect an adjacent council area in which they propose to have a part.

Mr CONLON: I asked first for the overall rationale for the inclusion of public initiated submissions. What is it? Why is it a necessary part of the new legislation? What remedy does it provide; what nuisance does it address? Why do we have it? What is the benefit of it? We are to be convinced on this: we have a very open mind.

The Hon. M.K. BRINDAL: The member for Hammond argued before the dinner adjournment that councils are not always thought by all the ratepayers in their council area to represent their interests. There were in the old Acts no workable provisions whereby electors who had a genuine grievance against the council about its composition or boundaries could have a say in their own destiny. They were, in fact, in many ways unwitting prisoners of the council and the council boundary. I quoted in my second reading speech the District Council of Dudley, which basically took its own electors and the electors of the neighbouring council, the Corporation of Kingscote, to the Supreme Court to challenge procedural matters related to the fact that the island almost overwhelmingly favoured being governed by a single council. There were in the old Act no real provisions for electors to have any say in some of these matters which affected them. We argue that, as a matter of democracy, people do have a right to have a say.

Mr Conlon interjecting:

The Hon. M.K. BRINDAL: It is true that we cannot arbitrarily determine which State we are in, but I am not responsible for that legislation. There is no legislation about the State—

Mr CONLON: I think there is a State Constitution Act, and there is a Federal Constitution. Is this such a democratic provision that we should seek to extend it to citizens in South Australia living in Mount Gambier, for example, or citizens in New South Wales living in Broken Hill, who might think, in the first case, that they were better served as part of Victoria—in the case of Broken Hill, who might feel a closer affinity through their consumption over 100 years of Southwark Bitter?

The Hon. M.K. BRINDAL: The member for Elder may well be right. But the Bill before this House is about electors' rights as ratepayers in a system of local government. I can answer for that: I cannot answer for the wider questions which he so wisely addresses.

Ms CICCARELLO: In regard to this section, I certainly know of a few councils, including my own, which are very concerned about the public initiated submission. Those councils that have recently been through amalgamations are put in a very difficult position, because they have already spent a lot of money, time and energy on putting in place infrastructure and strategic plans. What if you now suddenly have a small group of people who may have vexatious reasons? In response to comments made by the member for Bragg yesterday, I would like to put on the public record the fact that Marryatville and Heathpool were never a part of the Burnside Council: they have always been part of Kensington and Norwood, and they certainly will never be returning home, if that is what they think. But you could have a scenario where those people could put up a submission and, because of the fact that Burnside would certainly welcome that particular pocket of residents coming into its electorate, once the poll is conducted it is the receiving council which certainly has the advantage, and the council that has been seceded from is left in a very precarious situation.

The Hon. M.K. BRINDAL: The member raises an issue which would be of concern and I hope will be of concern to the panel. The matter is, though, what does one do? Does one lock electors in just because it suits the viability? The fact is that what is intended to happen is, first, electors with any matter to put at all before the panel must first go to the council and the council has a right to try to determine that first. If the council cannot determine that, they go to the panel, but then the panel has to consider the matters of reasonableness raised by the member for Norwood. It would be unreasonable—and I do not think it would get to first base—if the traders on Norwood Parade all decided for some arbitrary reason—cheapness of rates or something—that they wanted to become part of the Corporation of the City of Adelaide. I do not think that would be considered a reasonable proposition. Therefore, it would not proceed any further.

One of the tests may well be that the panel will say, 'On submission of the council, yes, this is an amalgamated area. The ratepayers simply have not given them enough time to see whether or not they want to be in that area. We will therefore defer the proposition for two or three years,' or however long. The object of the panel is to be reasonable; reasonable towards electors and also reasonable towards those councils. Some councils are worried about this because they fear the worst. For some reason, they fear that everyone will be taken from them and put elsewhere. I cannot see that happening. A reasonable group of people making reasonable decisions for the good of local government are simply not going to rip everything up and start again.

It is a procedure which is put in place to try to give electors more determination in their own affairs in local government. It is nothing, I believe, to be feared by local government and I think it is something which could be very useful. The District Council of Mid Murray is a good example. There are two areas in that district which, prior to amalgamation, believed that they were going to other councils. I point out to member for Norwood that there is something like 23 agreements for boundary change subse-

quent upon council amalgamations. Something like three of those have occurred. So, there are 20 outstanding matters which some electors believe councils gave an undertaking to consider and which councils, frankly, have declined to consider.

The Council of the Mid Murray has two such areas, one around Cadell and, from memory, one to the north-west of the council area. If the panel was to decide that one of those areas could perhaps go to another council, the council would still be viable. If the board was to decide that both of those areas could go to another council, then it would decimate the council.

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: Go and ring Bob Francis will you; you would do us all a favour. I believe—

Mr Clarke interjecting:

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: I have talked to the Mid Murray Council about this and I believe that in that case it would be quite proper for the Mid Murray Council to go to the panel, perhaps pre-empt the whole thing, and say, 'What should we do?' and a decision would be made which protects and nurtures the council, rather than see people trying to pick it off from both ends at once.

Mr McEWEN: I begin by making an observation about drafting. I understand that members can only ask three questions on a clause. It is worth reflecting on the fact that we have a very complicated set of elements to this clause and, quite frankly, if a member wanted to work all the way through it, they would probably have to ask 50 questions. I think sometimes in a drafting such as this members can be at a disadvantage simply because of the very complex nature of the clause.

Mr Clarke interjecting:

Mr McEWEN: Thank you for that advice. I was only wishing to make an observation and, in so doing, bring to the Minister's attention the first of my questions which relates to clause 28(2)(b) and (c). I understand that local government is still consulting in relation to paragraphs (b) and (c)—and so they should. To my mind, paragraph (b) is very dangerous because of where it appears in the Bill. For the first time it allows an issue to be escalated beyond the council should some aggrieved parties not get what they wished within the council. At any time an individual or a group of electors can come to a council putting to it proposals about structures, representations or whatever and it would normally be addressed by council. Here is an opportunity now where it can be escalated to a panel and I think that needs to be looked into further. I think that is setting a dangerous precedent.

I do not understand subclause (2)(c) at all. Unless subclause (2)(c) is referring to unincorporated lands, then it is obviously paragraph (a) because it is on about altering council boundaries. You are either altering boundaries between councils, which is captured in paragraph (a), or you are bringing into a municipality some unincorporated area and, if that is the intention of paragraph (c), then it needs to be completely redrafted. My question to the Minister relates to justifying why in paragraph (b) he would want to escalate a matter beyond the duly elected council; and what is he on about in paragraph (c)?

The Hon. M.K. BRINDAL: It is only about the alteration of boundaries, the composition of councils or the representative structure of the council. First, they go to the council. So, if council satisfactorily resolves those matters, there is no recourse: it is between them and the council. It is only if that matter is not resolved. However, I point out that clause 28(9) provides:

> On receipt of a submission under subsection (7), the panel must examine and consider those issues determined by the panel to be relevant to the matter—including the actions of any relevant council in response to a submission under subsection (2)—

then this is the important part, I believe—

> whether in its opinion action under this chapter is the most appropriate response to the issues raised by the submission—

and that is the important thing, because if it is a vexatious thing—merely they want to save rates or something like that—or if it is some private gripe that they have with a number of councillors, the more appropriate action would be to go to the Ombudsman. It is not the job of this panel to adjudicate on every matter; it is simply to look at wards, boundaries and composition, nothing else.

If, as the member for Gordon says—and it is a worry—people come with entirely the wrong motivation, there is a duty on the panel to try to look at the motivation and not only to judge on merit the issues relating to wards, boundaries and composition, but to actually flick it off if there is some other reason which is more appropriately handled by the Ombudsman, the council or by any other mechanism available in the Act.

Mr McEWEN: I do not want this to be my second question because my first question has not been answered as it relates to the incorporation within the area of the council. This is the problem that we will have and that is why I alluded to it previously. Can I ask double and triple barrelled questions in the hope that I get an answer? I have asked a question about subclause (2)(b) and (c) and have not had it answered. In subclause (2)(c), I want to know what part of the State the Bill is alluding to, if it is not part of another council area. Is this addressing unincorporated areas only?

The Hon. M.K. BRINDAL: Yes, it refers to areas in an unincorporated area looking to join council in an incorporated area.

Mr McEWEN: Someone will have to say something about that in another place because that is not my question now. I want to move on a bit.

The CHAIRMAN: The Chair is being very tolerant.

Mr McEWEN: Yes, and I believe for good reason. I have pointed out a difficulty with addressing the Bill. My final question in relation to clause 28 deals—

Members interjecting:

The CHAIRMAN: Order!

Mr McEWEN: My last question in relation to clause 28—and going on from the comments the member for Norwood made—deals with a need in some circumstances, I believe, to actually quarantine from clause 28 some submissions from eligible electors. They need to be quarantined for two reasons. The first is that, if a set of circumstances have caused an amalgamation or realignment of boundaries to form a new municipality, and that has been underpinned by, say, a five year business plan, a whole lot of assumptions are implicit in that in terms of revenue. These are expensive things to go into; there are many up front costs. You have to be able to amortise them over a reasonable rate base and over a reasonable time, otherwise all you will end up with is the debt up front and not the ability to use the revenue base, amortise that expense over a reasonable time and move forward. I speak from experience. If you have not quarantined those councils from this next process within that business time frame, the whole thing will be tipped completely on its head, so there is a necessity to do that.

The problem with this section is that it does exactly the opposite. When you try to understand the 10 per cent and the 40 per cent provisions, you see that the only place for the aggrieved party in this is to appeal at that point, yet it is the only party that is excluded from appealing at that point. So, I see some real problems with this section in terms of not quarantining those councils and not even giving them the opportunity to appeal under this complicated 40 per cent provision.

The Hon. M.K. BRINDAL: The extent and frequency of previous changes affecting the council or councils is a matter that must be taken into account by the panel. Similarly, as far as it is relevant, the panel should give preference to structural changes that enhance the capacity of local government to play a significant role in the future of an area or region from a strategic perspective. What the honourable member highlights would indeed be a matter for concern, but we feel that it will be properly and judiciously handled by the panel. We are here trying to prevent a whole lot of maybes and are not concentrating on the possibilities. We seem to be preoccupied with what could possibly be the negative and worst case scenarios, rather than the capacity of this Parliament to come in here and change it at any time if it is not working. We seem to be too frightened to investigate the possibility of change.

Members interjecting:

The CHAIRMAN: Order! The member for Ross Smith.

Mr CLARKE: Thank you, Sir; I am glad you recognise bulk before beauty. I want to follow up the point made by the member for Gordon. In particular, my concerns relate to clauses 28(21) and 28(22)(i) with regard to the 10 per cent and the 40 per cent. The way I read it, if a group of Bolshevik residents in Medindie decided to try to amalgamate with the Council of Port Adelaide Enfield where they had no boundary between them (there is Prospect between them), we could see those people in Medindie and the residents of Port Adelaide Enfield simply voting to agree that the Medindie people should secede and join Port Adelaide Enfield. If there is a 40 per cent voter turn-out, unless the majority of those combined votes are against such a secessionist move, the board is then obliged to consider whether or not they should go ahead with that. Further, under clause 26(2), the only impediment on the proposal going through is if the board or panel exercised its discretion in the belief that it would not enhance the capacity of local government to play a significant role in the future of an area or region from a strategic perspective.

It seems to me as a lay person that clause 26(2) is as broad as the panel of the day wants to interpret it. There are very wide areas of discretion. In fact, there would be nothing to stop these Bolshevik secessionists in Medindie from conspiring with the Port Adelaide Enfield Council to achieve that amalgamation if the panel gave them the go-ahead, because they would have this extremely wide discretion. On top of that, what I find difficult to comprehend in this Bill is that the residents and ratepayers of the Corporation of Walkerville, who would be materially disadvantaged by the loss of these Bolshevik residents of Medindie and their rate paying revenue, effectively have no say on the diminution of services that they might receive as a result of that secession. Do I have correct what this Bill could lawfully produce?

The Hon. M.K. BRINDAL: Yes.

Ms CICCARELLO: Again, I want to reinforce my earlier comments. The member for Gordon referred to the issue. This certainly puts those councils that have gone through a voluntary amalgamation process in a precarious position, because they have had to come up with long-term strategic business plans. Small pockets of those councils will be asking to secede. I understand the discretion of the panel but, if the panel decides that that is the way it should go, the onus is on the council to conduct a public poll, which adds further to the costs and problems for the council. Would the Minister consider inserting a sunset clause providing that those councils that have gone through this voluntary process have at least a five year period of grace, or whatever is most appropriate, before there would be any readjusting of boundaries?

The Hon. M.K. BRINDAL: We are attracted to the idea of fairness. Whether it should be achieved by a period of grace or by some instruction or guideline to the committee when it is set out, I am easy on. We acknowledge the principle that is being espoused and are prepared to consider a better alternative that might be more workable for councils.

Mr HANNA: I will begin at the beginning and refer to the possible reasons why members of the public might get together to put a proposal for a part of one council to move to another. It is easy to imagine why the prospect of cheaper rates or perhaps some sort of snob value attached to a particular council might be the reason for making such a proposal. It is easy to imagine those reasons of self interest motivating a group of electors. The Minister in his reply to an earlier question from the shadow Minister could not suggest any other reasons why these proposals might be initiated by members of the public. I query, again, why there needs to be the option of public initiated proposals and the reasons the Minister envisages why members of the public might wish to move councils, as it were?

The Hon. M.K. BRINDAL: I am disappointed that the member for Mitchell sees such base motives in his fellow South Australians.

Members interjecting:

The CHAIRMAN: Order!

Members interjecting:

The Hon. M.K. BRINDAL: I am not in high dudgeon. Most of the reasons that have been advanced to me are not motivated by anything to do with rates. The people in the Hundred of Cadell, which is one group that has approached me on this matter, actually believe that their community of interest, principally, their recreational pursuits and a number of other matters concerning them lie on that side of River Murray. They want to join with a council.

There are people in an area around Peterborough who find themselves in a council area with which they believe they share no community of interest and they want to go to Peterborough Council. In nearly every case where the wish has been espoused for boundary readjustment, rates have not been the issue. The issue in each case has been community of interest, common or shared goals, or other matters—not rates. Basically, it is their interests, what they see as their natural community of interest, and what they believe are more natural lines for a council.

The lines for council boundaries were arbitrarily drawn up with much smaller councils many years ago. Some people who are ratepayers and who happen to fall one side of a road and find themselves in a council with which they believe they have no community of interest and share little in common want the option of shifting to another council. I do not see why we would deny them that right.

Mr HANNA: Perhaps there is a difference between city residents and ratepayers as opposed to country residents and ratepayers. Further to that point of moving from one council

to another, in the situation where a poll is conducted but less than 40 per cent vote and it is then for the panel to consider some alternative proposal, what guiding principles are there for the panel in determining some alternative proposal? What sort of factors will the panel take into account?

The Hon. M.K. BRINDAL: The panel is obliged to take into account all points of view. The idea of a poll for the acquiring council and, for example, the Bolsheviks who want to leave, is that, if 40 per cent of that group turn out and if a majority of that 40 per cent vote against the proposal, it is simply vetoed. If less than 40 per cent turn out, and it is still therefore not legally vetoed by that mathematical requirement, the panel is still required to consider the poll and its results and an indicative poll of the remaining area; it must consider the interests of all the groups and then make a decision.

Mr HANNA: But on what basis? I think that is only half an answer. The member for Gordon had some trouble with clause 28(2)(c). As far as I could see, the Minister could not answer the question asked by the member for Gordon. For the benefit of the member for Gordon, I point out that clause 28(2)(c) provides for electors 'to incorporate within the area of the council a part of the State that is not within the area of the council'. It does not mean that it is an area which is not belonging to any council. However, the Minister gave the wrong answer, and that is why I am now stepping into the shoes of the Minister—and I must say it is quite comfortable—for the benefit of the member for Gordon. The correct interpretation, totally contrary to what the Minister suggested, is that the neighbouring area can actually relate to any other part of the State which is not part of the council in which the electors were originally situated. The Minister might like to acknowledge now that he was wrong earlier.

The Hon. M.K. BRINDAL: I hope that, when the member for Mitchell realises he is wrong, he is similarly humble. Subclause (2) provides:

> An eligible elector or eligible electors may submit to a council a submission that the council consider a proposal—
>
> . . .
>
> (c) to incorporate within the area of the council a part of the State that is not within the area of a council.

Mr Hanna: 'The' council: not 'a' council.

The Hon. M.K. BRINDAL: The council which is coming in. Pursuant to clause 28(1(c) an eligible elector is:

> (c) in the case of a proposal to incorporate within the area of a council a part of the State that is not within the area of a council—a person who would, if the proposal were to proceed, be an elector in respect of a place of residence or rateable property within the area that would be so incorporated.

My answer was not wrong. I cannot help the member for Mitchell's lack of understanding. I hope I have now explained it to him and that he has the good grace to admit that he was wrong.

Mr CLARKE: That is interesting because, following on what the Minister just said about clause 28(1)(c), if I lived in Coober Pedy and I wanted to be part of the Corporation of the Town of Walkerville, I could seek to initiate it. That is the reality of the Bill before us. I would be interested to hear the Minister's comment on that.

Coming back to this other proposal and my example that I cited of the Bolsheviks at Medindie wanting to join the Corporation of the City of Port Adelaide Enfield—and I cannot see it in the Bill so far—what provisions exist where the Bolsheviks of Medindie want to go to the City of Port Adelaide Enfield but the City of Port Adelaide Enfield says, 'We do not want them.' The City of Port Adelaide Enfield, it seems to me, is obliged to still hold a ballot of all its ratepayers because the Bolsheviks of Medindie want to join Port Adelaide Enfield Council even though the city itself may be 100 per cent opposed to the Bolsheviks of Medindie becoming part of the city.

The only way of stopping it dead would be for the City of Port Adelaide Enfield to spend a lot of money to get 40 per cent voter turn out in its area and for them to vote comprehensively against such an amalgamation. It seems to me that receiving councils that do not want to be in receipt of anyone, happy as they are, are forced to go through a ballot at considerable expense because some people from an area not adjacent to them but many miles away from the nearest boundary point decide they want to hop into that particular council. Am I right legally in terms of that scenario?

The Hon. M.K. BRINDAL: Again, you are trying to paint the worst case scenario.

Mr Clarke: Am I right legally?

The Hon. M.K. BRINDAL: No. The people of Walkerville must go to both councils. If Port Adelaide Enfield declines, the panel then goes to both councils. The panel can decline to go ahead with the proposal, which means that there is no vote. If the panel decided for some reason that, even though Port Adelaide Enfield said it did not want them, it was going ahead with the proposal, if the electors of Port Adelaide Enfield did not want them, they would vote against the proposal and veto it.

The CHAIRMAN: This will be the member for Ross Smith's third question.

Mr CLARKE: Thank you, Sir, for the emphasis on the third question. You are good at counting if nothing else, Mr Chairman.

The CHAIRMAN: Order!

Mr CLARKE: Without explicitly saying so, the Minister has basically agreed with me that, under the Act, a receiving council could be compelled to hold a ballot of its ratepayers, even though it does not want to receive this group of people from another council area who want to join it. For whatever reason, the panel may decide that there is good reason to force the council to hold a ballot, at considerable expense to the receiving council, despite the overwhelming opposition of that city's elected councillors who are saying, 'We don't want you. Please don't come.'

Potentially this Bill forces a marriage when one of the partners is totally unwilling. It allows this panel unfettered discretion. It seems to me that, because it is such a wide discretionary power, the City of Port Adelaide Enfield does not even get a chance to go along to the Supreme Court, or wherever, and say, 'We don't want these people. We think the panel is acting outside the powers it has under this Act.' The discretion could be so wide that the Supreme Court could turn around and say, 'That is the panel's decision.'

Surely, something in this Bill should say that the receiving council, at the very least, must signify its acceptance that, if such a proposal were carried, it wanted the additional group in the first place; that it was a genuine and not shotgun marriage where there is one ardent suitor and one very reluctant receiver.

The Hon. M.K. BRINDAL: First, the panel must satisfy itself that the request justifies the principles espoused. If it did not justify those principles it would not proceed. I point out subclause (9) of clause 28, which provides:

> . . . and whether there is likely to be sufficient support from electors or potential electors to justify the formulation and consideration of a proposal by the Panel under this Chapter—

Quite simply, the law states that if the panel decides that there is not sufficient support from the electors or potential electors to justify the formulation and consideration of a proposal by the panel, the panel would not formulate a proposal. If it does not formulate a proposal there is no unlikely marriage. Quite simply, if Port Adelaide Enfield can demonstrate clearly that it does not want any part of a suggested amalgamation, the panel would be acting against this law were it to proceed with a proposal. There will not, shall not and cannot be unlikely marriages and unnecessary polls.

Ms CICCARELLO: Again referring to the receiving council and those who want to secede from a particular council, the Minister talked about this being a very a democratic process but it is only democratic for a certain section of the community. I use again the example of the Burnside Council and the Norwood Payneham and St Peters Council. A poll could be conducted of Burnside residents and perhaps those people of Marryatville and Heathpool who decide that they would like to secede from Norwood and go to Burnside. That means that those residents and ratepayers who have been contributing in the Norwood electorate over a period of years—and contributing significant amounts of funds in terms of infrastructure—would be seriously disadvantaged, as well as the council.

What sort of compensation would be made to those residents and ratepayers? I reiterate that I have a problem with this whole clause because, as far as I am concerned, it involves a lot of Government interference and certainly takes away from the process of voluntary amalgamations that was put in place a couple of years ago. I make no secret of the fact that I objected to that process also because I do not agree—

The Hon. M.K. Brindal interjecting:

Ms CICCARELLO: As the Minister said, I am one of those people who disagrees with even my colleagues. I do not think that big is necessarily beautiful. Local democracy and the whole issue of representation is not just about the bottom line and the dollar but rather what those communities choose to do and their historical reasons for choosing to be part of a particular council and not in another. This process certainly disadvantages historical, social and other links, and would certainly, I think, be very unfair.

The Hon. M.K. BRINDAL: The fact that the electors have never been given a say as to which council they would prefer to be part of is to be disregarded. The fact is that we should be able to buy and sell electors, as recently happened between Burnside and the hills councils, where electors could change councils as long as the price was good enough, and people's rights are thrown out of the window.

Ms CICCARELLO: I disagree that people's rights are thrown out of the window. The Minister again uses the example of the Burnside Council which is a very affluent council and which can afford to buy good parcels from other councils, but it has not contributed over a period of years to the establishment of those areas. I am a little offended by the Minister's remarks.

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: I apologise if I offended the member for Norwood, but it concerns me that she appears to be taking more notice of the immediate vicinity of her electorate than the Local Government Association. I hope that she would have consulted with the whole family of local government about this.

The CHAIRMAN: Order! I have been very tolerant. The member for Norwood has asked four questions on this clause and the member for Elder has asked three.

Mr CONLON: I rise on a point of order, Sir. The Minister is increasingly falling into the habit where, instead of answering quite legitimate questions in Committee, he is abusing those who ask the questions.

The CHAIRMAN: There is no point of order.

Clause as amended passed.

Clauses 29 to 32 passed.

Clause 33.

The Hon. M.K. BRINDAL: I move:

Page 35, line 35—Leave out 'periodical' and insert 'periodic'.

This is a purely technical amendment and corrects a reference.

Ms CICCARELLO: I ask a clarification of the Minister. What is meant by 'over-representation in comparison with other councils' in paragraph (f), which provides:

> the need to ensure adequate and fair representation while at the same time avoiding over-representation in comparison to other councils of a similar size and type. . .

I did not understand that there was any set standard for representation.

The Hon. M.K. BRINDAL: There is no hard and fast rule. It is pretty much left up to councils. Basically, councils are asked to assure themselves—and the question arose earlier in Committee—

Mr Conlon interjecting:

The Hon. M.K. BRINDAL: Yes, that sort of thing. It is really saying that if it is a council of 30 000—and it is for the council to decide—at least look at other councils of about 30 000 to see what their representation is. Councils should compare like with like and then make up their own mind. It is only a guiding principle and is not meant to be imposed on them. A council recently has done its own six or seven year review and one recommendation was that the council should be halved in size, that is, have half its representatives. The council stuck with its original representation on the ground that it felt that it could better represent the electors with a bigger council.

We would propose, for the benefit of the member for Norwood, no interference with that. The member for Elder has wounded me, so I do apologise. I meant no personal slight to the member for Norwood and I am sure that she knows that. It is just that I hope she will consult the LGA as well as taking into account her own experience.

Amendment carried.

Ms CICCARELLO: I wish to respond to what the Minister said. I only used the example of Norwood and Burnside as an example, because I have certainly consulted with other councils and the LGA. I have seen their submissions and I have been around local government for long enough not just to be representing one point of view.

Mr CLARKE: The member for Norwood referred to clause 33(1)(f) about avoiding over-representation in comparison with other councils of a similar size and type. I do not have an objection to the principle but I just think the language may not be good enough in the circumstances. Councils could be of similar size in terms of population but then there are geographical areas. Significant differences apply to areas in terms of councils representing vast geographic areas which are sparsely populated. What is meant by the words 'and type'? Each council is a local government area, but one could be rural and one could be largely provincial, with a manufacturing base like Whyalla versus its surrounding areas which are largely rural and regional.

The Hon. M.K. BRINDAL: In essence the member answers his own question. The member explained size well. It is a rural council compared with a rural council, a large sparsely populated area compared with a large sparsely populated area and certainly, say, in the case of Port Pirie, where there is basically a city component and a rural component to the council, if Port Pirie was going to look at what adequate representation is, perhaps it should look at the District Council of Grant so that they can compare themselves with similar councils of like ilk. That is what is meant by 'type'.

Clause as amended passed.

Clause 34 passed.

Clause 35.

Mr CONLON: Minister, I do not apologise for the grilling you are getting because it is the first review in 64 years and, if it is done with this frequency, we will all be deceased before it is done again and we might as well get it right this time. I have flagged this clause because it is a provision that I believe is silly. I think the attempt to exclude judicial review is silly. Clause 35(2)(a) provides:

. . . does not prevent—

(a) proceedings founded on an excess or want of jurisdiction;

As I dredge up my dim recollection of that exciting subject administrative law, do I take that to refer to jurisdictional error?

The Hon. M.K. BRINDAL: Basically, yes.

Mr CONLON: In such a case, would it then be fair to say that the clause is then as silly as I suggested? I am not sure what sort of error one would pursue judicial review over if it were not jurisdictional error. It is a confused and tangled area. I have not looked at it for a while and I remember Anasminic being a case that said jurisdictional error was asking the wrong question or taking the wrong approach. Can the Minister help me? I remember a Canadian case that said that jurisdictional error was any error that was so egregious it must be jurisdictional. As it has been a confused area of law, why do we not leave it alone?

The Hon. M.K. BRINDAL: I am advised that this basically reflects the law. We are trying to stop unnecessarily tying matters up in the courts. It is exactly as I explained to the District Council of Dudley on some procedural matter. However, the courts have generally ruled, as the member is saying, in terms of subclauses 2(a) and 2(b). We are saying that we do not want considerations of the panel held up for months and costing everyone hundreds of thousands of dollars for procedural matters but that we cannot exclude anyone going to court in terms of subclauses 2(a) and 2(b) which is absolutely their right.

Mr CONLON: I flag that we will oppose the provision as we always have. I would make two points. First, any power given to a body under a statute, particularly a body like this which is not a level of government but is a body which exercises enormous influence and control over what is essentially local government, is given by statute, and it must be administered and acted upon as contemplated by the statute or the courts will correct it no matter what you put in the statute. For that reason we will oppose it.

Unless my law on this is so old—and I admit I was not the greatest lawyer in the world—I would have thought there was a significant difference between an appeal and judicial review. Judicial review will only go to a question of whether the power has been correctly acted upon under the statute. If it has not been correctly acted on, I do not see why a court will let them get away with it because there is a provision in the statute that says they can. These are ill-advised provisions. To write in that you can only have judicial review for essentially jurisdictional errors is self defeating or circular and I signal that we are not happy with these sorts of provisions.

The Hon. M.K. BRINDAL: The member for Elder well knows that the courts go to considerable pains to try to circumvent privative law. Nevertheless, there is often a need to try to balance the courts desire not to be ousted from a jurisdiction from the desire of people who have a litigious bent or who merely want to hold something up—merely holding something up for its own sake. This is an attempt to balance. I am sure the member is right: when it is tested in law Their Honours will find whatever reasons they feel are sufficient to have jurisdiction in the matter. That is the creative tension between the legislative powers of this Parliament and their powers of judicial interpretation.

Mr McEWEN: Throughout this chapter I have been building on a theme because I have some concerns. First, we have a panel which the Minister has the propensity to stack. Then we have a situation where, in the process, part of those who are impacted by the process are disfranchised—basically they are gazumped as part of the 40 who were alluded to—and now we get to the point where you have been dudded twice and suddenly there is no opportunity of judicial review. When you work through in that regard it seems this is the final belting. I have some difficulties with it because of the earlier deficiency. If they were corrected I would not have these concerns. It is building to a point where someone could be quite concerned about the way in which the panel has treated them, the way they have been disfranchised, and now there is no opportunity for review.

The Hon. M.K. BRINDAL: I hear what the member is saying. It will be disappointing if this is to be lost from the Bill because it will necessarily involve councils and people who are genuinely interested in reform in rethinking this matter. It could well come at a great cost to councils but, if it is the will of this House that it is unnecessary, it is of course the will of the House that will prevail. If that comes at a cost to local government, then those voting for it, if it in some way stops people with legitimate cause from going through a process which is designed to facilitate them, that is a decision of this House.

Mr CLARKE: I endorse the comments made by the member for Elder and the member for Gordon on this point. The reality is that the courts will interfere whether or not this provision is in the legislation, and rightly so. They do not like people's rights to be taken away from them. In any event, it is bad because the panel has such wide discretionary powers that the affected parties are not offered any judicial review except for excess or want of jurisdiction, which is a very narrow basis. Given the wide discretion that this provision gives the panel and the impact it can have on ratepayers and residents in affected areas, it is just wrong in principle.

The Hon. M.K. BRINDAL: This is an attempt to encourage people to engage in the process rather than seek recourse to, as Dickens said, the thickets of the law. It is a genuine attempt to engage people, local government and people affected by local government—ratepayers—in a constructive process and not hide in legal artifice. However, it is this Parliament that will decide whether this becomes the law of this State.

Mr HANNA: I share the concerns that the member for Gordon has alluded to and I want to clarify that this is a strongly worded, privative clause. In other words, unless

there is an excess or want of jurisdiction, leaving aside those matters that are contained in clause 23(4), there are a whole range of decisions—bad decisions and wrongful and unreasonable decisions—that this Minister and this Government want to exclude from the ambit of the court. That is wrong. We are not talking about opposition to this clause which might mean a loss to local government. It might mean more litigation, but only in the interests of better democracy.

I will give the Committee an example, and that is where the poll process has been carried through, the panel makes a report to the Minister but the Minister does not like the report and does not like the look of what might happen if he makes any sort of response, so he simply does not do anything. He does not accept the report, he does not send back a request, he does not do anything with it. Somebody ought to be able to make the Minister do something in accordance with the working of the legislation. Even worse, if the Minister has a particular prejudice against a group of people who live in a particular area because of political prejudice or whatever, and the Minister is determined not to allow a merger of councils or one area going from one council to another, for those wrongful reasons, somebody ought to be able to look at what the Minister is doing, to examine that prejudice.

If that is the basis of a ministerial decision, someone should be able to correct it, and that is what the Supreme Court is for, in those very exceptional circumstances where a Minister's decision is so wrongful, so unreasonable and so based on prejudice that it should be overturned. That is a matter which goes beyond politics. It is a matter of the rule of law and the traditions of the Westminster system. That is why this clause is so offensive, and those are the sorts of problems that the Minister, it appears, wishes to allow to flourish rather than be subject to the scrutiny of the courts. I will oppose this clause.

The Hon. M.K. BRINDAL: The courts as I understand them—and I am not one of the two lawyers sitting opposite—could review the procedure and they could order a matter to be revisited, but they cannot order the Crown, or the Minister or the Government of the day to change a decision or overturn something. They can only look at procedures, they can revisit procedures and they can have the matter looked at again. They cannot change decisions, they cannot alter this matter. They can simply frustrate a course and order the course re-done. They cannot order redress.

The Committee divided on the clause:

AYES (20)

Armitage, M. H.	Brindal, M. K. (teller)
Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Condous, S. G.
Evans, I. F.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L.
Ingerson, G. A.	Kerin, R. G.
Kotz, D. C.	Matthew, W. A.
Olsen, J. W.	Oswald, J. K. G.
Penfold, E. M.	Scalzi, G.
Such, R. B.	Venning, I. H.

NOES (21 t.)

Atkinson, M. J.	Breuer, L. R.
Ciccarello, V.	Clarke, R. D.
Conlon, P. F. (teller)	De Laine, M. R.
Foley, K. O.	Geraghty, R. K.
Hanna, K.	Hill, J. D.
Hurley, A. K.	Key, S. W.
Koutsantonis, T.	McEwen, R. J.
Rankine, J. M.	Rann, M. D.

NOES (cont.)

Snelling, J. J.	Thompson, M. G.
White, P. L.	Williams, M. R.
Wright, M. J.	

PAIR(S)

Meier, E. J.	Stevens, L.
Maywald, K. A.	Bedford, F. E.

Majority of 1 for the Noes.

Clause thus negatived.

Clause 36 passed.

Clause 37.

Mr CONLON: I have a question that is again based on the legalisms of the Bill. Clause 37(3) provides that a council should, in the arrangement of its affairs, take reasonable steps to separate its regulatory activities from its other activities. I have some difficulty in understanding the nature of this separation. Because councils essentially are a body corporate one would think that they act through agents: but ultimately the legal responsibility is with the council. The only way that the councils can create new bodies corporate by this Bill is through subsidiaries, and those subsidiaries are specifically forbidden from exercising a regulatory activity. Therefore, I want to know how it is contemplated at law that a council could separate its regulatory activities from its other activities. I assume that it could do it through different people but, as to the legal liability of the council falling to the council, I simply do not understand what this is getting at.

The Hon. M.K. BRINDAL: This clause has been retained as a statement of community expectation that those regulating a service—for example, the health inspectors—will not be the same people as those delivering the service—for example, the nursing home managers. This theme recurs throughout the Bill in the provisions for subsidiaries. Single council subsidiaries cannot be used for regulatory activities and regional subsidiaries cannot regulate the same services they deliver. The intention is to ensure that the regulatory arrangements are properly separate from the services that they may affect and that, as far as possible, the elected bodies retain primary responsibility for regulatory activities. Regulatory activity is self-defined in the definitions clause as 'an activity which involves the making and enforcement of by-laws, orders, standards or other controls under this or another Act'.

Mr CONLON: Maybe the Minister is right on this: I am just waiting to be convinced. It just seems to me that the council can only act through agents who are at the direction of the council—which, of course, must act within legislation. I assume that the Minister is talking about regulatory functions given to agents of council by other legislation.

The Hon. M.K. BRINDAL: Yes, largely.

Mr CONLON: I will leave it at that and we will look at it further. It again strikes me as being, at law, a difficult proposition to maintain. However, it is possibly not arising from this but from the different responsibilities given to councils, and may itself be something worthy of investigation.

Clause passed.

Clauses 38 to 41 passed.

Clause 42.

Mr CONLON: I will ask the question at this stage, although it arises throughout the Bill: what is the legal effect of listing examples?

The Hon. M.K. BRINDAL: It is a device to assist the reader. The courts, I am informed, would have to give it some effect, but probably just a minor effect, because it exists.

Clause passed.

Clause 43.

An honourable member interjecting:

Mr McEWEN: I do not expect you to understand this either, because you have not been following the debate. My understanding is that what we are dealing with here is really the replacement of the old section 199 and 200 authorities and also trying to capture bodies such as, for example, the South-East Local Government Association. If that is the intent—and we are not picking this up elsewhere, so subsidiaries is the way in which we are dealing with that—then I have a question about clause 43(2), which provides:

> A council cannot establish a subsidiary under this section if the primary purpose of the subsidiary would be to perform a regulatory activity of the council.

There are a lot of times where regulatory functions of councils are bulked up with some other functions, either in a council on its own or in relationship with the State Government, and one example with which I am familiar is pest plant boards. Pest plant boards are clearly carrying out a regulatory activity of the council. However, a lot of pest plant boards also provide a service: they do spraying, and whatever, on a fee for service. How does section 43(2) deal with examples such as that, and if it is precluding it in that section, where else in the Act can we allow those sorts of activities to occur?

The Hon. M.K. BRINDAL: The plant boards (and that was the specific reference of the member) would be expected to separate them enough to make it clear that the regulatory activity is independent from the service offered.

Mr McEWEN: If that is the intent, this will be a very significant issue and I do not believe that it has been well canvassed in local government. If the Minister is now saying that pest plant boards have to separate out their two functions, most of them will not be viable—keeping in mind that pest plant boards are in a very awkward predicament because the State Government is a signatory to an Act where they contribute 50¢ in the dollar of revenue raised, but they do not approve the budget that the pest plant boards put up because they peg their contribution. So, they take the budget and slash it to suit their contribution rather than to honour their responsibilities under the Act. The only way, then, that many of these boards can survive is to run this parallel operation—keeping in mind that it is also the only way in which this service can be provided to many of the ratepayers, who get a notice in relation to particular pest plants and then have a responsibility to get rid of it: at least the board can do it. If the Minister is suggesting that this will no longer be possible, I believe that we have raised an issue now which has not been explored with local government and which would be a very significant matter for rural councils.

The Hon. M.K. BRINDAL: No, in fact, the pest plant boards are under their own legislation. But what I said was that they have to try to clearly separate the two functions. What they cannot do—and this is the more important thing, and I am sure that the member would acknowledge this—is so regulate as to induce people to purchase their service, for which they then charge. They have to keep their capacity as regulators separate from the service that they provide, and clearly separate: otherwise, you get those who regulate the laws regulating those laws in such a way as to give themselves business for which they charge. That is what we are trying to separate.

Ms HURLEY: I have some problems with councils establishing subsidiaries and what are called regional subsidiaries in this Bill. It is not because I do not understand the need for local government to operate in these sorts of ways but because I am very concerned about the accountability of councils, particularly when the subsidiaries are of a commercial nature. I am concerned about accountability, because it is often very hard for people to get information about the way in which that subsidiary acts if the council, or councils, chooses not to release that information. I will give an example. In my own area three councils have grouped together to form an organisation. The Salisbury, Playford and Gawler Councils have cooperated to form the Northern Adelaide Waste Management Authority (commonly known as NAWMA).

NAWMA is involved in a proposal for a landfill in my electorate, which I oppose on environmental grounds, but I am also concerned about the financial impact on the constituent councils if this landfill goes ahead. As members would know, at least three dumps have approval for operation in the northern area and it is my view that not all those three dumps will be viable. However, it is very difficult to get information about how deeply the constituent councils are involved in paying for the preparation for that landfill. We have information that at least half a million dollars has been spent on the preparatory phase and a great deal more will be spent the further along we go. The board minutes of NAWMA cannot be questioned through Playford Council as they have been declared commercial in confidence. So, it is very difficult to get any information about the viability of that landfill proposal.

When we compare that with State Government operations, for example, on the Opposition side we know that it is often very difficult to get information out of the Government about its commercial or semi-commercial transactions and that commercial in confidence is cited quite frequently, but at least there are some checks and balances in State Government, such as the Auditor-General, to which the Opposition and members of the public can appeal. There does not seem to be any such provision for local government and this is my sole concern, that is, that there is no independent scrutiny of what they are doing with such commercial operations. I am very concerned that it is quite possible that the ratepayers of Gawler, Playford and Salisbury Councils, in the near future, might be left with a very substantial bill, as well as a substantial environmental problem, if the landfill proposal is not profitable and eventually fails. Will the Minister comment on whether he feels that the accountability provisions are sufficient in the current Bill?

The Hon. M.K. BRINDAL: The member highlights one of the reasons for these provisions and, looking at this matter, she is indeed right about some of the problems under existing section 200s, about which I believe she would have been talking. Therefore, the first thing under this new legislation is that, in regard to all those section 200s (about which the honourable member is talking), they will have to complete, in consultation with their promulgating councils, a proper business plan and, in compliance with charter requirements as set out in schedule 2, the rules will have to be redone and will have to include clear exposition of financial arrangements. The councils at that time—and remember they are getting a second go at this now—can (and I would hope should) put in reporting requirements as part of the charter and the councils can direct and must establish a process to do that jointly.

This modelling is drawn from the provisions of the Public Corporations Act and emphasises proper planning through budgeting and reporting. A council, or the constituent councils, retain liability for the debts of subsidiaries and have an ultimate power of direction, though the ordinary administration of the bodies are entrusted to their own board. The whole of this mechanism is put together to ensure that the set of circumstances about which the member is talking—which, I acknowledge, has more than one parallel throughout local government and is of concern to constituent councils in that they create something which they then find is off on its own, for which they have liability and which they cannot necessarily control—is addressed. This seeks to address that and address it in the way that I hope the member would support.

Mr McEWEN: We have to be particularly careful with clauses 43 and 44—and I know we are referring to clause 43 at the moment. Rural local municipalities are finding themselves in a position where they have to become a service provider in more and more areas simply because they are the provider of last resort. As other areas of government move out and as the finances become doubtful in terms of commercial pressures, the reality is that the only service provider left is local government. I gave an example in my second reading contribution about aged care.

I will give members two other examples in which I was involved directly in my local government days. One of them involves owning and managing an airport. We had a situation in relation to the RPT (Regular Public Transport) airport. The Federal Government was looking to move out of providing that service. The only way in which it could be kept going was for local government to step in. Local government steps in under an old section 199 provision and runs and operates a very successful (I might add) commercial airport. It signs off with the Federal Government and is the first in Australia to take over the total capital base and the total business: it simply signs off on a service agreement with the Federal Government.

The other example is where, on behalf of ratepayers—and this happens around a lot of rural South Australia—a marketing point has to be provided. Therefore, saleyards become a key service provision and, if local government does not do it, it will not happen. On behalf of their constituents, for them to be commercially viable, they have to provide it. We have to be very careful not to impose any barriers in relation to clauses 43 and 44, because there are no other alternatives. It is the reality as services are withdrawn both commercially and by other sections of the Government from the bush.

I do not have too many difficulties with it, but certainly I am having some doubts about some comments made on this side earlier tonight, and even by the Deputy Leader of the Opposition just then. I was starting to hear warning bells in terms of limiting clauses 43 and 44, because it will cause major problems.

The Hon. M.K. BRINDAL: In terms of airports, I think the member for Gordon was saying that a council took it over, so that would have been a section 199 under the old Act. Under this new legislation, council has a choice of using either a council committee mechanism or a single council subsidiary mechanism, both of which render a closeness between the airport controlling body and the council that was not there before and allow the council much more direct not intervention but, if you like, umbrella powers and supervisory powers.

I keep saying this: what we are trying to do in this Bill is to encourage the capacity of local government to explore its own boundaries using reasonableness as the test. While I know that in worst case scenarios you can foresee dire consequences, I simply repeat to the member for Gordon that that is not the intent here. We are merely trying to address what a number of councils—for example, Mitcham and Unley, and we have heard of three councils—have said has happened when they have created section 200 subsidiaries. Subsidiaries will often consist of elected members of council, who will go on those subsidiaries and then be told that, as it is a section 200, as members of the board of that subsidiary of the council their duty of care is not to the council at all but to the board. This really does seek to try to address that in a constructive way that is both helpful to councils and more transparent not only to the parent councils but also to the electors generally.

Ms HURLEY: The member for Gordon raised an interesting point, which I want to expand upon. I am aware that the member for Gordon has long experience in local government, and I value his contribution. I think what he is saying is exactly the point. In the case he was talking about, where local government has taken over an airport, it obviously has the support of the community and in this instance the community is obviously aware of whether it will be a loss or profit making venture. Presumably that information is out there and the community supports it on the basis that it is providing a community service.

For example, in the case of NAWMA, the provision of the landfill was sold on the basis that it would save ratepayers money in terms of their waste dumping fees. Now some in the community are very sceptical about that information and do not believe it will save money, particularly in the long term, if the project fails, yet they are unable to get sufficient information to decide whether it will be a loss or profit making venture. If they had that information, the councils could successfully gauge community support for or opposition to that proposal. But not enough information is coming out about the financial viability of that project, except information that was produced as part of the EIS, which is now some years old and is outdated information. I think the Minister understood that distinction and understood that I am really talking about only commercial ventures which might be quite risky and about which the community is not fully informed. The individual constituent councils seem quite committed to the NAWMA proposal, perhaps partly because they have already expended so much money and effort on it during the community consultation phase. It is that aspect which most concerns me, rather than the idea that councils would go into some sort of subsidiary venture.

The Hon. M.K. BRINDAL: Perhaps I did not explain myself as clearly as I should have. The purpose of this whole section is to redress the very problems to which the Deputy Leader is alluding. Clause 28(1) of schedule 2 provides:

> A regional subsidiary must, at the written request of a constituent council, furnish to the council information or records in the possession or control of the subsidiary as the council may require in such a manner and form as the council may require.

So, there is no problem getting information and council then making it available. Clause 28(2)provides:

> If the board of management of the subsidiary considers that information or a record furnished under this clause contains matters that should be treated as confidential, the board of management may advise the council of that opinion, giving the reason for the opinion and the council may, subject to subclause (3), act on that advice as the council thinks fit.

In other words, it may still require it. The subsidiary having made it clear, the council can say, 'Tough; we still want it.' Clause 28(3) provides:

If the council is satisfied on the basis of the board of management's advice that the subsidiary owes a duty of confidence in respect of a matter, the council must ensure the observance of that duty in respect of the matter, but this subclause does not prevent a disclosure as required in the proper performance of the functions or duties of the council.

In other words, even if the matter is asked to be treated in confidence and the council says it should be treated in confidence, it does not remove the council's right to obtain the information. It simply passes the information to the council, which then elects, for its reasons, to treat it in confidence, but there is no way under this provision that subsidiaries of councils can hide from their creating bodies.

Clause passed.

Clause 44.

Mr CONLON: I take the opportunity to assure the member for Gordon that there are still a number of questions that we on this side need to address about subsidiaries, and I am still fairly unconvinced about the separation of regulatory activities. I find it very hard to understand just how it works in actuality, when ultimately legal control falls back on the council, one way or another. My question relates to regional subsidiaries, which plainly are designed to take the place of current section 200 controlling authorities. What is the situation with respect to the transition from controlling authorities to regional subsidiaries? Are controlling authorities simply wound up with the passing of this legislation or are there provisions which I have not noticed here to transfer the functions of controlling authorities to subsidiaries? It does not seem likely from what I have seen. If section 200 authorities are simply wound up, is that the best way of dealing with it?

The Hon. M.K. BRINDAL: It is dealt with in the transitional provisions of the Statutes Repeal and Amendments Bill.

Mr Conlon: And what happens?

The Hon. M.K. BRINDAL: They are not wound up: they become regional subsidiaries automatically.

Mr CONLON: What if they then face some prohibition in this legislation? What if they do perform regulatory activities? I note that they can do that here, but there seems to be some statutory regime that I must admit I do not quite follow.

The Hon. M.K. BRINDAL: If they perform dual functions and it is necessary under the law that those functions be separated, they have a period to come into compliance. After that period, if they fail to do so, they are in breach of the law.

Mr CONLON: Does that mean they would then be closed down by the legislation?

The Hon. M.K. BRINDAL: Not automatically, but obviously the Minister is entrusted with the proper superintendence of the law, and the matter would have to be looked at and appropriate action taken. It would not automatically mean closing down; it might mean simply speaking to them to determine what could be done in a constructive manner to address what, arguably, would be a real issue for that council.

Clause passed.

Clause 45 passed.

Clause 46.

The Hon. M.K. BRINDAL: I move:

Page 42, line 3—Leave out 'maintain a suitable office as its principal office' and insert:

nominate a place as its principal office for the purposes of the Act.

The amendment makes clear that councils, like other corporate entities, must nominate a place as their principal office for formal matters, such as the serving or posting of notices as examples.

Amendment carried.

The Hon. M.K. BRINDAL: I move:

Page 42, lines 4 to 11—Leave out subclauses (2), (3), (4) and (5) and insert:

(2) A council should consult with its local community in accordance with its public consultation policy about the manner, places and times at which its offices will be open to the public for the transaction of business, and about any significant changes to these arrangements.

The amendment is to ensure that councils are accessible to their communities and consult as to the manner, place and times that they are open for the transaction of business.

Amendment carried; clause as amended passed.

Clause 47.

Ms WHITE: I want to ask a question about the powers of a council to establish a business. What are the confines being put on the establishment of a business? It is a fairly broad statement about establishing a business and participating in a joint venture, but what are the confines that the Minister sees being levelled on the councils' ability to form that business or be a partner in a joint venture?

The Hon. M.K. BRINDAL: This clause ties councils' participation in commercial activities to the performance of their functions as councils. It is not envisaged that councils should be able to take part in commercial activities outside that area.

Ms WHITE: That is a fairly broad statement. What examples of business activities would you regard as outside the intent of this legislation?

The Hon. M.K. BRINDAL: Engagement basically in speculative business activities; high risk, marginal activities that could not be demonstrated to be of any benefit to ratepayers or to the council.

Ms WHITE: How does the sanction on a council that does engage in a business activity or joint venture activity that you would regard as inappropriate kick in? The legislation provides that the council can be involved in establishing a business. You give the impression that you have some idea of a limit or confinement to the scope of that business or that joint venture, but how does the sanction against a council operate?

The Hon. M.K. BRINDAL: The main sanction on the council is political, as in the case of the Port Adelaide flower farm. People become aware of it and become crabby and cross as a result. That is always the main sanction. I draw the member's attention to the prudential requirements for certain activities set out in clause 49.

Mr CONLON: I trust that the definition of establishing a business in clause 47(2)(a) is not related to the earlier definition of business in clause 5 and that the business would be an activity designed to make money.

Mr CLARKE: I am wondering how clause 47 and clause 48 interrelate. I do not know the circumstances at Mount Gambier with respect to the airport services, but clause 47(2) provides:

A council may, in connection with a commercial project—
(a) establish a business;. . .

Clause 48 provides:

(1) A council must not—
(a) participate in the formation of a company;
(b) acquire shares in a company.

Clause 48(2) puts limits on it, which basically provides:

. . . a company limited by guarantee established as a national association to promote and advance the interests of an industry in which local government has an interest.

How are clause 47 and clause 48 interrelated? I do not know the company structure of the airport at Mount Gambier, but how would Mount Gambier Council, if it had not acquired an interest in the airport, go about it in connection with clauses 47 and 48?

The Hon. M.K. BRINDAL: It can form a subsidiary or a committee of council to engage in that activity. This clause means that it cannot under Corporations Law form a company which insulates and limits the liability of that company. There are clauses which provide that a council is responsible for the debts of its subsidiaries. If we allowed it to form a company under Corporations Law, limited liability companies attract no liability to the founding body. People such as Christopher Skase use them all the time: our local government is not Christopher Skase and we want councils to form companies as subsidiaries or as committees so that the liability is transparent and clear.

Mr CONLON: In relation to clause 48, how would the clause prevent the council, through its joint venturer, trustee, partner or other similar body, from acquiring a company through a joint venture if the joint venturer was in the private sector? Why could it not do it through a trust arrangement if it wanted to? Does not leaving those sorts of modern commercial business vehicles open to councils leave them with the capacity, if they have good commercial lawyers, to get a company if they want one?

The Hon. M.K. BRINDAL: The member for Elder well knows that you probably cannot legislate against every possible contingency. All you can do is give it your best shot and watch what happens. If they try through some vehicle that this Parliament considers unreasonable to work their way around it, then this Parliament will consider what to do about it. If we can create absolutely perfect law in this place, I will go home tonight very happy and I am sure the member for Elder will do likewise.

Clause passed.

Clause 48.

Mr CONLON: Should subclause (2) not provide that it does not prevent the acquisition of shares for a commercial purpose? If you are going to buy a company, you are likely to be investing your money. That is the simple point I make.

The Hon. M.K. BRINDAL: I refer the honourable member to the investment provisions specifically set out in Chapter 9 and this interrelates with those.

Clause passed.

Clause 49.

The Hon. M.K. BRINDAL: I move:

Page 44, line 36—After 'risks' insert:

(including by the provision of periodic reports to the chief executive officer and to the council).

The amendment strengthens the prudential requirements that councils must undertake before embarking on a commercial activity above a threshold or a major activity by requiring regular reporting to the council and its CEO. This is the very reporting that was noted as being deficient by the Auditor-General in relation to the Port Adelaide flower farm. It had reporting requirements but they were so loose and wishy-washy that the horse had bolted before we discovered the stable was empty.

Amendment carried

Mr CONLON: It may be in here—and I apologise if it is—but from whom must the report be got? There does not seem to be a requirement. Clause 49 provides:

A council must obtain and consider a report that addresses the prudential issues set out in subsection (2).

The Hon. M.K. BRINDAL: No, it does not say it there, but the answer is either in-house or from a suitably qualified consultant—not just Auntie May down the street.

Mr CONLON: Should that be specified? I assume that we would not want the council to get the local butcher to provide the prudential report.

The Hon. M.K. BRINDAL: No. It is an interesting point and we will give it consideration between this place and the next.

Ms HURLEY: Who would have access to the report? Would ratepayers be able to demand access to such a report?

The Hon. M.K. BRINDAL: I refer the honourable member to clause 49(4) which provides:

A report under subsection (1) must be available for public inspection at the principal office once the council has made a decision on the relevant project (and may be available at an earlier time unless the council orders that the report be confidential until that time).

In the case of the example to which the honourable member referred earlier, it might be possible for council, for legitimate reasons found elsewhere in the Bill, to declare it a confidential item until such time as the council made its decision to proceed with the project. Once the decision is made, the council must make it available whether or not it had previously been considered in confidence. If the council does not consider it in confidence in those early stages it should be available for public inspection at the principal office from the time it is first promulgated. The best a council can do under this legislation is to keep it secret until it wants to give it the go ahead.

Ms HURLEY: Once this Bill is enacted will this provision apply to projects that have already been approved by the council, or will it apply only to projects that are being considered after the Bill becomes law?

The Hon. M.K. BRINDAL: No, it is not retrospective. Unfortunately, it applies only to new projects. I am quite sure, though, as the honourable member knows, that there is a certain moral political persuasion and, once there is a new regime, it will become harder for councils to continue justifying past practices that perhaps were not very justifiable in the beginning. I think that there will be a moral and political imperative. I am also sure that the Deputy Leader, being a good representative of her local people, will make sure that the fire is under the council's pot.

Clause passed.

Clause 50.

The Hon. M.K. BRINDAL: I move:

Page 46, line 17—Leave out paragraph (c).

The amendment removes the requirement for councils' policies on these matters to include provision for reporting of reasons for selection of successful tenders, without undermining the basic principle that contracts and tenders should be the subject of an open and transparent process.

Amendment carried.

Mr CLARKE: What is the reason for this particular clause, other than the fact that, as I read it, the only compulsion is that the council must prepare and adopt policies on contracts and tenders subject to certain guidelines. After that it is entirely a matter for the councils. I am not saying that it should be made obligatory, such as in Victoria, but, given that local government does this on an ongoing basis in any event

as part of its own budgetary strategies on a yearly basis, why do we need to put in a Bill something that says councils must do something which many of them do already, or where they have already made a conscious decision to consider it and do not want to do it? Why should local government be compelled to go through an exercise which it may or may not want to do, and it is something which can be visited at any time. Councils do not have to wait a year to do it: they could decide not to contract out today and change their mind tomorrow under the current regime. It just seems a superfluous clause. It does nothing other than inconvenience local government.

The ACTING CHAIRPERSON (Hon. R.B. Such): Would the member for Elder either go into the gallery or come back and join the fold?

The Hon. M.K. BRINDAL: It is a matter that requires transparency. It is a fact that, in the past, if councils had chosen to they could develop a policy on tendering. The fact is that many, because they were not obliged to, did not choose to develop a policy on tendering. This obliges them to develop a policy so that the public can be assured that, in any tendering process, whether it is the cleaning today, the gardening tomorrow, or something else for the library in two days, there is a consistent approach and not merely some possibility of an inference of a back-door deal—often about something which has not occurred; it is just an inference.

Members will be aware that there has been vigorous debate in the public arena in recent years about compulsory competitive tendering as an approach to public sector reform in the local government sector. This Committee knows that experience with compulsory competitive tendering in Victoria and in the United Kingdom has done little to enhance local accountability or careful consideration by local authorities of the impact of cost effectiveness on their decision. In fact, as some members have said—and I think the member for Gordon may have said it as well as other members—in some cases that has cost local communities, and especially country communities, jobs which they can ill-afford to lose.

There has been a lot of public interest in this area and it was felt that there was a need to make the framework clear. The provisions as drafted in the Bill reflect this Government's respect for the councils as democratically elected local governments and its belief that councils are able to appreciate the competing interests in their areas and to arrive at policies and decisions, including those for contracts and tenders, that achieve a balance between those interests. All we simply therefore ask is that those interests and policies be set out in a clear form that their electors can see so that their electors can, at any time, be convinced that a consistent approach was adopted; it is then a matter of transparency and a matter between the electors and the council.

Mr CONLON: I think that clause 50 is unnecessary, and I have said it before. It is silly. Worst of all—and I will ask the questions I alluded to in my second reading contribution—is the provision in clause 50(4) that the policy must be consistent with the regulations. If we are to trust councils to the extent that we shall give them the full legal personality of a natural person, with some limitations, within the legislation; if they are to have the capacity to establish businesses, participate in joint ventures, trusts and partnerships, or any similar body, or any of the rich arrangements that exist in commercial life; and if they are to control roads, penalise people, collect rates and raise funds, why can we not trust them to make their own tendering arrangements?

The Hon. M.K. BRINDAL: It is not that we do not trust them to make their own contracts and tendering arrangements, but I remind the member for Elder that even with those we most trust, even those we might choose to marry, it is sometimes a fashion to have a pre-nuptial agreement. In fact, under regulations there could be changes in the relevant accounting or audit standards, for instance, or changes in some other industry standards, which the local government sector believes should be generally applicable. I inform the Committee that it is not this Government's intention at this time to promulgate any regulations in this matter at all. I believe that we have given an undertaking to the LGA that if, in this matter, we do in the future seek, so long as I am Minister, to promulgate a regulation in this area, the LGA will first be consulted.

Mr CONLON: I simply refer the Minister to an earlier answer in regard to some penalties. We could not understand the changes having been made in such a short period of time by Ministers of the same Government. The rather petulant answer of the Minister was that he was not responsible for the previous Minister's actions, that he did not know why he went down that path but that that was not the path he was going down. I think you are an honourable person, Minister, but are you fully satisfied that you do not intend to promulgate such regulations? What is to prevent the next Minister having the same attitude to the previous Minister as you have to the previous Minister?

The Hon. M.K. BRINDAL: Quite simply, if South Australia is to go down that path the next Minister may well be you and I extend to you the same courtesy that you extend to me.

Mr CONLON: Given your answers in Question Time today on other matters, the next Minister may be someone else from your Government and it may be soon.

Mr CLARKE: I was swayed considerably by the Minister's oratory ensuring that ratepayers have trust and that there is accountability and full transparency with respect to the issue of tendering and the like. Would the Minister take those same principles up with his own Cabinet to ensure that they adopt the same accountable, responsible and transparent procedures with the tender, so we do not have to put up with the Motorola deal and the Sam Ciccarello deal, etc?

The Hon. M.K. BRINDAL: While this has nothing to do with the Bill, this Government is always endeavouring to be open and accountable. We are trying steadfastly to ignore the example and legacy which was left to us all those few years ago.

Ms CICCARELLO: I also disagree with this clause because it is offensive to local government that we have to have such prescriptive issues in the Bill. We talk about local government becoming more independent and responsible for its own actions, yet the State Government continues to want to dictate how it should run its operations.

The Hon. M.K. BRINDAL: That is a valid point and it runs throughout the Bill. The Bill tries to achieve a balance, on behalf of the people of South Australia, as is the Parliament's right, because this Parliament is passing a statute for the better governance of people at a local level. This Bill tries to achieve the balance between the maturity that local government clearly demonstrates and the rights of the people to be protected by law, which only this Parliament can pass. It is the decision of this Government that this sort of approach is necessary. It would be an ideal world and I would be very proud if in South Australia we were all perfect citizens—

either in this legislature or in local government. Unfortunately, we are human and we err.

There have been times previously when there has been a requirement for councils to report. In South Australia council reports go from very voluminous and complete analyses of the council activities for the year, on size and scope that the Auditor-General would be proud of, through to almost a mayoral letter claiming how good the council is and asking for support in the next year. Because of that variation we have tried in this Bill absolutely consistently not to set the standard ourselves but take from local government, and there are some absolutely excellent councils in this State. I would put to the member, and I think the member knows, that some of the best councils in this country exist in this State.

This Bill time and again takes from the best practice of the best councils in this State and says that this is the point we wish all local government in South Australia to achieve. We do not set the benchmarks. Good practice in local government in this State sets the benchmarks. What we require as a Government, what the Government asked this Parliament to require, is that all councils are as good as other councils. There is no reason why any elector in this State, because they happen to find themselves in a council that does adopt best practice, has the right to expect that, merely because they are in that council, they are going to get sub-standard practice. This Bill tries to ensure that the council practice in every council is equally good, and no less than 100 per cent will do. I have to say to the member for Norwood that that approach has been absolutely and roundly endorsed by every member of local government that I have spoken to: every CEO, every mayor, every elected official and every member of the LGA is committed to nothing but the best practice in local government for this State.

The Hon. M.K. BRINDAL (Minister for Local Government): I move:

That the sitting of the House be extended beyond 10 p.m.

Motion carried.

Ms CICCARELLO: If the Minister has had that assurance from local government, from councils, CEOs and mayors that they intend to adopt best practice, I still ask why it is necessary to have this provision in the Bill?

The Hon. M.K. BRINDAL: I thought I explained in the last answer. Do you want me to go through the whole thing again?

Ms CICCARELLO: No. The Minister did not convince me why it is necessary for this provision to be there. Local government has already indicated that these practices are being adopted.

The Hon. M.K. BRINDAL: It is my job in Committee to try to explain as best I can what provisions mean. It is beyond my capacity to convince you—you have to convince yourself.

Ms HURLEY: First, I agree with the Minister that compulsory competitive tendering has not worked in the United Kingdom and Victoria and I am very pleased that the Government has not, on the surface at least, undertaken that particular path and has allowed local government to decide where in fact it does contract out services or goes to tender on those services. I would like to look at it from a slightly different perspective. In these competitive times some councils, particularly in rural areas, are actually tendering outside their own council areas for work with neighbouring councils, for example, or even with private industry. In discussion with members of the Civil Contractors Association they have expressed some disquiet that councils may be tendering at a lower rate and having ratepayers subsidise the tender. It is not only that the council tendering process needs to be open where they tender for services for themselves but we need to ensure that, where councils tender for outside work, it is on a level playing field with private competitors.

The Hon. M.K. BRINDAL: It is a strict requirement of competition policy and one that this Government is absolutely committed to. The Premier has done a lot of work in this area because, frankly, councils are not allowed to compete other than on an absolutely cost neutral basis. While I accept the point of view of the civil contractors, I also ask members of this Chamber, especially rural members, to consider the dilemma in which councils find themselves, because the corollary is also true. There are plenty of councils that employed large outside work forces that now have no outside work force at all. Someone is paid to come from Adelaide for a couple of weeks, take money out of the community, deprive that community of the people and interaction that the outside work force provided, and walk away with the money.

If the Deputy Leader wants my vote on behalf of rural councils, it would be to encourage them to do locally that which can be done locally, to produce jobs locally and to create vibrant regional economies. That is what this Government is about. I re-emphasise to the Deputy Leader that it must be done in a way that is competitively neutral. Some construction firms claim that a matter has been done in an unfair fashion. If they can demonstrate that, the council clearly is in the wrong, the matter can be redressed and the council would be subject to penalty. If they cannot do that, I would say it is sour grapes. They want all the plum but none of what goes with it.

Ms HURLEY: I think that the Minister deliberately misinterpreted what I was saying. I said that I do not believe that competitive tendering is necessarily a good thing but, where councils choose to do it, it should be on a level playing field. I agree that in rural regional areas in particular local government should and has tried to provide work to local people and use local people to perform work. I do not think that anyone here would have any quarrel with that. As I said, I think that the Minister deliberately misinterpreted what I said.

While deriding the concerns of the civil contractors, the Minister also said that penalties would be put in place and that the Premier had done a lot of work on that. What work has been done, what penalties are applied and where is provision for these penalties?

The Hon. M.K. BRINDAL: I am sorry because I did not deliberately seek to misunderstand what the member was saying. I thought she was saying that, in some way, councils should not be allowed to competitively tender for business outside their council area. I am simply putting the proposition that they should. I would have thought that, given the member's seniority in her Party, she would know that competitive neutrality is enforced through the competition complaints mechanisms under the Local Business Enterprises (Competition) Act. It is demanded by Canberra and it is enforced by that legislation.

Mr CLARKE: The Minister refers to the point under this clause of local councils using local goods and services to assist in employment opportunities in regional areas as an advantage. Again I would simply invite the Minister to encourage his own Government and Ministers to adopt similar policies because it is his Government which has so

significantly reduced employment opportunities in regional areas through the withdrawal of Government services and Government jobs in those areas and by applying certain purchasing policies across the board, which preclude local suppliers in regional areas from supplying Government authorities and bodies with goods and services which have to be purchased from Adelaide. The Government should adopt its own principles, which it is ramming down the throat of local government, which is doing it in any event. It is the Government that is not doing it across the State as a whole with respect to the provision of Government services.

The Hon. M.K. BRINDAL: This is not a grievance debate. The honourable member is debating, and he is welcome to do so.

Ms BREUER: I agree with the member for Elder and the member for Norwood that councils should not be dictated to in these matters. I believe that councils are responsible enough to make their own decisions. However, I agree with the Minister, too. I know from my own experience that contracts have been let without any sort of tendering process, sometimes to people who may have family members involved in councils and, in the past, councils have been personality driven in a lot of instances. While I agree with the shadow Minister and the member for Norwood that it should not be compulsory, it offers some form of protection in smaller country councils where that is often the case.

Another point that we have to consider is that often a project cannot go to tender because there is only one firm in a council area. I also support the member for Ross Smith in his push for the State Government to look at this process itself. Coming from a country area and knowing the number of jobs that have been lost in regional South Australia because of the tendering process of the State Government, which is appalling, I would like to see that stopped because it has a major impact on local economies. If the power station was built at Whyalla, there would be a lot more jobs in that area.

The Hon. M.K. BRINDAL: The member for Giles is an honest and hardworking member for her electorate and I pay tribute to her. She could almost endear herself to this Chamber if she were not so preoccupied with generators.

Clause passed.

Progress reported; Committee to sit again.

ADJOURNMENT

At 10.7 p.m. the House adjourned until Thursday 11 March at 10.30 a.m.