LEGISLATIVE COUNCIL

Tuesday 15 February 1994

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

CROWN SOLICITOR'S OPINION

The PRESIDENT: I have to report to the Council that I am in receipt of an opinion from the Crown Solicitor, to which I am now giving due consideration. I will report to the Council as soon as I have considered the issues involved.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Education and Children's Services (Hon. R.I. Lucas)—

Electricity Trust of South Australia Contributory Superannuation Scheme—Report, 1992-93.
The Flinders University of South Australia—Report, 1992.
Amendments to Statutes.
Friendly Societies Act 1919—Alterations to Constitution of Independent Order of Odd Fellows, Grand Lodge of South Australia.

By the Attorney-General (Hon. K.T. Griffin)—

Reports, 1992-93—
Classification of Publications Board.
Correctional Services Advisory Council of South Australia.
Evidence Act 1929—Report relating to Suppression Orders.
Legal Practitioners Complaints Committee.
South Australian Office of Financial Supervision.
Regulation under the following Act—
Fisheries Act 1982—Marine Scalefish—Transfer of Licence.

By the Minister for Consumer Affairs (Hon. K.T. Griffin)—

Commissioner for Consumer Affairs—Report, 1992-93.

By the Minister for Transport (Hon. Diana Laidlaw)—

Corporation By-laws—
Port Adelaide—No. 12—Moveable Signs.
Walkerville—No. 36—Moveable Signs.
District Council By-laws—
Clare—No. 2—Moveable Signs.
Murat Bay—No. 16—Moveable Signs.
Willunga—
No. 1—Permits and Penalties.
No. 2—Moveable Signs.

HINDMARSH ISLAND BRIDGE

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DIANA LAIDLAW: I wish to advise the Council of the decisions the Government has taken in relation to the construction of a bridge to link Hindmarsh Island to the mainland. Members will recognise that this has been a matter of public controversy for some time. Accordingly, I give the background to the Government's decisions:

In 1989 the former Government approved arrangements with Binalong Pty Ltd for the construction of a bridge to Hindmarsh Island after Binalong had proposed a substantial marina, commercial and residential development on the island. The original agreement was that Binalong would fund and build the bridge and the Government would then reimburse $3 million or half the cost, whichever was the lesser. Under that agreement the presently proposed bridge would have cost the Government about $2.5 million, and I ask the Council to take particular note of that point in light of the total exposure taxpayers now face, which I will reveal in the statement.

In late 1990 Binalong's main financier, Westpac, proposed to cease funding the development on Hindmarsh Island and wind it up. Discussions then occurred between the Government and Westpac on revised funding arrangements. I will return to some of the detail of those discussions later in this statement. As a result of the discussions, in March 1991 the former Government approved a new funding scheme for the bridge which completely reversed the original arrangements.

The new scheme required the Government to construct the bridge and provide the total funding up front. The scheme also required Binalong to meet in full its obligations to Westpac and also Beneficial Finance Corporation before making any contribution towards the cost of the bridge. This reflected the deteriorating financial position of the Binalong company and the concern of its financiers that the company would be unable to meet its obligations.

Notwithstanding this concern, and against the advice of Treasury, the former Government allowed taxpayers' funds to be invested in the bridge at a higher level of risk than the exposure of the financiers to the development on the island. On 27 March 1991, the former Premier advised Westpac by letter that 'all action will now be taken to ensure the earliest and most practical start can be made to the construction' of the bridge. However, it was not until August 1991 that the former Government publicly announced that the Government would build the bridge. It was not until May 1993, 21 months later, that tenders were called for construction of the bridge.

During this period the former Government involved itself in further protracted negotiations of a tripartite agreement between itself, Binalong and the District Council of Port Elliot and Goolwa. Again this was because of Binalong's financial position and the prospect that payment of a contribution by the company towards the construction cost of the bridge would be long postponed, if recoverable at all. The tripartite agreement was executed on 31 March 1993. Tenders for construction of the bridge were called on 1 May 1993 and closed on 8 June.

On 20 September the former Government approved a tender submitted by Built Environs for a total construction cost estimated at $5 million. At the same time the Environment, Resources and Development Committee of the Parliament recommended that the bridge project be reassessed and that this review should examine better access for the island and the marina development by augmenting the present ferry service with a second ferry. The former Government rejected the advice of the committee, even though that advice had the support of a committee which was all Party in its composition—that is, ALP and Democrat as well as Liberal.

Built Environs commenced work on the bridge construction site on 27 October 1993. Two days later work was suspended following claims that the bridge affected Aboriginal heritage sites. Subsequent attempts to restart work were foiled by pickets which involved local residents and the Construction, Forestry, Mining and Energy Union. Under this contract for the bridge signed by the former Government, the contractor has been paid extension of time costs of $5 183 per

working day, that is, Monday to Saturday, since early November.

To summarise to this point for members, at the time of its appointment to office, this Government was faced with a situation where, first, this project had been stopped for more than a month by community and union opposition; secondly, despite a series of questions in the Parliament, the full exposure to this project was not clear; and, thirdly, a parliamentary committee had recommended a reassessment of the project.

Following the report by the Environment, Resources and Development Committee and the unresolved questions about the extent of the Government's full financial commitment to the project, the Liberal Party announced in its pre-election transport policy statement that it would 'initiate an immediate review of funding arrangements' for the proposed bridge. To help in this review, the Government, through the Solicitor-General, sought the assistance of the Hon. Sam Jacobs QC. The report the Government has now received fully vindicates the decision to review funding arrangements in that it has identified a series of contractual obligations the Government has inherited—the financial implications of which had not been fully disclosed publicly. The terms of reference given to Mr Jacobs were:

- to review all relevant South Australian files and other documents to enable a full report to be provided on the existing arrangements for the proposed Goolwa-Hindmarsh Island bridge and/or the proposed marina development on Hindmarsh Island involving the Government of South Australia and Binalong Pty Ltd, Westpac Banking Corporation, Built Environs Pty Ltd and any other party or parties;

- to report on the financial exposure of the State and other relevant matters arising from such arrangements;

- to report on options open to the Government for the resolution of the present impasse in the broad interests of the people of South Australia and the financial implications of such options.

It is important for members to understand the ambit of the report by Mr Jacobs established by the terms of reference. It was not his role to arbitrate or adjudicate between those who supported the proposal to build the bridge and those who opposed it; nor was it his role to judge actions or decisions by the former Government. To put his role in context, I quote from his report, as follows:

> The present Government has inherited the decision to build the bridge and its contractual consequences but, in view of the obstacles that have emerged to the implementation of that decision, after the contract to build the bridge had been let, it now has to evaluate those obstacles and to determine in the public interest the consequences, financial and otherwise, of abiding or declining to abide by the decisions, arrangements and agreements made by its predecessors. A consideration of the public interest may well involve some understanding of why those decisions and agreements were made. But in that context this report does not seek to make a judgment on the merit of those decisions; nor does it make any judgment on the conduct or competence of those who directly or indirectly played a part in arriving at those decisions. It is predominantly an independent factual review to inform the present Government of what has happened in the past in order to assist it to decide what is to happen in the future.

The report by Mr Jacobs identifies that, in the course of events leading to the decision to build the bridge and subsequently, the former Government made various arrangements and agreements with Binalong Pty Ltd, Westpac, the District Council of Port Elliot and Goolwa and Built Environs.

In relation to Westpac, Mr Jacobs has reported that in November 1990 the former Premier, Mr Bannon, entered into top-level negotiations with Mr Stuart Fowler, the Managing Director of Westpac. This occurred after Binalong was unable to arrange further finance for the development on Hindmarsh Island with Beneficial Finance Corporation.

Reference is made by Mr Jacobs in his report to advice from the Crown Solicitor that the outcome of Mr Bannon's negotiations with Westpac is a Government undertaking to build a bridge and to accept responsibility for the up-front cost of such a bridge. The Crown Solicitor has advised that this is a binding obligation for breach of which the State would be likely to incur liability to Westpac.

It can be seen that from this point taxpayers were locked into a financial commitment which has escalated as the former Government sought to push ahead with this development, notwithstanding the deteriorating financial position of the developer. What had begun less than two years previously as a totally private development, announced on the eve of the 1989 election by a Government desperate to get some development runs on the board after a series of spectacular failures with marina projects, had become a ticking financial time bomb for taxpayers. The report by Mr Jacobs also—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: You are very sensitive, and for good reason. The report by Mr Jacobs also evaluates the tripartite deed executed in March 1993 between the Government, the District Council of Port Elliot and Goolwa and Binalong. He advises that this deed 'embodies a contractual obligation (by the Government) to Binalong to build the bridge'. Mr Jacobs has also examined Aboriginal issues associated with the proposed bridge. He has identified three categories of objection to the project in this respect:

· works associated with the construction of the bridge on the mainland will intrude upon Aboriginal sites of archaeological significance.

· some concern of the same kind with respect to site works on the island.

· the loss of character of the island which is said to be an unacceptable affront to the spiritual identity which the Aboriginal community has with the land.

In analysing the Government's options in the light of the contractual obligations it has inherited and the community and other opposition to the project, Mr Jacobs has advised that a decision not to proceed with the bridge will have a number of consequences including the following:

· the State will face substantial claims for damages for breach of contract by Westpac, Binalong, the bridge contractor and possible claims by purchasers of allotments in stage I of the Binalong development. Mr Jacobs estimates that the aggregate loss incurred by all parties is not likely to be less than $10 million and may well be more, even much more.

· there will be no mains water to the development.

An honourable member: You personally held this up.

The Hon. DIANA LAIDLAW: I personally! You wouldn't dare say that outside this place.

· the bridge contractor—

Members interjecting:

The PRESIDENT: Order! I ask the Minister to continue with her statement.

The Hon. DIANA LAIDLAW: The bridge contractor has been paid about $1.5 million already, and this amount could not be recovered. An augmented ferry service would be necessary to service the development, which has already been

sold in stage 1. This will involve a capital cost of $1 million for establishment. Members will conclude from this that the Government faces a minimum cost of $12.5 million, and probably much more, for a decision not to proceed with a bridge.

This is the result of contractual obligations entered into by the former Government—obligations which amount to approaching three times the actual cost of the currently proposed bridge or at least five times the cost that the Government faced under the original agreement to build a bridge. This cost and the extent of the contractual obligations giving rise to it were not evident publicly at the time this Government came to office in December. Accordingly, the decision—

Members interjecting:

The Hon. DIANA LAIDLAW: But we never had access to this material. Accordingly, the decision to commission the report by Mr Jacobs to review the Government's funding arrangements is fully vindicated. Mr Jacobs' advice provides a basis upon which reasoned and reasonable decisions can be taken in the light of the complexities and controversy associated with this project—complexities and controversy which the former Government was unable to resolve. The first decision arising from his advice is that a bridge of some form must be built. To do otherwise would expose taxpayers to a cost which is far too high to bear, particularly in South Australia's present financial situation. Accordingly, I announce today that this Government—

Members interjecting:

The Hon. DIANA LAIDLAW: I wouldn't suggest you talk about the waste of taxpayers' money, when this has just been revealed.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: What you have given to taxpayers and this Government—what we have inherited—is an absolute disgrace: $12 .5 million at least. Accordingly, I announce today that this Government will establish a bridge to link Hindmarsh Island to the mainland.

In concluding his advice on the currently proposed bridge, Mr Jacobs has stated in his report:

> It will be apparent from the foregoing comments that if the only options available to the present Government are to build or not to build a high level bridge at its proposed site, the exercise of either option is exceedingly unattractive.

This comment reflects the reality of the present situation of strong and sincerely held opposition to the proposal on a number of fronts. It is opposition of a type that makes it highly likely that a decision to proceed with the current proposal before all other options are fully explored will result in further long delays to the establishment of a bridge link to the island. Recognising this, Mr Jacobs has recommended that attempts should be made to find a compromise to meet the broad public interest. He has put forward three options as a means of finding a compromise acceptable to all parties. Those options are: to convert the barrage downstream of the currently proposed site into a bridge; to establish a low level pontoon bridge at the currently proposed site; or to extend the present causeway from the ferry terminal on the island across to a point close to the mainland, at which an opening device would give access to boats when raised and access to traffic when covered.

The Government has had some preliminary technical advice on these options. Based on that advice, the Government believes that the proposals for a pontoon bridge and extension of the causeway would not be acceptable to all parties. Those options would impose a significant restriction on current uses of the river upon which the attraction and viability of Goolwa as a river holiday town and centre for significant boating activities so much depend.

Another consideration is that those options would not resolve objections being made on Aboriginal grounds. However, because it is determined to find a broadly acceptable compromise, if at all possible, as recommended by Mr Jacobs, the Government has initiated action to further investigate the technical feasibility of the option to convert the existing barrage to a bridge link. The Government anticipates that—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Just wait; do not get too excited. The Government anticipates that this work will take six weeks. It will cover issues such as the cost of the option, including installation of an opening device to permit continuing use of the lock associated with the barrage; road access on the mainland and the island; and associated matters.

There have been preliminary negotiations with Built Environs about this decision and there will be further negotiations with the objective of terminating the suspension of work payments while this work is undertaken. Built Environs has indicated a willingness to participate in these negotiations and the company's cooperation is to be commended. Other parties with a direct interest in this matter have been advised of the Government's decision, including the decision to further suspend work for eight weeks.

There is one further matter which needs to be addressed. Mr Jacobs has advised that even if the Government decided to proceed with the currently proposed bridge, it may face legal action because of delays in construction time since the original commitment by the former Government more than four years ago. This report identifies the potential for significant legal action arising from the former Government's contractual obligations. Accordingly, to protect the Government's legal position in the event of action against it, the Government has decided not to make public the full report by Mr Jacobs as such disclosure could be advantageous to parties considering legal action.

The Hon. Carolyn Pickles: Secrecy.

The Hon. DIANA LAIDLAW: Do not talk about secrecy. We had to go through this whole exercise to get the facts. However, the Council has my assurance that this statement has revealed all the facts which are relevant to a consideration of issues of public interest related to this matter. It is incomprehensible—

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: That is what you asked us in the past.

The Hon. Barbara Wiese: I provided every piece of information.

The Hon. DIANA LAIDLAW: That is not so, and we know from the documents provided by the Department of Road Transport and others that they were never earlier provided.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: They were never earlier provided, and the department has confirmed that.

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: Well, they did not know how much you were hiding. However, the Council has my assurance that this statement has revealed all the facts which

are relevant to a consideration of issues of public interest related to this matter. It is incomprehensible to this Government that its predecessor could have left the people of South Australia with obligations of a minimum of $12.5 million, and probably much more, arising out of what began as a purely private development on Hindmarsh Island. Unlike its predecessor, in this matter the Liberal Government will not shirk from its responsibility to act openly and responsibly in the interests of all South Australians and urges that its actions be supported in the overall public interest.

Mr President, I also seek leave to table a ministerial statement that has been given in the other place by the Minister for Housing, Urban Development and Local Government Relations in relation to Housing Trust tenants paying reduced rent.

Leave granted.

OLYMPIC DAM

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of water seepage at Olympic Dam.

Leave granted.

The Hon. K.T. GRIFFIN: The Minister for Mines and Energy in another place has made a ministerial statement which I believe members of the Council ought to be aware of. I wish to advise the Council of the identification of water seepage at the Olympic Dam tailings dam and action being taken to deal with the problem. The Western Mining Corporation's Olympic Dam operations commenced in June 1988 at a production rate of 42 000 tonnes of copper per year. Following two stages of optimisation, production has increased to 65 000 tonnes of copper per year. Over the next two years, this will increase to 84 000 tonnes per year. It is the largest underground mine in South Australia, employing 840 people.

Honourable members will be aware that under the terms of the indenture legislation that has facilitated the establishment and expansion of this project, the South Australian Government has certain statutory obligations in relation to monitoring activity at Olympic Dam. In fulfilment of those obligations, representatives of the company, the South Australian Health Commission, the Department of Environment and Natural Resources and the Department of Mines and Energy meet on a quarterly basis. At the November 1990 meeting of the representatives the company reported:

> Water levels in deep (monitoring) bores have risen. The variations present are difficult to interpret as rises also occurred across the project as a whole.

The matter was further discussed at the next meeting in February 1991 when the company reported that the drillhole water samples showed no indication of coming from the tailings dam. Assays showed no enhanced radioactivity above background or contaminants that could be attributed to tailings dam leakage. The level in the monitoring bores continued to rise gradually and heavy rainfalls in 1989, 1990 and 1992 were initially believed to be the cause of the water level rise.

In May 1993 it was agreed that the company would undertake a water balance to compare the water pumped to the tailings dam against evaporation and water retained in the tailings solids. The final results were completed on 30 August 1993 and pointed to the possibility that the tailings dam could be leaking. On 1 September, that is, within two days of the results being finalised, the Director-General of the Department of Mines and Energy advised the former Minister of Mineral resources as follows:

> WMC (Olympic Dam Operations): Potential Problem—Tailings Dam.
>
> · The water level in the monitoring bores around the tailings dam is rising.
>
> · An initial water balance (i.e. water pumped in—evaporation—depth of water pool in tailings dam) shows a water loss from the tailings dam.
>
> · There is no visible indication of a leak or that the clay lining of the dam is deficient.
>
> Further investigations are taking place. WMC are drafting a press announcement to cover the eventuality of the matter attracting attention before further investigations are completed.
>
> (signed) Ross Fardon, Director-General.
>
> 11 September 1993

I note that two days after this advice the former Premier and the former Minister for Mineral Resources visited Olympic Dam where they announced an agreement between ETSA and Western Mining Corporation over the price of electricity supplied to Olympic Dam. It was certainly open to the former Government at that time, or subsequently, to raise any concerns it had about this matter.

I also note that in the *Advertiser* on 2 December last year, just over a week before the election, the former Premier said his Government was committed to the continuing expansion of the mine. I put these facts before the Council because they stand in stark conflict with public statements by the Opposition spokesperson on the environment (Hon. Carolyn Pickles) alleging that the Opposition did not become aware of this problem until yesterday and that monitoring at Olympic Dam was inadequate.

To return to the sequence of events after a loss of water from the tailings dam was identified, the company in December last year engaged AGC Woodwood Clyde, a leading Australian ground water consultancy, to carry out an independent water balance. The report from AGC Woodwood Clyde was received late last week. This matter was first raised with the Minister for the first time last week. The Minister immediately authorised discussion between all Government departments and agencies with a responsibility in this matter with a view to a public statement being made explaining the situation at Olympic Dam. The company readily cooperated in this matter. To deal with the seepage a number of remedial actions must be taken. Three are under way and a fourth is being developed.

First, the company is making operational changes to the tailing depositional method that will increase the evaporation of tailings liquid. Second, the company will pump out any ponds of water forming on the tailings dam and evaporate the liquid in the disused number one tailings dam. Third, 16 specific purpose monitoring bores will be drilled around the tailings dam. They will be completed within two weeks to give better information on water quality at different depths. The fourth remedial action is the design of another tailings retention system based on past information. The new tailings retention system will incorporate all the local geographic factors and information gained from this incident. The company has advised the Minister that it intends to build this facility anyway within a year and efforts will now be made to accelerate construction.

Discussions will continue with Government officers on further measures to increase the efficiency of the existing tailings dam, particularly with respect to water ponding. In closing, it is necessary to deal with public statements about this matter made by Dr Dennis Matthews of Flinders University. He has alleged that the tailings dam water will

soon reach the town of Roxby Downs. Dr Matthews was a member of the Radiation Protection Committee from May 1985 until December 1989. During this period he was fully briefed on the Olympic Dam project and visited the site.

The Radiation Protection Committee was involved in the approval process for the design of the tailings dam. While Dr Matthews is not an expert on ground water, he would be aware from the involvement I have explained that his statements were alarmist and untrue. This matter is a setback to the project but it does not represent any threat to public health or public water supplies.

QUESTION TIME

OLYMPIC DAM

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question about Roxby Downs.

Leave granted.

The Hon. CAROLYN PICKLES: At 5 p.m. yesterday I, along with my colleagues the Hon. Lynn Arnold, Mike Rann, Martyn Evans and John Quirke, received a briefing from Mr Mike Softly of Western Mining Corporation about a serious leak of water that had been discovered at the mine site at Roxby Downs. In the words of the press release from Western Mining Corporation:

> Management of the copper-uranian-gold-silver mining and minerals processing operation at Olympic Dam in the north of South Australia has reported what it believes is water seepage from the tailings retention system within the mining lease.

I have been advised, and Western Mining Corporation concurs, that the water seepage volume is 5 000 megalitres, which is not a trickle: it is a flood. For those lay persons who cannot envisage how big this volume of water is, it is a larger volume of water than that of the Barossa Reservoir.

The Minister for Mines and Energy and the Hon. Mr Griffin in this place are saying that we knew about this when we were in Government. At this meeting yesterday I asked this official—after they had given their press conference, and you would think that they might have had the courtesy to brief us before then—from Western Mining twice, and I repeat 'twice', 'When did the magnitude of this leak become apparent?' I was informed, 'In January.' When I asked, 'When was the Government advised?', the response was, 'Last week.' So, the Government knew about it last week and I would have thought the Hon. Mr Baker would release this information immediately.

Members interjecting:

The Hon. CAROLYN PICKLES: I am just pointing out to you that the question I asked was, 'When was the magnitude of this leak discovered?' And the annual report supports this.

Members interjecting:

The Hon. CAROLYN PICKLES: Mr Baker did not release this information for a week. On the radio this morning his reason was that he had to have a week to compile documentation to support the press release from Western Mining. This defies logic, as I would assume that the Western Mining Corporation would have had supporting evidence to present to the Government a week ago. It would be interesting to know who decided first to release this information publicly: the company or the Government.

We have evidence of at least two serious design failures in relation to this leak: one, predictions of the dam performance were quite significantly in error. Model tests done in the laboratory for Western Mining Corporation apparently did not predict the behaviour of the actual dam, which should have been that the fine tailings should block up all the pores and prevent water leaking. The tailings water was then supposed to evaporate over time.

The Hon. M.J. Elliott interjecting:

The Hon. CAROLYN PICKLES: The model was done in the laboratory, Mr Elliott.

The Hon. M.J. Elliott interjecting:

The Hon. CAROLYN PICKLES: That is in the documentation. Secondly, the monitoring was not adequate to pick up the magnitude of the problem earlier. The system was not sufficiently discriminatory to distinguish between the surface water flows from heavy rain, for example, and leakage flows from the dam. Heavy levels had been noted in 1989, 1990 and 1992—this had been associated with unusually high levels of rainfall, while it is clear that it was probably the beginning of the leak. These were matters I raised yesterday with the official from Western Mining. I asked, 'How was it reported in the annual reports of 1989, 1990 and 1992?' He responded, 'We put it down to unusually heavy rainfall in that area at that time.'

We have to note here that this is not just a gold and silver mine; it is a uranium mine. The whole history of this mine is one of controversy and public concern, and this is ongoing. The public has a right to know exactly what is going on and to be reassured that there is no danger. We are asking for reassurance. In its press release the Western Mining Corporation has advised:

> The important point is that water samples taken from the monitoring bores show no dissolved metals or radioactivity above natural background levels and no acidity.

That statement is reassuring on the one hand but the other problem (and they recognise this) is how to get rid of the water or how they are going to put their finger in the dyke.

My questions to the Leader are: will he ask the Premier to instigate a full and independent technical inquiry into Western Mining's operations at Olympic Dam, with particular reference to issues surrounding the massive leak of water from the tailings retention system and the failure of the monitoring system to detect a leak the size of the Barossa Reservoir at a much earlier stage?

Will he ask whether the Premier is satisfied that Western Mining Corporation briefed the Government and relevant authorities about the leakage from the tailings system as soon as was practicably possible and, if not, at what stage did Western Mining first become aware of the problem?

Will he ask the Premier to advise the Council how many years it would take for Western Mining Corporation to remove the massive leakage into the Acoona Quartzite Aquifer at Olympic Dam, required to return the water table to its former and safe level? Will it the take pumping of two years, five years, 10 years or more and is the estimate based on no further leaks?

In light of the leakage from the tailings retention system at Olympic Dam will he ask the Premier to investigate whether the construction and operation of the system fully complied with the environmental impact statement's requirement, and will he give an assurance that any proposed extension or modification to the tailings retention system will be subject to further detailed environmental assessment?

The Hon. Anne Levy: And the reports made public.

The Hon. CAROLYN PICKLES: Yes.

The Hon. R.I. LUCAS: What a cheek for the Opposition to stand up in this place this afternoon and attack the Government and the Minister for Mines and Energy, when the Minister was first told but one week ago the extent of this problem, when the honourable member's factional colleague, the Hon. Frank Blevins, the former Deputy Premier and Minister for Mines and Energy, and this is in his electorate, was told at least five or six months ago the significance of this problem. So, the former Government has known about this problem for at least five or six months at least.

How can the honourable member stand up in this Chamber this afternoon and be critical of the Minister for Mines and Energy, who only became aware of this issue last week? In that brief period of time the Minister has managed to conduct his own investigations and make a ministerial statement in the House this afternoon as well as the statement made by the Hon. Trevor Griffin on his behalf in this Chamber this afternoon. I will be happy to refer those detailed questions to the Premier and bring back a reply.

The Hon. CAROLYN PICKLES: I ask a supplementary question. Does the Leader believe that Western Mining Corporation lied to the Opposition at the meeting yesterday?

The Hon. R.I. LUCAS: I have no evidence at all of the representatives of Western Mining Corporation lying or not lying to the Opposition yesterday. I was not privy to the details of it. What I do know is that the members of the Opposition are not being honest with this Chamber this afternoon in relation to the extent of the knowledge of the former members of the Labor Government about this issue. The Hon. Carolyn Pickles well knows that because the Hon. Frank Blevins is a member of her faction within the Labor caucus and the left of the Labor caucus has long been committed to the closure of the Roxby Downs mine.

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Leader, representing the Minister for Mines and Energy, a question about Roxby Downs?

Leave granted.

The Hon. T.G. ROBERTS: The Olympic Dam project got off to, dare I say it, a very stormy start in its early days and the project did, as the honourable member pointed out, start with a lot of opposition. The Western Mining management have a responsibility to the community to make sure that the information that gets to the community, the Government and the Opposition is accurate. This being a contentious project, the community needs to weigh up that information in an accurate way to determine that its position is based on the best possible information. The only way to do that is to ensure that the system put in place to do the testing for the underground water to make sure there is no contamination is adequate and that the indenture itself ensures that those strict standards are maintained, the concerns of the public are minimised and that the department itself is able to do its monitoring programs based on accurate information.

The conservation movement and those people who have concerns generally—the agricultural industry in the area and those people who work at the Roxby Downs mines—have a vested interest in making sure that the strict health and safety standards in the area are maintained so that people, in particular those with competing agricultural interests in the area, can have faith that there are no concerns with respect to damage to the underground aquifers and the water underneath the Roxby Downs project.

It appears to me—and you can say it is an opinion if you like—that they have failed in the first test to satisfy the demands of the community with respect to the information chain that people should have no fears at all, that all is well at Roxby Downs. The Government may be satisfied with the information base that Western Mining has supplied to it, but certainly the Opposition is not satisfied that the information given to it is of an adequate nature to be able to put to rest the fears of those people in the area.

Does the Minister believe that the Olympic Dam operations have complied fully with the provisions of the indenture and in particular clause 11 (7) relating to sudden and unexpected material detriment to the environment? If so, will he table the program provided by Olympic Dam operations for investigations of leakage from the tailings retention system? In relation to that question, people associated with the Ranger project had problems with the tailings dams, and people at Port Pirie had problems with tailings dams. It is the nature of the industry that tailings dams present a whole range of problems that need to be monitored and kept under control. Does the Minister believe that the indenture is adequate to protect the public interest in all agricultural, health and environmental aspects?

The Hon. K.T. GRIFFIN: I will refer that question to the Minister for Mines and Energy and bring back a reply.

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Leader, representing the Premier, a question about Roxby Downs policies.

Leave granted.

The Hon. R.R. ROBERTS: In January this year the Federal Opposition dropped its support for a policy supporting the nuclear enrichment industry in Australia. The Opposition spokesman for Resources and Energy, Mr Peter McGauran, said the policy had been changed because there was not prospect for either nuclear power or enrichment plants in Australia. His announcement represents a major shift in the Federal Liberal policy because, immediately before last year's March Federal election, senior members of the Coalition said they were holding talks with a consortium interested in developing a nuclear enrichment plant in Australia. In January Mr Richard Knight, the Chief Executive Officer of Energy Resources of Australia, the biggest uranium producer in the nation, welcomed the Coalition's move saying that nuclear power and enrichment plants are not part of the nuclear fuel cycle which is feasible in Australia.

Does the Premier now agree with the Federal Coalition's policy on resources and energy which is now opposed to the establishment of a nuclear enrichment industry in Australia, and does he agree with John Hewson's shadow Minister, Mr Peter McGauran, in this issue that the prospects for the establishment of a billion dollar enrichment industry in Australia are zero?

The Hon. R.I. LUCAS: I will refer the questions to the Premier and bring back a reply.

HINDMARSH ISLAND BRIDGE

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Hindmarsh Island bridge.

Leave granted.

The Hon. BARBARA WIESE: Earlier today, the Minister read a statement to the Council which was supposed to be some sort of a justification on the part of the Govern-

ment to explain why it was going to undertake the inevitable, which is to build a bridge to Hindmarsh Island. What is of particular concern to me with the Ministerial statement is that the report, which was produced by the Hon. Samuel Jacobs QC, will not be made public. From a group of people who spent so much time during the past few years complaining, quite inappropriately in my view, about secretive government and about information being withheld from the then Opposition, this is an extraordinary action indeed and certainly something that I want to take up further. I want to ask the Minister a number of questions with respect to this issue.

First, will the Minister confirm that during the election campaign the then Leader of the Opposition indicated during a radio interview that, if elected, his Government would honour any legitimate contract for the Hindmarsh Island bridge? Will she confirm that the Leader received correspondence from me prior to the election offering the contract for his perusal so that he could satisfy himself that the contract was legitimate? Will she agree that the former Government made it clear before the election that the cost of a bridge to Hindmarsh Island would be $5 million, as was contained in a contract signed by the Road Transport Agency and Built Environs, which was a cheaper option than any other to provide improved access to the island?

Will she therefore confirm that the $12.5 million potential costs to taxpayers, to which she referred in her statement, is an assessment of possible costs only, including damages, which would only have been a possibility if the contract with Built Environs was not honoured? That is certainly not something that our Government would have undertaken. Finally, will she acknowledge that the possibility for such a claim for damages in the event of the bridge not being built was well known to her long before the election and therefore the inevitability of building the bridge was also known to her well before the election?

The Hon. DIANA LAIDLAW: No such information was available or known to me, and that is why the Opposition at that time made an undertaking that we would immediately review the funding and contractual arrangements. That move has been vindicated fully. I have not seen all the papers to which Mr Jacobs had access. What I do know through the Road Transport Agency, Westpac and others is that Mr Jacobs had access to papers that have never been available to members of the former Opposition, and the Australian Democrats, to make such an assessment as the honourable member now assumes that I could make without access to such information.

Members interjecting:

The Hon. DIANA LAIDLAW: It is just fanciful to suggest that we could do that.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: I will try to recall all the questions that the honourable member asked. First, it was apparent from the report that we would have to proceed with great caution if it was to be released. The Crown Solicitor advised against that action because of the potential for legal action arising in the future. The report does canvass in many places the potential negotiating points for the Government in seeking to resolve this matter.

Members should also be aware that, even if a decision was made at this very time to proceed with construction of the bridge, litigation is more than likely. There are two grounds for that. For instance, Westpac has indicated that it would be interested in litigation and may well do so even with the current bridge project going ahead because of the delays that have occurred since former Premier Bannon announced that the former Government would proceed with this bridge.

It actually took that Government 2½ years to get off its backside and let the contract. Even if we proceeded with the bridge at this time—the bridge proposed by the former Government—the Government is vulnerable to litigation on that count. We are also vulnerable to litigation from Binalong if, in fact, it has equity in the project at this stage.

The Hon. Barbara Wiese: Answer the question.

The Hon. DIANA LAIDLAW: I am answering the question why the report has not been made public. The honourable member raised that matter and, as she is concerned about it, I am happy to respond in order to put the honourable member's mind at rest.

As to the reasons for secrecy, that was fully obvious to us when we looked at a number of the documents not earlier made available to us, until this inquiry was established. It is quite apparent from a few of the documents that I have seen—and I have seen very few of them—that the decision-making process by the former Government was so bad that one could not dream it was possible in terms of the conflicting decisions that were made concerning the delays that were incurred and the procrastination involved.

I will cite one example involving the deed itself. As the former Minister would know, I refer to the conflict in respect of the deed. Westpac argues strongly that the deed reached with Binalong, which owed money to Westpac, conflicted with earlier Government agreements with Westpac. As Mr Sam Jacobs said privately to me, at least not in his report but in public discussion, I should say—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: No, I never have been. The honourable member is closer to him; you had him for a royal commission—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: No; in fact I may wish to, but I don't, because the gentleman has some integrity and would remove himself from such contact, just as he removed himself from contact with you and others during the royal commission. You know his standards, and that is why he was asked to undertake this inquiry.

Members interjecting:

The Hon. DIANA LAIDLAW: The report would be made public if we knew that there would not be litigation arising from this matter. As I say, at this stage there is no point in making it public until we have gone through the whole process, and that will take a maximum of eight weeks to fully explore a further option.

In terms of confirming whether the then Leader of the Opposition made certain statements, I am not aware of that, and I will certainly ask the current Premier about it. In terms of the contract that the honourable member suggests would have been available to the then Leader of the Opposition, again I am not aware of that but I do recall at the time—

Members interjecting:

The Hon. DIANA LAIDLAW: It was in fact during the campaign.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: I did not have access to them. I recall an interview with the honourable member and Jeremy Cordeaux during the election campaign when the then Minister offered the documents to me. I then immediately rang the former Minister's press secretary and asked for the

documents, and I rang back a week later and again asked for the documents. Not at any time were those documents—

Members interjecting:

The Hon. DIANA LAIDLAW: I asked to see those documents. The then Minister offered them to me publicly on the radio—

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: You offered them to me publicly on the radio in front of the whole South Australian public. Immediately, I rang—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: You offered them to me because I sought them. I accepted, but I never received them.

Members interjecting:

The Hon. DIANA LAIDLAW: Mr President, I am not sure that this is going much further. The Opposition is very excited, and for good reason, because it has much to be ashamed about.

The Hon. BARBARA WIESE: I desire to ask a supplementary question. Will the Minister agree that the amount of money to which she referred in her statement, namely, $12.5 million, which she suggested was the potential cost of this project to South Australian taxpayers as result of the decisions of the former Government, is only a possibility if her Government chooses not to honour a contract and that, if it honours a contract, the cost of the bridge to Hindmarsh Island will be $5 million, plus whatever delay costs the Minister has caused through her appalling and scurrilous campaign against the bridge?

The Hon. DIANA LAIDLAW: The delay costs were initially commenced during the last days of the former Government. As honourable members will recall, it was the former Government that negotiated with Built Environs to cease work on this project. The former Government did that—not the present Government. We have since suspended that because we were obliged as a new Government to look at the funding and contractual arrangements. There was no point going ahead and commencing work while we were doing this investigation. The former Government did not even have an investigation but it suspended work. The hypocrisy of the honourable member's question to me is absolutely amazing.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Yes, because you were scared during the election campaign. That was during the election campaign and you got cold feet. You thought, 'This is too hard for us; we will pass it over to the next Government.' That is what you have done. We have inherited your mess, and so have the taxpayers. It is a disgrace.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: The trouble is that you didn't do anything for years, and even if we proceeded with this bridge at this time—and that is what I indicated if the Hon. Ms Levy had listened—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: The former Attorney would know also that because of the delays—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Both of you probably do. The delays from the time when the former Premier, Mr Bannon, agreed that there would be a bridge to when the Government finally signed those contracts are the cause of the biggest period of delay, and it is that period of delay, even with the bridge going ahead now, that makes us vulnerable as a Government to claims from Binalong for loss.

Members interjecting:

The Hon. DIANA LAIDLAW: No; and this is quite apparent, because you promised within six months or in the short time from when you first made a commitment to proceed with this bridge, and it took 2 1/2 years to do so. That is the period for which Binalong claims that it is out of pocket and has lost considerable funds. We are vulnerable on that matter, even if the bridge goes ahead at the current site and in the present form.

The Hon. C.J. SUMNER: As a supplementary question—

Members interjecting:

The Hon. C.J. SUMNER: Yes; you are perfectly entitled to under Standing Orders.

The PRESIDENT: Order! Supplementary questions can be asked by persons other than the person who asked the original question.

The Hon. C.J. SUMNER: My supplementary question is to the Minister for Transport. Will the Minister answer the question asked by my colleague the Hon. Barbara Wiese, the specific question being: is the $12.5 million that she says her Government would be liable for only applicable in the case of her Government's breaking the contract? Yes or no?

The Hon. DIANA LAIDLAW: I will say 'Yes' on the basis that $12.5 is the minimum; we also would face years of litigation. What I have explained further to the honourable member is that, even if we proceed with the current bridge at the current site at the present time, the $5 million which the Government first accepted as the price is not the price. Again, if you accuse me of shonky figures—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: But I am saying to you that there is litigation.

The Hon. C.J. Sumner: Yes or no?

The Hon. DIANA LAIDLAW: I will say 'No' in this sense. I said 'Yes' on the basis that you are looking at the contract alone. If you are looking at everything else that is associated with that contract in terms of litigation from other parties, $5 million is the minimum. I have explained to you at great length that if the bridge is built at the current site by the current contractor we are still vulnerable to litigation.

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: You don't seem to understand or to hear.

The Hon. Barbara Wiese: There is no reason for it.

The Hon. DIANA LAIDLAW: There is reason, and I have explained that at length to you. I am sorry that you do not seem to understand.

The Hon. Barbara Wiese: The bridge cost $5 million.

The Hon. DIANA LAIDLAW: I understand that the bridge cost $5 million. What the honourable member does not seem to understand is that, even if at this moment we accept the current bridge at the current site, we are vulnerable to litigation from other parties; $5 million is not the package we are talking about. I hope the former Minister would understand that what she has left this State and taxpayers with is an absolute disgrace. It is a can of worms which others have described as one snake pit or another snake pit. We are in a mess because of the former Government.

OLYMPIC DAM

The Hon. CAROLINE SCHAEFER: My question is directed to the Minister for Transport, representing the Minister for Health, and concerns the Olympic Dam tailings retention system. What are the health risks, if any, arising from the rising groundwater around the Olympic Dam tailings retention system?

The Hon. DIANA LAIDLAW: I thank the honourable member for her question. When I learnt of this matter yesterday I made inquires of the Minister for Health, because I have friends in the area and was interested on a personal basis. I understand the honourable member also has a sister living at Roxby Downs, and I appreciate that she would also be concerned about this matter.

The advice which I have received from the Minister for Health and which I would like to convey is that there is no cause for such concern. First, the groundwater is more than 30 metres below the surface; there are no springs that provide access to the water; and it is much deeper than the root zone of plants. The water does not come in contact with the living environment.

Also, the Minister advises that the natural groundwater is very saline and much saltier than the sea. Monitoring bores has shown that there have been no detrimental changes to the water quality and the aquifer. Also, although any seepage water is likely to eventually enter the mine dewatering system, very little water, if any, enters the occupied working areas of the mine. The aquifer is hundreds of metres above the mineralised ore zones where mining takes place.

The final advice I have received is that water supply for the residents comes from the Great Artesian Basin, around 100 km from the mine in an entirely different geological setting and with no connection at all with the mining area.

URANIUM ENRICHMENT

The Hon. T. CROTHERS: Mr President, I seek some guidance from you before directing my question to the Hon. Mr Lucas. A former Leader of the Party indicated by interjection that the Hon. Mr Lucas does not represent the Premier in here, yet on my position paper I note that he is representing the Premier. As I wish to direct a question to the Premier, will you, Sir, tell me to whom I should direct it?

The PRESIDENT: I cannot do that, because any Minister may answer that question.

The Hon. T. CROTHERS: It was a ministerial statement by the Hon. Mr Griffin that the Hon. Mr Lucas does not represent the Premier. Is that so?

The PRESIDENT: Mr Lucas will have to answer that.

The Hon. T. CROTHERS: Thank you for your kindly guidance. Now we have it that indeed Mr Lucas, as Leader of the Government in this place, does represent the Premier, I seek leave to make a brief statement before directing a question to that honourable Minister on the subject matter of uranium enrichment.

Leave granted.

The Hon. T. CROTHERS: Thank you, Mr President. I saw you were tied up with matters environmental, very similar to myself. On 24 September 1992, the then Leader of the Liberal Party (which was then in Opposition) in another place, the Hon. Dean Brown, told South Australians that he would proceed immediately on becoming Premier with uranium enrichment, and since that time uranium enrichment has been a centrepiece of the Liberals' energy plans at the election at which Dean Brown led the Liberal Party to success and at a previous election. In other words, uranium enrichment in respect of energy generation and other things has been a Liberal Party centre point.

Having established that that statement was made, my question to the Hon. Mr Lucas, representing the Premier of South Australia in this place, is as follows: will the Premier honour the undertaking he gave to all South Australians on 24 September 1992 to develop a uranium enrichment plant in South Australia and, if his answer is in the affirmative, how long does he think that will take to put into place?

The Hon. R.I. LUCAS: Many of us in this Chamber have a great affection for the Hon. Trevor Crothers, but I think it was a misunderstanding on his part: he must have misunderstood or misheard the Hon. Ron Roberts' question. He directed a question to the Leader of the Opposition representing the Premier, whereas he should have directed it to the Leader of the Government.

Members interjecting:

The Hon. R.I. LUCAS: I will be very happy nevertheless to direct his question to the Premier in another place and bring back a reply.

ORPHANAGE RECORDS

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister representing the Minister for Family and Community Services a question about the records of people who lived in homes during the 1940s, 1950s and 1960s.

Leave granted.

The Hon. SANDRA KANCK: Last week my office spoke with a former resident of both Seaforth Children's Home and Allambie House, former State Government run orphanages. She spoke of incidences of physical abuse experienced by herself while a resident of these children's homes and by a number of former residents of these homes and of Vaughan House and Glandore Boys' Home during the 1940s, 1950s and 1960s.

Alarmingly, this former resident also informed my office that she and other former residents have been refused access to their individual records of their periods of residence by the Department for Family and Community Services. She also said she understands that, apart from the children who were up for adoption, only a fraction of all the records were kept; the rest, she understands, having been disposed of. My questions to the Minister are:

1. Is the Minister aware of the refusal of legitimate requests of former residents of Seaforth Children's Home, Glandore Boys' Home, Allambie House, Vaughan House and other children's homes to the Department for Family and Community Services for access to records of their periods of residence?

2. How many of these records have been destroyed?

3. Can the Minister advise the Council if any of these records were destroyed in order to cover up incidences of abuse?

4. Will the Minister guarantee that the department will now make these records available to former residents of these homes?

5. What is available by way of compensation to victims should such allegations of abuse be proven?

The Hon. DIANA LAIDLAW: I will refer those questions to the Minister in another place and bring back a reply as soon as possible.

MINING REPORT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General representing the Minister for Industrial Affairs a question about the South Australian Mining and Quarrying Occupational Health and Safety Committee.

Leave granted.

The Hon. M.J. ELLIOTT: An article published in yesterday's *Australian* newspaper revealed the existence of a damning report concerning inadequate occupational health and safety procedures in the Electricity Trust of South Australia and Western Mining Corporation Holdings Limited. The report was commissioned by the South Australian Mining and Quarrying Occupational Health and Safety Committee and undertaken by rehabilitation counsellor Ms Sandra De Poi. The committee, set up under the Workers Rehabilitation and Compensation Act, includes representatives from Government, business and unions.

The report is apparently critical of health and safety procedures at Western Mining Corporation and ETSA, as well as the Australian Workers Union and the Federation of Industrial, Manufacturing and Engineering Employees. According to media reports, the document is being held by the committee's presiding officer, WorkCover manager, Ms Marianne Hammerton, and the committee is not endorsing the report because many comments were not supported by its methodology. At least, that is the claim.

What has been said publicly so far conflicts with information that I have received. I understand that although Ms Hammerton received the report and addendums at the end of December, committee members received the report, covering more than 100 pages, only the day before making a decision not to endorse it. As well, I have been told this was the first occasion where critiques had been ordered prior to the commission seeing the actual report, and the report was accompanied by the critiques. I have been informed that the severity of the report has led to a push by many sectors to stop the report from being made public. The committee is under the control and direction of the Minister, and therefore one would expect all reports commissioned by it to be made public as a matter of course.

As well, the $280 000 research grant, which funded the report over two and a half years, came from a silicosis fund overseen by the committee, a fund which I understand doles out about $800 000 a year for research grants. I have been told that Ms De Poi was also critical of the brief she was given for her investigation and her lack of access to data by WorkCover and Western Mining's refusal to allow employees to be interviewed.

Allegations are being made of a major cover-up, and there is concern that the Government itself may become involved if it refuses to release the report and the associated critiques. The Minister was today reported as saying he had not yet seen the report, but I have been told that his office has had a copy of it since January. The report and critiques should be released so that people can make their own independent judgments on the issue. In these circumstances, this can only happen if all information is made available. Otherwise, the Minister could be accused of complicity. This must happen also to ensure that the author of the report has an opportunity to respond to any criticisms made. My questions to the Minister are:

1. When will the Minister make public the report and the associated independent critiques?

2. When did the Minister or his office receive a copy of the report?

The Hon. K.T. GRIFFIN: I will refer that question to my colleague the Minister for Industrial Affairs in another place and bring back a reply.

PARLIAMENTARY SITTINGS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before directing a question to the Leader of the Government in the Council on the sitting dates of the Parliament.

Leave granted.

The Hon. ANNE LEVY: I am sure that all members are aware that the Adelaide Festival of Arts is about to take place. It will start on 25 February and go through to 13 March. Not only I but many people have been very concerned to see that the Parliament is to have only one week off for the festival this year. I have tried to explain to people concerned with the festival that I shall be unable to attend on many occasions because Parliament will be sitting. Indeed, all members of Parliament will be unable to take part in Artists' Week because Parliament will be sitting, though luckily we shall be able to participate in Writers' Week as that is the one week that Parliament will not be sitting during the festival.

I looked back at what happened during previous festivals and I was able to obtain information on the last six festivals, the first of which, in 1982, was during the period of the Tonkin Government. Of those six festivals, three have been of two and a half weeks duration only, in 1982, 1984 and 1990. For all three of those festivals Parliament did not sit throughout the entire festival, which was for two and a half weeks.

The other three festivals which have been held since 1982 lasted over three weeks. Those were the festivals in 1986, 1988 and 1992. In those three years the festivals lasted over three weeks and the Parliament did not sit for two of those three weeks. It did sit in one of the three weeks of the festival, but they were long festivals and two weeks off for those festivals were allowed for members of Parliament to take part and, of course, to emphasise to the public of South Australia how important the festival was regarded by the then Government and, I presume, by the Tonkin Government as it concurred with the procedure of not sitting for two weeks during the Adelaide Festival.

Mr President, this year the Festival is again a shorter Festival of two and half weeks and, following precedent, one might have expected that Parliament would not sit during those two weeks, as has occurred with all the Festivals of two and half weeks as far back as the last Festival in the Tonkin Government. However, as currently set down, Parliament has only one week off for the Festival. We are sitting the week before the Festival. We are sitting one of the two weeks of the Festival and yet the week after the Festival we are not sitting, which—and I know I cannot express an opinion—to me and to many other people does seem anomalous. It may well be that when the sitting dates of Parliament were discussed in Cabinet the Hon. Ms Laidlaw attempted to have the Parliament not sit for the two weeks of the Festival, as had happened during the Tonkin Government and with all the two and half week Festivals which have occurred since then.

I would certainly expect that she did so. If not, it would be regarded by many people as a dereliction of her duty as the Minister for the Arts. On the other hand, if she did argue in that way she obviously was not successful, and that may

indicate a lack of influence in Cabinet on her part or it may indicate the low regard which is held by this Government for the Festival, one of the few remaining things which Adelaide has going for it and which we certainly hope will continue. One would expect the Government to recognise the importance of the Festival to South Australia and to indicate its recognition of that importance by not having the Parliament sit for two weeks of the Festival.

My question is: will the Government reconsider the sitting dates so that the Parliament does not sit during the two weeks of the Festival? The sittings which are set down for the 8th, 9th and 10th of March could be moved to the following week which is currently designated as non-sitting, so that members of Parliament would be able to attend activities during the Festival and, more importantly, to emphasise to the public of South Australia the importance which one would hope this Government places on the Festival.

The Hon. R.I. LUCAS: The Minister for the Arts is a forceful advocate for the Festival and the arts community generally, so the honourable member need not be disturbed or concerned about the influence that my colleague has both in the Cabinet and within the Party room. I understand the question that the member has put in relation to the sitting dates. One of the problems that the Government has is that with the lateness of the election date in 1993, just prior to Christmas, the Government obviously has a very big legislative program that it wishes to get through as expeditiously as possible.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: As the honourable member might understand, there are many conflicting interests in relation to the programming of the sittings of Parliament—one of which the honourable member has indicated. As Leader of the Government in the Chamber I acknowledge the importance of the Festival for South Australia. Nevertheless, that is but one issue that must be weighed up by the Government, by the Premier and the Deputy Premier in another place, in relation to the sittings dates during the Festival. I might say that certainly in this Council, as the honourable member will know, we have generally been extraordinarily cooperative and flexible in relation to the organisation of pairs in relation to the Ministers and the shadow Ministers. I note the honourable member acknowledges that, and I am sure that that cooperation will continue in relation to those official duties during that particular period coming up. Nevertheless, I will refer the question to the Premier and bring back a response.

COUNTRY FIRE SERVICE

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister representing the Minister for Emergency Services a question about the CFS.

Leave granted.

The Hon. R.R. ROBERTS: I have been contacted by several members of the CFS who are concerned about the circulating rumours that the CFS control centre will only be manned during office hours in the future. Normally when a fire starts a call is placed to the regional office of the CFS which will then transfer automatically to CFS headquarters for response on a 24-hour per day basis. I am advised that often if conditions affect fires in one area they are likely to cause fires in other districts. The present system allows for proper monitoring and dispatch of resources in emergency situations and allows an efficient overview of the State and the safest and most efficient use of those limited resources. My question is this: can the Minister confirm that the disconcerting rumours are true? If those rumours are true, can he explain what mechanisms will replace the existing system to ensure that the best possible monitoring, coordination and resource allocation in times of fires are provided for our CFS volunteers?

The Hon. K.T. GRIFFIN: I will refer that question to my colleague the Minister for Emergency Services and bring back a reply.

MABO

The Hon. M.S. FELEPPA: I seek leave to make an explanation prior to asking the Attorney-General a question on Mabo.

Leave granted

The Hon. M.S. FELEPPA: A South Australian 1992 report on the way that the High Court Mabo determination affects land titles in our State was tabled in this Parliament on 8 September 1993. The report was entitled 'Mabo v Queensland: Likely Impact on South Australia'. It was dated December 1992. It was signed by five competent South Australian legal or management experts. Members will recall that the Mabo determination raised many cries of urgency because it affected the continuing land title in some rural areas and because it was supposed to be discouraging investment in mining.

In her speech at the opening of this Parliament, Her Excellency the Governor referred to the Commonwealth Native Title Act and listed the areas in which responses should be prepared. Because of the urgency which I have already mentioned and because there is now a Commonwealth Native Title Act and a Federal tribunal set up, our State should be giving serious consideration to the effects of the Mabo determination rather than sitting back and waiting to see what other States will be doing.

'Wait and see' is apparently the Premier's position, from his response during a television interview that he gave recently. Western Australia has, as we have seen, jumped the gun and passed its own legislation. They fell, however, into the traps of racial discrimination against Aborigines and of having an Act that is inconsistent with the Commonwealth Native Title Act. South Australia, in my view, should not fall into similar traps. By 'wait and see' we now know from the West Australian experience what not to do, but from our own report we should be doing more than just 'wait and see' to meet the current situation. My questions to the Attorney are:

1. Is the Government familiar with the report?

2. Has there been any consideration given to the report other than the vague 'wait and see' attitude in relation to what the other States will do?

3. When can we hear something of the Government's thinking, if any, on coping with the Mabo determination and cooperating with the Commonwealth legislation on Mabo?

4. Does the Government consider the matter of some urgency?

The Hon. K.T. GRIFFIN: This is a serious issue. I recognise that we have had an extension of time to Question Time but I will endeavour to answer the questions raised by the honourable member, although I will give further consideration to the matters he has raised when *Hansard* becomes available, and if there is something to be added to it I will bring back the additional matter at a later stage.

The honourable member's first question is related to a report. I must confess I did not catch the name of that report to which he referred. All I can say is that the Government has received a number of reports, both internally and externally, and has established a Cabinet subcommittee. There is a working group, which is meeting on a very regular basis to identify the issues relating to the Commonwealth Act, remembering that prior to Christmas there was no final decision of the Commonwealth Parliament, and the Federal Act, once it was passed by the Commonwealth a day or so before Christmas 1993, did not become available until about mid-January.

We were not able to make significant advances on a determination of the State's position until about mid- January. Since that time there has been some quite extensive work on assessing the impact upon the State, both the private and the public sectors, of that Commonwealth legislation. One of the difficulties with the Commonwealth legislation is that it is a particularly complex piece of legislation. It is internally contradictory. It also introduces descriptions and concepts which are currently not known to the law but obviously having been passed at Federal level now have to become part of the law. It is difficult to identify all of the consequences of the Commonwealth Act because of some of those difficulties, but we are endeavouring to do that throughout Government and in conjunction with various private sector agencies.

It is not possible at this stage to indicate exactly when there will be a definitive statement from the Government about its position on the Commonwealth Native Titles Act. One does have to consider a number of issues: the impact it has on South Australia; the question of the constitutional validity; whether or not State legislation should be enacted to run in tandem with that Commonwealth legislation, or in a direction which is different from that of the Commonwealth Act; and the difficulty with the Commonwealth Racial Discrimination Act. There are a whole range of issues which we are still exploring.

Part of the difficulty we faced when we came to Government was that there had been no extensive advice given to the Government independently of that which was being given to the Commonwealth. The previous Government had taken a policy position that it was awaiting the Commonwealth legislation and was very much following what the Commonwealth was proposing. As a result the resources available, through the Crown Solicitor's office, had been to that stage minimal but have now been substantially upgraded. The Solicitor-General, who would normally give constitutional advice on this issue—

The Hon. C.J. Sumner: What are you talking about? You are making things up. They were not minimal.

The Hon. K.T. GRIFFIN: They were minimal. I sought that information and I was told that there were two officers utilising about 10 per cent of their time. I am not making that up. I made a specific inquiry about what resources had been committed and that is the information I received. I can do no more than respond on the basis of what I was told.

In relation to the Solicitor-General, the Solicitor-General had not been involved in any aspects of the consideration of the constitutional issues, and now the Solicitor-General has been brought into it to give definitive advice to the State in respect of the constitutional issues which arise as a result of the Commonwealth Native Titles Act. All that is still being worked upon. There was some suggestion from the media that this was an issue that would be raised at the heads of Government meeting next week. I am not in a position to indicate whether that is correct or not because I do not know. But, if it is, maybe by that time there will be something more definitive than we have at the present time.

All I can say is that the initial response from agencies is that the Commonwealth legislation will create significant difficulties for South Australia if it is a valid enactment and if it is not a valid enactment, or parts of it are not valid, there are still problems created by the Racial Discrimination Act. I will consider further the issues raised by the honourable member. If I think that there needs to be some expansion upon the answers which I have given I will bring back some further information.

The PRESIDENT: I observed during Question Time that there was an awful lot of opinion in the questions and as a result there was a lot of interjection. We do not want to stifle the place; we need it to be relatively interesting and so a little banter backwards and forwards will not do any harm. But if it gets out of order *Hansard* cannot record it properly and I might become hard of hearing and not hear members. I suggest that members use a bit of discretion when asking questions because Standing Orders do not allow for opinion. As for interjection, members have got away with it early in my career but I may get stricter later on.

STANDING ORDER NO. 14

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That for this session Standing Order No. 14 be suspended.

This is the usual motion moved at the start of each session. The Leader of the Opposition indicates we do not have to explain. There are some new members in this Chamber who have not had the experience of the Leader of the Opposition.

The Hon. Anne Levy: Can't they read the red book?

The Hon. R.I. LUCAS: I am sure that they could read the red book but it will only take 30 seconds. Standing Order 14 states:

Until the Address in Reply to the Governor's Opening Speech has been adopted, no business beyond what is of a formal or unopposed character shall be entertained.

This motion will allow the Legislative Council to debate a number of Bills, to some of which Notice of Motion has already be given and they will be introduced shortly. It is the normal motion moved at the start of each session.

Motion carried.

UNIVERSITY OF ADELAIDE COUNCIL

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the Council do now elect two members to be members of the Council of the University of Adelaide.

Motion carried.

The Hon. R.I. LUCAS: I move:

That the Hon. Anne Levy and the Hon. Bernice Pfitzner be the members of this Council on the Council of the University of Adelaide.

Motion carried.

FLINDERS UNIVERSITY COUNCIL

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the Council do now elect two members to be members of the Council of the Flinders University of South Australia.

Motion carried.

The Hon. R.I. LUCAS: I move:

That the Hon. R.D. Lawson and the Hon. G. Weatherill be the members of this Council on the Flinders University Council.

Motion carried.

ACTS INTERPRETATION (COMMENCEMENT PROCLAMATIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Acts Interpretation Act 1915. Read a first time.

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

That this Bill be now read a second time.

Section 7(3) of the *Acts Interpretation Act 1915* states that where an Act provides that it will come into operation on a day to be fixed by proclamation the Governor may by proclamation fix a day for the entire Act to come into operation, or fix different days for different provisions to come into operation and, if desired, suspend the operation of specified provisions. It has been common practice for commencement proclamations to specify a future date for an Act, or provisions of an Act, to come into operation. Once such a proclamation has been made it is impossible to alter the proposed date of commencement because the Governor does not have the power to vary or revoke the proclamation.

The lack of power to change the commencement date has become a problem in relation to the new *Children's Protection Act 1993*. This Act came into force on 1 January 1994 except for provisions relating to family care meetings which will come into operation on 1 March 1994. The Courts Administration Authority has advised the Government that the administrative arrangements for family care meetings cannot be in place by 1 March 1994.

As this kind of problem may arise again the Government believes that the Governor should have the power to vary or revoke a commencement proclamation. The purpose of this Bill is to insert the necessary power into section 7 of the *Acts Interpretation Act 1915*. The power cannot be used retrospectively. Once a commencement proclamation has done its work and brought an Act into operation the variation or revocation of that proclamation under this power would be a nullity.

The provisions of the Bill are as follows:

Clause 1: Short title. This clause is formal.

Clause 2: Amendment of s. 7—Commencement of Acts. This clause makes the required amendment to section 7 of the principal Act.

The Hon. C.J. SUMNER (Leader of the Opposition): The Opposition opposes this Bill. The Attorney-General gave me notice that he wanted this Bill dealt with as a matter of urgency because of what he sees as problems with the implementation of the provisions in the Children's Protection Act relating to family care meetings. That is why I am speaking on the matter forthwith, without the normal adjournment process. The main objection I have to this Bill is that it goes far beyond what is necessary to achieve the objectives outlined by the honourable member when introducing the Bill. I note that the honourable member has said that the power cannot be used retrospectively.

He says in his second reading explanation that, once a commencement proclamation has done its work and brought an Act into operation, the variation or revocation of that proclamation under this power would be a nullity. I am not sure that that is the case under the Bill as it has been introduced, because the Bill as introduced quite clearly says that the Governor may, by proclamation, vary or revoke a proclamation referred to in section 7(3). Subsection (3) provides for bringing into effect of Acts by proclamation, and by sequential proclamation. However, there is nothing in the Bill as introduced by the honourable member which makes it clear that the variation or revocation of a proclamation that has been used to bring into effect an Act or a section cannot operate to in fact revoke a proclamation that has brought an Act into effect.

Maybe the intention is that the variation or revocation should apply to circumstances where the proclamation has been made for a future date and, at the time the subsequent variation or revocation is brought into effect, that future date has not been reached. That may be the intention of the honourable member and, if it is, that is less objectionable than the Bill as it was introduced. However, I am not sure that that is clear from the Bill that was introduced. Certainly, on one interpretation, the situation could be that a Government could revoke a proclamation that has brought into effect a whole Act. That would obviously be a strange situation for the Parliament to agree to, particularly a Parliament with an Attorney-General who has often long and loudly bleated about the supremacy of Parliament and its powers. So, I am not as sanguine about the Bill giving effect to what I now understand the Attorney's intention to be as he is, and I think the matter needs to be examined.

I will not go through the details of the legislation. I think I have said enough to indicate that the Opposition opposes the Bill to this stage in this form. I think it could lead to uncertainty. It is possible that, if the Government does not like a Bill, it can revoke a proclamation that has been made—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, you could in this case. A future date has been set. You could now come in under the Bill you have introduced and now revoke that proclamation until the two year period has expired. That is a power that is now being given to the Government under the Bill that is being introduced.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I am not talking about that. I am talking about this situation where an Act comes into force by proclamation, but certain sections of the Act are deferred or brought into effect on a subsequent date, and what you are basically saying is the Government can change its mind, revoke that proclamation and leave that section in effect out of the Bill until the two year natural expiry period has been reached. That, as I understand it, is the effect of the Bill, even on the Attorney-General's interpretation.

I also think it is possible, however, although he says it is not designed to act retrospectively, that the clear words of his proposed subsection (4a) indicate—and there is no limitation on it—that a proclamation can be varied or revoked. Why can that not apply to a proclamation which has brought an Act into effect?

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That may be your interpretation. Why does that not apply in circumstances where you are

talking about a proclamation that has brought an Act into effect at a future date? It seems to me that there is at least some doubt about whether the intention of the honourable member is being put into effect by the amendment that he has introduced. But even if it is being put into effect, it seems to me that it means that a Government can bring into effect a Bill and then three weeks, two or six months later, if that date has not yet been reached, it can then revoke that proclamation and decline to bring the Bill into effect.

The Hon. K.T. Griffin: What is the problem with that?

The Hon. C.J. SUMNER: It creates uncertainty. In this case it may well be legitimate if there are legitimate reasons relating to the family group conferences, but there may be completely illegitimate reasons for doing it. A date might have been set six or 12 months ahead and for some good reasons the Government can step in and say, 'No, we are not going to introduce those provisions on that date. We are going to use this clause now to stop those provisions coming into effect.' In my view that creates uncertainty; I do not think it is satisfactory.

In summary, the first problem is that I am not sure that the Bill gives effect to the intention as I now understand the Government's intention and, secondly, even if it does, there are some undesirable consequences in terms of the Parliament and in terms of the certainty that the community needs in dealing with Acts of Parliament coming into effect. Unless the Attorney-General can produce better reasons than he has to date on this matter, the Opposition opposes it.

However, we would permit or agree to the passage of a specific Bill dealing with the problems of the family care meetings provided that the Government can give information to us which justifies the fact that these meetings cannot be put in place by 1 March 1994.

We have no information on that, either in the letter to me from the Attorney-General or in the second reading explanation. There is just the following bland statement:

> The Courts Administration Authority has advised the Government that the administrative arrangements for family care meetings cannot be in place by 1 March 1994.

That is quite unsatisfactory, and obviously the onus is on the Government to establish why these meetings cannot be put in place by that date. We ask for much greater explanation on that topic but, subject to that, and if we are convinced that those reasons are valid and not just a matter of the bureaucracy giving the Government the run-around(the honourable member may know from time to time that bureaucracies do give Governments the run-around, and I hope the Hon. Mr Griffin is not being put in that position; I would need to be convinced that he is not, for his own sake as well as that of the Parliament), we need more information on that. However, if that information convinces us that it is legitimate to defer the date of commencement, we would certainly accept a Bill dealing with the specific problem. Unless we are convinced otherwise in the course of the debate, we would be reluctant to support the Bill as introduced.

The Hon. A.J. REDFORD secured the adjournment of the debate.

STATUTES REPEAL (INCORPORATION OF MINISTERS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to repeal the Minister of Agriculture Incorporation Act 1952, the Minister of Lands Incorporation Act 1947 and the Treasurer's Incorporation Act 1949; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

It is not possible under the Administration of Acts Act 1910 to dissolve the incorporation of the Minister of Agriculture, the Minister of Lands or the Treasurer because they are incorporated by statute. The changes to the ministry in October 1992 contemplated the dissolution of these bodies and the transfer of their assets and liabilities to the Ministers referred to in this Bill. The enactment of this Bill is the most convenient method of achieving the intended result. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

Clause 1 is formal.

Clause 2: Commencement

Clause 2 provides for the commencement of the Act on 1 October 1992. This was the date on which the proclamation purporting to dissolve the bodies corporate referred to in the Bill was published in the *Gazette*. Section 5 of the *Administration of Acts Act 1910* enables the Governor, by proclamation, to dissolve a body corporate previously established by proclamation under that section. There is no power, however, to dissolve a body corporate constituted of a Minister by an Act.

Clause 3: Repeal of Minister of Agriculture Incorporation Act 1952

Clause 4: Repeal of Minister of Lands Incorporation Act 1947

Clause 5: Repeal of Treasurer's Incorporation Act 1949

Clauses 3, 4 and 5 make the necessary repeals and transfer the assets, rights and liabilities of the previous Ministers to the Ministers who succeeded them on 1 October 1992.

The Hon. C.J. SUMNER secured the adjournment of the debate.

ADMINISTRATIVE ARRANGEMENTS BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to provide for matters relating to the administration of the Government of the State; to repeal the Administration of Acts Act 1910; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

The current Administration of Acts Act 1910 ('the Act') provides a legislative mechanism for effecting variations in the administrative arrangements of Executive Government.

The Act provides that the Governor may, by proclamation, commit the administration of an Act to a Minister or confer on a Minister a ministerial power or function. When an Act provides that a specified Minister shall hold an office, the Governor may, by proclamation, declare that the office is to be held by some other Minister. The Governor may also, by proclamation, constitute a Minister a body corporate and may dissolve such a body corporate and declare that its assets and liabilities are to become assets and liabilities of another Minister as officer. Under the Act, a Minister may also delegate any of his or her statutory powers or functions to any other Minister.

In October 1992 the previous Government made a number of ministerial changes requiring the making of proclamations by the Governor. Due to time constraints at that time and a lack of a readily accessible body of information, a number of the proclamations made by the Governor were wholly or partly invalid or inappropriate. Also, the provisions of the Act were found to be inadequate and to require complex proclamations to achieve simple objectives.

To address the difficulties arising at that time, members of the Offices of Premier and Cabinet, Crown Solicitor and Parliamentary Counsel met for the purpose of examining the difficulties experienced in October 1992 and putting forward proposals for the establishment of a more efficient mechanism to effect changes to Government administrative arrangements.

The working group agreed that there was a need for a comprehensive and accurate database of information detailing, among other things, the number and names of administrative units and statutory authorities and the Ministers to whom they are responsible and the Acts for which each Minister is responsible. At first, access to the database will be limited to the Department of Premier and Cabinet and the Attorney-General's Department.

It is anticipated that access will be extended to the wider public sector in due course and eventually to the community as a whole. It is anticipated that the Department of Premier and Cabinet will maintain the database and keep it up to date. The need to allow for transfer of all or some of the assets, rights and liabilities of a body corporate constituted of a Minister to the Crown or another body corporate that is an agent or instrumentality of the Crown was identified.

It was also considered that a delegation of functions and powers by a Minister to another Minister or other person should remain effective after the primary powers and functions have been transferred to another Minister until varied or revoked.

Further, a reference in an Act, an agreement or contract or any other document to a Minister, officer or Government department should be able to be read as if it were a reference to a new Minister, etc., as specified by the Governor by proclamation.

The Bill repeals the existing Act and includes relevant provisions form the Act as well as many of the recommendations of the working group.

It is anticipated that the Bill will allow for a more efficient, effective legislative mechanism to enable changes to the administration of government.

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

Leave granted.

Clause 1: Short title
This clause is formal.

Clause 2: Repeal
This clause repeals the *Administration of Acts Act 1910*.

Clause 3: Interpretation
This clause provides for the interpretation of terms used in the Bill.

Clause 4: Alteration of title of ministerial office
Clause 4 provides for the alteration of the title of a ministerial office by proclamation. To change the title of a Minister at the moment it is necessary for the Minister to resign and then to be appointed by the Governor under the new title.

Clause 5: Committal of Act to Minister
This clause provides for the committal of the administration of an Act to a Minister.

Clause 6: Conferral of ministerial functions and powers
Clause 6 provides for the conferral of ministerial functions and powers on a Minister. Clauses 5 and 6 reflect the substance of section 3(1) of the *Administration of Acts Act 1910* repealed by clause 2.

Clause 7: Body corporate constituted of Minister
This clause provides for incorporation of a Minister. The incorporation of a Minister facilitates the holding of property such as land by the Minister. Subclause (2) provides that a Minister will be incorporated in respect of all of his or her functions or powers unless specifically limited by the proclamation.

Clause 8: Interpretative provision
This clause is a provision that enables the Governor to direct a reference in an Act or other instrument or document referred to in subclause (1) to a Minister, a Public Service employee or an administrative unit to have effect as if it were a reference to another Minister, Public Service employee or administrative unit. Public Service employees are all the persons employed by or on behalf of the Crown except for those referred to in schedule 2 of the *Government Management and Employment Act 1985*. That schedule excludes (amongst others) the judiciary, the Auditor-General, the Ombudsman, the Police Complaints Authority and the Electoral Commissioner and Deputy Electoral Commissioner.

Clause 9: Delegation of functions and powers by a Minister
This clause provides for delegation of functions and powers by a Minister. It is similar to section 6 of the *Administration of Acts Act 1910*. Subclauses (4) and (5) are new. They provide for the continuity of delegations, appointments and authorisations on the transfer of the relevant function or power from one Minister to another.

Clause 10: Evidentiary provision
This clause is an evidentiary provision and is similar to section 7 of the *Administration of Acts Act 1910*.

Clause 11: Proclamations
Clause 11 provides in subclause (1) that a proclamation has effect notwithstanding an Act or law to the contrary. An Act may, however, expressly exclude the operation of that subclause.

The Hon. C.J. SUMNER secured the adjournment of the debate.

UNIVERSITY OF SOUTH AUSTRALIA

The House of Assembly informed the Legislative Council that it had passed a resolution, to which it requested the concurrence of the Legislative Council, that an Address be forwarded to Her Excellency the Governor pursuant to section 10(3)(f) of the University of South Australia Act 1990, recommending the appointment of Michael David Rann and Giuseppe Scalzi to the Council of the University of South Australia.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the resolution contained in the House of Assembly's message be agreed to.

Motion carried.

SESSIONAL COMMITTEES

The House of Assembly notified its appointment of sessional committees.

STANDING COMMITTEES

The House of Assembly notified its appointments to standing committees.

ADDRESS IN REPLY

The Hon. R.I. LUCAS (Minister for Education and Children's Services) brought up the following report of the committee appointed to prepare the draft Address in Reply to Her Excellency the Governor's speech:

1. We, the members of the Legislative Council, thank Your Excellency for the speech with which you have been pleased to open Parliament.

2. We assure Your Excellency that we will give our best attention to all matters placed before us.

3. We earnestly join in Your Excellency's prayer for the Divine blessing on the proceedings of the session.

The Hon. R.D. LAWSON: I move:

That the Address in Reply be adopted.

The PRESIDENT: I remind members that this is the honourable member's maiden speech and it is normal that

interjections be restrained and that we listen with whatever care we need.

The Hon. R.D. LAWSON: I thank Her Excellency the Governor for the speech with which she opened this Parliament. I should use this opportunity to pay a tribute to the dedication, the enthusiasm and the accomplishment with which Her Excellency is discharging her functions as representative of Her Majesty the Queen.

Throughout her public life Her Excellency's achievements have been widely applauded by all sections of the community. Members of the legal profession regard Her Excellency with special pride and affection, not only because of her notable achievements in a long career in the law but also because of her great personal qualities.

It was an honour again to take an oath of allegiance to the Queen. It is a matter for regret that the Federal Government should have unilaterally changed the form of the oath of allegiance taken by new Australian citizens. I do not object to the mere change in the form of words. I certainly have no objection to swearing allegiance to Australia. Indeed, it is implicit in the affirmation and the oath made by members of the this Council that their allegiance is to Australia.

My objection is that the new form omits any mention of the Queen of Australia, who stands symbolically at the apex of our Constitution. In my view, unless and until the Australian community resolves otherwise, we should be mature enough to acknowledge the Crown in our pledges of allegiance.

I join with Her Excellency in expressing regret on the death of the late Hon. Jessie Cooper and the late Hon. John Burdett and extend my sympathy to their families. My acquaintance with Mrs Cooper was fleeting, but I had good reasons to admire her qualities. I first had professional dealings with John Burdett when he was a solicitor practising at Mannum. Later I had dealings with him when he was shadow Minister and later Minister for Consumer Affairs. Late last year he invited me to Parliament House and gave me some friendly and helpful advice. In all my association with him over the years, John Burdett was always courteous, conscientious and helpful.

Mr President, may I offer my congratulations to you on your election to your high office and wish you a long and rewarding term as President of this Council.

It is a great honour to be elected to represent the people of South Australia in this Chamber. It is a special honour to have been part of the Liberal Party team whose policies were so resoundingly endorsed by the electorate on 11 December 1993. The centrepiece of the Liberal Party platform was a fourfold promise: to rebuild jobs, to reduce debt, to return to standards of excellence in community services such as health and education and to restore confidence in the institutions of Government.

Each of these commitments is vital to the wellbeing of our State. Today I propose to focus on the fourth pledge, namely, the restoration of public confidence in the institutions of government. During the election campaign I spent much of my time assisting the Liberal candidate for the then marginal seat of Mitchell. A very good candidate he was, and an excellent member he now is. Door-knocking during the campaign I glimpsed the backs of a couple of honourable members opposite. Although I was working in areas which traditionally supported their party, I suspect that in some respects I received a more favourable response than they did.

Most electors to whom I spoke agreed that the present economic situation was the most important issue. Most expressed dissatisfaction with the performance of State and Federal Governments and with the state of the economy. However, many were as sceptical of our prescriptions as they were of the Government's promises. Most electors agreed that crime and their personal safety were important issues. However, they were sceptical again of the capacity of any Government to solve these problems. Some people expressed concern about issues such as health, education and transport, but once again they were sceptical about the political claims and counter-claims.

Almost everyone to whom I spoke reserved their most vehement criticism for politicians and the political process. To my mind, some of this criticism appeared to be ill-informed. Some of it was based upon unrealistic expectations, but there was no denying the strength and depth of feeling against the political process and the behaviour and performance of members of Parliament. Politicians often express their confidence in the good sense of ordinary folk. To my ears, these clichés are patronising and irritating. Personally, the quality which I most applaud in this context is the scepticism of the general public, and I saw it in abundance in the seat of Mitchell.

However, when it came to the performance of politicians, scepticism has soured to cynicism. It seems to me that our commitment to restore public confidence in the institutions of government can only be achieved by dispelling that cynicism, and this is an arduous task. It is as much the task of ordinary members of all Parties as it is of Ministers. It is not for a new member like me to harangue the members of this Council on their performance as members. I can only resolve to do my utmost to make some small contribution to repairing the tattered reputation of the political process. I am particularly pleased to have been appointed to the Legislative Review Committee. I am told that it is a hard-working committee whose activities are largely unheralded, but they are important to the general community.

If I might be permitted a personal aside, my modest claim is that one of the few good things which has come out of the State Bank Royal Commission is that it has led to my presence today in this Council. It reignited my interest in politics, an interest first formed when I was a student at the University of Adelaide. I was President of the Adelaide University Liberal Club when John Charles Bannon was President of the Labor Club. No doubt he was ably aided by the Leader opposite. After university, I was a member of the Young Liberal Movement during the halcyon presidency of the Hon. Legh Davis, but any temptation on my part to become involved in politics was submerged in my practice of the law, and it was ultimately dispelled when I appeared as union counsel for Mr Salisbury in the royal commission into his dismissal as Police Commissioner. What I there saw and heard of that squalid affair provided no encouragement for anyone to participate in the process.

The State Bank Royal Commission was, of course, a much longer and more complex affair. This is not the occasion to revisit the findings of that commission, but during its deliberations and whilst we were raking over the coals I saw, and the Commissioner later found, that there were several features of the Government's performance. There was no effective system of accountability. He found arrogance and indifference to criticism and questioning and he noted a politicisation of the decision-making processes. I saw that decisions were frequently made with political considerations in mind and insufficient regard being paid to the wider benefit

of the community. I decided then that, rather than stand by and criticise the performance of others, I would join the fray.

The last few years have seen a number of royal commissions. They have become something of a national pastime in this country: the Fitzgerald Commission in Queensland; the royal commission into Tricontinental and the State Bank of Victoria; the WA Inc Royal Commission in Western Australia; as well as our own inquiry into the State Bank. When one contemplates the revelations in these commissions, it is little wonder that politicians are held in ill odour.

By way of aside, members may be interested to know that the very first royal commission held in South Australia was established in 1889. There had been previous commissions, but none had been a royal commission. The terms of reference of this first royal commission required it to consider two matters: first, the desirability and practicability of establishing a State Bank in South Australia; and, secondly, the desirability and practicability of establishing a Royal Mint. The commission comprised nine members of the Parliament. It came to the conclusion that the establishment of a Royal Mint was not then justified. With regard to the establishment of a State Bank, the commission felt itself unable to recommend a bank at that stage. It is to be regretted that they did not reverse their conclusions: if only they had embraced the mint and banished the bank!

I have mentioned the cynicism which many citizens feel towards the Government. The courts and the judiciary are the third arm of government. They and the legal profession have come under increasing scrutiny in recent times. The spotlight has been on the courts, the judges, the profession and law itself. In my view, there has been much ill-informed criticism of the legal system, but I do not suggest that all the criticism has been unjustified. There have been a number of events which have undermined confidence in our legal system.

In the United Kingdom, the cases of the Guildford Four and the Birmingham Six, where the convictions of alleged IRA terrorists were ultimately overturned after the accused persons had served many years in prison, have shaken that country. The highest court, the House of Lords, has handed down some decisions in recent years which have been widely ridiculed as absurd. For example, there was the *Spy Catcher* case, in which distribution of a world best seller was prohibited in the United Kingdom on the grounds of national security.

In Australia, the Splatt and Chamberlain royal commissions both resulted in the release of prisoners who had been in prison after having been found guilty by juries. These were cases where the verdicts of the jury were upheld in successive appeals up through the judicial system. The convictions were based on so-called scientific evidence which was ultimately found to be unsound. These cases, and others like them, have undermined confidence in our whole system from police methods of detection to prosecution tactics and the appellate system itself. In the not too distant past we have had the spectacle of a High Court judge standing trial for perverting the course of justice. In New South Wales, magistrates and a Minister for Correctional Services have been gaoled for corrupt conduct. In Queensland, a Supreme Court judge was forced out of office and the Police Commissioner was convicted of corrupt behaviour and stripped of his knighthood.

It must be said that these instances represent an infinitesimal sample of cases and judges. But, human nature being what it is, it is the failures in the system which have the greatest impact. It is really no answer to say that the system works well in the great majority of cases. That is like a brake mechanic seeking to excuse an occasional brake failure by saying that the brakes usually work.

The point I wish to make is that it is not only the executive and legislative branches of Government which have become tarnished. The judicial arm too, has lost some of its gloss. The problem is exacerbated because some members of Parliament have seen that good media coverage can always be obtained to criticise a judge for some sentence which is portrayed as too lenient or some result which, on the face of it, appears absurd. On the other side of the coin, some judges think it fair game to criticise legislation or executive action without the benefit of a full understanding of the situation.

In my view, if we are serious in our desire to restore public confidence in the institutions of Government, we in Parliament have a special duty to ascertain the facts and gain a full understanding of matters before proffering criticism. Needless to say, if, after proper inquiry, one is satisfied that some miscarriage of justice has occurred and that the error cannot be corrected in the normal appellant system, one is duty bound to make appropriate criticism.

There is yet another area in which the legislative and executive arms of Government on the one hand are coming into conflict with the judicial arm on the other. This is the field of so-called judicial legislation. There have been a number of recent cases which have given rise to the claim that the courts are usurping the function of the legislature. One case in point in the High Court is the political advertising case where the court struck down Federal legislation which banned political advertising on the ground of a hitherto undiscerned, implied constitutional right of free expression. Another, of course, is the decision of the High Court in Mabo number two where the court ruled that native title subsisted throughout Australia notwithstanding a paucity of evidence relating to any part of the country other than the Murray Islands.

These are notable examples but there have been many others, not only in the High Court, but in superior courts around the country. The recent South Australian decision to allow evidence of battered wife syndrome is a typical local example. In my view, criticism of the judiciary for decisions such as those I have just mentioned is largely unwarranted. Judges must decide cases on the facts before the court. Under our system a judge cannot decline to do justice between the parties merely on the ground that the decision will be used as a precedent in other cases.

In large measure these problems arise where Parliament fails to seize the initiative and to exercise its proper function to make laws. In my view, Parliament should be vigilant and should keep abreast of developments in the community and in the courts. Parliament should not leave policy voids. It should not be left simply to react adversely when courts fill the void left which Parliament should have filled in the first place. The shelves of law libraries around this country are full of law reform reports gathering dust. Many have not been acted upon. Not all of these reports are bereft of merit. Indeed, many of them have much merit. What happens is that Parliaments do not take them up, only to find ultimately that the courts embrace their ideas.

I am confident that the new Brown Liberal Government will again take the lead in law reform and that public confidence will be rebuilt in this institution, Parliament, as the pre-eminent policy and law making organ of Government. In the Governor's speech mention was made of the Government's proposal to introduce domestic violence legislation.

This is an initiative to be applauded by all and an example of what ought be done by Parliaments.

There is another matter I wish to mention on the issue of our judicial system. It is the question of access to justice. One of the factors which undermines confidence in our legal system is the perception that justice is not accessible to all. It is almost an article of faith that citizens have a right of access to employment, an education of their choice, medical services, housing finance and to many other things which we now take for granted. Access to law has become one of these rights. We all agree with the concept of access to justice. It is common to say that these days only the very poor who are legally aided, or the very rich, can afford to go to court. That is not in fact correct.

Lawyers do take on cases concerning injuries suffered in vehicle accidents, work accidents—until the previous Government abolished their common law rights in that regard—and many other cases where an insurer is standing behind the proposed defendant. These types of cases in fact represent the largest field of civil claims. Recent amendments to allow limited contingency fees will enhance the process. But in the field of criminal law, the only way in which the State can provide adequate access to justice is by providing legal aid, either through salaried legal officers, or, more cheaply in many cases, through practitioners in private practice who are prepared to accept low rates of pay. Governments all around the country have not been increasing funds for legal aid and the need is ever rising. Cost cutting and pruning have been undertaken. The situation everywhere is in crisis. We have got to the point where access to justice is being rationed in an arbitrary fashion with sometimes unjust results.

The immediate cry of the uninformed is to spread the legal aid dollar further by lowering lawyers' fees. However, in the legal aid field the actual pay of many lawyers is already less than rates of pay received by clerical workers. This has meant that the recipients of legal aid, in many cases, receive assistance from inexperienced practitioners who regard the work as good training. This is no bad thing but it can lead to injustice in some cases. The problem of finding additional funds for legal aid is a perennial problem. It is especially so in times of financial stringency. It will be a great challenge to our Government to find additional funds or to effect greater efficiencies to enable justice to be done.

There have been a number of recent initiatives, such as the litigation assistance fund operated by the Law Society, the encouragement of alternative dispute resolution and mediation and the introduction of case flow management in both the Supreme and the District Courts. These are designed to ensure that cases are disposed of within 12 calendar months of their initiation. All of these initiatives should be applauded and supported.

In the area of law reform we should be careful not to throw the baby out with the bathwater. The baby here is legal procedures which have been developed to preserve people's rights. It is human nature to be jealous of one's own rights but not so vigilant in relation to those of other people. If war is too important to be left to the generals, law reform is too important to be left to the lawyers and judges alone. Political leadership and initiative is needed. A sensible, cooperative approach between Government, the courts and the legal profession, is the only way to improve access to justice. This approach will assist in the process of restoring confidence in the system. Joining the jackals in attacking the legal profession and the judiciary will achieve nothing.

Mr. President, I have focused on legal issues today. Of course, there are wider issues. The first three planks of our platform; namely, rebuilding jobs, reducing debt and improving community services are of equal importance. Because of the enormity of this State's financial problems it will be easy to be overwhelmed by pessimism. I have already mentioned the cynicism which exists in the electorate. Cynicism, coupled with wide spread pessimism, would be a recipe for disaster. Whilst we should not underrate the gravity of the financial disaster which the new Government has inherited, we should not be overwhelmed by it.

In amount the State Bank losses are not markedly different from those suffered by the Westpac Banking Corporation. Of course, that bank is much larger than the State Bank of South Australia but the net worth of our State is greater than that of any private bank. Historically, we have faced heavy debt in the past and overcome it. Just as Westpac is bouncing back with prudent management, the State of South Australia will do the same.

I am not pessimistic about the future of our State; I am optimistic. I am sure that I speak for those on this side of the Chamber when I say that we are confident that the Brown Liberal Government will fulfil the promise in the Governor's speech. The new Government will engender, and is already engendering, a new era for South Australia, an era of sensible reform for the benefit of the whole community, of initiative, of accountability and of integrity in Government. I commend the motion to the Council.

The Hon. A.J. REDFORD: I second the motion moved by my colleague for the adoption of the Address in Reply. I thank her Excellency the Governor for the speech with which she opened this first session of the forty-eighth Parliament of this State.

I am conscious of the fact that we all hail from a diverse range of backgrounds and we all bring to this Parliament unique experiences and different thought processes. As a criminal lawyer, I have had the opportunity of appearing before juries. During this time I have become convinced that the diversity of background and experience of people making up a jury in a criminal trial gives them a greater chance of fulfilling their important task. I only hope that at the end of my time in Parliament I have developed the same confidence in Government that I have developed in the jury system.

I am conscious of the fact that many of the differences between both sides of the House, and indeed within our respective Parties, are generally ones of perception. Notwithstanding the diversity of people who make up the Government, there are many principles on which I hope we all agree. For example, I doubt whether anyone would disagree with the principles of our right to free speech; our right to life, liberty and security; our right to equality and non-discrimination; our right to a free press; our right to the presumption of innocence; our right to freely associate with whomever and however we choose; and our right to a proper education and health.

We all seek economic prosperity for this State to enable greater opportunities for our children. We all seek justice in a legal, economic and social sense for our children and ourselves. The well known Russian Nobel Peace Prize winner, scientist and dissident, Andrei Sakharov, in 1968 listed the long range perils confronting the world as war, hunger, environmental pollution, a meaningless mass culture and popular myths. In the intervening 25 years those very same perils still exist. Sakharov also said:

Profound thoughts arise only in debate with the possibility of counter argument. Only when there is a possibility of expressing not only correct ideas but also dubious ones is there an opportunity to achieve a real and true result.

Mr President, the same applies here in Parliament. The need for debate to ensure that South Australians have the best Government possible is vital in these difficult times. But I also am conscious that there are real differences between the members opposite and those members on this side of the Chamber on how we achieve and protect our community's aspirations and rights. As a member of the Liberal Party, I believe in the essential freedom of the individual in our community and in the individual's ability to achieve his or her own aspirations. As a Liberal, I recognise the inherent dignity of each individual and respect for his or her inherent values.

Liberalism asserts that solutions to human problems can be solved by human beings. It asserts a faith about our ability to survive and progress to build a society which encourages the courageous, rewards the innovative, manages to protect the weak, the helpless, the infirm, cares for the sick, and aids the needy. Certainly without the endorsement and the assistance of the Liberal Party I would not be here now. I acknowledge and thank the Party for that opportunity and I hope that I can vindicate its trust in me.

As someone once said to me, a democratic socialist is someone who knows how to live my life better than I do, and that is something I strongly disagree with. I left my home in country South Australia over 20 years ago because my father had lost confidence in the future of agriculture. While the South-East of this State is blessed with rich natural resources he saw a poor future in agriculture and in the past 21 years, predominantly under Labor Governments, that viewpoint has been vindicated. In 10 years time I do not want to have to tell my three children that they have to move east because South Australia has no future. While on the topic of my family, I believe it is opportune to thank them for the many years of support that they have given me. They were always politically aware and with one side of my family being Labor—at least until Whitlam was inflicted upon us—and one side being Liberal the debate was always lively and interesting.

I remember one example when my parents had debated with each other during what seemed to be a very long election campaign. On polling day, as they went out to the car to travel the five miles into Kalangadoo, as my father got into the car he said to me, 'This is an absolute waste of time. Your mother and I are going into town to cancel one another out.' Some might say this reflects the idiosyncratic nature of democracy. To me, however, it shows up in a very practical way the stupidity of compulsory voting. No doubt a lot will be said on that topic later in this Parliament.

I am also concerned with the downgrading of the concept of voluntary community service in this country. Unlike most western democracies Australia in the past 25 years has seen a decline in voluntarism. I believe, both philosophically and ethically, that every person has a personal responsibility to the community and that citizens have a duty to discharge this responsibility through service. In other words, if someone occupies space on this planet they have a fundamental obligation or responsibility to contribute to the community. Any thought that a Government can do everything and provide all services that a community requires for its disadvantaged, in the absence of volunteers and their agencies, has been proved wrong. One has only to look at our declining services to the community in areas such as our elderly, our handicapped and our youth to see this.

Successive Labor Governments have attempted to make community service groups and volunteers irrelevant. The net effect has been to create a community that lacks the confidence to deal with its own problems and at the same time prove that Governments cannot do everything. If anyone disagrees with what I am saying they only have to look at what has happened to the St John's Ambulance service. In a short space of time we have lost a great pool of knowledge and experience, not to mention self- confidence, because of the actions of previous Governments. Service clubs and organisations such as Meals On Wheels, the Crippled Children's Association, the Guide Dogs Association, the CWA and various hospital auxiliaries have all been under attack from successive democratic socialist Governments. This is at a time when their services are in greater need than ever before.

There has also been an attitude that money is the answer to all our contemporary problems but remember this, however: money does not buy happiness; money does not buy compassion; money does not buy kindness. Real caring does not come with money. One has only to look at the billions of dollars spent on Aboriginals over the past three decades to see how in some cases the splashing of money about can make little difference to the recipient group. After all, members on both sides of this Chamber would, I am sure, agree that the position of Aboriginals has not improved one jot, even with the spending of substantial amounts of money. Of course, it may be that the money, if it had been spent wisely, may have made some difference; that is a moot point.

One of the most overused terms that crops up in Australian Parliaments today is the use of the term 'social justice'. I am not sure whether the use of that term has any precise definition, but it seems to me it has its roots in the oldfashioned term we all know as 'a fair go'. The trouble is that social justice is a term being used to divide this country. If one analyses the meaning of the term 'social justice' in this country, as expounded by the Prime Minister and elements of the Labor Party, it has a very narrow application. Let me give some examples.

It is social justice to create employment schemes in the western suburbs of Sydney. It is social justice to ensure that people have access to social security in regional centres such as Newcastle or Geelong. It is social justice that children in the western suburbs of Adelaide are specifically targeted in relation to Federal Government programs such as 'Kids need all the help that parents can get'. However, despite that rhetoric, can we not ask whether it is not social justice to ensure the very essence of rural Australia is allowed to survive? Is it not social justice to ensure that the post office remains open? Is it not social justice to allow country transport services, such as rail and telecommunications, to be retained? Is it not social justice to have a separate office for the Electricity Trust and the E&WS in towns? Is it not social justice to continue with well equipped hospitals in remote rural areas? Is it not social justice to ensure that medical practitioners remain in small country towns? Is it not social justice to continue small schools which will prevent parents sending their children many miles away to boarding schools at very young ages? Is it not social justice to stop business after business moving out of this State? Can we not undertake the task of ensuring that our children play in our playgrounds without any fear of interference?

For some extraordinary reason, it is social justice to allow people on social welfare to move into country areas which have had their infrastructure wrecked by 10 years of neglect by successive Labor Governments. What I am saying is that social justice for many people within the Federal Labor Party is a concept that applies only to Labor held areas or swinging seats. The Labor Party has eked out a great tradition in purporting to champion the rights of the disadvantaged and the battler. At the same time, it has turned its back on the very heart of this country and watched in silence as rural communities have declined and in many cases collapsed. It has done so without any concern, without any compassion, and without any sympathy. I have absolutely no doubt that history will look back on this era of Labor and the effect that it has had on rural Australia with derision and scorn. I think one of the biggest problems has been that the term 'social justice' is simply a term that can be translated to mean 'at all times and at all costs keep Labor in power: that is the first, second and only objective'.

Another example of that is the former Government's approach to the difficult issue of domestic violence. The year of 1994 has been targeted as the year to focus on the family in the international arena. Although there have been many positive structures and policies implemented during the past 20 years or so, there is no cause to be optimistic or complacent. I believe it is a fundamental right of all people to a safe, secure and supportive home, yet it is trite to say that the home is often the most unsafe place to be. The previous Government's approach in the area of domestic violence was to set up specialist squads. It seems to me that that has missed the point altogether. Given the enormous numbers of calls made to police on a daily basis, it would seem to me that every single police officer should be a specialist in this area.

Violence against women is well entrenched in this society. Commentators state that one in three or one in five households are the site of violence. That is incredible and should attract the attention of this Parliament and be given the highest priority. It is pleasing to see that, in Her Excellency's speech, legislation will be introduced in this Parliament that will go some way towards achieving that result. We must remember that domestic violence at its very core is a crime. Historically, a domestic violent act has been treated by the courts far more leniently than violence between strangers or non-family members. I cannot fathom the logic to that. After all, if someone steals money from a stranger, they are treated more leniently than if they steal money from their employer.

The same principle has not been applied in the area of violence. I was involved in a case some two years ago where a woman was charged with murder, having shot her *de facto* husband while he was asleep. After much legal manoeuvring, she was acquitted on the basis that she was acting in self-defence. There is no doubt that that was a just result. However, the introduction of terms such as battered women syndrome has in my view not changed the position of women in a domestic situation at all. There is a real need to change the general attitude of our community towards the issue of violence. The Public Policy Research Centre in 1988 found that nearly one in five Australians believed that it was acceptable for a man to use physical violence against his wife.

What needs to be addressed is a change of community attitude such that in every circumstance violence is unacceptable and inevitably treated as a crime. Police, judges, doctors, lawyers, social workers, ministers and other human service occupational workers all need to be trained and educated. It is interesting to note that Dr Patricia Eastea, in her recent articles, has found that medical practitioners in treating women who are the victims of violence do not on the whole look for emotional problems as symptoms in these cases. This suggests that many cases go undetected because of doctors' failure to recognise symptoms.

We also need to look further than just mere protection orders. In at least one-fifth of marital murders, a protection order or an assault charge is in existence at the time of the killing. The laws have not protected those women's lives. Reports in some studies have indicated that police declined in three-quarters of 106's, as they are known, or domestics, to take any action, and that includes removing or arresting the perpetrator for breaches of restraining orders. We need to consider carefully the very difficult interaction of issues that arise in this area.

I believe we need to seriously consider allowing legal representation for victims of domestic violence and implementing a fast track procedure in dealing with these crimes. We also need to ensure that the power and desire to prosecute is not left entirely in the hands of the victim, who is, after all, the person least likely to be in control of the situation. It is my belief that we will not change community attitudes until the attitude of everybody in this Chamber has changed towards this topic. Unless we all clearly understand that it is a criminal act and should be dealt with in that way and not through some different sort of method, we will have no hope in changing that attitude. As Melbourne barrister Jocelyn Scutt once said, a restraining order is similar to the marketing process of soap powder. You get your first packet for nothing in the latter case and, in the former, you get your first hit free. That hardly denotes a strong attitude towards changing community attitudes in this area.

There is no doubt there has been diminishing confidence in governments and the various institutions that make up society. There is a real risk that that lack of confidence in those institutions will tear at the very heart of our democratic society. One has only to consider the general cynicism of the media and of the general public to those institutions and to this place to see that the alarm bells should already be going. One has only to consider the State Bank debacle. The people placed their trust in the Government which in turn placed its trust in the State Bank. Following the near collapse, trust was placed in a royal commission and a bevy of lawyers. Following that, the community trust was placed in another group of lawyers and, at the end of the day, for whatever reason, the community perception is that they got away with it. A repetition of that will seriously undermine the public confidence in us and our institutions and that I fear will have enormous consequences for our future and our children's future.

In closing, I hope that we can all proceed with our deliberations and business with an eye to the future. I would like to think that I can look at everything from the perspective of what is good for my children and their future. The very simplicity and the mannerisms of our children were brought home to me last Thursday. My seven year old daughter thought it was wonderful that all the Santa Clauses and Mrs Claus were invited to Dad's special day!

That is the implicit trust that children place in their parents. Unfortunately, we have not recognised or paid heed to that trust. If on each occasion I can look at an issue from that perspective, there is less chance of getting it wrong. I want my children to grow up healthy and with a good education. I want them to respect other children and other

people, and I want them to respect what each of us here has done or will do in the next however many years. I hope that the trust that our children have placed in us all here is not misplaced or misguided, and I also hope that in the heat of the battle on this floor I will not forget that important responsibility.

Here we are today in Parliament presumably doing really complicated and complex things, but when we really think about it we realise that the important things in life are the simple things.

The Hon. M.S. FELEPPA: I support the motion for the adoption of the Address in Reply and, in doing so, first, I wish to express my gratitude to Her Excellency the Governor for her address last week in officially opening the first session of the Forty-Eighth Parliament. I also join Her Excellency in expressing my sincere condolences to the families and relatives of former members, namely, the Hon. Jessie Mary Cooper and the Hon. John Burdett, a dear friend of all of us whom we will remember for a long time.

On a happier note, I cannot let this occasion pass without expressing my congratulations to the new members, the Hon. Sandra Kanck, the Hon. Robert Lawson and the Hon. Mr Redford. I wish them a long political career. However, I hope in the course of the time ahead of us that, even if we are members of different political Parties, we will be able to develop a friendly working relationship, because I think the public would want to see members in this Parliament treating each other as human beings.

Certainly, I can recall in 1982 when I was first elected to this Parliament that it was one of your colleagues, Mr President, the Hon. Boyd Dawkins, who in his Address in Reply contribution stated:

> I wish to welcome the Hon. Mario Feleppa as a new member. I have no doubt that seeing that the honourable member sits opposite we will disagree strongly in debate, but the honourable member will soon realise, if indeed he has not already done so, that it is possible to be friends although being political opponents, and I wish him well.

That reinforces what I have just said: while we can strongly oppose each other during debates, equally we can be friends. While I am in a congratulatory mood, I feel compelled to extend my personal congratulations to you, Mr President, for your prestigious elevation as President of this Council. Having known you for a number of years, I am sure that you will be a good Presiding Officer, and I hope that you will be unbiased towards members of both sides of the Council.

I wish to speak about two issues in my contribution today if time permits. First, not that I want to take up the challenge offered directly by the second speaker in the debate about compulsory voting, but it is an issue with which I will be dealing briefly this afternoon.

The issue of non-compulsory voting was raised during the election campaign by Mr Brown, the then Leader of the Opposition and subsequently ventilated again by the Attorney-General, and the matter was reaffirmed in Her Excellency's speech last Thursday. In the *Advertiser* of 20 January this year, the Hon. Mr Griffin's comments were reported in an article headed 'Non-voters likely to face fines', as follows:

> The Attorney-General, Mr Trevor Griffin, says he will try to have Parliament abolish compulsory voting and that, if it does, he will immediately quash all outstanding fines.

Later in the paragraph, which surprised me—

The Hon. K.T. Griffin: You don't believe everything you read.

The Hon. M.S. FELEPPA: The Hon. Mr Griffin has the most conservative principles of any person in this place and, if the Attorney-General is reported correctly, it seems to me that his conservative principles in this instance are not consistent. To condone people who have been fined under existing law for not having performed their duty according to the law is a strange attitude adopted by the Hon. Mr Griffin.

The Hon. T.G. Roberts: You could call it 'radical'.

The Hon. M.S. FELEPPA: One could put it that way. Certainly, it would be a step back into the past and to the problems that were solved by the introduction of compulsory voting. Australia is one of 29 countries in which voting at political elections is compulsory. I note that in some of those 29 countries, for unknown reasons, they do not require compulsory registration. Those countries well recognise that compulsory voting has an advantage in political practice which so many other countries are too timid to introduce.

Compulsory voting was gradually introduced for State and Federal elections in Australia. If one researched the time when compulsory voting at elections was introduced, one would see that compulsory voting has come to be expected by thinking people who do not object to the practice. It was introduced in Queensland in 1914, in the Commonwealth in 1924, in Victoria in 1926, in Tasmania in 1928, in New South Wales in 1930, in Western Australia in 1936 and, finally, in South Australia in 1942.

The Council can therefore see that it took a long 28 years to gradually introduce State by State the compulsory voting system. Federal compulsory voting began in 1924 because of an almost opportunistic reason, and Laurie Oakes, in the *Bulletin* of 24 April 1990, put it this way:

> The Labor Opposition favoured compulsory voting because the Party had polled so well in Queensland after the State pioneered the measure. But the Nationalists and the Country Party were equally sure they would gain because of the view that apathetic voters tended to be conservative by nature. As things turned out, neither side secured an electoral advantage.

It has been proved that compulsory voting benefits no particular Party—to the contrary in terms of what was hoped. If non-compulsory voting was adopted, it might well give some advantage to one Party or the other, but it would not confer some advantage on a nation in theory or in practice.

The political theory on voting is that voting is the means of obtaining the consent of the Government. Other things being equal, the smaller the vote resulting from non-compulsory voting, the smaller the base of consent. I believe that voting is a right, a duty and above all a responsibility of good citizens in every country. In a democratic society every adult has the right to demand that minuscule power conferred by voting in a parliamentary election or referendum and anything that impedes that right tries to diminish the value of the election. So, having claimed the right to vote, the duty falls squarely on the voters—the electors—to exercise their right, and to fail to vote is to fail the nation, however small the power in voting is seen to be.

Along with the right and the power to vote, the responsibility devolves on the elector, the voter, to cast an informed vote, and failure to vote responsibly is to fail in one's duty and also to fail in the exercise of one's right to vote. Some political theorists hold that the voter in a parliamentary election holds the right to vote in trust and not simply that that complicates matters unnecessarily. If the right to vote is a right in trust, then the public has every right to know if the trust has been honoured by knowing how the vote was cast.

Looking at non-compulsory voting in democracies where non-compulsory voting is practised, we see that there is a moderate interest in the political process. If one does not have to vote, then why vote? If one does not have to do one's duty by voting, why think about political issues? The lack of interest in the political process has somehow allowed the power-hungry to grab power in some South American countries.

Let me give another couple of examples. Indifference of Italians to the fate of parliamentary government prior to 1922 was the very foundation of fascism in my own country, and that led to the dictatorship of Benito Mussolini. Further, an examination of the situation in Germany in the early 1930s shows that the non-voters were of importance to Adolf Hitler's rise to power. Hitler is remembered as offering everybody everything in a true demagogic fashion. The promises he made awakened hopes in many persons who had shunned the electoral process many times before.

The non-voters in those circumstances may not have been able to stop Hitler's coming to power, but certainly those voters would have denied the overwhelming majority by which Hitler did come to power during those years. So, non-compulsory voting removes one of the checks on those ambitious for power, and it does not encourage interest in the political process.

In my view the removal of compulsory voting would allow voters to avoid their duty, and indifference to the political process would follow, as happened in other parts of the world, as I have mentioned in a couple of instances. The situation also could deteriorate to the point where power hungry and manipulative forces could take over.

In democracies where non-compulsory voting is the accepted practice, non-voting is more common among certain groups. A 1961 survey shows that women are less likely to vote than men (and quickly let me rectify this before I run into problems), although that differential has been overcome in the past 20 or 30 years. Low income earners are less likely to vote than high income earners. The middle aged are more likely to vote than are young voters. So, if non-compulsory voting were to be introduced in South Australia, there would certainly be a drop in the percentage of people casting their votes at any election, and one need only to look at the percentage of votes cast in local government elections. Where there is no issue to arouse voters to express themselves, voting is low, varying from 5 per cent to 10 per cent; and where there is a contentious issue the percentage perhaps doubles to 10 per cent or more.

It must be admitted that low percentage polls may not indicate indifference on the part of the voters. It could well show that in their opinion local government in those particular circumstances is functioning very well indeed. A rise in the percentage of the voters when a contentious issue is involved shows that those who have an interest in the matter have given it their attention and voted accordingly with some responsibility. They know why they are voting, but local government is more concerned with the services, the financing of services and the development of a small community. They operate under a State Act, as you, Mr President, would know, and their by-laws are also scrutinised by the State Government through a parliamentary committee.

Local government is not concerned with political theory as well as the philosophy of political practice. Because of the difference in the nature of the State Government and local government, the non-compulsory voting in local government elections cannot be extrapolated to a State parliamentary election. Non-compulsory voting at the local government level ensures that Party politics does not become a part of the operation of local government, and so far local government has managed very well without Party politics and tried to cast its stresses and strains on the local government issue. If, however, Party politics become a part of local government elections, the cost of candidates for election would be, I am quite certain, a great deterrent to anyone entering the service with so little or no remuneration at all.

Local government may not give a true indication of percentages in a parliamentary election. We can, however, look at parliamentary elections. The British election in 1992, for example, had a 75.8 per cent turn-out of voters. The United States, in the 1992 presidential election of Bill Clinton, had a 55.9 percent turnout. Would you believe, Mr President, that the Federal election of 1922, before compulsory voting was introduced, drew a turnout of only 57.95 percent of the people who were eligible to vote. Whichever way one attempts to approach it, the lack of compulsion to vote shows that it would lead to a less representative result.

At this point perhaps I should comment on voting for citizen-initiated referenda, an issue that was floated around the corridors of this Parliament in April 1992. The then member for Murray-Mallee (Mr Lewis) during the debate in another place said:

> . . . it should also be possible for anyone who is a current citizen on the electoral roll to choose whether or not he would cast an opinion in the referendum in support of or in opposition to any proposal in that referendum.

From this we can clearly see that Mr Lewis was encouraging non-compulsory voting. In my view, the ideal is compulsory voting for every adult resident of this country. As the referendum would be citizen-initiated by a required number of interested people, it may be appropriate for only those interested in the matter to cast a vote. It could be claimed to be a more truly responsible vote, but for such a vote to reflect a real community opinion, the non-compulsory vote should be cast by, say, two-thirds of all voters, or even 70 per cent, and passed by a majority of those voters. The referendum would fail if there were not this majority or the required percentage of voters did not turn out. In those conditions, non-compulsory voting in a citizen-initiated referendum could be accepted as the voting practice. However, where a referendum is Government-initiated and when an election is held, voting should be compulsory for very good reasons.

Compulsory voting prevents the Government from becoming an elitist club for those seeking anxiously for the power to rule. Compulsory voting would ensure that the mandate to rule comes from the widest possible base, whereas non-compulsory voting simply reflects the will of a smaller number of people. Compulsory voting would promote and sustain interest in the process of government. Being compelled to vote from time to time may make people think—some more, some less—about political issues and their outcome.

Australia enjoys universal suffrage, by which all social groups are required to vote, and compulsory voting ensures the equality of these social groups when they come to vote. Universal suffrage would be a failed principle if universal voting were not ensured by compulsory voting. Compulsory voting upholds universal suffrage. John Stuart Mill makes an observation that favours compulsory voting. In his work, *Representative Government*, he says:

> A man's own particular share of public interest, even though he may have no private interest drawing him in the opposite direction,

is not, as a general rule, found sufficient to make him do his duty to the public without external inducements.

The best inducement to do one's duty is not bribery or promise of favours or flattery of voters by the candidate, but the compulsory vote. If one does not vote and there is no legitimate excuse—I am sure that honourable members are fully acquainted with the system of a penalty if they do not vote—one suffers a fine, but the Electoral Commission has always been fair in its treatment of those who fail to cast their vote.

I believe there is a specious argument against compulsory voting. It is that compulsory voting puts a strain on the democratic theory that voting is a duty as well as a right, and, as one is compelled to vote, one cannot freely exercise one's duty. That argument is nothing more than arrant nonsense. It does not persuade me in the least that compulsory voting denies the freedom of choice. One can still decide to vote or not to vote. If one recognised one's duty, one's choice is limited. Being compelled to vote subtracts nothing from freedom but, to the contrary, adds a further inducement to do one's duty.

There is one more point on voting that I wish to make with your indulgence, Mr President. While exercising one's right and doing one's duty by voting, a selfish person may prefer some small advantage for him or herself rather than vote for the benefit of the nation. Such a person negates responsibility although doing his or her duty. Failure in responsibility does not detract from compulsory voting, nor does it favour non-compulsory voting. Such a person can only be educated to responsibility. That is an area which I shall emphasise later.

A patriotic person is one who prefers to vote for the advantage of the nation, even if it is at some cost to the voter. Compulsory voting may induce a voter to shoulder responsibility, whereas non-compulsory voting would fail to prompt a person to do his or her duty.

It will be very interesting to see the Government's legislation on this issue. If called on to choose between compulsory and non-compulsory voting, I would cast my vote, as an elected trustee, in favour of compulsory voting. Compulsory voting alone is not enough to make one willingly do one's duty and cast a considered and responsible vote. Politics and other issues are often not well understood by a great many people in our community. Therefore, education is what I strongly suggest we should pursue to make people more prepared to cast their votes at an election.

Perhaps high school is a starting point but this learning process should go on through life. The *IPA Review* has this to say and I quote:

> Mass democracy depends on an informed, educated population. For this reason we accept that schooling (at least until a certain age) should be compulsory. Under a compulsory voting system, people—knowing they will have to choose among electoral candidates—are more likely to be spurred to take an interest in issues of public policy—to become informed—than under a voluntary system.

I repeat for the third time: the key in this whole area is education and I hope that in future we will strongly consider exploring this. In an address to the National Press Club, Bob Hogg is reported as saying:

> We (the parties) would be better served in the long run if open dialogue with the parties was encouraged without shock, horror headlines. . .

He goes on to say:

> If that is to occur, the media approach to reporting needs to change, too. It will not happen if every difference within a party gets hysterical media treatment.

The media also have an educative role to play in fostering the right, duty and responsibility in voting. The right kind of media approach could be the ongoing education of the people in politics and Government so that faith can be built into our political system and add to the good effect of compulsory voting. One thing is certain: no compulsion can be put upon the media. They must take up this professional role voluntarily or it will not succeed.

In conclusion on this issue, the indication given clearly by the Government to introduce a non-compulsory voting Bill is not, I believe, what the electors voted the new Government into office for. I should like to put on the record the opinions of some other people who are well known in the broad community. In an article written by Alex Kennedy in the *City Messenger* of Wednesday 9 February 1994 she says:

> . . . it would be a big mistake to believe that the Liberal team is in agreement about this. Behind closed doors it is actually a very contentious issue. Non-compulsory voting is not favoured by many in the parliamentary party. It is not even favoured by a number in Cabinet.

Without going any further, this reinforces what I suspect: while the Government has already announced its intention to introduce legislation in the coming weeks, if this information is correct it proves that there is not even a good consensus of opinion on this matter amongst the Liberal Party or the Cabinet. I would like to quote a paragraph of a letter to the Editor in the *Advertiser* of 8 February 1994 on compulsory voting:

> Recent moves by the Liberal Government to ban compulsory voting in the State election must be viewed with dismay by all South Australians. People living in a democracy have a duty to participate actively in the system: whether by jury duty, defence of our country in times of war, or even in electing their own representatives.

In a letter to the Editor in the *Advertiser* of 14 February 1994 a gentleman from Foul Bay made the following comments. This is a contrary view but it is nice to put it on the record:

> I believe that unless you contribute to the economy of a country, you should not have the right to say how the country is run, which is essentially what voting does. . . It could be argued that, on polling day, all voters should pay $100 for their voting paper. This would eliminate the 'casual' voter and help pay polling expenses.

Certainly, everybody has the right in a democratic society to express their views but this view certainly seems to relate to ancient times. I suppose this gentleman has lived far away from civilisation for the past three or four decades.

My final comment on this issue is that it has been years since the Liberal Party in Government had a majority in both Houses of the Parliament. The danger of seeing this type of legislation going through is very remote and in this regard the voters of South Australia can take some comfort. In my view, the Government cannot push through to this Council this type of legislation. The Opposition will ensure that this Council is not a rubber stamp in considering the passage of this legislation and I am sure that that equally would be the attitude of the Australian Democrats who, by way of some reporting in the newspaper, have expressed their resistance to this proposal. I support the motion.

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

ADJOURNMENT

At 5.43 p.m. the Council adjourned until 16 February at 2.15 p.m.