LEGISLATIVE COUNCIL

Tuesday 31 March 1992

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

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Housing Loans Redemption Fund (Use of Fund Surpluses) Amendment.

Road Traffic (Prescribed Vehicles) Amendment,

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard:* Nos 37, 51, 74, 90, 91, 97 and 99.

CONSULTANCIES

37. **The Hon. R.I. LUCAS** asked the Minister for the Arts and Cultural Heritage: For each of the years 1990-91 and 1991-92 (estimated):

1. What market research studies and consultancies (of any type) were commissioned by departments and bodies which report to the Minister of Education?

2. For each consultancy—

(a) who undertook the consultancy;

(b) was the consultancy commissioned after an open tender and, if not, why not:

(c) what was the cost;

(d) what were the terms of reference;

(e) has a report been prepared and, if so, is a copy of that report publicly available?

The Hon. ANNE LEVY: The details requested by the honourable member cover several typewritten pages and have been sent directly to the member.

MINISTERIAL STAFF

51. **The Hon. R.I. LUCAS** asked the Minister of Tourism:

1. What were the names of all officers working in the offices of the Minister of Health, Family and Community Services and Minister for the Aged as of 1 August 1991 and 1 February 1992?

2. Which officers were 'ministerial' assistants and which officers had tenure and were appointed under the GME Act?

3. What salary and other remuneration was payable for each officer?

The Hon. BARBARA WIESE: The replies are as follows:

Office of Deputy Premier, Minister of Health, Minister of Family and Community Services, Minister for the Aged

OFFICERS APPOINTED UNDER GME AND SAHC ACTS

Name	$ Salary 1.8.91	$ Salary 1.2.92
GME	45 000	46 125
GME	39 187	40 148
GME	30 300	31 058
SAHC	29 300	30 033
SAHC	23 902	24 500
SAHC	23 375	23 959
SAHC	20 061	20 563
SAHC	22 305	Vacant
GME	25 300	25 933

MINISTERIAL OFFICERS

Name	$ Salary 1.8.91	$ Salary 1.2.92
Nagy, A.*	50 085	Vacant
Gilchrist, S.†	44 542	45 656
Roman, A.†	44 542	45 656
Joy, A.*	50 616	Abolished

* Salary includes allowance of 25 per cent in lieu of overtime.
† Salary includes allowance of 10 per cent in lieu of overtime.

DEPARTMENT OF MARINE AND HARBORS LAND

74. **The Hon. DIANA LAIDLAW** asked the Attorney-General: What is the location and size of each holding of land held by or on behalf of the Department of Marine and Harbors; and what is the value of each holding?

The Hon. C.J. SUMNER: A computer generated list of land holdings by the Department of Marine and Harbors giving details of location, size and value has been forwarded to the honourable member. This list includes land still recorded in the name of the Minister of Marine but by agreement the effective ownership of this property has been transferred to the Port Adelaide Industrial Land Committee and the Port Centre Project. The residual value on the list of property owned by the Minister of Marine is $58.66 million. The valuation of PAIL land was undertaken in 1989 and due to increases in land valuation since then, a further $1.98 million needs to be deducted from the Minister of Marine land holdings, giving an estimated current valuation of $56.8 million.

DECADE OF LANDCARE PLAN

90. **The Hon. J.C. IRWIN** asked the Minister of Tourism: Has the Victorian Government been consulted in the formation of the plan for the Decade of Landcare with regard to water being pushed across the South Australian and Victorian border?

The Hon. BARBARA WIESE: The Decade of Landcare plan for South Australia was developed in response to a decision made at the July 1990 meeting of the Australian Soil Conservation Council. At that meeting the Minister of Agriculture and his interstate and Commonwealth colleagues agreed to oversee the development of Decade of Landcare plans for the Commonwealth, and each State and Territory. South Australia and Victoria exchanged draft copies of their plans during 1991. Both States had representatives on the various national committees that reviewed the development of the component plans and also drafted and approved the national overview of those component plans. The national overview lists the principles underlying the component plans and the national goals for the Decade of Landcare. Copies of the overview are available from the Department of Agriculture.

South Australian and Victorian officers have conferred on the issue of surface water drainage to the upper South-East following the wet winters of 1987 and 1988. There is general agreement that the development since the 1950s has increased runoff potential, particularly towards the north where a land use change from grazing to cropping has occurred. However, the impact is only considered to be of significance in exceptionally wet years. Quantitative assessments are not available. An environmental impact study is currently being undertaken focusing on managing flooding and dryland salinity in the upper South-East.

LAND MANAGEMENT PLANS

91. **The Hon. J.C. IRWIN** asked the Minister of Tourism:

1. What arrangements have been made in South Australia for land management plans to be approved for taxation deductions under section 75d of the Income Tax Assessment Act 1936?

2. How many agencies around the State will be available to approve land management plans?

3. Will land management plans be approved free of charge?

4. What extra cost burden does the Minister envisage will fall on the person wishing to draw up a land management plan in order to gain taxation deductions?

The Hon. BARBARA WIESE: The replies are as follows:

1. Arrangements are currently being finalised for land management plans to be approved for taxation deductions under section 75d of the Income Tax Assessment Act 1936. The South Australian Department of Agriculture has identified officers who satisfy the criteria laid down by the Commonwealth to approve land

management plans for the purposes of Section 75d provisions. The department will be seeking the approval of the Secretary of the Commonwealth Department of Primary Industries and Energy for these officers to assess and approve such plans.

The Department of Primary Industries and Energy has advertised for private consultants to apply for authorisation to approve land management plans for the purposes of section 75d provisions. A number of applicants have been received and the Department of Agriculture, as required, has received the applications and is awaiting final advice from the Commonwealth before forwarding them for authorisation.

The department has also had discussions with the Soil Conservation Council of South Australia and Chairpersons of the Soil Conservation Boards, with a view to developing training programs and a process for specific members of such boards to be authorised to approve land management plans.

2. The above arrangements, once finalised, would provide South Australian landholders with a range of options for having land management plans approved.

3. The Department of Agriculture is currently discussing a charging schedule with the Soil Conservation Council for assessing and approving land management plans. It was considered by the Commonwealth that as landholders will benefit financially from gaining approval, it is appropriate to make a charge for the services provided. The Minister of Agriculture will consider the request by the department to establish a charging fee to approve land management plans. Private consultants will obviously need to charge clients for their time and expertise. Similarly, Soil Board members would need to cover any costs or time required to approve land management plans.

4. Extra costs to landholders in preparing a land management plan would be minimal and would depend on the extent of the plan. A cost of $100 to cover the purchase of aerial photographs, map overlays and other items is estimated as being the likely average cost to a landholder over and above the charge for approving the plan. The cost of preparing and amending land management plans may be eligible for an outright tax deduction under the Income Tax Assessment Act 1936, provided this expenditure is not of a capital nature.

PRIVATE NUMBER PLATES

97. **The Hon. R.I. LUCAS** asked the Minister of Tourism:

1. What is the total number of vehicles with private plates attached to the Minister of Housing and Construction, Public Works and Recreation and Sport Departments as of 1 March 1992?

2. What was the corresponding number of vehicles with private plates as at 1 March 1991?

3. What is the classification of each officer with access to a car with a private plate and what is the reason for the provision?

The Hon. BARBARA WIESE: The replies are as follows:

1. Five.

2. Five.

3. Officers at all levels within SACON have access to these vehicles. It is Departmental policy that these vehicles be made available for business hours use by Wakefield House based officers if not otherwise required by a Director.

The privately plated vehicles are provided as part of the contract and remuneration packages for some Divisional Directors and for the Financial Controller.

These officers are at the following classification levels:

Chief Executive
EL-3
EL-2 (two officers)
EL-1

In relation to the South Australian Housing Trust:

1. Six.

2. Five.

3.
- General Manager (CE-O)
- Director Corporate Finance (EL-3)
- Manager Housing Construction (ES-2)
- Director Corporate Services (EL-2)
- Director Housing Operations (EL-2)
- Acting Director Home Ownership and Community Programs (EL-2)

As per the existing Governmental Policy, executive officers with the above classification are allocated a private plated Government vehicle to use within the established guidelines.

In relation to Recreation and Sport:

1. One.

2. One.

3. Chief Executive Officer. The vehicle is provided as part of the conditions of employment.

99. **The Hon. R.I. LUCAS** asked the Minister for the Arts and Cultural Heritage:

1. What is the total number of vehicles with private plates attached to the Minister of Education and Children's Services Departments as of 1 March 1992?

2. What was the corresponding number of vehicles with private plates as at 1 March 1991?

3. What is the classification of each officer with access to a car with a private plate, and what is the reason for the provision?

The Hon. ANNE LEVY: The replies are as follows:

Children's Services Office:

1. Three;

2. Three;

3. The classifications are Chief Executive Officer and EL-2 (2). Vehicles are supplied as per established agreements.

Education Department:

1. Nine;

2. Eleven;

3. Each officer with a private plated car is classified at EL-2 or above, and the car is issued as part of the salary package in accordance with guidelines issued by the Commissioner for Public Employment.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner)—

Classification of Publications Board—Report 1990-91.

Workers Rehabilitation and Compensation Act 1986—Regulations—Commercial Vehicles.

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

University of South Australia—

Repeal of By-laws—South Australian Institute of Technology and South Australian College of Advanced Education.

By-laws.

Aboriginal Deaths in Custody—Response by governments to the Royal Commission.

By the Minister for Local Government Relations (Hon. Anne Levy)—

Local Government Finance Authority Act 1983—Regulations—Kadina Community Hospital.

Corporation By-laws—District Council of Beachport—

No. 1—Permits and Penalties.

No. 2—Vehicle Movement.

No. 3—Height of Fences near Intersections.

No. 8—Repeal and Renumbering of By-laws.

QUESTIONS

TANDANYA AND GLENELG DEVELOPMENTS

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Tourism a question about the Glenelg marina and Tandanya.

Leave granted.

The Hon. R.I. LUCAS: On 9 March 1989, in a ministerial statement, the Minister confirmed that Mr Jim Stitt was acting as a consultant for Paradise Development Pty Ltd—a South Australian/West Australian consortium which was proposing a major tourist development on Kangaroo Island. On 20 March 1991 the Minister announced that this development would now be undertaken by a Japanese company—System One.

In a letter to the Editor, published in the *Advertiser* on 13 April 1991, the Minister explained that the Paradise developments consortium had been 'unable to obtain finance from any source within Australia to enable the project to proceed to the construction phase' and she also said:

Tourism South Australia has long been a strong advocate for a carefully managed, bushland village-style of visitor accommodation at the western end of Kangaroo Island.

It is recognised in the tourism industry that the viability of the Tandanya project will be enhanced by improved trans-

port links between the mainland and Kangaroo Island. In this respect, the Premier announced on 17 September last year that Glenelg Ferry Terminal Pty Ltd had been chosen by the Government as the consortium to redevelop the Patawalonga. Three other groups had also bid for the rights to this project.

A key component of this project is a commuter ferry to service Kangaroo Island. One of the two directors of Glenelg Ferry terminal Pty Ltd is Mr David Dawson. Mr Dawson is also one of the two directors of International Business Development Public Relations Pty Ltd. The other director of that company is Mr Jim Stitt. My questions to the Minister are:

1. Did the Minister, together with Mr Dawson and Mr Stitt, visit Kangaroo Island and the Tandanya site early this year, and if so for what purpose?

2. Has Mr Stitt had any involvement with Glenelg Ferry Terminal Pty Ltd in developing its plans for a ferry service to Kangaroo Island?

3. Which of the four submissions for the Patawalonga redevelopment did she support when the matter went before Cabinet?

The Hon. BARBARA WIESE: I will answer the first question first. I have not visited the Tandanya site this year. As to the Glenelg ferry terminal proposal, Mr Stitt has no involvement in that proposal whatsoever.

The Hon. R.I. LUCAS: As a supplementary question, will the Minister indicate whether she, together with Mr Dawson and Mr Stitt, visited Kangaroo Island earlier this year and, if so, for what purpose, and will she respond to the third question as to which of the four submissions for the Patawalonga development the Minister supported?

The Hon. BARBARA WIESE: I visited Kangaroo Island in January of this year. I went with Mr Stitt, Mr Dawson and his wife and another couple whom I shall not name here, because I do not think it is at all necessary for people to know who my friends are, although they are being told every other possible detail about my life as part of this unseemly process that the Hon. Mr Lucas in particular is taking us through. David and Margaret Dawson are longstanding friends of mine. I have known them for many years, and I think it is acceptable for members of Parliament and Ministers to have friends. I do have some. I imagine, with the sort of performance that members of the Opposition are going through in Parliament at the moment, very few people would want to be friends of members of Parliament, because they have their private business dragged through the Parliament as well as a result of any associations they might have with members of Parliament.

David and Margaret Dawson are longstanding friends of mine—that is a well-known fact—and I took a holiday with them on Kangaroo Island in January this year. It was not a business trip; it had nothing to do with the Tandanya development. I have nothing to do with the Tandanya development, except in my position as a Minister in the Government, and Jim Stitt has nothing to do with the Tandanya development. I find the inferences that are being made by the Hon. Mr Lucas in this matter quite objectionable. As to the submissions that came before Cabinet on the Glenelg proposals, the proposal that I favoured was the Glenelg ferry terminal proposal, based on advice that I received from Tourism South Australia because, in the opinion of Tourism South Australia, that proposal provided the best tourism components of any of the four proposals that were put to the Government.

GAMING MACHINES

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question on the subject of his review of the papers of the Minister of Consumer Affairs.

Leave granted.

The Hon. K.T. GRIFFIN: Last Wednesday the Attorney-General told the Council that at the request of the Minister of Consumer Affairs he was reviewing her business papers to determine whether or not there should be an inquiry with an 'independent element' (whatever that means). This morning's *Advertiser* suggests that a decision by the Attorney-General will not be made this week and reports that he has not put a time limit on his inquiry. That is a matter of concern. Where allegations are made as to conflict of interest by a Minister, there is a widely held view that they should be inquired into as a matter of priority. My questions are:

1. What is the scope of the review and the methodology being followed by the Attorney-General?

2. Is the Attorney-General undertaking the review himself or is he having officers assist him? If so, can he indicate who they are?

3. Does not the Attorney-General regard the issue as sufficiently important to deal urgently with the review?

4. What target date has the Attorney-General set for completing his review and for determining whether or not he thinks there should be an independent inquiry?

The Hon. C.J. SUMNER: Last week, I outlined what I intended to do, and that is the course of action that I intend to follow. The first thing that I did was to attempt to obtain the documents which were in the possession of the media and members of Parliament and which had not been made available to the Government. I made my point last week about that and appealed for natural justice to be accorded the Minister as she had been ambushed by this particular matter, the documents obviously having been given by the media outlet concerned to the Opposition and the Australian Democrats but not to the Government or the Minister.

So, we had a number of days of questioning using documents which the Opposition had but which were not available to the Minister. On the basis of what I said last week, my first task was to obtain those documents. I wrote to the relevant parties and I have received replies from at least some of them. On Thursday, the Opposition made those documents available with great fanfare, with Mr Matthew turning up with an envelope marked 'strictly confidential' with red all over it, which he left at the Attorney-General's office. I perused the documents. From what I knew of them, it was obvious that one document was missing: the supposed invoice from Nadine Pty Ltd to IBD, which had been referred to in debate by the Hon. Mr Gilfillan, the Hon. Mr Lucas and the Minister of Tourism but which for some reason was not included in the documents that Mr Matthew left at my office. I was not going to leave the matter at that, so I wrote to Mr Matthew, who responded on Friday saying that he would provide that additional document.

The Hon. Mr Gilfillan has responded positively by providing me with the documents that were in his possession, for which I thank him—and I thank the Opposition—but that occurred only this morning. So, the first task has now—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Yes. The first task has now been completed. That having occurred, I now intend to do what I said last week that I would do, and that is, first, at the request of the Minister of Tourism to review the documents that she has provided me with and, secondly, at the request of particularly the Australian Democrats but also in

light of the Opposition's attitude to this matter to consider whether, as I said, an independent inquiry or an independent element to an inquiry is necessary. I cannot indicate how long that will take; however, I can say that it is obviously a matter that should be dealt with with all due expedition, but I will not put on it a time limit with which I could be beaten over the head because for some reason I had not been able to meet it.

In answer to the honourable member's question, the matter will be dealt with as quickly as is humanly possible. I recognise the importance of it in the light of the threats that have been made by members opposite, namely, that they will not pass the gaming machines legislation until their requirements are met. But it is important that, if the Bill is passed in the House of Assembly and introduced here, debate on it does go ahead.

I will deal with the matter as quickly as possible. Obviously, I will not do it personally by myself: I will use the resources of the Crown Solicitor's Office. I do not believe this is a political exercise, but members see it as a political exercise. It is not appropriate for the Crown Solicitor or the Solicitor-General personally to take responsibility for it. Obviously, I will use the resources of the Crown Solicitor's office; I intend to do that. I do not think it is reasonable to name the officers who will assist me. Again, that is not a matter that should concern the Council, but obviously in research on the issues that are involved assistance will be available to me from within the Attorney-General's Department, as it is on any issue, and I would have thought that it should be no less available in this case.

NEW ZEALAND RETAIL TRAVEL AGENCY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question about a proposed retail travel agency in New Zealand.

Leave granted.

The Hon. DIANA LAIDLAW: Last Saturday, advertisements were placed in the *New Zealand Herald*, the *Advertiser* and possibly other newspapers advising that:

> Tourism South Australia seeks to appoint by contract a company to operate a retail and information travel centre based in Auckland, New Zealand.

The advertisement also states that:

> Tourism South Australia will negotiate a financial contribution towards the operating and marketing costs of the office.

Yesterday, I received advice from New Zealand that local travel agents are irate that the South Australian Government is proposing to open a travel business in competition with their enterprises.

As an indication of the level of anger that the move has generated, I was told that at least two New Zealand travel wholesalers have already threatened to withdraw South Australia from inclusion in their tour programs to Australia and that agents are considering a boycott of South Australia as a recommended destination. I understand the Acting Managing Director of Tourism South Australia, Mr Roger Phillips, is to travel to Auckland this Thursday, returning on Sunday, to promote the travel centre proposal. But, according to my informant, Mr Phillips is way out of his depth. My informant also reminded me of the shambles—that is his word—Tourism South Australia has made in the past in terms of its presence in Auckland.

The Minister would know the situation better, but it is worth putting on the record that, in 1986, TSA decided to stop employing a representative in New Zealand. However, 18 months later, this decision was reversed when the Minister admitted the closure of the office had been made on bad advice. Since that time, TSA's representative has been actively engaged in many promotional and sales functions, including direct negotiation with tour operators to include Adelaide in their itineraries. It now appears that these gains may be under threat following the most recent decision to open a retail travel centre in Auckland, subsidised by the South Australian Government. My questions are:

1. What detailed financial evaluation was undertaken to support the proposed establishment of a retail and information travel centre based in Auckland, and will she table a copy of the evaluation, plus a copy of the business plan upon which I assume the Minister would have insisted before TSA launched this venture?

2. What funds have been budgeted in order to allow TSA to subsidise the operating and marketing costs of this proposed office?

3. Based on the advice I received from New Zealand yesterday, as the deadline for written proposals is the last post on Friday 17 April—a mere 2½ weeks away—can the Minister give a guarantee that the Acting Managing Director has not implicitly or explicitly given advantage to any one operator engaged in similar work with TSA elsewhere in Australia?

The Hon. BARBARA WIESE: The decision has not yet been taken at all about what should happen in New Zealand in relation to Tourism South Australia's representation there.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: What is happening at the moment is that Tourism South Australia is exploring options for the future of all our operations, whether—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —they are in international markets or anywhere else.

The Hon. Diana Laidlaw: Have you seen the advertisement?

The Hon. BARBARA WIESE: Yes, I have.

The Hon. Diana Laidlaw: And—

The PRESIDENT: Order! The honourable member can ask another question afterwards. The Minister is answering.

The Hon. BARBARA WIESE: It has been suggested that it may well be an appropriate time for the current arrangements in New Zealand to be reviewed with a view to changing the operation from the currently existing arrangements, whereby our representative is largely responsible for maintaining contact with people in the travel trade and drawing South Australia and its attractions to their attention and encouraging the inclusion of South Australia in tour packages and other things to a scheme whereby South Australia might have some involvement in a retail sales operation, in much the same way as we have that sort of activity taking place in various parts of Australia.

In some respects the New Zealand market can be likened to the market that exists for South Australia in other parts of this nation, in that New Zealand is a very mature tourism market for Australia and South Australia. They know about Australia; they know the attractions of Australia; and it may well be that it would be timely to move to a more aggressive sales oriented approach to the work that we are doing in New Zealand. Therefore, the advertisement has been placed in various newspapers in New Zealand and Australia, as I understand it, and we will see what emerges from that advertising.

The Acting Managing Director of Tourism South Australia will have the opportunity, once he is able to assess the registrations of interest that may come forward from

the advertisement, to determine whether or not it is a reasonable option for Tourism South Australia to pursue. There is no doubt that if such an option could be pursued with an appropriate company there is the potential for Tourism South Australia to save money. In fact, it may also lead to an increase in sales and, therefore, an increase in tourism and business for operators within South Australia.

So, we will see what emerges from the current advertisement, and assessments as to whether this is an approach that should be adopted will be based on the quality of the interest that emerges from that registration of interest. I am quite sure that, as part of the assessment of this approach, appropriate discussions will also be held with New Zealand retailers, wholesalers and others with whom South Australia currently does business so that the views of those people can be considered before any final decisions are made on this matter.

The Hon. DIANA LAIDLAW: As a supplementary question, will the Minister confirm that at this stage the proposed office is simply a nice idea and that no business plan or feasibility study has been done? Secondly, as she said that this is merely an option at this stage being considered by TSA, why did the advertisement not state that for the benefit of operators who might be forwarding details of interest in this proposal?

The Hon. BARBARA WIESE: It is very difficult to have a business plan before deciding what the business will be. I should have thought that that would follow once—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —decisions are made about what is an appropriate course of action for South Australian representation in New Zealand.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The honourable member will come to order.

The Hon. BARBARA WIESE: I can assure the honourable member that Tourism SA will not act precipitately in this matter. Proper assessments will be made of the various options that are available to us and instead of sitting here criticising Tourism SA for reviewing its operations and considering whether there are better ways—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —of doing our business and providing a better service for operators in this State—

Members interjecting:

The PRESIDENT: Order! The Council will come to order. There is far too much audible conservation.

The Hon. BARBARA WIESE: —the honourable member might actually acknowledge that this is an appropriate course of action and congratulate us.

Members interjecting:

The PRESIDENT: Order! The Hon. Miss Laidlaw will come to order.

TANDANYA AND GLENELG DEVELOPMENTS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism a question about ministerial involvement in the Tandanya and Glenelg developments.

Leave granted.

The Hon. M.J. ELLIOTT: The Minister has already admitted that a person with whom she is closely associated, Mr Jim Stitt, has had an interest in a project promoted by her department, namely, the Tandanya Resort for Kangaroo Island. In her ministerial statement of Wednesday 25 March she said, in reply to comments I have made earlier in this place, that:

> Mr Stitt's involvement with this project ceased in January 1990, more than 12 months before the original proponents sold the development. It is also untrue that Mr Stitt was responsible for introducing the current owners to the present owners.

A search of the title for a parcel of land on Kangaroo Island, which is the location of the proposed development, shows that it appears that it was not a direct sale from the orginal proponent to the present owners, System One, a Japanese company. On 20 April 1989 Paradise Developments sold the land to a company called Geographic Holdings of 1 High Street, Fremantle. A company search indicates the directors of that company to be: Lynn Jeffery, the current accountant for Nadine Pty Ltd of 1 High Street, Fremantle, a company of which the Minister and Mr Stitt are the only shareholders, and AUSEA a company now known as Customs Construction Pty Ltd, which had been involved in transferring money into the accounts of Nadine Pty Ltd during 1990 and 1991; and David Connolly, a former company secretary for AUSEA. A search of Geographic Holdings has revealed its shareholders to be David Connolly, Adele Gaskin and Lynn Jeffery.

A phone call this afternoon to Geographic Holdings confirmed that, although the company search listed the company's address as 1 Forrest Road, Hamilton Hill, Western Australia, its address is, in fact, 1 High Street, Fremantle, W.A., the registered address for Nadine Pty Ltd. On 22 February 1991 Geographic Holdings sold the property to System One Australia. The architect for the proposed development is Adelaide-based David Dawson. Mr Dawson is a co-director with Mr Stitt of IBD Public Relations Pty Ltd. Mr Dawson is joint venturer also for one of the proposals for the redevelopment of the Glenelg foreshore. Mr Chris Kaufmann, the Government's major facilitator in relation to Glenelg, has been moved from the Department of Environment and Planning to Tourism SA.

The Tandanya land has recently been rezoned a tourism accommodation zone, and the regulations covering tourism accommodation zones have been altered to prevent public notification of proposals for developments within such zones. That effectively denies the public the right to make submissions on the proposal and challenge any decisions in the courts.

The Minister and Mr Stitt are quite clearly closely associated with some people and indirectly associated with others who have already had, and may in the future make, a substantial benefit from the Tandanya resort and the Glenelg foreshore redevelopment. The accountant of her company Nadine Pty Ltd, Lynn Jeffery, was a co-owner of the development site through Geographic Holdings and has provided advice to Mr Stitt in relation to his company, IBD. In fact, in 1988, Mr Jeffery was a director of IBD. On 4 September 1989 Mr Jeffery wrote to Mr Stitt at 19 Preston Street, Como, Western Australia. In part, the letter states:

> I have had a discussion with David Williams and have made an assessment of the best possible position for investment in IBD Pty Ltd, South Australia. The problem downstream is equating returns and capital gains. As you have income and investments from a number of sources it would be necessary for your South Australian income to come to AUSEA in Western Australia.

My questions to the Minister are:

1. What form did Mr Stitt's involvement in Tandanya take prior to January 1990 and what was the catalyst for that involvement ceasing?

2. Was the Minister aware that it was not the original proponements that sold the land to System One but a company of which her accountant was both a director and shareholder?

3. Can the Minister confirm whether her accountant's company received any financial benefit from the transfer of the Tandanya land?

4. What role did Tourism SA play on behalf of the Minister in negotiating the transactions and why?

5. Has the Minister had any direct involvement in promoting the services of architects Nelson Dawson in relation to the Tandanya and Glenelg developments?

6. Did she declare to her Cabinet colleagues her and her partner's business associations in relation to the Glenelg redevelopment and Tandanya resort?

7. Will the Minister list all development proposals in South Australia of which she is aware and in which people with whom she or Jim Stitt are directly or indirectly associated have any involvement?

The Hon. BARBARA WIESE: That is a large number of questions and I am not in a position to answer many of them. They relate to businesses about which I have no knowledge whatsoever. In some cases, where I do have a knowledge of the business or the matter concerned, I do not know the answer in any case. It seems to me that what is happening with this matter is similar to the sort of thing that has been happening during the past week with questions that have been directed to me about my involvement and that of Jim Stitt in the gaming machines issue. I suspect that a lot of the information that is being presented by members of Parliament in this place is coming from very much the same source from which the original story published last week came, because I am very much aware that there is a line of inquiry taking place this week by the same journalist who was investigating my affairs previously with respect to poker machines.

I am very interested that this line of questioning is emerging again. Once again, with these sort of questions, we see that one fact here is being set alongside another, with no linking information but with a clear inference being drawn by the location of one piece of information with another. So, there is a lot of innuendo again being put forward by the type of question that is being asked here.

I will attempt to look at these questions and answer them if I am able to, but I would like to make one point about the directorships of International Business Development Public Relations Pty Ltd. As I understand it, it is true that David Dawson is a director of International Business Development Public Relations Pty Ltd, but he is not a shareholder of that company and I think that that is a very important fact that has not been placed on the record. He has nothing to do with the operations of that business, as far as I am aware.

As to Mr Stitt's involvement with Tandanya, I indicated here last week that he was employed by Paradise Developments, as I understand it, some years ago, to provide public relations assistance to them. That contract ceased in January 1990 when Paradise Developments decided it did not need any further assistance. I am not aware of the information that the honourable member has posed, that it was not Paradise Developments that sold Tandanya to System One. I have no knowledge of the arrangements of who owned the land or how it was sold. That is not a matter for me. It is a private development on private land and the companies that have been involved with that development have undertaken their own—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —business activities with respect to those matters. I have had no involvement with it whatsoever so, if the arrangements are as the honourable member suggests, that is news to me. I have no idea about it. As to the role of the accountant in this matter, I cannot answer that question; I have no idea at all. I have no information about most of these questions, and I do not think it is appropriate that I should attempt to answer them in this way, in any case. So I will undertake to study the questions, and I will provide information where information is known to me and hope that the replies will satisfy the honourable member.

UNLEY COUNCIL

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Minister for Local Government Relations a question relating to Unley council development.

Leave granted.

The Hon. J.C. IRWIN: For some time, the Minister of Housing and Construction has been advocating that public housing be established on the Unley Shopping Centre site, and many residents of Unley have complained to the Opposition that this is being done to shore up the Minister's electoral position. The Minister of Housing and Construction has called a public meeting tonight in conjunction with a Mr Taeho Paik.

I have been advised that Mr Paik is not a ratepayer but that he is an architect who had a meeting with the Mayor of Unley on 27 December last year to present plans prepared by him for the Unley Shopping Centre site. This meeting was arranged by a member of the council, Ms Libby Davis, who also happens to work in the Minister's electorate office.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.C. IRWIN: The Minister of Housing and Construction has never sought public opinion about new Housing Trust developments in his electorate, yet he criticises the Unley council for its lack of consultation regarding the Unley Shopping Centre site. The memorandum of understanding signed by the Premier and the Local Government Association requires the State Government to observe the principle of 'maximising local government autonomy, independence and . . . capacity for self-management'. In a speech at the signing ceremony for this memorandum, the Premier said it was 'an historic document' which would create 'a new level of partnership which should benefit all South Australians'. My questions to the Minister are:

1. Has the Minister advised her colleague the Minister of Housing and Construction to stop his campaign of interference with and intimidation of Unley City Council members—'this bunch of two bob bloody politicians' as he calls them?

2. Does she agree that the memorandum of understanding process of maximising local government autonomy alluded to by the Premier is damaged by the actions of the Minister of Housing and Construction?

The Hon. ANNE LEVY: The answer to both those questions is 'No'.

WHITE CLIFF RANGE

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister representing the Minister of Labour a question relating to an explosives manufacturer north of Adelaide.

Leave granted.

The Hon. I. GILFILLAN: Mr President, I recently received a letter from a concerned resident in the Beetaloo Valley area near Crystal Brook, north of Adelaide, in relation to

the company ERT Explosives Australia Pty Ltd, operating on the White Cliff Range. I quote that letter, in part:

> ... I am writing to voice my concern over information that came to light after the recent bushfire that burnt through this area on 17 February 1992. First, some information about the land where the fire started. The land is an ex-Army facility now leased by ERT Explosives Australia Pty Ltd. I believe the land is the responsibility of the State Government now. Contained within this area are the remnants of two World Wars and various Army training manoeuvres, along with the raw materials for manufacturing explosives and the finished product.
>
> A fire as recently as 1983 has burned in this area. Subsequently, the site was inspected by Army personnel and declared a disaster according to a local report. Reported to be found at the site were:
>
> 1. unknown quantities of nerve gas;
> 2. unexploded mortar shells;
> 3. post hole sized holes in the ground filled with unknown substances, possibly in canisters;
> 4. areas of land on which nothing will grow.
>
> At the time, a quote for $6 million was given to clean up the site. During the recent bushfire, calls were put out to anyone knowing what else or where any of this deadly ordnance was located; there appears to be no map.
>
> To add to this list of dangerous substances, the present manufacture and testing of 4 500 tonnes of explosives per year requires:
>
> 1. 400 tonnes of ammonium nitrate to be stored on the premises;
> 2. large quantities of detonating devices to be stored;
> 3. the removal of two truck loads of rubbish (chemical packaging) per day to an open pit in the scrub where it is periodically burnt (apparently the cause of the recent fire).
>
> My concerns, first, are for the safety of the people who live and work in the area. I fear that if there is another fire through the ERT land, lives may be lost, along with damage to many more hectares of native vegetation and farm land. An incident during the recent fire that may have resulted in a death was the uprooting of a 25 pound bomb by a grader making a fire break. We are not well equipped to cope with such a disaster in this area ...

An honourable member interjecting:

The Hon. I. GILFILLAN: It would not be very hilarious, I suggest, if the Hon. Peter Dunn was driving the grader—it might be the last life he had. I have investigated this matter further by contacting the Department of Labour, where a senior officer within the department confirmed that ERT does operate a factory 20 kilometres from Crystal Brook which is licensed for the manufacture of explosives. The officer also confirmed that an ex-Army reserve for testing explosives is nearby and has been taken over by the company. ERT manufactures high explosives and tests batches to see if they have the right velocity and the land has been granted to them by means of Federal Government permission and that of the Premier. I ask the Minister the following questions:

1. What safeguards and security are being provided to ensure that people's lives are not put at danger from unexploded ordnance?

2. Does the Minister realise the danger of operating this testing range in an area prone to bushfires?

3. What is the special zoning that supposedly limits commercial enterprises on the White Cliff Range and does this apply to a factory producing explosives?

4. Is the Minister aware of toxic chemical waste from the production of explosives being washed into the nearby creek system and, if so, is the toxic waste level being monitored?

The Hon. C.J. SUMNER: I will refer those questions to the appropriate Minister and bring back a reply.

REGISTRATION OF BUSINESS NAMES

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Corporate Affairs a question about the registration of business names.

Leave granted.

The Hon. L.H. DAVIS: I have received complaints from two long-established and well-respected Adelaide businesses that other businesses have been set up using the same name as those businesses. The first company is Alfred James, the well-known funeral director who was established 70 years ago and whose registered name is Alfred James and Sons Pty Ltd. However, in recent months the names Alfred James Funerals and Alfred and James Services were registered as business names with the State Business and Corporate Affairs Office, and the name Alfred James Funeral Homes Pty Ltd was registered with the Federal agency, the Australian Securities Commission.

I understand that the person who registered these names is a Mr Panos, who was a director of Affordable Funerals Pty Ltd, which has ceased trading, having gone into liquidation. The proprietors of Alfred James and Sons Pty Ltd are understandably upset that the State Business and Corporate Affairs Office allowed the registration of names so similar to their own. They protested in writing to the State Business and Corporate Affairs Office but their objection was dismissed.

The second complaint is from the proprietor of Reliance Staff Bureau Pty Ltd, which also has the registered names of Reliance Executive Personnel and Reliance Word Processing Bureau. Reliance is a high profile staff agency that has been operating for 48 years. However, the State Business and Corporate Affairs Office has allowed the registration of the name Reliance Typing and Secretarial Services, at an address in Morphett Vale.

Today, I visited the State Business and Corporate Affairs Office and asked for information about the registration of business names. I received an information sheet which, under the heading 'Unacceptable names' stated:

> The name you apply for must be both sufficiently dissimilar from those of existing business companies ...

That is simply not the case. The two people who have objected to me have rightly made the point that the names registered by their rivals are misleading. Quite clearly, they hold out that there is a link, an association, with well-established and well-regarded high profile businesses.

As shadow Minister of Corporate Affairs, I am amazed that the registration of such similar names has been allowed. My own experience suggests that this has not been the case in recent years. Business in South Australia is tough enough without having to compete with new businesses piggy-backing on the valuable goodwill built up over decades of trading and being allowed to use identical names. In my view, it is dirty pool which should not be permitted. My question to the Minister is a direct one: will he examine these two cases as a matter of urgency and ensure that, in future, instances such as these are not allowed to occur?

The Hon. C.J. SUMNER: There are some well established rules and principles dealing with the registration of names. The honourable member has made certain assertions that I will need to check, but those principles have been long established, and I do not know of any change to them. I will examine the assertions made by the honourable member and see whether or not the existing policy has been applied appropriately.

I should add, as the honourable member has raised this issue, that there is one school of thought—and this proposition has been put forward from time to time—that would do away completely with the registration of business names. I am sure that the honourable member would probably agree with that proposition, being a person who is interested in deregulation, allowing businesses to deal with their own affairs. If that happened, of course, individual businesses would have to then take action to deal with situations where

under the general law the same business name was used. However, that comment is by way of an aside to the honourable member. The issue of business names has been discussed in the past. I do not support doing away with the registration of business names. Although that matter has been raised from time to time it is certainly not a policy of the Government. The policy is to implement the guidelines that have been well-established over a number of years. I will examine the circumstances of these cases and bring back a reply.

DEFAMATION LAW

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General a question about defamation law.

Leave granted.

The Hon. J.C. BURDETT: In a ministerial statement last Wednesday, the Attorney referred to discussion at a meeting of the Standing Committee of Attorneys-General on the subject of uniform defamation law. In particular, he referred to substantially similar Bills introduced in New South Wales, Victoria and Queensland, and said that such a Bill should be given serious consideration by this Parliament. The Attorney tabled the New South Wales Bill and the accompanying second reading explanation. He stated that a New South Wales parliamentary committee is currently examining the Bill before the New South Wales Parliament, so apparently the Bill was introduced in the New South Wales Parliament and referred to a committee.

Under section 12 of the South Australian Parliamentary Committees Act, one of the functions of the Legislative Review Committee is to inquire into, consider and report upon, *inter alia*, any matter concerned with legal or parliamentary reform or with the administration of justice. It would be in accordance with the Bill which we have passed and which is now in force and also in accordance with what the New South Wales Parliament has done to refer any proposed South Australian Bill to the Legislative Review Committee. My question is: will the Minister consider referring any Bill on defamation law to be introduced into the South Australian Parliament to the Legislative Review Committee of this Parliament?

The Hon. C.J. SUMNER: I think it is premature to answer that question. It may be, when the issue has been fully canvassed in the Eastern States, that there is not a great deal of difference of opinion about the content of the Bill or that it is not necessary for it to be given the attention of a parliamentary committee in South Australia. However, I am not excluding the possibility that it might be appropriate to refer the Bill to the Legislative Review Committee.

All that I have been concerned to do, to date, is to ensure that the South Australian Parliament and the public are informed about what is happening. I would certainly welcome any comments on the Bill that has been tabled in this Parliament and introduced in the Eastern States Parliaments. I think it would be prudent for the Legislative Review Committee to await the outcome of deliberations in the Eastern States before embarking on an examination of defamation law in South Australia.

I say that because the committee might well waste a lot of time examining issues that are of no real dispute. So, my proposal is that we continue with what I have suggested; namely, that we await results from the Eastern States to see whether uniformity can be achieved there. Uniformity may not be achieved, I do not know, but we should wait and see what comes out of the Eastern States and then move in this Parliament by way of the introduction of a Bill and consider at that point whether or not it needs the attention of the Legislative Review Committee.

However, if the Legislative Review Committee wants information on the Bill prior to that to inform itself, I am perfectly happy to provide whatever information it requires on the topic. To embark on any formal hearings in relation to the matter at this stage, as I said, would be premature, and I suggest that that await the outcome of the deliberations in the Eastern States. It is certainly an issue on which I am prepared to keep an open mind and, if the honourable member or the committee wants to put any further questions or propositions to me in relation to it, I would be happy to consider them.

WORKCOVER

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister representing the Minister of Labour a question about WorkCover.

Leave granted.

The Hon. J.F. STEFANI: As members would be aware, WorkCover has been conducting a review of its procedures dealing with rehabilitation providers involved with the provision of rehabilitation services to injured workers. This review is part of an overall plan to reduce costs and, subsequently, to reduce the amount of unfunded liabilities being accrued by WorkCover. In recent months, WorkCover has employed some 90 case managers. I have been informed that WorkCover is negotiating changes with the unions which will affect the transfer of injured workers between various rehabilitation providers. As part of those negotiations, WorkCover is considering policy changes in line with a fast path transfer concept. In view of these proposals, my questions are:

1. What are the plans and policies dealing with the fast path transfer concept of injured workers that will be adopted by WorkCover?

2. In what circumstances will injured workers be referred to private rehabilitation providers for rehabilitation, and who will be responsible for making such decisions?

The Hon. C.J. SUMNER: I will refer those questions to the appropriate Minister and bring back a reply.

REPLIES TO QUESTIONS

The Hon. J.C. IRWIN: I understand that the Minister for Local Government Relations has answers to questions I asked on 12 February and 18 March this year, and I am happy to have those answers incorporated in *Hansard* if that is the Minister's wish.

The Hon. ANNE LEVY: I seek leave to have the replies inserted in *Hansard* without my reading them.

Leave granted.

TURN LEFT SIGNS

The Hon. ANNE LEVY: The Minister of Transport has advised that section 76 of the Road Traffic Act requires the driver of a vehicle to comply with any instructions indicated by a traffic sign lawfully erected or placed on or near a road.

Section 25 of the Act provides that every traffic control device on or near a road will be presumed to have been so placed by an authority empowered by law to do so and with approval required by the Act.

Sections 16 and 17 of the Act define the authorities empowered to use traffic control devices. This definition includes the Commissioner of Highways and any council.

By delegation under sections 11 and 12 of the Road Traffic Act, the Minister of Transport has given authorities the approval to use traffic control devices, subject to the requirements of the

'Code of Practice for the Installation of Traffic Control Devices in South Australia'.

Regulation 2.02 of the Road Traffic Regulations (read in conjunction with the definition of Regulation 1.04) requires every traffic control device to comply with this 'Code of Practice'. This in turn calls up the 'Manual of Uniform Traffic Control Devices' (Australian Standard 1742) which specifies, in part, all regulatory signs and their meanings.

As a result of this direct link via the Code of Practice to the Australian Standard, all such signs unless specifically excluded by the code, become traffic control devices and are subject to the requirements of section 76 of the Act.

Under section 76 (4) the Government may make regulations specifying symbols and words. However, as the signs in question have been adopted by the Australian Standard, further reference in the regulations is considered unnecessary.

Any driver who disobeys these signs commits an offence and if detected becomes liable to the general penalty under the Act of $1 000 although in practice a traffic infringement notice for $101 (plus $5 victims of crime levy) is issued.

LOCAL GOVERNMENT FUNDING

The Hon. ANNE LEVY: In May 1991 the Commonwealth Government indicated that general purpose financial assistance grants to local government would be maintained in real terms for three years from 1991-92, providing Australia did not experience a major deterioration in its economic circumstances. State shares continue to be determined on a population basis, despite the findings of the Commonwealth Grants Commission Report on the Interstate Distribution of General Purpose Grants to Local Government, 1991.

South Australia has continued to argue that a further review of interstate relativities for the distribution of these funds for local government should be carried out as soon as possible, preferably in conjunction with the review of interstate relativities for the distribution of general purpose funds for the States, due in 1993. No reply to this proposal has been received as yet.

FOSTER CHILDREN

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Family and Community Services a question on the subject of monitoring foster children and their parents.

Leave granted.

The Hon. BERNICE PFITZNER: I was approached by a Mr and Mrs Luxton, who have fostered two children, a 14 year old girl and an 11 year old boy, in New South Wales for the past four years. Two years ago they were relocated to South Australia. During the time they were in New South Wales they were visited regularly on a two-weekly basis by the FACS New South Wales health worker. Since arriving in South Australia two years ago, they have had only one visit from the interstate coordinator, who did not see the children and who spoke only to the parents. These children are what we call 'State wards', and we do not know of their wellbeing. In this case it is unlikely but, for all we know, these children could be abused. The parents have moved from Salisbury to Port Adelaide, and I understand that FACS might not even know where they are at present. I have worked with FACS and found them to be a most caring agency. However, with universal Government cuts in funding in health and welfare services, these services must be deteriorating. My questions are:

1. Why have the foster children not been visited and sighted whilst they have been in South Australia, yet they were the subject of two-weekly visits in New South Wales?

2. Is there a general backlog of foster families to be visited and monitored?

3. If there is a backlog, would the Minister consider increasing services in this most important area?

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

EQUAL OPPORTUNITY ACT

Order of the Day: Government Business, No. 3: the Hon. C.J. Sumner to move:

That he have leave to introduce a Bill for an Act to amend the Equal Opportunity Act 1984.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Order of the Day be discharged.

Order of the Day discharged.

STATUTES AMENDMENT AND REPEAL (PUBLIC OFFENCES) BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: I want to explore with the Attorney-General what the prospective date of implementation might be if this Bill should pass the Parliament. Does he have in mind any particular date by which it will be proclaimed and, if so, can he indicate what that date may be? Can the Attorney-General also indicate whether it is proposed that there be any formal publicity or education program to draw attention to the consequences of various aspects of the Bill?

The Hon. C.J. SUMNER: The second suggestion of the honourable member is a reasonable one. I do not have a date picked out for the Bill's proclamation, although I do not see any reason why it ought not be proclaimed as soon as practicable. It is not a Bill that requires any regulations or anything to bring it into operation, but it may be that some publicity on it should be given before it is proclaimed, and I will certainly consider that. Generally, I would expect to get it proclaimed sooner rather than later.

Clause passed.

Clauses 3 and 4 passed.

Clause 5—'Recklessly endangering property.'

The Hon. C.J. SUMNER: I move:

Page 2, lines 2 to 4—Leave out subclause (1) and insert—

(1) Where—

(a) a person does an act knowing that the act creates a substantial risk of serious damage to the property of another;

and

(b) the person does not have lawful authority to do so and knows that no such lawful authority exists,

the person is guilty of an offence.

This amendment replaces the proposed offence of recklessly endangering property with a differently worded draft. During consultation on the draft of the Bill as introduced, the point was strongly made that the Bill made it an offence to recklessly endanger property by omission, and that in so doing, in relation to a completely new offence, it went too far. It was argued that it went too far to say that a person should be guilty of a criminal offence in not going to the rescue of mere property in danger. I agree with the submission. Therefore, this amendment phrases the offence in terms of positive acts. Further, it was noticed that, unlike the offences contained in section 85 of the Act, the Bill did not speak in terms of requiring that the accused know that there was no lawful authority for the act. The offence has, therefore, been redrafted in order to make it consistent with the other property damage offences in this respect.

The Hon. K.T. GRIFFIN: In section 85 of the Criminal Law Consolidation Act there is a provision for different penalties at different levels of damage that might be caused. Do we presume from both the Bill and the amendment that, because the reference is to substantial risk of serious damage, that it is not necessary to provide any gradations of penalty so that in any event, whatever the damage, it will be an indictable offence? There may be other reasons why that is distinguishable but, not having looked at the provision for a week or so, can the Attorney amplify that point and its relationship to section 85 and to the gradation of penalties in that section?

The Hon. C.J. SUMNER: The honourable member's understanding is correct. We are talking about a potential danger or damage and it may in fact not occur, so it is not possible to grade the penalty in accordance with the amount of damage that might be done because it would be virtually an impossible task to determine it.

Amendment carried.

The Hon. K.T. GRIFFIN: I draw the Attorney's attention to the fact that in proposed subsection (2) there is reference to 'or omission'. Is it necessary, because we have removed the reference to those words from new subsection (1), to delete them from this subsection?

The Hon. C.J. SUMNER: We should remove those words now. I move:

Page 2, line 7—To delete 'or omission'.

The honourable member is correct in that assumption.

Amendment carried; clause as amended passed.

New clause 5a—'Possession of object with intent to damage property.'

The Hon. C.J. SUMNER: I move:

Page 2, after line 8—Insert new clause as follows:

5a. Section 86 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) Where—

(a) a person has custody or control of an object intending to use the object, or to cause or permit a person to use the object, to damage property of another;

and

(b) there is no lawful authority for such use of the object and the person knows that no such lawful authority exists,

the person is guilty of an offence.

Penalty: Imprisonment for 2 years.

When the new offence in relation to property was being looked at, it was also noticed that the existing offence in section 86 (1) of the Criminal Law Consolidation Act was, for some reason, not drafted in a way consistent with the offences contained in section 85 of the Act in relation to knowledge of lack of lawful authority. The opportunity was therefore taken to make the offences consistent in all other respects, it remains the same as the offence currently in force.

The Hon. K.T. Griffin: What about the penalty?

The Hon. C.J. SUMNER: I am told that was changed in the reclassification of offences, which we did last December.

The Hon. K.T. GRIFFIN: It is not always easy to keep up to date with the changes made in the statutes, even though one gets various consolidations, but I accept that that is the case. In essence the amendment is similar to the provision in the principal Act, but I ask the Attorney whether this is the sort of provision that might be used in relation to so called graffiti-type offences. It seems that, whilst there is legislation in the House of Assembly to deal with issues of graffiti, section 86 as proposed to be amended might effectively be used to deal with those sorts of offences involving marking property, which I would presume would be construed as damage. My question is a matter of interest rather than raising any substantive issue with the amendment.

The Hon. C.J. SUMNER: That is a matter of interest, and the honourable member is probably right. This offence—which is not a new offence, it is reworded to some extent—is in the existing law. It would be possible to use it in some circumstances for graffiti implements.

New clause inserted.

Clause 6—'Substitution of Part VII.'

The Hon. C.J. SUMNER: I move:

Page 2, lines 16 to 18—Leave out definition of 'benefit'.

This amendment arises from the course of the second reading debate. The non-inclusory definition of 'benefit' in the Bill was derived from the draft offences recommended in the Gibbs committee's fourth interim report which were used as a point of departure for the drafting of this Bill. It was necessary for the Gibbs committee to say that 'benefit' did not include lawful remuneration, and so on, because the offences recommended by the committee did not employ the qualifying terms improperly, about which I spoke at length in the second reading debate.

Therefore, for example, they recommend that it be an offence for a member of Parliament to seek a benefit from another person on the basis that the benefit should be paid in return for the performance of his or her duties as a member. That is one of their proposed bribery offences. Clearly, then, unless the legislation somehow specifies otherwise, a member of Parliament making a pay claim would be guilty of a bribery offence. That is not what the offence is designed to do, as members will be pleased to know. It is therefore necessary for the Gibbs committee to define 'benefit' so as to exclude that situation. However, because this Bill uses the key qualifying concept of 'improperly', it is not necessary for this Bill to so redefine 'benefit' generally.

There is one exception to that, and I will deal with it in a moment. Not only is it not necessary to do it, but doing so unnecessarily and wrongly limits the operation of some of the offences. I will provide some examples of that. Proposed section 243 deals with the offence of offering a benefit to a witness not to give evidence in judicial proceedings; that is, bribery of a witness. If the definition of 'benefit' remains, the offence would not cover the situation where an employer offers an employee overtime to which the employee is entitled, not to go to be a witness against an employer in, say, an occupational health and safety prosecution.

Proposed section 246 deals with bribery of public officers. If the definition of 'benefit' remains, it would not cover the case where a senior public servant offers to promote another public servant or to give that person a raise in salary on the basis that a contract is awarded to a friend of the senior person. The offence should cover that situation. Therefore, I have taken the view that the exclusionary definition of 'benefit' should be removed with the one exception that is dealt with by a consequential amendment that will be moved in a moment. The cases thought to be covered by the definition are quite clearly covered by the notion of 'improperly'.

The Hon. K.T. GRIFFIN: I do not have any objection to that course. In fact, I raised the issue of 'benefit' in the course of my second reading contribution, and I accept the reasoning upon which the Attorney-General now bases this amendment. It seems to me appropriate that the definition be removed. Proposed section 250 contains a reference to 'benefit' not including certain matters. Again, I think that is appropriate.

'Benefit' really does take a variety of forms, and the definition we are now discussing suggests to me that it still leaves open considerable debate about what is a 'benefit', and that debate may as well be conducted in relation to each particular offence where it is referred to rather than having to discuss it in a litigious context under section 237. So, I do not raise any objection to the amendment. It seems to be reasonable in the circumstances.

Amendment carried.

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

Page 3, line 12—Leave out 'knowingly or recklessly'.

During the course of the second reading debate I raised some questions about proposed section 238, which actually defines 'acting improperly'. A number of matters were raised by my colleague the Hon. John Burdett, and the Attorney-General responded to them. I will deal with one aspect of the response under my third amendment, which seeks to delete subsection (2), which refers to the establishment of standards as a question of law.

However, when I looked at section 238 (1), it seemed to me that there were some difficulties in interpretations, which were compounded by the use of the words 'knowingly or recklessly'. Even if those words are deleted, I think there are still some problems with the concept embodied in this subsection. I referred the issue to a criminal lawyer, who attempted to lead me through some logic. I will share that with the Committee, particularly, in relation to the guilty state of mind. He indicated from his point of view and understanding of the law that, generally speaking, criminal responsibility requires not only that the *actus reus* be proved but, further, that the mental state of the accused necessary for criminal responsibility also be proved. Where a particular consequence of conduct is an essential element of the *actus reus*, the state of mind of the accused must relate to that result; that is, the conduct accompanied by an intention that it should result in the specified consequence, or conduct accompanied by knowledge that it will probably result in the specified consequence but not caring whether or not it happens.

Where the existence of a particular state of affairs at the time of the impugned conduct is an essential element of the *actus reus* the state of mind of the accused must ordinarily relate to the existence of that state of affairs; that is, conduct accompanied by knowledge that the state of affairs exists and an intention to proceed notwithstanding or conduct accompanied by the intention to proceed whether or not the state of affairs exists.

Section 238 purports to require a state of mind of that latter kind, but the state of affairs of which the public officer or person acting must have knowledge or with respect to which he or she must act recklessly is of value, that is, a standard of propriety, and the Act is contrary to that value. The question arises as to what it is that the public officer or person acting must advert to. Is it a fact or set of facts and circumstances which a person might know in a practical sense?

The conclusion that the lawyer reached was that it is not; it is a norm or standard which cannot be known. At best, it can only be judged. Moreover, it is a norm or standard which is determined by judicial assessment. In short, the act is only improper if known to be or adverted to as probably being contrary to a standard of propriety determined by the court alone. He makes a judgment that concepts of knowlege or advertence with respect to a judicially assessed standard are a nonsense. When can it ever be said that a person knew or adverted to the probable existence of a standard, and further knew or adverted to the probability that an Act was contrary to that standard?

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: If you want to look at it, I am happy to hand over the typewritten notes.

The Hon. C.J. Sumner: Who did that?

The Hon. K.T. GRIFFIN: I was quoting the advice which the QC had given. He does not want his name on the record, but I am happy to give it to the Attorney off the record.

The Hon. C.J. Sumner: That was a quote from advice?

The Hon. K.T. GRIFFIN: Yes. Following that through, it seems to me that there is a problem with section 238 (1) if one leaves 'knowingly or recklessly' in there because, at the time of the alleged offence, the public officer must know what the standard of propriety is, and that cannot be known until it is fixed by a judicial assesssment of the standard or, alternatively, recklessly act contrary to the standard of appropriate, which is of course not set, other than by a judicial assessment. So, I would suggest that it does put a public officer in a very difficult position of trying to anticipate what the standard might be.

In most cases we will be able to say what is improper, but there will obviously be borderline cases. We can say that the community expects a particular standard, being our judgment of what that standard might be, and in most cases there will be no argument about that. However, in other cases there may well be a grey area which may ultimately prove to be prejudicial to the public officer who might be charged.

So, I would suggest that the first step is to delete 'knowingly or recklessly', but it seems to me that even if that is done there is still a problem with the attempt to define 'improperly', according to a standard of propriety, which is to be fixed by judicial assessment. It may be that there is an argument that the judicial assessment is making known after the event what the standards should have been expected to be, anyhow. However, I think that, from a criminal law point of view, that is a very difficult thing to establish. I think it can result in jeopardy to a public officer in circumstances where there may be uncertainty about a particular standard.

I have referred in my second reading contribution to the case of a member of Parliament, for example, who acts on behalf of a constituent who has been badgered by a public officer without what the member of Parliament might regard as being reasonable grounds. The member of Parliament might say, 'I will do anything in my power to make sure that you are shifted from that job so you cannot go on bothering members of the community in the way that you are unreasonably doing.'

Some people might say that the member of Parliament, taking that stance, is acting improperly, using his or her office to threaten the loss of a position, that it is a detriment and that it is acting improperly. Conversely, others would say that it is not improper; that one is just doing one's job. But how does one fix the standard? It seems to me, particularly on the basis of the advice I have read, that there is a problem of defining after the event what the standards were at the time of the event. So, my first amendment seeks to remove 'knowingly or recklessly' on the basis that that in itself creates a problem. I suppose, if we left it in there, it could be argued that it would mean that virtually no prosecutions would be successful. However, I think we must try to make it work, if the Attorney-General agrees with the arguments that I have been propounding.

The Hon. C.J. SUMNER: Mr Goode has prepared a response to the criticisms made by the person quoted by the honourable member in relation to the mental element of this offence, and perhaps I can begin by quoting from

my advice on this topic. Perhaps one day the courts will ultimately have to rule on who was right and who was wrong.

The Hon. R.J. Ritson: They don't get *Hansard.*

The Hon. C.J. SUMNER: Well, they might one day; they should, especially when there is such erudition as this around. I will quote the response to the point raised in the advice given to the Hon. Mr Griffin, as follows:

> The provisions of the Bill in this regard have been subjected to some criticism on the basis that the Crown is required to prove that the accused knew or was reckless about a relatively vague moral standard. There are two answers to this criticism. They are:
>
> 1. This sort of provision is not unusual in cognate areas of criminal law.
>
> 2. The proposed standard is quite intelligible.
>
> The first point is that this kind of provision is not unique but can be found in cognate offences. The provision mirrors what the English courts have decided in relation to the analogous provision in the English Theft Act, which served as a model for the test. In Ghosh (1982) 2 All England Reports, 689, the court held that:
>
> > In determining whether the prosecution has proved that the defendant was acting dishonestly, a jury must first of all decide whether according to the ordinary standards of reasonable honest people what was done was dishonest.
>
> If it was dishonest by those standards then the jury must consider whether the defendant must have realised that what he or she was doing was, by those standards, dishonest.

There is a general principle that a person should not be found guilty of a serious criminal offence unless they know that what they are doing is wrong. In particular, a person should not be found guilty of these impropriety offences if that person firmly and genuinely believed that he or she was acting in a manner that conformed to the standards of ordinary decent members of the community. That fault principle sometimes requires proof that the accused knew the law, although mostly it does not. Mistakes of law are often a complete answer to the sorts of crimes in issue here; for example, claim of right which is a mistake of law is a defence to all offences requiring proof of dishonesty.

Another offence analagous to the sorts of crimes at issue here is blackmail or extortion. At common law, the line between extortion and hard bargaining is not clear. Howard's *Criminal Law* states that:

> Much depends on whether the demand is considered to be extortionate by the jury and the law has failed to specify exactly where the boundary lies. This deficiency has prompted the observation that extortion seems to be a highly emotive offence, one which depends to a disturbing extent upon subjective moral judgments.

However that might be deplored, when it came to reform of the offence in common law jurisidictions that problem proved intractable. Of the new offence, it is said by Fisse in Howard's *Criminal Law*:

> A feature of the new offence of blackmail is that the scope of liability is governed primarily by D's subjective beliefs as to the legal or even moral propriety of his conduct.

The second point is that the standard proposed is quite capable of clear explanation. For example, the leading text writers, Smith and Hogan, speaking about blackmail explain a very similar concept in this way:

> As a practical matter most people do act according to generally accepted legal and moral standards and the case must be rare where D [the defendant] can genuinely rely on his own moral standards where these are seriously at odds with accepted standards. If D knows that the threat he proposes is to commit a crime he cannot accordingly maintain that he believes such a threat to be proper. It is not enough that D feels that his conduct is justified or that it is in some way right for him. 'Proper' in this context involves a consideration of what D believes would be generally thought of as proper. The test of D's belief is of course a subjective one, but the belief refers to an external standard. D cannot therefore take refuge in his own standards when he knows that these are not thought proper by members of society generally.

That is the response that I have to the advice given to the Hon. Mr Griffin.

I turn now to the honourable member's amendment. This amendment seeks to change the mental element or fault requirement of the various offences, and I oppose it. The reason is that it would elevate the moral beliefs of the accused to the status of the law. Under the proposal in the Bill, a person who does something improper while aware that ordinary decent members of the community would regard that behaviour as improper, would still be guilty of the offence even though he or she regards that standard as wrong or inappropriate. But under the amendment such a person would not be guilty, because even though the behaviour would be regarded as improper by ordinary decent members of the community and even though the person knows that that is so, the amendment would give that person a defence on the basis that he or she personally disagrees with that standard. I do not think that is a preferable position to take.

However, I am prepared to put a proposition to the honourable member, which I suppose could be described as a compromise—assuming that is not improper. That compromise would be: *(a)* the retention of the words 'knowingly or recklessly' and *(b)* the insertion of paragraph *(aa)* proposed by the honourable member, if the belief required for the defence is to be both honest and reasonable. In a subsequent amendment, the honourable member will propose that a person does not act improperly and therefore a criminal offence is not committed if the person acts in the honest belief that he or she is lawfully entitled to act in the relevant manner. The problem with that is that it involves the same problem as removing 'knowingly' or 'recklessly' from the Bill as proposed by the honourable member, in that it would then seem that the standards that would determine the matter would be the subjective standards of the individual who carried out the act and there would be no relation to any objective standard of the community.

I propose that we import some objective standard by not just the use of 'honest belief' but by the use of 'honest and reasonable belief', where the honourable member is moving his amendment suggesting that a person does not act improperly. In lieu of the honourable member's proposition I am suggesting that a person does not act improperly if they act in the honest and reasonable belief that he or she is lawfully entitled to act in the relevant manner.

This is a fairly complex area, but I think the propositions that I have put forward bring us to the result that we want. I do not believe that it can be a result which says that anything goes as far as the defendant is concerned and, provided that the defendants can establish that they honestly believed that they were entitled to act in a way, then they are entitled to an acquittal.

I suppose that gets into a debate about what we mean by 'honest' or 'honest belief'. I do not want to revisit the debate about 'honest' or 'genuine', because, if we were to have that debate again, members would argue that you cannot qualify a belief: you either have a belief or you do not and therefore the word 'honest' is superfluous.

That was certainly the argument put by members during the debate on the Criminal Law Consolidation (Self-Defence) Amendment Bill last year, but I now find that 'belief' in the honourable member's amendment can be qualified by the word 'honest'. As an aside, I would ask why we wasted four hours of our time on the last occasion. However, to do that would be quite churlish, and I do not intend to do it. If anyone reading *Hansard* in the future without any knowledge of this matter can make any sense of what I have just said, good luck to them! However, I am sure

that it would encourage them to look at the debate on the self-defence Bill and, if they did, they would understand what I am referring to.

The honourable member's amendment on this point refers to an honest belief that could be purely subjective in the sense that it is only the belief of the person carrying out the act to which we are referring without reference to any objective standard. If that person honestly holds that belief—even though it may be quite a bizarre and unreasonable belief—on the Hon. Mr Griffin's amendment, the person would be entitled to an acquittal. My proposal is that the person is not acting improperly if the person acts in the honest and reasonable belief that he or she is lawfully entitled to act in the relevant manner, and that brings in some objective standard to the position, because the belief has to be a reasonable one and not something that is totally out of court, not beliefs that are held without any basis whatsoever. That is the proposition I put forward for consideration by members.

The Hon. J.C. BURDETT: I support the amendment moved by the Hon. Mr Griffin. I am also prepared to consider the compromise offered by the Attorney, after these matters have been debated in full. In the meantime, and while we are thinking about it, I shall put on record some comments about the proposed new section 238, which provides in part:

> . . . the standards of propriety generally and reasonably expected by ordinary decent members of the community to be observed by public officers of the relevant kind, or by others in relation to public officers or public offices of the relevant kind.

Subsection (2) provides:

> The determination of the standards referred to above is a question of law to be answered by judicial assessment of those standards and not by evidence of those standards.

In my second reading contribution, I said that I had difficulty with that, because standards are a question of fact: they are not a question of law. In his response to the second reading debate, the honourable Attorney said:

> I take the view that the standards of behaviour expected of public officers in their official capacity is a question of law and should be decided by a judge. It is up to the jury then to decide whether the accused person has lived up to that standard.

With respect, I disagree with the Attorney. I believe that all standards, including the standards of this kind, are a question of fact and not a question of law. On reflection, I do acknowledge that it would be difficult to leave matters of this kind to the jury, and I do not know what the answer is. However, I place on record the problem that I have in that I consider that standards are not a question of law. In the case referred to by the Attorney the jury did have to decide the standards.

The Hon. C.J. Sumner: Which case?

The Hon. J.C. BURDETT: The first case that you quoted.

The Hon. C.J. Sumner: The Ghosh case.

The Hon. J.C. BURDETT: Yes, that's right. The passing of an Act on something makes it a matter of law, but it does not change the fact. The well-respected authority on constitutional law A.V. Dicey in his book *The Law and The Constitution* says that, if the Parliament of England passes a law saying that all blue-eyed babies should be strangled at birth, that will be the law of England. But he goes on to acknowledge that very few blue-eyed babies would in fact be strangled at birth. So, there is a difference between what the law says is a fact and what really is a fact. Standards of the community are clearly a matter of fact: they are not a matter of law. They can be debated in courts, they can be decided on by a judge and jury, or anyone else, but they are a question of fact. In his response, the Attorney-General went on to say:

> This scheme of things has two main advantages. The first is that, over time, a body of law will be built up which can be far more specific than any legislation can ever hope to be.

That is one of my problems, that the standard is going to be a matter about which a body of law will be built up. But standards will change from time to time. One case may be decided 12 months after this Bill becomes an Act and becomes law; one may be decided 10 years afterwards; and one may be decided 100 years afterwards, during which time the standards of the community will have changed greatly. This being a matter of law, with a body of case law built up, will impede rather than help to establish the true standards. However, I do not know the answer to this problem, and on reflection—

The Hon. C.J. Sumner: You can just leave it to the jury.

The Hon. J.C. BURDETT: That is one possibility, but I can see the problems in that. I do feel that the Hon. Trevor Griffin's amendment—in a different sort of way, perhaps—partly copes with this problem. It would satisfy me and, after we have debated it, I am prepared to consider the Attorney-General's compromise.

The Hon. K.T. GRIFFIN: Referring to what my colleage the Hon. Mr Burdett has said, I agree with the difficulty, and I will address that issue myself, although not at length, because he has adequately covered the field. I will seek to leave that issue to the jury, although I can recognise that that has some problems, too. In relation to the deletion of 'knowingly' or 'recklessly', I would have thought that, if those words were deleted and my paragraph *(aa)* were inserted, in an amended form, that is likely to overcome a large measure of the difficulty that the Attorney-General has expressed, because a person who acts in an honest and reasonable belief is not acting improperly.

That must imply that the standards set out in subsection (1) must be those which are reasonable. I suggest that paragraph *(aa)* qualifies the standard so that it is no longer the standard of the accused but the standard which is reasonable in all the circumstances. I wonder if it is necessary to retain 'knowingly or recklessly' in the light of the provision in proposed paragraph *(aa)* that, 'the person acts in the honest belief that he or she is lawfully entitled to act in the relevant manner'. That is my question. Does the inclusion of the word 'reasonable' not then make the argument of the Attorney relating to the deletion of 'knowingly or recklessly' no longer appropriate because the insertion of the word 'reasonable' qualifies the standard in the context of an accused?

I take the point that the Attorney made about honest belief. I interjected that I let the reference to honest belief in proposed section 85a (2) pass by, recognising that there was a long debate about that in the self-defence Bill. I do not propose to reopen it in this context; I merely note his observations and say that I generally agree: if you have a belief, you have a belief, and we will not open that up again now.

The Hon. C.J. SUMNER: I think that the words 'knowingly or recklessly' should remain in the Bill. This is a different point from the one raised in the Hon. Mr Griffin's advice, although the same person may have raised the point as well. I think the prosecution should have to prove the mental element, which is that someone has to know that what they are doing is wrong or be reckless as to whether or not it is wrong. 'Knowingly or recklessly' is a mental element in the criminal law and it is well known.

It is not as if they are words unknown in the criminal law and I think the prosecution should have to prove that mental element as part of its case, rather than the defendant having to prove it, although I do not know that it is actually expressed in those terms. It would probably still be the

prosecution that would have to negative the matters set out in subsection (3). I do not know that there is a lot in it.

If we delete the words 'knowingly or recklessly', as part of the mental element as part of the Hon. Mr Griffin's amendment as amended by me, the prosecution would have to prove that the person did not act in a reasonable and honest belief, so the prosecution would still have to establish the mental element of the offence by reference to the new subsection (3) *(aa)*. I do not see any problem with leaving 'knowingly or recklessly' there, which are words well known in the criminal law. They establish what the mental element of the offence should be and I would oppose removing the words unless someone can come up with convincing reasons as to why the words should be removed.

The Hon. K.T. GRIFFIN: The arbiter of this complex debate ultimately has to be the Hon. Mr Gilfillan. I acknowledge that it is a difficult issue and that there is no political point in it. I am sure the Attorney recognises that. It is a difficult concept and I am concerned about it. I accept that the Crown should still have to prove the mental element, as the Crown should also have to prove in my view at least some element of the standard reasonably expected by ordinary, decent members. Our views may differ on that, but it seems to me that, if we take out 'knowingly or recklessly' and insert proposed paragraph *(aa)*, then it largely overcomes the difficulty. I would persist with my amendment. It may be that, when we finish the Committee stage, the Minister might want to see a print of the Bill as amended before it passes the third reading, but that is a matter for him before the Bill is passed by the Parliament.

The Hon. I. GILFILLAN: I must apologise to the Chamber because I was kept away with another commitment. I realise that I am not conversant with the dispute that I gather is there between the Attorney and the shadow Attorney on this matter. That is not a helpful contribution, but I am willing to hear the case if the Committee is interested in that.

Amendment negatived.

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

Page 3, lines 16 to 18—Leave out subclause (2).

This subclause provides that the determination of the standards we have just been debating is a question of law to be answered by a judicial assessment of those standards and not by evidence of those standards. As the Hon. John Burdett has indicated, in his reply, the Attorney-General indicated that part of the reason for this was to avoid the necessity of calling evidence on the question of standards but also to enable some body of law to be developed that might more clearly define the standards, even though, as the Hon. John Burdett indicated, those standards will change from time to time.

I tender the view that this is an issue that really ought to be left to the jury. I am concerned that judges and magistrates will seek to set the standards and that they will not necessarily be in touch with the view of ordinary decent members of the community in respect of this matter. That is not meant to be an insult directed at judges and magistrates. It is a fact of their judicial life that they sit in court in the criminal jurisdiction hearing matters related that the seamier side of life. I am not sure that they are in a better position to make a judgment about standards than is a jury of 12 men and women.

One of the Attorney-General's advisers provided me with an extract from *Smith v Hogan* in relation to theft. That extract referred to this particular question and to the current standards of ordinary decent people. On page 495, in reference to the case, it states:

> It was held in *Ghosh* that the jury should be directed that D acts dishonestly if (i) his conduct would be regarded as dishonest by the ordinary standards of reasonable and honest people; and (ii) D realises that his conduct is so regarded. If (i) and (ii) are met, it matters not that (iii) D himself does not regard his conduct as dishonest.
>
> This decision is, with respect, a welcome clarification of the law and provides criteria by which most cases can be simply and satisfactorily resolved. But, and inevitably perhaps, there are problems.
>
> As to (i) the issue is pre-eminently one for the jury—
>
> 'Jurors, when deciding whether an appropriation was dishonest can be reasonably expected to, and should, apply the current standards of ordinary decent people. In their own lives they have to decide what is and what is not dishonest. We can see no reason why, when in a jury box, they should require the help of a judge to tell them what amounts to dishonesty . . . It is clear in our judgement that the jury should have been left to decide whether the defendant's alleged taking of money had been dishonest. They were not, with the result that a verdict of guilty was returned without their having given thought to what was probably the most important issue in the case.' [Feely case].
>
> No doubt any jury would take the view that it is dishonest to claim payment for work that has not been done, or that it is dishonest to travel on buses intending to avoid payment. In *Ghosh* the court was of the view that a jury would equally have no difficulty in deciding that it is dishonest to rob the rich to feed the poor, or that it is dishonest for anti-vivisectionists to remove animals from laboratories.
>
> But a jury can only surmise as to what conduct is regarded by ordinary people as dishonest. No evidence can be led on this issue so the jurors have only their own knowledge and experience to guide them. This is not to suggest that juries would be capricious but juries might legitimately differ on how they believe that ordinary people would regard the conduct in question.

I do not disagree with that assessment of what juries may or may not do, but it seems to me that judges are probably equally likely to differ as to what is or is not a particular standard, and that standard may change over a time. Therefore, it seems to be difficult to understand the preference for a judge to make the decision and then to allow jurors to determine whether or not particular behaviour complies with this standard. It is for that reason that, on balance, the issue of whether or not standards have been met by the accused ought to be an issue for the jury, even with the disadvantages that that might create, because they are more likely to be better judges of standards than leaving it to only one judicial officer.

The Hon. C.J. SUMNER: I have given further consideration to this matter and there is argument both ways. However, there is substance in what the honourable member says. Perhaps for neatness and logicality, the existing Bill is preferable for common sense in the sense of who should ultimately determine this issue—the judge or the jury. Because we are talking about community standards ought it not be the jury—which is after all the community—that adjudicates on those standards? I am therefore prepared to accept the honourable member's amendment.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 3, lines 19 to 23—Leave out subclause (3) and insert—

(3) A person will not be taken to have acted improperly for the purposes of this Part unless the person's act was such that in the circumstances of the case the imposition of a criminal sanction is warranted.

(3a) Without limiting the effect of subsection (3), a person will not be taken to have acted improperly for the purposes of this Part if—

(a) there was lawful authority or a reasonable excuse for the act;

or

(b) the act was of a trivial character and caused no significant detriment to the public interest.

This amendment deals with the key concept of 'improperly', which is what we have been dealing with. It inserts a new part in the definition contained in new subclause (3). This amendment also came from consultations on the Bill. It

states that a jury must explicitly consider not only whether there was impropriety but also whether the impropriety was such as to warrant the imposition of the criminal sanctions. I am sure all members will be aware that in the rough and tumble of public life things happen which we would call improper, but which are part and parcel of the job and while we might disapprove of them, they should not attract the severe penalty here enacted.

Certainly, it is not the intention of the Bill to escalate minor improprieties into major criminal offences, so this amendment seeks to provide just that. This sort of definition is not new or unprecedented. The analogy drawn here is with the concept of criminal negligence as it has been interpreted to apply, particularly in relation to the offence of manslaughter. It is manslaughter to cause the death of another person by criminal negligence. It is clear that mere negligence, as would suffice for civil liability, will not do for the offence. The offence does not escalate mere negligence to a very serious offence. So, it is necessary to distinguish between mere negligence on the one hand and criminal negligence on the other. The common definition of criminal negligence is that set out by the Victorian Court of Criminal Appeal in *Nydam* [1977] VR 430. It requires:

> . . . such a great falling short of the standard of care which a reasonable man would have exercised and which involved such a high risk that death or grievous bodily harm would follow that the doing of the act merited criminal punishment.

The analogy with what is proposed by this amendment is obvious. It provides an additional assurance that the offences proposed in the Bill will be so interpreted as to accord with the realities of ordinary public life.

The Hon. K.T. GRIFFIN: In relation to proposed subsection (3), is this an issue that the jury will consider or will this be more in the province of the judge? As I understand it, the Attorney-General is saying that this is designed to add a criterion which relates to the question of seriousness. If that is the case, I have no difficulty with it but, if the Attorney-General could expand in relation to who makes the judgment, I would appreciate it.

The Hon. C.J. SUMNER: It would be a jury matter.

The Hon. K.T. GRIFFIN: I will move my amendment in a slightly amended form; the tense needs to be corrected then to fit in with the Attorney-General's amendment. Therefore, I move:

> Page 3, after line 19—Insert paragraph as follows:
> *(aa)* the person acted in the honest and reasonable belief that he or she was lawfully entitled to act in the relevant manner;.

The Honourable K.T. Griffin's amendment to the Hon. C.J. Sumner's amendment carried; the Hon. C.J. Sumner's amendment as amended carried.

The Hon. C.J. SUMNER: I move:

> Page 3, after line 25—Insert definition as follows:
> 'public officer' includes a former public officer.

This amendment corrects an oversight. Some proposed offences apply to former public officers as well as serving ones, for example, proposed section 246 (2) containing the extortion offence. It is necessary for the definition of 'improperly' to reflect that fact.

The Hon. K.T. GRIFFIN: I appreciate the reason for that. When we get to section 246 I want to raise a question about 'former public officer'. The questions I want to raise have been explained, but I think I need to have it clarified on the record at the time we get to that.

Amendment carried.

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

> Page 3, line 34—before 'impeding' insert 'concealing or'.

This amendment runs in tandem with my next amendment to add subsection (1a). To some extent it endeavours to address the issue of compounding. During the second reading debate I said that I was a little concerned that the offences of compounding and misprision of a felony were to be repealed. I followed the argument for that and accept the provisions in the Bill which accommodate some aspects of those former offences. However, it seemed to me that what had not been addressed was the question of concealing an offence, and I suggest that my amendment does not meet the objection which the old misprision of a felony offence met.

For the purposes of the offence, a person who, knowing or believing that an offence has been committed, gives, offers or agrees to give a benefit to another as a reward or inducement for the concealment of the offence or for the withholding of materially relevant information or the giving of false information or seeks, accepts or agrees to accept a benefit as a reward or inducement for concealment or will be taken to have done an act with the intention of concealing or impeding investigation of the offence. It would suggest to me that we ought to be dealing not only with impeding an investigation but also with concealing an investigation—not merely failing to report but the more active requirement of concealment, as set out in my amendment.

The Hon. C.J. SUMNER: This amendment adds the words 'concealing or' so that the offence would now read (in substance):

> A person who, knowing or believing that another person has committed an offence, does an act with the intention of:
> *(a)* concealing or impeding investigation of the offence . . . is guilty of an offence.

The first difficulty that I have with this is that it reads such as to create an offence of concealing the investigation of an offence. I suggest that that is not what is meant. I suppose that what is really meant is the creation of an offence of doing an act with the intention of concealing the commission of an offence. Be that as it may, it is a technical drafting matter that could be addressed if the principle is agreed to. However, it is difficult to conceive of a situation in which a person does an act with the intention of concealing the commission of an offence and is not thereby caught by the proposed offence of impeding either because that is an act done with the intention of impeding the investigation of an offence [section 240 (1) *(a)*] or because it is also an act done with the intention of assisting the principal offender to escape apprehension or prosecution [section 240 (1) *(b)*].

In short, I think that the proposed offence already covers the ground. I would be loath to add more verbs to the offence, and thus create an additional offence, unless there is ground to be covered that is not already covered. Additional offences complicate the law. Accordingly, I will oppose the amendment unless I can be convinced by the honourable member that the added words are necessary to achieve the objects of the Act, something which I have in common with him. I do not believe there is any dispute about the policy, but I am not sure how adding the words 'concealing or' would effect a situation that is not already covered by the word 'impeding' or by the words 'assisting the principal offender to escape'.

The Hon. K.T. GRIFFIN: The inclusion of the words 'concealing or' so that the offence relates to concealing or impeding is, to a very large extent, amplified by proposed subsection (1a). I think that the offence in subsection (1) has to be read in the context and in the light of subsection (1a), which relates to the giving, the offering or the agreeing to give a benefit as a reward or inducement for the concealment of the offence or for the withholding of materially relevant information.

I acknowledge that the giving of false information would actually impede the investigation of the offence, but I sup-

pose there could be a situation where a person—perhaps not the offender but some other person—has proposed a benefit to a witness that certain information not be made available to the law enforcement authorities. In those circumstances, one really must question whether that is covered by impeding the investigation of the offence. I suppose one also must question whether it is assisting a principal offender to escape apprehension or prosecution.

The Hon. C.J. Sumner: Witnesses are covered under section 243.

The Hon. K.T. GRIFFIN: The Attorney-General interjects that witnesses are covered, but section 243 relates to giving, offering or agreeing to give a benefit to another person who is or may be required to be a witness. I suppose the circumstances to which I have referred may extend to a person being required to be a witness, but I suppose that if they conceal the information they may never be required to be a witness.

Section 243 relates to not attending as a witness, giving evidence at or producing a thing in evidence at the proceedings, or withholding evidence or giving false evidence at the proceedings. It is all qualified by 'at the proceedings'. Section 240 refers to the investigation of the offence. If the evidence is concealed and the person who conceals the evidence may not even be questioned because that person has been given a benefit to stay clear of the investigating officers, that person would not be caught by section 240, I would have thought.

The Hon. C.J. Sumner: What if you are paid to stay away?

The Hon. K.T. GRIFFIN: I think it is arguable, anyway. Does 'impeding' mean that by staying away you commit the offence, or does it mean that you are being obstructive or uncooperative during the course of the investigation? I was trying to cover what I saw as a potential hole. If the Attorney-General is not convinced, so be it; I cannot do any more than put my view and move my amendments, which I think assist the situation. If as the Attorney-General indicates there may be a problem with a drafting aspect of the first amendment, that can be sorted out later if he accepts the concept of the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I do not propose to proceed with my amendment after line 38, having lost the last amendment.

The Hon. C.J. SUMNER: I move:

Page 5, lines 13 to 17—Leave out subclause (4).

This amendment deletes subclause (4) of the perjury offence. It so happened that this Bill coincided with correspondence between the Chief Justice and me in which the Chief Justice requested that this subsection (now section 239 (4) of the Act) should be repealed. The reason is that the judicial discretion contemplated here is inconsistent with the independent discretion of the Attorney-General or the Director of Public Prosecutions as to whether or not to prosecute. Accordingly, it is proposed to delete the offending provision.

The Hon. K.T. GRIFFIN: I follow the Attorney's argument, but I would have thought that if someone is making a false statement under oath and if the judicial body before which the statement is made is convinced that the person should be prosecuted for perjury, no harm can be done by leaving this provision in. However, if the Attorney-General prefers to pursue the perjury charge in a way in which every other criminal charge is dealt with, I do not raise any objection.

The Hon. C.J. SUMNER: By way of explanation, this matter has caused some difficulties in practice in that judges have referred matters to me as Attorney-General and there has then been conflict, if you like, as to whether the Attorney just goes ahead and prosecutes or whether he must then carry out some inquiries to see whether or not there is sufficient evidence to sustain a prosecution.

So, the removal of this term will clarify that situation. The responsibility will be clearly with the prosecution authorities to determine whether or not to prosecute for perjury. Perjury is not an easy charge to bring, and judges can make this recommendation. On the face of it, the charge may be obvious but, when the Crown Prosecutor or the police try to put together the case for the prosecution, they find that it is not sustainable, whereas under this measure, if it is read literally, one has to prosecute once—the matter does not even have to be referred to the Attorney-General. This states quite clearly that they should be prosecuted. My advice was that the Attorney-General still had the discretion to examine the matter and determine whether a prosecution should prodeed, and we have written back to the judges to that effect. But that seems to be in conflict with the plain wording of the existing law and what was intended to be included in the new Act.

So, what we are doing is making quite clear that, yes, a judge can refer a matter of perjury to the Attorney-General, but the ultimate decision as to whether to prosecute rests with the Attorney-General or, as it will be, the Director of Public Prosecutions. The matter will be referred to the police for inquiry, the evidence will be collected and it will come back for decision by the DPP. So, this measure gets rid of a potential conflict which this section has actually given rise to in practical terms.

The Hon. K.T. GRIFFIN: I indicated earlier that I did not raise any objection to this measure, but I thank the Attorney-General for that additional information. Again, I can see the logic for it, and I just confirm that I do not intend to object to it.

Amendment carried.

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

Page 8, after line 4—Insert clauses as follows:

Disclosure, etc., of identity or address of juror

244a. (1) Subject to this section, a person must not wilfully publish any material or broadcast any matter containing any information that is likely to lead to the identification of a juror or a former juror in a particular trial.

Penalty: $8 000 or imprisonment for 2 years.

(2) This section does not apply to the identification of a former juror with the consent of the former juror.

(3) In this section, a reference to the identification of a juror or former juror includes a reference to the disclosure of the address of the juror or former juror.

Confidentiality of jury's deliberations

244b. (1) A person must not solicit information from a juror or former juror about the deliberations of a jury or harass a juror or former juror for the purpose of obtaining such information.

Penalty: $8 000 or imprisonment for 2 years.

(2) This section does not apply in relation to the disclosure of information about the deliberations of a jury—

(a) to a judge or court;

(b) to the Attorney-General;

(c) to—

(i) a board or a commission of inquiry; or

(ii) any person who is conducting research,

appointed by the Governor or the Attorney-General; or

(d) to a member of the Police Force acting in the course of an investigation of an offence or alleged offence relating to the deliberations of a jury or the obtaining of information about such deliberations.

(3) For the purposes of this section, the deliberations of a jury include statements made, opinions expressed, arguments advanced or votes cast by members of the jury in the course of their deliberations.

My amendments now deal with the question of jurors. During the second reading debate, I indicated that I wanted

to propose some amendments which might give some greater protection to jurors. At the time I spoke, we had seen newspaper reports of some of the activities of the media and others in the United States, but some further time ago we saw what had been happening in relation to a Queensland jury. The Attorney-General responded that there were some difficulties with the comprehensive provisions of, say, the New South Wales Juries Act, and I acknowledge that, but I still think that it is important to have something in the criminal law which sets some standards for jurors. It may be that interference with juries in terms of seeking information about what goes on in the jury room might be treated as a contempt—as again, I recollect the Attorney-General indicated in his reply—but something more positive and clear than that needs to be included. So, I propose the insertion of section 244a, which provides:

> . . . that a person must not wilfully publish any material or broadcast any matter containing any information that is likely to lead to the identification of a juror or former juror in a particular trial.

That does not mean that a former juror cannot consent to such publicity. I also propose the insertion of section 244b, which provides:

> A person must not solicit information from a juror or former juror about the deliberations of a jury or harass a juror or former juror for the purpose of obtaining such information.

It is important to have that protection in the system. There is an exception, with a number of areas where disclosure may be made in relation to the deliberations of a jury to a judge or court, to the Attorney-General, to a commission of inquiry or person who is conducting research appointed by the Governor or the Attorney-General or to a member of the Police Force investigating allegations of an offence. It seems to me that those propositions overcome the difficulties which are evident in the New South Wales and Victorian legislation. They set some principles and provide limited offences, but also provide that in certain legitimate circumstances information can be available as to the deliberations of a jury in the circumstances which I have outlined.

The jury system is an integral part of the criminal justice system. I know there are criticisms of it from time to time, but I still say that it serves us well in the very significant majority of cases. It would be unfortunate if some of the trends overseas and even in other parts of Australia to allow interviewing of jurors, publicity about jurors and even criticism of jurors publicly were not to be addressed head on. It is time that we faced up to that, and that is why I believe that my propositions for insertion in the Bill are reasonable and provide those signals to the community at large, as well as to the media.

The Hon. C.J. SUMNER: The Government opposes this amendment for the reasons I outlined in my second reading reply. The offence of contempt of court is sufficient to deal with the problem of jury interference. I do not think that there has been a major problem in South Australia with jury interference, and I do not know that we should legislate for a problem which has not really arisen in this State. My concern is that the propositions of the honourable member are too rigid. For instance—and I mentioned this in my second reading speech—Mr Stewart Cockburn's inquiry into the conviction of Edward Splatt did rely on interviews with jurors, and ultimately Splatt was found to have been wrongly convicted, following a royal commission. That was a case of a journalist interviewing jurors some years after the event. No proceedings for contempt of court were taken against Mr Cockburn in those circumstances presumably because people considered that what he had done was justified.

The Hon. K.T. Griffin: It all came out in the forensic evidence.

The Hon. C.J. SUMNER: Sure, it did, I know, but in order to establish his case for a review of the decision he did interview jurors—so it was part of what he did. As it turned out, whether or not the conviction was upheld revolved around forensic evidence. However, if Mr Stewart Cockburn, or anyone else the day after a trial, a conviction or an acquittal, went and interviewed all the jurors and tried to find out what happened, I imagine the court would take a dim view of it, and it probably would constitute contempt of court.

I prefer to leave it flexible, and leave the question of jury interference with the general provisions relating to contempt. I think they are more flexible than a rigid rule. If we have a problem in South Australia at some time in the future where there is continual repeated interference with juries that is considered to be undesirable, we can revisit the issue but, for the moment, I am reluctant to agree to those offences being included in the law.

The Hon. K.T. GRIFFIN: I acknowledge that there does not seem to have been a major problem in South Australia, but I would like to think that we could guard against that. Until the recent Queensland case I do not think we believed there was the major problem in Australia and, whatever the politics of the people involved in that, it seems to me that what happened was undesirable. I would prefer not to address the issue after the problem has arisen but before, with a view to endeavouring to set the standard now as a deterrent to the sort of behaviour that might flow over into South Australia from some of the other States.

Amendment negatived.

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

> Page 9, after line 5—Insert subclause as follows:
> (3) A member of Parliament is not guilty of an offence against subsection (2) in respect of any benefit that the member accepts or agrees to accept if the member, as soon as reasonably practicable, furnishes the Registrar under the Members of Parliament (Registrar of Interests) Act 1983 with details of the benefit for entry in the Register of Members' Interests maintained under that Act.

Section 246 deals with bribery or corruption of public officers according to the note at the head of the section, although I should say that bribery or corruption are not referred to specifically in the offence. That may have been wishful thinking. I want to raise one issue before I deal with my amendment. Section 246 deals with both public officers and former public officers. As I first interpreted the section, it seemed that former public officers would commit an offence if they improperly gave, offered or agreed to give a benefit or a person who gave such a benefit to a former public officer would commit an offence where the benefit was a reward or inducement for an act to be done by a former public officer in his or her official capacity or by virtue of his or her office.

I have had an explanation made to me that 'former public officer' is only there to deal with the situation where such an offer or gift was made prior to the person ceasing to be a public officer in a situation where the benefit might accrue after the person has ceased to be a public officer, and I think I can accept that explanation. It is not designed to place any obligation on a former officer making representations, say, to a Minister or another public officer to do certain things: it is more designed to deal with the situation where the benefit is paid over or received after the officer ceases to be a public officer. I presume that the Attorney-General agrees with that.

The Hon. C.J. Sumner: Yes.

The Hon. K.T. GRIFFIN: As to my amendment, I am concerned that, although the reference in the section is to

improperly giving certain things, this section deals with the exercise of power or influence that the public officer has or had or purports or purported to have by virtue of his or her office. It is the exercise of power or influence and the benefit which has been received or offered that causes me concern.

Members of Parliament are required to disclose benefits in their register of interests under the Members of Parliament (Register of Interests) Act, and it seems to me that, if a member of Parliament discloses the benefit, even if that benefit is related to the exercise of power or influence, then there is no public harm done and the member should not then be subject to a prosecution where the penalty is seven years imprisonment, where there might be some debate about whether or not the behaviour was improper in the circumstances of this Bill.

I cannot think of any other way of guarding against that, other than to put in this provision about the Members of Parliament (Register of Interests) Act and, if there is an alternative, I would be happy to receive it. I am concerned that a member of Parliament, particularly, might use power or influence or be accused of using power or influence to obtain some benefit for someone else or to cause a benefit but ultimately find himself or herself at the butt of a prosecution when in fact in the view of members of Parliament generally nothing improper was done. As I say, I do not know what other solution there is to the problem, but it does not seem unreasonable to provide some mechanism for identification of benefits and then to absolve the member who discloses that benefit under the Act from that liability.

The Hon. C.J. SUMNER: I can understand what the honourable member is saying, but I think he goes too far. He seeks to create a defence to the offence of improperly seeking, accepting or agreeing to accept a benefit from another as a reward or inducement for an act to be done or to be done in an official capacity or for the exercise of power or influence. The defence he is proposing will be available only to a member of Parliament and it will apply if the member furnishes the Registrar with details of the benefit for the Register of Members' Interests. This defence will allow an MP to provide him or herself at will with a defence to criminal liability for an action which has been decided, in the strict test that we have, to be improper and to merit criminal punishment. As I said, I think that that goes too far. In other words, a member may be bribed to do a particular act, but the honourable member says that, as long as that is disclosed, then the member can escape any criminal liability for it.

I suppose the next leg of his argument has to be that, if it is disclosed and if it is clearly a benefit that has been provided to achieve a certain objective and the disclosure would make that obvious, it is an issue that would then be dealt with in the public arena and the member would have to take the electoral or public consequences of his actions of receiving this money in return for doing something.

I think it takes it too far. I imagine that a declaration of interest will be sufficient in many cases to overcome potential problems of conflict. In fact, there is one issue currently before the Council where that matter is raised. Obviously, I will be looking at it in the context of the review that I have been asked to undertake. So, there will be circumstances where the declaration of an interest is adequate to resolve the problem of conflict. I think it is going too far for the honourable member to say that even though a member of Parliament receives a direct monetary benefit in return for doing a particular thing—voting on a particular Bill—he or she is exonerated from any criminal offence provided he declares it. As an example, we will shortly have the gaming machines legislation before us. Assuming the interests behind the poker machine industry offered every member of Parliament $20 000 for passing the Bill, under the honourable member's amendment, if that were declared then—

The Hon. I. Gilfillan: Before the vote or after it?

The Hon. C.J. SUMNER: I do not think it states that. Provided that a member has declared the offer, the offence of improperly giving, offering or receiving benefits would not be made out. As I said, I think that carries it too far. I think that if the member has disclosed it and prosecution was taken under this section, the fact of the declaration would clearly be a strong evidentiary issue that could be raised by the member to say, 'Look, I did not act improperly; I declared it all and I therefore cannot be guilty of this offence.' One would expect a member of Parliament who made such a declaration to make much of that fact if the member were charged with this offence.

If the honourable member wants to make it more explicit, we could say something about the court being entitled—in considering whether an offence is made out—to take into account whether or not the member declared the interest, or some words to that effect. While I understand what the honourable member is saying, what he proposes goes too far. My suggestion might be acceptable to the honourable member.

The Hon. K.T. GRIFFIN: I accept that the amendment may go too far. I have no intention of trying to exonerate a member of Parliament who receives a benefit in return for acting in a particular way. However, I have in mind this question of the exercise of power or influence, which is a very difficult thing to define—and I have given a few examples of exercising power. A member of Parliament, simply by being a member of Parliament, can follow up a matter on his or her own behalf or for a constituent. The very fact that a person is a member of Parliament is sufficient to have people standing at attention and giving some results. That is power or influence and it may prove to provide a benefit, now that it is no longer defined, to a constituent.

It may be that, even in relation to a tender for a particular contract, there is a number of tenderers and that the Government authority does not accept the lowest tenderer. The member of Parliament might kick up a fuss about it, behind the scenes or publicly, resulting in some benefit being gained by the lowest tenderer, who missed out. I am presenting hypothetical situations that need careful investigation. In those circumstances, when the member has exercised power or influence it may be that, because of that, there is a night out for the member at the cost of the formerly unsuccessful tenderer. There is a benefit involved in that. Some people might say that that is improper. I know that it has to be judged according to community standards. There ought to be at least some provision that identifies public disclosure of the benefit by the member. I am happy to accept what the Attorney-General is proposing is evidence that the jury must have regard to in determining the impropriety or propriety of the act. It may be that it is related to the exercise of power and influence—which is in paragraph *(b)* of each of the subsections, rather than in paragraph *(a)*—because it is the exercise of power or influence that is the very difficult area of definition.

The Hon. C.J. SUMNER: What I am suggesting is that the Committee oppose the Hon. Mr Griffin's amendment and look at the proposition again. The clause could then be recommitted and we can consider another form of the amendment.

The Hon. I. GILFILLAN: I am not sympathetic to the amendment. I know that there may be conditions or circumstances that are difficult to categorise clearly as being a gift or benefit that is specifically for a political purpose. However, I really think that the role of members of Parliament is so sensitive and delicate that we really need to be ultra-sensitive in taking even the minor benefits from people who may be lobbying for a certain point of view. I refer to benefits such as a night out with a meal, and so on. That may seem to be a minor issue.

The Hon. C.J. Sumner: You do that now.

The Hon. I. GILFILLAN: No, I don't.

The Hon. C.J. Sumner: Of course you do.

The Hon. I. GILFILLAN: It depends: what are you indicating? What is your evidence?

The Hon. C.J. Sumner: I am not saying it in a critical sense, but the honourable member might go to dinner with the AHA or to its Christmas lunch.

The Hon. R.I. Lucas: Or to the Finance Corporation.

The Hon. C.J. Sumner: Yes, or to the Finance Corporation lunch. He could go to functions with the Australian Society of Accountants, the South Australian Chamber of Commerce, and so on. What I am saying is that the honourable member does, in fact, dine out often with people who seek to influence him.

The Hon. I. GILFILLAN: It is interesting that both the Leader of the Opposition and the Leader of the Government are both turning and giving me a good sally as if they benefit from generous hospitality.

There is a distinction. The Attorney has indicated that I receive hospitality from various organisations, and that is true. I also invite several people from time to time to have hospitality at my expense. That is hospitality between people who come together in a context of enjoying a certain occasion such as Christmas or the annual general meeting because of some sense of camaraderie. That is a different matter from being lobbied specifically for the support of a Bill and being offered a night out on the town. This has happened to me on occasion, although not very often. It has not happened to me as often as it has happened to other members. In those circumstances, against my Scottish grain, I have usually insisted on paying my share. I would not insist on that if the Attorney-General or the Leader of the Opposition were to offer to take me out to dinner. In those circumstances I would say it was fair game and I would take whatever I got.

Although it might sound facetious superficially, the point is still very serious, and I think we can turn with advantage to the Japanese scenario, the political structure of which is rotten with the bribery and corruption that has come from politicians accepting what have developed to be quite massive gifts, under the circumstances. I hold the view that, more zealously perhaps than other public officers, we should avoid the position of being compromised in taking any form of gift or benefit, so that I feel perhaps even more strongly opposed to the amendment than the Attorney has expressed himself to be. I am therefore certainly happy to oppose the amendment.

The Hon. C.J. SUMNER: I want to make quite clear that I oppose the amendment. I was not being equivocal about that in any way: I am opposed to the amendment. I am merely suggesting that we could put in the law what I suggest would be the fact anyhow that, if someone declared an interest which they had received, that clearly would be a matter which would be taken into account in determining whether or not the offence here had been made out. However, to respond more to what the Hon. Mr Gilfillan said, he is quite right: it is a difficult area, but of course he gaily started off by saying that he does not accept hospitality. Yet it was quite clear when I interjected (and I was not doing so in any critical sense) that we all accept hospitality from people who may wish, by offering their hospitality, to gain influence. They might want only to establish contact with us so they can ring us up and they know us. All that is legitimate and is not improper.

The Hon. R.I. Lucas: They mightn't even mention the Bill.

The Hon. C.J. SUMNER: They may not. Often they do, but often they raise issues over dinner. I should say and make quite clear that if they want to influence me the best thing to do is not invite me out to lunch or to dinner or anywhere else, because I prefer not to go; I prefer to stay at home. So, if anyone is in the lobbying business and they want to know how to influence me, they can start off by not inviting me out to dinner, lunch or anywhere else.

The Hon. I. Gilfillan: That could be regarded as a reverse benefit—not being invited out.

The Hon. C.J. SUMNER: Yes. I am happy to stay at home, generally. That does raise the difficulty that we all, I suppose on one term, receive a benefit from various groups in the community. I seem to recall that at one stage there was a debate on amendments to beverage container legislation, and one of the firms that were involved in that invited us (not me, but some members) to the football to share its corporate box, and the Minister concerned decided that it would be inappropriate to go at that time, because the debate was on.

On the other hand, I am sure that at some time all members here have accepted hospitality in the corporate boxes of some company, whether it be SANTOS, an insurance company or whatever. I do not think there is anything wrong with that. If we say it is improper, normal human intercourse would just not go on. However, I do agree that we have to be careful about it; I do not believe those circumstances would be improper, but I do think that what the Hon. Mr Griffin has put here goes too far, and I merely return to what I said I would do, namely, think about it and recommit the clause after we have considered another amendment.

The Hon. K.T. GRIFFIN: I appreciate what the Attorney-General is saying. I certainly had no intention of exonerating members of Parliament from illegal acts, and I suppose, having put the amendment on the file and having moved it, I must admit that it has the potential to pose some difficulty for people who might misconstrue the intention. I certainly do not condone any improper or illegal behaviour by members of Parliament or anybody else, but I wanted to make sure that there was no inadvertent catching of members who accepted a benefit and who could be construed as having exercised power or influence.

The Attorney-General has given a number of examples. We also have the example of airlines, for example. If an international airline flies into Adelaide or is establishing a direct link to Adelaide, frequently there is lobbying to a relevant Minister or the Premier asking them to do something with their people federally to make sure that it happens. Then, when it happens there is a trip on the inaugural flight which, of course, is a benefit. I do not see that that is improper in the context of governmental activities. However, it has the potential to be construed as improper, because it was an exercise of influence or power on the Federal authorities to approve the establishment of the flight. It could even make representations to other airlines such as Qantas to give some support for it. So, I am merely interested in ensuring that no inadvertent problem is being created as a result of enacting this section.

Amendment negatived.

The Hon. C.J. SUMNER: I move:

Page 9, line 8—before 'injury' insert 'physical'.

This amendment was foreshadowed in my reply to the second reading debate. In that reply I gave the reasons why this offence should be limited to physical injury to person and property. This amendment ensures that.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 10, after line 4—Insert subclause as follows:

(2) Subsection (1) does not apply to a demand made by a public officer to a proper authority in relation to the officer's remuneration or conditions of appointment or employment.

This amendment is consequential upon a previous amendment. It inserts the excluding definition of 'benefit' which was taken out of the general definition section by a previous amendment in relation to the offence extortion contained in proposed section 249. It is needed here because the offence is not qualified by the use of the term 'improperly'. The offence is not so qualified because extortion is not either proper or improper: making such demands is almost always improper. The exception is, as this amendment states, in a proper pay claim.

Amendment carried.

Progress reported; Committee to sit again.

MFP DEVELOPMENT BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 3603.)

The Hon. R.I. LUCAS (Leader of the Opposition): The South Australian economy is at the moment an economic disaster with 83 000 people unemployed. Approximately 42 per cent of our 15 to 19-year-olds looking for full-time work are currently unemployed. In some areas of South Australia and, in particular, of Adelaide, youth unemployment has reached about 60 per cent. For example, in areas such as Elizabeth and some parts of Port Adelaide and our southern suburbs, the rate of unemployment of 15 to 19-year-olds is about 60 per cent. Some members of the Labor Caucus have argued persuasively that in some parts of these suburbs the unemployment rate could even be higher than 60 per cent.

There have also been recent reports to the effect that those unemployment figures recorded by the Australian Bureau of Statistics are an under-estimate. For example, I refer to the Hamilton College, an adult re-entry college in South Australia. At the start of this school year, an extra 254 repeat year 12 students, whom it was not expecting to receive, descended upon the college. In part, they were students who had had a look at the work force and decided that they would not be able to get a job and would go back to repeat year 12.

The South Australian Centre for Economic Studies in a recent analysis using input and output models for the period 1995 to 2005 estimated an average growth in employment in South Australia of about 1.5 per cent per annum. The centre looked at the various sectors in South Australia and indicated how it believed those sectors would fare compared with the State average. In respect of the manufacturing sector, with which the Hon. Terry Roberts would be familiar, the centre estimated that employment in South Australia would decline by .8 per cent per annum over that 10-year period compared with relative overall growth of 1.5 per cent. It believes that there will be a decline in employment of .4 per cent per annum in the mining sector and in the forests industry—again, an area with which the Hon. Mr Roberts is familiar—there will be a decline of .4 per cent.

The South Australian Centre for Economic Studies is indicating by its input/output analysis that certain sectors of our economy, such as manufacturing, mining and forests, on which in the past we have relied very heavily, are going into decline. During that 10-year period from 1995 to 2005 they will decline relative to growth in a whole range of other areas such as the services and tourism and hospitality areas.

If we add to the economic backdrop on the multifunction polis that I have just painted the problems with which South Australia is confronted in relation to the State Bank, the management of the State Bank debt and related financial problems with semi-governmental authorities, it will be seen that, quite clearly, the economic future for South Australia is, at best, bleak. We are in a disastrous situation at the moment: the future is, in one word, bleak.

Any project that holds out the hope for potentially 50 000 jobs for South Australians must be considered seriously by members of this Parliament. I accept that there are varying views in the Parliament on the multifunction polis: some members have decided to oppose it and others to support it, but the backdrop that I seek to paint in this debate is that any project that offers potentially 50 000 jobs must be considered seriously, as we do not have many potential rays on the horizon in relation to future employment prospects of that magnitude.

I note from the environmental impact statement that the estimate of potential direct and indirect jobs from the multifunction polis is 50 000. The Kinhill-Delfin joint venture study produced in May 1991 provides a bottom and top range of estimates for the number of direct and indirect jobs to be created by the multifunction polis. The optimistic analysis, based on a whole range of assertions, is that 43 000 jobs will be created. The most conservative analysis by Kinhill and Delfin is that 8 800 jobs will be created by the multifunction polis. If one takes the optimistic estimate of 43 000 or the inflated figure of 50 000 according to the environmental impact statement, one can see that the prospect of providing those jobs is equivalent to roughly 50 to 60 per cent of our current level of unemployment in South Australia. As an economist, I am the first to concede that that is a simplistic comparison, because we are talking about current levels of unemployment of 83 000 in relation to potential jobs that might be created when we have a larger population and a larger labour force.

Nevertheless, even if the order of magnitude were changed slightly, we would be talking about a significant percentage of our current level of unemployment potentially being able to be sopped up by the multifunction polis if it is successful. Again, I stress the word 'if' as I have stressed the words 'potential jobs' all the way through my contribution on this debate. Even if the most pessimistic or conservative analysis is correct—that is, an increase of 8 800 jobs—that would roughly be equivalent to 10 to 12 per cent of our current levels of unemployment being sopped up by way of increased jobs as a result of the multifunction polis.

So, in conclusion, in relation to this economic backdrop to this debate, one must say that, if the multifunction polis can work and be successful, it could have a significant effect on levels of unemployment in South Australia, particularly given the analysis of the South Australian Centre for Economic Studies that many of our major sectors are to go into relative decline over the coming 10 to 15 years.

The debate so far—and I am referring not just to this Parliament but to the debate over the past two or three years—in relation to the multifunction polis has tended to highlight the potential problems and concerns, and not the

potential benefits. Again, I believe that, if we are to consider rationally the multifunction polis, we as members need to consider both sides of the argument. The potential problems—and indeed there are many—must be considered together with the potential benefits, such as the increase in our State gross domestic product, in particular the increase in the number of potential jobs that might be provided for South Australians.

It is not my view that the multifunction polis is a black or white policy debate: it is very much a grey debate. There are arguments both for and against the multifunction polis, and I respect the range of views that are held in the community, within the Parliament and, indeed, within my own Party on the issue. Within our Party—and I am sure probably within the Government—we have had vigorous debate on the multifunction polis. The range of views go from strong committed supporters at one end right through to the other end, to people who might be prepared to lie down in front of bulldozers to prevent the multifunction polis from going ahead, with the very vast majority of members, I suspect, somewhere in the middle listening to the arguments of those strongly for and those strongly against and trying in the end to make up their minds as to what is best for South Australia in relation to this vexed issue.

The Liberal Party's position was stated recently by its Leader, Dale Baker, after a very long debate that the Liberal Party had in its joint Party room on the multifunction polis. Simply, the view is that the Liberal Party supports the objects of the multifunction polis as outlined in clause 5 of the Multifunction Polis Development Bill. We believe that in large part any potential multifunction polis must be private-sector driven although, of course, we accept that Government properly can provide the traditional infrastructure that Governments provide for large urban developments. We have only to look at the recent developments at Golden Grove and at Seaford to see the proper, traditional role of State Governments in providing traditional infrastructure for urban developments.

We believe that the multifunction polis should not be limited solely to Gillman, but it should extend beyond Gillman (so it includes Gillman), to include other parts of South Australia. In particular, Dale Baker highlighted on behalf of the Party the outer suburban areas of Adelaide and some of the regional centres in South Australia. Due to his South Eastern bias, I guess that he also mentioned one or two areas in the South-East such as Mount Gambier. Some of my colleagues with a Riverland bias have mentioned the Riverland; and some of my colleagues have highlighted the Iron Triangle towns, not necessarily just Whyalla, but why not Port Pirie and Port Augusta as well?

The Hon. I. Gilfillan: I was just drawing you north. You seem to be bogged down in certain parts of the State.

The Hon. R.I. LUCAS: We are never bogged down: we move smoothly throughout the whole State representing all South Australians. Indeed, some past the Iron Triangle towns have talked potentially about Port Lincoln on the Eyre Peninsula as another potential centre. So, the Liberal Party does not lock itself into any of those particular regional centres. We believe not only that it should include Gillman and the core areas but also that it should extend beyond Gillman into some of these other regional centres and outer suburban areas. Whilst the Liberal Party indicates that it supports the objects of the multifunction polis, it will not sign a blank cheque to the Government, and to the Premier in particular, for the multifunction polis. I understand—although I did not see it—that the Premier indicated on television recently basically that there was a blank cheque for the multifunction polis development and that whatever was required would be spent to get the multifunction polis off the ground. That is clearly contrary to the view that we put in this debate this afternoon in relation to the multifunction polis.

We will insist on very strict financial accountability in relation to any potential multifunction polis development. We have already indicated in another place by way of our amendments that we see a prominent role for the Economic and Finance Committee of the Parliament and a strong role for the Estimates Committees of the Parliament in approving budgets for the multifunction polis. We are certainly encouraged by at least the published statements of the Australian Democrats reported in the *Advertiser* this week indicating a preparedness to support those amendments in relation to financial accountability. I understand that the Australian Democrats may well be looking at other areas of accountability as well and, not having had time to address those amendments yet, I will have to consider them when we get to the Committee stage.

The multifunction polis debate has been a public relations disaster since its inception way back in 1987, when we understand it was originally conceived by a representative of the Japanese Government or bureaucracy. Early on in the concept of the multifunction polis, it took root in the public mind and in the media as a Japanese retirement village, and we had the notion of maybe up to 100 000 to 200 000 old Japanese men and women being dumped in South Australia in some sort of silver city concept. Certainly, that attracted much opposition from academics in the community not only here but also, I suspect, back in Japan. In the early days, the multifunction polis debate coincided with a significant increase in the level of Japanese investment particularly of a speculative nature, in real estate in Sydney and in areas such as Cairns and Brisbane. Considerable opposition was expressed to that increased level of Japanese investment in Australia. I must say—and I have said it before—that I believe there is an anti-Asian, anti-Japanese, racist undercurrent within the Australian community.

I certainly believe that during the early parts of the MFP debate some people, and I certainly do not seek to portray any opponent of the MFP as being racist, because that would be simplistic and foolish, sought to play on the levels of concern in the Australian community about Asian investment and Japanese investment in particular.

That was certainly at a cost to any rational discussion or debate about the MFP. The Premier himself has to accept that he has caused some of the public relations problems for the MFP as well. In my view, he has relied too much on hype in relation to the MFP, in beating it up as being critical to the future development of South Australia and, in conjunction with those other anti feelings that were developing in the Australian community to the idea of an MFP, this beat-up, this hype of the MFP being the saviour of South Australia's economy, has polarised the South Australian community about whether or not it is for or against the MFP.

A lot of research over the past 12 months has shown that, if you ask people whether or not they are against the MFP, depending on how the question is framed, we generally get a fairly strongly divided view: maybe 30 or 40 per cent for it or against it and maybe 20 or 30 per cent who still do not know what they ought to think or what they might think about the MFP.

The Premier increasingly has been using the success or failure of the MFP development to polarise the community. The Premier has been saying that, if we fail to make the MFP succeed, the future of the State and perhaps even that

of Australia will be jeopardised, and I quote from a recent statement that the Premier made:

> This project is not just a responsibility for South Australia. If we fumble the ball, we are actually fumbling the ball that Australia is trying to carry in an international environment... unless we can follow the Montpelliers, Sofias, Tsakuba cities and others of this world, we are in big trouble in this State and in this country.

There have been many other statements that the Premier has made of that type that have served to hype up the debate about the MFP as being absolutely essential. There is no doubting as I said earlier that, if the MFP is successful, it has the potential to assist in the economic development of South Australia and in the resolution of some of our economic problems. But it is incorrect and wrong to say that it is the only solution that South Australians could contemplate. It is a nonsense view of the Premier that it is the only solution that we can contemplate.

As a supporter of foreign investment in Australia and South Australia, whether that be foreign investment from our traditional sources, say, from the United Kingdom or New Zealand, or whether it be from some of our newer areas like some of the South-East Asian economies, I have to say that I believe that reasonable levels of foreign investment can help South Australia grow and can help provide jobs for South Australians and that we ought not have this fear or concern that, by accepting foreign investment, perhaps in something like the MFP, we are selling our heritage or in some way we are mortgaging our future to some foreign power, whether that foreign power be Japan or a European country, or whether it be the United States of America.

The Hon. T.G. Roberts: New Zealand!

The Hon. R. I. LUCAS: Or even New Zealand (although I think we have had enough to do with New Zealand in recent times). Some have argued in relation to this debate about foreign investment and future growth for South Australians and future jobs that we do not need the MFP. As I said in this debate and others, we can rationally discuss the pros and cons of the MFP, but I personally accept the view that it is hard for a relatively small backwater (if I can use that phrase) like South Australia to go out into the international marketplace and attract huge licks of foreign investment to come to South Australia as opposed to other potential locations in Australia like New South Wales, Victoria or Queensland, or other countries against whom we compete for foreign investment, in particular, countries like Singapore and the Philippines who are currently offering huge financial inducements to foreign companies to invest in their countries.

I accept the view that there is some validity to the argument that if one is a small State like ours then if, in some way there is an internationally known and recognised flagship or some new development, that whatever the arguments for and against it might be, if it is gaining publicity internationally like an MFP, that sort of argument can increase the potential for foreign investors to look at Adelaide as opposed to Sydney, Melbourne or Brisbane and, as opposed, perhaps to other countries. That is certainly the argument of some who support the MFP, that we need a focus, a flagship.

A number of people have argued to me that we do not need the MFP to attract that foreign investment, that it can come here any way. In theory, I cannot reject that particular argument, but what we have to say is that for the past 10 or 20 years we have struggled, given what we have been doing for the past 10 or 20 years to attract foreign investment to South Australia. We did it 30 or 40 years ago or whenever it was that Sir Thomas Playford attracted multi national investors to South Australia, but for the past 10 or 20 years we have not been able to attract that sort of level of investment to South Australia, and I think that those who oppose this argument in relation to the MFP need to address that question: if we do not use a focus or flagship like the MFP to attract foreign investment, then what do we do differently from the past 10 or 20 years to try to attract that foreign investment? As I said, I do not accept the view of the Premier that the only way we can do it is through the MFP. There may well be other ways that we have not yet explored or been able to develop to attract that sort of foreign investment, but that ought to be the subject of rational debate in this Parliament and the community.

In relation to the background of the MFP, I see that the approach of the Premier and the Government in beating it up, promoting the hype, has jeopardised the chances of success of the MFP being supported by the South Australian community and therefore the possibility of the successful development of the MFP. I believe that, if the development at Gillman had been sold as a smaller development, perhaps a plan of 30 000 or 40 000 people in a new suburban development for Adelaide, without the name 'multifunction polis', perhaps with a few clean high tech industries thrown in to provide jobs for South Australians in that area and with some overseas investment, not just from Japan but broad-based overseas investment, and that together with that we would try to clean up an environmentally degraded area like Gillman, if it had been sold in that way, the chances of a successful development at Gillman would have been maximised. Going down that path would have been much more successful, rather than the hype of the MFP, the 100 000 to 200 000 people and raising the many concerns that have been experienced or expressed in the South Australian and Australia community.

I now turn to the question of the size of the MFP project. As I indicated earlier, the original concept floated in relation to an MFP somewhere in Australia was that it would have a population of 100 000 to 200 000 people. I note that in 1988 the joint steering committee commissioned a feasibility study on the MFP. That study was done by Anderson Consultants in conjunction with Kinhill Engineers Pty Limited. The final report was published in January 1990 and it states:

> The results of economic analysis undertaken by the National Institute for Economic and Industry Research, indicate that the MFP is viable only if it adopts a specific scale and mix of activities and is located correctly. The economically viable scenario requirements do, however, match with compelling and implementable aspects of the MFP concept: a single-site, city-scale development of potentially 100 000 to 200 000 persons; a population composed significantly of international, highly skilled workers attracted specifically by the MFP.

In July 1990 the National Capital Planning Authority prepared a report for the Federal Department of Industry Technology and Commerce entitled 'MFP: an Urban Development Concept'. Again, that report states:

> As the modal which best satisfies the aims, the report proposes the development in stages of a discreate urban settlement having a minimum population of 100 000 people.

They were the early reports and throughout 1990 the Premier continued to use the figure of 100 000 persons at Gillman if the MFP were to be established on that site.

I note that on 6 August 1990 I put out a press statement indicating that the MFP would be one-third of the size projected by the Bannon Government. I said that senior Government sources—that well-known avenue of information to Opposition parties—had revealed that there would be only about 35 000 at the proposed MFP rather than the Bannon Government's projected 100 000 figure. A map was attached to that press statement for the benefit of journal-

ists. I stated that the senior Government sources had indicated that the site down there could not cope with more than 35 000 people. When that story went out in August 1990, the proverbial hit the fan. There were all sorts of denials from the Government, and Government spokespersons—left, right and centre—denied that the MFP would be downgraded in size and indicated that I had obviously misunderstood the briefings or information that I had been given.

Again in that press release of August 1990, I stated that, if the Government would only come clean, and indicate that we are talking about a much smaller regional development of perhaps 35 000 people, there might be a lot less concern in the community about huge hordes of Japanese and other Asians descending upon South Australia down in the Gillman area because the MFP people had estimated that only 20 per cent of the population of the MFP would be from overseas. Of course, 20 per cent of 35 000 was only about 8 000 extra overseas residents or migrants moving into that part of Adelaide.

As I said at that time—in August 1990—there were widespread denials of that projection. It was not long after that—some four or five months—in January 1991, that the first sign of the wind-back of the size of the MFP surfaced. Mr Tony Reid, the Study Manager for Kinhill Delphin was quoted in the *Advertiser* of 24 January as follows:

> Although it was originally estimated that 100 000 people would live at Gillman, he now believed it was more likely that between 40 000 and 50 000 people would reside on the core site and others associated with the MFP would live in other parts of the city.

Finally, in May 1991, with the release of the feasibility study of the MFP, the Premier, the Government and the advisers finally conceded what many had known for a while; and although they did it in a backhanded way, they stated:

> MFP Adelaide is ultimately expected to attract 100 000, of whom approximately 50 000 will live on the core site.

Of course, as we have seen in subsequent documents in the past 12 months and now in the environmental impact statement, the figure is now back to approximately 42 000 people at the Gillman/Dry Creek site.

I now turn to some of the existing problems at the Gillman site and in the surrounding areas. There have been literally metres of reports—some of which members on this side have been able to read, at least in part—highlighting many of the constraints of the Gillman/Dry Creek site. I will refer to some of the environmental concerns briefly, as I know that some of my colleagues will refer to them in much more detail. I assume the Australian Democrats will refer to them as well. I will highlight in summary form some of the many constraints of the Gillman/Dry Creek site. They include the unsatisfactory estuarine water quality, the need for lake water intake and outlet structures to be located so as to avoid mangroves and polluted waterways, the potential contamination from first flush stormwater flows, the high groundwater levels, the uncompacted soils, the low lying land, the peatty soils, the lead contamination on the Dean Rifle Range, the contamination of the Dry Creek radium processing site, the contamination of the former Largs North acid plant site, the existing stormwater ponding basins, the Penrice brine pipeline across the Gillman site, the relocation of industry, the structure of existing land tenure, the landward migration of mangroves, the existence of mosquito breeding, the provision of services to the site boundaries, the entrances to the site, and the relocation of existing powerlines. These are considered to be what the report calls category one constraints on the site.

One of the many reports—a December 1990 report from Coffey Partners International, which was presented to Kinhill Delphin as an interim working paper on preliminary geotechnical groundwater and agromatic investigations—states:

> Some sites have been used for storage of metal concentrates, such as copper, prior to shipment from the port. Large parts of the MFP site have been filled with a variety of waste materials varying from highly acid wastes from sulphuric acid production to highly alkaline and saline wastes. Limited sampling and analysis of the fill materials have revealed sites containing heavy metals, asbestos and radioactive wastes.

Another of the many reports was entitled 'Soil and Groundwater Contamination Assessment' (September 1990) and was prepared by the Centre for Ground Water Studies. It identified sites contaminated by arsenic, cadium, mercury and lead. The report states:

> Arsenic—six sites have concentrations in the range of 50 to 100 mg as kg-1 of soil. The range is informally accepted as the 'level of concern'. The six sites all occur along the southern boundary, of the sandy area, from Eastern Parade to the Wingfield landfill. No explanation can be made for the localisation of these higher arsenic values. Further investigation may be justified.
>
> Mercury—An unacceptably high value of 26 mg Hg kg-1 was identified at Site 2, the former sulphuric acid and fertiliser factory area on the west side of the Port River . . . the single, very high value at one location raises the possibility of either high values not being identified because of the low sampling density, especially in the north-west sector of the study area where there are measurable mercury concentrations.

They are only a couple of references of the literally dozens of references to environmental problems highlighted in many of the reports.

In reading the debate in another place it is important that we try to keep abreast of the latest information, at least in some parts of these areas, so I note that some of the concerns—I am not saying all of them—are now outdated, I understand, as a result of various decisions that have been taken by industries in the Gillman/Dry Creek area. I want to refer to some concerns that were raised in what is known as the McCracken report and a similar report done by an organisation that goes by the acronym ACARRE (Australian Centre of Advanced Risk and Reliability Engineering). Those reports state:

> Therefore, most of the study area that is the Gillman site would appear to be unacceptable for residential development if strict adherence to the adopted risk criteria was deemed to be essential. The potential sulphur dioxide release from the CIG plant at Port Adelaide (26.9 per cent), potential chlorine gas releases from the ICI plant at Osborne (24 per cent), potential chlorine gas releases during road transport from the ICI plant at Osborne (11.7 per cent), potential anhydrous ammonia releases from the Penrice soda plant at Osborne (9.4 per cent), potential anhydrous ammonia release during rail transport to the Penrice soda plant at Osborne (5.8 per cent) . . .

The reports then went on to talk about the risks associated with the natural gas pipeline that runs under portions of the site. So, it was highlighting a whole series of potential problems down there, and a number of members and organisations in the community have instanced the McCracken report and the ACARRE reports as reasons why there should not be development at the site.

I note in part response to some of those concerns, and I note that the Premier in another place said that the sulphur fumes are no longer emitted from the CIG plant, because the plant is out of production. A member also referred to the ICI chlorine plant, and the Premier noted that that plant also is no longer in operation. The Premier's response in relation to the Penrice problem referred to is that it is outside the area of involvement in the development, and in relation to the national gas pipeline a very big buffer zone is to be established between the pipeline and potential residential development. So, again, that obviously does not answer all the environmental concerns and I certainly do not indicate that it does, but we in this Chamber need to keep up with all the reports and what is happening down

there. Some of the reports such as the McCracken and ACARRE reports appear, at least in part, to be a little dated because of the fact that a number of those industries, such as CIG and ICI, evidently, are no longer doing some of those things that were causing environmental concern in the Gillman/Dry Creek area.

Because this is obviously a matter of some concern to all members, I want to refer to page 51 of the environmental impact statement, which talks about the contaminated soils and sediments of the site area, and I quote from the EIS as follows:

> Samples considered to be soil rather than sediments had concentrations of contaminate which were frequently above the normal background range; often the values were also above the generally accepted world levels of concern and sometimes they approached or exceeded concentrations requiring clean-up.
>
> A limited number of sample sites based on historic information and survey were undertaken as part of the core site assessment (Kinhill Delfin 1991). Further comprehensive investigation of soil contamination may be needed during the design process. The study area appears to be only mildly contaminated when compared with many known sites of urban pollution in our major cities.

I would have thought that that was possibly a contentious statement. I do not think there is any doubt that most members would be much more comfortable if there had been a much wider or bigger number of sample sites for contaminated soils to be assessed prior to the consideration of the environmental impact statement. However, it may well be (and I am not an expert in this area) that the writers of the EIS are right when they say that the site appeared to be only mildly contaminated when compared with many known sites of urban pollution in other major cities.

However, if the EIS statements are to be taken seriously and if their writers are to make statements like that, it would be very useful for those of us who have to study them to be provided with some background evidence to justify the statements they make. Again, I do not cast any aspersions on the expertise of the people who have written this, because I have no knowledge of this area at all—no knowledge of relative levels of contamination of this or any other site in Adelaide, let alone any other major cities in Australia but, if they are to make statements like that, it would be extraordinarily useful for them to back up those statements with some evidence and to indicate the reasons why they make such a bold statement that the study area is really only mildly contaminated when compared with many known sites of urban pollution.

In summary, in relation to the environmental areas, I indicate that clearly there are many unanswered questions and concerns that members have and properly should have about environmental considerations of any sort of development in the Gillman and Dry Creek area. I would only conclude by saying that the majority view of most of the experts (and I use the term advisedly) who have written the reports that I have seen is that solutions are available to most of these environmental problems. The big question from my point of view is that if that engineering and scientific response is correct (and I am not in the position to make a judgment about that, it may or may not be so), at what cost? Many an engineer has said to me that, yes, it can be solved by doing this or that but it may well be that the cost factors involved in resolving that environmental concern are so great that in effect it reduces the financial viability of any urban and industrial development in that area.

That is the critical question that needs to be addressed, from my point of view. Can we afford the dollars that will be involved in resolving some of the environmental problems? I was not able to pick it up in the EIS but I noted in one of the responses from the Premier that he believed the estimate for resolving the soil contamination was a figure of $9 million. If that is the case, given what seems to be the level of concern about problems, that obviously is money that has to be spent and will be money well spent, but I would not be surprised if it was substantially more than $9 million.

In this part of my contribution I am looking at the existing site, what exists there at the moment—the environmental problems. I now want to look at the health problems associated with people who live in and around the proposed development at Port Adelaide. I seek leave to have incorporated in *Hansard* a purely statistical table from the Social Health Atlas of South Australia, produced by the South Australian Health Commission in 1990.

Leave granted.

Epidemiology

Port Adelaide Local Government Area (1969-78) compared with overall South Australian area)

Elevated deaths of all age groups combined:		
Pneumonia		
Bronchitis	Males	31% higher
Emphysema	Females	12% lower
Lung cancer	Males	75% higher
	Females	72% higher
All deaths	Males	23% higher
	Females	9% higher
Port Adelaide Local Government Area (1981-86)		
All deaths		13% higher
Bronchitis		41% higher
LeFevre Peninsula (1981-86)		
Deaths		15% higher
Cancer		15% excess
Lung		57% excess
Mouth		81% excess
Hospital admissions		
Respiratory (upper)		73% higher than expected
Respiratory (other)		67% higher than expected
Asthma		58% higher than expected
Pneumonia and influenza		45% higher than expected
Chronic obstructive		42% higher than expected

The Hon. R.I. LUCAS: This social health atlas of South Australia indicates quite alarming figures for the health of people living in the Port Adelaide area. It indicates, for example, that lung cancers are 67 per cent higher than the State average; that mouth cancers are 81 per cent higher; deaths are 15 per cent higher; the incidence of bronchitis is 41 per cent higher; hospital admissions for upper respiratory problems are 73 per cent higher than expected; hospital admissions for other respiratory problems are 67 per cent higher than expected; asthma is 59 per cent higher than expected; pneumonia and influenza are 45 per cent higher than expected; and chronic obstructive respiratory problems are 42 per cent higher than expected for that area.

There are significant health problems for the people living in the Port Adelaide area compared with other parts of Adelaide and South Australia. Currently on that site even without an MFP there are significant environmental and health problems for workers and residents. In considering our attitude to the MFP, I ask members what the options are that we as a community and as a Parliament have for resolving the environmental concerns that exist on that site at the moment and the health problems of the residents of Port Adelaide. What will we as members of Parliament and of the community do to try to solve the environmental and health problems of the workers of Port Adelaide?

I suggest that, in broad terms, there are three general options. First, we can do nothing: we can leave the Gillman/Dry Creek site as it is, leave the industries as they are and, in essence, do almost nothing. In my judgment, that would mean that the residents of Port Adelaide would continue to

suffer the health related problems demonstrated by the Health Commission. Secondly, the taxpayers of South Australia through the Government could adopt the option of rehabilitating at taxpayers' expense the Gillman/Dry Creek site to rid the State of the environmental problems of soil contamination and waste dumping, etc. that have been endemic in that area for many years. We could also seek to encourage industries to close down in that area. Thirdly, the public and private sectors through a development such as the MFP could seek to resolve the environmental and health problems of residents living in the Port Adelaide area and provide a healthy environment for new residents.

It is the view of some—and I respect their views—that we ought not in any way build on the Gillman site. I say to those members and individuals in the community who have put that view to me that they need to indicate how we can resolve the environmental and health problems that I and others before have outlined without residential and industrial development in the Gillman/Dry Creek area that would help fund some of the changes that might have to occur.

The Parks Residents Environmental Action Group, which consists of residents of Dry Creek, Wingfield, Mansfield Park, Ottoway and Athol Park, is one of the smaller number of environmental groups which support the multifunction polis development on environmental grounds. It states:

> We believe that the development of the multifunction polis is the most likely way funds will be found to achieve a difficult and costly process.

Groups such as that small action group argue that there are already significant environmental and health problems in the area and they have contemplated seriously how any Government, either Labor or Liberal, could solve those problems, and that was their considered judgment as to how those problems might be resolved.

In relation to environmental problems, the final area that I want to address concerns stormwater. At page 181, the environmental impact statement states:

> The study area at present receives stormwater from the 70 square kilometre catchment of northern metropolitan Adelaide, a total runoff of about 12 000 ML per year, excluding Dry Creek.

I have been told—although I have not been able to find the source of this estimate—that about 12 per cent of the stormwater runoff of the whole of Adelaide goes through this 70 square kilometre catchment area of metropolitan Adelaide. The EIS continues:

> The water is ponded on the Gillman site and discharged to North Arm at low tide. Much of the existing ponding will be removed by the urban development proposal, but will be replaced by alternative ponding and treatment basins.
>
> Stormwater carries concentrations of suspended solids, nutrients, bacteria, hydrocarbons and metals derived from the industrial catchment, and would impair the quality of the estuarine environment if discharged without some opportunity for retention and sedimentation. However, relative to disposal of effluent from sewage treatment plants, the volumes are low and of short-term impact.
>
> The existing channels also discharge floating and suspended rubbish which accumulates at the high water level in the mangrove forests and creeks. The poor condition of the Magazine Creek ponding area at present is a good indication of the impact of debris from this source.

I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[*Sitting suspended from 6.28 to 8.37 p.m.*]

STATUTES AMENDMENT AND REPEAL (PUBLIC OFFENCES) BILL

Adjourned debate in Committee (resumed on motion).

(Continued from Page 3677).

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

Page 10, lines 6 to 13—leave out subclause (1).

Section 250 relates to the appointment or removal from public office. During the second reading debate, I raised some concerns about this provision because, of all the offences, it raises the most questions about the propriety of the exercise of power or influence. Subsection (1) relates to the improper exercise of power or influence with the intention of securing the appointment of a person to a public office or securing the transfer, retirement, resignation or dismissal of a person from a public office. The maximum penalty is imprisonment for four years.

In relation to this provision, I made specific reference to an example where a member of Parliament exercises influence to have a person shifted from a particular position in view of the latter person's behaviour towards a constituent or some other person. In some circumstances, it may be argued that that was improper, but I would have thought—and I think the Attorney-General acknowledged this in his second reading reply—that it was something which was not outside the area of responsibility of a member of Parliament.

So, my solution to the problem is to seek to leave out subsection (1) mainly because, as I said earlier, it is the most difficult of the various offences to pin down precisely and raises the most doubt about the likely effect in relation to a public officeholder such as a member of Parliament, but also it can apply to other officeholders—maybe even to persons in the Public Service or a member of a State instrumentality or the governing body of a State instrumentality, even to a member of a local government body. All those people from time to time exercise power or influence in a particular way. It may be that it is to secure the appointment of a person to a public office without anything more than believing that that person is the best person for the job. However, it may be construed, because of the characteristics or antecedents of that person, that the exercise of the power was improper.

Of course, then relating it to transfer, retirement, resignation or dismissal is even more difficult. I do not have any difficulty with the second part of section 250 (2), because one is talking about a benefit in connection with a possible appointment to a public office, so there is no intention to vary that. But the first subsection does create an area of vagueness that, because of the consequences of imprisonment for four years and also the loss of that public office by virtue of any conviction, it is best not to proceed with that and to be content with subclauses (2) and (3) remaining in the Bill. So, I move to leave out subclause (1).

The Hon. C.J. SUMNER: I can understand what the honourable member is saying with respect to this matter, because the appointment, removal, transfer, and so on, of people in office is something that happens virtually every day in Government and in local government. It is probably fair to say that this offence goes somewhat further than what existed in the common law, where the offences were aimed at trafficking in public office, which implied some payment. Of course, here payment would not be necessary, but the prosecution would have to prove that what was happening was improper and, as we know, the theme that runs through virtually all these offences is the notion of impropriety—whether something is improper.

We have dealt with this definition already, and I think it is fair to say that to meet the definition there is a reasonably heavy onus. At the Hon. Mr Griffin's suggestion, we have amended the Bill today to provide that a person does not act improperly if they have an honest and reasonable belief that what they were doing was proper. You do not act

improperly (this was in the original Bill) if there was lawful authority or reasonable excuse for the act.

You do not act improperly if the act is of a trivial character and would cause no significant detriment to the public interest, and we have also added by way of amendment earlier today the provision that the act must be of such a seriousness as to attract a criminal sanction, rather than be something that could be dealt with by the civil law. So, 'improperly' does require certain things to be established, and those things emphasise the seriousness of the actions that we are attempting to criminalise.

Whatever offence you are talking about, the definition of 'improperly' is the key to it and, likewise, relating to the appointment to, or removal from, public office, it is a question of whether one does these acts improperly, as we have now defined 'improperly', that is, improperly in the sense that it is so serious that it ought to attract a criminal penalty: it is not trivial. If the defendant had an honest and reasonable belief about what was being done, then that is exculpatory, etc.

So, I can understand what the honourable member is saying, and I am a bit in two minds as how to treat the matter. As I say, it does extend the common law, but I think the safeguard is the fairly strict definition that we have in the Act of 'improperly' and probably, given that strict definition, if public officers were using power or influence to secure the appointment of people or to secure the transfer in a way that was so serious as to warrant a criminal sanction, then I think it is probably something that ought to be criminalised.

On the other hand, it is true that the transfer, resignation or dismissal of people from public office is not always easy: sometimes it is necessary but it is rarely easy, and it is rarely easy because of the procedures that one must go through under the existing law to provide natural justice to people and the like.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Whether adding this offence will make the legitimate transfer of people more difficult, I do not know. It is certainly not designed to do that because there are circumstances where for good government it is essential that people be transferred, retired, dismissed or perhaps encouraged to resign. One is faced with circumstances where there is encouragement for people to resign because they are not doing their job or for other reasons; principally it is because they are not doing the job or not doing it properly; they may be in ill health, or there can be a whole range of reasons which mean that it is in the public interest and, for those reasons, people who are not doing the job should be retired, resign or be dismissed or transferred.

That sort of thing goes on every day in government, local government and the private sector, and you do not want to criminalise behaviour that is essential to ensure the good operations of the organisation.

The Hon. I. Gilfillan: I think the defence would be secure. It is a reasonable clause, although it might need tinkering with.

The Hon. C.J. SUMNER: Having put both sides of the argument, perhaps I can sit down and let the Hon. Mr Gilfillan express his point of view.

The Hon. K.T. GRIFFIN: Before the Hon. Mr Gilfillan says anything, I support a proposition that criminalises trafficking in public offices. That is in the Criminal Law Consolidation Act, which is to be repealed. However, if one looks at the offence of trafficking in public offices, one sees that it provides that:

> Any person who sells or agrees to sell, or takes or agrees to take any reward or profit from the sale of or purchase or agrees or promises to purchase or gives or agrees or promise to give any reward or profit for the purchase of any office or any appointment to or resignation of any office or any consent to any such resignation or appointment should be guilty of a misdemeanor.

The emphasis is on a reward or profit. I interjected when the Attorney-General was speaking, asking about the Neil Batt case in Tasmania. Under the Tasmanian Criminal Code there was a very good argument that the action of the head of the Department of Premier and Cabinet, who had organised the appointment of Neil Batt as Ombudsman, had in fact committed an offence. However, that was not covered by the South Australian criminal law. One has to ask whether or not that was proper. One can even raise the question in relation to the present Government. The Premier says, 'I need—

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: I am not being political about it.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: I was responding to the Hon. Mr Roberts on the back bench. If, for example, a Government wins an election or gets a number of members but does not have enough to ensure a majority on the floor, and it then offers a position to another member in return for support, is that in breach of section 250? There would be people in the community—50 per cent—who would say that that was improper and if there were a jury it might have a majority of those people making the decision. They will say that it is improper for a person aspiring to be Premier to make an offer of a job with a benefit at the end of it for that person in return for giving the Premier support, which provides a benefit to the Premier. That is part of the traffic in politics, I suppose. However, one has to question whether that is improper in the criminal sense. I would find it difficult to suggest that it was criminal. There are others who would say that it is.

Certainly, under this provision, it could be argued that it is an improper exercise of power or influence. In the criminal sense, perhaps not intentionally, but I would certainly suggest that it is open to argument, if nothing more than that. So, that is the argument I was putting. That sort of situation and there is in the Neil Batt case—and I think the prosecution is still in train in Tasmania. But it raises all of these questions, which suggest to me that there is more risk in passing this as it is than in not passing it. If there is a desire to have something there in relation to the old offence of trafficking in public office then we ought to bring it down and relate it to some reward or profit, rather than making it depend upon power or influence.

The Hon. I. GILFILLAN: The old offence or moral offence of nepotism is probably very difficult to define specifically in any statute. However, it is obviously an offence that our society should eschew. If it means that in politics we are exposed to a caution and that we have to take a second term of reference when promising positions as a reward for political support, then so be it.

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: There wasn't any bargaining on that, and I turn to my friend and colleague the Attorney-General to verify that. No bargains there. Members will find the Democrats and the Government rock solid on that statement. However, as I see the wording of the clause, I do not have a problem with it. It may be tested in the court by a disgruntled person who has been removed from office or who does not get a position. However, I think that with 'improperly' more specifically defined would be workable. It might be subject to some refinement, but I make it plain that I think the advantage of having a deterrent for the appointment just by favour of people to positions in the

public sector is to be prevented. To have that in statute as an offence should be supported.

The Hon. C.J. SUMNER: The question of the so-called Neil Batt matter was raised. This matter gave me some concern when we were preparing this legislation, because it struck me that what happened there was not something that ought to be criminalised. As it turned out, the prosecution did not succeed—either it did not go ahead or it was thrown out at committal. However, it is interesting to note the complaint, which states that:

> Alan Hanson Evans . . . Between the 1st day of August and the 31st day of August 1989 at Hobart in Tasmania, corruptly solicited a benefit for himself and others in that he required from Neil Leonard Charles Batt as a condition of his appointment to the office of ombudsman for the State of Tasmania an undertaking that he would not contest a recount of votes for any vacancy in the Electorate of Denison and would sign a document excluding himself from any such recount for the stated purpose of achieving the desired political consequence of preventing Neil Leonard Charles Batt from becoming a Member of the House of Assembly of the Parliament of the State of Tasmania.
>
> Contrary to section 111 *(a)* of the Criminal Code Act 1924 'Bargaining for public office'. The Act provides:
>
> 111. Any person who—
>
> *(a)* corruptly solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything done or omitted, or to be done or omitted, by him or any other person with regard to the appointment of any person to any public office, or the employment of any person as a public officer, or with regard to any application by any person for appointment or employment as aforesaid; or
>
> *(b)* corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure, to upon, or for any person any property or benefit of any kind on account of anything done or omitted, or to be done or omitted, as aforesaid,
>
> is guilty of a crime.

That is nice plain English drafting. The charge is 'bargaining for a public office'. I suppose that is the equivalent in South Australia of trafficking in a public office and it has, as an integral part of it, obtaining a benefit, whereas this proposed section that we are now debating does not have—in subsection (1) at least—any element of obtaining benefit, although proposed subsection (2) does. It would be interesting to know what members think about that circumstance in Tasmania. My own view is that there could be a perfectly innocent explanation for requiring Mr Batt to sign that declaration, because—

The Hon. I. Gilfillan: To show his sincerity to be considered as an ombudsman.

The Hon. C.J. SUMNER: Exactly; it might be that the person is saying, 'You can be ombudsman but you have to get out of politics.'

The Hon. K.T. Griffin: It could be a sinister reason, too, couldn't it—that the incumbent Premier did not want to have any other competition?

The Hon. C.J. SUMNER: I suppose it could be, yes.

The Hon. K.T. Griffin: I am not suggesting it was the case, but it is certainly open to that interpretation.

The Hon. C.J. SUMNER: Sure; the two are there, and I suppose the only way one could find out would be to try to get evidence of what the conversations were between the two parties, which might be extremely difficult. I suppose again in this area we come back to the situation which I think we canvassed earlier, as to whether it is a matter in which the criminal law should intervene or whether when those things happen the best place for them to be resolved is in the public arena. If a politician or Minister or public official acts in that way, it can be explored in Parliament and in the public arena.

In relation to one of the debates earlier today dealing with the question of declaration of interests, we said that there are certain actions which should not attract the criminal law but which ought to be resolved in the political arena, the Parliament and outside in the community, with debate on whether this Government is a proper Government and whether it is behaving properly, or whether it is involved in jobs for the boys—and all the sorts of rhetoric which go on. And that, of course, is resolved in the public arena. Whether appointments should attract the force of the criminal law where there is no actual benefit is problematic so, to some extent, I have some sympathy with what the Hon. Mr Griffin is saying.

It is important to realise that we are criminalising this action, so we are placing in the law a criminal offence. If we are criminalising it we must be sure that what we are doing is such as to warrant the full force of the criminal law and not something that we might consider to be improper, out of order and so on—something that could be dealt with not criminally but in the political arena. So, having debated this fairly fully, I am inclined to agree with the amendment and consider it further as the Bill proceeds on its way through the Parliament.

The Hon. I. GILFILLAN: I am not persuaded to support the amendment. I think that there may be some need further to consolidate the defence so there is more protection for those whom the Attorney believes could get caught in this, but to argue that there will be satisfactory deterrents in the public arena is patently farcical. I have not yet seen anyone embarrassed politically because of the way we play the game; there is always a verbal defence and there will be no power of correction through that. As I see it, the actual offence at its most blatant is quite convincingly a criminal offence. It is actually taking a position from someone or some people who are properly entitled to it and giving it to someone who this person who is misusing their power chooses, for whatever reason. It may be a member of their family or somebody else they might be able to use. I will not get into the mind of the person who does it, but to me that is so abhorrent to the whole structure on which we expect the Parliament and the public sector to work that I believe there should be a deterrent in the statute, and this fits properly there. I am not arguing that it is perfect as it is. In the early part of the debate, the Attorney indicated that he felt that the amendment to the interpretation of 'improperly' had added more safeguards, and maybe there should be more safeguards again. On that question I will keep an open mind, but I am emphatic that it should still stay an offence in the statute book.

DISTINGUISHED VISITORS

The CHAIRMAN: I would like to acknowledge the presence in the President's Gallery of our distinguished visitors, the members of a visiting German parliamentary delegation, and I would invite Mr Cronenberg, as leader of the delegation, to take a seat on the floor of the Council. I ask the Attorney-General and the Hon. Mr Griffin to escort Mr Cronenberg to his seat on the floor of the Council.

Mr Cronenberg was escorted by the Hon. C.J. Sumner and the Hon. K.T. Griffin to a seat on the floor of the Council.

The Hon. K.T. GRIFFIN: My concern about the subsection is that we are making a criminal law, as the Attorney-General says; we are criminalising behaviour, and we have to be sure that we will not put in jeopardy persons who for a variety of reasons ought not be subject to criminal prosecution, remembering that there is a four year maximum

gaol term involved. If the person is a judge or a member of Parliament, or a public servant, the likely consequence of a conviction is the loss of the office—a very severe penalty, I would suggest, even beyond the question of imprisonment. I have no objection to a further look at the way the subsection is drafted but it is different from all the other sections in the Bill in that it talks only about the exercise of power or influence in relation to the appointment to public office or the transfer, retirement, resignation or dismissal of a person from public office. There is no suggestion that for the person exercising that power or influence there is to be any requirement to take a reward or profit. That is what concerns me.

As the Attorney-General has said and as I said earlier, in a public office one does exercise power or influence and it may be that one is not intending to exercise it in a way which causes detriment but believing that one is doing a job and, if it occurs that a transfer results or a person is appointed to a public office and someone alleges for a variety of reasons, all based upon circumstantial evidence, that that is an improper exercise of the power or influence of that person, then the prospect is a criminal prosecution.

There may be many occasions where that behaviour is not criminal. It may be that it was unwise; it may be that there was some measure of inadvertence; but I am concerned that we are enacting this law not just for tomorrow, in the knowledge that there are certain persons holding public office in South Australia, but also for 10 years time. It is too late once the court has sentenced someone to gaol after recording a conviction and we say, 'Tut tut; that should not have happened. We will change the law.' It is all very well to say that the court should have a few cases and develop some precedents. That is all tough luck, I suppose, for the people who might be the subject of the precedent.

I am anxious, without condoning that sort of behaviour, to ensure that we do not pass a law to make criminal behaviour which ought not to be criminal—that is the essence of it. I support the Attorney-General's proposition that my amendment be supported and that it be further examined as it progresses through the Parliament before the Bill is finally passed.

The Hon. I. GILFILLAN: Is there any difference between paragraphs *(a)* and *(b)*? In other words, does the basis of the honourable member's disquiet concern paragraph *(b)* rather than *(a)*?

The Hon. K.T. GRIFFIN: I know that the appointment is qualified by this issue of impropriety. I am more concerned about paragraph *(b)* than paragraph *(a)*, but I still have some concerns about paragraph *(a)* and that is why I propose to delete the whole of the subsection. If there is a suggestion of a benefit to the person exercising—

The Hon. I. Gilfillan: What if you appoint your son, your nephew or a friend of your cousin?

The Hon. K.T. GRIFFIN: Plenty of Governments have appointed Ministers' wives, husbands or partners to positions. We may make some political points about it, in some cases; in many cases they are appointed on merit while in some they are not. Both sides of politics would agree that that is so, I do not think that one can say that because there is a relationship it is therefore improper.

The Hon. I. Gilfillan: You are saying that there is no benefit. The fact is that there may be no perceivable benefit in terms of finance or kudos; actually a favour is given to someone.

The Hon. K.T. GRIFFIN: I am looking at a benefit that can be quantified in some way to the person actually making the appointment. Again, each case must be judged on its merits in terms of the appointment of relatives, but it does raise the Neil Batt case. It raises positions in circumstances where a Party does not have a majority of votes, but wants to—

The Hon. C.J. Sumner: What about Justice Millhouse?

The Hon. K.T. GRIFFIN: No, that was different.

The Hon. C.J. Sumner: Is that an issue?

The Hon. K.T. GRIFFIN: The Attorney asks whether it is an issue.

The Hon. C.J. Sumner: I do not think it is.

The Hon. K.T. GRIFFIN: One could ask: what is the benefit that applies? Actually, in that context the appointment was made by the Governor in Council. So, should we prosecute the whole of the Executive Council?

The Hon. C.J. SUMNER: I want to make my position clear. I do not think it should be a criminal offence. It might be something that should be addressed politically, but it should not be addressed under the criminal law.

The Hon. I. GILFILLAN: Politically, all it becomes is a sort of verbal interchange. Governments and people know that they can get away with it; so, they brazen it out. There is no redress, or real stigma. They wear a bit of flack for the time being, and then they are through and clear. Either we want to prevent people from making appointments because of some sort of grand gesture or favour that they bestow on people because they promised it or we do not. If we do, then it should be in the statute.

Amendment carried.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Gilfillan's interjection suggests some disgruntlement. The basis upon which I have agreed to the Hon. Mr Griffin's amendment is that I will look again at this proposal in the light of the debate that we have had this evening, and I will report back to the Parliament at some point in time on the results of that further consideration certainly before the Bill passes the Parliament.

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

Page 12, lines 31-36—Leave out subclauses(4) and (5).

I indicated in my second reading that the opposition supports the retention of criminal defamation. It is a restatement of the law, and it provides further safeguards to those who might be the subject of prosecution. It has been part of the Criminal Law Consolidation Act for, I think, over 100 years and it is part of the common law. Although it may not have been used on many occasions, it is important to retain criminal defamation provisions in the amended form. My only concern is with subsections (4) and (5) which provide that proceedings for an offence must not be commenced without the consent of the Attorney-General and some supplementary matters related to that. I do not see any need to include that provision in the section; it has not been included before. I acknowledge that it has been accepted as appropriate in other States, but it does not mean that we should necessarily fall into line.

The Hon. I. GILFILLAN: I move:

Page 12—Leave out lines 6 to 36.

In my second reading speech I put forward the basic argument that I do not believe there should be a criminal penalty for defamation but that it should be properly addressed under civil law. I am working towards a better understanding, reform and amendment of that particular area of the law to more properly deal with defamation, but I do not intend to repeat that argument at this stage as it was signalled in my second reading speech. I believe it is inappropriate. It can act as a deterrent to proper investigation and the publication of truth in appropriate circumstances. At the time of my second reading speech, I did not say that I believed there was serious risk of that occurring in South

Australia at this time. Although this has been in the statute books for a long time that does not mean that we should not change it.

I believe this measure is inappropriate, and I therefore move for its deletion. However, it is unlikely that I will be successful, and I would like to comment on the amendment moved by the Hon. Trevor Griffin to delete subclauses (4) and (5). I recall comments made by the Attorney-General during his second reading reply in which he indicated that he was not fussed about whether it was the consent of the Attorney-General or the Director of Public Prosecutions. I invite the Attorney-General—and I have not seen whether he has any amendment on file on this matter—to discuss that as a proposition. I would prefer it if subclauses (4) and (5) were to stay in the legislation, for it to be the Director of Public Prosecutions rather than the Attorney-General.

The Hon. C.J. SUMNER: I move:

Page 12—

Lines 32 and 34, leave out 'Attorney-General' and insert 'Director of Public Prosecutions,'.

Line 35, leave out 'Attorney-General's', and insert 'Director's'.

I have already indicated that an amendment to delete the criminal defamation clauses is not acceptable. It is important to realise that we are talking here about a criminal defamation which is made where the perpetrator of the act knows the matter to be false or is recklessly indifferent as to whether it is true or false, and must also intend to cause serious harm or be recklessly indifferent whether the publication will cause serious harm. We are talking about a situation where the intention is to cause serious harm to another person by publication. Normally, I would have thought that in the criminal law, where we talk of serious harm—that is, physical harm, harm to property, harm to an individual by taking property from them—we are talking about acts which are so serious as to attract the criminal penalty.

What we are talking about here is someone falsely or without any care for the consequence basically fabricating a story against someone, and then intending that the publication of that story should cause harm to that person, and surely it is not unreasonable for that to attract the sanction of the criminal law. I agree that it has not been used recently—certainly not against the media, the last case in South Australia being the prosecution of the *News* and Rohan Rivett following the Stuart Royal Commission. I am almost certain that, in today's context, proceedings of that kind would not be taken. The only other example that I know of—and this is not in recent times—is not one involving the media but is the case against the former Minister for Immigration in the Whitlam Government, Al Grassby, who was convicted on a criminal defamation charge of having distributed a document in which there was an allegation that a family and friend of Mr McKay were involved in his murder. As I said, he was convicted. That is criminal defamation, not involving the media. If I come back to the basic proposition, we are talking about action which is quite serious, intending to cause serious harm to another person by publication.

I have already mentioned that the Australian Law Reform Commission in its report on defamation considered that criminal defamation should be retained. I think Justice Kirby was the head of the Australian Law Reform Commission at that time, although I am not sure. He is certainly not someone who is unattuned to civil liberties principles. In any event, it was the Australian Law Reform Commission that recommended its retention. The Standing Committee of Attorneys-General has recommended its retention; it is in the uniform Bills introduced in New South Wales, Victoria and Queensland, so I ask that it be maintained.

As to the question of when proceedings should be taken or on whose authority proceedings should be taken, having the Attorney-General in there as having to consent to the prosecution is a protection for free speech, because the Attorney-General is a publicly accountable figure; he is in Parliament; he can be questioned about issues. It comes back to the debate we have had about accountability of Attorneys, and the important principle that an Attorney-General—an elected official—should ultimately take responsibility for a criminal prosecution. Because under the Director of Public Prosecutions Act that we passed in this Parliament the Attorney-General does have that ultimate authority if he chooses to exercise it (and I have already indicated that I suspect in most cases he would not choose to exercise it, but at least if he chooses to do so he can be accountable to the Council for doing it), because he would not normally exercise it and because the substantive responsibility for this will now rest with the Director of Public Prosecutions, I am happy to delete 'Attorney-General' and to insert where it appears on the three occasions in those two subsections the words 'Director of Public Prosecutions', on the understanding that it would be the Director of Public Prosecutions who would normally deal with the matter, but the Attorney-General would have some ultimate responsibility for the actions of the DPP if he chose to exercise it.

That gives protection for free speech: it does not detract from it. Otherwise a private citizen could start proceedings for criminal defamation. If the person were committed, it would be up to the Attorney-General or the Director of Public Prosecutions to decide whether to take the case on, but at least at the initial stages prosecution could be taken by a private individual or by the police without any initial involvement of the Director of Public Prosecutions or the Attorney-General.

So, this is an added protection. It is consistent with the principles we have adopted in other statutes about the role of the Attorney-General in this free speech area under section 33 of the Summary Offences Act, for instance, dealing with indecency and obscenity where the consent of the Attorney-General is required. For those who are concerned that criminal defamation may be misused, this is an added protection, because a publicly accountable official will have to decide whether or not to proceed with the prosecution in the final analysis: in other words, it cannot be just the police or an ordinary citizen. If we move for it to be the Director of Public Prosecutions, it would also be one remove from the direct political process. I am happy to move it that way.

The Hon. Mr Griffin's and the Hon. Mr Gilfillan's amendments negatived; the Hon. Mr Sumner's amendment carried.

The Hon. K.T. GRIFFIN: Before we get to my next amendment, one matter that I did not raise in my second reading speech relates to section 249 of the principal Act. It provides a procedure for establishing the reports, papers, votes or proceedings of Parliament which either House of Parliament has published, and it deals not only with criminal proceedings but also with civil proceedings. Can the Attorney indicate whether the effect of section 249 of the principal Act is covered elsewhere? If not, can he indicate why something of that form is not being retained either in this Bill or being provided for elsewhere?

The Hon. C.J. SUMNER: My answer to that in the second reading was that this issue is dealt with in section 12 of the Wrongs Act and, accordingly, section 249 of the

existing Criminal Law Consolidation Act is no longer necessary.

Section 12 of the Wrongs Act deals with the publishing of parliamentary reports, and it means that the section in the Criminal Law Consolidation Act is redundant. The honourable member can check that, but section 12 of the Wrongs Act does the job that section 249 of the Criminal Law Consolidation Act does. I will check that there are not any holes and that by deleting section 249 we are not leaving out something that should be in there.

The Hon. K.T. GRIFFIN: I referred to my amendment to line 7 in the course of the second reading debate. I was inclined to amend the section to leave out subsection (2) but, having listened to the Attorney's reply and done some further research, I can see that that is not appropriate.

As to section 255, I refer to 'an indictable offence' in the last line of subsection (1). The whole section deals with offences in relation to industrial disputes and restraint of trade. Subsection (1) provides:

> An agreement or combination by two or more persons to do, or procure to be done, an act in contemplation of furtherance of an industrial dispute as defined in the Industrial Relations Act (S.A.) 1972 is not punishable as a conspiracy unless the act, if committed by one person, would be punishable as an indictable offence.

Section 260 (1) of the principal Act refers only to an offence punishable by imprisonment. The Attorney-General acknowledged in his reply that the Bill narrows the offence to serious cases. I follow the argument, but I am not convinced that there ought to be any change from the present section, and that is why I am moving my amendment to change 'indictable offence' to imprisonment, which therefore maintains the status quo. I move:

> Page 13, line 7—Leave out 'as an indictable offence' and substitute 'by imprisonment'.

The Hon. C.J. SUMNER: The Government opposes this for the reasons I outlined in the second reading reply. I took the view that when one compares the general state of the law in 1878 to now, one sees that there is now a host of minor summary offences punishable by imprisonment which really should not be escalated to the full grandeur of a charge of criminal conspiracy merely because two or more agreed to it. Furthermore, the line between indictable and summary is a more rational criterion for what is really serious than what happens to be punishment by imprisonment. It should not be forgotten that a modern trend, unknown in 1878, is to create serious indictable offences in some areas which are punishable by very large fines.

The Hon. I. Gilfillan: What is the definition of 'indictable offence?'

The Hon. C.J. SUMNER: That is the jackpot question. The honourable member will not find it in this Act; one has to refer back to our laborious work last year, when we passed the courts package. Basically, an indictable offence is one that is tried by a judge and jury or, on occasion, by a judge alone in this State, but in the District Court or the Supreme Court, and is not dealt with in a summary way in the Magistrates Court. To give a content to what that means, one must return to definitions. An indictable offence is not a summary offence, but that does not help the honourable member.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That is correct. However, the consequences are that an indictable offence is dealt with on information in the District Court or the Supreme Court. A summary offence is dealt with in the Magistrates Court. The basic line, which, as the Hon. Mr Griffin interjected, we dealt last year, is a maximum of two years imprisonment which can be imposed by a magistrate in the Magistrates Court. There are some exceptions, but that is the basic line that we tried to draw. In general terms, that is it.

If the honourable member wants me to say which offences are indictable and which are not, I can certainly get the information for him. However, obviously murder, rape, armed robbery and breaking and entering are all indictable offences. Traffic offences are summary offences. We have now determined, following the passage of the legislation last year, that an ordinary assault is a summary offence.

Amendment negatived; clause as amended passed.

Clauses 7 to 18 passed.

Clause 19—'Substitution of s.18.'

The Hon. K.T. GRIFFIN: First, I raise a question in relation to proposed section 17 *(d)*. I did contemplate seeking to amend by deleting the reference to 'unlawfully'. The section provides that a person who uses force, threats or intimidation to enter land or premises in order to expel a person who is in possession (whether lawfully or unlawfully) of the land or premises and does so otherwise than in pursuance of an order of a court or other lawful process is guilty of an offence. It seemed to me that it might be that the reference to a person being in possession unlawfully was an unnecessary flexibility given to the person so in possession.

My inquiries suggested that that is in fact the common law position. I have not had time to research it, and I wonder whether the Attorney is able to clarify the reason why there is a reference to unlawfully being on land so that someone who is unlawfully in possession cannot be removed other than by an order of the court.

The Hon. C.J. SUMNER: The underlying policy in this proposed section is that we do not encourage people to take the law into their own hands and to use force, threats or intimidation to get other people off premises, even though those other people may be unlawfully on the premises. If people want to remove other people, even if they are unlawfully on premises, they should do it in an orderly manner by taking the matter to court.

In fact, we are restating the common law, and the common law is that it is immaterial whether or not the person making such an entry had or had not a right to enter in the first place. Section 80 of the Residential Tenancies Act provides that one must take possession of a premises pursuant to the order of a court or tribunal. So, that is the underlying policy. I think it is reasonable that people do not take the law into their own hands, and if they want to enter premises they should get court orders to do so.

The Hon. K.T. GRIFFIN: I appreciate that in relation to tenancies. There are frequently disputes as to whether a person is lawfully or unlawfully in occupation, either under written or verbal tenancy agreement, and it may be that that ought to be accepted. However, if one looks at section 17 *(a)* of the Summary Offences Act, which we have inserted in the past few years to deal with squatters, one sees that that deals with trespassers. It does not specifically provide for ejection of a trespasser, but it does provide for an offence where, if a trespasser is asked to leave the premises and again trespasses within 24 hours, an offence is committed. In that case an authorised person, on asking a trespasser to leave premises, must give their name and address.

That is where it rests. It would seem to me not inappropriate in those circumstances for a trespasser to be able to be moved without having to go through the rigmarole of court orders, which might leave the trespassers in possession for months. I apologise to the Council for not having addressed the issue in my amendments; it is an issue that I intended to raise, but it became submerged in other things. In those circumstances, would the Attorney-General be pre-

pared to address this issue, if not now, then before the Bill passes through the Parliament? Whilst I appreciate what the common law is, it would seem to me that, under proposed section 17d, an exception can be made in relation to section 80 of the Residential Tenancies Act. But, related back to the situation where there are trespassers, persons ought not to be subject to some criminal prosecution while merely trying to get rid of a trespasser.

The Hon. C.J. SUMNER: I am happy to examine it in the light of what the honourable member has said and to look at the trespassing offence that was put in the Summary Offences Act, to determine whether that policy position in relation to them is similar, but I point out that proposed section 17d (2) deals with a person who is unlawfully on land or premises and provides that it is an offence for them to be unlawfully on those premises or to retain the premises or land by force. So, two offences are created. It is an offence to enter onto land and to obtain the possession of the land or premises by force but likewise it would make it an offence for people to use force, threats, or intimidation to get back premises or land even though people originally may have been on there unlawfully. The basic philosophy underlying this is that things should be done in an orderly manner, in accordance with court orders and using proper police officers to effect the necessary remedies.

The Hon. K.T. GRIFFIN: I appreciate that the Attorney-General will look at it in the light of what I have indicated. We also addressed this issue in the criminal law self-defence legislation, where we provided that a person could use certain force to protect property, and I guess in the context of looking at this issue it might be that that also should be examined to ensure that there is no inconsistency between these two provisions.

Although there is concern about the loitering offence and a certain measure of uncertainty about it, and the amendments I have on file are consistent with what I have moved in the past, I do not intend to proceed with those. However, I should put on the record that the mere fact that I do not intend to proceed is not to be construed as an indicator that we have moved from our position of the past in relation to loitering but merely that it is an issue that needs to be examined further. One can recognise that giving the police power to move a person who falls within the context of proposed section 18 to an area outside a radius of one kilometre of that point where the warning is given might create some hardship in circumstances where there may be some doubt as to the merit of such a request. On the other hand, there is some uncertainty in the minds of police about the scope of their authority. It was the intention to try to clarify this that prompted me to put the amendments on file. However, we recognise that it is an issue that is difficult to resolve and in the circumstances of this Bill I do not intend to proceed with those two amendments to that clause.

The Hon. I. GILFILLAN: I believe I recollect there were moves; in fact, I thought the offence of loitering was removed as a public offence, and I will be asking the Attorney-General to explain to me whether my recollection is accurate or in part accurate.

The Hon. K.T. Griffin: In part accurate.

The Hon. I. GILFILLAN: There are interjected answers which I take as being true, but I look to the Attorney for a formal answer. While he is answering, perhaps he could address himself to the matter that concerns me. Is the actual activity of loitering defined somehow? How do we spell out when one is loitering and when one is not loitering?

The Hon. C.J. SUMNER: Loitering is not defined in the statute. It has been adjudicated upon by the courts from time to time but, basically, loitering according to the court interpretation can be just hanging about. It can be just standing in the street. Until 1986 there used to be an offence in our statute books of pure loitering; that is, if you were hanging about and you were told by a police officer to move on and you did not move on, then you were guilty of an offence. If the Hon. Mr Gilfillan was standing in King William Street—

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: No, talking to the Hon. Mr Griffin and, because the police officer thought that the Hon. Mr Griffin looked like an undesirable type or, vice versa, that the Hon. Mr Gilfillan looked like an undesirable type or, theoretically, if they did not think either looked like an undesirable type at all but they just did not like you standing in the street talking to each other, then they could say that you must move on, and if you did not you would be guilty of the offence of loitering. That law existed until Parliament removed it by amendment to the Summary Offences Act in 1986. There are some terrible stories about migrants who came from southern Europe, where hanging about in the streets is very much a part of their culture. They came into conflict with the constabulary because they hung about in Hindley Street and elsewhere, and when told by the police to move on they did not, so they ended up being arrested.

So, that offence was done away with, but we retained, at that time, the offence of loitering, which has been essentially repeated by this Bill but with the addition of referring to not just a person loitering in a public place but to a group of persons assembled in a public place. We have abolished the law of riot and, instead of the old procedure of reading the Riot Act in order to disperse some people who may be on the verge of riot, we are placing those circumstances within the offence of loitering so that police can give an order to a group of persons to move on. It is not pure loitering: it is people loitering or a group of persons assembled in a public place.

The police officer who wants to take the action must apprehend that certain things might occur such as: an offence has been or is about to be committed; there is about to be a breach of the peace; the movement of pedestrians or vehicular traffic is obstructed; or the safety of a person is endangered. So, if the police officer believes or apprehends on reasonable grounds that those things are likely to occur because of people loitering or groups of people being assembled, he or she can give the order to move on. So, it is not pure loitering, it is loitering where those conditions might occur. So, this repeats the loitering offence but adds in groups of persons because we have removed the riot offence.

Clause passed.

Clauses 20 to 23 passed.

Schedule.

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

Page 18—Leave out paragraph (23) of clause 1.

In my second reading speech I commented that any move toward codification causes concern in some respects, particularly where the old common law is to be abolished completely. I have read with interest the explanation of the various common law offences listed in schedule II, and I am not in any position to dispute the various provisions, but it has been put to me by several criminal lawyers that there would be some value in retaining the offence of public mischief even though it is a somewhat difficult definition and also because it would be helpful, they said, to have it in the common law.

The Hon. C.J. SUMNER: The Government opposes this amendment. This amendment would mean that the common law offence of public mischief is not abolished. The

first point to be made is that the Full Court decided in *Todd* [1957] SASR 305 that the common law offence of public mischief did not exist in South Australia. So we have done without it very well for over 30 years. but it is expedient to keep it in the schedule to be abolished because *(a)* the High Court might rule differently or *(b)* the Full Court might, after all this time, decide to change its mind. We are in fact confirming its abolition. There can be little argument that this offence serves no useful purpose, even if it exists. The leading authority is *Withers* [1975] AC 842 in that case, Viscount Dilhorne said:

A judge must, I think, in any case involving a public mischief, be in considerable difficulty when he has to sum up to the jury. What direction is he to give them on the law? The ... cases ... give no guidance as to that. If the judge directs the jury that, if they find the conduct proved, it is a public mischief, he may be held to have unsurped the functions of the jury and in so doing he may treat as criminal conduct not previously so regarded. On the other hand, if it is left simply to the jury to decide whether the conduct amounts to a public mischief, then the jury may create a new offence by deciding that conduct not previously held criminal is criminal, it is at least clear that in the present state of the law, the inclusion of the words 'public mischief' can lead to very considerable difficulties.

Lord Simon, for example, went further. He held that these difficulties were so insuperable that the court should declare that there was no such offence at common law. The existence of such an offence was, for example, held inconsistent with the modern state and development of the criminal law; indeed, the Court of Appeal had intimated as such in *Newland* [1954] 1 Q13 158. It is for all these reasons that the Full Court decided in *Todd* that the offence should not exist in South Australia.

About the only modern use that has been found for the common law offence (if it still exists) is to prosecute people who make unfounded complaints to the police. That area is comprehensively dealt with in sections 62 and 62a of the Summary Offences Act. There is simply no warrant for retaining the possibility of this offence. So the Government believes that we should make it clear that we are abolishing it.

The Hon. I. GILFILLAN: What was the common law offence of rescue (No. 7 in the schedule)? It seems to me to be a particularly benign form of an offence.

The Hon. C.J. SUMNER: My learned adviser says that rescuing was the offence of rescuing people from gaol. In most cases it applied to murderers. So there was the offence of rescuing murderers from gaol. There was a further offence of rescuing the body of a murderer, which also apparently you were not permitted to do at common law. Obviously, at some stage it was a problem, and my learned adviser tells me that in 1752 there must have been a spate of getting murderers from gaol, so the offence was established in 1752. It related to rescuing people from gaol and principally applied to rescuing murderers from gaol, and you were also not entitled to rescue the body of the murderer that had just been executed.

Amendment negatived.

Schedule and title passed.

Bill reported with amendments.

MFP DEVELOPMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 3682.)

The Hon. R.I. LUCAS (Leader of the Opposition): Before the dinner break, I was quoting from page 181 of the environmental impact statement in relation to stormwater. Further, the document states:

Direct stormwater inputs of freshwater to the estuary may also trigger blooms of toxic dinoflagellates which would flourish in the nutrient-rich waters (Carbon 1991), Metals derived from stormwater input may also render shellfish unfit for human consumption, as is the case in West Lakes.

Table 4.7 compares the criteria for recreational water quality and for the maintenance of aquatic ecosystems with the quality of stormwater discharging to the Gillman area (Engineering and Water Supply Department 1989). The levels of faecal coliform bacteria, suspended solids and nutrients are likely to have the greatest impact on recreational waters. The effects of these pollutants are described in section 4.11.3.

I seek leave to have table 4.7 incorporated in *Hansard*. The table is from the environmental impact statement and is of a purely statistical nature.

Leave granted.

Relevant criteria for lake water quality (mg/L)

	Recreation Contact 1	Recreation Contact 11	Aquatic Ecosystems Level 2	Gillman Stormwater
Faecal coliforms	median <150/100 mL	median <1 000 per 100 mL	N.C.	>100 000 per 100 mL
Nutrients total NP	No algal blooms	<0.5 N mg/L <0.05 P mg/L	<0.5 N <0.05 P	>1.0 N >0.2 P
Suspended solids	1.2 m secchi	1.2 m secchi	400 mg/L	>50 mg/L
Floating or bottom debris	No dangers, bottom safe to walk on	No dangers or obstructions	N.C.	Debris, trash, old tyres
Dissolved oxygen	No criterion	No criterion	>6 mg/L	No data
Metals:	No toxics or skin irritant	No toxics or skin irritant		
As			0.036 mg/L	*0.012 mg/L
Cd			0.009 mg/L	−0.002 mg/L
Cu			0.003 mg/L	>0.025 mg/L
Pb			0.0056 mg/L	>0.1 mg/L
Zn			0.086 mg/L	>0.25 mg/L

* Dry Creek stormwater 1991, no data for Gillman.

Source: National Health and Medical Research Council, 1990 and Draft ANZEC, 1990 and E&WS 1989a

The Hon. R.I. LUCAS: Under the heading 'Standards and criteria', the document continues:

The two most important criteria for lake water quality are the levels of faecal coliform bacteria, which must be less than a median value of 150 per 100 mL of water for primary contact recreation, and nutrient concentrations, which can support unsightly blooms of algae, with associated deterioration in water quality.

Most stormwater discharged to the study area at present carries more than 100 000 faecal coliforms per 100 mL (E&WS, 1989), and loads of nitrogen and phosphorus (Kinhill Delfin, 1991).

All other criteria relevant to lake water quality are given in table 4.7, and are compared with typical stormwater runoff to the area (E&WS, 1989a). Criteria apply to level 1 protection of aquatic ecosystems.

Page 183 of the EIS states:

A significant improvement in water quality is possible with a relatively short period of retention. Recent data from an experimental retention system at Greenfields indicate that more than 80 per cent of faecal coliforms, suspended solids, phosphorus and metals, and more than 60 per cent nitrogen could be removed (City of Salisbury, 1990). Trash racks would be necessary to remove floating debris.

Increases in salinity which may occur with retention over the shallow brine water table may render water less suitable for irrigation, but would also reduce the risk of a trigger effect on dinoflagellate blooms. Regular monitoring of water improvement may indicate the suitability of the treated stormwater for other non-potable uses.

The provision of stormwater retention areas and the removal of pollutants from Gillman stormwater could allow the re-use of stormwater in the lakes. Stormwater management is needed as an innovative resource use and to reduce pollution of the estuarine environment. The development presents an opportunity to provide a model for environmental management in this respect.

I have quoted at length from the environmental impact statement in relation to stormwater because, as I indicated earlier, it is an important environmental concern at that site at the moment. The level of pollutants and problems that are indicated in that quotation from the EIS are significant. The environmental impact statement argues that the stormwater and ponding, and so on, will be part of the development, that more than 80 per cent of the faecal coliforms, suspended solids, phosphorus and metals and more than 60 per cent of the nitrogen could be removed by the techniques that are being discussed for environmental management as part of the multifunction polis development.

Stormwater management is the only area of environmental concern, the only area of very many that I have indicated that I have gone into in any detail in quoting from the EIS, to indicate the many areas of concern. In some of the areas—not all—there appears to be persuasive argument that the environmental degradation that is now occurring on that site can be mitigated to a substantial degree by a development which generates funds to allow those sorts of tasks to be tackled. The Parks Environmental Residents Action Group from which I quoted earlier, indicated its support for the MFP on the basis that it saw it as the only way that funds could be generated to tackle the significant environmental and health problems at that site. I am sure that is the sort of thinking that that group had in mind when it made its decision. As I said, I will leave detailed discussion of all the other environmental concerns to others in this Chamber with more expertise in the area than I, and I am sure that, amongst my colleagues and the Australian Democrats, some considerable discussion will occur about matters of concern at that site.

I now turn to the cost to the taxpayer or to the public sector of the potential development at the site. First, I would like to make clear that, from the environmental impact statement, it would appear that we are talking about an area of some 1 840 hectares in the Gillman/Dry Creek area as a potential site for the development. That 1 840 hectares is to be broken up into 624 hectares of open space or forest, 416 hectares of lakes and canals, 240 hectares of roads and in-village open space, 120 hectares of industry/commercial use (and I include in that 120 hectares 60 hectares for educational and community use, so really there is only 60 hectares for industrial/commercial use in that site) and a component of 440 hectares for residential use.

It is important for members to recognise that the percentage of the Gillman/Dry Creek area that is to be used for the multifunction polis residential development is really only about 25 per cent of the total area at that site. So, some of the environmental concerns that have been raised in relation to the Gillman/Dry Creek area can be resolved in part, as the EIS has indicated, by ensuring that residential development does not go into some of the worst environmentally degraded areas in the Gillman/Dry Creek area.

In relation to the total costings to the public sector of the MFP, I refer to page 5-24 of the Commercial Analysis prepared by Kinhill Delfin in the joint venture in May 1991 and also to page 5-16 of that commercial analysis. Mr Acting President, I seek leave to have incorporated in *Hansard* a statistical table indicating the total regional costs of the MPF development and another statistical table on the impact of development on the public sector of the MFP.

Leave granted.

Table 5.13 Total Regional Costs

Item	Cost ($ millions)
Port Adelaide entrance including land acquisition, road and canal	22
Entry roads to the site	17
Services to site boundary	10
Land consolidation	26
Contribution to open space and lake system	61
Relocation of existing industry	10
Placement of power lines underground	38
Off-site stormwater disposal	5
Subtotal	189
Fees and contingency on costs (excluding $47 million land purchase*)	62
Total regional cost	251

* Land consolidation $26 million, Port Adelaide road and canal $13 million, entry roads to site $8 million.

Table 5.16 Impact of Development on the Public Sector

Costs/benefits	1991 values ($ millions)	Net present values @ 7% discount rate ($ millions)
Costs to the Public sector		
Regional costs	251	171
Upgrading of Garden Island	5	4
Total	256	175
Benefits to the public sector		
Savings on services to alternative site	—	47
Development contribution to public works	51	21
Sale of Lefevre Peninsula/Pelican Point sites	3	2
Total	54	70
Net cost to public sector	202	105

The Hon. R.I. LUCAS: The indication of the total regional cost for government of the public sector in South Australia of the MFP development is an estimate by Kinhill Delfin of about $251 million, which incorporates estimates of costs of, for example, $61 million for a contribution to open space and the lakes system; $38 million for the placement of power lines underground; $26 million for land consolidation; $17 million for entry roads to the site; and $22 million for Port Adelaide entrances, including land acquisition, road and canal.

That $251 million indicated in table 5.13 is then further expanded in table 5.16 headed 'Impact of development on the public sector', and that regional cost of $251 million has another $5 million added for the upgrading of Garden Island to give a total cost of $256 million. There are then the offsets listed under the heading 'Benefits to the public sector', which include the development contribution to public works of $51 million, a figure arrived at by a calculation of 6 per cent of the revenue being generated by the developers down there in relation to public works and a $3

million offset figure due to the sale of Le Fevre Peninsula and Pelican Point sites.

Members will be aware that the core site of the MFP included four key areas: Gillman/Dry Creek covering two areas and then Le Fevre Peninsula and the Pelican Point sites. On the other hand, the EIS indicated that two of the sites—Pelican Point and Le Fevre Peninsula—are less than suitable for residential development and the original sorts of development that the Government had intended for those areas. Therefore, there is the revenue offset in that table to which I referred of $3 million. That gives a total revenue offset of $54 million and, therefore, a net cost to the public sector in 1991 dollars of $202 million.

As a number of members have indicated, it is important to note that that estimate of the net cost to the public sector does not include costs for a number of projects that the Government argues would have to be incurred, anyway. For example, I list the upgrading of the Port Adelaide sewerage works as one example of three or four projects about which the Government says the costs would have to be incurred anyway, whether or not the MFP development went ahead on the Gillman/Dry Creek site.

The other cost estimate that ought to be borne in mind by members in considering the net cost to the public sector of the MFP development is an estimate again included in the Kinhill Delfin Commercial Analysis under the heading 'Provision of services to alternative sites'. This estimate by Kinhill Delfin is of the cost savings to government of not having to go ahead with developments in fringe urban areas as a result of having a large scale urban development at the Gillman/Dry Creek site.

The argument from the Government and its advisers goes along the lines that if we do not have the development at Gillman/Dry Creek with potentially 42 000 people living there we would need to be looking at two further developments in the fringe outer suburban areas along the lines of the Seaford development. These estimates on page 5-23 of the Commercial Analysis indicate the potential savings to government as a result of the deferral of infrastructure costs in those outer suburban fringe areas. I quote from page 5-23 of the commercial analysis, as follows:

> Provision of services to alternative sites: Development on the Gillman/Dry Creek site would defer the need for major development in alternative locations. As major alternatives are located further from existing facilities, the costs of providing services to the Gillman/Dry Creek site would be lower because of shorter service runs and the utilisation of existing infrastructure (for example, roads and schools). In addition, major headworks costs for water, sewerage and transportation would also be deferred for five years. Based on the discussion paper 'Long-term Development Options for Metropolitan Adelaide' (Kinhill Stearns 1985), the value of works that would be deferred is estimated at $326 million. A five-year deferral of these works, which are estimated to occur over 25 years, would have a net present value of $47 million.

In summary, what the Kinhill Delfin joint venturers are arguing is that, because the Gillman/Dry Creek development might go ahead, fringe developments do not have to go ahead and fringe developments would incur costs of some $326 million, costs which will be deferred, so there will be an annual net saving in net present value terms of about $47 million as a result of that deferral of infrastructure in the outer suburban fringe areas.

In relation to deferred costs and savings, together with the comparison of the costs of development in fringe areas as opposed to the Gillman site, I want to indicate that in a discussion with the MFP office on Monday this week I asked for its latest estimate of the cost of developing an allotment at the MFP site. The MFP office response to me on Monday this week was that its latest estimate was $9 000 to $10 000 per dwelling cost to the Government for infrastructure at the Gillman/Dry Creek site.

I compare that to the figure included in the Kinhill/Delfin study of May 1991, which indicated a cost of $11 800 per allotment at the time of the preparation of that commercial analysis. I am advised by the MFP office that the reason for the differential is that the work done in the EIS has now reduced the cost to government of preparing the site at Gillman/Dry Creek for residential and industrial development. The estimate given to me was that the cost might be reduced by 10 to 20 per cent. I note that the Premier in another place in debate on this Bill indicated a potential cost saving of about $20 million as a result of further developmental work included in the EIS.

That $20 million would correspond to the lower estimate of saving about 10 per cent of the total estimated costs. As a result of that reduction in estimated cost of 10 to 20 per cent, the MFP office is estimating that the cost per dwelling will be about $9 000 to $10 000 in infrastructure or public sector costs.

I want to compare the estimate for infrastructure costs in a fringe suburban area. I refer now to page 21 of a paper prepared in January 1992 by Barry Burgan and Peter Tisato from the South Australian Centre for Economic Studies. Entitled 'Pricing and financing of urban infrastructure: a discussion paper for the Adelaide planning review' it states:

> The planning review has presented the only available estimates of public sector infrastructure costs: $15 000 to $20 000 for a fringe allotment and $500 per allotment in the new infill development at Northfield, with the major cost being electricity under current charging policies.

So, those two obviously academic and economic studies have indicated, in essence, that the Government's estimate for the infrastructure cost of a new fringe allotment at, say, Roseworthy, Seaford or Golden Grove—in fringe areas—is some $15 000 to $20 000.

The MFP proponents are arguing that the development cost at the MFP site is some $9 000 to $10 000 per dwelling. That is something that most people would not have expected. Whether or not it is accurate, I am not in a position to say—and I do not think that anyone in this place is in a position to do a more comprehensive economic analysis of allotment costs. I do not think that is something that any member in this Chamber would have contemplated. Certainly, my initial view would have been that because of the major problems at the Gillman/Dry Creek site—for example, contamination and the environmental degradation—the public sector costs of developing such an allotment would be significantly higher than a development at Seaford or something along those lines.

We are talking about Barry Burgan and Peter Tisato, who would not be called Government lackeys, as they are prominent independent economists from the University of Adelaide and Flinders University. They are quoting figures from the planning review of $15 000 to $20 000 for a fringe allotment. As I said, MFP officers are arguing that the figure is $9 000 to $10 000 per dwelling at the MFP site. If one were to take the Kinhill Delfin analysis of May 1991, that figure is still only $11 800 per allotment.

There is certainly food for thought and rational debate in relation to the cost of developing new urban areas. Certainly, on those figures it would seem to indicate that there is—on that basis anyway, if those figures are correct—some persuasive argument for urban development or consolidation at the Gillman site. Irrespective of whether or not we want to talk about the MFP site, there seems to be some solid, persuasive argument at which we ought to be looking when trying to develop in areas like Gillman and Dry Creek with what would appear to be some significant potential

savings to Government if we can clean up the environmental degradation at that site and solve all the other concerns that have been highlighted in a number of major reports to which I have referred. They are the major areas that I wanted to address in this second reading debate.

In conclusion, the Liberal Party will obviously be moving a series of amendments, as will the Australian Democrats. We have already been partially successful in relation to some of the measures for stricter financial accountability that we wanted to see. However, we will still be moving further amendments in relation to the role we see for the Economic and Finance Committee of this Parliament and in relation to the Estimates Committees. As I said earlier, we are heartened to see the published response of the Democrats to that amendment. We will still move amendments in relation to the environmental impact statement and the fact that no work ought to proceed until that process is completed. We will also move amendments in relation to areas such as the compulsory acquisition powers, as outlined currently in the Bill. Of course, we will move a series of other amendments as well.

I indicated earlier the Liberal Party's position on this Bill. It is my personal view that there is a lot of unanswered questions in relation to the multifunction polis. I would certainly be the first to concede that. People genuinely have many concerns about the development and the site that have still not been answered and were not answered in the debate in another place. I suspect that we will not get answers even during the Committee stage of this debate. I do not believe at this stage that anyone can prove that the multifunction polis will definitely work and be successful. I think it would be a very brave or foolish person who would say that the multifunction polis is a definite goer, that we have solved all the problems and that it is just a question of whacking the Bill through and everything will be all right.

Equally—and I put this view forcefully—I do not believe that anyone at, this stage has been able to prove to my satisfaction that it definitely cannot work. I acknowledge that there are a lot of concerns. However, at this stage I do not believe anyone can say that the multifunction polis definitely cannot work; it is that grey area in between. We have to make judgments as to whether or not the multifunction polis Bill, the development at Gillman, and so on, ought to go ahead. Again, my view is the same as that of the Liberal Party: I do not believe that we should be supporting any blank cheque proposition for the multifunction polis. I strongly believe that there has to be financial accountability along the lines that we have indicated in another place and publicly. I believe that within those restraints—that is, of no blank cheques and financial accountability in the legislation—we ought to give it a go. On that basis, I support the second reading of the Bill.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

LOCAL GOVERNMENT (REFORM) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 3605.)

The Hon. BERNICE PFITZNER: This Bill is of special interest to me as I served as a local government councillor in East Torrens. East Torrens council is a unique small council in that it comprises both metropolitan and rural areas. Therefore, at times it poses difficult and conflicting issues. This Bill, as my colleague the Hon. Mr Irwin has stated, came to the Council on 18 March—approximately two weeks ago. The Opposition has not been involved in the consultation, except at the last stage. The Government and the Local Government Association appear to be the main players in producing this local government reform Bill under the memorandum of understanding signed by the Premier and the President of the Local Government Association in 1990.

With the demise of the Department of Local Government and the anticipated demise of the Local Government Advisory Commission on 30 June this year, there is an unseemly rush to push this Bill through. This Bill, which transfers power and with it responsibility from the State Government to local councils through the Local Government Association, is of major importance and significance, and we have had very little time to consult with individual local councillors on it. In fact, last Friday I attended the half yearly conference of the Mid North Government Region Incorporated, incorporating a local government workshop. The member councils comprised 17 rural councils and, speaking to the councillors, I found that there did not appear to be a great knowledge of this Bill before Parliament.

My concern is whether, when one reports that one has consulted local councils, that just means speaking to the CEO or Town Clerk rather than the local councillors. I checked with my own council—East Torrens—and the councillors had no knowledge of the Bill. Again, in checking with the Burnside council, I found that some of the councillors were not aware of this Bill. I understand from Mr Irwin that lately the Town of Hindmarsh was not happy with the Bill, although the President of the LGA, Mr Plumridge, had reported that all was well.

Apart from the lack of local councillors' knowledge and/or consultation, I have concerns about the Local Government Association and, in particular, the senior bureaucrats. As a former local councillor, I believe completely in local government and fully support its concept. Local government's main and essential position is that they are people closest to the coal face. However, my difficulty is not with the local councils but with the LGA, which at times I feel does not reflect the opinions of local councils. This feeling of poor representation was initially supported by the stance of the LGA poorly reflecting the concerns of local councils on an issue initiated by the Department of Environment and Planning. I spoke out on that issue as I am speaking on this Bill, and I note that the Secretary-General of the LGA, Mr Hullick, stated that I do not believe in or was against local government. I note a similar occurrence regarding my colleague, the Hon. Mr Irwin, when he called for a watchdog for local government, and this time the President of the LGA, Mr Plumridge, stated that the Liberal Party intended to introduce a Department of Local Government.

The ploys of these senior officials to try to discredit a serious concern are disgraceful. I have tried to make an appointment with the Secretary-General of the LGA to inform myself of the LGA's activities, but have not had a response. My concern was further enhanced during my attendance at the Mid North Government Regional Conference. The conference was an excellent venue to debate the LGA's position in the new relationship. The Secretary, Mr Hart, prepared a most informative agenda. In the workshop section, the leading theme statement reads:

> The LGA is leading local government into the period of change facing us all in society, and especially the public sector, with vigor and urgency and as a challenge to our willingness and capacity to adjust. Reform and restructuring, in their many guises, are the 'buzz' words in this process. But, what does all this mean to the organisation itself? How does LGA see itself in the future? What

forms will it take? How will it achieve this? And, importantly, what does all this mean in tangible terms to its members?

Yes: in particular, what does this mean to each and every local council? What are its implications? The Secretary-General comments that the Bill is only machinery to enable further consultation. To me, this strategy is flawed. What if this machinery (if it is that) is an inappropriate structure to cater for future needs following further consultation? With respect to the panels, for instance, are they appropriate; is the composition of the panels adequate and relevant; and, in particular, the omission of a legal practitioner is of great concern. It seems that we are putting the cart before the horse and we do not even know what the cart consists of.

Further issues raised in the Mid North conference stated the five Rs for local government as the roles, responsibility, representation, relationships and resources, to which I would add evaluation and accountability. Power sharing and whether officers will have a role in the actual decision making process were further issues. Other issues raised related to regions and whether they should continue or whether their role has been overtaken. A final statement in the conference agenda should be noted. It reads:

> The LGA, being an association of members, can never divorce itself from councils' concerns, interests or desires. These have to be always accommodated and nurtured and at no time neglected. The LGA can only be seen as a credible organisation if it reflects this vital 'parentage'.

Let us look at the Minister's second reading speech. It states that:

> As a system for facilitating change, the advisory commission process has been more successful than methods such as parliamentary select committees . . .

Therefore, with the demise of the advisory commission, we are left with a process in mid-air. Who will be in charge of the further continuation of the process? It looks as if the LGA will be the de facto administrator of the process of change. These sweeping changes will take place with the State Government's checks and balances replaced by objectives and principles, to be observed in the public interest. As such, we therefore need to look into the structure of the LGA. The Local Government Association Act of 1934 states that it is a body corporate. To whom is the LGA responsible? Perhaps it is responsible to all the councils and yet to no particular authority. Yes, we know that the LGA is mentioned in the Local Government Act under section 34, that it has a constitution and that it has a policy and charter and reform agenda, but to whom is it responsible—to which authority?

These major changes are to boundaries and structures of council areas, council membership and representation, ward boundaries and structures, terms of office of elected members, by-law making process, determining local fees and charges, and ministerial responsibilities. We need more time to consult with individual local councillors on those changes. Over and above these important changes is the changing role of the LGA itself and the concern of conflict of interest, not only with councillors but also with local government staff. It is interesting to note that the stance taken by the Minister on reviews of representation and electoral boundaries should be referred to the Electoral Commissioner for certification. I note that the LGA disagrees, but it is one of the few points to which I would give support.

In the Minister's penultimate paragraph she alludes to 'these major reforms' and states that 'the Bill removes a number of requirements for ministerial notification and approval'. Therefore, this Bill is not solely a Bill to put administrative structures in place, it has major changes of policy, which implications need to be fully considered. If we are 'to reshape former ways of managing things' we must be clear both on policy and administrative issues.

I therefore support my colleague, the Hon. Mr Irwin, in his concern on this Bill. He expresses the lack of full consultation, the *ad hoc* approach to the 're-orientation' of local government, issues of accountability, in particular, of the LGA, uncertainty of guidelines for proposals, and apprehension of the concept of panels. These concerns are most valid, especially when one is not clear as to the direction of local councils.

In conclusion, I would like to reiterate and emphasise that criticism and concern for the passage of this Bill does not denote that I or the Liberal Party are against the concept of Local Government reform. However, when change takes place, we must be quite clear on what sort of reforms we want, that is, our aims; and how we want to achieve these aims, that is, by putting appropriate administration in place. I do not believe that we have worked out the 'what' and the 'how', only the 'why' and the 'when'. We have not an overall concept of the ultimate aim of local government. We are changing the picture piecemeal, without knowledge of how we want the final picture to look. This is poor planning and we may end up with a picture that nobody wants.

Finally, the details of the Bill leave a lot to be desired. Briefly, there appears to be no accountability or evaluation of all these reforms—the issues of panels, of council staff exemption in relation to personal interest, of the ministerial abrogation of determining rates, by-laws, etc., of terms of councillors' office and of the necessity for council to re-inform the public for renewal of licence under section 375 regarding the power of council to allow persons to fence in and use roads on certain conditions. One notes that there are numerous concerns on the broad details right down to the individual details.

With all these unanswered questions and unknown implications, I fully support that a select committee be formed to consider all these vital proposed changes in the name of reform. We need to know the full implications and impact on the community if these changes are to come to pass. We need to be fully informed. Therefore, although I support the second reading in principle, as it tries to reform local government, to improve on its strength and eliminate its weaknesses, I do not believe that the details in the Bill will achieve the objects of local government as stated in division IX section 14 as (*a*) to provide an informed and responsible decision-maker in the interests of developing the community and its resources; (*b*) to ensure a responsive and effective provider and coordinator of public services at the local level; and (*c*) to provide an initiator and promoter of effort within a local community. I support the second reading but with considerable reservation.

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

SUPPLY BILL (No. 1)

Adjourned debate on second reading.
(Continued from 25 March. Page 3610.)

The Hon. DIANA LAIDLAW: Before seeking leave to conclude my remarks last Wednesday, I expressed concern at the fact that the Bannon Government has never matched its tourism rhetoric with tourism policies. To reinforce that concern, I highlighted Tourism South Australia's failed

budget bids over the financial years 1988-89 to 1990-91 in respect of resources for a network of travel centres across Australia, improved information technology systems, a modern telephone system plus appropriate staff resources. In all of these respects and more, Tourism South Australia's competitors interstate are far advanced.

Tourism South Australia's rejected budget bids in recent years have limited the State's capacity to compete in the very competitive tourism market and have frustrated the State's capacity to reap the maximum return from the industry. In this regard, it is important to recognise that for every 1 per cent increase in the State's share of national tourism activity to the year 2000, the value of tourism industry income to this State is estimated to increase by an extra $500 million. The latest figures provided by the Bureau of Tourism Research confirm that South Australia has been making no progress in increasing its market share of national tourism. I seek leave to have inserted in *Hansard* a statistical table, a domestic tourism monitor depicting travel volumes by financial year and trips by main destination.

Leave granted.

Domestic Tourism Monitor (DTM) Travel Volumes by Financial Year
Trips by Main Destination

Main Destination	1984-85 ('000)	1985-86 ('000)	1986-87 ('000)	%	1987-88 ('000)	%	1988-89 ('000)	%	1989-90 ('000)	%	1990-91 ('000)	%	Average Annual Growth Rate (%)
NSW	15 421	16 145	15 822	35	15 976	34	15 063	33	16 039	32	15 450	32	-0.6
VIC	10 420	9 829	9 523	21	10 390	22	9 527	21	10 802	22	11 073	23	3.8
QLD	8 859	8 711	9 528	21	9 485	20	10 669	23	10 981	22	11 047	23	3.8
SA	3 505	3 572	3 873	9	3 551	8	3 882	8	3 824	8	3 719	8	-1.0
WA	4 204	4 329	3 976	9	4 571	10	4 211	9	5 221	10	4 929	10	5.5
TAS	1 296	1 206	1 176	3	1 340	3	1 348	3	1 449	3	1 465	3	5.6
NT	363	273	278	1	426	1	312	1	548	1	414	1	10.5
ACT	946	1 023	769	2	940	2	949	2	1 064	2	874	2	3.3
Total Trips	45 358	45 144	44 963	100	46 725	100	46 017	100	49 962	100	48 997	100	2.2

The Hon. DIANA LAIDLAW: It is important that members note from this table that South Australia is the only State to have experienced a reduction in the number of trips to this State in 1989, 1990 and 1991. South Australia has experienced an average annual growth rate of minus 1 per cent in the years 1984-85 to 1990-91. By contrast, the Northern Territory has experienced an average growth rate of 10.5 per cent; followed by Tasmania with 5.6 per cent; Western Australia, 5.5 per cent; Victoria, Queensland and the ACT, in the vicinity of .3 per cent; and New South Wales a drop of .6 per cent. No other State has experienced a decline similar to South Australia's or a similar decline in number terms over two consecutive years. That is a very bleak picture for South Australia. I seek leave to have inserted in *Hansard* a further table depicting travel volumes by financial year and visitor nights by main destination.

Leave granted.

Domestic Tourism Monitor (DTM) Travel Volumes by Financial Year
Visitor Nights by Main Destination

Main Destination	1984-85 ('000)	1985-86 ('000)	1986-87 ('000)	%	1987-88 ('000)	%	1988-89 ('000)	%	1989-90 ('000)	%	1990-91 ('000)	%	Average Annual Growth Rate (%)
NSW	66 703	70 240	70 474	33	72 303	33	67 147	31	68 743	31	65 770	31	-1.7
VIC	38 460	37 340	38 173	18	39 046	18	35 970	17	41 672	19	40 695	19	1.6
QLD	46 104	48 321	53 369	25	55 671	26	61 722	29	55 000	25	55 698	26	1.1
SA	15 362	16 499	16 221	8	15 437	7	15 501	7	17 392	8	16 000	7	-0.3
WA	20 182	22 558	20 004	9	21 128	10	20 838	10	25 465	11	23 028	11	3.6
TAS	5 960	6 144	5 862	3	5 435	3	5 648	3	6 385	3	6 473	3	2.5
NT	2 702	3 332	3 642	2	4 359	2	3 217	2	4 792	2	4 169	2	3.4
ACT	3 976	4 255	3 147	1	3 486	2	3 983	2	4 399	2	3 614	2	3.5
Total Trips	200 888	208 929	210 933	100	216 897	100	214 027	100	223 849	100	215 448	100	0.5

Note: Data in this table relate to Australian Residents aged 14+
Source: Domestic Tourism Monitor—Bureau of Tourism Research

The Hon. DIANA LAIDLAW: It is important when looking at South Australia's record to note that our average annual growth rate in percentage terms and in respect of visitor nights has fallen between the years 1984-85 and 1990-91 0.3 per cent. The other States and Territories over that same period of time experienced increases ranging from 1.1 per cent in Queensland to 3.6 per cent in Western Australia.

Again, I suggest that this table, which was prepared by the Bureau of Tourism Research, is a damning indictment on the record of this Government in terms of its promotion of this State in the intrastate and interstate markets. I further seek leave to have inserted in *Hansard* a table of international visitor surveys depicting travel volumes by calendar year and the region of stay in terms of visitors.

Leave granted.

International Visitor Surveys (IVS) Travel Volumes by Calendar Year
Region of Stay
Visitors

Region	1984 Visitors '000	%	1985 Visitors '000	%	1986 Visitors '000	%	1988 Visitors '000	%	1989 Visitors '000	%	1990 Visitors '000	%
Sydney	624	66	748	70	943	71	1 495	71	1 282	66	1 371	66
NSW	652	69	774	73	968	73	1 534	73	1 323	68	1 419	69
Melbourne	326	35	380	36	436	33	689	33	611	32	622	30
VIC	340	36	395	37	469	35	765	37	643	33	660	32
Brisbane	178	19	184	17	265	20	603	29	402	21	431	21
Cairns	79	8	109	10	137	10	322	15	306	16	369	18
Gold Coast	71	8	107	10	155	12	379	18	327	17	396	19
QLD	286	31	336	32	459	35	1 021	49	823	43	958	46
Adelaide	105	11	114	11	137	10	214	10	223	12	219	11
SA	109	12	121	11	154	12	237	11	245	13	236	11
Perth	120	13	129	12	160	12	257	12	292	15	275	13
WA	121	13	130	12	161	12	263	13	294	15	283	14
Hobart	22	2	25	2	34	3	52	3	42	2	50	2
TAS	28	3	31	3	43	3	64	3	49	3	61	3
Darwin	22	2	24	2	31	2	97	5	110	6	98	5
Alice Springs	44	5	56	5	75	6	157	8	137	7	142	7
NT	58	6	72	7	97	7	217	10	196	10	193	9
ACT	108	12	129	12	141	11	164	8	155	8	163	8
Australia†	940	183	1 063	177	1 332	187	2 098	203	1 937	193	2 065	192

† Column percentages may add to more than 100 per cent as respondents generally stayed in more than one region. This row is the sum of the State percentages (allowing for rounding). This a measure of the extent to which visitors visited more than one State, that is: 200 per cent would mean that on average these visitors visited 2 States.
Note: Data in this table relate to Visitors Aged 15+
Source: International Visitor Survey—Bureau of Tourism Research

The Hon. DIANA LAIDLAW: This is a most important table because, as members would recognise, it is in the area of international tourism visitor numbers that the Federal Government is spending such enormous amounts of money and has such expectations for the future. It is interesting to note that South Australia and Adelaide, along with Perth and Western Australia, were the only States and capital cities to experience a fall in international visitor numbers during the years from 1984 to 1990. That is a particularly damning indictment on this Government. When one looks at the table, one sees that the percentages for total visitor numbers do not add up to 100 per cent, because a number of the international visitors will stay in several States or regions while in Australia.

It is also interesting to note from this table that South Australia recorded only 43 000 more international visitors in 1990 compared to the Northern Territory. That should suggest very clearly to the Government that the overtures by the Northern Territory Government for greater cooperative advertising and packages between the Northern Territory and South Australia is an option to which this Government must quickly respond, because it is clearly in the State's interest that we tap into the enormous success being enjoyed in the Northern Territory in terms of international visitor volumes. I now seek leave to insert in *Hansard* a table relating to the International Visitor Survey, travel volumes by calendar year and region of stay with respect to visitor nights.

Leave granted.

International Visitor Surveys (IVS) Travel Volumes by Calendar Year
Region of Stay
Visitor Nights

Region	1984 Nights '000	%	1985 Nights '000	%	1986 Nights '000	%	1988 Nights '000	%	1989 Nights '000	%	1990 Nights '000	%
Sydney	6 789	24	8 166	27	9 298	26	14 759	25	16 154	28	17 859	27
NSW	8 690	31	10 228	34	11 404	32	18 581	32	19 909	35	21 927	33
Melbourne	4 647	16	4 955	16	5 524	16	8 379	14	7 689	14	10 348	16
VIC	6 321	22	5 643	19	6 571	19	12 069	21	9 314	16	12 083	18
Brisbane	2 701	10	2 303	8	3 191	9	6 468	11	4 913	9	4 555	7
Cairns	659	2	1 050	4	1 184	3	2 339	4	2 757	5	3 439	5
Gold Coast	679	2	989	3	1 191	3	2 482	4	2 311	4	2 895	4
QLD	5 880	21	6 341	21	8 160	23	16 102	28	13 819	24	14 974	23
Adelaide	1 356	5	2 128	7	2 181	6	2 895	5	2 992	5	3 266	5
SA	1 731	6	2 433	8	2 519	7	3 474	6	3 613	6	4 009	6
Perth	2 576	9	2 445	8	3 043	9	4 046	7	5 428	10	6 647	10
WA	3 147	11	2 820	9	3 662	10	4 831	8	6 704	12	7 905	12
Hobart	351	1	422	1	564	2	639	1	304	1	1 007	2
TAS	532	2	591	2	1 031	3	1 039	2	638	1	1 476	2
Darwin	299	1	210	1	299	1	628	1	878	2	865	1
Alice Springs	260	1	223	1	330	1	550	1	574	1	508	1
NT	741	3	613	2	861	2	1 720	3	2 010	4	2 048	3
ACT	1 069	4	1 385	5	965	3	767	1	1 072	2	1 594	2
Australia	28 323	100	30 339	100	35 173	100	58 583	100	57 039	100	66 019	100

Note: Data in this table relate to Visitors aged 15+
Source: International Visitor Survey—Bureau of Tourism Research

The Hon. DIANA LAIDLAW: This table indicates that in 1990 Adelaide recorded only 5 per cent of international visitor nights. That figure is well below the *per capita* of population, and so is the figure of 6 per cent for South Australia as a whole. It is in this area that this State must perform far more vigorously in the future if we are going to be able to reap the benefits of increased visitor nights and also the income that is generated from such activity.

Those figures, in particular with respect to international visitor nights, the trend of 5 and 6 per cent respectively for Adelaide and South Australia, will make it difficult for us as a State to capitalise on the major push by the Federal

Government, by the Australian Tourism Commission and by the Australian Tourist Association to increase international visitor numbers from the current level of just over 2.5 million to 6.5 million by the year 2000. Incidentally, I note that the Federal Coalition's predictions and goals with respect to international visitor numbers by the year 2000 is not the 6.5 million, which is the estimate of the Australian Tourism Commission, but 10 million, and it is a target I believe we can reach. However, if South Australia is to reap the benefits of that enormous effort that is being put in at the Federal level to the year 2000, we must lift our game dramatically. That is not just the view of a member of the Opposition being critical of the Government but it is a view reinforced, as I indicated, from all those figures I have incorporated in *Hansard*.

While I talked about figures of 6.5 million and 10 million as tourism goals for this nation by the year 2000, it is important that we recognise that those goals represent very small challenges in terms of tourism forecasts in the Mediterranean. I have recently read in *Time* magazine, that 350 million tourists are expected around the Mediterranean coastline by the year 2021. I feel very strongly, as do my Liberal colleagues, that this Government has to do a great deal more in terms of tourism marketing and tourism promotion. It is of concern to me that Tourism South Australia has no marketing plan. It has no marketing plan for one year hence, let alone five years hence, and I would have thought that, in these troubled times, no business would survive in this State or nationally that did not have a marketing plan to guide its future direction and survival. Tourism South Australia, which this Government has deemed as one of the five key industries for the economic future of this State, does not even have a marketing plan. I have been able to confirm that fact from an interstate developer, who made inquiries from Tourism South Australia recently, because he did not want to continue with his investment negotiations before seeing the direction in which Tourism South Australia was going in in terms of marketing in the future. As I have confirmed, there was no such plan.

That perhaps was highlighted in Question Time today when the Minister of Tourism flustered around in respect to an answer she tried to provide to me on a question about an advertisement in the *New Zealand Herald* on Saturday and an advertisement in the *Advertiser* and other interstate papers about TSA's proposal to establish a retail travel agency in Auckland. As I indicated in my question today—and I will not go over the same facts again—that decision was met with strong resentment and resistance in New Zealand. However, the Minister—and I am not too sure whether she had actually seen the advertisement that had been lodged by Tourism South Australia—wished us in this place to believe that the idea of a retail travel information centre in Auckland was merely a proposal, and the advertisements were simply trying to flush out expressions of interest. That certainly was not as the advertisement read. That advertisement very clearly stated that it was a decision of TSA to establish such an agency.

Perhaps if Tourism South Australia had developed a marketing plan, the Minister and the department would be a little clearer on what they wanted and where they were going with respect to activities within New Zealand. However, while there are problems in the marketing area in Tourism South Australia, I suggest there are even greater problems within regional tourism. These problems have been brewing for some time—well before the Minister and the department prepared a submission on regional tourism as part of the Government Agency Review Group (GARG) negotiations. One of the main recommendations in the GARG submission prepared by Mr Bob Nichols, Managing Director, Tourism South Australia, was as follows:

> Since no significant short-term opportunities for change that would reduce the cost or increase the efficiency of regional tourism administration have been identified, it should continue along existing lines.

That recommendation was dated 1 July 1991. It is quite clear from persistent rumours within TSA and the regions in particular that considerable changes are being proposed for the regions division. The one talked about most widely is the elimination of the division as we known it today and its amalgamation with the marketing division, with Mr Mike Fisher, the current Director of the regional division, moving to the Travel Centre.

Those rumours and speculation, without any guidance or direction being provided by the Minister within TSA, or publicly, are fermenting concerns within the regions and certainly within the staff of the regional division. Recently, Mr Fisher, as Director of the regions division, undertook an extensive tour of all 11 regions in the State, but that tour started off badly because the goals were clearly confused.

I have copies of a memorandum sent by Mr Fisher to all regional chairpersons and regional managers. The first is dated 13 December 1991 and reads:

> As I stated at the last regional tourism board meeting, it is my intention in March 1992 to visit all regions. I would like to attend your meeting to discuss resource needs (and variations) for the next few years.
>
> The discussions will include the following subjects:
>
> Resources — present
> — office
> — staffing
> — expenses
> — marketing funds
> Regional Resource
> Results — financially
> — marketing activities
> Structure of Region
> Structure of Division
> Funding from within regions — Local Government
> — Local Tourist Associations
> Community Support
> Planning
> Production Development
> Marketing

Mr Fisher continues:

> I will also be reviewing the present Tourist Information Centre structure and funding whilst in your area.

That minute was sent on 13 December and it was clear that the Director at that time envisaged that there would be comprehensive discussions with regional chairpersons. However, that changed the following month, and on 29 January Mr Fisher again wrote to regional managers and chairpersons and indicated a list of proposed dates when he would be attending regional meeting. At the bottom of this minute he states:

> I must emphasise that discussions will be concerned with effective use of present resources and not new resources.

That reference to 'present resources and not new resources' contradicts completely the advice of one month earlier, and that contradiction and new agenda by Mr Fisher promoted considerable concern amongst regional organisations because it is a fact that the resources that they cope with at present are absolutely meagre for the responsibilities that they have and for the income that tourism generates for this State from our regions.

A number of other issues within the regions are causing agitation and concern at present. For instance, I nominate the South-East region where the marketing manager was essentially gated or confined to her office because no travelling allowance of $400 was available in one particular

month to meet her expenses and, as most members would recognise, it is pretty hard these days to be marketing a region when one is confined to one's office, yet that is the way that one of the most important regions in this State has been required to operate in recent times.

It is also of concern to me that the limited amount of money provided by TSA for marketing purposes, and principally used for cooperative marketing, has been channelled by some regional associations into further salaries for their marketing officer. That is certainly tolerated within the guidelines but it is hardly the most desirable use of those funds when what we should be doing is advertising in niche markets and targeting our promotions to ensure that we encourage people to learn about the State, to visit the State, spend money in the State and hopefully return.

Perhaps the last straw for many people in regional tourism was the release in recent days of the 1992 South Australian Touring Guide. This guide contains what the Manager of the Renmark Tourist and Heritage Centre, Mrs Tania Pilgrim, describes as a 'monumental blunder and a disaster'. It is quite extraordinary that Tourism SA can produce a major touring guide costing $135 000 and make such a fundamental mistake in respect of the location of Renmark, and that this brochure would in fact incorrectly draw the River Murray on the map. The map was incorrectly drawn to show the riverside towns of Waikerie, Blanchetown and Swan Reach that were nowhere near the river; Morgan was shown on the wrong side of the river and the river was also shown to stop at Paringa, near Renmark. The excuse given by Mr John Myers of TSA was 'human error', and he went on to say:

> We are very disappointed this happened because we like our standards to be kept high.

In response to Mr Myers, I would say that tourism operators who have actually contributed money to the funding of this touring guide demand that standards be kept high. They could not get away with such a fundamental error in their own businesses as Tourism SA has made on his occasion. To simply sweep that error aside in respect of such a major expenditure of $135 000 as being a human error is unforgiveable so far as tourism operators that I have spoken with today in the Riverland are concerned.

A combination of all the issues that I have highlighted confirm that there is a great deal of resentment, unease and disappointment in the regions in respect of the operation of Tourism South Australia. They are demanding that much more attention be given to the regions. They are demanding much greater professionalism from within Tourism South Australia and they would like within Tourism South Australia a much greater contribution from people who have industry experience.

I should raise one issue with respect to the regions when they are so cash strapped. There is a general resentment that considerable sums are being expended within Tourism South Australia. I share that sentiment and believe that the expenditure is totally unnecessary, particularly at a time when the tourism industry is cash strapped for major promotional work. I can name just a couple of these areas of expenditure. First, there is the sponsorship of the 36ers basketball team. Tourism South Australia and I am not sure how many other Government agencies have sponsored two players at $3 000 each. That $6 000 of taxpayers' money entitles Tourism South Australia and friends to eight seats—four in the front and four behind in rows D and E on the southern side, four rows back from the court. People in the regions who are working—or who are expected to be on tap—for 24 hours a day, seven days a week, and who are struggling to keep their businesses going feel that this $6 000 could be far better spent than on Tourism South Australia officers sitting at the basketball on several nights a year.

There is also general resentment about a new familiarisation video that the publicity department or unit has produced within Tourism South Australia. There is some interest to know how widely that has been distributed and viewed, and what the impact has been from the various showings of that video. Of course, there is also the publicity brochure that I referred to in questions to the Minister some weeks ago. I am still waiting for an answer. The publicity brochure about the public relations unit was certainly an extraordinary step as far as my experience of any Government department, let alone any unit within Tourism South Australia, is concerned.

I am also keen to address briefly the issue of planning development within Tourism South Australia. As we all would be too bitterly aware, very little development is going on in South Australia at present. However, Tourism South Australia maintains a very handsome staff level of 18. There is a general manager of planning and development, project officers, a manager of industry analysis, a development manager, an acting manager of planning, another senior development officer, a senior planning officer, a project officer for Glenelg, a senior project officer, a product development officer, a manager of market research, a senior investment and development officer and a number of secretaries and clerks. That planning and development area has not changed in number since this State has been floundering in terms of construction in recent years. I find it absolutely extraordinary, because there would not be one housing construction, architectural or building supply firm that has not sadly shed labour over recent years. Not so Tourism South Australia; it still maintains what would appear to be a bloated planning and development division with very few results on the board to show for this level of staffing or for the cost to the taxpayer.

Certainly, we are still waiting to see what on earth will happen with Mount Lofty Summit and St Michaels, which is an adjacent area. Both areas were burnt in the 1983 bushfires—nine years ago—and both sites are still almost rack and ruin. This premier site of Mount Lofty does not even have a bench for any tourist or visitor to use; there are no drinking, toilet or telescope facilities; there is no information board to point out the highlights of the city below. When one considers that in China and many other Asian countries whole cities are built within nine years housing one million people and more, it is extraordinary how backward we are in this State when we cannot get even basic facilities on this premier site within the city area.

I note that Touche Ross is now looking at its third version of a plan for St Michaels, which is just below the summit area. The plan is scaled back dramatically from the first $55 million effort involving a cable car that was proposed some three or four years ago. Of course, we also have the sick and sorry saga of Estcourt House, which is worth recalling. This property, while it is owned by the Department of Lands, has holding costs that are the responsibility of Tourism South Australia. When I raised this matter last year the Minister advised that the estimated annual holding costs were $17 000 and the current value of the property was $2.4 million. Perhaps the annual holding costs have fallen with interest rates, but it would appear that at least $53 500 has been spent on holding costs by Tourism South Australia in the past three years in respect of this development. I am not sure how long the Minister believes that those costs are realistic and whether the return in terms of benefit for South Australia is justified.

In addition, I will highlight the issue of the RAA accommodation criteria, which has been a major project undertaken for some time by the RAA and the respective interstate bodies. The project has involved the development of a national classification scheme for guest houses, bed and breakfast and host farm accommodation. It was quite apparent following a national alternative accommodation or boutique accommodation conference in South Australia last year that there was considerable concern about the criteria being used by the RAA in terms of historic accommodation. I believe that the misgivings were entirely accurate.

The RAA found it very easy to develop criteria that was most relevant to motels and it then tried to translate that criteria to bed and breakfast, historic, guest house and host farm accommodation, which is a very different type of personalised service. From my own experience I have found that people who come to stay are very keen to get away from the telephone, the fax machine and the television. Yet, the code developed by the RAA ensured that those accommodation venues seeking to provide for or to meet visitor demand for stress-free accommodation over short periods were in fact heavily penalised for meeting a growing demand by the consumer.

I was not at all fussed at the time that the RAA wanted to use this criterion if it continued to use it only for its own purposes. There was considerable concern in the industry, however, when the Department of Tourism decided that this same criterion, standard and system of classification would be inserted into Tourism South Australia's computer and used as the basis for recommending accommodation in the future.

I understand that following representation to the acting Managing Director, Mr Phillips, Tourism South Australia is now considering that proposal. I am very pleased that that is the case, and I hope that very soon Mr Phillips will guarantee that Tourism South Australia will not be rating accommodation according to that RAA model. To highlight the reasons for my misgivings and those in the industry, it is very important to know that Thorn Park, which has won national awards for alternative accommodation and other awards of distinction in this field, would have had its accommodation rated at a mere 3½ stars out of five, whereas anyone who has been fortunate enough to stay at Thorn Park would rate it at five plus.

With respect to planning and development, I want to say a few words about an amazing unit within Tourism South Australia called the Adelaide Japan Club. At present two members within Tourism South Australia are responsible for this unit: a Senior Project Officer and a Director of Hospitality. I am not sure what they or the Minister think they are actually achieving at a time when Qantas and Japan Airlines have decided, as they did last week, to withdraw the direct Adelaide-Japan service from operation in the near future. That decision is an absolute catastrophe for this State, because as we all know it is the Japanese market and the Asian market on which we will be so dependent in the future, in building our international tourism numbers in this State. To lose that critical link between Adelaide and Japan at a time when the Government is debating MFPs and the like is a sad indictment on the State of South Australia.

While there is so much concern about the future of tourism throughout the State, particularly in the regional areas, there is also considerable concern about Tourism South Australia's decision to move into the Remm development, as one of two Government agencies to be housed in that development, at a cost of some $700 000 per annum. I have not found one tourist operator in South Australia to date who believes that it is at all acceptable for the whole of Tourism South Australia's operations, which amount to some 130 staff in this State, to be housed in such supreme comfort on North Terrace. The Government believes it is acceptable that $700 000 per annum be used to accommodate such staff, and that is before any outfitting of the building has even been undertaken.

I suspect that this move to the Remm building by staff themselves will help to lift morale which, as I have indicated earlier, is at a low ebb. However, it certainly does not help to remedy the underlying management and administrative problems within TSA or the growing restlessness amongst operators in this field. It also will not help address, in respect of administrative problems, what I perceive to be a general slackness in the Minister's office in terms of attention to parliamentary responsibilities. It is very important for me to note at this time that, with respect to the Ministers whom I shadow in transport, marine and harbours and earlier in arts, the Minister of Tourism has consistently failed to answer questions on notice or to provide replies to questions asked. By contrast, I should applaud the efforts of the other Ministers, including the Minister for the Arts and Cultural Heritage, who is sitting opposite at the present time.

To highlight the matter a little further, I put some 28 questions on notice on 22 February. Seven related to tourism, and 21 to transport and marine and harbours. It took only three weeks to get the answers to those 21 questions, but I am still waiting for the answer to one of the seven questions with respect to tourism. Having gone over my past records with respect to questions on notice, I know that at the end of a session most of my questions in respect of tourism are never answered. Certainly, I do not receive any replies, as I did in the past from the Minister for the Arts and Cultural Heritage or from the Minister of Transport during the recesses. Again, I thank the Minister for the Arts and Cultural Heritage for her courtesy in the past in that regard, but perhaps in time some of that courtesy and those standards will rub off on the Minister of Tourism.

It is a general reflection on what I think is a department that is out of control and has lost its direction, which in general is reflected in the very poor tourism performance figures that I highlighted in this Parliament earlier tonight. I only hope, for the sake of this State, that very shortly we will see a Government put the dollars into tourism to match the rhetoric, and that we will see this State receive in visitor trips and visitor nights the return that operators who have invested hours and dollars in this industry deserve in order to maintain their investment and their hope for a much stronger future in tourism.

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

STATUTES AMENDMENT (ILLEGAL USE OF MOTOR VEHICLES) BILL

Received from the House of Assembly and read a first time.

STATUTES REPEAL (EGG INDUSTRY) BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendments.

ADJOURNMENT

At 11.41 p.m. the Council adjourned until Wednesday 1 April at 2.15 p.m.