LEGISLATIVE COUNCIL

Wednesday 5 September 1990

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

TWO-UP

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Tourism, representing the Minister of Recreation and Sport, a question about two-up.

Leave granted.

The Hon. R.I. LUCAS: I refer to the recent announcement by the Victorian Government that it plans to allow the game of two-up to be played legally on Anzac Day at certain places as a result of representations from the Returned Services League. This decision follows a similar move by the Liberal Government in New South Wales. The Victorian Government argues that the legalisation of the game for one day of the year is something for which old diggers have been arguing for some time. The plan certainly appears to have the backing of the Victorian RSL, with its President, Bruce Ruxton, being quoted in the press as saying he was delighted by the move as two-up was 'the only game you can't cheat on'.

I understand that in South Australia two-up is illegal with the exception of the Adelaide Casino, where it is quite popular. My office has spoken with the Department of Recreation and Sport, which advises that there is no provision for exemption in the law in the playing of two-up other than that allowed by the Casino Act. Presently under the Lotteries and Gaming Act, two-up is deemed to be an unlawful game and there is provision for a $200 fine for participants, a $40 fine for spectators of the game and a $1 000 fine or 12 months imprisonment for an owner or occupier of premises allowing two-up to be played.

Police advise that in practice they will often let off, with a stern warning, a few people found playing two-up illegally. However, if a large organised two-up school is unearthed they are left with no choice other than to prosecute. There would appear to be some merit in considering Victoria's proposal to permit two-up to be played publicly on just one day of the year. No doubt (if we are to believe movie depictions) two-up was a highly popular game with our troops setting off in the First World War, and it was probably still popular with our armed forces during the Second World War and the Vietnam conflict. In such an historical context, it would seem not unreasonable to permit the game to be played legally throughout South Australia on just Anzac Day.

I understand that rank and file membership of the RSL in South Australia would probably support Bruce Ruxton's view as I quoted. The league's South Australian President has said he has no personal viewpoint on the matter but admitted that there is probably a bit of illegal two-up played in some places that is never discovered.

Is the Minister aware of the Victorian Government's plans to allow two-up to be legally played on Anzac Day? If so, does he support that move and would he consider legislation to permit a similar exemption being allowed in South Australia?

The Hon. BARBARA WIESE: I will refer the honourable member's question to my colleague the Minister of Recreation and Sport in another place and bring back a reply.

RESIDENTIAL TENANCIES

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question on residential tenancies legislation.

Leave granted.

The Hon. K.T. GRIFFIN: In the *Sunday Mail* of 2 September a story appears relating the difficulties which a Mr Noel Johnston of Kapunda has experienced in getting his house back. In May 1988 Mr Johnston put his house on the market. A Mr Owen-Pearse entered into a contract to purchase the house with settlement in six months, but on condition he could move in 'within the next month or two' after the contract for sale and purchase was signed.

As a result, having agreed to buy, Mr Owen-Pearse entered into a tenancy agreement to occupy the premises until settlement and that, from my experience, is not an unusual practice, although it is fraught with some difficulty. It appears, however, that no rent was paid, nor was settlement of the sale and purchase made by the purchaser.

Mr Johnston wanted to get his house back but, because there was a tenancy agreement, the tenancy had to go to the Residential Tenancies Tribunal, and Mr Johnston, according to the report, did so on three occasions between March and June 1989. The Supreme Court also became involved, presumably for an eviction order under the contract for sale and purchase, and there were some five appearances in the Supreme Court. The legal costs were $25 000. Mr Owen-Pearse was declared bankrupt in February 1990, owing local people and Mr Johnston, as well as the Australian Taxation Office, something like $58 000.

In addition to all that, whilst Mr Owen-Pearse was in occupation as the prospective purchaser, he undertook some work on the house which could more appropriately be described as constituting structural damage. One finds it extraordinary that an owner has to spend enormous amounts of money and make numerous appearances in both the Residential Tenancies Tribunal and the Supreme Court in these circumstances to get some justice. My questions to the Minister are:

1. Will the Minister review the involvement of the Residential Tenancies Tribunal in this case and determine why, in a case of sale and purchase, the tribunal had to be involved in the first place, even though some short-term tenancy may have been involved?

2. Will the Minister determine whether or not to propose changes to the law to ensure that Mr Johnston's experience is unlikely to be repeated?

The Hon. BARBARA WIESE: I am not familiar with the circumstances of the case that the honourable member has outlined, but I will seek a report on it and review the events that have taken place. I would indicate that the Residential Tenancies Act is in any case currently under review. In fact, the first meeting of a working party, which comprises representatives of Government, landlords and consumer organisations, was held in June of this year, and it is reviewing the effectiveness of the operation of the Act as it operates in the private market. It is expected that that working party will report to me its findings on the adequacy of the Act by the end of this year. If, following that report, it is desirable to make amendments to the residential tenancies legislation, I will bring forward a Bill some time after that. If, after reviewing the circumstances of the case that the honourable member has outlined, it seems that there are issues which should be referred to that working party, I will undertake to ensure that they are.

The Hon. K.T. GRIFFIN: As a supplementary question: in the light of the Minister's reply, will she provide details

(if not now, in due course) of the membership of the committee of review and its terms of reference, and some information about the extent to which public submissions are or will be sought and the nature of the involvement of the public and professionals?

The Hon. BARBARA WIESE: From memory, I understand that, as well as members from the Department of Public and Consumer Affairs, this working party has representatives from the Real Estate Institute, the S.A. Landlords Association, the Consumers Association of South Australia, SACOSS, and one other organisation that I cannot recall. However, I will seek information about the full membership of the working party and provide a copy of its terms of reference to the honourable member, together with information about the proposed consultation procedures.

JAM FACTORY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts a question about the Jam Factory.

Leave granted.

The Hon. DIANA LAIDLAW: The Auditor-General, in his report which was tabled yesterday, was critical of the decision by the Jam Factory workshops to open the retail shop, City Style, in Gawler Place in the city. He reflected on the fact that management had failed to prepare a detailed financial evaluation to support the proposal and to develop any business plan to guide operations in the short, medium or longer terms.

Management estimated that to break even in the first year sales of $500 000 would need to be achieved. However, in the period from July 1989, when the shop commenced trading, to February 1990 actual sales were only $131 000—61 per cent less than budget.

I note from the Auditor-General's Report that, in the past financial year, the Jam Factory gained an income of $459 000 from its retail operations at Payneham and in the city—an increase of $144 000 compared to the previous year. Over the same period, expenditure on retail operations leapt from $385 000 to $601 000—an increase of $216 000.

Also, I note that in April management resolved to cease trading in the city. Yet in the *Advertiser* today a spokesperson for the Jam Factory states that, in the lead up to Christmas, with anticipated increases in sales, '... we now have no reason to close.' My questions are:

1. Why did management of the Jam Factory fail to prepare both a detailed financial evaluation and a business plan prior to the establishment of a retail outlet in the city?

2. As one of the reasons given for the opening of the shop was to reduce reliance on Government subsidies, was the Minister and/or the Department for the Arts aware of the questionable projections by management for operating the shop on a commercial basis and of management's failure to prepare a business plan?

3. If not, why not, and, if so, what advice, if any, was provided to management to assess the wisdom of opening a shop and/or siting a shop in the city?

4. At the time the proposal for establishing a shop was being considered, did management:

(a) seek advice from the Government's own Small Business Corporation;

(b) assess options for increasing retail sales at Payneham by launching an active promotional campaign; or

(c) consider siting the shop in King William Road or Unley Road, an area where shops trade on an extended basis and are known to attract customers with higher levels of discretionary income, instead of in the city?

5. Is it management's intention, as resolved in April, to cease trading in the city, or to continue trading as suggested yesterday by a spokesperson for the Jam Factory?

The Hon. ANNE LEVY: As far as I am aware (and all the information given to me on this matter indicated this), before deciding to open City Style in the city, the Jam Factory did have a detailed evaluation and feasibility study done, complete with a business plan and projections.

The Hon. Diana Laidlaw: That is contrary to what the Auditor-General suggested yesterday.

The Hon. ANNE LEVY: I am told that a detailed business plan and feasibility study were prepared before the Jam Factory decided to open its retail outlet in the city. However, sales certainly have not measured up to what was outlined in the feasibility study which, as I understand it, was prepared by an interstate expert in these matters. Although I have not seen the document myself, I have been told of its existence.

Certainly, the shop has opened at a time when retail sales are not booming throughout Australia, and retail outlets such as City Style were particularly susceptible to the effects of the pilots dispute and the consequent marked reduction in tourism which one might expect to form a sizeable part of the market for a shop such as City Style. I understand that—

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: I understand that the decision to close the shop was made earlier this year but, before the shop could be closed, the organisation needed to arrange a subletting of the premises for the period for which it had taken out a lease. That has not proved possible as yet, so trading is continuing. Certainly, in recent times trading has increased considerably, and for the past month or so the shop has been turning in quite a reasonable profit.

The Hon. Diana Laidlaw: A profit to cover rent and other fixed costs?

The Hon. ANNE LEVY: Yes, a reasonable profit to cover all the expenses. It is being run as a commercial venture and, as I understand it, the original feasibility study certainly predicted that there would be losses in the early stages, as any business takes a while to become established. As far as I know, the Jam Factory still is of the view that it should cease trading at City Style if it is able to sublet the lease which it currently holds. I have no information regarding a reversal of its earlier decision having been taken.

At the time that the shop was established, the Jam Factory had only Payneham as its retail outlet within South Australia but, as soon as decisions were made regarding the construction of new premises for the Jam Factory at the Living Arts Centre, the management obviously gave thought to the future of the retail outlet in Gawler Place in the light of the fact that, once the move occurred to the Living Arts Centre, it would have a retail outlet within the central business district and would probably feel it unnecessary to have two retail outlets so close together.

However, I am sure that the greater losses than expected prompted the decision to close the city shop when appropriate, although I must admit in the meantime to being delighted that in recent times it has been trading at a profit.

AGED CARE

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister of Tourism, repre-

senting the Minister for the Aged, a question about a matter raised by the Federal Liberal member for Hawker in the local Messenger Press on the subject of aged citizens.

Leave granted.

The Hon. T. CROTHERS: In the local *Messenger* Press dated 5 September 1990, the Federal Liberal member for Hawker, Chris Gallus, was quoted as stating:

> Elderly people in the local electorate of Hawker are experiencing Australia's worst aged care crisis. Hawker, which covers part of Mitcham, has a higher percentage of elderly people than any other Federal electorate. About 15 per cent of the Australian population is over 60 years. In Hawker that percentage is 22 per cent and in 30 years this will be true of Australia as a whole.

As a former trade union official I find those quotes somewhat strange, as, more than a decade ago, the Australian trade union movement, when pointing out that the Australian population was indeed an ageing one and that future Federal Governments would thus have difficulty raising the necessary revenue to pay retired members of our society a pension that would enable them to live out their lives in decency and comfort, stated that the way forward was for the unions to embark on employer funded superannuation funds to make up any shortfall. I also recall that the majority of members of the Liberal Party were violently opposed and that is the same Party to which the Federal member for Hawker now belongs. The majority of Liberal members were violently opposed to that proposal by the unions.

History and the quotes of the Federal member for Hawker show how correct and far-sighted was the union movement. History further records that the trade union campaign for superannuation schemes for its members has been successful. Equally, I find it disturbing that the member for Hawker has chosen to attack the State Labor Government's last budget over the harm she alleges it has done to the elderly people of Mitcham and, indeed, South Australia. State Labor Governments by and large have gone to great lengths to make concessions for our elderly citizens to try to make retirement more pleasant for them. I refer to a couple of areas such as concessions granted in public transport and electricity, to name but two out of many. The honourable member's own Party's track record in this regard is not one which in my view she can be proud of.

The Hon. Peter Dunn interjecting:

The Hon. T. CROTHERS: Be quiet, Mr Dunn; you might learn. Indeed, this Council might be interested to know that at a time of great economic restraint a document I have on record makes the following observations:

> Speaking on social security in the Federal budget for 1990-91 it was increased by 12.3 per cent to $23 billion—an increase of 5.8 per cent after allowing for inflation.

What pensioner groups unfortunately failed to notice was that the Federal Opposition Leader, Dr Hewson, criticised the Government for not making big cuts to social security. Indeed, the *Advertiser* reported Dr Hewson as saying that social security and welfare spending were 'rocketing ahead' (his words, not mine) and that Governments needed to make tough decisions. I am sure that the Council would like to be informed that in real terms, since the advent of the Hawke Government's election in March 1983, both the standard and combined pension rates have increased in real terms by 9.99 per cent compared with a decrease of 2.4 per cent under the previous Fraser Government. In view of my foregoing factual statement, I direct the following questions to the Minister:

1. In the light of Dr Hewson's quote in the *Advertiser* about social services having to be reduced and in light of the Federal Liberal member for Hawker's press statement that social services, particularly aged pensions, should be increased, does the Minister believe that Dr Hewson is effectively communicating his Federal Liberal Party's policies to the newer backbench members of the Federal Opposition?

2. In the light of Dr Hewson's calling for a reduction in the Hawke Government's social welfare spending, does the Minister believe that if such policies are put into effect this will be very detrimental and damaging to our elderly citizens?

3. In the light of the figures I have quoted being readily available to any member of the public, does this show that *(a)* the Federal member for Hawker is showing a lack of diligence in pursuit of her constituents' interest, or *(b)* that she already has the facts and figures I have quoted but is deliberately ignoring them in pursuit of electoral enhancement for herself in the Federal seat of Hawker?

The Hon. BARBARA WIESE: Certainly, from the information that has been provided to the Council by the honourable member it would appear that, at the very least, the right hand does not know what the left hand is doing within the Federal Liberal Party because, on the one hand, we have Dr Hewson advocating severe cuts in social security spending and, on the other hand, we have a local member in South Australia advocating an increase in spending over and above the very excellent record of the Labor Federal Government in this country since it was elected in 1983.

The figures that have been produced by the honourable member demonstrate very clearly that the Hawke Labor Government and the Bannon Labor Government have shown a very keen commitment to not only preserving but also enhancing the standards of care and income for pensioners in Australia, and it is a record of which both Governments can rightly be proud. In order to obtain a complete reply for the honourable member on these questions, I will refer them to the Minister for the Aged and bring back a reply.

REFRIGERATOR RATINGS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister for Environment and Planning, a question about refrigerator efficiency.

Leave granted.

The Hon. M.J. ELLIOTT: We have seen a good deal of publicity in South Australia recently on the energy rating system whereby ratings are attached to refrigerators sold in South Australia. This move has been applauded in many quarters but could be misleading to the public. Downstairs in Parliament House, in what is known as the Blue Room, we have a refrigerator and, having examined the label, I noted that it had a four-star rating on the scale of one to six. One would therefore expect a four-star rating to mean that it is quite efficient.

The efficiency of refrigerators is measured by dividing the annual electricity consumption by the storage volume. The Blue Room refrigerator, with a 500 litre capacity, is rated at 2.34 kilowatt hours per litre and as such is rated with four stars. Ratings go up to six stars but apparently in South Australia only two refrigerators available for purchase attract a six-star rating. By South Australian standards the Blue Room fridge is quite efficient but by overseas standards it is appalling. A mass-produced refrigerator in Denmark with a capacity of 470 litres had a rating of .4 kilowatt hours per litre. That is one-sixth of the four-star rated refrigerator we have here.

The average quality 570 litre fridge sold in the United States is rated at 1.3 kWh/litre. That is almost twice as

efficient as the South Australian four-star refrigerator. However, in the United States efficiency is enforced by legislation. Increased efficiency is achieved by modifications to the design of the appliance, including making the insulation in the walls thicker and dispensing with the need for a compressor, which is a major consumer of electricity.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: In response to the ludicrous interjections made by the member opposite, I point out that the ratings are done at a standard temperature, and therefore it does not matter where it works; it just means that in South Australia the inefficient fridge becomes even more inefficient.

These modifications, which have been carried out in the United States, have not necessarily added to the manufacturing costs or the retail price of refrigerators. Research in the United States and Denmark has suggested that it will eventually be possible to get fridges down to .1 kWh/litre.

In Britain it has been estimated—and this is quoting from an article from a major science magazine—that fridges and freezers alone use £1 billion worth of electricity each year. It is also considered that, if this were to come from coal-powered power stations, about 15 million tonnes of carbon dioxide would be produced each year. The implications on the greenhouse effect of inefficient, energy-consuming household appliances is astounding.

South Australia's electricity also comes from coal-powered stations and, although our population and therefore number of household fridges and freezers is not as large as Britain's, the implications of inefficient fridges are alarming. A reasonable ball-park estimate for South Australia is that household refrigerators and freezers use $100 million worth of electricity each year, and result in the production of half a million tonnes of carbon dioxide. That could be at least halved if we were using fridges with the efficiency of those in the United States.

However, that will only work when South Australians are given a choice, including the most efficient fridges available. There is a considerable gap between the most efficient refrigerator available here and those available and being developed elsewhere. While that continues, market pressure will not, and cannot, get us and the refrigerator manufacturers to where we should be in energy efficiency. Time is also a factor. The greenhouse effect is making it imperative that we cut down our energy consumption now. It has been argued that market forces will simply not work rapidly enough. My questions to the Minister are:

1. Is the Minister aware of the vast differences in efficiency of appliances available in South Australia and those available in other countries?

2. Has the Government considered setting base efficiency standards for refrigerators and other domestic appliances as has been done in the United States, and using those standards to ban appliances which do not come up to scratch?

The Hon. ANNE LEVY: I will refer that question to my colleague in another place and bring back a reply.

PORT ADELAIDE COUNCIL

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question about the Port Adelaide council.

Leave granted.

The Hon. J.C. IRWIN: Further to my question to the Minister of Local Government yesterday, I wish to raise further matters for the consideration of the Minister. I am advised that the rate setting procedures of the Port Adelaide council for the 1990-91 year may have been irregular. Yesterday I alluded to the fact that the flower farm budget was not available when the rates were set and was not adopted for two months after the budget was set. Further, my advice is that the rate in the dollar was adopted first, after which the figures for the assessed value of the various properties was given by the Chief Executive Officer. Section 171 (1) of the Local Government Act, under the heading 'Valuation of land for the purpose of rating' provides:

> A council must not declare a rate for a particular financial year without first adopting the valuation . . . for rating purposes.

Further, regulation 7 of the Local Government Act under 'Reconsideration of Estimates', indicates that the Chief Executive Officer must, on at least three occasions in each financial year, cause to be laid before the council a statement comparing the council's estimated income and expenditure with its actual income and expenditure. I am advised that this has not been the practice of the Port Adelaide council. Of further particular concern is the matter raised with me concerning an area of land in Port Adelaide known as harbourside land.

This land was purchased in 1986 for $1.3 million. Council discussed two avenues of financing the purchase—one with Westpac and one with the Local Government Financing Authority. Both were rejected in favour of providing the finance from the council's own overdraft. This was in 1986 and it is still on overdraft in mid-1990. In 1988, the local sub-branch of the ALP in Port Adelaide raised concerns with the council. The answer, in part, from the council's CEO was as follows:

> I refer to your letter of 9 May 1988 in which you conveyed that your sub-branch has expressed concern regarding the purchase of land on the eastern side of the Old Port Reach.
>
> First, the council has not taken a loan for the purpose; it is funded on short-term finance because it was, and is, proposed to resell in the short term.
>
> As you will be aware, the council purchased the land, has parcelled it with the State Government-owned land on the east bank of the river, and the State Government has added to that, for the purposes of the overall potential development of the site, the river between the two bridges and that part of the west bank owned by the Government.

Further in the letter it is stated:

> There have been reasons beyond the control of the council and the Government; that is, principally the stock market crash of October 1987, which has impeded progress. However, I express my own confidence that, particularly in the long term, the council's involvement in the project will be justified in both economic and social returns.

The area involves about 3.5 hectares of council purchased land and about 17 hectares of Crown land. So, the sub-branch was informed about market conditions which were making things difficult two years after the property was purchased. I understand the council is negotiating with a company called Pennant Holdings Ltd, a Perth-based company, which is in a precarious financial position, as its share market price has fallen to 6c today. An indenture agreement was to be signed on 11 May 1989 with per week penalties for non-signature by Pennant, which would amount to $379 000 by now if the indenture had not been signed.

The council income for rates is said to have increased by 4 per cent. The total rate income for 1990-91 increase was near 20 per cent, so commercial ratepayers must have a huge hike in rates. The council has borrowings in excess of $12 million and a rate revenue last year of $9.4 million. By any calculation, the $1.3 million purchase price hidden in overdraft, and the aggregated purchase price plus interest at $1 000 per day, amounting to $2.3 million, again hidden in overdraft over 4½ years, would escape ministerial approval required under section 197 of the Local Government Act.

The Minister for Environment and Planning has been aware of negotiations regarding the harbourside land at least since November 1988. So, too, have other Ministers, because the Government has an interest in some of the land—as I have outlined. Therefore, I ask the following questions:

1. Is the Minister aware of the Port Adelaide council's harbourside land deal?

2. Has the Minister for Environment and Planning or any other Minister discussed the harbourside land issue with the Minister of Local Government or her predecessor?

3. Does the Minister approve of the Port Adelaide council, or indeed any other council, hiding in overdraft borrowings of that magnitude that qualify for ministerial approval, being thus hidden from the Minister? Is this a proper accounting practice? Does the Minister approve of it?

4. Will the Minister add the matters I have raised in this question to those that she said she would look at yesterday?

The Hon. ANNE LEVY: To answer the last question first, I am not aware of any details regarding the affairs of Port Adelaide council. Unless a council is breaking the provisions of the Local Government Act, I do not regard it as proper for me to interfere with council business. I am sure that the honourable member opposite would be the first to complain if I started interfering with what is proper council business.

Councils undertake all sorts of projects; they sell and buy assets and they undertake all sorts of such activities without it being drawn to my attention. Indeed, there is no reason in the vast majority of cases why it should be drawn to my attention. They do require my permission if they wish to sell off reserves. I have frequently received requests for permission to sell off council reserves. Usually they are small parcels of land that a council has found to be surplus to its requirements. I reiterate that I do not make it a practice to inquire into the detailed affairs of each of the 121 councils in this State. It would not be appropriate for me to do so.

I have no intention of interfering unnecessarily in the affairs of responsible local government. Certainly, the Minister for Environment and Planning has not had any discussions with me on this matter. Whether approaches were made to the previous Minister of Local Government, I have no idea. I suggest that a question be asked of her, or of any of the previous Ministers of Local Government, including the Hon. Murray Hill, in respect of the period when he was Minister.

The Hon. J.C. Irwin: Don't you record that information in the files? That was years ago.

The Hon. ANNE LEVY: There have been many Ministers of Local Government. I do not have any notion as to what period—

The Hon. J.C. Irwin interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I do not know to which period the honourable member refers.

The Hon. J.C. Irwin: I said November 1988.

The Hon. ANNE LEVY: In November 1988 I was not the Minister of Local Government.

The Hon. J.C. Irwin: The files of your predecessor would be able to tell you—if you asked her.

The Hon. ANNE LEVY: I have not asked my predecessor. If the honourable member wants information from my predecessor, I see no reason why he cannot ask her. I have not examined every file on every one of the 121 councils in this State.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: I have answered the fourth part of the honourable member's question, but I reiterate and make clear to all members of the local government community that I do not regard it as my role to inquire into what is their business. I do not intend to make detailed inquiries of every council concerning what is their proper business. If there is ever a suggestion that the Act is not being complied with, I will investigate and take appropriate action. That has been made clear on many occasions.

If the honourable member has concerns about Port Adelaide council, I have said I will investigate his claims, although I understand that the Port Adelaide council has issued a flat denial of some of the allegations that he has previously made. Certainly, I will consider whether there has been any flouting of the Local Government Act and bring back a reply.

BENEFICIAL FINANCE CORPORATION

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Premier, a question relating to Beneficial Finance Corporation.

Leave granted.

The Hon. I. GILFILLAN: Beneficial Finance Corporation is a wholly-owned subsidiary of the State Bank of South Australia, which in turn is owned by the State Government. The public expects the Government to set an example of integrity and ethical practice when it, or a branch of it, operates on behalf of the people of this State.

Beneficial Finance Corporation, through the State Bank, is a semi-government agency. In 1985 Beneficial Finance Corporation in New South Wales signed contracts with a businessman, Mr Michael Bourke, concerning the mortgage of 80 acres of heavy industrial land in the Maitland area. The land in question had been valued at the time by Beneficial's own valuer at $400 000 while an independent valuation suggested the land value was closer to $350 000. I ask honourable members and the Minister to take note of those figures—$400 000 and $350 000.

Mr Bourke subsequently mortgaged the land through Beneficial, borrowing $320 000 and using the land as collateral. Some time later Mr Bourke was unable to meet a mortgage payment and Beneficial took the heavy-handed step of foreclosing on Mr Bourke.

What followed has been described to me as immoral, and possibly criminal, because Beneficial then sold the 80 acres it held through Mr Bourke for just $45 000, one-twelfth of the market value that it had placed on the land.

The developer who purchased the land immediately sold off 25 acres of the 80-acre package for half a million dollars; and the remaining 55 acres are currently on the market for in excess of $1.3 million. It would appear that the total market value for the 80-acre package is more than $1.8 million, yet Beneficial Finance sold the land for just $45 000. I ask the following questions:

1. Was this action of Beneficial Finance brought to the notice of the Premier?

2. Will the Premier determine if the Managing Director of the State Bank and Beneficial Finance board member, Mr Tim Marcus Clark, knew of this action by Beneficial Finance Corporation?

3. Did the board of BFC know of this action and, if not, why not?

4. Was there any relationship between this action by BFC and/or others like it and the dismissal of two senior exec-

utives of BFC last month, one of whom was Mr Baker, the Managing Director?

5. Why was there such a wide discrepancy between the price that BFC sold the land for, its own valuation and the apparent current market price?

6. Did BFC act deliberately to undersell the land so as to force Mr Bourke into bankruptcy and gain access to his other assets?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

SMALL BUSINESS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Small Business a question on a recent business survey.

Leave granted.

The Hon. J.F. STEFANI: In August 1990 Arthur Andersen and Co. published the results of a survey which was conducted amongst 2 500 chief executives of owner-managed Australian businesses, randomly selected to give an even and unbiased representation.

Honourable members would be aware that small businesses are recognised to play a vital role in our economy, leading the way in many new industries, innovations, and in the development of new jobs. Executives of small businesses have also been recognised as the driving force behind this sector of the economy.

Unfortunately, the survey indicated that 56 per cent of the companies believed that the South Australian Government did not play a proactive role in encouraging development of this State and a further 81 per cent indicated that they did not intend to direct products at tourism in South Australia. The majority of businesses believe that their actual interest rates will not drop below 18 per cent by 31 December 1990 as most of them are currently paying more than 19 per cent per annum. My questions are:

What will the Government do about the promotion of State development to increase business confidence?

Can the Minister advise what steps she is taking to direct more product lines towards the tourism and hospitality industry?

Has the Minister made direct representations to the Federal Treasurer about the devasting effects which the Hawke-Keating high interest rates policy has had on small businesses?

The Hon. BARBARA WIESE: I am not aware of the size of the sample of the Arthur Andersen survey, but it disappoints me that there should be that sort of proportion of people in South Australian business circles who are not aware of the work that is being undertaken by the South Australian Government in encouraging economic development of all kinds in this State since we were elected to Government in 1982. In fact, if those representatives of businesses took it upon themselves to seek information, they would discover that a great majority of the new economic activity that has taken place in this State during the 1980s has been generated either by the State Government or by the State Government working in conjunction with people in the private sector.

Previously in this place I have talked about the range of new manufacturing industry operations that have begun in this State as a result of the direct intervention of the State Government in showing leadership and facilitating such developments. I have also previously talked about the explosion in new high technology industries that has taken place with the direct involvement and encouragement of the State Government working through its various agencies.

In the tourism area, too, people would see, if they bothered to look at the record and to assess these things, that, during the course of this State Government's period in office, more tourism development and activity has been generated than has ever occurred in South Australia's history. Against that sort of backdrop it certainly disappoints me that the Hon. Mr Stefani comes into this place asking a question of this kind and giving his endorsement to the statements that seem to be recorded in an Arthur Anderson survey. I hope that the Hon. Mr Stefani, in his involvement with business people in South Australia, will assist me and other Government members to set the record straight.

PUBLIC TRUSTEE

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about the Public Trustee.

Leave granted.

The Hon. J.C. BURDETT: In May 1989 there was a review of the Guardianship Board and the Mental Health Tribunal. Under the Mental Health Act, when orders are made to protect those who are in need of such protection, the administration of their affairs is, except in exceptional circumstances, given to the Public Trustee. The report, among other things, stated:

> The issue raised most frequently in relation to administration orders refers to the perceived inefficient handling of estates by the Public Trustee. The delays in attending to the needs of clients and caregivers has been acknowledged by the board and the Public Trustee. However, despite meetings between both parties, the situation does not appear to have improved. The review team is informed by Public Trustee that the delays and inefficiences are due to inadequate resources and training in the Public Trustee Office.

Recently a number of matters have been brought to my attention by constituents, some of whom are on the receiving end and some of whom are legal practitioners, particularly in circumstances where a person in respect of whom a guardianship order had been made had died and the solicitor who was endeavouring to administer the estate could not get from the Public Trustee details of the estate within a reasonable period.

In view of this, and as the report was released about 16 months ago, I ask whether anything has been done to address this situation of apparent under-resourcing in the Public Trustee Office to deal with guardianship orders. What is the Minister doing about this, as it certainly appears to be a perceived problem to constituents?

The Hon. BARBARA WIESE: I am aware of the report and its findings as it relates to both the question of resourcing and staff training for people in the Public Trustee Office, and the shortcomings that have existed in the past with respect to dealings with members of the public on some of the issues that the honourable member has outlined. In fact, I have been assured by Public Trustee officers that these matters have been receiving attention. Certainly, the question of resourcing has received action, and the Public Trustee has embarked on a program of staff training so that inquiries from members of the public can be handled in an efficient and effective manner. However, to provide more up-to-date information for the honourable member about the actions that are being taken to ensure a satisfactory and caring service through the Public Trustee, I will obtain a full report and bring it back for the honourable member.

COUNTRY RAIL SERVICES

The Hon. I. GILFILLAN: I move:

1. That, as a matter of urgency, a select committee of the Legislative Council be established to—
   (a) inquire into Australian National's conduct of South Australia's country rail services and;
      (i) to investigate previous management and future plans for passenger services intrastate;
      (ii) to investigate previous management and future plans for freight services intrastate.
   (b) consider the role of the Federal and State Governments in the provision of rail services in South Australia.
   (c) make any recommendations considered effective in improving rail passenger and freight services to the people of South Australia.
2. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence or documents being reported to the Council.

In 1975 the South Australian Government signed an agreement with the Federal Government which effectively handed over the running of the State's non-metropolitan railways to Australian National. Known as the 'Railways Transfer Agreement', it was officially gazetted on 30 October 1975 after being signed by the then Premier, Don Dunstan, and former Prime Minister Gough Whitlam. At the time, the agreement was seen by many as a significant step towards lifting from the State the burdens of an ever-increasing debt, the result of years of poor rail management and a general running down of the rail system. The Federal Labor Government under Mr Whitlam had, as part of its overall political agenda, a wide-ranging plan to up-grade and expand Australia's rail infrastructure.

Within the context of that plan, the transfer agreement seemed to be appropriate at the time and provided for Australian National to effectively expand and redevelop the State's rail system as part of a greater national program of expansion. Fifteen years later the political agendas of both the Federal Labor Government, under the tutorship of Prime Minister Hawke, and South Australia's Bannon-led regime, have changed. The structure and priorities of the national rail system no longer apply in the same way as 1975; in fact they have changed so significantly that the very nature of the transfer agreement must be called into question. The Hawke Government has consistently downgraded the importance of rail within its list of political priorities since it first came to office in the early 1980s. Nationally, it has turned spending on rail completely around, from a high of more than $65 million a year in 1982-83, to virtually zero in the current financial year.

The impact on South Australia's intrastate rail network has been disastrous with AN consistently downgrading rail lines by closing large sections of the country network, ripping up lines, selling off vital rail infrastructure, slashing jobs, withdrawing passenger services and, generally, destroying a system built-up since the turn of the century. The State Transport Authority has maintained Adelaide's metropolitan rail services, although some may argue about the effectiveness of that, but the State Government has consistently stood by and watched Australian National dismantle the remainder of the State's network. Its defence has been to refer to the transfer agreement and claim that its hands are tied and that it can do little to prevent the destruction of the State's rail system. This course of inactivity must now be challenged because the transfer agreement does contain provisions to allow the Transport Minister, acting on behalf of the STA, to oppose much of the action taken in recent years by AN. Downgrading of services, dismantling and closing rail lines and withdrawal of passenger and freight services cannot be taken by Australian National without the agreement of the State Transport Minister and his Federal counterpart.

Section 9 (1) *(a)* and *(b)* of the transfer agreement gives the State Transport Minister the authority to oppose any closures or reductions in services by AN and, in so doing, send the matter to arbitration. This has not been done in recent years by the South Australian Transport Minister, who has, in effect, given full and unqualified support to the actions of Australian National. In the light of what is now generally perceived by the wider community to be a complete 'sell-out' of South Australia's rail services, the apparent collusion of the State Government and Australian National can no longer be tolerated. Throughout all this, AN has consistently denied that it was planning to downgrade South Australia's rail network. Yet this year alone we have seen the withdrawal of passenger services between Adelaide and Mount Gambier and a reduction in the efficient scheduling of services from Broken Hill and Whyalla.

Australian National has denied that it has a hidden agenda which includes the abolition of all intrastate passenger services in South Australia and has shrouded its moves through the dubious use of statements on track maintenance, inadequate rolling stock, effective reduction in public demand, and so on. Despite a barrage of questions from a wide range of diverse groups such as politicians, rail unions, metropolitan and country media and special interest groups such as Rail-2000, AN has denied that it is intending to close down our passenger services. However, the speculation surrounding AN's policy towards South Australia came sharply into focus in Canberra a week ago when the Federal Land Transport Minister, Bob Brown, admitted in the national Parliament that he had received a submission from Australian National requesting permission for it to close all intrastate passenger services in South Australia.

Finally the cat had been let out of the bag and AN had been exposed. In addition, it appears that the policy by AN to close our passenger services was in the pipeline more than eight months ago, yet AN management consistently misled the people of this State about the future of South Australia's rail network. The problem with AN's handling of rail in this State is not confined to passenger services: it extends to freight as well, in a most dramatic and dangerous way.

In the past 12 months I have read a litany of exasperated headlines in a wide range of South Australia's media signalling the direction AN has been heading with our country rail freight services. I refer to the following: 'AN cuts grain haul services', *Northern Farmer,* October 1989; 'Wallaroo Railway Link to be Closed', *Stock Journal,* January this year; 'Last Train for Hallett', *Northern Argus,* December 1989; 'Country Rail in Crisis', *Stock Journal* earlier this year; 'The Grain Drain', *Rail Australia,* June this year; and 'Rail, the System Loses Steam', *Advertiser,* May 1990. The list goes on, yet Australian National continued to deny that it was effectively destroying South Australia's rail network and the State Government pleaded ignorance, hiding behind the transfer agreement as impotently as a gelding stands alone in the company of stallions.

Throughout AN's stewardship over South Australia's rail network, it has targeted 'economic considerations' as its number one priority and has often taken steps to ensure that some services cannot be effectively maintained, thereby presenting it with the excuse to close a line, reduce a service or cut jobs. Yet the transfer agreement places as much importance on social and community factors as it does on economic considerations, something that has been com-

pletely overlooked by both AN and the State Government. The legislation states that 'social and community factors are to be considered'. In the area of freight handling in this State we have seen a continued shift away from rail to road, a move that has in many instances been encouraged by AN.

Recently, the South Australian Cooperative Bulk Handling Authority announced that it would continue to shift more grain-freight from rail to road so that within three to five years time virtually all grain handling from the growing areas of South Australia would be by road and not rail. It claims it is far more cost effective to do so, yet the cost to the community is enormous.

In the district council area of Mount Remarkable the Highways Department earlier this year spent $7 million upgrading a main road to cope with the huge increase in semitrailer traffic that has resulted from the shift from rail to road. During this time traffic was diverted to many secondary roads in the council area, a move that has destroyed much of the road surfaces and left the council with a road-repair bill running into millions of dollars.

More startling is that since the multi-million dollar completion of main road upgrading in the area by the Highways Department and the subsequent return of traffic to that road, it, too, has begun to crumble beneath the weight of an extraordinary and massive increase in semitrailer traffic. This occurred very soon after the expenditure of the $7 million to get it ready for that traffic. I understand that near the Mid North town of Murraytown a large section of the newly upgraded main road needs a complete rebuilding since semi-trailers hauling grain began using the road just two months ago. The cost, of course will be borne by the humble taxpaying public of South Australia, who continue to subsidise the operations of the big trucking companies by paying through taxes for road repairs.

Meanwhile, Australian National is free to close down more regional rail lines and dismantle our ever dwindling State rail infrastructure. An upgrading of the rail line in the Mount Remarkable area to cope with any increase in grain traffic could have been achieved at a cost of $5 million. The return on that investment in the rail system would have been of major significance to the community, unlike the $7 million spent by the Highways Department and the countless millions extra it will have to continue to pour into the road to maintain it. Last year alone, the shift from rail to road by grain handlers pushed an extra 10 000 semitrailers onto our rural road network; the cost of the move is almost incalculable. The damage to roads, the environment, accidents, stress on emergency services and a spiral in fuel consumption cannot be over-emphasised.

Much of the responsibility for Australian National being allowed to get away with such a destructive policy towards South Australia's rail network lies with the State Transport Minister. Under the Transfer Agreement, section 7 of Part II, 'maintenance and operation', clearly states that all non-metropolitan services must be maintained and operated, in all respects, at least equal to those in service in other States, whether operated by AN or not! A call to close passenger services and the closing of grain lines and dismantling of others is, without doubt, a direct breach of the agreement. The most recent example of this type of breach is the removal by AN of sleepers from the Blyth-Brinkworth-Snowtown line, a former grain carrying facility which was closed by AN two years ago.

AN's current action of dismantling part of the line renders it virtually unusable and it has done so without seeking consent from the State Government, a course of action which has reached scandalous proportions. In Queensland and Western Australia in recent years passenger rail services have increased and there has been a marked upsurge in public demand because of aggressive marketing and promotion of services by the relevant rail authorities. Here is a lesson from fellow States to South Australia on what can be done with a little enthusiasm and effort. Under the terms of the agreement AN has allowed similar services in this State to become run-down and in many cases defunct. How has Australian National been allowed to get away with this type of destructive policy? The answer is simple: with the tacit support of our State Government, standing silently in the wings.

I emphasise that it seems hypocritical that both Federal and State Governments are currently making substantial statements that we should be reducing the greenhouse gas emissions and that rail is a preferred form of transport not only for that reason but also for reasons of safety, efficiency, and so on, whilst at the same time they are sitting on their thumbs while their prodigy, AN, under an injunction to run at a profit, is slashing the services and destroying the rail service, which will virtually mean that we will lose that asset forever.

The time has come when rail services in South Australia have reached crisis point. AN is not administering our rail in line with the interests of the people of this State. The conduct of AN in relation to country rail services must be seriously questioned. The management of AN as it relates to South Australia must be investigated and a range of recommendations about the future of our rail must be considered. The very nature of the transfer agreement and how it relates to South Australian rail services in the 1990s must be re-examined. As a matter of urgency I call on members of the Legislative Council to support the motion for a Parliamentary select committee to investigate Australian National and its handling of South Australia's rail services.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

The Hon. K.T. GRIFFIN obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935. Read a first time.

The Hon. K.T. GRIFFIN: I move:

That this Bill be now read a second time.

Before identifying the particulars of the Bill, I put on record my appreciation of the support of the Council for the introduction of this Bill without notice. I sought that concurrence as there is now a select committee in the House of Assembly considering the issue to which this Bill relates and it is important to have the Bill on the table for consideration publicly and in the context of that select committee.

The policy of the Liberal Party at the last election was that we would undertake a review of the law relating to self-defence. We promised that review recognising widespread community concern that rights to defend oneself or another or to protect property were being whittled away. We recognised also the confusion in the minds of ordinary people as to their rights in those circumstances of threat.

Many people have expressed to me concern that their rights are not clear. If a person at home is suddenly confronted by an intruder, or arrives home to find an intruder in the house, or is threatened by another person in the street, what should that person do? In the heat of the moment, there is no time to rationally assess the situation

and make a judgment about the best way to handle the situation. It is after the emergency that the 'what ifs' begin to emerge. And it is after the event that some sense of calmness may prevail.

Ordinary people with perhaps no experience of the law and inexperienced in dealing with threats or intruders cannot be expected to make a balanced judgment about the degree of force, if any, which should be used and the consequences of using the force in fact used.

Public concern is high: the fact that Mrs Carol Pope and Mrs Ewers can get over 40 000 signatures on petitions to the Legislative Council praying that action be taken on the law of self-defence and protection of one's property is evidence enough of that concern. One need only listen to talkback radio programs, particularly late at night, to appreciate the strength of feeling.

Having raised this issue at the last State election, the Attorney-General calmly said there was no problem with the law. It is a significant turnaround that the Government has proposed a select committee to consider the law. I doubt whether it is necessary, but we have supported it and hope that it achieves some changes in the law and that it is more than I suspected the motivation for it may be, namely, to keep Mrs Pope and her petitioners quiet and make it appear that something is being done.

There are a number of examples where there is something wrong with the law. The Attorney-General has said we did not disclose them in the election campaign. We did, but he chose to refer to only one example, which he beat up, not us. There is the well publicised case of Mr Leon Hutton of Encounter Bay. He lived in the township but owned a farming property from which tools, plant and equipment were disappearing. He decided to stay at the farm property watching his shed overnight. In the early hours of the morning, sitting in his car, he saw a group of youths getting out of the shed window, loaded with some of his tools. He challenged them, they advanced towards him, he fired a shot from his rifle behind him, and they ran off. He was subsequently convicted of unlawful discharge of a firearm. I would have thought that any reasonable person would regard his behaviour as quite appropriate. The victim, though, became the offender.

In a country town a respected businessman was threatened with prosecution for having fired a rifle over the heads of a mob harassing his son. The son drove into the driveway at night, a mob surrounded the car and was threatening, the businessman fired a shot over the heads of the group and they dispersed. He was threatened with prosecution by the police. A decision was taken subsequently not to prosecute him but he was warned never to do it again.

There are some cases where charges have not resulted but where warnings have been given. An elderly couple heard glass breaking late at night and, when they went to investigate, saw two young men, one inside and one just outside their house. The husband threw a pot plant at the intruder who fell against the broken window and cut his hand. The wife rang the police and, after telling the police that the intruder had cut his hand in the circumstances which I have outlined, she was told by the police that her husband would most likely be charged with assault. Fortunately, nothing further came of that.

A woman caught three teenagers in her garage stealing tools and one was pulling out a radio cassette from her motor car. She tackled them with a hockey stick, was thrown to the ground and kicked in the head and shoulders by all three. They then ran off and when her daughter telephoned the police she was told that her mother could be charged with assault with a dangerous weapon. Fortunately, again nothing further came of that. My colleague, Mr Graham Gunn (the member for Eyre), has had a number of examples of, unfortunately, victims becoming offenders through being charged in similar sorts of circumstances. He outlines some of those in his Address in Reply speech in this session of Parliament.

There are examples interstate where the law is the same as in South Australia. In Western Australia a truck driver in Hall's Creek had a load of beer on the back of his truck. He discovered people stealing the beer from the truck. He unsuccessfully tried to stop them. He locked himself in the cab of his truck and when he felt threatened he produced a rifle and decided to use it to disperse the people helping themselves to free beer. He was subsequently charged with an offence which, as it turned out, was in relation to an unlicensed firearm.

In Western Australia, a contractor in a country area living away from any township was frequently away on business leaving his wife and children alone in the home. When the contractor was away some of the local young people sought the opportunity to help themselves to fuel and tools from his shed. On one occasion these people intimidated his wife and children. On an occasion when the contractor was at home, but his vehicle was elsewhere, the offending youths came for their regular theft of fuel. The contractor decided that the appropriate action was not only to frighten the thieves away but also to ensure that they would not return in future when he was away on business again. On a previous occasion they had been armed and had threatened his family. Knowing this, he fired a shotgun in the air aiming well away from the thieves but unfortunately either a pellet or a bullet ricocheted off something and hit one of the thieves. There was never an intention to cause bodily harm and the gun was used purely to frighten the youths. In those circumstances the contractor was charged with assault.

Other examples have been drawn to my attention periodically but these will suffice to identify the particular problem. One other aspect of this matter which members of Parliament have had raised with them by constituents relates to the possession of guard dogs to protect themselves. This is particularly relevant to older people who wish to have some comfort and security in their own home. They are concerned about circumstances where a guard dog may bite an intruder but, never the less, they have strict liability under the provisions of the Dog Control Act, even though the person who may be bitten is an intruder and may have been threatening them. This is an issue which I would hope the select committee in the House of Assembly might address in the context of its overall review of the law relating to self-defence and defence of one's property.

To some lawyers the law relating to self-defence might be quite simple and straightforward. However, it is not so to ordinary people who have no knowledge of the complexities of the law and of the basic principles of the law so far as it relates to self-defence. Mr Justice Wells, as he then was, in the Supreme Court case of *Morgan v Coleman* said:

> The law relating to self-defence should always be stated in a form that can be readily understood by men and women in the street, in the home, in the jury box and in courts of summary jurisdiction. All that should be called for in its application is an understanding of human nature, fairness and common sense.

Mr Justice Wells also said:

> It is both good sense and good law that where a person is subjected to, or genuinely fears, an attack (which may take the form of unarmed violence or the use of a weapon) he may use force to defend himself.
>
> It is both good sense and good law that, for the purposes of his defence, that person may do, but he may only do, what is reasonably necessary for the purpose, having regard to all the

circumstances as he genuinely believed them to be at the time. If he does no more than is reasonably necessary in those circumstances, then such force as he employs is justifiable and lawful. If, in those circumstances, force by way of defence is not called for, or if, though some measures of force is warranted, he plainly oversteps the mark and uses force that is not reasonably necessary then what he does is unlawful. That is the general rule.

Quite rightly, the judge says that self-defence can never be made a cover for aggression. He uses the example of a person provoking or deliberately leading another person to attack and then using that attack as an excuse or pretext for attacking the other person. In those circumstances, the person provoking or leading cannot claim self-defence.

In addition, the judge says that self-defence can never be called in aid to justify retaliation or revenge if the danger is over. The judge also says that the force used must not be disproportionate to the necessities of the situation, but here the complexity arises because he says:

In determining what were the circumstances that a person believed to exist, and whether he believed that it was necessary to act in self-defence, regard may be had to the grounds of that person's belief and whether or not they were reasonable. The reasonableness or the reverse of such grounds is not, of itself, decisive of the existence or non-existence of the belief.

It is this which really causes concern because many people confronted with a situation of danger may have a particular belief about what might happen yet an objective assessment might determine that the concern was not reasonable. While one applauds the statement of the law by Justice Wells it does raise some concerns for ordinary people who, of course, will not have those principles before them and, in any event, might still be compromised by them in circumstances where their reaction to a threat or a perceived threat might be reasonable. Of course, one cannot dispense with the concept of reasonableness or proportionality completely but at the moment it appears to assume an unrealistic prominence.

In Tasmania, the Criminal Code was amended in about 1986 or 1987 to establish a comprehensive code relating to defence of one's property and oneself as well as other property and other persons. I recognise that there are dangers in codification of the criminal law in particular but it seems appropriate that for some areas, such as self-defence, such codification may provide better guidance to the community. Coupled with the competency of education programs and material available whether in video, printed or other form, there should be a much better appreciation of the limits of one's rights. I would hope that the Tasmanian Criminal Code, part of which forms a basis for my Bill, might be taken into consideration by the House of Assembly select committee.

The Bill which I now introduce seeks to provide clearly the circumstances in which one can defend oneself. The force which may be used must be reasonable in the circumstances as they actually exist or as the person believes them to be. In respect of defending one's property, force may be used where it is reasonable in the circumstances as they actually exist or as the person believes them to be. That right to defend property is a right to defend from unjustifiable interference. Unjustifiable interference is addressed by including any act performed without lawful excuse that could result in the property being removed from the possession or control of an owner of the property or any other person who has or who is entitled to immediate possession or control of the property or any act that could damage or destroy the property or any part of the property.

Where there is a belief that a person has entered or is about to enter land or premises for the purpose or committing an unlawful act against any person on the land or premises or causing unjustifiable interference with any property, he or she is justified in using force to remove the person from the land or premises or to prevent a person entering.

The force that may be used is such force as is reasonable in the circumstances as they actually exist or as the person believes them to be. The concepts embodied in this Bill do alter the law relating to defence and provide a little more emphasis on the rights of the person seeking to protect himself or herself or property rather than giving so much weight to the rights of the alleged criminal. I commend the Bill to honourable members.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

SELF-DEFENCE

Adjourned debate on motion of Hon. Diana Laidlaw:

That this Council notes the petitions presented by 39 242 residents of South Australia concerning the right of citizens to defend themselves on their own property and praying that the Council will support legislation allowing that action taken by a person at home in self-defence, or in the apprehension of an intruder be exempt from prosecution for assault.

(Continued from 22 August. Page 462.)

The Hon. K.T. GRIFFIN: Having introduced a Bill relating to the law on self-defence, I do not intend to speak at length on this motion, except to commend Mrs Carol Pope and her colleague Mrs Ewers for their initiative in putting into practice the concerns they had about the law relating to self-defence. I commend them for their efforts in gaining well over 40 000 signatures on a petition that has been presented to this Council.

It is important for citizens who have a concern about issues to be able to marshall public support. Sometimes they will find little response publicly but, on this issue, Mrs Pope and her colleagues have found a significant measure of support from the community, which is concerned about rights and about protecting themselves and their property. The efforts that they have made to bring this matter to the public attention and ultimately to the Parliament, which is their right, is indicative of the power that citizens have if they can manage to galvanise public support and reaction.

In supporting the motion to note the petitions that have been presented to the Council, it is important to recognise the public nature of the concern and to record my appreciation for the support that they have given to initiatives that the Liberal Party was proposing at the last State election. I have pleasure in supporting the motion.

The Hon. DIANA LAIDLAW: I thank the honourable members who have contributed to the debate on this motion. It is important that honourable members take the time to listen to the wishes of constituents and the general public, particularly in instances where they take the trouble to organise petitions and, in this case of Mrs Pope and Mrs Ewers, to gather well over 40 000 signatures.

I note that the Government has been prompted to act in this matter by forming a select committee in another place. My own view remains that the select committee is an unnecessary move and that it is clear that there are options for moving a Bill to address this matter at this present time, without distracting members in having to attend select committees. However, I appreciate that that select committee has been established. I also commend the Hon. Mr Griffin for introducing a Bill to address this matter. It is a constructive reform. Of course, it will be looked at by the select committee.

I am pleased to see that at least the Liberal Party has been able to come to terms with this issue in a legal sense and that we have introduced a Bill in this Council. I again commend Mrs Pope and Mrs Ewers, and I indicate to all those who have signed the petition that their efforts have not been in vain. Members in this place have listened and by various methods have sought not only to address this matter here but also to look for constructive ways in which a very real community concern can be addressed for the community benefit.

Motion carried.

WORKCOVER

Order of the Day, Private Business, No. 9: Hon. K.T. Griffin to move:

1. That a select committee of the Legislative Council be established to consider and report on the operation of the Workers Rehabilitation and Compensation Act and its administration.
2. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.
4. That Standing Order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

The Hon. K.T. GRIFFIN: In view of the establishment of a joint select committee on this topic of workers rehabilitation and compensation, I move:

That this Order of the Day be discharged.

Motion carried.

ASH WEDNESDAY BUSHFIRES

Adjourned debate on motion of Hon. K.T. Griffin:

1. That a select committee of the Legislative Council be established to consider and report on the nature and content of claims and the circumstances leading to the settlement of those claims against the Stirling council arising from the Ash Wednesday 1980 bushfires including, but not limited to, the nature and extent of the involvement of the State Government in the events leading to such settlement, the procedures leading to the settlement, the quantum and basis for the settlement of the claims, and the circumstances leading to the appointment by the Government of an administrator.
2. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.
4. That Standing Order 395 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 22 August. Page 470.)

The Hon. R.I. LUCAS (Leader of the Opposition): I support the motion and also place on record my support for the considerable amount of work done on this important issue by my colleague the Hon. Julian Stefani. As members have been aware, there has been much controversy on this issue. In my view and certainly in my Party's view the only real way to resolve the claims, counterclaims, rumour and innuendo is to support the establishment of a select committee of this Council.

In my view it is the only way that the Parliament and the community can get to the bottom of the Government's and the Minister's role in this matter. There have been many serious allegations made by various groups and people about the Government's and the Minister's role, and they need to be considered seriously by the committee and either accepted or rejected on the basis of the evidence presented to that committee.

Select committees of this Chamber have a very strong tradition, a tradition which I believe is supported by all members. On virtually all occasions select committees are able, after listening in a considered and rational way to evidence presented to them, to reach an agreed position, on behalf of the two or three parties represented on them, as to what ought to be done and recommended as regards the subject matter of the select committee.

It is generally the case that the mover of the motion or the prime instigator of the need for a select committee has strong views on the issue at hand. It is not just the case in relation to the Stirling council bushfire select committee; it has been the case with most of the select committees that have been established by this Chamber. I do not believe that, because the prime mover or instigator for a select committee has passionate views on the subject, that should preclude his or her membership of the select committee. Indeed, if it did, it would mean that on most occasions the person who has done the most work to bring about or prove the need for a select committee, and to convince the majority of members of this Chamber that there is a need for a select committee, could not be a member of a select committee. That is not a view that I share.

I think that my colleague, the Hon. Trevor Griffin, when he closes the debate on this motion, may have something further to put as a view on behalf of members on this side of the Chamber in relation to various submissions that were made to you, Mr President, and to me, as Leader of the Liberal Party in this Chamber, and on which you, Mr President, forcefully and quite rightly made your views known, thereby attracting some degree of publicity in the morning newspaper. Therefore, I make clear my views on that.

However, I believe that if a member of this Chamber was an active participant in the subject matter of a select committee, that the actions of that member might be subject to serious question by various people and that that member might be required to present evidence to the select committee about his or her actions on the issue, then that member ought seriously to think about whether he or she should offer themselves for membership of the select committee. I guess that in the end that decision must be taken by the individual members concerned, and finally by members in this Chamber when they make their judgment about membership of select committees.

I now want to address some remarks to the Minister's speech in response to the eloquent contributions made by my colleagues the Hon. Mr Griffin and the Hon. Mr Stefani on behalf of the Liberal Party. From my brief time in this Chamber—eight years—when a member descends into personal abuse of another member on a controversial issue, I immediately suspect that there is not too much substance in that member's contribution to the debate. My gut reaction, gained over eight years, was further vindicated having listened to and then having read the Minister's contribution in response to the speeches made by the Hon. Mr Griffin and particularly by the Hon. Mr Stefani.

The Minister descended into the gutter of personal abuse of another member of this Chamber, referring to my colleague as the Liberal Party hatchet man. There was further

unfavourable or, rather, unflattering terminology. When one considers the substance of what the Minister was attempting to portray and its accuracy and compares it with the evidence that is publicly available, one sees that there was not much substance in the Minister's contribution. I want to spend a little time addressing some of the issues that she raised.

The Minister referred to two opinions given to the Bannon Government by Mr Mullighan QC dated 22 June and 14 July 1989. Interestingly, neither of those dates coincides with the dates appearing on the four written opinions prepared by Mr Mullighan and tabled in this Chamber on 16 August this year by the Attorney-General, the Hon. Mr Sumner. It is also interesting to note that the first report prepared by Mr Mullighan was dated 4 July 1989.

In that report Mr Mullighan confirms that when he was first approached by the Bannon Government to become involved in the fast track process, he was informed that the task was expected to occupy about two months. On a very good date, 7 June 1989, the Bannon Government, through the Crown Solicitor's Office, gave Mr Mullighan three weeks in which to submit his opinion. Again, summarising that, initially the task was expected to occupy two months, and then Mr Mullighan was given just three weeks to undertake the onerous task that had been given to him. Mr Mullighan confirmed—

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: She is at it again. Mr Mullighan confirmed on 15 June 1989, the day after the Treasurer, Mr Bannon, had authorised the down payment of $4.5 million directly to the plaintiffs' solicitors, that the trial was adjourned following agreement reached between the Anderson claimants, Stirling council and the Bannon Government.

Well before that agreement was reached and put into effect, Mr Justice Olsson had acceded to the request of the plaintiffs' counsel that he should take evidence in London commencing in the last week in June. Travel and accommodation arrangements for all concerned had been booked before the fast track agreement had been reached and the trial adjourned. The Government was fully aware that those arrangements were in place before the Treasurer made the down payment of $4.5 million. Despite the turn of events, resulting from the fast track settlement process and the agreement between the parties, Mr Justice Olsson decided, at great expense, to proceed with the taking of evidence in London and left for England on about 20 June 1989. The trial was adjourned until 26 June 1989 but, of course, that date was subsequently revised.

It is important to note that in his written opinion, dated 4 July 1989, Mr Mullighan said that he was due to concentrate on the task relating to the evidence to be called in London and that the plaintiffs' legal advisers did not have proofs of any of the witnesses that they wished to call to give evidence:

1. as to the value of certain chattels;
2. as to matters relevant to Dr Casley-Smith's personal injuries claim and claim for economic loss;
3. as to matters relevant to Mrs Casley-Smith's personal injuries claim and claim for economic loss, to be given by Mrs Lawson, an expert witness; and
4. as to matters relevant to Nicolas Casley-Smith's personal injuries claim to be given by Professor Leff. Mr Mullighan said that the time that he spent in this regard substantially deflected him from the other work that he was required to undertake.

At the time of writing his report, Mr Mullighan further advised that the solicitors acting for the plaintiffs were still in England trying to complete the task of gathering evidence and that no proofs of evidence or draft statements of agreed facts as to other categories of evidence had been supplied to him by the plaintiffs' legal advisers, with the exception of a draft affidavit from Mrs Lawson. He said:

> I must say that the presence of Olsson J. in England and the consideration of averting the calling of evidence in London has created great pressure on me. I have been forced to put aside the orderly undertaking of the tasks which I have been given.

Mr Mullighan continued:

> It has been made clear to me that there is imprecision in the formulation of the claims by the Andersons clients. There is a vast amount of material to read. I could not hope to read but a small proportion of this material in the time so far available.

I think that the Hon. Mr Stefani referred to 24 or 29 boxes—

The Hon. J.F. Stefani: 29 boxes.

The Hon. R.I. LUCAS: Twenty-nine boxes of material had been made available, and here we have Mr Mullighan, QC, in effect pulling his hair out, if indeed he has hair.

The Hon. T. Crothers: Is that the Mullighan from Mullighan, Mullighan, Mullighan and Mullighan?

The Hon. R.I. LUCAS: Yes, they are one and the same. Indeed, if he had hair to pull out he would be pulling his hair out and despairing of the fact that he was confronted with 29 boxes of material—

The Hon. Anne Levy: Mr Mullighan is not bald.

The Hon. R.I. LUCAS: I just said that I did not know whether or not he was bald. I said that if he had hair to pull out he would have been pulling it out. He is not a personal friend of mine. He may well be a personal friend of the Minister's, but he is not an acquaintance of mine. He was despairing of the task that confronted him. The Government presented him with a very tight time frame, as we have referred to in earlier evidence in both Mr Stefani's—

The Hon. J.F. Stefani: Impossible.

The Hon. R.I. LUCAS: Well, an impossible time frame. That was referred to in Mr Stefani's speech, and I referred to it earlier today. It was an impossible time frame for him to consider the vast amount of material which he had before him. Mr Mullighan continued:

> My recent instructions have required me to substantially change direction in my investigations. I had intended to spend whatever time necessary to investigate the Casley-Smith claims as thoroughly as possible.

That would seem to be a very commonsense way to go about it. That is what he wanted to do. That was his original intention, but, he had been deflected from that by instructions from Government. He continues:

> I expect that to have taken at least a month. I was then prepared to concentrate on the case of Nicolas Casley-Smith before turning to the other Andersons clients. However, in view of my most recent instructions, I have to try and assess the validity of all the claims urgently in view of the continued pressure occasioned by the London situation.

Mr Mullighan continued:

> Time does not allow consideration of the matter with any degree of thoroughness.

Again, we have a situation where Mr Mullighan is despairing of the fact that the time limit within which he had been asked to comply did not allow him consideration of the matter with any degree of thoroughness—to use the words of Mr Mullighan. He continues:

> My work in evaluating the claims was interrupted by the change in instructions—

again, he is talking about these change in instructions making life difficult for him—

> and the problems arising out of the London evidence. I have no hesitation in saying that it is my opinion that the amounts claimed for personal injuries by four members of the Casley-Smith family are excessive and unreasonable and would not be awarded by

Olsson J. even if he took the most favourable view of each of the plaintiffs and their cases.

Therein lies the nub of the issue. We have Mr Mullighan, QC, after despairing about the impossible time frame within which he had been asked to work, talking about the problems he had had and the instructions being changed, and saying quite unequivocally to the Government, or to whomever else had access to this particular opinion, that he had no hesitation in saying that the Casley-Smith claims were excessive and unreasonable. Also, he said that those claims would not be awarded by Olsson J., even if he took the most favourable view of each of the plaintiffs and their cases. Mr Mullighan concludes:

I propose to further investigate the claims for costs for the liability trial and the assessment of damages, the claims of the other Andersons clients and Nicolas's claim, and give the required advice with respect to each matter as soon as possible.

From the information contained in his first written report which is dated 4 July 1989, it is obvious that Mr Mullighan had not been able to provide advice as to the settlement sum for the Andersons claims. In fact, at that stage Mr Mullighan had not been able to formulate any amount of settlement.

In the Minister's speech to Parliament, she would have us believe that on 22 June 1989 Mr Mullighan advised the Government that the Andersons claims could be settled for $9.5 million and, therefore, the Government varied his brief. That is very interesting, because this is in total contradiction to what Mr Mullighan said in his first written opinion dated 4 July 1989. Quite clearly, when one considers those two statements—one by Mr Mullighan and one by the Minister—one sees that they are in clear contradiction of each other. In my view there is no doubt that the Minister has attempted to mislead the members of this Parliament by giving the impression that Mr Mullighan was totally in agreement with the actions taken by the Bannon Government which pre-empted his written opinions.

The Minister knows only too well that the Bannon Government had placed Mr Mullighan in an impossible situation and that he has expressed his concern, as I have indicated, throughout his written reports. The Bannon Government cannot deny its involvement in this issue. Mr Bannon, as Treasurer, was fully aware of the payments that he had authorised through the fast track process. The Minister, as Minister of Local Government, was also fully aware of the fast track process because she proposed such a scheme to the Stirling council in her letter dated 24 May 1989.

We all know what has occurred. The community has the right to know what part the Government, and indeed the Minister in particular, has played in this matter. The Stirling ratepayers who are being required to pay increased rates have a right to know the details of the compensation payments. The South Australian taxpayers have a right to full public accountability by the Premier and Treasurer, Mr Bannon, on all the payments that he has authorised for the Ash Wednesday bushfire claims.

Clearly, very important issues need to be resolved by a select committee of this Chamber. As I said at the outset, and so I again reiterate, in supporting this motion, I very strongly support, and place on record my support and my Party's support for, the assiduous work that has been done so methodically over many months by my colleague, the Hon. Julian Stefani, in bringing this important issue to public attention. If one speaks with members of Mr Stefani's family one realises that they have had to put up with the honourable member and his persistence on this matter.

The Hon. J.C. Irwin: And I.

The Hon. R.I. LUCAS: And the Hon. Mr Irwin, who shares an office with him. All of us, colleagues and members of his family alike, have done so willingly and with a good-hearted preparedness to support as best we can the Hon. Mr Stefani's raising these important issues for consideration by the community and the Parliament. So, I urge honourable members to support the motion for a select committee.

The Hon. M.J. ELLIOTT: I indicate my support for the motion to set up a select committee but indicate that I will move an amendment to the terms of reference of the select committee. The Democrats are on record on a number of occasions expressing concern about the way in which the various matters in relation to the Ash Wednesday bushfire were handled. I do not think it is necessary for me to repeat those at this stage, just for the sake of taking up pages of *Hansard.*

I indicate some concern about how far debate went in this place about specific allegations concerning some people who were not able to defend themselves in this place. The Democrats had already indicated publicly outside this Chamber that we would support a select committee to examine matters in relation to the Stirling council and the Ash Wednesday bushfire, and I do not believe it was necessary for those matters to have been raised in here to the degree that they were. They could more properly have been handled in the context of a select committee where people who had allegations made about them could have defended themselves.

I am not making a comment one way or the other on the accuracy of the allegations, but I did feel that it was unnecessary in the light of the guarantee that had already been given that a select committee would be set up. The terms of reference of the select committee, as they now stand, cause me concern on two counts. First, they are far too narrow. In fact, they look only at claims made against the Stirling council and matters relating specifically to those claims, when in fact many other issues also deserve attention. I am sure that the ratepayers in Stirling feel many other matters also deserve attention. I must say that I was mystified that the terms of reference were so narrow in that regard. I only hope that this Council will be persuaded that other matters need attention. I will not go into those in detail now, but many allegations have been made to me about matters that need consideration. By way of example, there have been suggestions that there was not one fire but two fires, and an allegation—

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: Yes, but those sorts of allegations have been made, and there is no reason why they cannot at least be aired. As I said, there have been a number of other allegations but they could properly be raised within the select committee rather than within the debate to set up that committee. I am also concerned that, whilst the terms of reference are narrow in terms of concentrating on the claims made in relation to—

The PRESIDENT: Order! I find it disturbing that four members are standing while an honourable member is on his feet. I ask them to modify this behaviour a little.

The Hon. M.J. ELLIOTT: Whilst the terms are narrow in that regard, anyone who reads them would see that this committee could be setting itself up for a very long session, with many exhaustive hours reviewing everything that the court did and might have done in the future. Frankly, it is beyond the resources of a committee of this Chamber to undertake that sort of exhaustive task. We need to be very careful as to what we end up doing. Having indicated that I will move an amendment to the terms of reference, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

STATE TRANSPORT AUTHORITY BUSINESS PLAN

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council take note of the State Transport Authority Business Plan 1987-88 to 1991-92, released in May 1990, and in particular—

1. The projected growth in the cost to the Government of providing the community with public transport services; and
2. The downward trend in the demand for and patronage of STA services.

The business plan was developed in response to the main recommendation of the Collins Report, May 1987—a report by PA Consulting Services, which was engaged by the Government to review STA's performance and management strategies. Subsequently, the STA released a draft business plan in June 1988. The final plan, incorporating amendments following a period of consultation, was endorsed by Transport Minister Blevins in February 1990. I emphasise that very strongly to honourable members with respect to this motion. This STA business plan arose from a Government report, the Collins report, the main recommendation of which the Government accepted in May 1987. It then required the STA to develop a business plan. The Minister then endorsed that plan in February 1990 and subsequently ordered the release of that document. To date, much effort by the STA has gone into the preparation of that plan on the instructions of successive Ministers of this Government.

I emphasise that point very strongly, because I understand that the Minister of Transport in the other place earlier today made very flippant remarks about the STA business plan and, in particular, cast reflections on the remarks made by the Auditor-General in his report that was tabled yesterday. I understand that the Minister of Transport in the other place noted today that the STA will not be able to meet the business plan targets because of the fair policies of this Government, and long may it do so. I point out that that statement totally contradicts the fact that the Minister himself endorsed the objectives within the STA business plan in February this year. I believe that the Minister must be held accountable for the shambles that he is now delivering in terms of an STA public transport service to the travelling public at this time.

It is quite clear that, in one breath a few months ago, he endorsed such targets and objectives but that today, when the STA plan does not meet those objectives, he dismisses it out of hand. He dismisses the plan on the basis that it does not meet other policy objectives of this Government. The Minister has a great deal to be accountable for in this matter. I shall address some of those details shortly. The plan was released some time in May or June this year. I am not sure of the exact date; nor is anybody else, because neither the Minister nor the STA chose to formally release the plan with fanfare or with pride. The plan was merely trickled out as and when people became aware that it had been finalised.

In truth, having studied the plan, I am not surprised that both the Minister and the STA have sought to keep it quiet. They have reason to be shamefaced. It is a document that prints a very gloomy picture for the future of public transit in this State. It is pessimistic in its outlook. It contains no vision nor sense of real purpose. It contains no strategies to revitalise our public transit services, or to attract patrons back to a system that should provide an efficient and effective service. Nowhere in the plan does one sense that the Government or the STA genuinely want to meet the needs of the travelling public and, in particular, full fare passengers. The plan merely confirms as a *fait accompli* the recent decline on both service provision and patronage.

In so doing, it reinforces the basis for the declining respect in which transit services are held in this State. This situation is regrettable—in fact unacceptable and unnecessary especially when one notes the trends back to public transit being experienced in other Australian capital cities, notably Perth, Brisbane and Sydney, and at a considerably lower cost to taxpayers in these respective States than is the case in South Australia.

In Adelaide, the level of public transport use is low with only 9 per cent of all trips made by people in the metropolitan area involving public transport. This is so despite low fares that recover only slightly more than 20 per cent of the cost of providing the public transit system. The recovery rate for buses and trams is about 27 per cent and for trains about 14 per cent. In relation to patronage and demand, the STA business plan (page 18) forecasts that the most reasonable scenario over the next 10 years '... is a decrease in patronage of STA services despite population growth, which is projected in any case to be low.' On page 19, the plan states:

> the overall projection used in preparing this plan is for patronage levels to remain at about 1986-87 levels. This may prove optimistic, as it implies 13 per cent growth in the next three years.

Certainly, on the basis of patronage figures for the 1989-90 financial year the plan's ideal of achieving a 13 per cent increase in the next three years is extremely optimistic. I seek leave to incorporate in *Hansard* without my reading it a table highlighting passenger journeys from 1984-85 to 1989-90.

Leave granted.

Year	Passenger Journals ('000)
1984-85	64.784
1985-86	67.127
1986-87	60.950
1987-88	58.240
1988-89	53.930
1989-90	54.220

The Hon. DIANA LAIDLAW: The table identifies that in the five years to 1988-89 the STA recorded an overall decline in patronage of 17 per cent. The 1986-87 figure, which the STA plan has set as the benchmark for patronage, was 60.95 million. Last financial year passenger journeys numbered 54.22 million—a slight increase of 290 000 or .5 per cent over the previous year, but hardly a figure that gives any observer any sense of optimism that the STA will achieve its objective of 13 per cent growth target by 1991-92.

Anyway, I suspect the increase in patronage last year reflects the introduction of free travel for students, commencing on 30 January 1990—and possibly the introduction of concessions for seniors. If this is the case, the small increase in patronage was gained at considerable cost to taxpayers generally. Last year, Government reimbursements to STA to cover the cost of fare concessions to students increased by $3.3 million. Perhaps the Government now proposes that future increases in patronage will be orchestrated by channelling more and more millions of taxpayers' dollars into the provision of more concessional fares or free rides. If this is the case, Transport Minister Blevins should declare his hand.

Certainly the cost to taxpayers of providing concessional fare reimbursements to the STA is far outstripping rises in the CPI. Last year the reimbursements amounted to $26.844 million. This year the reimbursements are projected to be $33.964 million—an increase of 27 per cent. My own assessment—based on the State's six months' experience with free transport for students—is that further increases in concessions will not be sufficient to see the STA fulfil its objective to gain a 13 per cent increase in patronage to the year

ending 1991-92. I do not accept that such a path is an acceptable practice. In fact, there is evidence to suggest such an exercise could be counterproductive in terms of overall demand for services.

Professor Fielding, in his 1988 report on public transport in metropolitan Adelaide in the 1990s, reflected on this matter. On page 32 of his report he noted that the predominance of young patrons—school children and students—on some peak-hour services deters full-fare passengers from choosing those forms of transit. Whatever the reason, in recent years there has been no question that the STA has experienced what Professor Fielding dubbed 'a most serious erosion' in the number of full-fare, adult passengers. This ridership declined from 61 per cent in 1980 to 42 per cent in 1987—and, of course, the proportion will have declined further in the past year because of the introduction of free travel for students. The decline in the number of full-fare passengers should be a matter of serious concern to both the STA and the Government, and certainly to members in this place, as it results in a reduction of fare revenue and the need for ever-increasing levels of Government assistance.

I seek leave to include in *Hansard* without my reading it a table outlining the STA's income, together with the STA Government contribution in terms of passenger journeys on a current dollar basis.

Leave granted.

STATE TRANSPORT AUTHORITY

Year	Traffic Receipts	Other	Govt. Concession Reimbursement	Govt. Contribution	% per Journey
'85/86	0.60	0.19	0.40	1.62	2.81
'86/87	0.72	0.17	0.40	1.88	3.17
'87/88	0.77	0.18	0.40	2.28	3.63
'88/89	0.86	0.24	0.41	2.40	3.91
'90/91	0.77	0.24	0.49	2.34	3.84

The Hon. DIANA LAIDLAW: From this table members will note that the income in real dollar terms (that is, on a dollar basis adjusted for the effect of inflation) of each passenger journey on the STA has increased from $281 five years ago to $384 last year—a real increase of $1.04. However, over the same period, the proportion of this income derived from traffic receipts—from fare-paying passengers—has increased from 40c to 49c and, from increases in the Government's contribution or general subsidy to cover a deficit in operating expenses, plus provision for depreciation, from $1.62 per passenger journey to $2.34.

In the meantime, the cost to the STA per passenger journey over the past five years has increased by 23 per cent in real terms from $3.17 to $3.89—and it is projected to rise further. The STA's business plan addresses the issue of fare recovery. So it should because the STA has one of the lowest recoveries of operating costs through fares of all major public transport operations in this country. The STA set itself the target of achieving '. . . a real increase in fare revenue of $5 million a year by 1991-92'. Of course, this target was endorsed by Transport Minister Blevins in February this year.

However, the Auditor-General's Report tabled yesterday highlights that fare rises fell from $43.2 million in 1988-89 to $41.8 million in 1989-90, a real fall of about $4 million. The budget projects a further fall in fare revenues this year to $40.5 million. These falls bear no relation to—in fact they are totally at odds with—the STA's objective to record a real increase in fare revenue of $5 million a year by 1991-92. No wonder the Auditor-General yesterday was provoked to comment that 'real fare revenue increases as proposed in the plan are unlikely to be achieved'.

The Auditor-General's figures that I have referred to in relation to past and projected declines in patronage, and past projected declines in fare revenue, at a time when the Government is committing ever-increasing amounts of taxpayers' dollars to maintain services, highlight that the Government's policies and practices in relation to the STA are basically unsound. It also confirms that the business plan endorsed by Transport Minister Blevins is a farce. In fact, he essentially admitted that himself in the other place earlier today. Consumers themselves are withdrawing their patronage. Surely such a move is a strong indication to the Government that consumers are unhappy with current transit services. But the Government refuses to acknowledge this or to listen. It simply keeps pouring millions and millions more of taxpayer's precious dollars into public transit each year, yet taxpayers are seeing no commitment by either the Government or the STA to meet even the modest savings forecast in the STA business plan.

It is time the Government took note of what consumers are saying and it introduced strategies to help the STA to operate its services more efficiently and effectively without relying on ever-increasing Government contributions to justify the STA's reason for existing. I suggest that, if and when members note the STA's business plan 1987-88 to 1991-92, they will appreciate that the STA itself has lost its direction. It is floundering. This is patently obvious from the plan which is full of policy matters that require—but have yet to receive—answers from the Government. Also it is full of contradictions about forecast savings. To add to this mess, the Auditor-General yesterday in his report for the year ended 30 June 1990 found in respect to the forecast savings projected in the STA's business plan:

> It is difficult to conclude that the '$24.1 million per annum by 1991-92 target' will be achieved.

It is important to note that that $24.1 million per annum target by 1991-92 equates to a saving of at least $120.5 million over five years, yet in 1988-89 dollars the STA's net cost to the Government in 1986-87—and that is the STA's own benchmark—was $145.8 million; in 1987-88 it was $145.7 million, a saving of only $.1 million; in 1988-89 it was $139.7 million, a saving of $6.1 million; and in 1989-90 it was $153 million in nominal dollars, or $143.6 million in 1988-89 dollars. This was calculated using Adelaide's 6.9 per cent CPI as a deflator, and represents a saving of $2.2 million. This year, 1990-91, the expected net cost is estimated in the budget to be $164 million, or $143.4 million in 1988-89 dollars using Mr Bannon's high 7 per cent CPI forecast as a deflator. That represents a saving of $2.4 million.

So, in the first four years of the business plan a meagre $10.8 million has been saved out of the $120.5 million target for the five-year period. In other words, even if this year's forecast is met, the STA will have to reduce its net cost to Government by about $110 million in 1991-92 to make the target. In short, that figure alone reveals that the plan is a failure, and it was endorsed by the Minister of Transport in February this year.

I must admit that, in respect of the plan, I was interested to note that the Auditor-General is of the view that the plan identifies an objective to save $24.1 million per annum by 1991-92. Certainly, this is one plan presented in the first paragraph of the executive summary of the plan. However, in reading the plan, it is particularly difficult to understand what target the STA is actually aiming for. On page 7, for instance, the annual savings target of $24.1 million appears

as a total savings target of $24.1 million to be achieved over the five-year period of the plan.

So, we have two forecasts for savings: a $24.1 million annual saving and a total of $24.1 million saving over the five-year period. As I say, it is interesting to speculate on which of those figures is the real target. The picture is further complicated when the plan suggests another savings alternative on page 14, as follows:

> ... the net effect of the projected cost increases and the draft business plan projected savings is expected to hold the net cost to Government at its 1986-87 level over the five years.

Yet a fourth alternative is projected on page 1 of the executive summary, as follows:

> Even with a much reduced capital expenditure program over the next five years, the net cost to the Government will increase by about $24 million in real terms by the end of the period because of the flow-on effect of recent capital commitments and general cost growth pressures.

I would not be surprised if all honourable members were confused by the four forecast savings scenarios presented in the STA business plan. It has certainly taken me some time to come to grips with the report. The fact is that honourable members do have reason to be confused because both the STA and the Minister are confused.

What the confusing array of forecasts does reveal is the reason why the STA is having difficulty in getting its act together and why it is finding it almost impossible to implement real reforms and to achieve real cost savings. At page 37, the business plan outlines a goal of shedding labour and reducing administrative costs, but the Auditor-General's Report reveals that the level of full-time equivalent employees in the STA increased by 85 persons last year, from 3 372 to 3 457.

Further, the Auditor-General refers to an ongoing consultant's review of STA labour costs and productivities compared with similar operations in Perth and Brisbane. While it is cute that the STA General Manager told the Auditor-General last April that the authority remained committed to the efficiency objectives of the business plan, I wonder when, if ever, we are going to see any action. I suggest that perhaps the Auditor-General might have been wiser to direct his question to the Minister of Transport rather than to the General Manager of the STA.

I now want to refer briefly to the report by the Industries Assistance Commission on Government non-tax charges, released in September 1989. The report states:

> ... poor performance by public enterprises can often be traced to some combination of: the pursuit of unclear and sometimes conflicting objectives; the absence of effective competition in the markets in which they operate; and reliance on ineffective control and performance monitoring mechanisms.

The IAC report further states:

> ... A notable feature of the environment in which many public enterprise managers operate is the limited autonomy they have over key operational decisions. Conditions of employment, investment proposals, pricing and even purchase of material inputs have, at times, all been subject to detailed control or scrutiny by Ministers and treasuries ... such detailed intervention will almost certainly add to costs and constrain the organisation's ability to adapt to changing market conditions. It also tends to blur accountability and responsibility for the performance of the enterprise.

I do not believe that any honourable member who looks realistically at the operations of the STA could not relate what the IAC report has stated in respect of the performance of public enterprises to the current inefficiencies, frustrations and lack of service that is colouring the operations of the STA today. The STA corporate charter includes:

> ... cooperate with other organisations providing urban facilities and services to increase the effectiveness of the authority's services and to reduce the total cost to the community of these facilities and services.

If fulfilled, this objective would allow cost savings, including contracting out to private bus services. That was a recommendation of the Fielding report in 1988, again, a report that the Minister and the Government have chosen to ignore. A further objective in the STA corporate charter is:

> ... act in accordance with Government policy and accommodate Government requirements ...

This objective in the charter is exactly the type of interventionist problem that the IAC report noted in respect of the efficient and effective operation of a public transit system. Whatever criteria are used to examine the reform of the STA since 1987, the fact is that little has been achieved. The Government is still forecasting that its subsidy to the STA will be $164 million in 1990-91, almost exactly the same in real terms as at the start of the five-year plan period, despite the fact that service levels and passenger numbers are both lower. This appalling result I would highlight is in stark contrast to the success of reform in New South Wales where the STA in that State under the Greiner Government is projected to break even this year.

I believe that the taxpayers of South Australia can no longer afford the unchecked cost of public transport systems in this State, particularly at a time when the consumers themselves are telling the Government that they are unhappy with the service provided, because they are resisting using that service, and in fact the number of passengers using STA vehicles is declining to an alarming level.

I believe strongly that the Government should be acting now to implement the strategies recommended in the Fielding report, to provide the travelling public with a much more cost effective and efficient service. The Government has rejected the major recommendations of that report. It has done so at its peril and we are seeing the current mess within the STA as a direct result of the Government's refusal to act to address what is known to be a problem.

Instead, the Government has chosen to present to South Australian taxpayers a superficial business plan which the Minister endorses but which he is not willing to accept or support, some months after he endorsed that plan. It is clear, looking at the business plan and seeing the Minister's subsequent statements, and particularly the Auditor-General's statement yesterday, that the Government does not know what it is doing or what it wants in terms of public transit in this State.

The Government is ordering the STA to produce business plans. It endorses those plans, as I said earlier. It acted to introduce such a plan following an earlier private consultancy report on the STA by PA Consulting Services. It is now clear that, when the plan will not even meet its modest objectives, the Minister says he is not surprised and that he does not want to have anything to do with it. The statement made by the Minister of Transport and the Minister of Finance in this State is totally unacceptable behaviour from a responsible Minister of the Crown.

I believe that members in this place should be recording their disapproval of the shoddy way in which the Minister is directing STA services in this State and ignoring the need for STA services in South Australia to provide an efficient and effective service to members of the travelling public, a service that will attract fare-paying passengers back to public transit, and a service that integrates the use of public and private transit services. I ask members to read not only the business plan but also the Auditor-General's reflection on that plan. Finally, I hope that members will support the motion to note the plan.

The Hon. T. CROTHERS secured the adjournment of the debate.

MARINE ENVIRONMENT PROTECTION BILL

Adjourned debate on second reading.

(Continued from 4 September. Page 614.)

The Hon. DIANA LAIDLAW: The Liberal Party supports the second reading of this Bill. I note that this is the third time that this legislation in some form has been before this place. Before the election last year, the legislation had been debated in the other place and introduced here, but had not been addressed by honourable members. The first time that it was addressed at length was in March this year. At that time I made a long and detailed second reading speech, and I do not intend to make a similar contribution today.

The Liberal Party believes that this issue is particularly important. We have chosen to devote a great deal of time to the legislation on this occasion and on previous occasions because of the importance of the marine environment and the need to improve the degraded state of so many of our coastal waters. We believe that polluters should be heavily penalised, but preferably that they should be deterred from being responsible for a potentially harmful situation. I have therefore spoken accordingly on previous occasions.

Last time, with the Australian Democrats, Liberal members worked hard to improve and strengthen what we considered to be a flawed piece of legislation. That was accepted by Government members, in particular the Minister—despite the mirth of several members opposite at this time. If the Minister had not been aware of our commitment to this legislation and our genuine interest in improving current circumstances, she would not have been prepared to accept what I recall to be some 51 amendments that were proposed by the Liberal Party and the Australian Democrats. However, between this place and the other place, we were unable to gain agreement with the Government on all matters, and the Minister, following a conference, was prepared to allow the Bill to lapse.

A number of issues for which we fought strongly in March have been introduced in the present Bill. That is an important matter as far as the Liberal Party's attitude to this legislation is concerned. We believe that it vindicates the position for which we argued last March, no matter the Minister's public protestations at the time. I have placed a number of amendments on file in relation to this Bill. They address matters that were raised last time which we believe we should continue to pursue. The first relates to the establishment of a Marine Environment Protection Committee.

Members interjecting:

The Hon. DIANA LAIDLAW: There are interjections from members opposite. The Liberal Party is certainly introducing amendments. Perhaps they have not been sufficiently conscientious today and looked at the amendments on file. If they had, they would have noted this fact, to their shock, I hope. Certainly, I was surprised to see three pages of Government amendments to this Bill. They are on recycled paper, so I suppose the Minister may think that that is some concession. It is only one-sided.

The Hon. M.J. Elliott: It is only one-sided, though.

The Hon. DIANA LAIDLAW: Yes, it is only one-sided. As I said earlier, this is the third time that the Government has seen fit to introduce this Bill. Last time, well after the Bill was introduced, we had amendment after amendment from the Government first in the other place and then in this place. The Minister for Environment and Planning is continuing with that same practice on this occasion, and it is no wonder—

The Hon. Anne Levy: It is in response to questions of the shadow Minister.

The Hon. DIANA LAIDLAW: That is correct, mainly because—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order! The honourable member will address the Chair.

The Hon. DIANA LAIDLAW: Yes, Mr President. It is not a matter of the Minister's not listening. I am sorry that she did not choose to listen to or even approach the Chamber of Mines, for instance, before she introduced this legislation, because it has very important provisions in respect of bonds which have a considerable influence on mining operations in this State. However, I understand that the Minister has conceded her foolishness and the error of her ways, and that is why we have further amendments from her. They reveal that the work done by the Minister in the other place was tardy. These amendments come about because the Liberal Party raised concerns that the Chamber of Mines had not been consulted, and, although, we are pleased to see that its interests are now being addressed, we wish that they had been addressed as part of the overall Bill and not as an afterthought.

The Liberal Party's amendments seek the establishment of a Marine Environment Protection Committee rather than an Environmental Protection Council, as provided for in the Bill. Considerable amendments, concerning the terms and conditions on which members hold office, allowances and expenses, quorums, functions of the committee, and the like, will follow if the establishment of a Marine Environment Protection Committee is successful.

We will also move amendments to delete from the Bill references to the District Court and insert those to the Supreme Court in respect of bond appeals. We will also move amendments in respect of the Minister's not being able to authorise the discharge, emission or depositing of sludge produced from the treatment of sewage at the Port Adelaide Sewage Treatment Works after 31 December 1990; and not being able to authorise the discharge, emission or depositing of sludge produced from the treatment of sewage at any other sewage treatment works from 31 December 1993.

These amendments, which reflect Government commitments made during the last election, will be debated further during the Committee stage. I speak to them today knowing that my former colleague, the Hon. Martin Cameron, was very passionate about this subject. He is not here today to speak on this issue, and I hope that, when contributing to the Committee debate, I will do justice to the work that he has undertaken in this place and elsewhere to keep the Government honest with respect to its election commitments of last November—commitments that the Government does not seem pleased to be reminded of, let alone held to account for.

The Hon. M.J. ELLIOTT: The Democrats support the second reading of this Bill. I do not think there is any need to re-state the reasons for our support of it as that was placed on record when the Bill was debated during the last session of this Parliament. However, it must be noted that the Bill is far superior to that which first arrived in this Parliament 12 months ago and which reappeared during the last session. It now needs only a couple of very minor amendments to make it an extremely good Bill, one of which we can all be very proud.

During the second reading stage I intend to go through the clauses of the Bill to raise some questions and indicate where I will be moving amendments. I hope that we can

get a response today or before Parliament resumes tomorrow so that the Bill can proceed through Committee and be put in place.

My greatest concern, as I indicated when the Bill lapsed last session, is the need for a committee which will have an overview of the legislation and which will have the expertise to make decisions in its own right, so that the matter will not be in the hands of outside experts. Although the committee may certainly seek their advice, it will be competent to make decisions based on the evidence given to it, and have sufficient time to do its task.

Initially the Government proposed that the overview of this legislation would fall directly beneath the Environmental Protection Council. I believed that the Environmental Protection Council, as it was then constituted, did not have sufficient expertise and, if it was to do its job of overviewing the environment generally in this State, it did not have the time to do this specialised task which, particularly in the first couple of years, would demand a great deal of time.

It is pleasing to see that the Government has come a way along the line in regard to this particular view and has now included within the legislation a Marine Environment Protection Committee. However, I will seek to change the way in which that committee is constituted. As the Bill stands, the committee comprises entirely people who are members of the EPC, and I believe that there are two intrinsic problems in that. First, if we are to get sufficient marine environment protection expertise on this committee we must stack the EPC with marine environment experts, and that will not be particularly healthy for the EPC. Secondly, we will have people serving on both these committees, and I believe that we should not make this unreasonable work demand. For example, as the Bill now stands, a nominee of the Conservation Council must serve on both EPC and the Marine Environment Protection Committee.

The Hon. Diana Laidlaw: What if they are experts in land degradation?

The Hon. M.J. ELLIOTT: As it happens, that particular person at the moment (Mr John Rolls) is highly suitable to serve on both committees. However, who is to know whether or not the next nominee to the EPC may not be a bird-watcher or have some other expertise which does not particularly help the Marine Environment Protection Committee? So, we must set up this committee to suit not only the bodies that are represented now but also those that might serve in future. It may also be possible that a person who is now serving on the EPC has the time to work, in a voluntary capacity, on both that committee and the Marine Environment Protection Committee, but at some future time the Conservation Council may have two different people whom it wishes to nominate.

I believe it is unreasonable to require the Conservation Council to have the same nominee on both bodies. The council may choose to do so, but I believe it should be its decision. Likewise, having the same person with knowledge and experience in manufacturing and mining is an unreasonable demand. I believe that having the same person with knowledge and experience in relation to public health is unnecessary. I understand at this stage that the Government is getting around that matter. It has a different person on each committee, and the proxy to the health expert on the EPC has gone onto the Marine Environment Protection Committee, but that is an untidy way of working things.

Also, although clause 10 *(g)* provides that other people may be co-opted onto the Marine Environment Protection Committee, it is very clumsy in that, first, those involved must become a member of the council so that they can become a member of the Marine Environment Protection Committee.

The amendments that I will move recognise the need to have overlap of the two committees and, as such, I believe that the Chairman of the EPC should also be on the Marine Environment Protection Committee. The member of the council who was appointed as a person with expertise in matters relating to the marine environment and its protection should be on both the EPC and the Marine Environment Protection Committee. However, I believe that the Conservation Council representative, the industry representative and the health representative need not be the same on each.

I would also argue that having one person representing fisheries is unreasonable. There are two perspectives to be put: one is from the Fishing Industry Council (SAFIC), and the other from the Department of Fisheries. I will be moving an amendment to provide that a representative from each of those bodies goes on the Marine Environment Protection Committee. A final amendment that I will move in relation to the constitution of this committee will provide that no more than half the total number of members of the committee may be persons employed in the Public Service of this State.

Over the past two weeks, there has been some concern within the Glenelg council about the ramifications on it of this legislation. I understand that the council has been told by the Minister that it will be required to be licensed under this Act. The reason given for that is that the operation of the sluicegates at the Patawalonga means they are a point source polluter. I believe that that is unreasonable. There is no doubt that there are serious pollution problems in the Patawalonga, but they are not caused by the Glenelg council. The pollution is coming from diffuse sources right along the Sturt Creek, via stormwater, into the Patawalonga. As I understand it, the Government is currently drafting legislation to tackle diffuse sources, and it is there that the problems of the Patawalonga should be confronted. There is no denying that a serious problem exists, and I will certainly seek to make the diffuse source legislation every bit as tough as is this legislation. However, it is totally inappropriate to expect the Glenelg council to take responsibility for pollutants which are in the Patawalonga but which are not of its making.

The Hon. Diana Laidlaw: Are other councils in a similar situation?

The Hon. M.J. ELLIOTT: I believe there are eight councils that may be caught up. Port Pirie has at least one sluicegate operation, and that responsibility will fall upon somebody up there. There are several in the South-East, and I am not sure if the E&WS Department, which operates the sluicegate at Lake Bonney, may not also be caught up by this. The contamination coming into Lake Bonney quite clearly is exempt under this Act, but the Government, which operates the sluicegate, is acting as a polluter. That might be a good thing, as it could force it to do something about the situation, since it has allowed this to happen in the first place via an indenture Act. That is distinct from the situation regarding Glenelg council, which has no say at all in terms of what arrives in the Patawalonga.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: I would be very disappointed if the Minister insisted that Glenelg council and others be licensed for the operation of the sluicegates at the mouth of the Patawalonga. I will seek an assurance from the Minister that she does not intend to do that. The Minister may argue that, because of the way in which the Act is currently

structured, a technicality requires her to do that, but that is not the case.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: I was about to get to that. I have been told that the excuse used by the Government was that the exemption clause had been knocked out. It was removed for a particular reason: it could not have been used for a class of actions, which is what I see the Patawalonga falling into, the class of actions being where sluicegates are operating over natural watercourses. This is distinct from the power which would have occurred previously just to grant exemption to any particular industry, and that sort of prerogative cannot be tolerated. The fact is that the Minister already has the power to exempt under the Bill as it is now drafted. I draw attention to clause 5 (4), which provides:

> The Governor may, by regulation, exclude from the application of this Act, or specified provisions of this Act, activities of a specified kind.

There is an activity of a specified kind: the operation of sluicegates on natural waterways would cover all the sluicegate operations that are causing concern at this stage. That means that diffuse source pollution problems do not get caught up in this Bill. The Minister cannot therefore hide behind technicalities. There is the power to exempt; it can be done by regulation. Before we proceed through the Committee stage tomorrow, I expect the Minister to give an undertaking that such a regulation will be promulgated so that Glenelg council is not caught up in this unreasonable way.

The Hon. Anne Levy: The Minister has said that she is happy to give a regulation but it is the Glenelg council that does not want it.

The Hon. M.J. ELLIOTT: I have had no indication from the Glenelg council that that is the case. In any event, if we have that undertaking in this place tomorrow, we will not have a problem. If there is no such undertaking, there may be a need for an amendment to be moved to make that position clear. I hope and expect that that will be unnecessary.

In relation to the objects of the Bill, I am particularly concerned by clause 6 (1) *(c)* as it is currently drafted, which provides:

> to promote the minimisation and treatment of waste and, where appropriate, disposal of waste to land to reduce the impact of pollutants on the marine environment.

I believe that the words, 'and, where appropriate, disposal of waste to land' are unnecessary. It may be an option, but I view its being written into the Bill almost as an inducement to see it as a way of solving a waste problem. It is exactly the sort of approach which looks like being adopted in relation to the new petro-chemical plant proposed at Stony Point, where they boast what a wonderful thing they will do for the marine environment because they will dump everything in pits on land. That is not the most appropriate waste disposal method. It may be better than dumping at sea, but it is not the most appropriate way of dealing with waste. As such, I believe that those words should be struck out from that clause. The words to which I have referred are unnecessary, and their ramifications could be seen as an inducement to actually carry out that act.

Regarding clause 5 (3), it has already been noted that this legislation will be subject to the Pulp and Paper Mills Agreement Act 1958 and other Acts in relation to the paper mills in the South-East. What was not made clear in this place when we last debated this Bill is that there is a large number of other indenture Acts to which this Act is also subject and which are not overridden by it.

I refer, for example, to the BHP Indenture Act, the indenture for the refinery at Port Stanvac, Stony Point and West Beach, and I believe there are several others. It is worth putting on the record in this place that we have a very strong Bill which has exemptions for some of the biggest polluting industries in South Australia. So that the Minister may reply at the end of the second reading stage, I would like to put a question in relation to clause 11, which refers to delegation of powers from the council to the committee. I ask the Minister to tell this place what powers it is expected will be delegated to the Marine Environment Protection Committee.

Clause 12 (4) provides that the Minister is required to cause a copy of all minutes to be forwarded to the Minister, and to be kept available for inspection without fee by members of the public during ordinary office hours at any office determined by the Minister. I take it—and I want confirmation—that this does mean that the minutes are usually public documents and, as such, can be copied so that when there are nominees of various groups on the Marine Environment Protection Committee, the documents can be copied and circulated amongst members of their organisations.

I was interested to see the new clauses in relation to bonds that have come into this Bill since it was last considered in the last session of Parliament. I believe it is an idea that the Minister has taken from New South Wales where it is being used. I find the concept appealing. I believe that it is working well and not causing problems among industry interstate and, if that is the case, I do not see any difficulties with the system. I note that the Opposition has today tabled some amendments in relation to that provision that I have not had a chance to consider. However, I certainly indicate my support in principle for what the Minister is attempting to achieve by way of that fund.

In relation to the E&WS Department, during the last session, there were amendments to accelerate the clean-up program to be undertaken by it. The Minister refused to accept them, but I am pleased to see that since then certain actions have been taken which mean that, in effect, what was being asked for will happen. A special levy has been announced which will raise the moneys so that there can be an environmental clean-up program in relation to many of the E&WS Department activities, particularly the discharge of sludge into the sea, and also the discharge of effluents into the Murray River at, I believe, Murray Bridge and Mannum. That is a good thing, and I applaud it. What we were attempting to achieve by way of the amendments in the last session have, in effect, been achieved, and it is a matter upon which I will not be insisting.

In conclusion, this is a good Bill. It is far superior to the one which was debated in the last session. There are still a few matters that need tidying up, but I expect that this Bill will have a rapid progress through this place.

The Hon. ANNE LEVY secured the adjournment of the debate.

ESTIMATES COMMITTEES

A message was received from the House of Assembly requesting that the Legislative Council give permission to the Attorney-General (Hon. C.J. Sumner), the Minister of Tourism (Hon. Barbara Wiese) and the Minister of Local Government (Hon. Anne Levy), members of the Legislative Council, to attend and give evidence before the Estimates Committees of the House of Assembly on the Appropriation Bill.

The Hon. ANNE LEVY (Minister of Local Government): I move:

That the Attorney-General, the Minister of Tourism and the Minister of Local Government have leave to attend and give evidence before the Estimates Committees of the House of Assembly on the Appropriation Bill, if they think fit.

Motion carried.

ASH WEDNESDAY BUSHFIRES

Adjourned debate on motion of Hon. K.T. Griffin (resumed on motion).

(Continued from page 676.)

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

In paragraph 1, to strike out all words after 'to consider and report on' and insert 'on the circumstances relating to the Stirling council, pertaining to and arising from the Ash Wednesday 1980 bushfires, the nature of the claims including but not limited to the nature and extent of the involvement of State Government, the procedures leading to the settlement, the basis for the settlement of the claims, and the circumstances leading to the appointment by the Government, or an administrator'.

The Hon. T. CROTHERS: The Government will support the amendment moved by the Hon. Mr Elliott. In so doing, I indicate that that does not of necessity mean that the Government is in its fashion supportive of the motion moved by the Hon. Mr Griffin calling for the select committee into the 1980 Ash Wednesday bushfires. As Government members and the Minister have often said, the Government has nothing to hide or to run away from in this matter, and it will be freely cooperative if, as would seem likely, the other two parties in the Chamber vote for the select committee to go ahead.

I should like briefly to state why the Government thinks that a select committee is not perhaps such a great idea. We think that many of the things that that committee will seek to do have already been done. The Government has nothing to hide. In fact, to some extent it welcomes certain aspects that it believes will emerge out of the researches of the select committee.

As regards the determination of the quantum of claims, the Government feels that should be a matter for the judiciary. We believe that would seek to cast Parliament in a new role. Some of us, casting our minds back to Simon de Montefort and Runnymede, could not find a time when the Parliament, which had been brought into some form of existence by the Charter that was signed by the Barons and King John, had determined a matter of quantum. We think that that properly should be done by the judiciary. We believe that since the introduction of the justiciar system into the Westminster system of Parliament or into Anglo-Saxon law, that has been the way in which quantum has been determined to the satisfaction of most people who have participated in claims of that nature.

We do not of necessity believe that a select committee is the best way in which to go. However, it has the numbers in this place to be carried and probably it will be carried. As such, the Government will cooperate to ensure that, the select committee having been set up, nothing is put in its way to stop it from fulfilling and discharging its function. If the select committee is set up, as would seem likely, we believe that the Hon. Mr Elliott's indicated amendment is by far the best parameter in respect of the course that the select committee will be instructed by this Chamber to pursue relative to its fact-finding mission. The Government supports the amendment.

The Hon. K.T. GRIFFIN: I thank members for their contributions to this debate. I am pleased to have the support of the Australian Democrats for the establishment of the select committee. I am also pleased to note, from what the Hon. Mr Crothers said, that, whilst the Government does not necessarily agree that this is an appropriate course to follow, nevertheless it will cooperate with and play an active part in the select committee.

There are a few matters that I should address in reply. I do not want to deal with the claims and counter-claims that have been made by various members. Those positions are on the public record, and obviously they can be examined during the course of the consideration by the select committee of the issues involved.

I want to make some remarks about the letter which you, Mr President, received from Messrs Andersons, who indicated that they were acting for Dr John Casley-Smith, Mrs Judith Casley-Smith and other claimants involved in the 1980 Ash Wednesday bushfire hearings. They wrote that letter to you on 27 August 1990, obviously on instructions from their various clients. I have particularly noted your response which, in the second paragraph, says:

I view with grave concern your attempts to influence the debate on this matter in the Legislative Council by predetermining who should be on the select committee and its subsequent conduct.

As my colleague, the Hon. Robert Lucas, indicated, it has been my experience that, although members have moved for select committees, have either supported or opposed them, have perhaps had a preconceived view about the way in which the select committee ought to go in its investigations, nevertheless the forum of a select committee has enabled those views to be tested and for members to act responsibly in the conduct of the select committee and to ensure that witnesses who appear to give evidence or to make submissions are treated fairly. I cannot think of any occasion when I have been on a select committee on which any witnesses have been mistreated by any of the members of the select committee, or when the select committee has denied any witness an opportunity fairly and reasonably to present submissions or evidence or to have access to submissions or evidence, unless they have been received on a confidential basis.

In fact, it has been my experience that select committees, although members may have demonstrated partiality in the debate, have endeavoured to get to the substance of the issue, to deal with witnesses fairly and to get to the truth. Notwithstanding the matters which have been raised by the Hon. Mr Stefani, by the Minister and by other members and the views which they have respectively presented to this Council, I do not think that will in any way compromise the capacity of the select committee to get to the substance of the issue and deal with the witnesses fairly.

Whilst I recognise that the letter came from solicitors acting for the claimants, it was unfortunate that they should seek to request or require that Mr Stefani, in particular, should not be appointed to membership of the committee. One could suggest that that borders on a breach of privilege, although your letter, Mr President, seems to have responded to that adequately. In the past, when documents have been tabled or presented to a select committee, they have generally been available to witnesses upon request.

All documents, as a matter of law, when tabled in this Council, are available publicly; they are on the public record. In some circumstances they may not necessarily be protected by privilege under the law relating to defamation, unless they have been authorised to be printed and published. Be that as it may, when a document is tabled in this place, it becomes public and is available to any member of the public who wishes to have access to it, as are the debates

in this place. They are not secret; they are open to the public through either personal attendance or perusal of *Hansard.*

The letter from Messrs Andersons seeks to enable their clients to be represented by counsel. Again, there has been no difficulty with that in the past. Any person is entitled to make a submission and, in effect, to be accompanied by advisers or friends. I do not know of any select committee that has refused a witness the right to have someone accompany him or her.

So far as counsel examining or cross-examining witnesses is concerned, that has never been a situation, as I understand it, that a select committee has allowed. The procedures before a committee are different from the procedures in a court, where there is strictly an adversarial system established, where plaintiffs and defendants are represented and where it is a matter of disclosing or identifying to the arbiter—the judge—which party is to be believed or which part of a party's evidence is to be believed. Traditionally, advocates are part of that process in trying both to put their clients' point of view and to elicit from their clients the truth and to test the evidence of their opponents. That has never been the situation before a committee, and I would see no reason for that to change in this instance.

As to the transcripts of the hearings of the select committee, if the hearing is open, as I understand it under our rules there has never been any difficulty with being able to peruse the evidence which has been given before a committee. There are occasions where evidence is confidential and, in those circumstances, it is not immediately available but, unless there is some special provision made at the point where the evidence is tabled with the report, all the evidence becomes available for public perusal at that time.

There is a request that the clients of Andersons be notified in advance of the times for hearings of the select committee. That has never been a difficulty: if anyone wants to know when a select committee will meet, they have been told by inquiring of the secretary and arrangements have been made from time to time where the secretary, knowing that someone is interested in a meeting, will notify that person or those persons so that they can either attend if the meeting is open to the public or at least be alert to what is happening.

In the letter to you, Mr President, there is a request for a particular order of giving evidence. That is a matter for the select committee. Again, no committee of which I am aware has ever denied a witness an opportunity to return to complete evidence or to answer allegations that have been made. As to reimbursement of costs and expenses, as far as I know that has never been the practice of select committees. One ought to be reminded that members of a committee are paid the generous sum of $12.50 per sitting, so their reimbursement is perhaps not much different from the witnesses who appear in that respect.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: The honourable member is right: it was set many years ago.

Members interjecting:

The Hon. K.T. GRIFFIN: It has gone down in monetary terms. Anyway, there has been no provision for payment of costs of witnesses. I can remember on one occasion not so long ago when a witness sought to set a significant fee for giving evidence to a committee, which chose not to call that witness on the basis that no payment would be made. Another request to you, Mr President, in the letter from Andersons solicitors is that the select committee be empowered to sit in closed session or to receive confidential materials in appropriate circumstances. That is part of the Standing Orders of this Council.

All of the matters that are raised in the letter have already been dealt with in one way or another either by the Standing Orders or by the practice of the Council and its committees. The most serious aspect is the attempt to ensure that a member is not appointed to the committee. That is the matter which causes the most serious concern. The Hon. Mr Stefani has raised certain issues in the course of the debate. If he was a member of the committee, I do not believe he would be compromised by that or that, therefore, he would not keep an open mind on the issues as they are presented.

Similarly, whilst the Minister may wish to be a member of the select committee, I would hope and I would not believe that the Minister would come to the committee with anything other than an open mind. I suppose the only suggestion one can offer in respect of that is that, as the Minister is the person who has been responsible for the administration and implementation of aspects of Government policy on this issue, I just wonder whether it is particularly wise for the Minister to be a member of the committee, particularly if the Minister is also in a position where she should give some evidence. It is really a matter for the Minister to make that judgment. I merely put on the record the reservations that I have in respect of that point.

Turning to the issue of the amendment, the Opposition does not support it. We are concerned that it is too limiting in one respect and too wide in another respect. It is too limiting in the sense that it may preclude some investigation of the basis for claims that have been made, particularly where there are allegations that the claims either have been grossly inflated or lack any substance at all.

The relevance of that is that, if taxpayers' money has ultimately paid the liability, one must question the basis for that taxpayers' money to be paid out for claims that cannot be substantiated. Whilst I am not suggesting that the select committee should go into such detail that a court may have gone into on the claims, nevertheless, there is a basis for assessing the reliability and the validity of the claims which ultimately led to a settlement and which ultimately led to taxpayers' and ratepayers' money being paid in settlement.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: If that is the case, I am more comfortable with the amendment, but I do have concern that it is more limiting in that respect, and very largely in that respect alone. As to the width of the terms of reference, I am not fussed whether or not we go back to 1980 and look at what the Liberal Government did or did not do. I am not at all worried by that. I would be concerned if we got back into an issue that has been resolved by the courts on two occasions as to where the fire actually started, but perhaps if there is evidence that is relevant to that we may have to hear that. I suppose that the select committee—

The Hon. Anne Levy: It is council actions in those early years which are relevant.

The Hon. K.T. GRIFFIN: The Minister interjects and says that the actions of council in those early years may be relevant. I accept that that is the case.

The Hon. Anne Levy: No-one would wish to duplicate what the courts have already decided.

The Hon. K.T. GRIFFIN: Fine. I am a little more comfortable with that, but I still think there are difficulties with the amendment for the reasons that I have indicated. Therefore, I would prefer the original motion. Can I indicate that, in the light of the Government's indicating through the Hon. Mr Crothers that it will support the Australian Dem-

ocrats' amendment, I will nevertheless seek to divide if the amendment is carried on the voices.

The Council divided on the amendment:

Ayes (9)—The Hons T. Crothers, M.J. Elliott (teller), M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts and G. Weatherill.

Noes (8)—The Hons J.C. Burdett, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson and J.F. Stefani.

Majority of 1 for the Ayes.

Amendment thus carried; motion as amended carried.

The Council appointed a select committee consisting of the Hons T. Crothers, I. Gilfillan, K.T. Griffin, Anne Levy and J.F. Stefani; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on Wednesday 21 November 1990.

ADJOURNMENT

At 6.1 p.m. the Council adjourned until Thursday 6 September at 2.15 p.m.