HOUSE OF ASSEMBLY

Wednesday 14 May 2003

The DEPUTY SPEAKER (Hon. R.B. Such) took the chair at 2 p.m. and read prayers.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Infrastructure (Hon. P.F. Conlon)—

Emergency Services Review—Report of the Task Force—May 2003.

EMERGENCY SERVICES

The Hon. P.F. CONLON (Minister for Emergency Services): I seek leave to make a ministerial statement.

Leave granted.

Members interjecting:

The Hon. P.F. CONLON: I have no idea why members opposite are so excited today. I have today released the report—

An honourable member interjecting:

The Hon. P.F. CONLON: This is a serious matter. I have today released the report of the review of emergency services, in particular the CFS, MFS and SES. This was a review undertaken for the government by John Dawkins AO, Stephen Baker and Richard McKay. The findings and recommendations are theirs, not the government's. As a minister I did give my views to the review on certain matters that are important to me. I stress that I believe any new arrangements should preserve the distinct identities of each of the emergency service agencies and that the agencies should be supportive of proposed changes, because the most important people in the process are the people, whether volunteer or paid, who deliver our invaluable emergency services. I believe the review has been consistent with this fundamental tenet.

I understand that the review's recommendations have drawn, in substantial part, from a joint submission from the Country Fire Service and Metropolitan Fire Service to the review. The mere fact that the Metropolitan Fire Service and Country Fire Service were able to make a joint submission has been a great step forward. The government will make its response to the review in approximately four weeks.

I am hopeful that the bulk of the review can be adopted. This will depend to a great degree on the reception given to the report by the emergency service agencies themselves. I am strongly of the view that it is counterproductive to try to force unwelcome reform on vital emergency services. It is also unwise to try to fool them in a reform process. This process will deliver the best outcomes to the people of this state who rely on our emergency services, if change is understood by the agencies and embraced. Of course, not everyone will agree on everything, but I am hopeful of sufficient agreement to take us forward. I am certain that the deep commitment of the emergency services workers and volunteers to their services will allow us to find the way forward.

The report, in brief, suggests the abandonment of the failed ESAU experiment and the creation of a fire and rescue commission. It suggests a closer coordination of services that will produce efficiencies and administration savings. The first response that I can indicate from the government is that any savings achieved by reform will stay with emergency services to improve our delivery of service on the fire or rescue ground. This has been the government's objective throughout.

I take this opportunity to thank the task force for its work. John Dawkins, Stephen Baker and Richard McKay have worked hard to produce this comprehensive, thoughtful and constructive report. I also thank those individuals and organisations who have made submissions to the review. I believe it is a sign of the dedication of those involved in emergency services that the task force had a substantial body of material to consider.

Lastly, but certainly not least, I thank the heads of emergency services organisations for their support for the review. At this stage I also make special mention of Mr Barry Apsey, Chief Executive of the Emergency Services Administration Unit. His assistance to the review has been invaluable. His constructive and helpful approach, and indeed that of his staff, has been an asset to the review. I hope his generous contribution has been of great benefit to the emergency services of this state.

LEGISLATIVE REVIEW COMMITTEE

Mr HANNA (Mitchell): I bring up the 25th report of the committee.

Report received and read.

QUESTION TIME

MURRAY RIVER

The Hon. R.G. KERIN (Leader of the Opposition): Is it correct that the Minister for the River Murray has been advised that South Australia will receive only 65 per cent of its water entitlement flow from the River Murray in the period July to September and perhaps further on this year and, if so, why has this not been made public; and what are the implications for the state's domestic supply and for irrigators? Last week, several members of the Liberal parliamentary team and I visited several of South Australia's river communities. We were told by people in these communities that departmental officers had advised them that South Australian entitlements were set to decrease to 65 per cent of normal entitlement.

The Hon. J.D. HILL (Minister for the River Murray): It is a well made point—and it is one that I have been making for the last six months or so—that the circumstances that South Australia will face over this coming season are such that it is highly likely we will have to have water restrictions in place in this state not just in the metropolitan area or the country towns but across the whole of the irrigated parts of our states.

Mr Brindal: Why didn't we have them this year?

The Hon. J.D. HILL: We can talk about that. This is really a side issue. The real reason we may have to have them this year is that the volume of water provided to us through the Murray-Darling Basin Commission will not be sufficient to meet the needs and expectations of the community which relies on River Murray water. About 1 850 gigalitres of water is provided to South Australia each year as a guarantee. That guarantee operates in about 99 of 100 years. Unfortunately, we look as though we are going into that one in 100 year period, and that may mean that we will not get the full 1 850 gigalitres provided to us over the coming year. In addition, even if we just got that 1 850 gigalitres, because of

the state of the river and the dams, that volume would not be sufficient to supply all our needs. That is a set of facts I have been putting to the community for some time.

I have also advised the community that the Murray-Darling Basin Commission will be providing us with advice as to what our entitlement will be towards the end of this month and early next month. I have arranged a briefing for the parliament and the media for tomorrow, I think at 11.30 a.m., to go through all these figures. It is important that the parliament, the media and the public have a clear understanding of the issues we are facing. The figure that the honourable member mentioned of 65 per cent is one of several being suggested at the moment by officers of the commission. That has not been formalised or finalised at this stage, but it is a possibility that we will start the year with an allocation of only about 65 per cent or thereabouts of our entitlement. That does not mean that that is all we will get over the coming 12 months because, as rains—

The Hon. D.C. Kotz interjecting:

The Hon. J.D. HILL: I think it is important that I answer this in some detail. The final amount of water we will get through the Murray-Darling Basin Commission will vary as the season progresses. As I understand it, the commission will start off with a fairly conservative figure. Depending on rainfall in the eastern states, it will upgrade that. Just to give some indication of how the rain is going in the other states, I understand that the first three months of this calendar year rainfall in New South Wales and Victoria was either average or above average. Nonetheless, despite that, there was less runoff into the Murray system in the first three months of this year than in the first three months of last year. So, even with better rain we are not necessarily getting better runoff.

There may well be a dramatic reduction from 1 July of the order of 60-odd per cent. That may not translate into 60 per cent allocations to water users, I hasten to add. I still believe, and I have indicated this figure publicly, that the reduction will be of the order of 10 to 20 per cent; we would hope closer to 10 per cent than 20 per cent. We will try to manage the figure properly. However, we are not going to pretend that there will not be water reductions. We think they are highly likely, although it depends a bit on how the season goes. When we have the appropriate figure from the commission, we will let the public know. As I say, there will be a briefing tomorrow that will give members better advice.

FEDERAL BUDGET

Mr O'BRIEN (Napier): My question is directed to the Minister for Employment, Training and Further Education. What are the likely impacts of the higher education measures announced in the federal budget last night?

The Hon. J.D. LOMAX-SMITH (Minister for Employment, Training and Further Education): I acknowledge the honourable member's interest in the higher education package, a matter that is of great concern to me as minister for higher education because, once again, our students are being attacked by the federal government and our university system reduced in funding. We hear that a $1.5 billion package for reforms in higher education was announced in the federal budget, but this does not take into account the more than $5 billion taken out of higher education over the period since 1996, made up from direct university grants and cost shifting to university students.

Instead of restoring the commonwealth funding to 1996 levels, the Howard government has chosen to fund a reform package by passing on the increased costs to students and their families. They are allowing a 30 per cent increase in HECS fees payable for some universities and for some courses. Members might wonder which universities and which courses they are. Inevitably, they will be going to some of the red brick universities on the east coast but, most of all, they will be allowing courses with high demand—such as medicine, law, veterinary medicine and dentistry—to increase their HECS charges. The impact of this will be profound.

There will be gold-plated degrees for the rich and the battlers will never again be able to afford to get into those courses. On top of that, the increased places will be for full fee-paying students, not the battlers. This is at a point when every country in the OECD over the past six years has seen a 27 per cent increase in university takeup, and we have had 6 per cent as a nation. What a woeful state of affairs! The effects will be simple. It will allow the rich to buy their way into university, to accept the increased HECS charges, and our people will never be able to afford to get a university degree. On top of that, those battlers will watch the eastern universities get richer while ours get poorer. One of the few positive measures in this budget has been that the HECS repayment threshold will be increased to $30 000—but not until 2005-06. And this is at a time when—I repeat—there is a 30 per cent increase in the HECS chargeable rates for many courses across our country. It is an outrage.

The changes inevitably will deter students who do not wish to take on serious debt. This will be the poor, the indigenous and those who live outside the metropolitan areas. Unlike me, they will be forever excluded from those gold plated degrees. The package also sends a very clear signal that the federal Liberal government understands about education exports. We already know that this country gets $4.5 billion in education export funds throughout our education system after a period when they have removed $5 billion from our higher education system. In fact, the International Comparative Higher Education Finance Accessibility Project shows that our university degrees are the least accessible of countries, even less accessible than the United States, the United Kingdom—

Mr HAMILTON-SMITH: Sir, I rise on point of order. My point of order is the same as the one that I took yesterday. The minister is making a ministerial statement from a prepared text and chewing up questions without notice time in this parliament. I ask for your ruling, sir.

The Hon. M.D. Rann: You get guaranteed 10 questions.

The SPEAKER: The Premier will come to order! I uphold the point of order. Government ministers should know better. The Leader of the Opposition.

IRRIGATION WATER RESTRICTIONS

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for the River Murray guarantee to the house that he will ensure that irrigators will be fully consulted regarding the probable implementation of restrictions on irrigation water? As I said earlier, last week, in company with other members, I visited several of South Australia's river communities. During our discussions with irrigators the—

The SPEAKER: Order! Leave is withdrawn. The leader knows full well that it is not necessary for anyone to understand that question for him to make gay play of the fact that he and a few other Liberal Party blades were wandering around in the Riverland.

The Hon. P.F. Conlon: We're still getting complaints, sir.

The Hon. J.D. HILL (Minister for the River Murray): As my colleague said, we are still getting complaints about the visit. This is an important question. It is a follow-up question from the Leader of the Opposition's first question about whether there will be cuts. There is a high probability, I believe, that there will be a restriction in the amount of water available over the coming season. Will we work with the community to implement those restrictions? I think we obviously have to do that. Mind you, the water restrictions will have to apply from 1 July. So, we will only find out towards the end of the month; we will have a very limited period of time.

One of the things of which we are obviously mindful—and I am aware of this from the days when the member for Unley was the minister for water resources—

Mr Brindal: And a much better minister, too.

The Hon. J.D. HILL: He is obviously desperate. When the member for Unley was the minister, he made the point—I thought wisely—that, if there were times when water restrictions had to come into place, we had to be careful about how we allocated that water to make sure that trees survive, so that we ensure that we lose only one crop but do not lose the trees, so that future crops are not lost. We will have to be mindful about how water restrictions are put in place so that the grapes and the fruit trees, for example, in the Riverland, are protected.

We want to talk to the irrigators well in advance, or as early as we can, so they understand the nature of the restrictions and can take appropriate action early on—whether that means pruning the grapes in a particular way or taking fruit off particular trees, and so on. Obviously, those are the issues that we need to work through. This season there is a high probability of water restrictions, which will apply to everyone who relies on water from the River Murray—there is no way around that. If we get 1 850 gigalitres or less there will not be sufficient to meet the needs and the demands of the South Australian community.

FEDERAL BUDGET

Ms THOMPSON (Reynell): My question is directed to the Minister for Education and Children's Services. How has the federal budget addressed the pressure on children's services in South Australia?

The Hon. P.L. WHITE (Minister for Education and Children's Services): In a nutshell, once again the federal government has ignored critical issues in the area of children's services in South Australia. Despite intensive and consistent lobbying by me and my department in several fora over the last 12 months, this federal budget (like last year's) provides no new additional childcare places for family day care or outside of school hours care. In South Australia, child care demand exceeds supply in all of our programs. The acute ongoing shortage of childcare places in family day care and out of school hours care is especially felt in poorer—

Mr Hamilton-Smith: Did you ask for provisional places?

The Hon. P.L. WHITE: Yes, I did.

Mr Hamilton-Smith interjecting:

The Hon. P.L. WHITE: The honourable member asked why if I asked we did not get them. I ask him why his party when in government made no representations, and I ask why there have been no representations from the shadow minister for additional places for South Australia. None have been granted. My most recent meeting with the federal minister, the Hon. Larry Anthony, was within the last month (some weeks ago), and my letters to him have drawn no new places for South Australia in this budget. We have acute shortages. We have staffing issues in terms of the ongoing shortage of qualified staff in our centres. Pressure is being felt by all states, but in this state it has built up to the point where in February this year 20 per cent of long day care centres and 24 per cent of out of school hours care services were given an exemption from the minimum requirements for qualified staff because they could not find or place such people.

These are two very serious federal issues that have not been addressed in this federal budget in any way. I inform the member for Waite that the state government is doing what it can to help. Recently I announced a new program under which the state government will fund subsidies so that unqualified staff in childcare services in South Australia can train to become qualified. Subsidies will also be available for centres to replace staff while they undertake training. We are doing what we can. However, this is a federal government responsibility. We need federal places. As the statewide sponsor of family day care in this state, the state government could quite quickly implement new services in family day care if only we had the places from the federal government. Similarly, in terms of out of school hours care, we could quickly establish new services if only the federal government would grant us the funding and the places.

TAFE

Mr BRINDAL (Unley): My question is directed to the Minister for Employment, Training and Further Education. When will the public of South Australia be fully informed about the results of an investigation into serious allegations of corruption and fraudulent practices in TAFE made in the *Advertiser* by Mr John Gregory of the Australian Education Union? When the minister announced an investigation and insisted that it be an internal investigation the minister said that she had referred the matter to the police and to the Auditor-General, that they were happy with the investigation and it would only be referred back to those bodies if some misconduct was found. In her last answer to the house she admitted that the allegations have in fact been referred back to the Auditor-General, and to the police, and yet the public of South Australia remains ignorant of the results of those investigations, and the whole of the TAFE system will remain under a cloud until this house is fully informed of what is happening.

The SPEAKER: Can I ask the member for Unley to clarify whether he alleges in the question that misappropriation and fraudulent conversion of public funds for private purposes occurred, or not?

Mr BRINDAL: No, sir. I asked a question about an inquiry being conducted by the minister to establish whether that may, in fact, be the case and that, insofar as that might be true, that was an allegation made by Mr John Gregory of the AEU on the front page of our daily paper.

The SPEAKER: Minister.

The Hon. J.D. LOMAX-SMITH (Minister for Employment, Training and Further Education): I thank the member for Unley. As he quite rightly comments, we did place an inquiry, and that was carried out by our own internal audit team, with assistance from Deloitte's and KPMG. Before the inquiry was instituted we asked the advice of the Auditor-General and also the police, because we wanted to make sure that the evidence was correctly collated and that

the material was overseen properly and we could check the safety of releasing the evidence, if any evidence were found.

The report has been completed, covering all of the allegations at all of the sites and looking at all of the material that was given, not just to the newspaper but also in another place, and via the helpline telephone and email resources that we have made available so that members of the public could put additional information on the record in a confidential manner. The inquiry has been completed, but, in order to make sure that we have done everything possible to make sure that a proper inquiry took place, we have asked the Auditor-General and the police, again, to check the evidence before we release it, and the report will be released as soon as the police have reported back to my office.

FEDERAL BUDGET

Ms BEDFORD (Florey): My question is directed to the Minister for Housing. Minister, what will be the effect of the federal budget on public and community housing in South Australia?

The Hon. S.W. KEY (Minister for Housing): I would like to thank the member for Florey for her question. The budget papers show a major reduction in commonwealth funding available for the Commonwealth-State Housing Agreement. In South Australia's case, base Commonwealth-State Housing Agreement funding will drop from $65.3 million this financial year to $55.7 million next year. Community housing funding remains at $5 million, but there is a further reduction in housing assistance for indigenous people, from $9.1 million to $8.3 million. Overall, there is a total reduction in commonwealth-state housing funding from $82.4 million to $72.1 million, which is obviously $10.3 million.

TAFE

Mr BRINDAL (Unley): In the light of the Minister for Employment, Training and Further Education's answer to my previous question, if in fact any impropriety is found, what steps will the state government take to ensure that the moneys fraudulently obtained from the commonwealth government for training purposes are properly accounted for and repaid?

The SPEAKER: Having given such consideration to the question as time in these circumstances allows, I rule it out of order, in that it is hypothetical, at least in the first instance and, as I suspected in the first such question asked by the honourable member just now, it may prejudice natural justice and fair treatment—I will not use the word trial—but fair treatment of the matter should it ever come to court or be the substance of argument in a constitutional challenge in the High Court. I trust that the honourable member understands that my deliberate remarks are in no way intended to be a reflection on him. The nature of the question is fairly unique. However, it is improper for the house to entertain or contemplate that the minister should attempt to answer it.

Mr BRINDAL: I rise on a point of order, Mr Speaker. Would it be possible for you, sir, to consider this matter afterwards, because it touches on accountability warrants, which every minister signs for the commonwealth? We accept commonwealth moneys, under certain conditions, and the minister signs those accountability warrants. Whilst I fully understand what you are saying, and concur, sir, I wonder what that means in terms of the opposition questioning a government about proper use of commonwealth moneys and accountability for commonwealth moneys and answers in this place to the opposition. I ask you, sir, to consider that aspect later.

The SPEAKER: The honourable member obviously missed the direction of the explanation I gave for ruling it out of order. He seeks a hypothetical solution to a problem that may not exist and, in the process of doing so, invites the house to contemplate matters not within its purview or perhaps that of law enforcement agencies in South Australia of their own motion. My ruling in no way is intended to constrain the capacity of any federal member in the commonwealth parliament to ask any question that they may wish to ask. That is entirely a matter for them and the forum of either the House of Representatives or the Senate in which they may choose to answer it and the manner in which they ask it. In the meantime, I believe that there is nothing further I am able to contemplate on behalf of the house as its chair.

SARS

Mr HAMILTON-SMITH (Waite): Does the Minister for Tourism agree with the view put by her department to the *Advertiser* on 30 April that the SARS outbreak has been a 'bonus' for South Australian tourism?

The SPEAKER: Again, I remind the member for Waite and all other honourable members that it is quite improper and disorderly to ask any minister to agree or disagree with remarks made by some other party outside this chamber, especially them. The usual context is to ask a minister to comment on whether they agree or have any other attitude to anything reported in the media, either print or electronic media. That is out of order. The question can otherwise be reframed.

Mr HAMILTON-SMITH: I am happy to re-put the question appropriately.

The SPEAKER: I will give the honourable member some time to do that. I call the member for Giles.

Members interjecting:

The SPEAKER: Order! The chair really does not need much assistance these days. Whilst honourable members may have an alternative view, particularly the Deputy Premier, the chair's confidence is not in any way challenged by that belief.

RADIOACTIVE WASTE

Ms BREUER (Giles): My question is directed to the Minister for Environment and Conservation. What information is contained in the commonwealth budget for the funding of the proposed radioactive waste repository?

The Hon. J.D. HILL (Minister for Environment and Conservation): It is interesting looking through the budget papers to see what allocations have been made by the federal government for its proposed radioactive dump in South Australia. It is clear that the federal government wants to have this facility operational within 12 months—and Minister McGauran has indicated that. If members turn to page 14 of the budget papers, one sees a figure of $200 000 against the Department of Education, Science and Training. That is not a cost but, in fact, a revenue. The federal government is expecting to earn $200 000 in its first year of operation by charging non-government and government agencies for disposal of waste into that facility. They want to not only take our land but also charge us for using it. That is the first item in the budget papers.

The second item is on page 126, under 'Radioactive waste management facility'. There is a figure of $1.7 million against the Department of Education, Science and Training. That is to undertake the first national collection and disposal of low level radioactive waste. In forward years it is to be $200 000. They are expecting to spend about $1.7 million in the first year and about $200 000 a year thereafter collecting the waste. I suppose that makes sense—there is a lump of it around; you get rid of that and then you have a small amount each year.

That raises the question of what will they put this waste into? I looked for figures in the budget concerning how much they will spend to build the facility. On page 241, once again against the Department of Education, Science and Training, under 'Radioactive waste management facility', is $500 000 for 2003-04. That is described as 'the government will provide an equity injection of $.5 million in 2003-04 to education, science and training'. Clearly, half a million dollars is not enough to build this facility.

If members turn to page 124, which is the education, science and training portfolio—and I am sure my colleague the minister responsible for higher education will be interested in this—against 'Education. science and training', one finds a reprioritisation figure of $2 million. In other words, the Minister for Science is transferring $2 million from ordinary Department of Education, Science and Training programs to put into building the waste facility. It states:

> In order to establish the radioactive waste management facility and to provide for its operation. . . the government will reallocate $2 million.

So they are putting half a million dollars of new money and $2 million of existing money—money that is providing education and science for the community—into this waste management facility—putting it into this dump.

I go further than that. I looked in the papers for figures to do with allocations for security for the dump. I cannot find any security allocations for the dump in South Australia. Although there is an allocation over two years of $11.1 million to provide security at Lucas Heights, there is none for South Australia. Which budget line will have to pay for that? I also looked in the budget papers for roads. We know that, if they build on site 40A, they will need to construct a road about 35½ kilometres long, and that is through a sensitive environment. I am advised that a road of that length would cost about $4 million. Well, there is nowhere I can find in the budget papers that the $4 million has been allocated. One can only assume that the federal government will take money which has been allocated for South Australian roads to build this road for its radioactive waste dump facility.

In addition, I looked in the budget papers to find an allocation for the compensation that the federal government says it will pay for taking the land off Mr and Mrs Pobke in the pastoral area, and any compensation it may have to pay to any other party. I can find no allocation for this compensation. In order words, $200 000 is coming into the federal government for taking the waste—and, presumably, they will charge South Australians to use that facility—and there is a small amount—some $500 000—of new money. The rest will have to come from existing allocations, so that existing programs will be subsidising this dump in this state.

SARS

Mr HAMILTON-SMITH (Waite): Is it the minister's view that the SARS outbreak has been a bonus for South Australia?

The SPEAKER: Order! May I ask the member for Waite to which minister he would want me to virtually direct the question?

Mr HAMILTON-SMITH: I will direct my question to any minister who chooses to answer it, but specifically to the Minister for Tourism.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): The SARS outbreak has not been good for the member for Waite, because in speaking in the house over the past few months he has raised the spectre of weapons of mass destruction and urged this country to go for war, saying that these weapons, unleashed in Adelaide, could kill the best part of the population of Adelaide. That is a very encouraging idea for our tourism market! He then went on not to notice that the war began on 20 March but he first raised the spectre of SARS on 7 April. Then, on 7 April—

Mr HAMILTON-SMITH: I rise on a point of order, Mr Speaker. My point of order is to relevance. The minister is referring to the debate in the house on Iraq. The question has to do with tourism and SARS. Her contribution is completely irrelevant, and I ask you to call the minister to return to the question.

The SPEAKER: Order! The honourable the minister may not premeditate debate on another matter. The question does not go to that matter. I uphold the point of order.

The Hon. J.D. LOMAX-SMITH: I apologise, Mr Speaker. On 7 April, the member for Waite released a media statement which linked the Iraq war and SARS and the effect it would have had on tourism.

The SPEAKER: Order! As I recall it, the question is about the effect of SARS on tourism in South Australia.

The Hon. J.D. LOMAX-SMITH: Some 19 days after the start of conflict and several months after the beginning of the SARS outbreak, the member for Waite noted that there may have been an impact on tourism. We are grateful that we did not wait for his advice, because some eight months ago we had an emergency plan in place to deal with outbreaks of war, terrorism and disease. So, we were well in advance of the first time he noticed that there might be either widespread pestilence, plague, illness or war. In relation to the—

Members interjecting:

The SPEAKER: Order! The minister has the call. The member for Waite has asked his question and he may find it rather difficult to be noticed should he persist.

The Hon. J.D. LOMAX-SMITH: Thank you, Mr Speaker. In relation to the SARS outbreak, there are clearly impacts beyond tourism. It will affect the economy. We already understand that it has affected the aquaculture and export food industry. Certainly, there are widespread impacts across our economy for which we must be prepared. It would be absolutely unthinkable if people in this house would look upon any epidemic with a 10 to 15 per cent mortality rate as a blessing or an advantage for our community. We have to see that the impact of an infection of this sort could have a profound effect on our country if and when it occurred within our shores. I reject any suggestion from the member for Waite that we welcome or include any expression of gratitude for a disease which has caused mayhem in world economies.

In relation to tourism, the impact of SARS, of course, as in all global or international events, is mixed. It quite clearly

plays a devastating part on inbound and outbound tourism. Current statistics suggest that 30 per cent of forward bookings have been cancelled and maybe 20 per cent of global flights have been decreased. So, the impact and effect on South Australia is mixed. There will naturally be an increase in intrastate and interstate tourism. There will inevitably be a downfall in overseas inbound flights, particularly when routed through Asia, and there will inevitably be a change in our tourism market. The reason we got an emergency plan some months before the member for Waite thought we might need one is that we wanted to think ahead. It is a pity that he did not.

DROUGHT

Ms BREUER (Giles): My question is directed to the Premier. Is the government concerned that so little of the federal government's exceptional circumstances drought assistance has been allocated to South Australia?

The Hon. M.D. RANN (Premier): With your indulgence, sir, I want to congratulate the member for Chaffey on becoming the Lady Mayoress of Loxton Waikerie. I guess that means that she is both the honourable and worshipful member. I would also like to congratulate the Minister for Infrastructure on his forthcoming marriage. I think I speak for every member of the house in congratulating him on his engagement to Tania Drewer, who is just a delightful and wonderful person. I look forward to giving the groom away. I would also like to thank the honourable minister for confiding in me and in the Deputy Premier during question time yesterday, and I hope that my news conference did not inadvertently let something out ahead of time.

I thank the honourable member for her important question. Like all members of this house, I have been appalled at the commonwealth government's attitude to drought relief in this state. It really appears that farming families in South Australia have been dudded by Canberra. When you look into the budget papers, the picture is stark. The federal government's own budget paper shows that, by value, only $8.2 million (or about 1.5 per cent) of the $530 million allocated to drought relief over three years has been earmarked for South Australia. They recognised just two South Australian zones out of about 29 and allocated just $8.2 million.

The zones are the north-east pastoral district and the South-East sub-Murray Mallee, yet other communities in South Australia were ignored. We are trying again to see if the commonwealth will reconsider the southern Mallee, where frost and drought have combined to hurt farmers. Last year I toured the drought-affected areas of our state and saw first-hand the devastation that the drought is causing down near Karoonda. I visited the homes of various people, including staying with Simon and Marie. I recently visited Karoonda again with the honourable Speaker in to attend the Karoonda show day, in which I was the judge of the pizza competition. I would hope that I am not being—

Members interjecting:

The Hon. M.D. RANN: Yes, and I would also like to apologise to the Speaker for putting him almost last for his pizza, the ingredients of which appeared to include road kill! It certainly tasted like that and looked like that. On a more serious note, we do have families and communities that are doing it hard. The state government has responded with a $5 million emergency package, and I should point out that, through the state assistance program, support for an additional three drought counsellors was provided to ensure that farmers were aware of available support programs and to help them apply for all the current assistance measures. Those counsellors, as well as the existing rural financial counsellors, have worked very hard to ensure that those in need do apply, and I commend them for their efforts.

I call upon all members of this house to put politics aside and put the state first, and support our efforts to get a better deal for South Australian farmers. They should be about the needs of farmers and not just the needs of farmers in the eastern states. Just to correct what I said before, there were other communities around Australia that were ignored, and in our own state we are trying again to see whether the commonwealth will reconsider the southern Mallee, where frost and drought have combined to hurt farmers. I am sure that the Leader of the Opposition, as a former minister covering the area of primary industries, would agree with me that those farmers deserve consideration.

OUTBACK CATTLE DRIVE

Mr HAMILTON-SMITH (Waite): Noting the Premier's concern for the Outback, my question is directed to the Minister for Tourism. As the minister responsible for tourism, will she reveal to the house whether she has now made a final decision to defer and withdraw funding for an Outback cattle drive until 2005 or beyond and whether, as a consequence, the human and physical infrastructure needed to build on the 2002 Year of the Outback event has been lost?

The last cattle drive, which attracted 15 000 visitors and 690 riders from around the globe and more than $10 million of international exposure, was to be the foundation of future Outback tourism events. Information leaked to the opposition indicates that the cattle drive has not been funded and has been removed from the Australian Major Events business plan, and that key staff and volunteers who could have pulled the event together have now been lost to the state.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I thank the member for Waite for his extraordinary question. I do not know whether he is fishing for a little budget information and thinks that, by asking me this question, I might reveal the contents of the budget. Clearly, I will not do that. But I would advise him of one small fact. I realise that he has now noticed the SARS outbreak, but perhaps he would like to consider the impact of the drought in the bush, and how we have to deal with that in planning forward events.

SALISBURY TRAFFIC SIGNALS

The Hon. M.R. BUCKBY (Light): Will the Minister for Transport advise the house when traffic signals at the corner of Salisbury Highway and Spains Road will be installed? On 31 July 2002, the minister announced in a media release that, as part of the Black Spot Program, the Salisbury Highway and Spains Road intersection would have traffic lights installed this financial year. As I understand it, the Salisbury council has not as yet seen any plans and has no indication as to when construction will begin, yet we are only six weeks away from the end of the financial year.

The Hon. M.J. WRIGHT (Minister for Transport): I thank the member for Light for his detailed question. I am happy to bring back that detail. Off the top of my head, I am not aware of the answer to the question. There may be some specific circumstances as to why this project has been

delayed, and I would like to bring back that detail to the house.

UPPER SPENCER GULF ENTERPRISE ZONE

Mrs PENFOLD (Flinders): Will the Premier advise the house what economic development has been achieved in the nine months since he announced the Upper Spencer Gulf Enterprise Zone? Page 17 of the recently released Economic Development Board report states:

> While just one quarter of the state's population lives in non-metropolitan regions, these areas of the state make a much greater proportional contribution to economic activity. The regions are major contributors to export income and offer significant potential for further export-led growth.

At Whyalla in July last year, the Premier announced the establishment of the Upper Spencer Gulf Enterprise Zone. However, despite the acknowledged importance of regional economic activity, as yet, the government has failed even to release guidelines for the zone, and we have heard nothing more of it.

The Hon. M.D. RANN (Premier): I am surprised that the honourable member has not heard anything about it. I am also surprised, having on a couple of occasions just visited her electorate, including taking a community cabinet meeting to Ceduna recently and, indeed, to Port Lincoln before—

The Hon. P.F. Conlon: And building her a desal. plant.

The Hon. M.D. RANN: There was mention of a desalination plant, and other announcements have been made—including, as well, saving whales in her area. I am therefore surprised that she did not raise this issue with me. We have provided funding to assist the development boards to develop the concept of an enterprise zone, which we will back. But what we are doing is giving them the tools to do the job—and that is what they wanted from us. I would like to see some acknowledgment by the member of the support that we are giving to regional development.

KENO TICKETS

The Hon. G.M. GUNN (Stuart): Will the Minister for Gambling give an assurance that he or the government will not ban Keno ticket sales in newsagents and other unlicensed premises? I understand that the Independent Gambling Authority's draft code of practice for lottery products suggests that the 330 South Australian small business units which currently sell Keno tickets to the public should be prevented from doing so. It has been pointed out to me by the newsagents in my electorate that many people who purchase Keno tickets would not do so if they had to go to licensed premises, and they have expressed grave concern that this suggestion will have a detrimental effect on their business.

The Hon. J.W. WEATHERILL (Minister for Gambling): This is a good question, because it gives me the opportunity to inform the house of the work that the Independent Gambling Authority is doing.

An honourable member interjecting:

The Hon. J.W. WEATHERILL: The Independent Gambling Authority is independent and therefore arrives at its own views; it is disconnected from my role as minister, and it will report to me in due course on a range of matters. Its role in respect of codes of practice is to promulgate those, and in due course they will come before this house.

Regarding this particular issue, it needs to be borne in mind that, under the previous government, we have fallen behind every other state regarding codes of practice for gambling. We know that problem gambling is a massive cause of social harm in the community. Since forming government, we charged the Independent Gambling Authority with the responsibility for investigating a range of issues including codes of conduct pertaining to gambling machines and all lottery products, and it is in the process of doing that. The government gave it some extra money to go about that task and, wonder of wonders, it has actually gone out and consulted with the community about propositions that have been put to it.

So, it is seeking the community's views on those matters, and that is why there is some debate in the community about them. On the one hand, people in the concerned sector believe there are too many opportunities for gambling in our community: on the other hand, industry representatives take the view that some of those gambling products do not cause the sort of harm which those in the concerned sector raise. So, the Independent Gambling Authority is properly asking the community what it thinks. As part of this process, it consults with the Lotteries Commission which, in turn, consults with agencies (including newsagents). The agencies have obviously chosen to raise this issue publicly, and, quite properly, they have raised it with their member of parliament, because they are worried about it and they are seeking to put their position.

The Independent Gambling Authority has not formed a view: it is consulting with the community. It may form a view that involves some restriction of Keno operations. But there is a range of options for consideration, such as whether the age for purchasing a ticket should be increased from 16 to 18 years. It is also considering where these operations should be located. South Australia is the only state that has Keno operations in newsagents and chemists. This is unusual, so you would expect the Independent Gambling Authority to ask whether that is appropriate. In due course, it will promulgate a code of practice which will come before this parliament. At that time, the member for Stuart or any other member will have the right to move a motion to alter that code of practice if they see fit.

HOSPITALS, MOUNT GAMBIER

Mr CAICA (Colton): Has the Minister for Health investigated a claim that a Millicent man had to travel 400 kilometres to Ballarat to have a cancer tumour removed after unacceptable delays at the Mount Gambier Hospital; and, if so, what were the findings of that investigation?

The Hon. L. STEVENS (Minister for Health): This serious allegation (made by the shadow minister during question time on 1 May 2003) has been investigated by my department, which has provided me with the following information. The person referred to—I will call him Mr X—is the patient of a specialist with admission rights to the Mount Gambier Hospital. Mr X was initially booked for a CAT scan on 11 March 2003, but this was cancelled when the patient left the hospital (without treatment and without notifying staff) because of claustrophobia.

A subsequent booking was made and a CAT scan and a biopsy of the neck were completed, under a general anaesthetic, on 13 March 2003, just two days later. I am advised that Mr X was then listed for surgery, on his doctor's list, for 4 April 2003, and although the list went ahead Mr X was removed from this list by his doctor. Mr X was not on his doctor's next list, on 8 April 2003.

The patient's doctor had advised the hospital of his intention not to be available for the provision of surgical services for a period of four weeks, starting from 15 April 2003, and he approached the chief executive of the Mount Gambier District Hospital requesting—

The Hon. Dean Brown interjecting:

The SPEAKER: Order! The minister has the call.

The Hon. L. STEVENS: The patient's—

The Hon. Dean Brown interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition will come to order.

The Hon. L. STEVENS: The patient's doctor had advised the hospital of his intention not to be available for the provision of surgical services for a period of four weeks, starting from 15 April 2003, and he approached the chief executive of the Mount Gambier District Hospital requesting additional theatre time prior to his departure. Two additional theatre sessions were approved, for 10 April 2003 and 11 April 2003, but, again, Mr X was not booked on these lists. Similarly, Mr X was not on his doctor's next scheduled surgical list on 14 April 2003, and the doctor then proceeded on leave.

Mr X sought advice from the chief executive of the Mount Gambier Hospital concerning his care and the need to travel interstate for treatment, and was advised by the chief executive that other surgeons were available in Mount Gambier but that he would need to be referred to a different surgeon by his doctor. I am advised that Mr X was subsequently referred to the Ballarat Hospital by his own doctor.

Members interjecting:

The SPEAKER: Order! Honourable members on the government benches will not adversely reflect on the catering division of this parliament. If they are feeling bellicose then I invite them to go elsewhere to relieve themselves. The minister has the call.

The Hon. L. STEVENS: The chief executive has confirmed that there were no financial constraints affecting these decisions. The doctor's financial allocation for 2002-3 is $177 000. The allocation to 30 April 2003 was within the budget at $143 000. The patient's prioritisation and the urgency for treatment required was, and remains, a clinical decision for his doctor. The shadow minister got it wrong again. He did not check his facts and, as I have said many times before, you cannot believe anything he says.

LOWER MURRAY SWAMPLANDS

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Minister for the River Murray and is in relation to the Lower Murray—

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. KERIN: My question is for the Minister for the River Murray and is in relation to the Lower Murray Rehabilitation Scheme. As the minister has now had the opportunity to check on the figures I put forward in question time yesterday and has had them confirmed by the federal minister's office, will he explain why $10 million has now been taken from the original rehabilitation program?

The Hon. J.D. HILL (Minister for the River Murray): The member asked me that question yesterday, and I invited him to table the letter to which he was referring. Sadly, that letter has not been tabled. In fact, in his question yesterday, the Leader of the Opposition said 'The minister said in a letter'. He did not say which minister or which letter, and he did not say when it was sent or to whom it was sent. I have spent today trying to track down this letter. I have been advised that perhaps it is a letter from minister Truss to the spokesperson for primary industries in the other place, the Hon. Caroline Schaefer. I would like to get a copy of that letter. Once again, I invite the Leader of the Opposition, if he has something to say about this matter, to demonstrate it by showing us that letter; otherwise, we are just relying on hearsay. Show us the letter, Leader of the Opposition, and we will deal with it.

As I said yesterday, the reality is that the arrangements in place in relation to the Lower Murray irrigation swamps and the compensation scheme for restructuring that industry are the same as those that were put in place when the Leader of the Opposition was a minister.

The Hon. R.G. Kerin interjecting:

The Hon. J.D. HILL: You say that is wrong, but the advice I continually get from my department is that the program that is in place is based on the programs put in place by the leader. There has been no cut by this government to any of those programs. The reality is that we are doing what was originally put in train when the Leader of the Opposition was in office.

I wrote to minister Truss some time ago in relation to this issue. I have had a response from him saying that was happy or satisfied (I cannot remember the exact words) for us to make the offer based on the figures we put in our letter to him, and I think that was based on the figure of the $22 million that has been referred to. Once again, I invite the Leader of the Opposition to table his letter and we will have a close look at it.

SAFETY HOUSE SCHEME

Ms RANKINE (Wright): My question is directed to the soon to be married Minister for Infrastructure. What have been the recent changes to the Safety House Scheme which has been operating in South Australia for 22 years?

Members interjecting:

The Hon. P.F. CONLON (Minister for Infrastructure): Thank you, Mr Speaker. It appears that the house has been reduced to only you and me behaving with decorum. This morning, together with the member for Mawson (who is no longer in the house today), I had the honour of launching Australia's most comprehensive community safety network.

Members in this house would know that 22 years ago the Safety House Scheme was established in South Australia to provide a safe haven for primary schoolchildren, and that has been supported by successive state governments since then. Today, I am pleased to say, we witnessed a major move forward with the launch of a community safety and security organisation that has grown out of the original Safety House Scheme. I pay a tribute to Bryce Saint OAM, who has been involved in the Safety House program from the very beginning as its President.

The Hon. M.D. Rann: He has made a huge commitment.

The Hon. P.F. CONLON: The Premier is absolutely correct: his commitment as President has been huge over the years. He and other members of the association, such as the Secretary, Rona Sakko, and immediate past president, Chief Inspector Bill Prior, have responded to changing community needs and circumstances.

Safer Communities Australia is a new umbrella group under which the Safety House scheme will operate. As the name suggests, it is hoped that other states will look to the

lead provided by South Australians and join the program. Safer Communities Australia has three programs: Safety Assist, Stay Safe and Safety Associates. The Stay Safe program includes the national award winning Students Safety Ambassador Scheme. It is with great pleasure that I say two ambassadors from Edwardstown Primary School, which is in my electorate (and I have to say I had nothing to do with their selection in launching the program, but they are two first rate primary school students) Alecia Cailes and Jocelyn Reid spoke at the launch and, after their performance this morning, I have to say that the state's future is in safe and articulate hands. They spoke extremely well, and it was a difficult task to follow on from them.

The Safety Assist program (the old Safety House) has been expanded. It is a program not only for children but also for all vulnerable members of the community, and that is particularly important, given the level of ageing in the South Australian community. Now people will be able to hail a bus even if they are not at a bus stop. Drivers are being trained to get people onto the bus and take appropriate action, such as contacting the Transit Police. Fast food outlets and shopping centres are coming on board as safe havens and, from next summer, Surf Life Saving patrol bases and clubs will also carry Safer Communities Australia logos to let people know they can go there for help.

It is a very significant extension of the program. It is funded by government, but the bulk of its value is added by the commitment of the community. It was an outstanding launch today, and I congratulate all involved, particularly the Edwardstown Primary School students.

LEGISLATIVE REVIEW COMMITTEE

Mr HANNA (Mitchell): I bring up the 26th report of the committee.

Report received.

GRIEVANCE DEBATE

ROLLOND, Dr K.

Dr McFETRIDGE (Morphett): I rise to congratulate Dr Ken Rollond on his election as the new Mayor of the City of Holdfast Bay. I have known Ken, who is a good friend of mine, for a number of years. I can assure the people of Holdfast Bay that he will do an excellent job as the new Mayor. I also congratulate the outgoing mayor, Mr Brian Nadilo, on the job that he did as mayor not only of Holdfast Bay but also of Glenelg over the last 14 years. Brian was an excellent mayor. He was in touch with the local community and, on the number of occasions when we were at community events, clubs and various community organisations, it was evident from Brian's performance that he was deeply involved in all the clubs and community groups throughout the City of Holdfast Bay.

I have no doubt whatsoever that Brian Nadilo was an ethical and honest man. Unfortunately, because of the rate of development at Holdfast Bay and in the City of Holdfast Bay, stories start. In politics, perception is reality, and the perception was that there was an association between Mayor Nadilo and some of the developers. I know this not to be true other than on a professional level. At all times, Mayor Nadilo endeavoured to produce results that would be the best outcome for the City of Holdfast Bay and its people.

Some of the rumours that were spread about Mayor Nadilo and his wonderful partner Fran were quite scurrilous. I know that Brian Nadilo and Fran Griggs made a great couple and served the people of Holdfast Bay. I wish them well in their future. Brian said to me the other day that, if for some reason he lost, he would buy a boat and go fishing. I wish him well in his time of recreation, and I hope he invites me to go fishing with him. I am happy to say that I am a friend of Brian Nadilo.

Dr Ken Rollond has a long career as an obstetrician and gynaecologist. He has lived in the City of Holdfast Bay for many years. I know his family well. Dr Rollond has been on the council for three years as a councillor. I wish him well as he goes onto this far more arduous task of being mayor.

Local councillors do not get the accolades they deserve. Certainly, the efforts and accolades are there for paid members of state parliament, but, in view of the small pittance that members of local government receive, sometimes you wonder why they do it. Obviously, they have their community at heart. The cynics may say that they are in it for their own benefit, but I do not believe that—certainly not in the City of Holdfast Bay. The councillors and the council staff, as well as the mayor of the City of Holdfast Bay, have always done an excellent job. You only have to go to the Bay on any weekend, whether as far as Brighton or Glenelg, and the whole city of Holdfast Bay is booming. Some 3 million visitors a year come to the greater Bay, that is, Brighton and Glenelg, and that number is increasing. From my office in Nile Street, I have 84 restaurants and cafes I can walk to. Why has all this happened? It is because of the courage of the previous Liberal government and the former council of the City of Holdfast Bay.

In relation to the development at Holdfast Shores, there are so many knockers out there: I wish they would look at the reality of the situation. The council of the City of Holdfast Bay has been pivotal in achieving a wonderful outcome for the people of not only South Australia but also Australia. The number of interstate and overseas visitors who congratulate me on what is happening down at the Bay is absolutely amazing. There is more to do there and there is more to look at with development down there. Magic Mountain and the surf life saving club will not go away unless we make them go away, and when they go away it will be done in an orderly, structured fashion—not just a higgledy-piggledy fashion that is a kneejerk reaction.

The people of South Australia, not just Holdfast Bay, deserve the very best at the Bay. That is what they had with Brian Nadilo, and I know they will get that with Ken Rollond.

Time expired.

WOOMERA

Ms BREUER (Giles): Today I rise on a matter which is of serious concern to me involving a situation that has developed in my electorate, although the problems have continued right across the state. I am pleased that today I was able to ask a question of the Minister for Environment and Conservation regarding the radioactive waste dump in South Australia. This is an ongoing issue for me, and I would hate to see our putting back more poisons and problems into that area.

Today I want to talk about Woomera and recent articles in the *Advertiser* alluding to the number of graves of babies at the Woomera cemetery. This matter has come to the fore in the past few days. It is very difficult to determine how much is anecdotal evidence and how much is a serious cause for concern, because there are not very many official statistics available. The federal government has the records, but it is reluctant to release anything to do with health issues in the Woomera area for the past 50-odd years. I have read the reports in the *Advertiser*, I have had discussions with Mrs Julie Wilkinson from Wirriminna Station, and I have done some further research. For example, I punched into the internet 'Woomera health problems' and 'Maralinga health problems' and there were pages of references in relation to those issues in that area over the past 50 or 60 years.

I wonder what is the issue and what are the problems in the area. What has been done about it? What has been found out? Mrs Wilkinson was telling me that she visited the Woomera cemetery and noted that, from 1962, 10 babies died in six months. Is this a large number? At the time probably about 5 000 people were living in Woomera; it was not a large population. Statistically, we have to work out whether that is common across the population or whether it is an unusual statistic. There are 68 children's graves in the Woomera cemetery: 22 of the babies were stillborn; 34 of them were newborns only a few hours old; and there are 12 graves for children in the one to seven year age group. Men and women aged in their 40s feature prominently in the cemetery. One has to be careful about these statistics, because Woomera was not a town where people lived once they retired. Once people retired at Woomera they moved out, so there would not be many graves at all for older people because they would no longer be in the community. One might expect young people to be there, but the numbers appear to be abnormal for a community of that size.

The cause of death of a number of babies and children who died has been put down to natural causes. Often it was put down to heatwaves, but I understand that many of these babies were born in winter months, not summer months. Anecdotal evidence suggests that there were many miscarriages in the area, and women from the area talk about miscarriages, as well as stillborn babies. Many other health problems, such as cancers, congenital birth defects, mental retardation and immuno deficiency have been reported, as well as the stillbirths. I have heard stories of women who lived there in their childhood who have never menstruated in their life and never been able to have children, and they believe it is as a result of their living at Woomera. At the Woomera cemetery there is a grave of a baby who was stillborn in 1953, and its mother was buried next to it a couple of years ago. She was in her 80s. One wonders whether she had any other children because she wanted to be buried with the baby who was stillborn in 1953.

Last week I heard someone on the radio talking about an immuno deficiency disease, and another person talked about attending a school reunion. They were surprised at the number of people who were missing and who had died from cancer. There is a lot of evidence, and reports and studies have been done overseas, in the UK, about armed forces people who were at Woomera in the 1950s and 1960s and who went out to work at Maralinga. That is where the problems came from. These men lived in the community with their families, but went to work in the Maralinga area when the atomic bomb testing was occurring. All members have seen the dramatic footage of the bomb tests, where men without protective gear stood on a hill and turned their backs and, a few minutes after the bomb went off, they turned back to look. This is a serious problem and I ask that a report be done on this situation.

Time expired.

PORT STANVAC

The Hon. W.A. MATTHEW (Bright): I rise today to speak on the issue of the Port Stanvac oil refinery and the announcement by Mobil, as part of the Exxon Mobil Corporation, that they are mothballing that site until a time in the future when it is likely to be a more productive asset for the company. In addressing this issue, I want to focus on the government's unbelievably irresponsible approach in handling this important issue. The closure of the Port Stanvac refinery, which was established under the leadership of Sir Thomas Playford in the time of that very successful Liberal government, has a number of serious ramifications for our state and the local area.

Of course, there is the loss of more than 400 jobs and also the flow-on effect to local southern businesses, many of those in my electorate—businesses which provide services to the refinery and its staff, whether it be stationery or catering services providing lunches to staff, or a range of other important small business activities. There is the risk of the site becoming an unoccupied blight on the environment and a risk that is very serious, indeed. Importantly, the security of the state's petroleum supply and environmental remediation issues must be addressed. These are important issues that must be addressed sensibly and constructively by the government.

I put on the record that I am appalled at the way in which the Treasurer conducted himself publicly when this announcement was made. One would have thought the attitude a government should take to such an announcement is to meet immediately with senior management of the company concerned to take whatever steps can be taken to reverse the decision, if that is possible, or to ensure that, if the site is to be mothballed, there is every reasonable prospect of its being reopened, in addition to the other issues I have raised. However, that is not what the government through the Treasurer did. It went on the attack and attacked Mobil for wanting to mothball the site.

The refinery business around the world is a problematical business. This is not the first refinery that that company has closed nor, indeed, the first refinery other companies have closed. Mothballing of refineries is a common practice, and an examination of world refineries shows that 50 per cent of refineries that are mothballed reopen. It is not as though this is a once off, unusual practice that is being adopted in South Australia. With that knowledge in mind, one should expect that the government would take a responsible approach, but it did not do so. It neglected to remind itself that South Australia's refinery is less than 1.3 per cent of the petroleum output of the Mobil Exxon Corporation on a world-wide basis. Therefore, it is but a line on a balance sheet to a company of that size. That company can invest its moneys wherever it so desires. It is beholden upon this government and a mature approach to ensure that the Exxon Mobil Corporation is prepared to invest its money in the plant in this state so that after it is mothballed it can then be brought back into production again.

The damage done by the Treasurer to that possibility is something this government may well have to wear in the

future. I wonder whether that is one of the reasons why, as of yesterday, the Treasurer no longer has responsibility for economic development in this state. The Premier has taken the economic development away from the Treasurer for himself, and the Treasurer is now the minister assisting the Premier in that role. In the 13½ years that I have been in this parliament, I have never seen a portfolio taken away from a minister by a premier and then the minister previously responsible made to then assist a premier in the conduct of his previous portfolio. The remarks made by the present Premier in his media release were almost pointed. He said that from today he will assume full responsibility for the Economic Development Board and its final plan. He said:

> As Premier, I am best placed to give the overall implementation of this plan, the overarching leadership, focus and clout it requires.

The implication is that the Deputy Premier and Treasurer was not able to provide the leadership, focus and clout it requires. Certainly, the Treasurer's reaction to the Mobil announcement did not demonstrate leadership and certainly did not demonstrate focus. I implore the Premier as the new minister responsible for economic development in this state to ensure that constructive dialogue is held with the Exxon Mobil Corporation. The opposition, for its part, has done so.

Time expired.

TAB SALE

Mr RAU (Enfield): I want to make a brief contribution today that is, in many respects, in the nature of a confession. I would like to explain this by reference to how it occurred. This morning, my wife and I were discussing how we would be spending the income tax cut that we received last night courtesy of the federal budget.

An honourable member interjecting:

Mr RAU: Yes, the honourable member is absolutely right. We have resolved to take the children to Hungry Jack's. We will be doing that later in the year.

Ms Breuer: I hope you have only one child.

Mr RAU: We have two, but we will get them to share. That brought us on to the general topic of finances. Mr Speaker, as you would be aware, finance is a very important part of every family. In our discussion this morning, we came to a point where I feel I have to address you, Mr Speaker, directly about this, and I address you directly in your capacity as the Presiding Officer of this parliament and the guardian or custodian of the ancient rights and privileges of this parliament. I will ask you, in a very humble way, to hear what amounts to a confession by me and to grant me, to the extent that you are able to do so, a temporal absolution from what I am about to say. In doing so, I would like to draw on a bit of ancient wisdom from one Publius Cyrus, who said:

> Confessions of our faults is the next thing to innocence.

I hope that by confession I will get close to innocence. My confession is for a gross dereliction of my personal duty to my mother, for whom I am in many respects responsible, my wife and my children. When I confessed this to my wife this morning, she was not a happy woman. Indeed, as I left to come to the parliament this morning, I noticed her on the telephone to her mother, which is always a bad sign. Quite frankly, I am worried about what lies ahead when I eventually return today.

My confession is this: some years ago, slightly before I was elected to this place, I became aware of a business opportunity. In my failure to take up this opportunity, I accuse myself of sloth, incompetence, zealotry, stupidity and hubris, because I doubted the selfless act of generosity made by a man who, for the moment, I will simply describe as Father Christmas. This man offered me and other people—and I criticise myself for not taking this up—a gift of $2.9 million. Then, in addition to this gift, he offered me in perpetuity $8 million, and I did not even have to go to the letterbox to collect it. I foolishly, through all the faults I have just confessed to you, Mr Speaker, did not do anything about it. I let somebody else do something about it. I now must reveal some of the secrets of this.

Who was this Santa Claus? He was the Hon. Michael Armitage. What was the offer? The offer was the South Australian TAB. I direct all honourable members to the report of the Auditor-General where he talks about the magnificent result delivered to the taxpayer by this transaction, if I can dignify it with that terminology. Of course, who was the beneficiary? It was not me or my family; we were not quick enough off the mark. It was TAB Queensland.

I confess I missed the bus. I made a dreadful mistake. What has happened is that $2.9 million, plus $8 million a year, have gone to Queensland. What have the taxpayers of South Australia got for this? Absolutely nothing! To start off with, they are $2.9 million down, plus $8 million a year. Mr Speaker, having made this confession to you, I feel I have unburdened myself. Hopefully when I go home, having told my wife that I have confessed to you, she might forgive me for not having taken this up. Hopefully, too, there will not be any more calls to my mother-in-law this evening!

Time expired.

GRAPE GROWING

Mrs REDMOND (Heysen): I do not know how quite to follow the member for Enfield, other than to say that I, too, am getting up to talk about people taking up office. I am rising to speak about the magnificent efforts of our Riverland horticulturists and wine grape growers. I was one of the group that travelled up to the Riverland last week.

Some members in this place may know that I am not the greatest lover of technology, particularly computers. I have to say that the rate at which the farming community in the Riverland has taken advantage of the technology which is now available for them as farmers is just wonderful. They can now truly call themselves precision agriculturalists. At one farm, which was owned by Mr and Mrs Schultz in Loxton, they showed us how the farm was operated. They have recently added about 150 acres to this farm, and that is about five of the old fruit block sized 30 acre allotments. However, they no longer just get 30 acres and flood irrigate. They get in a particular company which does soil testing all around the block at regular intervals. With the GPS on their vehicle, they are able to produce from their computer a wonderful map indicating the soil type throughout their allotment.

Having got that soil type, they also get a contour map and all sorts of other wonderful bits of information. They can then plot exactly what sort of grapes—whether they be chardonnay, pinot or whatever—to put on particular bits of each allotments and how to improve the soils. With the same computer, they can then find out exactly what their moisture level is and what amount of moisture they need to add into their allotments—and not just into the allotment as a whole but into specific parts of each farm. Therefore, they are able to be quite precise as to whether they need to add any water or none at all.

On the same computer, they can also link into the weather forecast so that they know, for example, that there is no point in watering on Wednesday because rain is due on Thursday. Through such mechanisms, they are able to reduce dramatically the amount of water they are using and, indeed, produce a better grape crop for wine purposes. Many of them indicated that they have now gone from using something like 12 megalitres per hectare to around seven megalitres per hectare to produce a grape that is actually of better quality for their wine making. It was interesting to me to find out from BRL Hardy at Glossop, at the end of the tour, that 90 per cent of the export wine from this country comes from the Riverland, the MIA and Sunraysia districts and not, as we might have anticipated, from the Southern Vales, the South-East or the Barossa. It is really remarkable to see how much they have been able to improve it. In addition, instead of just letting weeds grow between the rows of vines, they are planting grass, and grass of a particular kind, not only to reduce the evaporation and reflection that occurs but actually to put into the soil the things that the wine grapes want and not to remove from the soil the nutrients that the wine grapes themselves are taking out.

They can adjust where they are watering so that the water does not need to get into the soil right down to the water table and they need to water only to the root level of the wine grapes. It is truly a remarkable feat to have gone in just a generation or two from flood irrigation on inadequate blocks, with very little knowledge of what was happening, to precision farming. That is why I used the term 'precision farming', and it was the member for Light who used it first to me. That is what they have moved to: to be able to go into farming with quite precise knowledge of what is required for a particular crop and how best to achieve it to maximise their output, with minimum taking of water from the river and with maximum returns to themselves and to the community.

FEDERAL BUDGET

Ms THOMPSON (Reynell): Like the member for Enfield, I am also speaking about missed opportunities today. The missed opportunities I am speaking about are those that will not be available to constituents in my electorate, perhaps some in yours, sir, and certainly in those of the Minister for Health, the member for Giles, the member for Enfield and the member for Playford, that is, the opportunity to use their skills and go to university. The Howard budget announced last night has cut off opportunities for hundreds of thousands of Australians and South Australians ever to have the chance to share in the wealth unleashed by university education. The stats tell us about the financial returns that are available to people who go to university, and it is in recognition of those financial returns that there has been a requirement for some return of those returns through the HECS scheme.

Whether or not we agree with it, it is there and you can see the rationale for it. The important thing about a scheme such as HECS is to ensure that it does not preclude some groups of people from going to university. Over the last few years, there has been no change in the social mix of those who have been going to university. Those who support HECS say that HECS has had no impact on the participation of people from the battler area in university education, because it simply has not changed. It has not gone down and it has not gone up. Unlike in most other advanced countries in the world, this does not appear to bother the current federal government in the least.

The results of the budget last night will place a severe burden on families of people who want to go to university. The figures show that the federal investment in higher education has been cut by $5 billion since 1996 through increased student fees and real cuts to university grants. For every extra dollar Australian students have paid under the Higher Education Contribution Scheme since 1996, the Howard government has cut its investment by the same amount. Public investment in Australian universities has fallen to just 0.8 per cent of GDP. Within the 0ECD, only Italy, Korea and Japan invest less of their national wealth in their university systems.

Between 1995 and 1999, Australia's public investment in its universities declined by 12 per cent, more than in any other nation. Under the Howard government, universities are going backwards while virtually every other developed nation increases its investment, with an average increase of 17 per cent. Those figures come from selected higher education statistics from the finance report of 1996 and from the higher education report for the 2003-05 triennium. Contrast those figures with what is happening in Britain under a Labor government. If people want to know the essential difference between a Labor government and a conservative government, I can tell them it turns on two things: health and education; and the opportunities for good quality, good access for all people to both.

In Britain, in contrast to what is happening here, in January this year they endorsed a paper on the future of higher education. Some of the measures committed to in that paper were:

- To reintroduce from 2004 a new grant of up to £1 000 a year for students from lower income families, benefiting around one-third of students;
- to continue to pay up to the first £1 100 of fees for students from lower income families; and
- to raise from April 2005 the threshold at which graduates have to start repaying their fee contribution.

Under the budget there is a rise in the HECS threshold up to $30 000. However, if the figure for the HECS threshold repayment that was there under Labor had been indexed, it would now be $35 000, a great difference in terms of people facing a huge amount of debt in order to get a better start in life, starting their adult life burdened with debt and difficulty. The English paper makes great reading about the need to catch up disadvantage. We heard nothing about that in the Howard government budget.

COOBER PEDY LAND

Mr HANNA (Mitchell): I move:

That by-law No. 3, entitled 'Land for the District Council of Coober Pedy', made on 16 December 2002 under the Local Government Act 1999 and laid on the table of this house on 18 February 2003, be disallowed.

The Legislative Review Committee first considered this matter at its meeting on 30 April 2003. It is noted that the by-laws restrict canvassing, which means that a person must obtain council permission to 'convey any advertising, religious or other message to any bystander, passer-by or person' on council land. The by-law would require a political candidate to obtain council permission to convey a message

to bystanders as part of his or her election campaign. The committee noted that this could unduly restrict political campaigning and, therefore, undermine the importance of free speech, as implicitly recognised in our constitution. Other councils have also noted the importance of political campaigning and, for this reason, generally exempt political candidates from this type of restriction. The committee wrote to the Coober Pedy council about its concerns and received the following response from its Chief Executive Officer on 2 May 2003:

It was never the intention at the council to apply these particular by-laws to political canvassers and/or political candidates and, to that end, it is my intention to have council resolve at their next meeting an exemption for such purposes.

It therefore appears that the restriction was an oversight. The committee also noted the measures that it has taken to inform councils of the need to allow political canvassing. It first contacted the Local Government Association in May 2001, and presiding members of the committee have in the past participated in meetings with presidents of the Local Government Association in which matters such as restrictions on political canvassing were addressed. Consequently, by-laws that have come before the committee over the last two years have consistently incorporated political canvassing exemptions.

The Coober Pedy council appears to support such an exemption but, in this case, it has two by-laws that did not recognise that exemption. The disallowance of this by-law gives the District Council of Coober Pedy the opportunity and the necessity to prepare a new by-law covering council land.

Motion carried.

COOBER PEDY ROADS

Mr HANNA (Mitchell): I move:

That by-law No. 4, entitled 'Roads for the District Council of Coober Pedy', made on 16 December 2002 under the Local Government Act 1999 and laid on the table of this house on 18 February 2003, be disallowed.

The remarks I have just made concerning by-law No. 3 relating to local government land in the District Council of Coober Pedy are relevant to this motion. It also refers to the restrictions on canvassing, which probably contravene the implicit liberty that we have, in the Australian constitution, to politically campaign. Therefore, members of the Legislative Review Committee of all persuasions agreed that it was inappropriate to allow this by-law to stand. In light of the remarks that I made a few minutes ago in relation to another motion, it is submitted that the District Council of Coober Pedy should remedy the matter by bringing forward new by-laws in respect of roads in that district.

Motion carried.

Mr MEIER: Sir, I draw your attention to the state of the house.

A quorum having been formed:

VALUATION OF LAND (ACCESS TO FINANCIAL STATEMENTS) AMENDMENT BILL

Mr BRINDAL (Unley) obtained leave and introduced a bill for an act to amend the Valuation of Land Act 1971. Read a first time.

Mr BRINDAL: I move:

That this bill be now read a second time.

Mr BRINDAL: The reason why the opposition introduced this bill (and I acknowledge that the Minister for Local Government is in the chamber and has taken a part in trying to resolve this matter administratively rather than legislatively) is that it is the opinion of the opposition that this matter cannot be resolved other than legislatively, for the following reasons. The Valuation of Land Act, quite clearly, was always intended to be a blunt instrument for the purpose of raising revenue for a number of measures.

Principally for the government among those measures are the emergency services levy and the sewerage rate. The main methods of valuation involve the value of the site and the capital value, but the City of Adelaide also relies on an annual rental value. Because this methodology is used, for council purposes it is used as a rate base. So, based on the total value of land in the council area a rate in the dollar is fixed and, according to the individual parcels, a rate is assessed for each property.

As I said, the valuation of land was always intended to be a blunt instrument. Under the Local Government Act, councils may employ their own valuers, but neither the Valuer-General nor council valuers have ever gone down a street and assessed what they believed to be the value of each individual house. They have adopted a methodology of selecting properties and observing price movements and, through relative comparisons, assessed a generalised value, which normally errs on the conservative side. It is of interest to note that previously under Liberal, and I think Labor, governments traditionally that valuation was much more conservative than it is today, but it has gradually crept up. At one time, your council valuation would be tens of thousands of dollars below what you would expect to get on the market, but now it more closely approximates the market value.

In its preamble, the Valuation of Land Act clearly says that the land and the capital improvements on the land are to be valued (and no-one disputes that), but there is a provision which allows a valuer, if he needs to for the purpose of valuing the land, to seek certain financial information. This is the point that concerns the opposition and this is the reason why this bill comes before the house for consideration by both sides. I hope the government will consider this bill seriously. There is case law in South Australia—and this is why I believe this needs to be done legislatively—where valuation questions have been asked and the judges have referred to the current act which provides that a valuer may seek further financial information. So, their honours have said quite rightly that, if you want value to this place and the act says that you can get further financial information, that is what you should do.

So, the Valuer-General, on reading these judgments, has said that, if the courts say that is what I should do, then that is what I will do. The Valuer-General then goes to specific categories of business seeking more information in a financial form. Why does he do this? There is a very logical explanation. The Valuer-General says that certain businesses are difficult to value, such as hotels, drive-in theatres and petrol stations. I do not refute the logic of this explanation. In many ways, such businesses are unique.

Ms Chapman: And purpose specific.

Mr BRINDAL: And purpose specific, as the member for Bragg says. The Valuer-General then says that a condition is attached to the land. One of the ministers might correct me if I am wrong, but I think that petrol station sites are still licensed. There is some sort of a licence to have a petrol station on a specific site. If I am a bit out of date on this—

The Hon. R.J. McEwen interjecting:

Mr BRINDAL: The minister says that they are licensed, and I think he is right. In terms of licensed premises (such as pubs and clubs), the licence attaches to a specific address. In terms of poker machines, the licence attaches to a specific address, but it is also person specific. I was going to mention a name, but it is best that I do not do so. If a person of disrepute were to acquire premises, the Licensing Court would remove the licence from those premises on the ground that that person was not suitable to hold a licence. Therefore, the licence is not totally specific to the address; it is partly specific to the person who occupies the premises. Of course, the purpose of that site could change. For instance, a hotel could close and become a boarding house. Many things could happen, but it is still the same building on the same site.

In this case, our contention is quite simple. In valuing the land, it is not the business of the Valuer-General or any council valuer to ascertain what is happening on the premises or how much money is being made out of the premises as a reflection of the value of the land. In some sense, the quality of the buildings on the site will reflect that. If you have a hotel that is doing very well and it has 50 gaming machines, that hotel will have had extensions made to it and the building will be more elaborate; it will be in a better condition; and the fabric of the building will, according to some crude sort of measure, reflect the profitability of what is going on in that district.

We say that that is what was intended. We fear that, using this mechanism, local government or the Valuer-General will, by necessity, become more and more specific. I must say—and the minister will acknowledge this because he hosted the meetings—that the Valuer-General has clearly said that he does not intend to do that at this time. I do not in any way doubt his word, or that of the minister, on this matter, but this minister and this Valuer-General will not hold those positions forever. This house has custody of the law which, so far as we can ensure, should have an ongoing consistency in the intent that this parliament had when it originally framed the law.

I think the current body of court opinion has moved valuation principles away from the law, as it was intended to operate by this parliament, and this measure seeks to redress that. It seeks to redress that because the business community is afraid of what will happen. I believe some of my colleagues have their own testimony that they can give in terms of rental values for other types of businesses. For instance, I believe that lawyers have been asked to provide financial details about the income of their practice because it is a specific profession.

Ms Chapman: They didn't get it.

Mr BRINDAL: They might not have been provided with it, as the honourable member informs me. Nevertheless, questions are being asked. I came under some criticism from the Adelaide City Council, because it has written letters to people saying, 'We have a legal right to get this information and, if we do not get it, there is a $5 000 fine.' Some of my legal colleagues here say that they have not provided that information, but I put to them that they have the wit and the wherewithal to challenge the city council, whereas some of the smaller businesses in the city council area might be less powerful and intimidated if they received a letter like that.

One of the cases in question involves a private hotel in Hutt Street which has been asked a series of questions. For the information of the minister, in January, after we had a meeting I checked and found that that hotel has no liquor licence and no gaming machines, so there is no licence attached to that hotel: it is simply a place that rents rooms. Therefore, it is like the William Booth Hostel.

The Hon. R.J. McEwen interjecting:

The ACTING SPEAKER (Ms Ciccarello): Order! The minister will cease interjecting.

The Hon. R.J. McEwen interjecting:

The ACTING SPEAKER: Order! The minister is not in his place.

Mr BRINDAL: I should not answer interjections, but I will in this case, because the minister is right: this can be of specific assistance to businesses that are not doing well. Clearly, you can value a business and, if a business is not doing well, it will pay a lower rate. However, the converse is also true: if a business is doing particularly well, it will pay a higher rate. So, the converse is also true that the businesses going badly will save money but the businesses going well will pay more money.

I would say, as a matter of principle for my party, and I hope for the parliament, that if, say, the owner of the Arkaba Hotel is going very well and he has better building and fabric, he will pay a higher rate, but should he pay a higher rate, just because he is a successful businessman, than the publican down the road who bought an identical hotel at the same time and has not managed to be as successful? What the business community fears is the fact that this would be an allowable process for hotels, which may be very specific, and for service stations which, again, may be very specific. We already have evidence that they are trying it with lawyers. But, if not with lawyers, why not with frock shops? Why not with bike shops? Why not with all the categories of business in the member for Morphett's strip shopping precinct of Glenelg, or my own strip shopping precinct—

Mr Koutsantonis: Or even the length of the lease.

Mr BRINDAL: As the member for West Torrens says, the length of the lease. We would ask the government to consider this. I acknowledge, in asking the government to consider this, the efforts of the minister to be conciliatory and reach some arbitrated solution, and he went to some considerable effort. But, as I explained to the minister, it is the considered position of the opposition that the only way this can be put beyond question is not ask the Valuer-General to do it, but, rather, ask this house to change the law so that, when their honours consider it, their honours can say that you cannot look at the profit and loss statements because the law says you cannot. You have to value the buildings and you have to value the site. You have to look at whatever you want to do, but you have to do it in a generalised way.

I do not believe that this house will be at all well served when local government has the ability to tax the income of businesses or to look into the income details of citizens. Local government collects a rate based on the value of property, and the value of improvements to property. That was quite deliberately done, and any attempt of local government to impose any form of income tax I think is dangerous. I think it would lead to bad precedent and that needs to be avoided. This is the opposition's attempt to address this matter. We are very open minded. If this minister or the minister responsible for the Valuation of Land Act come in here and say, 'We can do better by doing it this way—', we will agree. If any member in this house can improve this by amendment, we look forward to that member contributing. But we think it is a serious matter.

Mr Koutsantonis interjecting:

The ACTING SPEAKER: Order!

Mr BRINDAL: We think this is a very serious matter. The member for West Torrens says that I had better hope that in my time as minister no-one came to see me about this matter. I tell this house absolutely that I cannot recall anyone coming to see me about this matter. I do not think they did, and if they did and I ignored them I was wrong, and I should not have ignored them.

Mr Koutsantonis interjecting:

Mr BRINDAL: No; it has now been brought to my attention and we need to address it. This minister has considered it. He has not ruled it out; he has not said it is wrong. We need to look at. It is the house that should look at it, it is the house that now has it, and I commend this measure to the house.

Mrs GERAGHTY secured the adjournment of the debate.

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

Mr HANNA (Mitchell) obtained leave and introduced a bill for an Act to amend the Correctional Services Act 1982. Read a first time.

Mr HANNA: I move:

That this bill be now read a second time.

This bill amends the Correctional Services Act. In particular, it transforms the process in relation to assessment of parole, particularly for those serving longer sentences of imprisonment. The process has become notorious since the Labor government took office because, in relation to three individuals who came before the Parole Board, the Governor, on the instructions of her ministers, overruled the Parole Board decision and refused parole to three offenders serving sentences of life imprisonment.

The Parole Board, pursuant to section 55 of the act, consists of six members. They are appointed by the Governor. We know that means that they are therefore appointments by the government of the day. There are some stipulations about the membership of the Parole Board. One must be a senior legal practitioner, and currently in the position is Ms Frances Nelson QC. There must also be a legally qualified medical practitioner with extensive knowledge of and experience in the practice of psychiatry. So, in a word, we also have a psychiatrist on the Parole Board.

Thirdly, there must be a person who has extensive knowledge of or experience in criminology, sociology, or any other related science. And then there are three people nominated by the minister. So, on the Parole Board you have a mixture of people with expertise, whether it be legal, psychiatric, or in a broader social science, such as criminology. You also have three people who could be considered to be the community representation on that board, the lay community representation on that board.

If the government of the day seeks to influence the readiness of the Parole Board in general terms to grant parole to those serving long sentences of imprisonment, there are a number of options within the existing law and practice which could achieve that goal. One of them would be simply to appoint people who reflect the views of the government of the day to those ministerial appointments, whether they be experts or one of the lay members of the Parole Board.

If this populist government wished to live up to the reputation it seeks to create, it could appoint, for example, Bob Francis, Jeremy Cordeaux and Ivy Skowronski to the Parole Board. That may influence the outcome of Parole Board decisions in the future. There are other options. For example, the government could bring forward legislation to change the composition of the Parole Board (in other words, to have different types of people). It could become something like Judge Judy (an American TV show); people could be selected like a jury so that it is purely a community pulse on the Parole Board without any expertise at all. It could comprise government backbench members of parliament if they are seen to be the most desirable servants of executive policy.

There are other ways of achieving the goals that the government purports to have beyond simple media manipulation. For example, the government could introduce legislation which would effectively set longer non-parole periods. In very limited cases, the government has sought to do this in respect of some serious crimes or in the creation of new crimes. The government also has the option of changing the criteria by which the Parole Board makes its assessments of prisoners so that there was a much heavier onus on prisoners to show their fitness for release. That is another option and, although I might not agree with the way in which they go about it, I could not possibly argue that that is a reasonable way to proceed for a government which seeks to bolster its image as being tough on those who have served long sentences of imprisonment and paid for their crimes in that way.

However, the government has sought to approach this perceived problem in a completely different way. Because for historical reasons the Governor has a role under section 67 of the Correctional Services Act, the current executive has sought to take advantage of that fact by overturning Parole Board decisions in three notorious cases in the last year or so. It is very easy to get headlines on such issues. It is particularly easy because of the human fascination with crime and the instinctive inclination towards vengeance when we see that horrific crimes have been perpetrated by particular offenders.

So, when the horrific crimes of those who are sentenced to life imprisonment are recounted in the daily press or on the evening television news, it is very easy, in the absence of a comprehensive account of the facts, to say that the government is doing a good job by keeping people behind bars for longer. There is no argument that the crimes about which we are speaking are horrific. However, we have a system that says that, after serving a certain number of years in prison, the moral debt is in some way paid for the heinousness of the offence.

It is quite clear that the Premier has sought to take political advantage of the Governor's role in the parole process. We have even had the circumstance where the announcement of a decision to refuse release on parole is made before cabinet has considered the paperwork. So, despite the fact that the Parole Board has psychiatric reports and possibly psychologist reports and reports from prison management, if need be, they have a lot of material before them about the particular individual whom they are assessing, and they have a lot of experience and expertise to be able to assess that material.

What is it that the cabinet ministers have above and beyond what the Parole Board has to make a good decision? There is nothing apart from the fact that there is a desire for electoral gain from the process. They have that; the Parole Board does not have that. I believe the process should be left to the experts. They are government appointed experts; they are people who might be expected to reflect broadly the views of the government of the day or the perceived views of the community according to the government of the day. I say that

they have a job to do and that they should be allowed to do their job without being overruled.

The Parole Board must publish its decisions and account for its deliberations: cabinet does not. The government ministers as they advise the Governor in Executive Council do not need to give any reason beyond what is published in the Premier's press release. That is an appalling lack of accountability, and this government makes something of the fact that it is more accountable than the previous Liberal government.

So, it is wrong on a number of grounds for this overruling of the Parole Board to take place. If the Parole Board, like any administrative body or tribunal of that nature, makes a mistake, that mistake can be corrected by judicial review. In other words, a visit to the Supreme Court will remedy any demonstrated error on the part of the reasoning of the Parole Board. Of course, that is not the case in respect of the Governor. That degree of accountability is another reason for supporting this measure.

I am not alone in condemning the Premier and his government for their populist approach in respect of what they call law and order. In fact, I believe that the debate should be termed 'crime reduction', because that is really what everyone wants. We all actually want there to be less crime in the community. However, under the formula of law and order, so many cheap points are made. The Premier not only delights in condemning criminals to make himself seem serious about crime reduction—

Mr KOUTSANTONIS: I rise on a point of order, Mr Acting Speaker. I have been listening very carefully to the member's well thought out and reasoned comments, but I think he is now making a personal reflection on our Premier and on his motives for his actions as Premier. I think that is inappropriate. I refer you, Mr Acting Speaker, to standing order 127, 'Digression; personal reflections on members'.

The ACTING SPEAKER (Mr Brindal): This is a speech made in reference to a substantive motion. The Premier has every right to come in here and defend himself. It is not proper to criticise another member of this place other than by substantive motion. As this forms part of a substantive motion, I believe that the Premier is entitled to come into this place and answer in his own defence. The member makes his point. To do so, he obviously feels compelled to offer some criticism. To limit his right to do that would be to limit his freedom.

Mr HANNA: The Premier not only takes advantage of people convicted of offences in this way but also lumps them in with lawyers. Clearly, according to the Premier's understanding or the polling that he has, lawyers must be fairly unpopular or seen as being out of touch with ordinary people. On radio, the Premier has lumped criminals and lawyers together as defenders of some perceived liberty enjoyed by long-term parolees. In answer to the member for West Torrens' interjection—

The ACTING SPEAKER: The member should not answer interjections but, if he wishes to make a point, he can.

Mr HANNA: I make the point that I had transcript of radio interviews to read out to members of this place, but a member of staff of the parliament permanently deleted those items from where they were stored electronically and I no longer have them. They were deleted in the past two hours: I was going to print them for use in this debate.

Finally, I note that the Leader of the Opposition has joined with me in criticising the Premier for this populist approach for governing the parole assessment procedure through the use of headlines. It is not the way in a democracy to deal with the difficult issue of when long-term prisoners ought to be released. With those remarks, I commend the bill to the house.

I will refer briefly to the clauses of the bill. The key clause is clause 3, which rewrites part of section 67 of the act to provide that the board makes decisions about prisoners who are imprisoned for five years or more, rather than the Governor. In clauses 4, 5 and 6 there are a number of consequential amendments.

The ACTING SPEAKER: In making his remarks, the member for Mitchell, if I heard him correctly, said that some information that he believed was relevant to his presentation before the house was denied to him in that it was deleted and, therefore, he was not able to present it to the house. Does the member for Mitchell wish me to refer the matter to Mr Speaker Lewis, because it may be a matter that deserves the Speaker's consideration?

Mr HANNA: No, sir. I have taken up the matter privately through the head attendant, and it is not necessary to proceed in that way. It may be in the closing remarks on the second reading I am able to recover that information and bring it back to the house, if that is appropriate. I raised the point only because of the remarks of the member for West Torrens.

Mrs GERAGHTY secured the adjournment of the debate.

JOINT COMMITTEE ON THE IMPACT OF DAIRY DEREGULATION ON THE INDUSTRY IN SOUTH AUSTRALIA

Mr KOUTSANTONIS (West Torrens): I move:

That the final report of the committee be noted.

I thank my colleagues who served tirelessly on this committee. I did a lot of research and reading, and I have a greater understanding of the impacts of deregulation on the dairy industry. I commend the report to the house.

The ACTING SPEAKER: The member for Mawson.

Dr McFETRIDGE (Morphett): I do not claim to be the member for Mawson. I know that he is a dairy farmer, but I am only a humble veterinarian who has come into this place as the member for Morphett.

The Hon. M.J. Wright interjecting:

Dr McFETRIDGE: I am glad the Minister for Transport interjects: he is a good constituent of mine. I support the adoption of this report. The history of the committee into dairy deregulation is long and extensive, and reading *Hansard* I note that the Minister for Local Government, Mr McEwen, first raised this issue back in June 1999. The original committee was appointed, and when parliament was prorogued at the end of 2001 the committee was wound up and an interim report was issued. The new committee first met last year on 21 August 2002. The committee comprised the Hons Ian Gilfillan, John Dawkins, Robert Sneath and Rory McEwen, Mr Tom Koutsantonis (the member for West Torrens) and me. The Hon. Ian Gilfillan was appointed chairman at the first meeting. The staff of the committee were Mr Paul Collett, who was assigned as committee secretary, and Mr Randall Ewens, who was appointed as the research officer. On behalf of the committee, I extend thanks to both Mr Collett and Mr Ewens for their efforts, patience and high levels of coordination and organisation.

There were five terms of reference for the committee, which was required to inquire into and then report on the impact of dairy deregulation on the industry, particularly in South Australia. We were able to look at other matters, including 'any other relevant matters', and we did receive submissions from the Milk Vendors Association. I will say more about that later.

The impact of dairy deregulation has been quite profound and, while I will not cite the recommendations of the committee, I hope that other members of the house and the witnesses who gave evidence to the committee will read the report and consider the recommendations. The bottom line is that there have been disturbing, untoward and unintended consequences of dairy deregulation. The importance of dairying to South Australia has not been overlooked by me. When I first came back to South Australia in 1984 and set up practice at Happy Valley-Kangarilla, I had seven dairies on my books. When I sold the practice last year, in the same area that my practice covered, there was one dairy left. The changes in the dairy industry are quite dramatic. In relation to the seven dairies with which I was dealing, I think the biggest, at Kangarilla, was one that milked 80 cows, while others were milking only 40 or 50 cows. They were small dairies, and most of them were walk-through dairies, although there were a couple of herringbone dairies. There were none of the 1 000 cow dairies we see being developed now as huge computerised rotor dairies.

Current figures show that there are some 600 dairy farms in South Australia, with over 120 000 dairy cows. Those dairy cows are spread in regions from the far South-East to the Mid North. The Adelaide Hills and Fleurieu Peninsula are well recognised as dairying regions by people who travel through the Hills and the member for Finniss's area at Victor Harbor and Yankalilla. There are about 219 farms with 34 000 cows down there. The South-East, an area that was severely impacted by dairy deregulation—certainly in an unintended way because of its combined area of market being not only South Australia but also Victoria—has a large impact on the industry: 28 per cent of the dairy industry is situated in the South-East, with about 160 dairy farms and over 36 000 cows. In the Mid North drier areas there is more cropping and beef, but there are still 61 dairy farms running nearly 7 000 dairy cattle.

In the Riverland, which mainly grows grapes for the wine industry and which does not produce much milk, one of the impacts is the combination of the wine industry and the dairy industry in the production of boutique cheeses and other dairy lines that go well with some of the fine wines being produced in not only the Riverland but also the South-East and the Barossa Valley. The Riverland has three dairy farms but they are quite large farms, with 2 000 cows on them. One area in South Australia that is really causing us angst at present is the Murray River and the Lower Murray swamps and lakes. I recently looked at buying a dairy farm near Lake Albert. This farm was milking 500 cows; it was a 12-a-side herringbone dairy—a very efficient dairy—but unfortunately one of the problems I saw coming was water and water quality. Even then the water quality in Lake Albert was such that, if it were milk, it would have been thrown out, because the total bacteria count was higher than the level acceptable in milk. The readjustment packages given to dairy farmers have combined with the government's inability to finalise a suitable method of assisting farmers in the Lower Murray swamps to improve their efficiency of irrigation. I urge this government not to penalise the farmers on the Lower Murray swamps and to give them a decision on what it is going to do—give them the money that was promised to them in the first place to allow them to reorganise and become more efficient.

I understand that a number of dairy farmers on the Lower Murray, particularly in the swamps and around the lakes there, are considering closing up. The amount of $25 million was spent on the new whey plant at Jervois. Not only the Jervois plant but right across the Fleurieu will be severely affected. They tell me that, if the full impact of not assisting the farmers on the Lower Murray swamps is not recognised, about 1 300 jobs will be affected. We need to recognise the fact that the Lower Murray swamps are a significant part of the dairy industry. As I have said, there are 155 farms with nearly 34 000 cows along the river, between Wellington and Mannum. The number of families involved there is immense. The committee's recommendations recognise the difficulties these families are up against. State and federal governments and industry bodies have been urged to take note of the problems associated with modern day dairying.

It is interesting to note that, after the removal of our markets to Europe, when Britain joined the European economic community (which is now the European Union), we lost a huge percentage of our market. Now with globalisation, GATT and the Doha rounds of the World Trade Organisation urging more freeing up of markets, the dairy industry will have to look at itself. I am pleased to say that, at least in the dairy strategies that have been outlined in the South Australian dairy industry strategic plan for 2010, they are looking forward: there is a hope for them, and they will get bigger and better. They are an important part of the state, and I am proud to be associated with them in a small way and hopefully assist them through my actions on this committee. I commend the report to the house.

Mr MEIER (Goyder): It has been interesting to hear the debate. It sounds as though this measure will receive bipartisan support. I was pleased to have been on the committee prior to the last election. That was one of the committees that was reactivated. I well remember taking evidence, both in Adelaide and also on a trip to Mount Gambier. There is no doubt that many of the dairy farmers felt aggrieved. I am pleased that the committee was able to continue its work. I was sorry that I could not continue to be on that committee, although I was delighted at the same time that a new member, the member for Morphett, who has an understanding of cows and many other animals—dogs and cats—

An honourable member: Dogs with tails.

Mr MEIER: —dogs both with and without tails—was able to get onto this committee. From his contribution, I appreciate that he had a very good understanding of this situation. I express my thanks to the members who served on this committee, which has now extended over several years.

Mr SNELLING secured the adjournment of the debate.

SOCIAL DEVELOPMENT COMMITTEE: POVERTY INQUIRY

Mr SNELLING (Playford): I move:

That the 17th report of the committee, being the poverty inquiry, be noted.

Poverty is a complex issue that impacts on and is affected by an enormous range of social issues. The particular focus of

the Social Development Committee's inquiry was on intergenerational poverty in Adelaide's disadvantaged regions. The committee defined intergenerational poverty as '. . . the state of persistent poverty continuing into the adulthood of different generations of the same family unit and which is substantially due to the effects of poverty in childhood'. The committee heard oral evidence from 29 organisations and four individuals, and received 28 written submissions. The breadth of the topic is reflected in the diversity of evidence received, including from the welfare, education, housing, urban planning, employment, industry, transport and health sectors, and in the 90 recommendations that the committee adopted.

The committee received evidence about many existing programs and services aimed at reducing poverty and its impact on younger generations in this state. However, it is clear that poverty remains a significant issue in some sectors of Adelaide's community. Furthermore, many strategies tend to be reactive rather than preventive. First and foremost, therefore, the committee proposes that there must be a shift in emphasis towards early childhood intervention and prevention in the approach to poverty. Early childhood intervention initiatives have been shown to reap significant benefits as well as economic savings in the long term. While there continues to be the need for some services to be targeted towards crisis intervention and interventions to remedy existing problems, future strategies should focus on the phase of the cycle that will efficiently and effectively reap the greatest benefits.

There is also clear evidence from overseas that a coordinated anti-poverty strategy can have a significant impact on poverty levels, particularly when greater focus is placed on early childhood intervention and on improving parenting skills, especially of young and sole parents. Therefore, the most significant recommendation of the inquiry is that the government establishes and implements a long-term state anti-poverty strategy which has a principal focus on developing and increasing strategies to enhance an early childhood intervention and preventive approach to poverty. This strategy should, among a number of proposed elements outlined in the report, be multi-sectoral, facilitate coordination between existing anti-poverty initiatives, promote solutions that are driven by the communities they seek to serve, and aid the proper evaluation of initiatives with a view to long-term support for proven programs and services.

Before continuing, I would like to acknowledge the work and cooperation of my colleagues, the Hon. Gail Gago, the Chair of the committee, the members for Hartley and Florey, and the Hons David Ridgway and Terry Cameron. I would also like to acknowledge the work of the Secretary to the committee, Ms Robyn Schutte, and of the research officer, Ms Susie Dunlop, in preparing and writing a report. I also acknowledge that there have been a number of recent detailed investigations by government departments that are relevant to the poverty debate. Where relevant, the committee has referred to those investigations in its report rather than attempting to duplicate.

In view of the metropolitan focus of the current inquiry, I would also like to draw the attention of the house to the Social Development Committee's previous inquiry into rural poverty which was tabled in November 1995. Mindful of the fact that time does not permit discussion of all 90 recommendations, I will now provide an overview of some key findings and recommendations from the inquiry in addition to the recommended establishment and implementation of a coordinated anti-poverty strategy. First, the committee has made some additional specific recommendations in the area of early intervention. They are:

- that early intervention initiatives within existing accessible structures such as pre and junior primary schools, community health centres and neighbourhood houses, be a priority;
- that programs to support the parenting role of young parents be expanded; and
- that greater supports to assist young parents to continue with education be developed and implemented.

Without wishing to detract from the focus on early intervention, the committee made further recommendations in relation to a broad range of key findings, some of which will involve negotiations with the commonwealth government on matters of commonwealth responsibility. Education was a central focus of the inquiry. Research consistently shows that parental education level is one of the strongest predictors of education and employment outcomes of children. It is therefore also a crucial area of intervention in order to break the intergenerational poverty cycle. Improving opportunities for parents is also likely to have a major influence on the education and employment outcomes of children.

Also, while schools must provide a full range of opportunities for all students, there is a clear need for better communication between industry and schools and improved vocational education to ensure that future job vacancies can be accessed by local school leavers who do not wish to pursue higher education. The committee's recommendations in relation to education therefore include:

- a review of the Education Act 1972 and other relevant legislation to include adequate emphasis on early childhood intervention (being a former primary school teacher, Mr acting Speaker, this will be something close to your heart);
- improved access to education for adults in poverty through better transport, child care and support for community-based adult education programs;
- a review of TAFE fees with a view to improving affordability and accessibility.
- expansion of vocational education, traineeships and school-based apprenticeships in school curricula through collaboration between schools and local industries (when we were receiving evidence the committee saw tremendous examples of that at Smithfield High School); and
- an increase in trade apprenticeships in sustainable industries.

The committee also calls for the state government to oppose any commonwealth moves to increase HECS obligations and rates and oppose any further moves towards up-front fees. Furthermore, additional pressures on teachers and problems attracting staff to disadvantaged schools must be addressed. The committee therefore also calls for the government to:

- implement incentives for increased staffing in disadvantaged schools;
- explore options for applicant interviews to assist with appropriate teacher selection;
- improve pre-service training, supports and professional development to assist teachers to better deal with issues of disadvantage;
- expand professional careers information and counselling roles in these schools; and
- encourage schools to develop innovative models to provide support, personal advice and assistance to

students, improve parental involvement in the school community and improve relationships within schools.

Two programs that particularly impressed the committee were the Salisbury High School Care Management program and the Youth Opportunities program which, from memory, is run at Salisbury High School. Consistent with the importance of community capacity building, it is also important that schools have the flexibility to implement programs and purchase services that they know are needed within their school communities. Partnerships 21 goes some way to addressing this issue, although it was clear in evidence that resources are often insufficient.

I acknowledge that some of the findings or recommendations of this inquiry may relate to the outcomes of the Department of the Premier and Cabinet's Social Inclusion Unit School Retention Initiative, the report on which is due for release in the first half of this year. I also acknowledge the outcomes of the 2002 Ministerial Task Force on Absenteeism, in view of the issue of student absence and transience in low socioeconomic communities.

As to employment, it is clear that education is central to any anti-poverty strategy, but we cannot ignore that education and training strategies will struggle to achieve significant outcomes unless economic policies and strategies stimulate sustainable job growth, including in local areas of disadvantage. To this effect, the committee therefore calls for:

- a statewide industry plan to, among other goals, better coordinate employment forecasting;
- strategies to reduce unpaid overtime in order to improve the distribution of employment opportunities; and
- evaluation of the effectiveness of the state government Youth Training and Recruitment Scheme in reducing youth unemployment and review the scheme placement numbers pending evaluation of findings.

We received some promising evidence of existing initiatives that provide training that is directly linked to real job opportunities in socioeconomically disadvantaged areas, such as the Northern Adelaide Development Board's Training and Employment Development Centre and the Smithfield Plains Printing and Graphic Arts Training Centre, which is run alongside Smithfield Plains High School.

The next key issue I will discuss is the fundamental importance of housing and urban planning in influencing the level and nature of poverty. The committee has made more than 20 recommendations relating to this. Concentrated public housing is a key cause of entrenched locational disadvantage. Also, a lack of stable and adequate housing significance reduces the ability of people to make improvements to their financial and social situation and can have major detrimental effects on the education of children and young people.

The committee therefore acknowledges the central role of Planning SA, the South Australian Housing Trust and other housing authorities such as the Aboriginal Housing Authority and the South Australian Community Housing Authority (whose manager is my good friend Mr Brendan Moran) in altering and creating infrastructure in ways that are conducive to reducing social disadvantage. The committee calls for:

- expansion of services to assist disadvantaged groups to obtain appropriate private rental accommodation housing;
- exploration of the viability of extending the role of HomeStart;
- expansion of programs that assist people at risk of eviction with causal issues;
- development of greater incentives for increased proportions of low-cost housing in new developments and examination of the feasibility of legislating to this effect;
- encouragement of the adoption of Planning SA's Good Residential Design SA in local government planning regulations; and
- the linking of urban development and renewal to social inclusion initiatives and local employment and training initiatives, such as achieved by the South Australian Housing Trust in the Hawkesbury Park redevelopment in Salisbury North and the Westwood redevelopment.

I also stress the importance of the Homelessness Strategy currently being developed by the Social Inclusion Unit and call for its completion and release as a matter of urgency. Clearly, another critical issue raised in the inquiry was that Aboriginal and Torres Strait Islander communities throughout Australia continue to experience very high levels of intergenerational poverty and social disadvantage, and this state is no exception. Furthermore, while indigenous poverty is often perceived as solely a rural or remote issue, it is a serious issue within Adelaide's Aboriginal population of more than 11 000 indigenous people, and one that warranted significant attention in the inquiry.

ATSIC reported that at least one-third of Adelaide's indigenous population experiences severe poverty relative to Australian average standards of living, many lacking sufficient resources for minimum levels of food, clothing and shelter, and that most experience at least periods of poverty. The committee does not claim to have comprehensively addressed all the complexities of intergenerational poverty within the indigenous population. However, the report does identify a number of distinctive issues that influence levels of poverty among indigenous people. These include issues of culture and identity, racial discrimination and the legacy of historical injustice, including loss of land; the relatively young age profile of Adelaide's indigenous community and relatively high proportions of young and sole parents; problems in the relationship with mainstream services; high levels of dependence on public and private rental; high rates of health problems relative to the general population; and the impact of very high rates of involvement in the criminal justice system.

I would also like to add that the South Australian division of ATSIC provided evidence of a number of reports and inquiries that have been able to address issues of Aboriginal poverty and wellbeing more comprehensively. In many cases, however, recommendations have not been adequately implemented. The committee, therefore, calls for the implementation of recommendations of a number of previous studies and inquiries as a matter of some urgency. These include the Royal Commission into Aboriginal Deaths in Custody; the Department of Human Services' *Strategy for services to Aboriginal people across the Central Business District of Adelaide for vulnerable adults and young people*; the South Australian Police Department's community policing policies; and the Coronial Inquest into Petrol Sniffing Deaths, 2002. The committee also stresses the need for indigenous involvement in the development and planning of the state's long-term anti-poverty strategy.

I would like to repeat that there is a need for change in the approach to poverty in this state to break the cycle for families and communities at risk of entrenched social disadvantage. We have endless evidence of dedicated, yet disparate, responses to poverty from a variety of sectors and agencies. I repeat that there is a need to maintain some crisis

response services and interventions to remedy existing problems. I also commend the efforts of the many contributors to the inquiry, whose work towards a solution should not be underrated. However, the current systems have failed to significantly reverse the trend of increasing entrenchment of poverty in some families and communities.

Mr SCALZI (Hartley): I also wish to contribute to the tabling of this report, which the member for Playford has clearly outlined. I would like to commend the member for Playford for bringing this reference to the Social Development Committee, because it is an important issue. As someone who taught in the northern area for most of my—

Mr Snelling: In my electorate!

Mr SCALZI: —in the honourable member's electorate—for a significant proportion of my teaching career, I can understand the concerns of the member for Playford. Indeed, when we look at the employment rate as against the success rate in education, and entrance to certain areas of tertiary education, it should be of major concern to us all, regardless of our political affiliation. After all, we are in this place because we represent South Australia, and we should try to make a difference and improve the lot of those who have not had the opportunities that we have had.

Poverty is always a difficult thing to define. The best that we can do is come up with a relative definition of poverty, because if we talked about absolute poverty—obviously, if we compared poverty in South Australia to poverty in some developing countries—some people would say that there is not a problem. The reality is that there is a problem, and it is a cause for concern that, in a society such as Australia—and, indeed, South Australia—certain areas of the community that tend to have a lower annual income, as I said previously, have a lower rate of access to tertiary education—indeed, completion of secondary school. That should be of concern to us, because those indicators really show the level of poverty marginalisation of people in society. So, it was fitting that we looked at this problem.

I agree with the press release put out by the Social Development Committee that early intervention is the key to breaking the poverty cycle. We all know that education, in many instances, is the key to social mobility and access to a lifestyle that is likely to give one better opportunities and better health. It is not a coincidence that, in certain areas (and the health reports also indicate this), life expectancy is less than in others—and one only has to look from one side of the metropolitan area to the other. This should be of concern to us all. These are the sorts of things that have emerged from the statistics. I do not believe that the good Lord sprinkles talent unevenly and that, in certain areas, people have more talents and gifts than in others. There must be an environmental contribution to maximising the potential of certain individuals, and I think it is our responsibility to find out the contributing factors. There is no question that even the availability of transport services and support services in certain areas is lacking.

It is fitting that we concentrate on taking a comprehensive approach to poverty in the early years. We all know how important the early years are. Prior to the last election, we had a campaign by the primary schools principals' association, which the present government was going to address by employing more counsellors, reducing class sizes in primary schools and making education a key priority—and also, indeed, health. These two issues are very much linked to dealing with intergenerational poverty. In both preschool and primary school (as was found in the previous inquiry on rural poverty and, indeed, in the ADHD inquiry), support at the early stages is crucial to whether we succeed in breaking down those cycles and giving people greater opportunities for a better life. As I said, the committee found, through the research that was carried out, that children whose parents have a low level of education tend to be disadvantaged in terms of their own education and employment prospects to a greater extent than those children whose parents have high levels of education and attainment.

We have only to look at the statistics. When we examine the rate of unemployment, we will see that, the more one learns, the more one earns. The greater one's progress in education, the greater one's chances of being employed, and the less likely the possibility of one being unemployed and experiencing all the other problems associated with unemployment, if one has a lower education rate. The government has taken some steps by increasing the age at which students can leave school. That is an important measure but, with respect to those students who feel marginalised, who feel that school is not meaningful for them, we must ensure that programs are in place that will rescue them and provide them with opportunities.

As the member for Playford said, schools such as the Salisbury High School should be commended for some of their programs, as should some of the youth programs in that area. I applaud (as did the member for Playford) the fact that some schools have a care group teacher who progresses young people from, say, year 8 to year 12, someone to whom they can relate. It is important to have a role model because success breeds success. Unfortunately, because of transient populations and problems with family structures these days, students do not always have the role models that are crucial in making sure that all the opportunities available to them are taken advantage of.

There must be cooperation between state and federal governments to make sure that opportunities are taken advantage of to the maximum and that red tape is not an obstacle to people who find themselves lost in certain situations. If they are continually struggling with the bureaucracy (being sent from one department to another), they will not get themselves out of these situations, and their problems will be passed on to the next generation. Housing is also crucial, and the committee has made many recommendations in this respect which the member for Playford outlined so well.

Time expired.

Motion carried.

WIND POWER

Adjourned debate on motion of Mr Venning:

That this house calls on the Environment, Resources And Development Committee to examine and make recommendations on the economic, environmental and planning aspects of wind farms in South Australia, with particular reference to—

(a) the leadership role of government in a strategic approach to the management and overall development of the industry;

(b) the effectiveness of existing institutions, government agencies and their inter-relationships in delivering best practice to the wind energy industry in South Australia;

(c) addressing community concerns;

(d) defining the links with a state greenhouse strategy;

(e) examining the extent of their ability to meet the commonwealth mandatory renewable energy target;

(f) determining the appropriateness of setting state based renewable energy targets for South Australia;

(g) maximising economic and environmental outcomes for South Australia;

(h) evaluating the effectiveness of commercial generating machinery currently available; and

(i) any other relevant matter.

(Continued from 30 April. Page 2843.)

Mr KOUTSANTONIS (West Torrens): The member for Schubert's motion calls upon the ERD Committee, of which I am a member, to investigate wind farms. Before I give my detailed response to the member for Schubert's motion, I would like to say that the committee had already considered this matter and was planning—

The Hon. W.A. Matthew: You've done some research on it?

Mr KOUTSANTONIS: Yes, I have done some research—to research and report on this issue. The committee was a little offended (in a bipartisan way) by the member for Schubert's remarks about its workload. Regarding the committee's workload, every time we undertake an investigation, we have to work within a budget of $8 000. If we place an advertisement in every newspaper in South Australia (including the *Australian*) it costs us about $4 000—half the budget just to advertise one report.

The Hon. W.A. Matthew interjecting:

Mr KOUTSANTONIS: I don't think this is something with which we should play politics, because in the last parliament the issues were the same. The committee structure must be looked at in a bipartisan way—and I think the Speaker will do that during the Constitutional Convention. I think it is a bit unfair of a former chair of the ERD Committee to criticise the committee knowing that it is hamstrung trying to stay within its budget. I am sure that former chairs would not like us to read out a list of the expenditure of former committees. If we can deal with this in a bipartisan way, all members should realise that, when you are trying to keep within a budget, it hamstrings the way in which you conduct inquiries and produce reports. However, I will rise above that to debate this issue.

The government is a strong supporter of economically efficient renewable energy. It recognises the benefits of reducing greenhouse gas emissions and aims to progress the greater use of sustainable energy technologies. Wind farm proposals have the potential to strengthen the regional transmission network, provide new generation capacity and encourage competition in the energy market. For example, the government purchased 32 000 megawatts per annum of energy (approximately 6.4 per cent of the government's total electricity consumption) from the Starfish Hill Wind Farm which is being instructed at Cape Jervis.

The government provides facilitation assistance for wind farm projects through the Department of Business, Manufacturing and Trade (BMT) and other agencies, and it aims to foster manufacturing activities in South Australia. The renewable energy strategy will fine-tune the government's industry development strategy and address the relationships between Kyoto, the Mandated Renewable Energy Target (RET) review (on which I am sure all members opposite are experts—as am I) and planning issues and different renewable technologies.

To enable wind farm developments to proceed with certainty, the Minister for Urban Development and Planning released (in August 2002) components of a comprehensive wind farm planning package for public consultation. He did an excellent job on this, and we all want to commend him for the good work that he does. He is one of our better ministers, all of whom have a very high rating. This package includes a planning bulletin—

The Hon. W.A. Matthew interjecting:

Mr KOUTSANTONIS: They all start at 9.5 and move up to 10 out of 10; they are all very good ministers.

The Hon. W.A. Matthew interjecting:

Mr KOUTSANTONIS: That's a lie.

The Hon. W.A. Matthew interjecting:

Mr KOUTSANTONIS: That's a lie; I wouldn't have said that.

The ACTING SPEAKER (Mrs Redmond): Order!

Mr KOUTSANTONIS: This package includes a planning bulletin to give guidance to the community and wind farm proponents, a ministerial plan amendment to introduce policies to guide assessment, and a guide for applicants to provide general direction to the community on wind farm proposals. The minister will also propose regulation changes to require wind farm proposals to be referred to the Environment Protection Authority for comment, particularly in relation to noise issues. There has been a lot of comment about noise issues, but I think people who have seen wind farms would agree that they are quite spectacular and of great benefit rather than being seen as a failing.

Wind farm projects totalling over 400 megawatts have already been approved under the Development Act. They include: Starfish Hill at Cape Jervis (34.5 megawatts); Lake Bonney (200 megawatts); Cowell (85 megawatts); Tungketta Hill near Elliston (55 megawatts); Lake Bonney Central (60 megawatts); Green Point in the South-East (40 megawatts); and Troubridge Point on Yorke Peninsula (20 megawatts).

The committee is looking forward to this investigation, as we had already discussed it before the member for Schubert moved his motion. I say again that we are concerned that a former chairperson of the ERD Committee would criticise our workload, given that we are trying to work within a budget. The honourable member was not in the chamber when I made my remarks earlier, so I will repeat that the ERD committee works on an $8 000 a year budget. Regarding the total cost of advertising—if the member for Schubert would pay attention—just one investigation costs $4 000. If we advertised one investigation in every regional paper—if the honourable member wants regional communities to be involved in these investigations—plus the *Advertiser* and the *Australian*, it would cost $4 000. We are trying to work within a budget. I am sure the member for Schubert chaired many investigations, but I wonder whether the committee stayed within its budget every year.

I wonder if we went back and looked at his budgets whether we could say that he was within that $8 000 budget per year. The member for Schubert is shaking his head. I have not seen those budgets, but, if he likes, I can go and get them. I am sure the Speaker could provide them to the house. But I think attacking the committee after being a chair of it was a bit unfair. We will be doing everything we can to work within our budgets. I think it was a bit tasteless, but he is a man of honour and he tries to do his best. I commend the motion. The government will be supporting the motion and the committee looks forward to investigating it.

Mr WILLIAMS (MacKillop): It is with great pleasure that I rise to speak on this motion. I will come back to the matter of the motion in a moment. Might I just say to the member for West Torrens, who has taken umbrage at the

comments made by my colleague the member for Schubert, that it has certainly come to my attention as a former member of the Public Works Committee that the committee system, as far as I can see, under this government is working completely differently from what it was under the previous government, and the workload of the committees seems to have slowed right to zero, and I think that is possibly why the member for Schubert—

Mr Koutsantonis interjecting:

Mr WILLIAMS: It ill behoves the member to say that the problem is that they do not have a budget. I can assure the member that if he was serious about the ERD Committee and the good work that that committee could do he would ensure that the money was found to be able to advertise right across the state to have people come and give evidence to that committee.

Mrs Geraghty interjecting:

Mr WILLIAMS: Might I say that, from my experience, the ERD Committee under the previous government did not have any problems looking at a whole range of issues.

Mr Koutsantonis interjecting:

Mr WILLIAMS: Well, the previous government was one of openness and accountability and did not mind having the parliamentary committee looking into a whole range of issues. This government does not like being looked at and is, I believe, attempting to close down the parliamentary committees and stop them from looking at anything.

Members interjecting:

Mr WILLIAMS: But I come back to the issue at hand—

Mr Koutsantonis interjecting:

Mr WILLIAMS: —because I would hate the member opposite to injure himself; he is getting quite worked up over there. The matter at hand that the member for Schubert quite rightly brings to the attention of the house is that he is calling on the ERD Committee to look at a range of issues with regard to renewable energy, and particularly with regard to wind power. I am very keen on wind power. My electorate happens to be hosting the construction in a very short time of what will become the biggest wind farm in the Southern Hemisphere.

The company Babcock & Brown are about to start construction on stages 1 and 2 of the Lake Bonney wind farm. There will be some 120 windmills in those two stages. Each windmill will be placed on a tower some 75 metres tall, and the blades of the windmills themselves will have a radius of some 25 to 30 metres, with each windmill producing between 1.75 and 2 megawatts, and I understand there is a range depending on the siting. But it is expected that stages 1 and 2 of that wind farm will produce at capacity some 205 megawatts of power. The house might be interested to note that, in the off-peak situation, night-time consumption, that would equate to about one eighth of this state's power consumption. So, that is a great thing, and I am absolutely delighted that that is proposed to be constructed in my electorate. I understand that stages 1 and 2 involve an investment by Babcock & Brown of some $400 million, which is a substantial investment.

While I am talking about this, I take this opportunity to congratulate some of the prime movers of the project, who will see this project become reality in the near future. First of all, when I first became the member for MacKillop I attended a meeting in Millicent, and the member for Flinders came down to my electorate, because she had been doing work over a period of time encouraging wind farm development in this state. She came to this public meeting which was to discuss the prospect of having a wind farm adjacent to the township of Millicent, or only a few kilometres from the township of Millicent. A gentleman by the name of Paul Hutcheson had been working on the project, and over the ensuing years I got to know Paul fairly well. He is the man, I can assure the house, who has worked tirelessly towards this project. In the early days it was just a dream of his, and possibly his alone, but he tirelessly kept going and kept at it.

After a short while others came on board and the prime movers have been the Wattle Range council, and particularly the mayor, Don Ferguson, and the CEO of that council, Frank Brennan, have really been fantastic, and they largely have been responsible for getting Babcock & Brown enthused in this project and bringing them into South Australia with their potential investment of $400 million in stages 1 and 2.

I understand that it is their intention to move on and develop further stages, stages 3 and 4 at least, along what is known as the Woakwine Range in the South-East, a range which runs parallel to the coast there and which receives an extraordinary amount of wind off the Southern Ocean. It blows across the flats adjacent to the ocean and then we get what is known as the ram effect, as the wind comes up against the Woakwine Range and is compressed upwards with an increase in wind speed.

There is a site on the range where the initial development site is, where people who are interested in the project are taken, and no matter how still the day is in the surrounding region at that location there is always a considerable amount of wind blowing over the range. So, I wish Babcock & Brown all the best with that project. I understand that they are very near to getting it up and running. There is also a second company called Wind Prospect, which already has provisional development planning consent, and they are proposing at this stage to build a further 30 mills at what they call Lake Bonney Central, which is virtually adjacent to the Babcock & Brown project. Within the next 12 months to a couple of years I hope that we might see something like 150 of these windmills pumping electricity into our network, and that will again add to the alleviation of the problems that we saw a few years ago where South Australia was literally running out of electricity capacity.

I was recently in Western Australia on a private visit, and while I was over there I took the opportunity to visit two wind farm sites, one at Esperance and one at Albany. The township of Esperance, which I think has a population of about 18 000 people, is quite far removed. The nearest point to the Western Australian electricity grid is some hundreds of kilometres, and traditionally their power has been generated by diesel generators. Some years ago they put in what I think was the first electricity producing windmill in Australia, of any serious size at least, and following from that they had a small wind farm developed and, more recently, a quite a bit larger wind farm has been developed. I took the opportunity to go there, and walk around amongst the wind turbines because I wanted to get some understanding of the wind noise generated from these turbines as they operate, because that is an issue.

Also, as I drove further west I found that at Albany there is quite a sizeable wind farm, and I understand that about two years ago an investment of about $45 million was made at Albany. That wind farm, it is said, generates enough power to supply some 17 000 homes. These are the sorts of opportunities we have. Obviously, as with any new development, there are some downsides as well. One of the issues that I have been working through with a couple of constituents at

least in my electorate is the connection from the wind farm to the grid at a local substation, and there are some negotiations going on now about the route of those connections and the impact that a new powerline through farming country has on farming operations.

In these modern times, we have things such as centre pivot irrigators, aerial spraying of crops, etc. So, power lines extending onto farm land can cause quite an expensive intrusion. That is one of the issues. Another issue in the South-East is that part of the orange-bellied parrot's habitat is not far from the Lake Bonney precinct. That is an endangered species which migrates between north-western Tasmania and the south-eastern coast of South Australia adjacent to Victoria. That issue is also impacting on the planning of these wind farms.

Mr HANNA (Mitchell): I will speak briefly in support of this motion. The member for Schubert has called upon the Environment, Resources and Development Committee to examine and make recommendations on the economic, environmental and planning aspects of wind farms in South Australia.

The South Australian Greens have been contacted by both supporters and opponents of various proposed wind farms. There is a great deal of interest in this potential energy source from within the party membership. While the South Australian Greens support renewable energy in general, this does not translate to universal support for every renewable energy development. Green power does not necessarily mean a green project. However, best practice wind farms are to be welcomed in South Australia, and proponents who get it right are likely to find more and more support for each project. Those who believe that they can get away with shortcuts and still retain a green image just because of the nature of the project will find sustained community support for their ventures quite difficult to achieve.

The member for Schubert, in particular, asks the ERD Committee to look into the leadership role of government in a strategic approach to the management and overall development of the industry; the effectiveness of existing institutions and government agencies and their inter-relationships in delivering best practice to the wind energy industry in South Australia; addressing community concerns; defining the links with the State Greenhouse Strategy; examining the extent of their ability to meet the commonwealth mandatory renewable energy target; determining the appropriateness of setting state-based renewable energy targets for South Australia; maximising economic and environmental outcomes for South Australia; and evaluating the effectiveness of commercial generating machinery currently available. They are all topics worthy of examination.

Government speakers have suggested that the ERD Committee was going to look into this matter, anyway. I do not really care who came up with the idea first, but it is certainly very timely for the committee to look into these matters. The member for Schubert should be commended for the thought he or his advisers have put into those particular topics, because I think it covers the field quite well.

In relation to community concerns, I suggest that the greatest hurdle between wind farms and public acceptance is the visual impact. However, other factors need to be considered. Generally, international experience suggests that a degree of local ownership can significantly enhance public perceptions and attitudes towards these projects. For example, diverting all or some of the profits into community development funds is an emerging trend in the UK and would be welcome in South Australia. Similarly, offering the electricity output to local residents at standard tariff rates (in other words, without a green power premium in tariffs) would be another way of winning public acceptance.

There is a range of ideas that have been discussed within the South Australian Greens and, generally speaking, if this report comes from the ERD Committee on these topics it will provide not only a lot of answers but also a framework for future development of wind energy in South Australia. It is a very exciting development.

Mr VENNING (Schubert): I thank all those members who have participated in this debate, including the shadow minister (the member for Bright), the members for Goyder, MacKillop, West Torrens, Mitchell and Morphett. I appreciated the tenor of the debate, although I was a little concerned that the member for West Torrens had a shot at me. If I criticised the ERD Committee and offended any of the members personally, I apologise. As a previous chair of that committee, I have a very high regard for that committee. It is a very effective committee. At the time, I thought that it was a bit of SOL. I can think of plenty of things that the committee could do. Before the member for West Torrens became a member, I kept in regular contact with the members of the committee. As one would expect, I have kept track of what is going on with that committee. The member for West Torrens' remarks made me a little cross.

Since debate on this issue has been going on over the last month, I note that the committee has formally taken this matter on board, and I am very pleased about that. The issue of wind farms is very important. As the member for Mitchell said, there is very strong public debate in the community. There is more to it than just being a clean and green generator of electricity, and all the stakeholders must understand that, although there are certain big advantages in wind farms as a clean and green generator of electricity, there are also downsides. Of course, there is none worse than the visual impact. I believe that South Australia's problems are unique to South Australia, particularly in relation to some of our wonderful coastlines and their horizons. These areas would be wonderful sites for wind farms, particularly when you see these things flickering in the sunlight. However, they could have pretty negative visual impacts, particularly in the Darlington area with its lovely escarpment. I can think of a wonderful spot for a wind farm on the Barossa Ranges, but I do not think that it would pass the development assessment commission or anyone else because of its huge visual impact.

I first became involved in this issue when I visited Cornwall with the Hon. Graham Gunn. We were ridiculed on the front page of the *Advertiser*, and that issue is not dead yet. I believe that all MPs should be ashamed of what happened at that time. The Hon. Graham Gunn and I wore the brunt of it, and I think it was grossly unfair. On our trip to Cornwall, we visited the farm of a relative of mine dating back four generations. He shares his farm with a wind farm. We looked at the impact of that wind farm, and it was not good. I was very concerned about the noise and visual impacts and the unreliable machinery. The gear that was purchased was not suitable for the area, and there were a lot of problems.

An honourable member interjecting:

Mr VENNING: I am Cornish, and I note that the Cornish Festival is coming up this week, and I will be there. So, that is when I first became interested in wind farms. Also, a friend of my son is one of the leading experts in wiring up wind

farms. He is working practically full time in Tasmania, as well as working out of Adelaide and the Clare Valley. He has told me that there is a big disparity between the best and the worst equipment. The cheapest equipment is not necessarily the best. In fact, it is worth paying the extra money. Some of these wind generators can be extremely expensive to maintain. They are not maintenance free. They can be very low in maintenance, but they are not maintenance free. The location of the wind farm, the sort of winds expected, and the proximity to population and to other wind turbines determines what sort of turbines should be fitted. It is a complex issue.

I am very pleased that the government is supporting this motion, and I thank the member for West Torrens and his colleagues for that. I look forward to reading the evidence that comes before the committee. I think the member for West Torrens' comment about the $8 000 budget should not prohibit the committee advertising widely for the expertise that is out there. True, much of it is interstate, and some of it may be overseas, but with today's electronic mediums we should be able to access that, even though those people may not appear in person. Certainly, the information could be gained via video conference from these people. The expertise is in the European countries, and the charge has been led by the Swiss and the Scandinavians, who are way up in the technology relating to wind generators.

I thank all members for their contributions. It has been a worthwhile exercise, and I look forward to the outcomes. I think in the years to come South Australia will play a major part in this. I hope the parliament will play its part to help all the stakeholders who are about to consider wind generators. I commend this motion to the house.

Motion carried.

WASTE MANAGEMENT

Adjourned debate on motion of Mr Venning:

That this house calls on the Environment, Resources and Development Committee to examine and make recommendations on waste management in South Australia, particularly in regard to—

(a) the environmental benefits and disadvantages of closing the Wingfield dump;
(b) the benefits of alternative waste disposal methods;
(c) the environmental impact of landfill methods of waste disposal; and
(d) any other relevant matter.

(Continued from 2 April. Page 2695.)

Mrs GERAGHTY: I move to amend the motion as follows:

By removing all words after 'recommendations' and inserting:

(a) landfill proposals for metropolitan Adelaide for the next 15 years;
(b) the viability of alternatives to landfill;
(c) recycling;
(d) plastic bag use in South Australia; and
(e) any other relevant matter.

I ask that the house support the amendment.

Mr SNELLING secured the adjournment of the debate.

[Sitting suspended from 5.47 to 7.30 p.m.]

MINING (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

CRIMINAL LAW (SENTENCING) (SERIOUS REPEAT OFFENDERS) AMENDMENT BILL

In committee.

(Continued from 13 May. Page 2969.)

Clauses 2 and 3 passed.

Clause 4.

Ms CHAPMAN: I move:

Clauses 4 and 5—Leave out clauses 4 and 5 and insert:

Substitution of heading to Part 2 Division 3

4. Heading to Part 2 Division 3—delete the heading and substitute:

Division 3—Disproportionate sentences and sentences of indeterminate duration

Substitution of section 22

5. Section 22—delete the section and substitute:

Habitual criminals

22. (1) In this section—

"home invasion" means a criminal trespass committed in a place of residence while a person is lawfully present in the place and the trespasser knows of the person's presence or is reckless about whether anyone is in the place;

"serious drug offence" means—

(a) an offence against section 32 of the Controlled Substances Act 1984; or
(b) a conspiracy to commit, or an attempt to commit, such an offence; or
(c) an offence of acting as an accessary to the commission of such an offence[1];

"serious offence" means an offence for which a maximum penalty of, or including, imprisonment for period of 5 years or more is prescribed and that is—

(a) a serious drug offence; or
(b) one of the following offences:
  (i) an offence against the person under Part 3 of the Criminal Law Consolidation Act 1935;
  (ii) an offence of robbery or robbery with violence;
  (iii) home invasion;
  (iv) an offence of damage to property by fire or explosives;
  (v) an offence of causing a bushfire;
  (vi) a conspiracy to commit, or an attempt to commit, an offence referred to in subparagraph (i), (ii), (iii), (iv) or (v)[2]; or
(c) an offence that is committed in circumstances in which the offender uses violence or a threat of violence for the purpose of committing the offence, in the course of committing the offence, or for the purpose of escaping from the scene of the offence.

1. See section 41 of the Controlled Substances Act 1984.

2. A person who acts as an accessary to the commission of an offence described in paragraph (b) is, by virtue of section 267 of the Criminal Law Consolidation Act 1935, guilty of the principal offence and has, therefore, committed a "serious offence".

(2) A person is liable to be declared an habitual criminal if—

(a) the person has been convicted of at least three offences to which this section applies; and
(b) there were at least three separate occasions on which an offence to which this section applies was committed.

(3) An offence is one to which this section applies if—

(a) the offence is—
  (i) a serious offence; or
  (ii) an offence against the law of another State or Territory that would, if committed in this State, be a serious offence; or
  (iii) an offence against a law of the Commonwealth dealing with the unlawful importation of drugs into Australia; and
(b) either—

(i) a sentence of imprisonment (other than a suspended sentence) has been imposed for the offence; or

(ii) if a penalty is yet to be imposed—a sentence of imprisonment (other than a suspended sentence) is, in the circumstances, the appropriate penalty.

(4) If a court convicts a person of a serious offence, and the person is liable, or becomes liable as a result of the conviction, to a declaration that he or she is an habitual criminal, the court—

(a) must consider whether to make such a declaration; and

(b) if of the opinion that the person's history of offending warrants a particularly severe sentence in order to protect the community—should make such a declaration.

(5) If a court convicts a person of a serious offence, and the person is declared (or has previously been declared) to be an habitual criminal—

(a) the court is not bound to ensure that the sentence it imposes for the offence is proportional to the offence; and

(b) any non-parole period fixed in relation to the sentence must be at least four-fifths the length of the sentence; and

(c) the Supreme Court may, on application by the Director of Public Prosecutions, direct that, on the expiration of all terms of imprisonment that the person is liable to serve, the person be detained in custody until further order.

(6) If a direction is made under subsection (5)(c), the person against whom it is made is to be detained in the same way as if sentenced to imprisonment and the Correctional Services Act 1982 applies accordingly.

(7) A person who is detained in custody in accordance with such a direction is, subject to this Act, not be released from that detention until the Supreme Court, on application by the Director of Public Prosecutions or the person, discharges the order for detention.

Amendment of section 24—Release on licence

6. Section 24(1)—delete "detained in custody" and insert: who has been detained in custody until further order

The proposal is that a new section 22 be inserted in the Criminal Law (Sentencing) Act by virtue of this amendment. The amendment seeks to do two things, one of which is to ensure that the amendments proposed by the government will modernise and contemporise the new program the government is proposing. I indicated in my second reading contribution that we support a new series of definitions and a new process such that a penalty will apply to repeat offenders of serious offences after the third conviction. All that is to be incorporated in this amendment, together with the retention of the important power to detain indefinitely, that is, until further order. During my second reading contribution I indicated the merit of retaining this power and the importance of doing so, notwithstanding the minister's criticism of this power, in particular, its lack of use for some 40 or so years.

The opposition, and Liberal Party in particular, take the view that this power could be used, and I will give an example. Whilst the principal act picks up provisions for someone who is unable to contain their sexual activity, there is special provision for them. Someone could have been convicted three times of a serious sexual offence but still not be in a condition, medically or psychologically, such that they would be declared to come under the provisions of current section 23 of the principal act for detention in those circumstances. It may well be that it is appropriate that the judiciary determines that they be detained for an indeterminate period. That power can be retained—and we say ought to be retained—to ensure that it is available.

The minister made a number of comments about its lack of use. I still suggest that it is open for the Director of Public Prosecutions to exercise this opportunity if he wishes to do so. Indeed, the proposed amendment would still facilitate the requirement that he initiate that to the extent that it is not open for anyone to simply prosecute and to pursue that line; it is clearly with the DPP's initiative. I still say that it is open for someone in the Attorney-General's position to present a request—or even as high as a direction—that that option be considered in certain circumstances. I would anticipate that it would not be used often but it still ought to be retained there for that category of persons I have described previously as being at the incorrigible rogue end—the habitual criminal end—of the category of people with whom we are dealing.

This amendment has the benefit both of retaining that power for the limited circumstances in which it may be used and of incorporating the aspects outlined by the government in modernising this provision. Several things need to be made clear about this amendment. First, the current act has a number of divisions and, rather than have a new section 20A which is proposed by the government, the current section 22 could be replaced and we propose in this measure that that be the case, so we continue under the same part—that is, part 2 of the principal act—and bring in division 3, to be retitled 'Disproportionate sentences and sentences for indeterminate duration'. That will then cover the circumstances—other than this one, where there are habitual criminals—covered in the principal act, so it would continue under that area.

In deleting the current section 22 and substituting the 'habitual criminals' provision, the differences in this amendment are, first, that we are now dealing with the section within this part rather than a new part. Accordingly, section 22(1) now would read 'in this section' rather than 'in this division'. All the same definitions (home invasion, serious drug offence and serious offence) are as in the government bill, save and except that under 'serious offence' the 'imprisonment for a period of five years or more' prescription is added in. Rather than its being referred to later, as the government bill does, that has been incorporated within the meaning of 'serious crime'.

Under its proposal, in a separate section, the government seeks to make clear that this should be applicable only to serious offences where the imprisonment penalty is for a period of five years or more, so it would not be necessary for that to be dealt with in a separate division. Now we are in under the same division, we have incorporated it; it is proposed that it be incorporated in the 'serious offence' definition. The amendment also does not refer to the government's proposed section 20A(2). That provision has been deleted altogether, for two reasons. One is that it is not necessary because, again, this is a section within the division, and the first part of the government's proposed section 20A(2) seeks to exclude offences that are committed by youth.

It is not necessary under our proposed amendment to have it repeated there because it would still be covered by the current section 21 of the act, which excludes youth. So, for the reasons that I have explained, that is not necessary. The five year qualification, as I have explained, is not necessary because it is proposed in our amendment that it be incorporated in the serious offence definition. I just explain that drafting difference.

The principal difference I come to is in the amendment moved in my name under the proposed section 22(5)(c), (6) and (7). First, paragraph (c) of subsection (5) is the specific provision to retain the power for the Supreme Court to have the option, on the application of the Director of Public Prosecutions, to direct that there be a circumstance, having qualified through all the proposed terms of the government, that they be able to be detained in custody until further order.

This retains this power that I have referred to, and subsections (6) and (7) are merely consequential, I suggest,

in relation to the provisions, then, of letting out on licence and otherwise to secure the consequential requirements in relation thereto. The amendment therefore seeks to do two things, as I say: one is to incorporate all of what the government is seeking to achieve here other than our retaining in the principal legislation, at the end of all this, the option for the Supreme Court to exercise a detention until further order, should they consider in the circumstances and subject to all the qualifications that are being still imposed by the government, which we support, and that that option should be able to prevail. I seek the house's support of the same.

The CHAIRMAN: I indicated earlier that we were talking about clause 4 but we are actually talking about clauses 4 and 5, with the amendments moved by the member for Bragg.

Mr HANNA: I cannot agree with the amendments moved by the member for Bragg. I object strongly to the label 'habitual criminal'. I think it is a leftover from positivist criminology of the 19th century. I think it arose out of a society where there was such a consciousness of class and such insistence on barriers to mobility between classes that criminals were thought of as a subspecies of the working class, and the lawmakers of the time were happy to label people accordingly. That has really been surpassed in the way that we understand people and want to treat people in our society today.

I think 'serious repeat offenders' is an accurate term for the sorts of people covered by the bill. It is literally true that they are repeat offenders of serious crimes, but I think it is slightly more a focus on the behaviour rather than on some innate quality of the person. I think labelling someone 'habitual criminal' damns them in a way that is unsatisfactory.

The Hon. M.J. ATKINSON: The opposition's amendment is an omnibus amendment and one can only accept or reject it. As it happens, the government is rejecting it because of the bad parts of it. There is already provision in sentencing law to deal with offenders who are unable to control their sexual instincts. I refer to section 23 of the parent act. This was applied in the O'Shea case. There was an application recently called Scobie, which was turned down by Justice Gray in the Supreme Court. The requirement of section 23 is certification by two psychiatrists. We are happy to go with that provision. We think that the problem of offenders who cannot control their sexual instincts is already dealt with, and this bill is not the appropriate vehicle in which to do it.

Another feature of the member for Bragg's amendment would be that, if a person committed two serious offences as a youth and then a third as an adult, the provisions of the bill would be triggered. I am not sure whether that is the member for Bragg's intention but I can assure her that it is the effect of her amendment.

The CHAIRMAN: We will do this in two parts, even though they are obviously interrelated.

Amendment negatived; clause passed.

Clause 5 and title passed.

Bill reported without amendment.

Bill read a third time and passed.

CONSTITUTION (GENDER NEUTRAL LANGUAGE) AMENDMENT BILL

(Second reading debate adjourned on 28 April. Page 2787.)

Bill read a second time.

In committee.

Clause 1.

Ms CHAPMAN: Mr Chairman, I rose to speak before on the second reading—in fact, there were a number of speakers who proposed to speak on this matter. I thought that I had the call to speak, then—

The CHAIRMAN: The Speaker did call, and I was not sure when you stood whether you were sorting out papers.

Ms CHAPMAN: I was waiting to speak, and then you left the chair.

The CHAIRMAN: No-one responded to the Speaker. If members want to make a contribution, they have an opportunity during the committee stage, and the committee will be tolerant. If the member for Bragg wishes to speak to clause 1—

Ms CHAPMAN: I will do so, sir.

Mr MEIER: Sir, I draw your attention to the state of the committee.

A quorum having been formed:

The CHAIRMAN: We are experiencing a technicality in regard to a rescission motion. There was a misunderstanding. In order to facilitate members of the opposition having a right to speak, we need a rescission motion.

Progress reported; committee to sit again.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That standing orders be so far suspended as to enable the moving of a motion forthwith for the rescission of the vote on the second reading of the bill.

Motion carried.

The Hon. M.J. ATKINSON: I move:

That the vote on the second reading of the bill taken in the house today be rescinded.

The Labor government will always accommodate the foibles of members opposite. I recall that when an identical thing happened to me when Harold Allison was in the chair a recision was refused, but we will treat you gently so as to heap coals of fire on your head.

Motion carried.

Second reading debate resumed.

The SPEAKER: Order! Before the house resumes the debate, I tell members of the chamber to pay attention to the *Notice Paper* because it will cause you less embarrassment. I also point out to the chamber that on more than one occasion in my 20 years here when I have attempted to do the same thing I have been refused. I believe that, in this instance, the government has been more charitable and generous than on any other occasion that I can remember, even when I was a member of the government party. When I attempted to make a second reading contribution on one occasion, the chair simply ignored me and I was refused the opportunity to do so.

Ms CHAPMAN (Bragg): I am indebted to the Attorney-General for his generosity tonight. As he knows, he has my support—and, indeed, that of the Liberal Party—on this important matter before the house. The Constitution (Gender Neutral Language) Amendment Bill was received from the Legislative Council and read a first time on 2 April 2003. I am pleased as the Liberal spokesperson for the Office for the Status of Women to indicate the support of the Liberal Party. At this time, it is not only important that we reconsider the constitution and ensure that its defects are remedied but I note

that there is strong representation of women in both this chamber and the other place. 'Strong' is the best word I can use to describe it. It is not as good as it could be, but there is significant representation.

This bill was introduced in the other place by a retiring member, a woman; her proposed replacement is a woman; the current monarch is a woman; and the current Governor is also a woman. Accordingly, I can think of no better time in history to remedy this matter. I suppose the only unfortunate thing is that the principal for the government, the Attorney-General, is not a woman. Given his graciousness tonight, I certainly would not call him a girl. Nevertheless, this is an important time in history to proceed with this legislation.

The Hon. Diana Laidlaw in the other place has requested that we consider this measure, which amends the Constitution Act 1934 to replace gender specific terms with appropriate gender neutral terms. This will ensure that the provisions containing gender specific terms referring to members of parliament, the governor or the sovereign are replaced or, where gender specific terms cannot be replaced, the word 'her' will be added to any reference to the word 'him', so that both sexes are mentioned and, importantly, references to 'the sovereign' will be replaced with references to 'the governor'. The Constitution Act contains a number of male gender pronouns referring to the governor and members of parliament. At the time the legislation was enacted, the use of a male pronoun embraced women also. However, in these contemporary times many South Australians (including myself) are not satisfied to make that assumption.

The Hon. M.J. Atkinson: Including me.

Ms CHAPMAN: And, indeed, the Attorney-General. We say that this is simply not good enough and that the situation should be remedied. It is fair to acknowledge that, for over 20 years in this parliament, where appropriate, parliamentary counsel—I compliment them and their instructors—have drafted legislation using gender neutral language. The Hon. Diana Laidlaw, nearing the end of her parliamentary career, when considering all matters relating to her resignation as a member of the other place (to become effective on 6 June 2003) identified section 16(1) of the Constitution Act 1934, which provides:

> Any member of the Legislative Council may resign his seat in the Council by writing under his hand, addressed to the President of the Council, and delivered to the President forthwith after the signing thereof, and upon receipt of such resignation by the President the seat of the member shall become vacant.

Not surprisingly, given the sentiments that have been clearly expressed by the honourable member during her contribution of 21 years—and I have known her since well before that—she took personal offence to this provision and made it very clear that she did not want to enter her retirement as a 'his' or a 'him'. So, she introduced this bill in the other place where it was duly passed. It is fair to say that I think the honourable member made it very clear that in her view it is unacceptable for this situation to continue.

Section 26 of the Acts Interpretation Act 1915 provides that where the word 'he' is written it is also to include the word 'she'. I think it is fair to say that, as the Constitution Act is a significant part of state legislation and one of the most important legislative documents in our state, it is time that we got rid of this gender exclusive language. To those who say that section 26 of the Acts Interpretation Act 1915 ought to be relied upon, I make two significant points. First, why should it be that one of the most significant documents in this state should need to be read in consultation with a second act of the parliament in order to get the full import of that which is being discussed? That is not necessarily the most persuasive reason in the contemporary attitude prevailing, but there is a second reason, and that is that we know from the political and legal history of this state that section 26 has not always granted legal protection to women in this state. I highlight in this respect the events of 1959: in particular, the election of the first woman to the Legislative Council.

Incidentally, it was the time when we elected the first woman to this assembly in this parliament, and it was a great joy this week to come into the chamber and see the Hon. Joyce Steele displayed in this chamber, who indeed was the first female member in this assembly. But it was also the year that the Hon. Jessie Cooper was elected to the Legislative Council. For the summary of the events I acknowledge Helen Jones, the author of an important Jubilee publication *In Her Own Name*, where she summarises some of the events that occurred at that time.

I think it is very important for the chamber to appreciate that this is a classic example of where the first woman was elected in South Australia to the Legislative Council and the very example of where the Acts Interpretation Act of 1915 failed us women and failed us miserably. At the 1959 March general election there was a significant contest that occurred in the Legislative Council district Central No. 2, where two elderly LCL (Liberal and Country League) members were retiring. Both parties put up candidates for this safe seat, which drew 18 LCL nominations for preselection, among them Mrs Jessie Cooper, who had announced her intentions in June 1958, that is, some 18 months before.

Her opponent, Mrs Margaret Scott, stood at the head of the Labor ticket for that Central No. 2 area. However, one day before nominations closed, and only three weeks before the election, Frank Chapman—who I am pleased to say may share the same surname as myself but not the same blood—who had himself failed to gain preselection, and Ernest Cockington launched a legal challenge to the women standing for the seat. Both women. The two men made an application to the Supreme Court for an order directing the returning officer for the Central No. 2 district of the Legislative Council to reject the nomination paper of any woman as a candidate for the election on 7 March.

This unexpected move caused both parties immediately to endorse an extra emergency candidate, just in case the women were found to be ineligible. The legal challenge resulted in an unusual case of great importance and one quite unique in South Australia. Its subject was related to the very heart of government, the parliament, and it involved some of South Australia's most eminent judges and counsel. Dr John Bray QC appeared for the applicants, Chapman and Cockington. R.R.St C. Chamberlain—that is, Rod Chamberlain, Crown Solicitor, appeared for the returning officer. Donald Dunstan, well-known in this chamber, and C.K. Stuart were counsel for Margaret Scott, the Labor candidate.

The Hon. M.J. Atkinson interjecting:

Ms CHAPMAN: Nicely today; he's on the winning side this time. And also, G.J. Hannan QC and Miss Jean Gilmore were counsel for Jessie Cooper. So, the battle lines were there. Three judges sat on the bench of the Full Court, and legal arguments were based on interpretation of the 1915 Acts Interpretation Act, the 1934 Constitution Act and, to some extent, the original 1894 Constitution Amendment Act and 1855-56 Constitution. In short, it was necessary to establish

the meaning and intent of the existing legislation in regard to women's ability to sit and to vote in the Legislative Council.

The crux of the argument concerned the word 'person' in section 12 of the 1934 act, a section which set out qualifications for members of the council. Did it include women? Another question was consideration of the boundaries of the court's jurisdiction. Was this a case, in fact, for the parliament to resolve? Dr Bray, counsel for the applicants, urged that the matter should be decided before the election rather than after. The case, in fact, ran its full course. The Crown Solicitor, taking an historical view of women's right to nominate, argued:

> An Act speaks at all times, and in relation to the circumstances as they exist from time to time. The application of the Constitution Act changes with changing times, and, while it may have been thought strange in the last century to find women qualified to sit at legislators, it would be more strange today to find them being refused that right.

He also pointed out that 'he', in light of the Acts Interpretation Act meant 'he' or 'she', and that there was no mention of sex in the list of disqualifications in the 1934 Constitution Act.

Just as certain members of the 1894 parliament had claimed in debating suffrage, Chamberlain also stated:

> The right of women to set in the Legislative Council was established by the Constitution Act of 1855-1856. Sections 5 and 6 of that Act use the word 'members' and 'persons' which included women.

I specifically identify that quote because this is the same argument that is being run today, that is, that it should be clear that this is the position; and yet here these people were in exactly the same circumstances of relying on the Acts Interpretation Act and finding that they were still challenged in their right to stand for parliament in 1959. Chamberlain's interpretation was almost certainly not that intended by the makers of the constitution. Mr Dunstan, I acknowledge, nevertheless amplified Chamberlain's point, arguing that, had a women ever attempted to stand for the Legislative Council before 1894 the question would doubtless have been defined more specifically in that year's act.

Although the crown law officers of 1916 had maintained that the word 'person' in 1855 was taken to mean a male person, this matter did not arise in the case, nor did the arguments of the 1894 parliamentary debate on this issue. For six days the legal proceedings continued before an absorbed courtroom audience, including Mrs Cooper and Mrs Scoot. The applicants' counsel repudiated the argument that his clients lacked good faith, yet he put forward no reason for their application. Mrs Cooper's intention to stand had been public since June 1958. Mrs Scott made an affidavit that hers had been common knowledge for 18 months or more. Why then had protests not been made earlier, and why was the challenge being made by two men who had not themselves nominated for election?

Even in the absence of any explanation of motive, this is a case that proceeded for six days in the Supreme Court. It was a course that was open to them, and they took it. Neither had gained party preselection, I note. And even as their own counsel, Dr Bray, acknowledged, the parliament could, when it next sat, pass an amendment making women eligible for the Legislative Council. It was a serious and, indeed, costly attempt to block women, at least temporarily, from the Legislative Council. Possibly it was intended as a general warning against women entering parliament. If that was so, it failed, for the sustained publicity surrounding the case drew even more public support to the women.

In his summing up the crown solicitor denied the heart of Dr Bray's argument, which he maintained amounted to saying that in the 1855-56 constitution:

> Parliament gave women the right to sit in the Council, but took it away in the 1894 suffrage legislation, and continued that deprivation in later consolidations [of the Act]. That was unthinkable.

On 3 March, four days before the election, the court brought down its decision, and this is interesting, Mr Speaker, and I am sure that you would be proud of this decision, given the importance of the parliament. It declined to grant an order refusing women the right to contest in the Legislative Council in the coming election. It gave no decision on the eligibility of women to sit in the council, ruling that this was a question to be determined by parliament itself. If, Judge Piper said, the court attempted to direct the returning officer as to the exceptions or rejection of the nominations, then:

> We shall consult neither the public interests, nor the interests of the Parliament and the constitution, nor our own dignity. We should provoke a conflict between [the Legislative Council] and the Court, which in itself would be a great evil.

The court found that there was no express provision in the Constitution Act contrary to the Acts Interpretation Act. It passed the matter then over to the parliament. The newly elected LCL government resolved to settle the question once and for all by legislation. In August 1959, Premier Thomas Playford introduced the Constitution Act Amendment Bill, which was designed to remove any legal doubt about women's eligibility for the Legislative Council. Its provisions were backdated to January 1959. Playford referred to South Australia's pioneering role in women's electoral suffrage and added:

> I do not think that it was ever contemplated that there would be legal quibbling regarding it.

I am pleased to note that the opposition supported the government in both houses. Neither party would have endorsed a woman for the Council and, indeed, for the top of the ticket unless they believed her eligible.

The Constitution Act Amendment Act echoed the phraseology of the 1921 Sex Discrimination Removal Act, which had legalised a woman's ability to act as a notary public or justice of the peace and inserted the following section 48A (which is still there today) into the principal act:

> A woman shall not be disqualified by sex or marriage from being elected to or sitting or voting as a member of either house of parliament.

So, 65 years after women had gained the vote and had apparently become eligible to sit in the parliament, the 1959 Constitution Amendment Act finally confirmed that eligibility and no formal barriers remained for the validity of the election, in particular, of Mrs Jessie Cooper (as she was then) to become the first female member of the South Australian parliament.

I think it is important to note that there have been challenges for decades after it was presumed that this issue was settled, and here we have a situation where the Constitution Act 1934 retains reference to 'him' and 'his'. It is therefore important—and a significant acknowledgment not only of the Hon. Diana Laidlaw's bringing this matter to the attention of the parliament but also recognition of her 21 years of service to the parliament—and, for a significant portion of that time, to the government of this state—that she will retire as she was born, namely, as a woman.

I make only one other comment in relation to this bill, and that is in relation to tidying up the reference to the sovereignty. The Constitution Act also features references to 'His Majesty', which has not been used since 1952; it is indeed 'Her Majesty'. I think it is rather unfortunate that, when we consider the length of the current monarch's reign and the fact that it is probably nearing its conclusion, we are dealing with this matter now rather than dealing with it back in 1952. Clearly, the reference in question has not been the case for 50 years, and I think it is rather unfortunate that we should be dealing with this matter at this late stage in Her Majesty's reign.

Nevertheless, the bill updates these references with the exception of sections 8, 10A and 41 and the so-called entrenchment provisions that can only be amended by referendum. The bill updates that, and I am pleased that the government has supported the Hon. Diana Laidlaw's amendment. The bill also updates the Constitution Act to take into account the Australia Request Act 1985. Section 7 of that act provides:

> . . . subject to certain limited exceptions that all powers and functions of Her Majesty in respect of the state are exercised only by the Governor of the state.

Indeed, that is also acknowledged. Notwithstanding that I have been publicly acknowledged and committed to Australia becoming a republic, I also recognise that Her Majesty, Queen Elizabeth II—by invitation of this country and the Australian Parliament, in which South Australia has had its representatives—as and from 1986 on the passing of the Australia Act, accepted our invitation and adopted the very independent title of 'Queen of Australia'. Of course, she enjoys her title of 'Queen of England' and has done so for a long time. However, she willingly adopted, on our invitation, the title of 'Queen of Australia' as a separate title. As long as she remains Queen of Australia, that should be properly respected and we should ensure that that is appropriately recognised in a gender neutral way in the most important piece of legislation, I would suggest, for all South Australians.

The Hon. S.W. KEY (Minister for the Status of Women): I am contributing to this debate because I believe that it is significant legislation, albeit that it is late in the piece with regard to parliamentary history, at least. As members in this chamber would be aware, it has been said that feminism has had three phases in Australia. The first wave of feminist focused on getting the vote and the second wave on gaining equal opportunity. The third wave is gaining an equal share in power and positions in decision making to help shape the nation's future. Before we can claim success in achieving an equal share in decision making there are some anomalies which need fixing, one of which is the subject of this bill.

I do not intend to repeat what has been said by previous speakers, but I want to emphasise that it is very important to underline the very proud history of Australian women and also their contribution to making sure that women have an opportunity to participate in the third wave for feminists, which is an equal share in power and decision making, and contributing significantly in shaping the future of the nation.

The South Australian Constitution Bill passed by this parliament was the first in the Australian colonies to provide what was known as 'manhood suffrage'. The parliament comprised an 18-member fully elected Legislative Council based on a property suffrage, and a 37-member House of Assembly elected on the broadest male franchise, allowing every male resident over 21 years to a vote after six months' registration, provided he was not convicted of a felony or was under a sentence. The adoption of the 'one man, one vote' principle secured the abolition of plural voting, which allowed electors to vote in any electorate in which they owned property.

In 1861, South Australian women property owners gained voting rights in local council elections. In 1885, the South Australian House of Assembly passed a resolution in favour of suffrage for single and widowed women. It took eight attempts and another 30 years before the parliamentary franchise was extended to all women.

In 1894, a bill to extend the franchise to women was introduced in the Legislative Council where, as in other colonial parliaments, it met its most severe opposition. The following extract from *Hansard* of 11 December 1894 indicates the tone of the debate:

> It is a grave mistake and a crime against the next generation for women who hope some day to be mothers to spend in study or labour the physical and nervous vitality that should be stored up as a kind of natural banking account to the credit of their children. Every woman who uses up her natural vitality in a profession or business or in study will bear feebler, rickety children, and is indeed spending her infant's inheritance on herself.

Members of the Council sought to defeat the bill by amending it so that women would be given the right to sit in parliament. It was anticipated that such a radical provision would ensure its defeat. A postal voting provision had also been included in the hope that the government would not accept it and abandon the measure. However, this tactic brought about a different result from that which had been anticipated. The bill was approved and went to the Legislative Assembly. A petition of over 11 000 signatures influenced the outcome of the debate and the government of Charles Cameron Kingston, who had originally opposed such a measure, adopted the proposals of the Women's Suffrage League. An excerpt in *The Country* on 28 July 1894 stated:

> To have 50 or 60 legislators admitting that men were not able to govern the colony without the assistance of a lot of fussy, snuffy, gossipy, old women is very funny. The suggestion that women are equal to men is absurd. They are inferior mentally, as well as physically.

Nonetheless, the 1894 Constitution (Female Suffrage) Act granted women the right to vote and stand for election in the colony's parliament. Queen Victoria described the bill as 'mad, wicked folly', but signed the document, which was gazetted in March 1895, and the women of South Australia exercised their right at the polls for the first in May 1896.

I think we know in this chamber that South Australian women were the second to gain the vote after New Zealand women. They gained the vote in 1893 and were the first in the world to gain the right to stand for election. The act contained a more generous provision for absentee voting in that women could get an automatic postal vote if they were more than three miles from the nearest polling booth or if they were in a state of health that prevented their voting on the day.

When Catherine Helen Spence offered herself as a candidate for election to the Federal Convention in 1897, she was the first woman in the world to do so. While she was unsuccessful, her campaign popularised the use of the single transferable vote—a form of proportional representation adopted first by Tasmania. It was largely due to her that the Hare-Clarke system (known at the time as the Hare-Spence system) was introduced there in 1896. While Catherine Helen Spence was not successful in her attempt to be a delegate at the Constitutional Convention, the South Australian delegates

insisted on a clause in the constitution (section 41) to make sure that South Australian women had the commonwealth franchise, despite the fears expressed by Sir Edward Braddon that the vote would lead to husbands being left to cook their own dinners and mind the baby.

It should be noted that although indigenous Australians did not gain full citizenship rights until after the referendum in 1967, when over 90 per cent of Australians supported this obvious and long overdue constitutional change, the change was won as a result of decades of struggle by Aboriginal activists, particularly women activists, who were committed to convincing the whole community that change was in everyone's interest. The changes proposed in this bill are also in everyone's interest, I believe.

The Hon. Robert Lawson in the other place has drawn attention to the first South Australian woman to be admitted as a legal practitioner and the special act of parliament (the Female Law Practitioners Act 1911) that was needed, yet she was not able to obtain appointment as a public notary, as the court ruled that a woman could not be appointed. It was not until parliament passed the 1921 Sex Disqualification (Removal) Act that a woman could become a public notary or a justice of the peace. It took another 65 years for women to be elected to the state parliament. Even then, an unsuccessful male candidate for Liberal and Country League preselection brought a suit in the Supreme Court against the Returning Officer for allowing two women to nominate for the Legislative Council. I think the member for Bragg has already gone through that case, so I will not repeat her contribution on that. But it is interesting to note—and I think the member for Bragg did note—that the defence lawyers included Don Dunstan. The finding was that women were, indeed, persons.

In 1955, Senator Nancy Buttfield (LCL) was the first South Australian woman to be elected to the Senate; in 1959, Jessie Cooper (LCL) was the first woman to be elected to the South Australian Legislative Council; and Joyce Steele (LCL) was elected to the House of Assembly. As members know, Mrs Steele became the Opposition Whip and in 1968 became the first woman in cabinet. She was the first minister for education in the Hall government from 1968 to 1970. I am very pleased to say that, finally, in 1962 Molly Byrne was the first ALP woman to be elected into the South Australian parliament in the House of Assembly. I should say that Molly Byrne has been very helpful to and supportive of a number of women in the South Australian Labor Party. She encouraged us and pointed out what it is really like to be a politician, and a number of women in this place would understand her advice and probably agree with it wholeheartedly.

The 1970s and 1980s saw legislation passed to assist women to gain equal opportunities and, having been part of that movement, I have to pay testament to a number of women, both from the Liberal Party and Labor Party, along with many progressive men from both parties, who made that legislation a reality. In the 1970s, abortion laws in South Australia were liberalised, rape in marriage legislation was passed, and the groundbreaking Sex Discrimination Act ensured that women had equality before the law—at least in theory.

The first women's adviser to the premier in South Australia was appointed when it was recognised that women were not involved in decision making in parliament, government, unions or the corporate sector. By the late 1970s, when I was a major activist, we had the first Women's Health Centre, the Women's Information Switchboard, the Working Women's Centre (which is where I worked), the Women's Study Resource Centre, the Rape Crisis Centre, and shelter for women escaping domestic violence. All these had been established in South Australia but, unfortunately, still women were not being elected into parliament

There is still much to be done in this second wave of feminism. The evidence suggests that women are disadvantaged by electoral systems based on single member electorates. This disadvantage can be neutralised through mechanisms such as quotas. Of course, there will be a lot of debate about these very issues at the Constitutional Convention. I know that members, certainly in our party and I am sure from other parties, have different views about whether or not this is a good system. It is not the discussion for tonight, but it is something that I think needs to be considered.

Elections in the United Kingdom and South Australia in 1997 showed that the adoption of quotas by a majority party can have a significant effect on representation, resulting in the South Australian lower house with its single member electorates gaining a higher proportion of women than the upper house, whose members are elected through proportional representation. At the 1994 national conference of the Australian Labor Party, targets and rules designed to increase the proportion of Labor women in Australian parliaments were introduced. Rule changes were subsequently made in all state and territory branches. It was agreed that by 2002 a minimum of 35 per cent ALP candidates for winnable seats would be women. In South Australia we have passed this target. Women constitute more than 40 per cent of our parliamentary representatives.

There is clear evidence to show that quotas do work and have met with success in other political parties. Data summarised in the 2002 United Nations development program report show that, while women make up only 14 per cent of lower houses in the world's parliaments, quotas are in use in all 11 countries and have achieved more than 30 per cent representation by women.

It should be noted that our closest neighbour, New Zealand, with its multi-member electorates has already had two women prime ministers and two women Governors-General, whereas in Australia both these positions are yet to be filled by women. South Australia has had two women appointed to the position of Governor—which leads me to the last and, I guess, most laughable anomaly. Section 16(1) of the Constitution Act 1934 provides:

> Any member of the Legislative Council may resign his seat in the council by writing under his hand, addressed to the President of the council, and delivered to the President forthwith after signing thereof, and upon the receipt of such resignation by the President the seat of the member shall become vacant.

We need plain English or a simple redrafting of some of our legislation, but, obviously, the reference to 'he' is unacceptable. The Hon. Diana Laidlaw in the other place has found 83 references to members of both houses as masculine. Even the Queen is referred to as 'His Majesty' and the Governor as 'His Excellency'. For the state that has led Australia in gender equity, it is absurd that we still use such antiquated language. We have to look at another act of parliament, the Acts Interpretation Act 1915, to learn that 'he' includes 'her' or 'she'. It also appears that equal opportunity has not made a significant impact on parliamentary language. In 2003 we finally understand the influence of language on culture. Women are still excluded in the language which defines the existence of the parliamentary system in South Australia. Is this the last bastion of masculine power? I doubt it, but it is

certainly one of them. Are women still not to be welcomed as equals in our parliament? A number of women here would agree with me that that is probably a good question, and some of us would have a very distinct answer.

The Hon. Diana Laidlaw in the other place has been a staunch advocate for women and the rights of women, and she has been involved in a number of other progressive campaigns. I am proud that she has led the way. Women—whether they be from the Democrats or certainly from the Labor Party—have been very impressed with the example and leadership that the Hon. Diana Laidlaw has shown other women. The Hon. Sandra Kanck in the other place has also been very clear about gendered language on women's participation. She quoted from the Bedford book (I am not sure whether it has anything to do with the member for Florey!) by Diana Hacker, as follows:

Sexist language has a powerful negative impact on women; it makes women invisible, reinforces stereotypical gender roles, and limits women's opportunities and even their aspirations. Having read the Bedford book, I think that a number of other issues, particularly involving conversational politics and the effect of sexist language, have a subtle effect on women and their ability to feel supported, particularly in circumstances like Parliament House.

One of the things that all the women in this and the other place can share is that there has been a proud history of women behind us, whether they be in this place or outside. It is absolutely fitting that, considering the contribution that has been made by the Hon. Diana Laidlaw, this change is made before her resignation at the end of June. There is a lot more we need to do. I feel very confident—and I have said this a number of times publicly—that women in this place work together on issues. There is a real commitment by all of us—and I say that without any hesitation—to encourage other women to come into this place. I would love to see the day when we have Aboriginal women in this place, as well. I am committed to seeing that we have our first Australians represented, whether they be male or female. It would be wonderful to have not only four women in all the Australian parliaments but also first Australian women as Aboriginal women. It would be good if South Australia could join that list and make sure that we had not only more women here but also more Aboriginal women. I urge everyone here to support these important amendments, because this is a proud historic moment that should be supported and celebrated.

Mrs REDMOND (Heysen): In rising to speak to this bill, I would first like to record the high esteem in which I hold and the high regard I have for the Hon. Diana Laidlaw in another place, who introduced this bill. Notwithstanding that very high esteem and regard, I oppose the bill. Section 26 of the Acts Interpretation Act already provides in this state that in every act:

(a) every word of the masculine gender will be construed as including the feminine gender.

And this was obviously added later:

(ab) Every word of the feminine gender will be construed as including the masculine gender.

Interestingly, the act provides:

Every phrase consisting of a masculine pronoun and a feminine pronoun joined by the conjunction 'or'—

so wherever we have 'he' or 'she'—

will, if the antecedent is capable of referring to a body corporate, be construed as applicable to a body corporate as well as a natural person.

It is my view that, for a start, this piece of legislation is completely unnecessary. Interestingly, we are seeking to amend the Constitution Act, and that act provides in section 8 that it can be amended only by, firstly, 'the concurrence of an absolute majority of the whole number of members of the Legislative Council and of the House of Assembly respectively'. I suspect that I will be severely out numbered in my views on this particular measure, so I do not expect to win this vote. Interestingly, section 8(b) provides:

Every such Bill which has been so passed shall be reserved for the signification of His Majesty.

The member for Bragg has already referred to the fact that we have these references to 'His Majesty.' The interesting thing is that I cannot find anything in the proposal before the house to amend that section, so we will still have that one in place, which seems a little odd.

Firstly, my primary reason for opposing the amendment is that it is just bad grammar. I was taught very clearly at school that, in grammar, the male form embraces the female. I can still remember my headmaster drumming it into us. Notwithstanding the wonderful contributions of the other members of the house, giving us a wonderful history of feminism and the progress of women's rights in this state, in my view this amending bill has nothing to do with removing prejudice or changing the way the world operates. I can almost guarantee members of this place that in my lifetime I have been subject to far more actual prejudice than most if not all members of this house. When I began work, there was no such concept as equal pay for equal work and there was less superannuation. I even had an assistant crown solicitor say to me, 'I don't think women should be lawyers and, if they are going to be lawyers, I will make sure that they do nothing but conveyancing.'

I have been there and lived through it all. This act has nothing to do with amending improper behaviour. It has nothing to do with trying to create equal rights. It is just a bit of political grandstanding. It is about political correctness, and I refuse to change my correct grammar for the sake of political correctness. The other night I was talking to the member for Enfield about some writings. I know that he is a fan of George Orwell. I was reading an essay this week by Clive James about the writings of George Orwell. In turn, he quoted George Orwell's writings about Shakespeare. Orwell concluded that the value of Shakespeare lay not in the tales he told but, he said, 'It's all about the language.' In my view, our language is a very precious thing—something that is alive and constantly evolving and capable of great beauty. The change proposed by this amendment does nothing. It is simply playing semantics, making a sensible use of language unfailingly more cumbersome and, dare I say, ugly.

An honourable member interjecting:

The SPEAKER: Order!

Mr RAU (Enfield): It gives me great pleasure to rise in this debate, and in particular to follow the member for Heysen. I must say that many of her remarks are undoubtedly completely accurate, and I do not think I need to go any further than that. That is not what I wanted to talk about. What I wanted to address—

An honourable member interjecting:

Mr RAU: No, what I really want to get on to is clause 13(4), which is part of this provision. Clause 13(4) talks

about a quorum in the other place. I would just like to address the following remarks to the question of quorum. As I understand it, it is perceived that there is an inadequacy in section 13 of the constitution—

Mrs REDMOND: I rise on a point of order, Mr Speaker. As much as I do not want to interrupt the member for Enfield, he is referring to a matter that is part of an amendment which will come before the house in the committee stage rather than the bill. My understanding of standing orders is that it is not proper to debate that at this stage.

The SPEAKER: The notion that explicit material of a particular clause cannot be debated is mistaken. However, explicit reference to a particular clause is what is excluded. Whilst the speaker may draw the attention of the house to what it is they wish to specifically argue, having done so, they ought not to make further reference to that explicit clause in the legislation. To that extent, the member for Heysen has a point of order. I am listening closely to the member for Enfield.

Mr RAU: I am grateful, Mr Speaker, for your ruling and for the point of order from the member for Heysen. I will not refer to any number, and I will let members present guess to which matter I am specifically addressing my remarks. It is apparently the case that there is a perception that, in the upper house, some problem is created by the present provisions of the constitution dealing with the question of quorum. Indeed, one of the matters that this chamber will be looking at in due course is the question of whether there are problems that might particularly attach to the replacement of individuals who leave by casual vacancy appointments.

One of the matters that we will be dealing with in the course of this legislation is a matter which is, effectively, a validation provision. In addition to the validation provision, however, there is another provision that seeks to, as it were, prevent the problem perceived to be there from ever occurring again. It sets out to establish that there should be a certain number of people who constitute an assembly for the purpose of a section (I will not mention the section) in the constitution.

The SPEAKER: Can I disabuse the member for Enfield. He may refer to the constitution: that is the act under debate.

Mr RAU: I am grateful, Mr Speaker. I would like to refer, then, to section 13; it might help anyone who is interested in this point. Section 13 is the provision that deals with replacement in cases of casual vacancies. Section 13 provides for a body, which is called in the act an assembly, to perform the function of filling the vacancy by a simple vote. It goes on to explain that everyone can vote except a president, who can vote only in the case of a tied vote, and so forth. It is important for us to understand that the assembly that is convened for the purpose of filling a casual vacancy has no other constitutional function in South Australia. This is very different, for example, from the commonwealth constitution, where you can have a joint sitting of the two houses of parliament consequent upon a double dissolution of the parliament, and measures that were deemed to be triggers for the original double dissolution can be put to that joint sitting.

Mr Hanna interjecting:

Mr RAU: I take the point made by the member for Mitchell. It is not a bad idea. But it is not one that finds favour in our constitution presently; it is presently not there. In our constitution, the only circumstance in which the two houses of parliament are convened together is this particular circumstance of a casual vacancy arising in the other place—

Mr Koutsantonis: And the Senate.

Mr RAU: And the Senate, I am advised. I take that point. In any event, it serves no legislative function whatsoever. Realising the confined nature of this provision, we are now trying to make sure that, in the event of these so-called assemblies in the constitution occurring, they are valid, and that the product of that assembly is to have a validly elected member of the other place. It seems to me that it is dangerous for us to commit a number to the size of the assembly that should be a quorum for these purposes, because there is one problem with quora, as I would call them—I think that is—

The Hon. M.J. Atkinson: Quorums.

Mr RAU: Quorums, is it, now? We do not call them quora? Fair enough.

The Hon. M.J. Atkinson: We're descended from the Saxons.

Mr RAU: Okay. The problem is that, if people decide that they want to render a particular meeting invalid or unable to proceed, it is reasonably simple to walk out and, thereby, to render the meeting inquorate and therefore unable to proceed. I have been to enough meetings and, in fact, have been involved in litigation where the tactic adopted by particular individuals was to render a meeting inquorate, thereby preventing unhappy measures being passed—at least, unhappy from the perception of those who left the quorum. What concerns me is that, if we affix a particular number and say, 'This number will be the number of a quorum for the purposes of an assembly', a particular group of individuals or a party that has an interest in not seeing that casual vacancy replaced at all, for whatever reason—be it a momentary political advantage, or whatever—can easily frustrate the process by simply not attending.

Although one can conceive of quite complex formulas that say a certain number from this chamber and a certain number from the other place, and assume that those numbers would never be fallen below, that, in my view, would be a risky proposition. If we are to fiddle with the constitution, I think that we should be putting in a provision that cannot be fiddled with, or cannot be diddled. My suggestion is that the Attorney give some consideration to a provision that goes something along these lines; that an assembly, for the purposes of this section of the constitution, should be constituted of as many members of the two chambers who are present and voting by a simple majority. The effect of that should be, in my view, that anyone who was planning a sort of a surprise attack on the other would be worried not to attend—because, if they did not attend, who knows whether all the others would attend, swamp them, and vote in the wrong person to deal with the vacancy?

I think it is better to have a simple majority of those present and voting. We have to remember also that the circumstances in which this will be a problem should be minimal, because section 13(5) of the constitution provides that, in cases where individuals are the nominees of a political party at the time of their election to the other place, it is to be a nominee of that particular party that is the successful candidate of the assembly. So, in a sense, in all but a very small minority of cases, the constitution already provides a substantial safeguard for the errant behaviour of people who might want to try to frustrate the proper processes of the parliament. The only situation where it might be a problem—it is one that is not addressed in this bill, and I think it is one that we need to reflect upon in the fullness of time—concerns what happens where you have an independent person who is not a member of a political party who is elected to the other place, and that individual is, for one reason or another, unable

to continue. We then have a situation where the constitution is silent.

The constitution does not require, as I read it, a person of any particular party to be appointed. It then becomes a matter for the assembly, as I understand it. That is a matter that perhaps should be looked at. In any event, my primary observation in relation to this is that we should perhaps give consideration to redrafting the concept of the assembly so as to simply say that a simple majority of those members of both chambers present and voting should be sufficient to achieve the purpose. That is the proposition that I advance.

There is a splendid example of how the particular circumstances that I am afraid of can play out and, because the member for Playford has carried out the research into this matter and is able to impart the information to the chamber, I will not steal his thunder. But I can assure you, Mr Speaker, that when you hear the contribution from the member for Playford you will, I am sure, be convinced that the thing I am afraid of, which is people trying to frustrate quora—or quorums—and thereby achieve short-term political advantage, is not a fantasy. It does occur. It occurs in the real world—it even occurs in democracies.

Ms Chapman interjecting:

Mr RAU: Indeed. Mr Speaker, when you hear what the member for Playford has to say, I am sure you will be shocked—I was. That is why I feel that we need to be very careful about setting a number. That is my contribution on this measure, and I ask the Attorney to give some consideration to my remarks.

Mrs HALL (Morialta): First, I would like to thank the Attorney-General for recommitting this bill to enable a number of us to speak during the second reading debate.

The Hon. M.J. Atkinson: I am rewarded by your contribution.

Mrs HALL: Thank you, Mr Attorney. In a sense, for me, this bill is about unfinished business because, although I think you can probably argue that it is not necessarily a practical move forward in establishing further opportunities for women, I believe it is a significant and important signal that we as women parliamentarians are here as equals. I believe that is most important. A measure of how far we have travelled from the medieval views that were held by a number of early political commentators can easily be recognised and contrasted by the words from the leader writer for the newspaper the *Country* in 1894. I believe the Minister for the Status of Women cited this particular passage, but as I have highlighted it in a marvellous publication called 'Yes they really said it!' I think it is worth repeating. This leader writer was, indeed, most unusual. I think his words must have come out of the dinosaur era. He said:

> Women are smaller than men. Their brain also is smaller. Does it not follow that their intellect also cannot be so great? You may now and again find some clever woman, with far more intellect than the average man; but that does not put the sex as a whole upon an equality. They never can be on an equality, for Nature has not made them equal. Therefore, to add largely to the weaker voters those who are still more weak would be an absurdity.

In this day and age, views such as those, as we know, would not be acceptable. I suspect there would be a riot if those words were repeated in a serious sense today.

This debate on the Constitution (Gender Neutral Language) Amendment Act 2003 is appropriately being conducted under the very watchful eyes of the late Hon. Joyce Steele. As has already been mentioned, she was a trailblazer par excellence for women. As many of us know, she was first elected to this house in 1959. Her many achievements include a number of firsts, such as the first female ever to be appointed as a whip in the parliament and the first woman cabinet minister in a South Australian government. For those of us who knew her, she was a very feisty lady, and I think it is significant that we are conducting this debate under her watchful eyes. Again, I pay tribute to you, Mr Speaker, for organising to have the Hon. Joyce Steele looking down on us on this particular occasion. I have no doubt that she would have hoped that she was the first of many women MPs. She must have known that many would follow her into this parliament, although I suspect that some of us believe we still have a long way to go.

In that regard, I congratulate the Hon. Diana Laidlaw for this bill being introduced into the South Australian parliament. As we have heard, she is soon to retire, leaving this parliament after 20 years and seven months in the knowledge that, with the passage of this bill, she will be able to depart this parliament as a woman and not as defined in the constitution as a 'he', a 'him' or a 'himself'. She has obviously devoted considerable time and work to the preparation of this amendment. The clauses have been outlined in very great detail, and the legal background to the position in which we now find ourselves was put by the member for Bragg earlier in the debate.

I absolutely support the intent and spirit of this bill to replace gender specific language with gender neutral language. It has been said by some that these amendments are just symbolic. I do not share that view. I believe these amendments reflect absolutely in some small way the changes in our community over the last more than 100 years since women received the right to vote and the right to stand for election to this parliament. I believe it is important to remind members—and I am sure we have all referred to this when we have taken tours through this parliament—of the important role played by the South Australian parliament in relation to the status of women not only in this state but also as an example across the rest of the country.

I refer to some of the votes it has taken, some of the legislation it has approved, and the very significance in an historical sense of the role, the advancement and the status of women in this parliament and this state. The Minister for the Status of Women outlined a number of the groundbreaking measures that have been passed and debated over a number of decades. I think we are to be congratulated for that.

When preparing notes for speaking during this debate, I think it has been instructive to read *Hansard* and some of the media coverage of the women's suffrage debate of 1894. Again, I have to say that it is easy to recognise how far we have moved on. I have already used one of the amazing quotes from the leader writer of the *Country*, a newspaper of that time. I think I said that he must have come out of the dinosaur era, because he has put together another extraordinary passage. Again, it is from 1894 when he said in his newspaper:

> The Chief Secretary made a very pretty speech on Woman's Suffrage. Whether there was any logic in it or not, it is not necessary to enquire. Possibly there was none. Probably it was not meant to have any logic. Nobody expects any logic on that particular subject, which is far better treated without that commodity. The more unreasoning and unreasonable a thing is, the more it pleases the women.
>
> No greater folly than this woman's suffrage fad could be well committed. To have fifty or sixty legislators deliberately admitting

that men are not able to govern the colony without the assistance of a lot of fussy, snuffy, gossiping old women, is very funny. The suggestion that women are equal to men is absurd. They are inferior mentally as physically.

I am sure there would be many members (both men and women) who would find those remarks utterly offensive.

Moving on from the media to the parliamentary debate, I venture to suggest that some of the remarks in that debate are even worse. I refer to the Hon. Henry Fuller, who had a few words to say on women as politicians.

The Hon. M.J. Atkinson: LCL, wasn't it?

Mrs HALL: I am not sure which party he belonged to, but the views he expressed most people would find utterly offensive. They are as follows:

The women all covet a seat in Parliament and a free railway pass and the chair the President occupies and any privileges or emoluments attached thereto. Suppose half the members of the House of Assembly are women after the 1896 elections. Mrs Mary Lee is sure to be one of the elected, and at once she may become leader of the Opposition in the other House. As soon as they become acquainted with the forms of procedure there will come a no-confidence motion and the Government may be turned out, and the Governor advised to stand for Mrs Mary Lee to form a new Ministry. I cannot support the second reading because I do not wish to see Mrs Mary Lee as Premier of this colony.

It is reassuring to know that we have moved on from those days. Indeed, the very use of language can create public debate and controversy, especially when it is gender language. And it was nearly 100 years following that original suffrage debate that the gender language debate again moved into public focus, and it was during the heady days of reform in the women's movement, that has been referred to again by the minister. I would remind the house that in 1980 one of the more controversial books that was published at the time was written by well-known feminist Dale Spender and that book was entitled *Man Made Language*. There is a very good quote that I want to put on the record and it is this:

Language is a means of classifying and ordering the world: our means of manipulating reality. In its structure and in its use we bring our world into realisation, and if it is inherently inaccurate, then we are misled. If the rules which underlie our language system, our symbolic order, are invalid, then we are daily deceived.

I believe that is ably demonstrated by the amendments that I hope this house passes here this evening. There are four of us that are sitting in this chamber at the moment that cannot in any way be described as 'he', 'him' or 'himself'. We are female gender, and I believe that it is very significant in this debate taking place in May of 2003 to at least acknowledge our sexuality. When one also reads a little more of the Dale Spender book there are a number of other quotes that I think are particularly valid, and I will refer to one a little later.

However, I have to put on the record a compliment to Diana Laidlaw for this initiative because, as we know, the use of gender neutral language in today's society is widely accepted, and it is actually used by a number of well informed and well educated and well intended males. I believe that these changes will certainly be more properly reflective of the language in use in 2003, in the twenty-first century. When I was having a look through the amendments it was quite interesting to note that 'his' has been changed to 'or her' eight times during these amendments; that 'he' to 'or she' lines up four times; and that 'he is', 'his', 'to him' and 'by him' is deleted eight times. I think that is a reasonable demonstration of the need to ensure that our language is and should always be scrutinised, and, where possible, it should reflect the true meaning and intent of the words and sentences. I think this does apply particularly to acts of parliament, and I believe that this is a reasonable attempt to at least make some changes.

I would also like to once again refer to Dale Spender's book *Man Made Language*, and to a particularly interesting quote in Chapter 5—'Language and Reality: Who Made the World', and she says:

Language is not neutral. It is not merely a vehicle which carries ideas. It is itself a shaper of ideas, it is the program for mental activity.

Again, I would contend that that is a particularly apt quote for this debate. I do not necessarily believe that these changes are shapers of ideas, but, as has been referred to earlier in this debate, with a constitutional convention to be held sometime this year, and you I understand, Mr Speaker, are supporting a second constitutional convention to deal with constitutional issues that affect women, who knows what type of gender neutral language and debates we may be having in the future.

A number of other issues have been raised during the remarks that have been made so far, and one is the numbers of women who are currently elected to this parliament, and other parliaments, and the issue of quotas has been raised. The Liberal Party has never supported the preselection of women on a quota basis, and I do not believe that position is likely to change in the future.

I would like to conclude my remarks by once again congratulating the Hon. Diana Laidlaw for not only this initiative but for much of the work she did as the minister for the status of women during the eight years of Liberal government. Her achievements are many. There is one in particular that I take great pride in, and that is that South Australia has achieved the highest percentage of all states for putting women on government boards and committees. I have absolutely no doubt that over the next few weeks we will see many of her achievements outlined in more detail. I am sure that these amendments, if they are passed here this evening, will be part of that list.

During the committee stages I will address some of the other issues when the amendments are considered. But could I just say as a lower house colleague of the Hon. Diana Laidlaw that, in a constitutional sense, I am absolutely delighted at the prospect, in the not too distant future, of being able to be referred to as a 'her', a 'she' or 'herself', but in particular in my case as the member for Morialta.

Mr BRINDAL (Unley): I was not going to contribute to this debate, but I am prompted to do so.

Members interjecting:

The SPEAKER: Order!

Mr BRINDAL: It is a quarter past 9, and I do not want to delay—

Ms Breuer interjecting:

The SPEAKER: Order!

Mr BRINDAL: It is a quarter past 9, and I do not want to offend the member for Giles, but I actually am interested in this. I am prompted to exercise my right to speak in the debate, and I do take some offence that, because she does not think that the house should go on, she tries to coerce people into not speaking, and I thought she was more mannerly than that. Having said that, I am prompted to contribute to this debate due to the contribution of the member for Heysen, because I was following it carefully in this chamber. I am, in fact, reminded of an instance in *Hamlet* where Hamlet, mourning the death of his father was dressed in a certain way, and he said, when asked about it: 'I have that inside which passes show these are but the trappings and the suits of woe'.

I actually think that some of what we do tonight is just like that: these are the trappings and the suits of something we can do so we are doing it, but what really does it matter? It is not often that I disagree with the member for Morialta, but one of the things I—

Mr Koutsantonis: You used to disagree with her all the time.

Mr BRINDAL: They were in times past.

Members interjecting:

The SPEAKER: Order! The honourable member for Unley better knows his mind than other members. Allow him to disclose its contents without interruption.

Mr BRINDAL: I often tell children when they come in here, and I think the longer members are here the better they realise this, that sometimes we pass the best of laws for all the wrong reasons, sometimes we pass the worst of laws for all the right reasons, and sometimes we get it a bit right and a bit wrong and have to come back and change it, anyhow. One of the instances that I like to quote, for getting the best laws passed for all the wrong reasons, is exactly the law that has been lauded by so many of the female members in here tonight.

It is told that the then premier, Charles Cameron Kingston, was dead against women's suffrage. Sir, please don't tell me if this story is wrong, because I love telling it to children because it illustrates the point; but he was approached, I am told, in the street by somebody who said, 'Well what do you think of this issue?', and he said, 'I am opposed to women having suffrage,' and he said the very sorts of things that the member for Morialta said in her contribution. The elector said, 'Look, I am surprised,' and he said, 'Why?' The elector said, 'Mr Kingston—'and his vanity was legendary; every member will know that—'you are a very good looking man and if you give women the vote you will be premier for a very long time.' Shortly thereafter the Parliament of South Australia passed a bill allowing women to vote in South Australia. Without impugning improper motives to a long dead premier, I would say that he was probably motivated by self-interest rather than an altruistic interest for the females in the community.

When that bill was going through the upper house, an old Legislative Councillor by the name of Cudmore, a particularly conservative gentleman, thought that the proposition was so totally ridiculous that he would stop it in midstream by putting in it the most preposterous proposition that he could dream up, namely, that women should be allowed to become members of parliament. He inserted that proposition, but the bill had such momentum that it was put in and the bill was passed. So, there we are passing in this house revolutionary legislation—legislation that has proved to be very good—but we passed it for all the wrong reasons. We did the best for all the wrong reasons. That is no more amply illustrated by the fact that the first women (as pointed out by the member for Morialta) entered this place in 1959, almost 65 years after the bill was passed. That says something.

Mrs Hall: There had been a few attempts previously.

Mr BRINDAL: Yes, but obviously the general public was not ready to support women coming into the house.

Mrs Hall interjecting:

Mr BRINDAL: The member for Morialta points out—and quite rightly—that times have changed.

An honourable member interjecting:

Mr BRINDAL: The member may well provoke me. However, she might remember my stance on other issues, so she might care to listen. As the member for Heysen points out, the male is intended to include the female.

Mrs Hall: How would you liked to be called a she?

Mr BRINDAL: I often am. I freely admit for the record that it would not be the first time, and sometimes I have been called a lot worse. I don't really worry nowadays; I am bit past letting it get to me. I point out to the member for Heysen that some of the way we think is indeed modelled by the limitations of our language. One of the reasons that it is argued that the English language has a purvey around the world is that the English language is one of the best and most economical languages for thoughts involving commerce and science, and the English language is particularly strong in allowing the human brain to develop commercial and scientific propositions. Linguists will also argue that the English language is somewhat deficient when it comes to expositions on emotional things, on human feelings and, indeed, on inter-relational matters.

I do not deny the member for Morialta's supposition that, if our language is limited in some way and has some basic flaws in its structure, that can lead to basic flaws in our society. Nevertheless, you cannot change a language by legislation. You can change a language only by usage, custom and by decree, and I think that our language is changing by usage, custom and by decree.

We come in here tonight and compel a change. I do not deny this to the member for Morialta and those who are passionate about this; they believe that this is important. Like the member for Heysen, all I can say is, 'What does it matter?' I have heard things in the corridors of this place—as has every other member here, especially many of the female members—that would turn their heads. I have heard some of the most disgusting things in terms of equity issues in the corridors of this parliament from educated people who supposedly represent their electorates. In my opinion, they are bigots and biased and do not understand equity or gender issues. Some of them will come in here—

The Hon. M.J. Atkinson: Name them.

Mr BRINDAL: No, I will not, because they were private conversations. I think that every member here knows some of the sort of things I am talking about. They are perhaps the very people who will come in here and be the quickest to put up their hands and say, 'Isn't this a good measure.'

The Hon. S.W. Key interjecting:

Mr BRINDAL: No, I do not think it is a good measure. It proves nothing and does nothing. I say to the minister opposite that I was minded to join the member for Heysen and vote against the measure. I think it is hollow nonsense. I simply will not do so—and I would counsel the member for Heysen not to, either. I say to the member for Heysen, 'If you vote against this measure there are people less sincere and less honest in their beliefs on gender and equity issues than you are and who will have great pleasure in running all around South Australia accusing you of being some sort of bigot and biased person who doesn't stick up for her own gender.' I do not think that this is a significant measure. It is largely waste of the time of the house.

The Hon. M.J. Atkinson interjecting:

Mr BRINDAL: That is quite right. I can remember, though, when we were in government we laboured for hours debating the great significant issue that no child should be able to buy a scratchie. The minister admitted at the time that it probably affected five children in South Australia. That was the extent of the issue. When we realised that we could not

punish the children or their parents, we proceeded to punish the shopkeepers. I think this is the same sort of measure.

I think this is a complete waste of time. I am not minded not to support it, though, because it will not change people's attitudes. We need to change people's attitudes to votes on the important things. I would say to every female in this house that when they find privately or publicly me not sticking up for your gender on issues where it is necessary—

Ms Bedford interjecting:

Mr BRINDAL: Excuse me! I did not say that. When members find me not doing that, you will have reason to criticise me. The only reason I am not sticking up for this is that I believe it does very little for women. I will support the minister in this, but I think that this is a waste of time. The women in here could be doing better things for equality than mending little laws the result of which will prove nothing.

An honourable member interjecting:

Mr BRINDAL: I challenge the member, who has a big voice. I do not think the member has introduced any private member's bill or motion on any matter, especially related to women. So, instead of sitting there and criticising me for supporting the member for Heysen, perhaps she should some day introduce a bill that sticks up for her gender in some way and makes this world a bit more equal. I support the measure, but I believe it is a waste of time.

Mr HANNA (Mitchell): I am pleased to support this bill. I am fond of constitutional reform most of the time, but on this occasion it is very pleasing to support this measure. I can well understand the indignation (if that is the right word) of the Hon. Diana Laidlaw when she turned to the appropriate clause of the Constitution to see what she must do to resign her position in the Legislative Council—to see that it was something she had to do under 'his' hand. It is not appropriate, with the state of awareness generally in our society now, to have a critical piece of legislation which is sexist in its language.

In the constitution, members of parliament, the governor and the sovereign are all referred to as if of a specific gender, that is, male. It is not accurate, not real and not the way people talk any more. I take issue with what the member for Unley has said about our thoughts shaping our language. In a very powerful way, it is more the case that language shapes our thought—or perhaps I have read more Orwell than he. It is very important that we use the right language. It is not a matter of political correctness: it is a matter of respecting the people we are talking about. Whether men or women are talking about women, the correct language should be used. It is just respectful.

This bill makes dozens of changes to the constitution, changes of a simple and straightforward nature, correcting this inappropriate gender specific language. There are some clauses of the constitution which cannot be amended by virtue of the entrenchment provisions. I note also that the bill updates the Constitution Act to take account of the Australia Acts (Request) Act. This means that the powers and functions of the Queen, as the head of state, are exercisable only by the Governor of South Australia. References to 'the presentation of a bill to the Governor for Her Majesty's assent' are replaced with 'a presentation of a bill to the Governor for assent'.

It is entirely appropriate at this time, when we are modernising the language of the constitution in respect of gender, to modernise it in respect of the sovereign. That is why I have had drafted an amendment, which replaces the oath that appears in section 42 of the constitution. I say, with all due respect to the office of the sovereign and the current holder of that office and title, that it would be more appropriate for members of parliament to swear some kind of allegiance to the people of South Australia and their welfare rather than to the person of the queen or the king, as the case may be. In due course, I will propose that the oath, instead of being an oath of allegiance to a person, should be that 'I will faithfully serve the people of South Australia and advance their welfare and the peace, order and good governance of the state'. Of course, members can, and should, be free to take either the oath or affirmation, whether they be Christian or otherwise, and the Oaths Act provides for that.

In conclusion, I support the bill. In due course, I will speak to the matters raised by the member for Enfield in his very considered contribution. Indeed, his contribution at this stage of the bill's proceeding has started to sway my mind to the proposition that the government and the opposition are wrong to institute the quorum provisions, which they seek to insert into the bill. I support the bill.

The Hon. R.B. SUCH (Fisher): I support this measure, and I remind members that words and language are important, along with other symbols in our community. It is a long time since I went to a primary school, but there was a saying something like, 'Sticks and stones will break my bones, but names will never hurt me.' That is an absolute lie that we tell children, because words do hurt people—and we see that every day. That is a lie which is still perpetuated in our community, but it goes to the nub of this legislation.

I have always found it hard to understand discrimination based on gender, having grown up in a family with three sisters and two brothers. My sisters did not experience discrimination in our family. In fact, one of my sisters went onto major in maths much more capably than I could ever do in the area of mathematics. It is so alien in our family to see discrimination against someone on the basis of gender that I often find it difficult to comprehend that there are people in the community who still operate on the basis of discrimination based on gender.

It is something in which I have been interested for a while. When the Hon. Jennifer Cashmore was in this house, I spoke to her about the need to look at some of the impediments that women face when coming into parliament, including lack of child-care facilities, the hours of sitting, the so-called family friendly arrangements for parliament—which have not changed much in recent times. I spoke to Jennifer and said that something needed to be done and I outlined a proposal. She said that it was a good proposal which would be taken up after the election—and it was. I was not on the committee but, nevertheless, I believe the committee did achieve some worthwhile things.

In terms of our society and where we sit in regard to language, if members think back to the unfortunate incident a month or two ago involving a well-known cricketer who used offensive language against a coloured person, it amazed me that people focused on the racist element of it. What they did not focus on, which I think is an appalling element of our society, is the denigration and degradation of women because of a crude reference to female genitalia as a term of abuse. In our society we use male genitalia as a form of abuse, but it does not have the same connotation as using female genitalia, and one has to ask why. I think the answer is fairly simple: it reflects an underlying and ingrained hostility and lack of appreciation of women in our society by ignorant people. I

think our society is still very immature in that we find people using references to female genitalia as a way of abuse of others. I think members should reflect on that, as indeed should the wider community. If that cricketer called that person a black earlobe, I doubt whether he would have been suspended for even one match. The point is that in our society it seems acceptable in certain circles to maintain that derogatory and offensive term in relation to women's reproductive systems, which does not warrant that sort of attitude or approach.

This bill will not change the world. I know that, but I think it is important. In our wider community, we are seeing recognition of the use of Aboriginal names, some of which have been longstanding in their usage. Likewise, some elements of the German tradition in this state have been incorporated, and I think we are a richer and better society for doing those sorts of things. I believe that this will not change the world fundamentally, but it is part of that incremental step forward in terms of reform towards reaching a situation where it will no longer be an issue where we need discuss or consider whether someone in parliament is male or female: it will be irrelevant. That is what we should aspire to. People should not ask whether someone is a male or a female MP; it will be irrelevant. The issue will be whether the person is a good or a suitable MP, not whether they have particular physical attributes. I look forward to the day when, in a sense, we no longer have to talk about and focus on gender discrimination, because we have matured as a society and moved beyond basic low level behaviour and come to accept and value people in their own right as human beings, not judge them on the basis of physical or physiological attributes.

Mr SCALZI (Hartley): I, too, wish to make a short contribution and support this amendment. It is time to have this legislation passed. Whilst it will not do all the things some people believe it can, it is important that, so that we are congruent with the language of 2003, we have gender neutral language in the constitution. It is important that parliament keeps up with the changes. I commend the Hon. Diana Laidlaw for bringing this important piece of legislation to the parliament. Like the others, I congratulate her on the wonderful contribution she has made to the South Australian parliament and to the cause of women. However, I do not believe that the emphasis and the power of language—though important—in this case is as important as some members would have us believe. I listened to the Deputy Speaker with interest on the importance of names and the hurt and offence that can be associated with them.

I remember when I first came to Australia. My name is Giuseppe, and my mother still calls me that. However, when I went to St Joseph's Primary School, I became Joseph. I found it strange for a while but, because the nuns treated me well, I did not mind. When I got to high school they thought it was too long, so they called me Joe. Again, I did not mind, because it was the acceptance of the person, not how they called me. When I got to university, I thought, 'I'd better do something about my real name and go back to Giuseppe.' However, most people knew me as Joe. So, at the end of the day, it is the intent and not the actual language that is important. If you start from the premise that men and women are equal, their humanity should be given, whether they be male or female. God made man and woman in his image, and he created them both, if we take it from the religious—

Mr Hanna: He didn't draft the constitution, though.

Mr SCALZI: No-one could write the constitution without his divine intervention, if we come from a Christian or a religious perspective of whatever faith we profess to have. I do not agree with quotas. I do not agree that this is necessarily part of a big struggle.

Ms Ciccarello: You don't need to say anything, Joe; just sit down.

Mr SCALZI: If the member for Norwood chooses to participate in the debate, that is her choice.

The Hon. M.J. Atkinson: You're not participating in the debate; you're telling us your life story.

Mr SCALZI: I am entitled to give those examples I know best. I cannot help the experiences I have had in life. The honourable member and I travel different roads. He gets stuck on Barton Road. When he gets stuck on Barton Road, what do I do? I am compassionate. I know that he most probably has had a few flat tyres on Barton Road and cannot get off it. I am compassionate; I understand that the honourable member is passionate about Barton Road, although, since he has been in government, he has not done anything about it. However, I am sure that he will get back to it. I do not believe in quotas or numbers, because at the end of the day people, whether they be men or women, should be promoted and elected on merit. I would be greatly offended if people said that we should have more short people in this place and, therefore, it is time we had a quota of short people—or people from a particular ethnic background. That is wrong. We start from the point that we are all equal, and we should get there on merit. If that is the case, because of the composition of the population, we will get this place to reflect that, and we will get enough of that reflection from both men and women, and that is how it should be. I commend the bill. I congratulate the Hon. Diana Laidlaw on her contribution. I am pleased that we have in this chamber the portrait of Joyce Steele, the first female member of this place. In 1994, I brought up the matter that we should have the portrait of the first women in this place to show that women have made it and are equal.

The Hon. M.J. ATKINSON (Attorney-General): The member for Heysen was critical of some of her fellow members for not moving to delete the reference to 'His Majesty's pleasure' in section 8 of the constitution. That section reads:

> The parliament may, from time to time, by any Act, repeal, alter or vary all or any of the provisions of this Act, and substitute others in lieu thereof: Provided that—
>
> (b) every such Bill which has been so passed shall be reserved for the signification of His Majesty's pleasure thereon.

The reason that that is not being changed is that it requires a referendum of South Australia to amend it. I refer the member for Heysen to section 10A, which provides:

> Except as provided in this section—
>
> (d) sections 8 and 41 of this Act shall not be repealed or amended;
>
> (2) A Bill provided for or effecting. . . the repeal or amendment of section 8. . . shall be reserved for the signification of Her Majesty's pleasure thereon—

an amendment made circa 1970—

> and shall not be presented to the Governor for Her Majesty's assent until the bill has been approved by the electors in accordance with this section.

No, I will not be moving for a referendum, and I hope that ends the debate.

Bill read a second time.

The SPEAKER: Order! May it please the minister, there are some things I would like to say at this juncture. I was interested in the remarks made by honourable members and paid attention to as many of those sentences uttered here as it was possible for me to do so, as is my wont in any debate. I, too, share the view that has been expressed by many, that language does have an important bearing on the way in which people subconsciously think of what it is they are dealing with. To that extent, it is probably wise for us to tidy up legislation in this manner. I note the remark made by the honourable minister about it not being, in his opinion, something which might warrant a referendum to deal with inappropriate gender issues in the language of other parts of this bill and feel some dismay that an issue of that kind which has a subconscious impact is seen as less significant than other issues which clearly are issues of policy which are not scientifically based but more to do with the feelings and mood and fashion of ideas of the moment, and I refer to nuclear waste repositories in that context.

Without digressing further, let me return to the substance of the matter before us. I shall have something to say about remarks that other members have made—not their remarks so much as the ideas contained in them—when it is proper and possible for me to do so in the committee stage, should it be the will of the house to allow the debate of those matters where the number of members to form a quorum in a sitting of the whole number of members of both houses is required for any reason whatsoever. I say no more about that now, but I would implore all members in this place, and indeed our federal colleagues, to take seriously the remarks that are made about the impact that gender has on the mindsets of people, and that thereby we should set out to achieve amendments to the Family Law Act, which makes some ridiculous assumptions about who would make a better parent, based on gender.

In the twenty-first century, I find that not only ridiculous but also offensive, and I consider that the underlying assumptions in the Family Law Act with respect to parenting ought to be that there be joint parenting. Other than that, as it stands at present it is very offensive to men, and it is so offensive to many that judges in the Family Law Court make utterances that have at their root the very law and the statements within it that fathers, because they are men, are less fit to be parents than women, who are mothers. Men, in consequence, too often take their own lives when they realise that it is because of their gender that they have been denied what they consider the child should have been entitled to have access to, namely, themselves.

I find that painful, and I am entirely in sympathy with those people who are campaigning to have it changed. I believe it to be far more serious in its impact on society than the substance of the matter we have before us this evening but I would, nonetheless, make plain to any who are interested that I support the measure.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That the time for moving the adjournment of the house be extended beyond 10 p.m.

Motion carried.

The Hon. M.J. ATKINSON (Attorney-General): I move the contingent notice of motion standing in my name in an amended form, as follows:

That it be an instruction to the committee of the whole house on the bill that it have authority to consider amendments about the form of the oath of allegiance and a quorum for the purposes of an assembly of the members of both houses and a new clause regarding the validation of decisions of previous assemblies under section 13 of the principal act.

Motion carried.

In committee.

Clause 1.

The Hon. M.J. ATKINSON: I move:

Page 3, line 3—Before 'Gender' insert:
Casual Vacancies and

This is intended just to change the title. The substance of the bill is about gender neutral language, but it is the intention of the government, with the cooperation of the opposition, also to deal with casual vacancies for the other place.

Amendment carried; clause as amended passed.

Clause 2.

The Hon. M.J. ATKINSON: I move:

Page 3, after line 11—Insert:
Section 13(4) After paragraph (f) insert:
(fa) a quorum of the assembly will consist of 52 members; and
Section 13(4)(g) After 'members' insert:
present at a meeting
Section 13(4)(h) After 'members' insert:
present at a meeting

As members would be aware, the Hon. Diana Laidlaw has announced her intention to retire as a member of the other place on Friday 6 June, thereby creating a casual vacancy for her seat. Section 13 of the Constitution Act provides for the filling of casual vacancies in the other place. Subsection 13(1) provides that, where a casual vacancy occurs by death, resignation or otherwise in the seat of a member of the Legislative Council, a person shall be chosen to occupy the vacant seat by an assembly of the members of both houses of parliament. To enable the casual vacancy created by the Hon. Diana Laidlaw's retirement to be filled before the other place resumes sitting on 7 July after the budget session, the assembly to choose the person to fill the casual vacancy needs to happen in the week beginning 23 June.

The government has received legal advice that it is necessary for all members of both houses to attend an assembly under section 13. The government understands that some members will not be available to attend an assembly during the week beginning 23 June and will not be available until the week beginning 14 July. To enable the section 13 assembly to choose the person to occupy the seat vacated by the Hon. Diana Laidlaw to happen in the week beginning 23 June, the government has decided to move an amendment to section 13 to insert a quorum provision. This provision will set a quorum for the assembly, under section 13, of 52 members. This represents three-quarters of the members of both houses.

It was the aim of the government that, in the unlikely event of a squabble between the two houses, the members of the House of Assembly alone would not be able to choose a Legislative Councillor. So, we have set the number at 52, which is five more than the number in this place.

The CHAIRMAN: These two amendments are obviously linked. Will the member for Bragg move her amendment, which is an amendment to the amendment of the Attorney-General.

Ms CHAPMAN: I move to amend the amendment as follows:

Page 3, after line 11 (new item relating to section 13(4) inserting paragraph (fa))—Delete '52 members' and substitute:

35 members, at least 10 of whom must be members of the Legislative Council and at least 10 of whom must be members of the House of Assembly

This amendment (and I refer to the government's amendment), in any event, is necessary because of an opinion given by the Solicitor-General to the effect that the absence in section 13 of the Constitution Act of any provision that specifies a quorum for the assembly of members of both houses means that 'all of the members' must be present at the assembly for it to 'be valid'. As a lawyer, I am somewhat surprised by the opinion of the Solicitor-General. Certainly, so far as the opposition is aware, it has never been suggested that the absence of a single member from an assembly of members held pursuant to section 13 invalidates any decision or appointment made at that assembly.

I would think that most lawyers—and, indeed, most people in the community—would be amazed to hear that, absent a quorum provision, the failure of one member to attend an assembly which 69 persons are entitled to attend renders invalid the proceedings of the assembly. They would be even more amazed to learn that only one member could frustrate the function of an assembly by the simple act of staying away from it. Something that I am sure would not have escaped the attention of members of this chamber is the opportunity in that circumstance for not just frustration, but significant mischief and collusion between various groups (that is as high as I will put it) to frustrate this process in a circumstance, we might particularly highlight, to the detriment of someone in a minority party. Whilst one can have different views about the support of minority parties, if their representative is duly elected to the Legislative Council chamber and there is provision for a replacement by that smaller minority party in the circumstance of retirement by resignation, that should be available to them. But there will certainly be circumstances where that could apply, and clearly that is something that we must look at.

It should be noted that section 15 of the commonwealth constitution, which deals with the filling of casual vacancies in the Senate, provides that the houses of parliament of the state from which the senator is to be chosen 'sitting and voting together shall choose a person to fill the vacancy'. I think that, given the comments by the member for Enfield tonight, that is somewhat consistent with his view in relation to the way in which to remedy the situation. No quorum is specified in the constitution, nor in the joint standing orders of our parliament dealing with such sittings.

In his advice to the government, the Solicitor-General acknowledges that the common law principles relating to this matter are not highly developed. He says it is 'better to take a cautious approach'. The Solicitor-General concludes his advice with the statement:

It seems to me that it would be desirable that the act be amended to specify a quorum for the purposes of the assembly.

As I said, whilst the opposition is not entirely convinced that an amendment is necessary, we agree with the suggestion of the Solicitor-General, in the circumstances in which we find ourselves, that we should take a 'cautious' approach by legislation which, quite simply, puts the matter beyond argument for the future and ensures that no previous appointment can be called into question.

The opposition, however, in the very short time that we have had to consider this matter (and that is one of the concerns of hastily dealing with these types of circumstances) considers that there may be a better way in which to deal with a quorum and, in particular, to avoid circumstances where there may be some attempt to frustrate or sabotage a process when one introduces the quorum; that there may be a better way in which to ensure that protection, to ensure against, as best as possible, collusion or frustration, and to ensure that the chamber with the most number—which, of course, is the House of Assembly—in some way does not deluge the numbers and take control over who should fill a vacancy. I have (and I think that you have, sir) indicated and foreshadowed an amendment which we hope will assist in remedying some potential problems in this area and which, hopefully, would better serve the operation of this matter in the future.

Mr SNELLING: I wish to follow up the member for Enfield's second reading contribution, in which he said that I had some information to convey to the house. Before I do so, it seems to me that the essential issue of the matter is this. At present, it seems the Solicitor-General's advice is that one member of either house could frustrate the replacement of a Legislative Councillor by remaining absent from a joint sitting, and it seems to me that, with the amendment that has been tabled by the Attorney, all that would be required would be a slightly larger conspiracy. So, a party being absent could similarly frustrate the democratic process.

The member for Enfield, in his second reading contribution, said that I had some information to convey relating to this issue. In fact, I do, because at this very moment the Texas state legislature has been paralysed because the Democratic Party is refusing to attend parliament, so preventing the Texas state legislature from meeting. The quote from the CNN web site states:

They have gathered [this is the Democrat state legislators] in Ardmore, just across the state line and beyond the jurisdiction of Texas state police, whom the house's Republican majority has ordered to bring them back to the state capital.

The Republicans have, in fact, ordered the Texas state police force to retrieve these parliamentarians, and the parliamentarians have responded to this by fleeing across the state border to Oklahoma, so that they are out of the jurisdiction of the Texas state police. The article continues:

The walkout has paralysed the state house for two days. In Austin, Republicans exhibited a deck of cards bearing the law-makers' pictures—similar to those issued to US troops to help identify fugitive Iraqi leaders—and milk cartons bearing the images of the missing law-makers.

Mr Hanna: Our sister city—Austin, Texas!

Mr SNELLING: It is indeed. The member for Mitchell points out that Austin is our sister city. My question to the Attorney is: could this happen here? Could a state Labor government have to send out the police in search of missing parliamentarians in order to ensure a quorum and, indeed, issue playing cards with the faces of the member for Morialta and the member for Heysen on them and, similarly, milk cartons?

The CHAIRMAN: I await the Attorney's answer with interest.

The Hon. M.J. ATKINSON: If there are ever 'wanted' posters issued for a member of parliament missing in order to subvert a proceeding of the parliament, I am sure it would be the Hon. T.G. Cameron. The answer to the member for Playford's question is no.

Mrs HALL: I have difficulty in accepting the Attorney's original explanation (upon advice) for why he has suggested a quorum of the assembly will consist of 52 members. In particular, I have difficulty with a number being prescribed to form a quorum. I wonder whether the Attorney could

outline to the committee why other formulae—such as a percentage of the two houses of parliament—were not considered. For example, if there was some concern that the House of Assembly might dominate the voting strength of the 21 members of the Legislative Council—

The Hon. M.J. Atkinson: Twenty-two.

Mrs HALL: No, because you are replacing one. So, it seems to me that it would not be too difficult to devise a formula that would overcome the possibility of a House of Assembly takeover (God forbid!) of the Legislative Council. I wonder whether the Attorney could outline some of the reasoning behind the prescriptive number in his amendment.

The Hon. M.J. ATKINSON: It is an assembly in its own right; it is not a meeting of the two houses as houses. So, the government was reluctant to specify a number from each house. Our principal purpose was just to avoid a rort. We were trying to avoid members or a group of members subverting an otherwise legitimate casual vacancy. That was our principal purpose.

Mrs HALL: If that number was prescribed to prevent a rort, what would be the reasoning behind supporting, for example, a majority of the members, because in this case there would be 47 members in the lower house and 21 in the upper house, and obviously a majority (without having a specified number) would allow for any changes in the future numbers of the two houses of parliament and it would obtain the same end result?

The Hon. M.J. ATKINSON: The number you choose is arbitrary and, although the government comes into this committee of the whole with a preferred position, which I have put to the house, it is open to other suggestions.

Mr RAU: I move to amend the amendment as follows:

Page 3, after line 11—
New item relating to section 13(4).
Delete paragraph (fa) and substitute:

(fa) There is no requirement for all members of both houses of parliament to be present at a meeting of the assembly; and

My understanding of the problem that we seek to solve is that there is the possibility of some party disrupting the process of reappointment. At the moment, there is one particular fear, namely, that one or more individuals will stay away, thereby rendering the process impossible. If we establish a particular number—or, indeed, as the member for Morialta has said, a particular percentage—that problem, as the member for Playford has already pointed out, remains; it is just that the threshold changes. What we need is an elastic threshold which will move about according to how many people are present. My amendment makes it clear that by reason only of the fact that not everyone is present the outcome of the assembly will not be invalid.

Mr HANNA: I am disappointed that the Attorney-General continues the practice of the previous Liberal government of referring to the advice of the Solicitor-General without bringing that advice before the members of the assembly when it is crucial to a debate. It is said that the Solicitor-General's advice is that it may be that all members of the House of Assembly and/or members of the Legislative Council must be present at the assembly referred to in section 13 of the constitution. They are required to be there. It follows that there would not be a quorum if one was absent. That is clearly undesirable but, with all due respect to the Solicitor-General, I seriously question whether that is in fact the case.

I realise that it provides in section 13(1) that a person shall be chosen to occupy the vacant seat by an assembly of the members of both houses of parliament. Under the starkest literal interpretation, the reference to 'the members' could be taken to mean every single member of both houses of parliament. In construing such a provision, it seems to me that the courts would take account of longstanding practice as well as the practicalities. I think it is very likely that a court would look at the way that these assemblies have been conducted every so often over the years and say, in effect, that near enough is good enough.

So, I am not entirely persuaded that it is necessary to amend the constitution at all to avoid the potential embarrassment or difficulty to which the Attorney-General refers. In any case, if that mischief did arise and the interpretation raised by the Attorney-General was held to be correct in the Supreme Court—and perhaps in the High Court—there would be a very simple remedy, because it would be a matter of calling together the members of both houses again. If there was deliberate mischief at the heart of it, in that scenario I suppose it is possible for there to be a perpetual frustration of the casual vacancy section in the constitution. That would amount to a constitutional crisis—a ripping up of constitutional convention. On the other hand, one cannot say that that has never happened before.

If I am going to support one of the amendments before the committee, it seems to me that the most attractive amendment by far is that put forward by the member for Enfield. I have a couple of things to say about the different approaches. The approaches of both the opposition and the government seem to rely heavily on the concept that the lower house could seek to subvert the wishes of the upper house. To me this is in the realms of fantasy. Excuse me, but this place is run on party lines. The Labor Party has been going for most of a century in South Australia and the Liberal Party and its predecessor, the LCL, have been going for almost as long. The fact is that the parties are run along very rigid lines, and with some exceptions, as the member for Enfield's amendment seems to demonstrate. But the fact is that if there is going to be a difficulty it will be on party lines, not on lines of division according to which house of which a person is a member. I cannot understand the thinking behind the specific numbers, which are contended for by either the Attorney-General or the member for Bragg.

On the other hand, the member for Enfield's amendment completely sums up the solution. It goes to the heart of the matter and ensures that there cannot be a problem of lack of quorum. It means that in practice all sides involved in the proceedings will want to be present because they will not want the other side to have a disproportionately large number. I mean disproportionate in the sense that they might have a greater voting weight than they should have, as reflected in the numbers of their elected members in both houses, if the people on another side choose not to attend.

It is like the advertising that is done by washing detergent powder companies: because others are doing it you have to do it as well. It would be the same in terms of attendance for this assembly if the member for Enfield's amendment passed. So, to make it plain, I will not be supporting the amendment moved by the Attorney. I will not be supporting the amendment moved by the member for Bragg. I will be supporting the amendment moved by the member for Enfield.

The CHAIRMAN: Can the member for Enfield clarify his amendment? In effect, does it mean that there could be as

few as two members, and theoretically, I guess, just one member attending?

Mr RAU: On my understanding, it would have to be three, including the presiding officer. The constitution speaks of 'members', and, under the formula provided for the voting, in the event of a tied vote the chair of the committee or the assembly has a casting vote. So, in order for there to be a minimum number, which gives us a plural, it would be two. Obviously, the likelihood of only two people turning up in such an event would be very remote, I would have thought. The idea that everyone would stay away including right down to the last two or three is stretching any credibility. So, the answer to your question, Mr Chairman, is two plus the chair; so three altogether.

Mr BRINDAL: The proposition before us is indeed an interesting one. I might say at the outset that I am no lawyer but I certainly do not agree with the opinion of the Solicitor-General. I think this is probably another spectacular case when he is wrong.

The Hon. M.J. Atkinson: What was the other one?

Mr BRINDAL: I would like to tell the house of an instance when I was minister for water resources and we had worked for two years on a water plan—

The Hon. M.J. Atkinson: Different solicitor-general.

Mr BRINDAL: It may well have been, but it is still the same ongoing entity, the crown law department. We had worked for two years on a water plan, and at the end of two years my officers came to me and said, 'We will have to recommit this plan and start the whole thing again.' It was two years of commitment, two years of officers' work, two years of endeavour. I said to the officers, 'How did we get into this situation; did you have crown law opinion?', and they said, 'Yes, we did not do a thing without crown law opinion.' So, I said, 'You're telling me the crown law gave you an opinion and for two years you've worked on the crown law opinion and now the same crown law is giving you a different opinion telling you it's wrong?', and they said, 'Just so.'

My memory is a bit hazy on this, but I think my response was to personally ring the Solicitor-General, or at least to convey a message to him in respect of who it was that was going to be terminated in their employment, whether it was the original adviser, who gave such wrong information to my department as to waste two years of time and effort or to potentially highly embarrass the government, or whether it was the solicitor who, having spent two years on this thing, then gave wrong advice and threatened to overturn it all. The house would not be surprised to learn that within 24 hours they worked out there was no real problem and it could all be fixed and nobody really had to do anything much at all.

I tell the Attorney that that is the other instance, and therefore when the Attorney, or anyone else, rushes in here and says, 'We've got a problem, we've got to change the constitution because the Solicitor-General says so,' I think that perhaps the Solicitor-General is wrong, and this house may not be. I am reminded of an instruction that the Speaker often gives us, and that relates to the sovereignty of this house, of these houses of parliament. These houses of parliament are in fact sovereign. I know that the Speaker will tell us also that they are sovereign but they are subject to the Constitution Act. I actually realise that.

But I think it is a nonsense, having managed our affairs competently for 150 years, to then say that because it does not mention a quorum the assumption is that it has to be everybody. That is not right. You can have a meeting and, if there is no mention of a quorum, you can simply have a meeting and if people are present then the meeting is a valid meeting.

Mr Koutsantonis interjecting:

Mr BRINDAL: I think, member for West Torrens, this is a very serious matter, because it touches on some serious things. It touches on the tendencies of lawyers to over regulate the law, to dot every i to cross every t and to make a nonsense of things which most people would understand as commonsense. For 150 years the system we have has worked and nobody has questioned it until the Solicitor-General comes in and says that it might mean something else. So we rush in and we have three propositions before us, two of which mention numbers. I need to clarify my position in a minute with my party, because I do not remember this being a party position, and I am not sure whether it is the member for Bragg's position or my party position.

The Hon. M.J. Atkinson: Or worse: the shadow attorney-general's position.

Mr BRINDAL: But in a sense it does not matter because we are not bound by party policy; if in fact it is a just a personal opinion of a private member it does not constitute public policy of our party. In fact, what worries me about the member for Bragg's supposition is this: it represents a mathematical impossibility, because if 35 is the quorum and there is a minimum requirement of 10 from the lower house and 10 from the upper house, if only 10 from the lower house choose to be present there are only 21 in the upper house. Ten plus 21 equals 31, which renders the meeting inquorate. So you simply cannot have a meeting where only 10 people from the lower house are present. I do not like the Attorney's supposition either because it deals in figures, and, like the member for Mitchell, provided this is not a matter in which I am locked in with my party, I am very minded to support the member for Enfield.

What the member for Enfield does is clarify the usage and practice of this place. What he does is turn around and say, 'This is the way we have always done it.' What we have always done in the past is that the members present vote and the members present, how ever many they are, constitute a quorum. It has always worked. There has not been any problem in the past, and all the member for Enfield does by his amendment is codify in law and put into the law that which has been the long term practice of this house. I commend him. As I say, it has worked for 150 years. If we need now to put it in words let us do that, but I would rather in the future we have less advice of lawyers that is questionable, so we can get home at a reasonable hour.

The CHAIRMAN: Before calling the next member, I point out that the amendment circulated by the member for Enfield has a typographical error, which is important in that it gives an upper case to 'assembly' when I believe he means lower case. It is general assembly, not the House of Assembly.

Mr KOUTSANTONIS: I will be supporting whatever our party position might be. It reminds me of the remarks of the Speaker of the House of Assembly at the last swearing in of a new member. It seems to me that we have gone a little mad. We are arguing about semantics and about an opinion given to us by an unelected official appointed by the Attorney-General. That is fine. However, it concerns me that we are altering our constitution without a referendum, which I do not believe we should be able to do.

If the entire upper house resigns en masse, we can then appoint members who are unelected, but are from the same

political party, en masse to the upper house. Of course, there would then be all sorts of arguments about who should replace the Hons Andrew Evans and Nick Xenophon, and so on. I believe that the Speaker was right when he said that perhaps we have gone a bit too far in preserving party politics and maybe we should return to referendums. If not, maybe we should just abolish the place. It seems to me that they are causing us nothing but grief. To be honest, I would be quite happy to have a bill before us saying that the upper house should go.

The Hon. I.P. LEWIS: Can I say that I am not just a little amused by this debate. I point out from the outset that it is not 150-odd years since this situation has served us. The proposition about which we speak and the amendment we propose seek to address a very recent change that has come into the Legislative Council. Indeed, no such change was necessary when the council was constituted of districts.

Before I go into that argument, in response to the member for West Torrens and all members who heard him perhaps in a Freudian slip say what he did, may I say that I agree with him and that I know we cannot reflect on the other place without a substantive motion. However, in its current form and constituted as it is and performing its tasks (or the lack of them), it is useless. It needs to be a properly constituted house of review of which the public of South Australia can again be proud. There was no question in my mind that, regardless of the franchise in the other place, the role and functions of its members prior to the amendments of the 1970s (about 30 years ago) were such as to review the legislation that came to it from the lower house and to restrain itself from introducing legislation on anything other than those matters that had nothing to do with the contention between government and opposition, in the main.

It was properly a house of review, although it might have been improperly constituted and the spectrum of political opinion that was represented there was too narrow. I have no quarrel with that view. Now, however, argument is largely put in the other place identical to that which is put, either in support of or against measures, in this place. In consequence, it contributes nothing to a clearer understanding of the issues than can be obtained from relying on what has been presented in the public interest in debates here in this place.

I want to move on from there to the manner in which it has become constituted, properly or otherwise, and draw honourable members' attention to the fact that it is undemocratic, in no small measure. In what other parliament do we appoint people in the 21st century? We are supposed to be elected representatives of the people and not the bloody party. Our purpose is to do the public will and in the public interest. If it is to be a house of review, it ought to engage in that activity and not engage in representing decisions that are taken behind locked doors some distance removed from the chamber.

It is important for us to contemplate that, because we are now trying to fix up a mess to which I have drawn attention at every opportunity. Whenever that has occurred in the past, I have been stopped from proceeding or otherwise I would have been defiant of the chair in my endeavour to get other honourable members in both chambers to understand how undemocratic their decisions were in the way in which we have reconstituted that chamber for the convenience of parties regardless of—indeed, ignoring—the public interest in the process.

The member for Enfield was quite right to draw attention to the fact that Independent members elected to the other place cannot be replaced should they decide to retire, or worse, and the other place would have to go one member down until the next election. That just might lead to a constitutional crisis because, if legislation did not pass by more than a majority of two, it would be easily challenged in the High Court that the house was improperly constituted and that it is contestable that the legislation which failed to pass with such a majority would be lawful, in which case the parties would have brought themselves undone, because they have created in the Legislative Council a rotten borough. (That situation would not arise if the other place were properly constituted, as was intended in the constitution by virtue of reference to the number of members—not the outcome of the vote, but those who were there.) It is every bit as rotten as the rotten boroughs of the 1700s and 1800s in the United Kingdom.

They applied to parliamentary constituencies which were there in large number before the passage of the reform bill in 1832. They were entirely at the disposal of patrons, and very often the patron was the Crown. However, that is immaterial in this case. The patron in this case is the political party, and who is to say what concessions were either offered or taken in order to determine the nomination of the successful candidate to fill the vacancy? Who knows what consideration there is in the deals that are done between factions within the organisations that are called political parties? They are no different from the deals that were done to obtain a seat in the parliament of Westminster in those constituencies referred to as rotten boroughs.

The practice will be no less bribery if it is an agreement to get support for endorsement for another seat in another place, whether in this parliament or the federal parliament, or to agree to certain other changes there might be in the toing-and-froing of parties in the machinations in which they have to engage to retain their organisational integrity, which they have to do without regard for the broader public interest. Their preoccupation is with their survival and their advancement as an organisation which is an abstraction of society at large and not representative of it. Were it so, there would not be a need for political parties. But there is. However, they ought not to control—as they do now—who can and cannot go into that place without it having to go to the people.

If we are to have the kind of practice to which this measure relates in order to make it beyond doubt, then we should, after the party has nominated, not require a joint sitting for any reason other than to agree to put that proposition to a referendum. A parliament otherwise constituted, especially in its upper house, would make it possible for that house to be more representative of the community and not so easily abused, and, more particularly, the public interest abused, by the party machines.

It is not just a matter of convenience. What price democracy in a state which has a budget of well over $8 billion a year, that is, $800 000 million, if we cannot find, once in a while, a couple of hundred thousand dollars or even $1 million to ensure that what we have got is an institution which we all can be proud to say is democratic when we know it is not. If we continue down this path, we will believe that we are right, just because it is convenient for all of us who are members to be able to say it is so, to pass legislation of this kind that says it is so, and ignore the pleas from the public at large who do not belong to political parties to make it more democratic.

I am disturbed, equally, by the increasing inclination there is now for members of another place simply to resign when it suits them. There is no requirement on them to remain to qualify for their superannuation. I guess I could be cynical and say that Ms Laidlaw and other members before her, no less, have found it unlikely that they would enhance the level of their superannuation, unlikely to get higher office in the duration of the time they would spend there for the rest of their term, and, therefore, inconvenient to stay regardless of what that means, as the public may see it by degrees, treatment in disdain of the public interest. They sought election to the place; they are well and healthy; and the law, as we have made it, and the constitution, as we have constructed it, enable them to go when it suits them, knowing that it will bring no discredit on themselves. Their party is happy to replace them, knowing it is tit for tat. If it is a Labor member, everyone agrees it will be a Labor member who replaces that person and the public will have no say in it. Everyone in this place agrees to it, likewise, if it is a Democrat, and no less the case if it is a Liberal.

I will say more about this matter, but let me say at this point that the provision of a quorum of the kind that is proposed by the member for Enfield is as good as I think we really need to consciously and deliberately state within the constitution that a quorum is not necessary and will ensure, as I think he has already argued, that the vast majority of members will turn up to that assembly to ensure that it does not do what they would not want it to do.

May I say that if the Constitutional Convention comes up with the kinds of things which I expect it will, where contemplation of the public interest will take hold in the minds of those of whom it is comprised, over and above the interests of the parties, then it will recommend a reconstitution of the Legislative Council that we in this place, and indeed in the other place, ought to support so that we do not have posterity visit upon us a refusal to do the public will when it has been properly determined and made and put to us as a recommendation, just because it was not convenient for the majority who belong to political parties and who might find themselves disadvantaged.

I will end on that argument by referring to and reminding members that those rotten boroughs only required a handful of people to make a decision about them. Some of them never had any electors whatsoever, and they could buy them. Indeed, some of them were completely under water. The only people who became eligible to be members of that electoral roll were those who happened to be there fishing at the time an election might be held, and they had already surrendered their interests as early as the 1300s to the parliament and the patrons who owned the boroughs.

Members should think about this for a minute. If the Callithumpian party is short of funds, why would it not offer a place in the Legislative Council for $1 million and ask one of its members to resign, when it knows that we will do the bidding of the party by endorsing the member of the public who paid $1 million to become a Callithumpian party member of the Legislative Council?

Mr Hanna: Take it out of the union dues!

The Hon. I.P. LEWIS: Take it out of the union dues? I doubt it. I think the sooner we deal with the basic cause of this problem, rather than the cosmetic consequence of an oversight, the better.

Ms CHAPMAN: I have read the amendment of the member for Enfield. I suppose in many ways it highlights the issue I raised earlier of the lateness of this issue coming for consideration by the parliament, and indeed each of the parties and those who represent independently here. I have listened to some of the contributions in relation to other amendments. If it is the will of the parliament, in any event, and the government is prepared to support this amendment, then I may not need to proceed with my amendment on the basis that we may need to consider further this issue and any amendments in the other place. I indicate that we reserve the opportunity to do so.

There is one other alternative in all this. The member for Enfield's amendment, on the face of it, appears to deal with the defect that has effectively come in, and supports the basis of the Crown Solicitor's opinion, that is, that this whole problem arises because of amendments, I think in 1985, when the provision that members of the assembly 'may attend' was removed. That seems to have caused the problem. This is not a 100-year-old problem. It is a potential problem, which I have highlighted we do not necessarily agree is a problem. However, if it is, it is of recent making.

In any event, it is important that we resolve this matter as best we can to ensure that there is not mischief in the circumstance of filling a casual vacancy. I am concerned about that. On the face of it, this amendment helps to deal with the alleged issue and potential defect that is raised as a basis for the Solicitor-General's opinion but, in the course of this issue being brought to the parliament's attention, it is a situation where our minds now go to other opportunities where there may be some sabotage or frustration of the casual vacancy provisions. I think it is important that as a parliament we very carefully consider what is the best way to go. This amendment, on the face of it, may remedy the alleged defect.

I think there are areas of concern that we need to cover, but if the government is prepared to support this amendment tonight in any event I will not proceed further with my amendment and we may deal with this matter further in the other house.

Mr Rau's amendment to the Hon. M.J. Atkinson's amendment carried; amendment as amended carried.

Mr HANNA: By way of clarification, as there are other amendments on file, are we yet dealing with the entirety of clause 2?

The CHAIRMAN: We are dealing just with the question of the quorum, the number of members and whether or not members need to be present. It is not excluding your amendment which relates to the oath.

Mr HANNA: I move:

Page 4, line 15 (amendment to section 42(1))—Delete:
'Her Majesty, Queen Elizabeth the Second, Her' and substitute:
[insert title of the Sovereign, His/Her]
and substitute:
Delete the oath appearing in quotation marks and substitute:
'I, , swear that I will faithfully serve the people of South Australia and advance their welfare and the peace, order and good government of the State. So help me God!'

This amendment, drafted in my name, if successful would change the oath of allegiance we take in this place upon becoming a member of parliament. This has come to the house relatively late, just as is the case with the quorum amendment, which came from the Attorney-General. I am grateful to the Attorney-General for formally moving that the committee be instructed to widen the scope of the bill to consider the amendment drafted in my name, as well.

However, I have become aware that the result in relation to this proposal will be voted on according to party lines. I have the impression that there are a number of people within

the two major parties who would support the proposal were it not for the riding instructions from the lead speakers on both sides. I have a difficulty, because this is really a matter of emotional and historical significance, and it should be debated in the party rooms of the major parties and given fair consideration in that sense. Whatever one may think of the party system, I am being realistic about the prospects of the amendment drafted in my name. Through negotiations I had sought to postpone consideration of the committee stage of this bill to allow party room consideration of the measure.

The Attorney-General is not in favour of the proposal: he has indicated as much to me informally and personally, and I do not want to put it any more highly than that. But, as I have said, this is a matter that should be taken back to the government's party room, and the same applies to the opposition party room. The fact is that, if the government is going to use its numbers not to allow adjournment of consideration of this proposal, then it would be better for me not to proceed with the amendment, but it is something that I will be proceeding with in due course.

I just wish to state for the record what the amendment encapsulates. We need to bear in mind that the Oaths Act provides that members of parliament taking their oath may equally well take an affirmation, but the form of the oath appearing in section 42 of the constitution is expressed as 'the oath' and therefore there is the religious aspect to it. The current oath, in section 42, is:

> I, Kris Hanna [or whatever the name of the MP], do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law, so help me God.

I believe that the time has come to bring in something that is more real and more accurate, something more in keeping with the thinking of the majority of people in our society. I am not entering the republican debate in terms of Australia's connection with the monarchy. This is a matter for South Australia. It is more meaningful that we swear or affirm the following:

> I, Kris Hanna [or whatever name], swear that I will faithfully serve the people of South Australia and advance their welfare and the peace, order and good government of the state, so help me God.

I stress that the proposal that I have flagged means no disrespect to Her Majesty the Queen, neither to the office and title of the sovereign nor to Her Majesty Queen Elizabeth who fills that title and role at the present time. But, rather than South Australians swearing an oath of allegiance in a form similar to that which might have been used and well understood in medieval times, it is more appropriate that we express in simple language our obligation to the people of South Australia. That is what we are here for. We are here to faithfully serve the people of South Australia. We are here to advance their welfare. We are here to advance the peace, order and good government of the state.

So, although I will not be proceeding with my amendment on this occasion, it is something that I intend to bring back to the House of Assembly for consideration at a later time. It may, indeed, have some appeal for the majority of government members. I would be delighted if that were the case, because if we are setting about modernising the constitution, as we are doing successfully in respect of gender neutral language, then in my submission it is also an appropriate time in the history of the state to recognise our obligation to the people of South Australia through an appropriate, simple and truthful oath, rather than the oath of allegiance that is presently contained in section 42.

Mr KOUTSANTONIS: I completely agree with the member for Mitchell, but I will not be supporting his amendment, for the following reasons. As I said earlier, I do not believe that we should have the power to amend our constitution without a referendum.

An honourable member interjecting:

Mr KOUTSANTONIS: Good allies of mine. I also add that South Australians, rightly or wrongly, went to a referendum on the question of who should be our head of state. I understand that this amendment is not altering who is our head of state. South Australians had an opportunity at a referendum to express their will as to who should be our head of state and, unfortunately, we lost that battle.

Mr Hanna: How was the question asked?

Mr KOUTSANTONIS: I agree with the member for Mitchell's argument; I agree with his sentiment. But I do not believe that we, in good faith, should alter the oath of allegiance until we become a republic. I think we should leave this oath of allegiance in place to remind future generations of the embarrassing situation in which this country finds itself, when we swear an oath of allegiance to a foreign head of state. We should keep this oath of allegiance in place to ensure that we can win the next referendum, thereby making sure that Australia becomes a republic.

I respect the will of the people as indicated by the outcome of the last referendum that was held with respect to this matter. Hopefully, a future Labor government will put the question again in a way that will be more conducive to our winning that question. But, as it stands, that question was lost. The people of South Australia, and Australia, expect us to swear an oath of allegiance to our head of state, who happens to be Queen Elizabeth II, the Queen of Australia. Until that situation changes, we should keep the current oath in place until we can achieve the right decision. I commend the member for trying to do this, but my point stands that we should be able to do it only by referendum, and only after we become a republic.

The CHAIRMAN: With the indulgence of the committee, I indicate that I have for many years believed that, in relation to the oath, there might be some merit in looking at relating it to, and going beyond what is currently specified to embrace the behaviour of, members of parliament and related matters, so that, when a member states the oath, it embraces some of the aspects that are before the house in terms of the code of conduct for members of parliament. I have raised this matter previously, but I just take this opportunity to make that point. I take it, member for Mitchell, that you are not pursuing your amendment?

Mr HANNA: I am not proceeding with it, sir.

The CHAIRMAN: You are not proceeding with any of the amendments standing in your name? Is that correct?

Mr HANNA: That is correct, sir.

Clause as amended passed.

New Clause 3.

The Hon. M.J. ATKINSON: I move:

> New clause, after clause 2—Insert:
> Validation provision
> 3. A decision under section 13 of the Constitution Act 1934 made before the commencement of this section by an assembly of both houses of parliament cannot be called in question on the ground that not all members of both houses of parliament were present at the meeting of the assembly at which the decision was made.

New clause 3 is a retrospective validation of all the appointments to casual vacancies since that clause was introduced

into the constitution. God forbid that the Hon. Trevor Crothers was not validly appointed!

Mr Hanna interjecting:

The Hon. M.J. ATKINSON: No. Well, we might have to buy back ETSA but, worse than that, he might be retrospectively preselected as the candidate for Spence, instead of me! This amendment inserts a new clause 3 into the bill. The amendment to section 13 of the act could result in questions being asked about the validity of an assembly under section 13 that was not attended by all members of both houses of parliament. To deal with any concerns about this new clause 3, it provides that a decision under section 13 of the Constitution Act made before the commencement of the quorum provision cannot be called into question on the grounds that not all members of both houses of parliament were present at the meeting of the assembly at which the casual vacancy was filled.

Ms CHAPMAN: Assuming that the Solicitor-General is right, which I have already indicated we doubt, it is important for us to exercise a cautious approach to ensure that validation is in place. In relation to this amendment, I put on record that the other option is simply to make no decision and not to pass this measure, but where does that leave us? It leaves us in a situation where someone of mischief could attempt to challenge in the Supreme Court the validity of a determination arising from lack of compliance with the casual vacancy provisions of the constitution. We wish to put that to rest and avoid that possibility. It is most unfortunate that we should consider this type of legislation retrospectively but, for the reasons I have stated earlier, we will support the amendment.

Mr KOUTSANTONIS: In relation to the Attorney-General's advice to the committee about all members being present when a vacancy (apart from a senate vacancy) in the upper house is being filled, it is obvious that all members cannot be present, because one will have either retired or died. Does the Attorney mean members who are currently serving?

The Hon. M.J. ATKINSON: The latter.

New clause inserted.

Title passed

Bill reported with amendments.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (SELF DEFENCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 March. Page 2613.)

Ms CHAPMAN (Bragg): I indicate that the Liberal Party supports the second reading of this bill. We support the principle accepted by the select committee in 1990 to the effect that, in their own homes, householders should be entitled to take such defensive action as they genuinely believe to be appropriate to defend themselves against a home invader. However, it is a matter of some regret that this bill does not meet the expectations of the select committee or the community. It will create a new third category of self defence in South Australian law. Unlike the existing two classes, a householder seeking to rely upon this new defence will have to discharge an onus of proof. This onus is not imposed upon a defendant in a pub brawl or a person who is attacked in the street.

Those people are entitled to raise self-defence, and the prosecution has the onus of proving that they are not entitled to that defence. This bill shifts the onus of proof from the prosecution and puts it onto any householder who is put in a position of having to take defensive action. In committee, we will move amendments to improve the bill. I make no apology for foreshadowing these amendments. The Attorney-General has been talking about this issue since 1996. It took him more than a year after coming into office to produce the proposed legislation, and on 14 May he produced this significant amendment.

Before addressing the clauses of the bill, I should mention some of the relevant history and background to this issue. I will begin by setting out for the record the common law rules relating to self-defence. These rules applied in South Australia until 1991. Under the common law a person is entitled to use as much force as is necessary to defend him/herself, to defend another, to defend his/her property, to effect a lawful citizen's arrest, or to prevent the commission of a felony. Put in another way, the law says that one is entitled to defend oneself by using such force as is reasonably appropriate to meet a threat. At common law the onus is on the prosecution to satisfy the jury beyond a reasonable doubt that the accused person (who, in the context of this bill can be described as the defender) committed the physical act with which the defender was charged and that the defender had the requisite mental element.

This mental element is described by Wilson, Dawson and Toohey, JJ in the leading High Court case Zecevic v DPP (1987) as follows:

> The question to be asked. . . is whether the accused believed upon reasonable grounds that it was necessary in self-defence to do what he did. If he had that belief and there were reasonable grounds for it or if the jury is left in reasonable doubt about the matter, then he is entitled to an acquittal.

The effect of the words 'there were reasonable grounds for' the belief of the defender, are at the heart of this debate. The common law principles are largely embodied in sections 15 and 15A of the Criminal Law Consolidation Act, which were enacted in 1997. This bill seeks to change for those resisting a home invasion the requirement that the defender's response was reasonable according to an objective standard.

Before the 1989 election there was public agitation about the adequacy of the law of self-defence. There were widespread claims that the law favoured the criminal rather than the victim. The Liberal Party announced that it would conduct a review of the law. The Labor Attorney-General, the Hon. Chris Sumner, said that there was nothing wrong with the law as it stood. After the election, two citizens, Mrs Carol Pope and Mrs Ewers gathered 40 000 signatures on petitions praying that action be taken to give householders greater rights to protect their property. The Liberal Party supported their cause.

In July 1990 the returned Labor government established a select committee to inquire into the adequacy of the laws and rights of citizens in the area of self-defence. Its members were: Terry Groom (Chair), the Hon. Roger Goldsworthy, Martyn Evans, Colleen Hutchison and Dorothy Kotz. The select committee tabled its report in December 1990. Its essential recommendation was:

> The Committee. . . resolved to recommend that the accused be judged on the basis of genuine belief as to the circumstances of the case, even if that belief were unreasonable.

The committee's report was unanimous and it included a draft bill. The essential element of the select committee's draft bill was this provision:

(5) The question whether the force used by an accused person was reasonable or excessive must be determined by reference to the circumstances in which it was used as the accused genuinely believed them to be unless no evidence or no sufficient evidence of the accused's belief is available to the court in which case the question must be determined by reference to the circumstances as they actually existed.

That is the essential element of the select committee's draft bill. It should be noted that this provision was not directly adopted in the bill which was introduced by the Labor government in April 1991 and which was supported by all parties, except the Australian Democrats. However, the intent of the committee's proposal was embodied in the bill. The bill then became section 15 of the Criminal Law Consolidation Act, which came into force on 12 December 1991. But what was the effect of the 1991 act? *Lunn on Criminal Law* succinctly (and correctly) summarised the effect of section 15(1)(a) and (b) as follows:

. . . the common law requirement as laid down in Zecevic v DPP that the belief must have been based on reasonable grounds is no longer required, and the test is therefore entirely subjective. . . The test looks not to what is necessary and reasonable, but to the defendant's belief on the subject: Hirschausen. . . At common law the force only had to be necessary and not also reasonable: Zecevic v DPP, but the effect of. . . section 15 is apparently to make reasonableness a subjective, instead of an objective, requirement for self-defence in law.

However, the section proved to be difficult to apply in practice, especially in relation to section 15(2), which deals with the case in which an offender kills an attacker. In that case section 15(2) allowed a partial defence (that is, reducing murder to manslaughter) where the defender uses disproportionate (that is, excessive) self-defence. There was specific criticism of the 1991 act in two reported cases, both of which have been mentioned in the Attorney-General's second reading explanation (R v Gillman and R v Bednikov).

In addition, there were many unreported cases in practice where it was found difficult to apply the law. In November 1996, the then attorney-general (Hon. K.T. Griffin) introduced a new bill, which he explained as follows:

The major substantive change from current law in section 15 is that, for an acquittal, the force used by the person in self-defence must be objectively reasonable on the grounds as he or she believed them to be rather than as section 15 currently states. It suffices if the person genuinely believed that the force used was reasonable in all the circumstances.

The former attorney further stated:

In this bill, the use of force to defend oneself or one's property requires the jury to assess the situation on the facts as the defendant genuinely believed them to be. If, on the basis of the defendant's genuine belief, the force used was 'over the top' then it could not be acceptable. (*Hansard* 14 November 1996, page 521.)

At common law, there is an explicit requirement that the defendant's response to threat be 'reasonably proportionate'; thus a person who is threatened with a slap in the face or a kick in the behind is not entitled to respond by shooting or stabbing them. This is part of the notion of acting reasonably. This notion of proportionate response was not explicitly included in either the select committee's recommendation or the 1991 act; however, it was introduced into section 15(1)(b) of the 1997 act.

The Labor Party opposed the 1997 act on grounds which included the fact that the new requirement of proportionality would make it harder for the battered wife to kill her husband. I refer to the Hon. Carolyn Pickles' contribution at page 796 of *Hansard* of 4 February 1997. Notwithstanding Labor's opposition, the bill passed and became the Criminal Law Consolidation (Self Defence) Amendment Act 1997, coming into operation on 27 March 1997 and remaining in force.

Let us now consider the current bill. In his second reading speech the Attorney-General justifies this bill on the following grounds:

The Labor government is of the opinion that the 1997 act moved away from the intent of the 1991 act toward increasing the objectivity of the test. The government's policy is that the intent of the 1991 act be restored and, in particular, that innocent people should be given increased rights to protect themselves against home invaders.

I know that the reason given for this change is political, not legal. Knowing the significance of the second reading speech and the fact that the courts may and often do refer to such speeches, the person who drafted the Attorney's speech has not said that the law has been found to be deficient. The speech actually states that 'the Labor Party is of the opinion that', etc.

The bill seeks to achieve its objective by a rather circuitous process. It provides that the general requirement of reasonable proportionality does not mean that the offender cannot exceed the force used by the aggressor (proposed new section 15B). This is a curious and unnecessary provision, for two reasons. First, the law has never suggested that the offender cannot exceed the force of the aggressor. A woman can defend herself with a knitting needle, kitchen knife or baton against a bare-handed attacker. Secondly, the new section does not seek to define reasonable proportionality by stating what it is. Rather, it states what it is not. Proposed new paragraph 15C(1) then sets out five qualifying factors which will entitle a defendant to a home invasion to be acquitted, that is, to be an eligible offender. The crux of the defence is set out in proposed new paragraph 15C(2), which provides that, if an eligible offender establishes on the balance of probability each of the five qualifying factors, the defendant is entitled to the defence, even though the defendant's conduct was not reasonably proportionate to the perceived threat.

Before addressing the fundamental question about the principle involved, the following points should be made. First, the new provisions are extraordinarily complex; they are expressed in negatives. The 1990 select committee claimed that the old law was too complex. Their report said the criminal law should be made accessible to citizens. The complexity of the new provisions makes them a lawyers' paradise. Secondly, the new provisions put the onus of proof on the defendant, not the prosecution. The current law on this issue is as follows. Although self defence is still commonly referred to as a defence, the ultimate onus of proof with respect to self defence does not rest on the accused. It has been clearly established that, once the evidence discloses the possibility that the fatal act was done in self defence, a burden falls upon the prosecution to disprove that fact; that is to say, to prove beyond reasonable doubt that the fatal act was not done in self defence. The jury must be instructed accordingly whether or not the plea is actually raised by the accused. (I again refer to Zecevic.) This new provision in the bill reverses that onus; no satisfactory explanation for this extraordinary volte face has been given.

Thirdly, reversing the onus of proof puts the householder in a worse position than at present in relation to the possibility of being charged. Now the Director Of Public Prosecutions must assess whether the Crown can disapprove self defence. In some cases, the Director Of Public Prosecutions decided that the Crown could not prove the case and no charge was laid. In future, the Director Of Public Prosecutions can

legitimately say, 'Let the accused defender prove the facts necessary to qualify for this defence,' and leave it at that.

Fourthly, contrary to the government's claims, this new provision does not 'restore householders' rights as recommended by' the select committee. Neither the report of the select committee nor its suggested bill nor the 1991 act itself put any onus of proof on the defender.

Fifthly, the requirement that the defender must prove, on the balance of probability, that he or she genuinely believed that his or her defensive conduct was reasonably proportionate is unduly onerous. Why should the defender have to prove any state of belief? The defender may have struck out in blind fear with no actual belief as to the proportionality of the response. To insist upon this proof by the defender is also inconsistent with the 1991 act.

Sixthly, the defender must prove on the balance of probability that his or her mental faculties were not substantially affected by the voluntary consumption of a drug, including alcohol. In other words, if the defender has consumed a few reds in his or her home, the defender has the onus of proving that his or her faculties were not substantially affected. This is yet another part of the bill which was not contemplated by the select committee.

Seventhly, it is anomalous that this defence should be available only to a person who is the victim of a home invasion. The defence applies to an elderly lady inside her front gate, but a different rule applies when she steps out on the footpath and is mugged. It applies to an opal dealer who works at home but not when he is in his shop. If this defence is as good as the Attorney-General says it is, why should not a women who is attacked by a rapist in a park be entitled to the defence—or indeed a women who is attacked by her husband or lover who is not a trespasser?

Eighthly, the law is supposed to clarify matters; that is, it is supposed to let people know where they stand. It fails this test miserably. It is obscure and complicated. It should be contrasted with the comparable part of the 1991 act, which was clear and simple. There are other technical and drafting objections to the bill, which can be considered at a later time.

The arguments against a subjective test are as follows. We would be the only jurisdiction in the commonwealth to adopt such a rule. It would allow people to use grossly excessive force (that is, to shoot in the head a child who is stealing apples in a back garden). It makes the defender the judge, jury and executioner of his or her own cause rather than allowing the community (through the jury) to be the arbiter. We previously opposed the rule and would be inconsistent in supporting it now. It is inconsistent to have one rule for home invaders and another for every other situation.

The arguments for a subjective test are as follows. In 1991, the select committee supported the principle. In 1991, the parliament passed (with Liberal support) section 15, which provided:

> . . . a person does not commit an offence by using force against another if that person genuinely believes that the force is necessary and reasonable. . . to defend himself, herself or another.

That simple rule applied to all defenders, not only those who resist home invaders. The notion that a householder is liable to stand trial for murder if he or she uses excessive force to repel a criminal in their home is offensive to most people in the community and undermines confidence in the legal system. It fosters the impression that the law is on the side of the criminal, not the victim. Although the subjective test is contrary to the common law and to the statute law of other states, at least two High Court judges have supported it. (The judges are Murphy J and Jacobs J in Viro's case in 1978.) Although, Jacobs J held that the defender's belief as to the reasonableness could not be 'irrational', Murphy J (admittedly in the context of a case where the defensive action resulted in the defender killing another and being charged with murder) said:

> In my opinion, the objective test should be abandoned. It is quite unrealistic and introduces problems similar to those in provocation. . . As Holmes J said, '. . . detached reflection cannot be demanded in the presence of an upraised knife' (Brown v. United States (1965)). The cases abound with statements like this neutralising the objective test's application by references to 'agony of the moment' considerations which obscure the conclusion that, if the test were dispensed with, the law would be simple and just. It is often doubted that the application of the two tests will yield different answers. As Taylor J pointed out in Howe, if a jury were satisfied that the killing was not reasonably necessary, they would very likely be satisfied that the accused did not believe he was defending himself. The argument may be turned around: if the jury were not satisfied that he did not believe that he was defending himself, they would very likely not be satisfied that his action was not reasonably necessary.
>
> The argument that the objective test should be retained in order to preserve the social fabric is not convincing to me.

As we proceed with the arguments for a subjective test, we do not accept that a special rule should apply to people in their own homes. The adage that one's home is one's castle is deeply ingrained in our psyche.

We acknowledge that there is an element of inconsistency where one rule applies to home invaders and another to other situations. However, I repeat our belief that special importance should be accorded to people in their own home. Finally, even when the objective requirement of reasonableness is removed, the requirement for 'genuine belief' on the part of the accused will continue. This ensures that juries will convict defenders if the jury considers that the force used is so unreasonable that the defender's belief is not genuine. Accordingly, the requirement for 'genuine belief' will probably mean that the householder who kills a child stealing apples will not be believed by the jury.

I would be obliged if the Attorney-General would indicate the reason why the bill refers to all cases of 'serious and criminal trespass' (that is, any cases of entering a residence), whereas the generally accepted understanding of a 'home invasion' is one in which a trespasser enters a residence which is occupied. Such cases are defined in section 170(2) of the Criminal Law Consolidation Act as an 'aggravated serious criminal trespasser'. The section provides:

> 'an aggravated serious criminal trespass' is one in which a trespasser enters a residence with criminal intent:
> - knowing that a person is lawfully present or reckless about whether anyone is in the place, or
> - in company with others, or
> - carrying an offensive weapon

Given that for a defender to avail him or herself of this defence the defender must be (as it were) 'at home', it might be suggested that the defence be limited to cases of aggravated serious criminal trespass.

When the Attorney is providing a response to that question, I ask that he provide statistics for the past three years on the following:

1. How many instances of serious criminal trespass were reported to the police?

2. The number of charges laid for serious criminal trespass.

3. The number of convictions for serious criminal trespass.

4. How many instances of aggravated serious criminal trespass were reported to the police?

5. The number of charges laid for aggravated serious criminal trespass?

6. The number of convictions for aggravated serious criminal trespass?

I look forward to receiving responses to those questions, which may highlight what we are really talking about here.

Mrs REDMOND secured the adjournment of the debate.

ADJOURNMENT

At 11.37 p.m. the house adjourned until Thursday 15 May at 10.30 a.m.