LEGISLATIVE COUNCIL

Wednesday 30 March 1994

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the seventh report 1994 of the Legislative Review Committee and move:

That the report be read.

Motion carried.

The Hon. R.D. LAWSON: I bring up the eighth and ninth reports 1994 of the Legislative Review Committee.

STATE BANK

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of the State Bank of South Australia.

Leave granted.

The Hon. K.T. GRIFFIN: On the advice of the Crown Solicitor, legal proceedings have been issued in the Supreme Court today against Mr T.M. Clark and former directors of the State Bank, namely, Mr L. Barrett, Mr D. Simmons, Mr R. Bakewell, Mrs M. Byrne, Mr W.F. Nankivell, Mr R. Searcy and Mr A. Summers in respect of the acquisition by the State Bank of South Australia of Oceanic Capital Corporation. The insurer of the former directors has also been joined in the proceedings.

This is a discrete matter and proceedings are being issued now because tomorrow, 31 March, is the last day under the period of limitation on which the proceedings can be issued without seeking an extension of time from the court to enable that to be done.

The proceedings have been issued to protect the bank's position. The Government would have preferred to deal with all the matters relating to legal proceedings at the one time but accepts the advice of the civil litigation team that there is a risk in not proceeding with this matter now. There will be advice given to the Government by the litigation team over the next few months in relation to other potential legal proceedings.

The advice which has been received from the bank litigation team is that it is unwise to canvass the merits of the matter beyond making this formal statement in order to avoid any prejudice to the State's legal position. The relevant reference to the Oceanic Capital Corporation in the Auditor-General's Report, for the benefit of members, is in chapter 17 and on pages 103 to 111 of the final report of the royal commission.

JOBLING, MR DAVID

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of Mr David Paul Jobling.

Leave granted.

The Hon. K.T. GRIFFIN: On 24 and 29 March 1994, the Hon. C.J. Sumner asked me certain questions about the settlement of legal proceedings arising from the cancellation by the then Director-General of Education, Dr Eric Willmot, on 10 May 1992 of an artists in schools program to be run by Mr David Paul Jobling at the Jamestown Primary School pursuant to a contract between him and Carclew Youth Arts Centre. I propose to answer those questions in the course of this ministerial statement.

By way of a brief history of this long running case, I advise members that the Education Department became aware, through the media, well before May 1992 that Mr Jobling was suffering from the HIV virus. The community at Jamestown also became aware of this and it caused a degree of local controversy. Some parents at the school withdrew their children from Mr Jobling's program.

The Education Department, however, continued to support the program and Mr Jobling's part in it. On 10 May 1992, Dr Willmot was shown some material written by Mr Jobling while he was conducting a writing program for the Darwin Gay and Lesbian Society in November 1991. Dr Willmot later gave evidence that he considered that the material was very obscene, sexually violent and contained overtones of paedophilia. He considered that a person who would write such material was not a fit person to be in contact with young children in a primary school. I am sure the material has been widely circulated but for the record I seek leave to table that material.

Leave granted.

The Hon. K.T. GRIFFIN: Accordingly, Dr Willmot cancelled the program. Mr Jobling brought proceedings against Dr Willmot and the State of South Australia in the Equal Opportunity Tribunal in the latter part of 1992, alleging discrimination on the grounds of Mr Jobling's homosexuality and his HIV status. The tribunal, chaired by Mr Alfio Grasso SM, found in favour of Mr Jobling.

The tribunal was very critical of Dr Willmot's handling of the matter and found that he had discriminated against Mr Jobling on the basis of his homosexuality. The tribunal ordered Dr Willmot and the State of South Australia to apologise to Mr Jobling and the State to pay him a total of $60 000 by way of compensation.

I am told by the Crown Solicitor that the previous Government was kept fully informed about this case at all stages of the proceedings. It was understood that there was a significant degree of risk in proceeding to defend the case. Prior to the case commencing in June 1993 an offer was made to Mr Jobling for $40 000 to settle the matter. That offer was rejected.

Appeal proceedings were lodged on 13 December 1993 and the appeal was heard in the Supreme Court by his Honour Justice Prior in February 1994. The Solicitor-General, Mr John Doyle QC, conducted the appeal for the Government. He had previously advised the Government that there was an arguable case but success was by no means certain.

During the appeal Justice Prior called the parties into chambers and advised them of the desirability of settling the matter in the interests of all parties. He expressed concern about the health both of Dr Willmot (who was undergoing treatment for cancer) and Mr Jobling. He also expressed concern about the real likelihood that the appeal would not settle the matter and that continuing litigation, including a retrial, was quite possible.

All parties wished to avoid further litigation, and the prospect of a retrial was the worst possible outcome for all concerned. A retrial would have involved considerably greater expense, all of which would have been borne by the Government.

While the parties were awaiting judgment, discussions took place on settlement. The Government made an offer of

settlement and this was accepted by Mr Jobling. The offer was made on the advice of the Crown Solicitor.

The following arrangement was arrived at:

1. That Dr Willmot's appeal be allowed.

2. That the Education Department be given leave to withdraw its appeal.

3. That in consideration of the settlement arrangement Mr Jobling agree not to enforce any of the orders made by the Equal Opportunity Tribunal.

4. That the agreement be confidential between the parties.

I am advised by the Crown Solicitor that Mr Jobling was very anxious that the details of the settlement were to be confidential. He had for many months been the subject of unremitting media attention. He had reached the stage where it had become too much for him and was beginning to affect his health. The Education Department similarly felt that it was in the interests of its own officers, who had been witnesses, and in the interests of the Jamestown Primary School community that the matter be allowed to come to rest without undue further publicity.

I note that Justice Prior congratulated the parties on the settlement and expressed the view that the terms were fair and reasonable. After the judge had made the order settling the case, he took the unusual step of advising the parties that he would have allowed the appeal and ordered a retrial. I am advised by the Crown Solicitor that the judge apparently did so to reassure the parties that they had been wise to settle and thereby avoid a retrial and also to make it plain that he did not think that the reasoning of the Equal Opportunity Tribunal had been sound.

In answer to specific questions asked by the Hon. Mr Sumner, I reply as follows:

1. Question: Can the Attorney-General confirm that Justice Prior said that he had intended to order a retrial in this matter?

Answer: Yes, Justice Prior did say so.

2. Question: If so, why did the Government agree to settle the case?

Answer: In reaching its decision the Government was not privy to the private thoughts of Justice Prior. In fact, if it had known that a retrial was to have been ordered, the Government may still have been prepared to settle the case to avoid further litigation and the costs of that litigation.

3. Question: Will the terms of settlement be made public; if not, why not?

Answer: The Government considers that it should comply with the contract of confidentiality that it has entered into subject always to any overriding public interest. In this instance the sum of $40 000 was mentioned in this place yesterday. In these circumstances, the Government believes that it is now in the public interest to inform the Council that the settlement amount was for $40 000 payable to Mr Jobling and that it was agreed that no apology would be made by the Government to him. This Government does not believe in general in confidential arrangements involving public moneys. In this case, however, the case has received such massive publicity that the professional and personal interests of all the persons involved in it strongly militated in favour of confidentiality being maintained.

The Hon. C.J. Sumner: It is actually the other way. With such publicity going over several months, surely the result should be known.

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN:

4. Question: Why did the Minister allow the report in the *Advertiser* of last week, clearly an incorrect report, 'Teacher loses compo,' to go unanswered and uncorrected by the Government?

Answer: The Government was aware of its obligations under the confidentiality clause. It was up to Mr Jobling to correct any false or misleading implication that may have arisen.

QUESTION TIME

AYTON REPORT

The Hon. C.J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about the Ayton report.

Leave granted.

The Hon. C.J. SUMNER: On 4 March 1993, the Attorney-General, when in Opposition, tabled in the Legislative Council a submission to the Commonwealth Joint Parliamentary Committee on the NCA prepared by Superintendent Ayton of the Western Australian Police. The Attorney-General, Premier and Deputy Premier received the Ayton submission and used it for political purposes to pursue a campaign against the Labor Government and Genting. The Ayton submission was illegally disclosed following its presentation to the Joint Parliamentary Committee in May 1991.

This document was provided by the now Deputy Premier, Mr Stephen Baker, to the Attorney-General and the Premier. The Deputy Premier has said that he received the document from a substantive source. It is clear from the opinion of the Acting Solicitor-General of the Commonwealth, Mr Alan Rose QC, that the recipients of the submission may also have committed a criminal offence. It is also clear from this opinion and the general law that parliamentary privilege does not apply to the receipt of a document.

The Government members involved, that is, the Premier, the Deputy Premier and the Attorney-General, have all wrongfully claimed that parliamentary privilege covers this issue. Although the tabling of the document in Parliament ensures that privilege protects the members from defamation, including criminal defamation, the receipt of it outside does not attract any privilege. Certainly, if a criminal offence was committed parliamentary privilege would not protect either the source or the receiver of the document.

On 16 February 1994 the Attorney-General informed this Council that he had written to the Chairman of the Joint Parliamentary Committee on the NCA indicating that he and his other parliamentary colleagues 'did not receive the documents from the hands of members of Parliament who are past or present members'. On 24 February the Attorney-General claimed that the Deputy Premier had not given him any information about where the Ayton submission to the JPC had come from and that he did not know the source of it. Further, he said that he did not have any information about where it came from in respect of the Federal parliamentary committee. The Attorney-General said:

> I do not know the source from Canberra. I do not know how it got into Parliament House. Whether it came off the back of a truck anonymously or whatever, I just do not know.

On 24 February the Deputy Premier also claimed that he had not supplied either the Attorney-General or the Premier with

any information about the source from which he received his copy of the Ayton submission to the NCA.

On 9 March the other receiver of the illegally released submission, the Premier, denied that he knew the identity of the source who provided the former Opposition with the document and he also claimed that the Treasurer had not provided him with any information about the source of the submission. Mr President, it is clear that there is a significant discrepancy in the Attorney-General's version of events as provided to the Legislative Council. The question arises as to whether the Attorney has misled the House.

Members interjecting:

The Hon. C.J. SUMNER: We'll see. You will get your chance in a minute.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I repeat: the question arises as to whether the Attorney has misled the House. On the one hand, he is able to write to the Joint Parliamentary Committee on the NCA and say that the document did not come from a member of that committee. On the other hand, he says that he has no knowledge of where the document came from and was given no information by the Deputy Premier about it. Clearly, both statements cannot be correct. It is obvious that leaks from the NCA—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It is obvious that leaks from the NCA or from any Government or parliamentary committee supervising it are a serious matter. This has become even more obvious with the recent tragedy surrounding the bombing of the NCA office in Adelaide. Security leaks from parliamentary committees—

Members interjecting:

The Hon. C.J. SUMNER: I repeat: security leaks from parliamentary committees could enhance the possibility of criminal elements using information to undermine the law enforcement effort. There is a clear obligation on the Attorney-General and other Ministers concerned to come clean on this matter. My questions are:

1. Did the Attorney-General mislead the Council when he said on 24 February:

> I certainly do not have any information about where it came from in respect of the Federal parliamentary committee.

And later:

> I do not know the source from Canberra. I do not know how it got into Parliament House. Whether it came off the back of a truck anonymously or whatever, I just do not know.

2. If not, how did the Attorney-General obtain the information to enable him to write a letter to the Joint Parliamentary Committee on the NCA stating that he and his other parliamentary colleagues, including the Deputy Premier who knows the source of the information 'did not receive the documents from the hands of members of Parliament who are past or present members'?

The Hon. K.T. GRIFFIN: Mr President, they really are short of questions. This question has been asked about six times in different forms. We could see yesterday that the Opposition was struggling to find enough questions, and now they have come up with this regurgitated question about the Ayton report.

The Hon. R.I. Lucas: That was in the first week of the Parliament.

The Hon. K.T. GRIFFIN: That is right, it was in the first main sitting week of the new Parliament.

Members interjecting:

The PRESIDENT: Order! There is far too much background noise.

The Hon. C.J. Sumner: Come clean with the—

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: I have come clean with the Council: I have certainly not misled the Council in any way. I am surprised that the former Attorney-General can find no other question to raise of either me or the Government about matters affecting the public interest or the administration of the new Government. We must be doing pretty well if there are no other issues that might be issues of substance that could be raised with the Government.

The Hon. C.J. Sumner: The media seemed happy with the two matters I raised yesterday: they were both reported.

The Hon. K.T. GRIFFIN: Maybe they will also report the ministerial statements I made today. One day at a time.

The Hon. C.J. Sumner: All we want is an answer; you've got your opportunity now to tell us.

The PRESIDENT: Order!

The Hon. C.J. Sumner: Tell us.

The Hon. K.T. GRIFFIN: I am going to tell you.

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: If you keep quiet, I will tell you.

The Hon. C.J. Sumner: Good, I would like to know.

The PRESIDENT: Order! The Leader of the Opposition will desist.

Members interjecting:

The PRESIDENT: Order! I warn the honourable member. The Attorney-General.

The Hon. K.T. GRIFFIN: I have not at any stage misled the Council. The answers which I have given to these sorts of questions are quite accurate.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I do not know the source. The fact that I can write to the Federal Chairman of the committee is based on the fact that I have been told by others that that was not the source. I have not been told the identity of the source.

The Hon. C.J. Sumner: You said you did not have any information about the source from anywhere, that you had no information.

The Hon. K.T. GRIFFIN: I haven't. I have made a statement in the Parliament already that I have informed them that it was not from a present or past member of the parliamentary committee. That is on the record.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: I have not any information about who provided it, except that it was not—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Come on. You need to get back into the real world.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: Come on, it is not in the real world. The question has been regurgitated so many times.

The Hon. C.J. Sumner: You answer the question.

The Hon. K.T. GRIFFIN: I have already answered the question.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: You are really splitting hairs. I told you on the record that I have written to the Chairman

and I have told you that I have no other information about the source.

Members interjecting:

The Hon. K.T. GRIFFIN: I do not have any information. All that I am told is that it was not—

The Hon. C.J. Sumner: So, you were told something. It is the first time he has admitted that.

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: The Leader is casting around. It is a bit like bush lawyers; they seem to split hairs. There is no information about the identity of the source. I have not been told who the source is. So that is fine.

The Hon. C.J. Sumner: Will you inquire?

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Secondly, the Leader of the Opposition said that parliamentary privilege does not apply to the receipt of the information by the Premier—

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. C.J. Sumner: How can you say you did not get it—

The Hon. K.T. GRIFFIN: I have just indicated that to you. I do not know how often I have to say it to you: but I have already answered that. In terms of parliamentary privilege, what was said in Parliament and the receipt of that information in the context of the parliamentary process is privileged and I have certainly heard no more from anyone until the former Attorney-General now raises the issue, apparently because he is scratching around trying to find some questions. All that I have said is on the record. There has been no misleading of this Council or the media outside the Council.

WILPENA POUND

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Premier, a question concerning plans for the development of the chalet at Wilpena Pound.

Leave granted.

The Hon. CAROLYN PICKLES: Members will recall that the need to upgrade facilities at Wilpena was recognised by the Department of Tourism, following the survey in 1983 that revealed visitors' dissatisfaction with the existing facilities. As a result, the former Government purchased the Wilpena station pastoral lease in 1985 to provide a location for new facilities that would not only address the accommodation needs of the increasing number of tourists to the area but also allow issues of serious environmental degradation at the mouth of Wilpena Pound to be dealt with. While I accept the commercial realities of the Government's decision not to proceed with the development on the scale proposed by Ophix, I am concerned that the environmental issues associated with the redevelopment of the chalet at the old location are more serious and difficult to solve than would have been the case with a new development.

These issues include the impact of facilities located in the fragile environment at the entrance of the pound, visitor education and control, water supply, the disposal of sewage, control of fuel for vehicles and power generation, noise pollution, visual pollution from towers and the regeneration of seriously degraded areas. I note from yesterday's House of Assembly *Hansard* that the Minister for the Environment and Natural Resources is not concerned about an environmental impact statement. Therefore, what process will be undertaken by the Government to identify and resolve environmental issues associated with the Government's decision to redevelop the chalet at Wilpena Pound?

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

POLICE RESOURCES

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question about police resources.

Leave granted.

The Hon. R.R. ROBERTS: Today's *Advertiser* reports that 100 extra police will be made available in South Australia for a war on crime. The Minister for Emergency Services, Mr Matthew, was reported as saying that he was moving as fast as possible to redeploy more than 100 police officers who currently undertake non-operational duties. The Minister has also indicated that the redeployed officers will be used throughout the metropolitan area and will fully staff the new police station at Aldinga. I wish to bring to the attention of the Legislative Council the needs of people living outside the greater Adelaide metropolitan area, in particular those living in the Mid North.

Constituents have advised me of a situation in the Mid North where one police officer has been the sole Police Force in an area of 2 750 square kilometres since December last year, in an area normally staffed by two officers. I am also advised that last week this sole police officer was required to take over the responsibilities of another area as well, due to the absence of the area's existing police officer. I am told that this is not uncommon in many country areas of South Australia. My constituents believe that no relief is possible until July this year, and I am told that is due to budget constraints. Given that the thin blue line is being stretched to breaking point in country South Australia, my questions are:

1. Can the Minister assure country South Australians that police resources currently located in country areas will not be redeployed to the metropolitan area?

2. Will the Minister ensure that the war on crime will not be waged in Adelaide alone but throughout South Australia?

3. Will the Minister ensure that police staffing levels in country regions are increased in proportion to increases in metropolitan Adelaide?

The Hon. K.T. GRIFFIN: I will refer that question to my colleague the Minister in another place and bring back a reply. I think it is important to note that the Government is concerned to ensure that there is proper protection for the citizens of South Australia and not just for those in metropolitan Adelaide.

HINDMARSH ISLAND BRIDGE

The Hon. M.J. ELLIOTT: 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. M.J. ELLIOTT: The Government has repeatedly cited the potential for litigation as being the reasons why it must proceed with the Hindmarsh Island bridge. I have on a number of occasions, both in this place and outside, posed to the Minister the possibility that there may be negotiations which could allow the litigation to be

avoided, and certainly did so in questions I asked last Tuesday. Last Tuesday I sought to ascertain from the Minister not whether or not litigation was possible but whether or not the various parties had confirmed absolutely that they would proceed with litigation and whether or not the positions were negotiable in any circumstances.

I note that in today's *Advertiser* the Vice President of the Conservation Council, Mrs Margaret Bolster, is quoted, following a discussion she had with the Chief Manager, Westpac Loans Management, Asset Management Group, Mr Ashley Ayre, as saying that it was not the bank's call to sue. In fact, they are not in a position to sue at this stage, and I made that comment last week. The article states:

> 'He told me that Westpac wasn't in control and wasn't in a position to make demands,' she said. He kept saying it wasn't the bank's call and they weren't the main player, nor were they a party to sue.

The story went on to state:

> The threat of legal action has been cited as one of the main reasons the State Government decided to build the bridge.

I have also had discussions with Mr Ashley Ayre but will not repeat the substance thereof because he asked beforehand that those discussions be kept confidential. I do ask the Minister again: can she confirm whether she has had individual discussions with Westpac, by way of Partnership Pacific, with Binalong and with Built Environs Pty Ltd; and have they each indicated that they would sue, that they would sue in all circumstances, and that there is not another possible position along the lines which I suggested last week and which might not solve the major difficulties?

The Hon. DIANA LAIDLAW: I have not spoken to Binalong, as I indicated last week, although there has been a series of letters between Binalong's lawyers and the Crown Solicitor with Binalong in each instance claiming that, whether or not the bridge goes forward, they will be suing—

The Hon. M.J. Elliott: That is whether or not—

The Hon. DIANA LAIDLAW: Whether or not the proposed bridge goes ahead, they will be suing, and they will be doing so on the basis of discussions and commitments that they claim the former Premier (Mr Bannon) gave them on behalf of the former Government that a bridge would be built in 1992. So, that is their claim. It has not yet been lodged, but it is a claim that they have said in repeated letters to the Crown Solicitor, copies of which I have received, is their proposed course of action. They would also be claiming on the basis of loss of land sales and value of land because of the delays caused by the indecision of the former Government and not necessarily something for which we are solely responsible, although of course the current Government, on the base of Binalong's argument, would be in part responsible because we have suspended work further to explore every other possible means to get out of this bridge. I said the other day that it is not the Government's preferred option by any means.

With respect to Westpac, I have had discussions with it. It is true, just as Binalong has been saying, that there is a time bomb ticking away in terms of interest payments. Members will recall that the former Premier negotiated with Westpac a further $4 million loan in exchange for the bridge agreement.

The Hon. M.J. Elliott: Just get to the point of the question.

The Hon. DIANA LAIDLAW: I understand exactly what you are saying. I am just explaining the background. They claim that there is a time bomb ticking away in terms of interest on that loan which has not been met. What is missing in terms of the story today in the *Advertiser* and the information in the question asked by the honourable member is that I accept that Westpac itself may not sue in its own right. However, because of the precarious financial position of the developer, it would be open to a receiver (and this is the action that I believe Westpac and the receiver will take) to take action against the Government. That result would be the same as if Westpac itself had sued the Government.

As members would know from the earlier answer I gave to this place, there is a determination by the developer to sue the Government principally for the actions of the former Government and, whether it be Binalong or, if that company falls over and goes into receivership, the receiver, action would be taken against the Government.

I repeat that I understand in such circumstances that Westpac would be asked to be party to such an action. So, they would not be suing the Government directly but would be party to such an action. The result would be the same as if Westpac had sued.

The Hon. M.J. ELLIOTT: As a supplementary question, I think the Minister still has missed the point. I was not denying the presence of obligations. The question I put to the Minister last week was about an alternative to the construction of the bridge. I asked the Minister whether or not such matters have been raised with those parties separately; whether the Minister has spoken with those parties; and, if not, whether she is willing to pursue that option in the light of her stated belief that the bridge should not proceed.

The Hon. DIANA LAIDLAW: I am not too sure what the honourable member is trying to get at. I have indicated that there has been a series of discussions with Westpac. They will be ongoing, I presume, because Westpac is keen to keep the Government informed to some degree of what their position is in this matter. I have no intention to speak to Binalong, but the Crown Solicitor will do so because Binalong has said it will take legal action against the Government. In that environment, I will certainly not speak to Binalong. Binalong can speak to the Crown Solicitor if that is the way it wishes to conduct this matter, and that is the way it has suggested it wishes to conduct this matter.

In terms of Built Environs, we have a contract to build a bridge. It is a contract that we do not wish to proceed with in the sense that it is not our preferred option to have the bridge, but it is one which we have inherited and one with which the Government is determined it must proceed. There have been discussions, I understand, between Road Transport Agency, which negotiated this contract in the period of the former Government, and Binalong. I understand there are discussions between Road Transport Agency and Built Environs.

CIRKIDZ

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for the Arts a question about assistance to arts organisations.

Leave granted.

The Hon. ANNE LEVY: The news was broadcast this morning that Cirkidz, an arts organisation funded by the Government through the South Australian Youth Arts Board, is about to have its premises taken away from it by the Minister for Housing. Cirkidz has long received extra support from the Government in terms of cheap accommodation in, I think, the Thebarton council area.

The Hon. Diana Laidlaw: Hindmarsh.

The Hon. ANNE LEVY: Yes, Hindmarsh.

An honourable member interjecting:

The Hon. ANNE LEVY: Yes, they are at Brompton; is that Hindmarsh council? Woodville Hindmarsh, yes. The news today is that Cirkidz is to be deprived of its premises at the cheap rental that they had previously enjoyed. To many people involved it seems anomalous that through the Youth Arts Board they received Government money, yet another Government instrumentality will penalise them.

There is also the question of the writers' centre and its accommodation problems. The centre is not housed in Government property but the premises, where the centre has lived very happily for the past three or four years, has now been sold. The centre is on a month by month tenure, and it has been told that it needs to vacate the premises by the end of June.

The writers' centre is also, of course, funded through the grants program of the Department for the Arts. Currently, the centre receives a grant of $50 000 in round figures. The centre also receives about a similar sum from the Literature Board of the Australia Council, and the remainder of its budget, more than 50 per cent, is raised through its own efforts. It has had these premises at a very cheap rental of about $5 000 a year. It is now, of course, desperately looking for other premises and, while it does have a few options to consider, any costs involved will be at least five times the rent which it is currently paying if it has to take premises even at the lower end of the market in the private sector.

In those circumstances it would seem to me that for the centre to remain viable there will need to be an increased grant from the Government to help it pay a 500 per cent increase in its rental costs. My question is whether the Minister, through the good offices of her department working with other Government agencies, would be able to find Government accommodation, both for Cirkidz and for the writers centre, taking into account the particular requirements of the two organisations, which could be obtained at reduced rents, given that quite a number of properties are currently vacant. It would also be a measure of support for these organisations which are, as I say, already supported by the Government if the Government could give them assistance with their accommodation needs.

I understand Cirkidz wishes to remain in the Hindmarsh area or close to it. The writers' centre certainly needs to be centrally located as people attend the centre from all over the metropolitan area. The centre also needs to be handy to public transport, as many of its members do not have their own transport. Can the Government give assistance, perhaps making Government property available to these two organisations, so that they do not find themselves in the streets?

The Hon. DIANA LAIDLAW: I agree with the Hon. Anne Levy that it would be totally unacceptable to find both organisations in the street or high and dry because of their current accommodation problems. I have been working with both organisations to reach a satisfactory conclusion to their problems.

In respect of the South Australian Writers' Centre, the honourable member would be aware that it has been on the move for some years now and has been in the current building, which I think is in Pirie Street, for a number of years. That building has been sold. We were exploring an option for the writers' centre to buy that building; we have also explored the option of the centre's moving into the Torrens building—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: That is right. The Torrens building will not be ready in June and, because of that June date, we are now having to look at further options, one of which is accommodation on North Terrace, and that is being actively considered. I gave authority on Monday for further work to be undertaken on that option. I can assure the honourable member that officers within the Department for the Arts and Cultural Development are working diligently on this matter and they are in turn working with Treasury.

Rental, in terms of the current site of the writers centre, is $8 000 per annum. Any alternative accommodation option we have looked at to date comes to much more than that. For instance, the Torrens building was about $22 000. So it is not just a matter of finding accommodation: it is also a matter of working with Treasury to determine whether the shortfall can be met.

In terms of Cirkidz, I have been one amongst many honourable members, I expect, who have enjoyed its performances over the years. My nieces and nephews are now also enjoying them. I am keen for Cirkidz to find an appropriate venue. Cirkidz has been in its premises in Brompton for about nine years. It has been paying $1 per week rental to the South Australian Housing Trust over that period. It might be all that Cirkidz could afford, but it certainly has been a very generous rent, and the Government has been pleased to subsidise it for all that period of time.

The Hon. C.J. Sumner: The former Government.

The Hon. DIANA LAIDLAW: The former Government, and the present Government is subsidising that at the present time.

The Hon. C.J. Sumner: Now you are kicking them out.

The Hon. DIANA LAIDLAW: Well, if you saw the state of the building you would wonder how you could allow them to stay in that building. It is unfit and it is an absolute—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: They will not be on the street. Minister Oswald has authorised the South Australian Housing Trust to dispose of the site by sale to an adjoining landowner for industrial development, and contracts will be finalised shortly. Cirkidz has corresponded with me; messages have come to my office; and I, in turn, have spoken to Minister Oswald.

As a matter of urgency the Minister is examining other options. The options that Cirkidz wish pursued are not confined to Brompton but involve the western area. Cirkidz has indicated properties at Port Adelaide, some of them in the Port centre area—even wharf frontage and sheds. Minister Oswald and I are pursuing other options at the present time, and we have given undertakings to Cirkidz that it will not be out on the street; that the Government will be continuing support, including subsidy for accommodation for Cirkidz in the future; and, as a matter of urgency, we are endeavouring to find an alternate site for them. I repeat that the current site is even unfit at $1 a week, and I am pleased to be part of initiatives to help Cirkidz find more suitable accommodation.

LEGAL AID

The Hon. A.J. REDFORD: My question is directed to the Attorney-General. What are the guidelines of the Legal Services Commission for the granting of legal aid in matters relating to matrimonial property, access and custody?

The Hon. K.T. GRIFFIN: I do not have that information at my fingertips. The guidelines for the granting of legal aid

are fairly tight as they were also under the previous Government, but I will endeavour to obtain the information and bring back some detail.

Last week or the week before the Legal Services Commission released a new handbook which, among other things, contains information about all the guidelines. It is a very comprehensive manual. I understand that members of Parliament are to receive a copy free of charge to assist them in understanding what the practices and procedures of the Legal Services Commission will be and have been. That should help in appreciating the limitations imposed upon applicants for legal aid, whether for family law or other matters.

AUSTRALIANS AGAINST FURTHER IMMIGRATION

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Multicultural and Ethnic Affairs, a question about an organisation calling itself Australians Against Further Immigration and the voting patterns that recently occurred in several Federal by-elections in favour of that organisation.

Leave granted.

The Hon. T. CROTHERS: In a question that I recently asked in this place of the Hon. Mr Stefani, referring to the state of affairs which then existed between Slavic Macedonians and Macedonians of Greek heritage—

An honourable member interjecting:

The Hon. T. CROTHERS: I will come to that—I made the following points:

> There is no doubt that these tensions have led to some unfortunate acts by individuals in Australia. They include incidents in Victoria where churches have been fire-bombed and where a small-scale riot erupted at a soccer game.

I then go on in the next paragraph to say:

> These acts should be condemned by all who cherish the nature of Australia's multicultural society.

Those were prophetic words considering that further incidents have also occurred and, indeed, recently there has been a series of violent events here in Adelaide which involved a group purporting to be neo-Nazis beating up a number of South Australians who just happened to be within striking distance of them in Rundle Mall.

This activity prompted, in my view rightly so, an editorial in the *Advertiser* on Tuesday 29 March. That editorial was headed, 'Politicians playing with fire.' The editorial commenced:

> A worrying subplot emerged during the spate of just-concluded Federal by-elections. That is, it is worrying to those who believe in a peaceful, diverse Australia, independent but integrated with Asia.

In the very next paragraph, the editorial goes on:

> An organisation calling itself Australians Against Further Immigration (AAFI) mounting cheap, grass roots campaigns, polled surprisingly well.

In fact, the article is so revealing that it is almost as if the editor—not Samela Harris, she of the egg on my face statement—had read my previous questions to the Hon. Mr Stefani.

My questions then, in the light of the foregoing, I would address to the Minister, and I trust that on this occasion they will be answered much better and more correctly than they were the last time I raised a series of similar questions on these subject matters.

The Hon. J.F. Stefani interjecting:

The Hon. T. CROTHERS: Mr President, the Hon. Mr Stefani keeps interjecting all the time, putting me off my rhythm. I would ask you to direct him to observe the natural courtesies that exist at least in this place, if not in other places that he frequents.

The PRESIDENT: Order!

The Hon. T. CROTHERS: My questions are:

1. Does the Minister agree with the *Advertiser* editorial that politicians are playing with fire and the editorial's assertion that:

> It is imperative that all mainstream parties repudiate them and resist temptations by opportunists to use them for advantage. To yield to that would be to ride the tiger.

2. Does he agree with that part of the editorial which states:

> There always has been the potential for multiculturalism to turn into poisonous ethnic tensions, with the current rage among Macedonians as the latest manifestation.

3. Does the Minister agree with the *Advertiser* editorial assertion:

> Such groups also can do Australia great harm abroad, especially with our major regional trading partners.

4. Does the Minister believe, as most, if not all, ethnic community leaders have said, that all politicians who would seek to use ethnic tensions and differences to their political advantage would best serve all Australians' interests by ceasing and desisting from those tactics? Thank you for your protection, Mr President.

The PRESIDENT: The Minister for Education and Children's Services, and do not interfere with the honourable member's rhythm.

The Hon. R.I. LUCAS: I promise not to interfere with the Hon. Mr Crothers' rhythm or, indeed, anything.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I promise to keep a long way from the Hon. Mr Crothers.

The Hon. T. Crothers: Very wise, too.

The Hon. R.I. LUCAS: A long way. It does not surprise me that the questions asked by the Hon. Mr Crothers are photocopied by the editor of the *Advertiser*. I am sure that he places them on all the notice boards throughout the *Advertiser* building to ensure that all *Advertiser* journalists are aware of the quality of the questions that the Government is getting from Opposition members in this Chamber. That is a matter that we touched on yesterday and that the Attorney-General touched on again earlier in Question Time today.

The honourable member has directed a series of questions to the Minister for Multicultural and Ethnic Affairs and I shall be pleased to refer those questions to him. However, I think that a number of the matters that the honourable member has sought to link together through previous questions in this Chamber, through attitudes to a number of current issues and to *Advertiser* editorials ought not to be linked in the way that the honourable member has sought to do. However, I am sure that the Minister, when he replies to these questions, will make those points in the responses.

SOUTH ROAD TRAFFIC LIGHTS

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport a question about the location of a set of traffic lights on Main South Road at O'Halloran Hill.

Leave granted.

The Hon. SANDRA KANCK: The lights in question are located on Main South Road at the intersection of Lander and Candy Roads at a place known as Fountain Valley at O'Halloran Hill. A regular user on that road has informed me that the location of the lights is causing heavy vehicles major problems on this road.

The problem is that the lights are placed halfway along a steep rise in the road causing large vehicles to brake should the lights turn red, and, having once stopped, causing difficulties for the heavy vehicles to start moving up the hill again. Whilst small cars can stop and start on this angle with minimum problem, a number of the large vehicles experience major problems.

The types of large vehicles that use these roads include triple deck trucks carrying livestock, school buses and other coaches, horse floats, large container trucks carrying anything from milk to dangerous liquids—

The PRESIDENT: Order! There is far too much background noise.

The Hon. SANDRA KANCK: —and trucks carrying loads of produce, such as sand. A regular driver of a heavy vehicle on the road has informed me of four main problems. First, there is the problem of pollution. Because of the continual braking and anticipation of the lights turning red and the amount of energy required to start up the heavy vehicle, a greater amount of pollution is emitted into the atmosphere than otherwise would be necessary. Secondly, there is the problem of lack of fuel efficiency. The amount of fuel required to move a large vehicle uphill from a standing start is greater than otherwise would be necessary. Thirdly, the aspect of safety arises. As the road is a main road the unexpected braking of the vehicles is a potential road hazard, particularly for buses carrying passengers without seat belts, such as school buses. Fourthly, there is cost to users of the road. Stopping and starting again uphill causes wear and tear costs to the owners and operators of the heavy vehicles and, in the case of livestock carriers, bruising of livestock can occur owing to their being thrown around in the truck. My questions are:

1. Is the Minister aware of the problems occurring at this location and, if not, will she investigate the matter and report back?

2. Does the Minister ensure that her department takes into account the impact of fuel efficiency, pollution, safety and cost to users when planning the location of lights, pedestrian crossings, stop and give way signs and the general construction of roads?

The Hon. DIANA LAIDLAW: I am aware of the problems at the location, as have been identified through the local member and also in correspondence, and I have sought a report from the department on the matters raised. In relation to planning for the location of lights and pedestrian crossings, Australian standards have been developed over some time which are the minimum standards to be met and which generally relate to traffic or pedestrian movements. Those standards have been a source of agitation between me and the department both when in Opposition and now in Government, because they seem to be so inflexible in meeting community needs. As they have been developed by engineers I suspect they do not take into account the environmental concerns that the honourable member has mentioned. However, I will make inquiries about that matter. Those standards are not solely adopted in South Australia: they are Australian standards, and they would have to be amended if that was deemed necessary.

CRIME PREVENTION

The Hon. C.J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about crime prevention.

Leave granted.

The Hon. C.J. SUMNER: In 1989 the former Labor Government established a comprehensive crime prevention strategy, which involved the community in assisting police to combat crime. A long-term commitment with funding of $10 million over five years was made by Labor. This saw the establishment of a number of innovative crime prevention projects, including the establishment of 22 local crime prevention committees around the State. These committees involve representatives of local government, the police and community groups and were designed to develop crime prevention programs tailored to the local needs.

During the last election, Labor recommitted itself to the continuation of the crime prevention strategy by way of a further $10 million over the next five years. The former Labor Government also instituted a review of the strategy, to be designed to recommend future directions for the programs. Despite this the Labor Government was firm in its commitment that crime prevention and safer communities cannot just be the responsibility of the police; this must involve the police operating with the support of community groups. The experience in Australia and overseas is that, if we just rely on the police, courts and sentences to deter crime, this will not, on its own, be successful. Labor reaffirmed its commitment to the continuation of these programs. As part of the program a community crime prevention committee was established in Elizabeth and Munno Para.

My question to the Attorney-General is: will the Government guarantee the continued funding of community crime prevention committees and, in particular, continuing funding of the crime prevention committee in the Elizabeth and Munno Para area?

The Hon. K.T. GRIFFIN: I am not sure why that particular committee is being picked on. I have had an invitation to go there, but each time it has clashed with either Parliament, Cabinet or some other meeting. I think I have given a commitment to attend to meet it sometime during the parliamentary recess because I understand that people are working together as a very good community group on crime prevention issues.

As the Leader of the Opposition has indicated there is an extensive review being undertaken at present, not internally but externally conducted through LaTrobe University from memory. That was a commitment, which became a legal commitment under the previous Government and, quite obviously, it is not in our interests to not proceed with that review. As I understand it, since the beginning of the end of last year there have been a number of discussions by the review team with a variety of people, with myself, members of the crime prevention unit, members of Parliament and people involved directly and indirectly in these local crime prevention groups. When the report has been completed a reference group will be formed, and that will determine from the assessment the effectiveness of those particular crime prevention programs. We have certainly indicated that all commitments made to the present time will be honoured in relation to the various crime prevention projects. We are in fact examining several other crime prevention initiatives following our policies announced during the election

campaign, but we are not in a position yet to make any final decision about those.

In relation to the longer-term commitment no consideration has been made as to the five-year commitment. I do not disagree that there must be some longer-term view taken about crime prevention but that is a decision that we will take when we have examined the results of the review process. We are supportive of community groups working in respect of crime prevention programs involving police and other members of the community. In the emergency services policy released prior to the last election we referred specifically to the Safer Cities program, which overlaps with the crime prevention programs that the former Attorney-General referred to. So, there is a significant amount of bipartisan support for crime prevention programs as one of the directions that ought to be taken in limiting the growth of crime in the community and not relying solely upon police. Of course policing is important, but it does need to involve the community. I cannot give an unqualified guarantee about what might happen in five years' time, but this Government is supportive of community crime prevention programs.

TRANSIT SQUAD

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister for Transport a question about police on public transport.

Leave granted.

The Hon. M.S. FELEPPA: The Minister for Emergency Services, Mr Matthew, is quoted in this morning's *Advertiser* as saying that some of the 100 non-operational police officers to be redeployed in the metropolitan area were now operating with the Transit Squad on buses, trains and trams. Given that, when in Opposition, the Minister claimed that the Adelaide public transport system was a mobile crime centre and that it was only brought under control with the appearance of uniformed police on buses, trains and trams it seems strange to now announce that they will be taken off the public transport system.

A fear is held by some members of the community that in future we will not see neo-Nazis jack marching along Rundle Mall but, instead, using the public transport system, in order to save their boot leather. My questions are as follows:

1. Does the Minister agree with the decision by the Minister for Emergency Services to remove uniformed police officers from the public transport system?

2. Can the Minister assure public transport users that the current level of security and safety will be maintained, given the removal of uniformed police from the public transport system by her colleague the Minister for Emergency Services?

The Hon. DIANA LAIDLAW: I have not seen the article to which the honourable member refers but, if such an article has been written, it has no basis, because the State has just agreed to invest $1.2 million in the first year as part of a staged program to transfer control and responsibility for policing the STA system to the police. A dedicated division has been established within the Police Force in South Australia and the first 20 special constables who have been working for the past few years with the Transit Squad of the STA have been accepted and graduated through their course at the Police Academy. I attended that graduation in February.

So, we have the agreement that Cabinet reached that over the next 2½ years there will be a gradual transition so that the police alone are responsible for policing the public transport system in South Australia. So, far from the suggestion that we are getting rid of police presence, we are in fact enhancing the system of safety and security on our trains and buses. About two weeks ago I visited the Noarlunga Interchange and spoke to bus operators, train drivers and shopkeepers, and it was quite clear that the decision the Government has made has won enormous respect from all groups with whom I spoke. All the people at the interchange and at the neighbouring shops indicated that behaviour on trains has improved markedly since there has been this police presence. The last thing we would be doing is getting rid of the police presence when we have just agreed to invest $1.2 million in it. I regret that I did not see the article. If I had, I would have been able to make a statement earlier in this place to refute that article. I thank the honourable member for giving me the opportunity to do so.

EUROPEAN WASP

In reply to **Hon. M.S. FELEPPA** (22 February).

The Hon. K.T. GRIFFIN: The Minister of Primary Industries has provided the following responses:

From 1985 to 1988, the Government (via the European wasp Liaison Committee) ran an awareness program on the European wasp. The aim of this program was largely to educate the general public and personnel from certain organisations about the biology, control and social consequences of European wasp. Printed information (fact sheets and posters) was widely circulated throughout the community and technical workshops for specialist groups (local government employees, other State Government employees, pest control operators) were run throughout the State. At the time, most of the metropolitan area was free of the wasp and this may have reduced the impact of the campaign. Currently many sections of the community in metropolitan Adelaide are experiencing European wasp for the first time and there has been an upsurge in inquiries concerning the wasp. The information that the general public require to deal with the wasp is available and by cooperating with local councils it is possible to successfully suppress the numbers of the wasp in South Australia.

The likelihood of a plague of European wasp developing in the farming areas of South Australia is extremely low. The biology, behaviour, feeding habits etc are such that wasps are very unlikely to establish in crop or pasture paddocks. They are more suited to establishing in residential areas or heavily vegetated areas where the availability of nesting sites, food and water favour their survival. As they are social insects and only forage distances 400-500 metres from a nest, there is no chance of them forming swarms and moving large distances like other insects. Currently European wasp numbers throughout most of the metropolitan areas are the highest that have been experienced since it was first discovered in South Australia in the late 1970s. However, with an alert general public working in with councils there is no reason to believe that their numbers cannot be suppressed.

EGG INDUSTRY

In reply to **Hon. M.J. ELLIOTT** (8 March).

The Hon. K.T. GRIFFIN: The Minister for Primary Industries has provided the following responses:

The Minister is aware of the current problems in the egg industry which appear to be the result of overproduction of eggs and continuing strong competition for market share. However, the Government has no influence over the commercial decisions of egg producers.

The Minister has previously indicated that a range of financial assistance measures is available through Rural Finance and Development, Primary Industries (SA). Anyone requiring information about these measures should contact the Rural Finance and Development in the Department of Primary Industries.

Administratively determined minimum egg prices would not have a beneficial effect on farm gate egg prices in South Australia. The pricing arrangements in the dairy industry are included in the Dairy Industry Act 1992 and are effective because there is national agreement regarding milk prices. The egg industries in Victoria and New South Wales are deregulated and there is no national agreement

on egg pricing. Both States currently have an over supply of eggs and there is nothing to stop their surplus eggs being sold in South Australia. Any attempt to set egg prices administratively would be unlikely to succeed because higher egg prices in South Australia would cause retailers to source cheaper eggs from other States and result in local producers losing market share and create greater difficulties for the industry in South Australia.

WIESE, HON. BARBARA, LEAVE OF ABSENCE

The Hon. G. WEATHERILL: I move:

That two days leave of absence be granted to the Hon. Barbara Wiese on account of illness.

Motion carried.

CANCER

The Hon. BERNICE PFITZNER: I move:

1. That recognising the importance of screening for cancer of the cervix, and noting the Rome report's recommendations on:
   —Pap smear taking and reporting;
   —Laboratory quality assurance;
   —Notification of results, follow-up and management of abnormalities;
   —Cervical cytology registries;
   —Medico-legal issues in relation to aspects of cancer of the cervix prevention practices,
   this Parliament calls on the Federal Government to make the implementation of the report a matter of priority.
2. That this motion be communicated to the Prime Minister as a matter of urgency.

This motion was prompted by the story in the *Advertiser* that a woman with bleeding per vagina had a cervical smear done, the Pap smear test. It is called the Pap test because the technique was discovered by an American-Greek physician by the name of George Papanicolaou. The smear was found to be negative, meaning that there were no cancer cells found. Later, this woman was found to have cancer of the cervix. This situation is tragic. The result is said to be a false negative. It was also reported that a professor of obstetrics and gynaecology stated that this screening test can produce 10 to 50 per cent of these false negative results. If this is correct, then the chances of getting the wrong result of the status of the cervix is 1:10 at best, or 1:2 at worst. Imagine, the smear test for cancer of the cervix can be wrong in one out of two cases. Further, the enormity of the whole situation is that the woman then has a false sense of security that all is well, when there is a high chance that this is not so.

Of course, there are situations in the test for cancer of the cervix when there are false positives. This is the situation when the test is reputed to show cancer cells when in fact there are no cancer cells present. The poor woman then has to go through agony waiting for the results of further tests to show that in fact she is perfectly all right. It has been raised that this test is a screening test and not a diagnostic test. This means that in a diagnostic test when the results show positive the status of the organ is positive and vice versa. In a screening test the hit rate—that is, when the test is called positive, it is positive, and when it is called negative, it is negative—is not expected to be 100 per cent; however, the hit rate must be significantly high.

The hit rate is technically described as the specificity and the sensitivity of the test. The specificity of the test is when the result is called negative and the status of the organ is negative. This specificity should be expected to be in the high 90 per cent range. The sensitivity of the test is when the result is called positive and the organ status is positive. This sensitivity should be expected to be in the high 80 per cent or 90 per cent range. These figures I have chosen are high, because to miss a disease condition, in this case cancer of the cervix, leads to a disease that has a high mortality rate. I have just explained the internal validity of the test itself, done under expert and ideal conditions. However, other factors affect a screening test.

The main factors affecting the Pap test are how the smear is taken (and this is usually done by the general practitioners) and how the smear specimen is read—usually by a pathologist. However, this may vary. The rationale behind the Pap test is that before cancer of the cervix becomes established the cervix will show cells that are abnormal—a pre-cancerous condition—and it is at this early stage that one hopes to identify the condition, as treatment is then more effective. Therefore, if the Pap smear is done properly and expertly, it is a most effective tool to identify and therefore prevent cancer of the cervix.

The Pap smear was started 30 years ago in the 1960s, and there are now some serious doubts as to whether the whole screening test procedure is done as well as it should be. It is without doubt that if it is done properly the resulting prevention of cancer of the cervix is beneficial—indeed, life saving. However, if it is done poorly in some cases it is almost better not to have done the test at all. This concern must have been identified when a steering committee was formed which was known as the Cervix Cancer Screening Evaluation Steering Committee and which reported in 1991 to the Australian Health Ministers Advisory Council. The report was heavily biased towards the cost effectiveness of the screening test, although the general terms of reference were, first, to ensure the adequate contact of and to give direction to the Screening Evaluation Coordination Unit of the Australian Institute of Health and, secondly, to advise the Australian Health Ministers Advisory Council on the various policy aspects of developing national strategies for extensive screening programs.

The report identifies the incidence of cancer of the cervix as the sixth most common cancer in women. It affects the younger group of women, so its personal and social impact is relatively high. It is estimated that the risk of developing cancer of the cervix is one in 64 in the age range of 20 to 64 years. In 1985 there were estimated to be 1 037 new cases of cancer of the cervix. The highest incidence rates are in the age group of 60 to 69, but the greatest number of cases occur in women in the age group of 30 to 39, as there are more women in this age group.

The report entitled 'Option for change' identified numerous problems. Under the title 'Proper design', the issue identified was the absence of a framework for cervical cancer screening to ensure that the achievement of goals and targets is optimal for the moneys expended. Under the title 'Coverage of the target population', the issues identified were lack of agreement on an age group for screening, lack of agreement on rescreening intervals and absence of a budget and responsible body to ensure high coverage, etc. Under 'Services', the issues or concerns identified were that public standards are declining for laboratory reporting of Pap smears and training of technicians and pathologists and that there

was absence of fail-safe procedures for abnormal follow-ups. Under 'Monitoring and quality control', the issue identified was lack of data to enable assessment of screening rates. There were no comprehensive data on the accuracy of the tests and there was lack of evaluation and monitoring of cervical cancer screening activities.

Three options for change were suggested, and the preferred option was to augment existing screening with an organised approach. That report suggested seven recommendations. Very briefly, they were:

1. The introduction of an organised approach, said to be essential.
2. Funds should be made available to improve screening coverage.
3. Cancer cytology registries should be established.
4. Ages for screening to be recommended.
5. Ongoing monitoring should be routine.
6. Continuing education for practitioners should be mandatory.
7. Laboratories should be accredited, etc.

This report, 'Option for change' of 1991, did not seem to be taken up, as another report, called the Rome report, was available in March last year. This report was available a year ago by yet another steering group on quality assurance in screening for the prevention of cancer of the cervix. Its terms of reference were: in conjunction with the Royal College of Pathologists and the National Pathology Accreditation Advisory Council, they were requested to review the current cytology quality assurance program and assess its strengths and weaknesses.

Secondly, in conjunction with the National Association of Testing Authorities, Australia, they were required to examine the current cervical cytology laboratory inspection process and to obtain data on current standards and estimate confidence limits. The third was to identify appropriate and achievable standards of cervical cytology, including minimum levels of specificity and sensitivity. The fourth was to develop a national strategy for achieving compliance with those standards.

The fifth term of reference was that the strategy should address the accreditation system, standards of professional qualification, training and experience for Pap smear taking. The sixth was criteria for the provision of comprehensive, timely and efficient services to practitioners and the seventh was measures to improve and monitor day-to-day testing and reporting. The eighth was provision of data to support regional and national monitoring systems, including research programs, on issues such as participation rates, adequacy and accuracy of tests and incidence of abnormalities.

It also states that the strategy should address feedback to PAP smear takers and mechanisms to keep them informed of developments in PAP smear taking and cervical cytology; reporting standards for abnormalities; coordination with general practitioners, recruitment and recall services, registries (where operating) and the individuals; and fail-safe systems to ensure follow up of abnormal PAP smears, a very similar story to the report two years ago. This particular Rome report is perhaps an improvement on the Options for Change report, as its emphasis is more on quality assurance rather than economics.

Some more important points in the Rome report include PAP smear taking. PAP smear takers must be competent in sampling techniques as it is essential that a cell sample is obtained which is representative and suitable for cytological examination. To ensure practitioners are appropriately trained in this field, they should be educated at both undergraduate and postgraduate level in cancer of the cervix prevention. To allow evaluation of cancer of the cervix prevention efforts screening rates need to be monitored.

Regarding PAP smear reporting, cytologists and cytotechnicians require specific and thorough training, as well as ongoing education and evaluation of their work to ensure that the highest standards are met and maintained. The cytological criteria necessary to make a diagnosis for a given classification of abnormality should be standardised between laboratories so that the same PAP smear reported from any two laboratories is indicative of the same abnormality.

Under the title of 'Laboratory quality assurance', the procedures and indices used by laboratories in internal quality assurance measures are variable, and the report calls for more extensive and more rigorous accreditation requirements to be set by the National Pathology Accreditation Advisory Council and to be adopted by the National Association of Testing Authorities and the Royal College of Pathologists in Australasia.

Under the title 'Notification of results, follow up and management of abnormalities', the results of a woman's PAP smear should be made available to her in a clear, timely and sensitive manner, and any necessary follow-up undertaken. PAP smear takers are responsible for ensuring that they have in place appropriate arrangements for notification of results and follow-up. Where the detected abnormalities are minor, women can be treated by general practitioners. More serious abnormalities are principally reviewed and treated by gynaecologists who need to practise acceptable standards of colposcopy and treatment.

Under the area of cervical cytology registries, the report states that the compilation of PAP smear reports by cervical cytology registries serve many functions and can add an important dimension to quality assurance practices. Registries are uniquely placed, first, to obtain and provide complete PAP smear histories for individual women which aids PAP smear reporting; secondly, to review the comparative results of different laboratories; and, thirdly, to provide information and infrastructure for lapses in follow-up and recall of women with abnormal PAP smears and remind women with normal PAP smears to present for rescreening if they have not returned at the recommended interval.

Under the title of 'Medico-legal issues', there are a number of medico-legal issues in relation to aspects of cancer of the cervix prevention practices which are controversial and are of particular concern to all those involved in cancer of the cervix prevention. The steering group recommends that a meeting of the relevant parties be convened by a national organisation, such as the Australian Cancer Society, to address these serious and significant medico-legal issues.

Therefore, it can be observed that the proper implementation of a screening program for the prevention of cancer of the cervix by the PAP smear technique is no mean task. Two major reports have identified the difficulties, the gaps and the weaknesses. To date, nothing of significance has been put in place. We needed these tragic cases to remind us of the crucial importance of doing the screening test properly.

For the sake of the women of Australia, I urge my colleagues to support this motion that this Parliament calls on the Federal Government to make the implementation of the Rome report a matter of priority, and that this motion be communicated to the Prime Minister as a matter of urgency.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

SELECT COMMITTEE ON THE CONTROL AND ILLEGAL USE OF DRUGS OF DEPENDENCE

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

I. That a select committee of the Legislative Council be established to consider and report on—

(a) the extent of illegal use of drugs of dependence and prohibited substances;

(b) the nature and extent of illegal use of drugs of dependence and prohibited substances;

(c) the effectiveness of current drug laws in controlling trafficking in prohibited substances and drugs of dependence;

(d) the cost to the community of enforcement of the laws controlling trafficking in prohibited substances and drugs of dependence;

(e) the impact on South Australian society of criminal activity arising out of substance abuse and trafficking in prohibited substances and drugs of dependence.

II. That Standing Order 389 be suspended to enable the Chairperson of the committee to have a deliberative vote only.

III. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

IV. That Standing Order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

V. That the evidence to the Legislative Council Select Committee on the Control and Illegal Use of Drugs of Dependence be tabled and referred to the select committee.

It is not my intention to speak at length to this motion because it is essentially identical to a motion I moved a couple of years ago, following amendment by the Hon. Mr Weatherill, to have a select committee established. I was a member of that select committee and at the time of the last State election the committee was in the process of drafting a report. I consider that since that much work has gone in, and we had made such progress, it really is incumbent upon this Parliament to give an opportunity for that report to be brought forward.

I believe that four of the five members of that committee are still in this Chamber, so I do not think it is a great difficulty for further progress to be made on that. I for one have made it plain for a long time that I do consider a need for thorough examination of the current drug laws in South Australia, to look at whether or not they are achieving the goals for which they were first set up; whether or not other costs are involved in relation to policing of drug laws, which are not immediately apparent; and whether or not the drug laws have any impact on the level and type of criminal activity in South Australia.

So, the matter is an important one, and I hope that in the light of the substantial progress that the previous committee had already made the Legislative Council will support this motion to enable a select committee to be established so that the report will be brought forward.

One other point which is important is that paragraph V of the motion allows for the evidence received by that previous committee to be tabled so that it can be referred to the select committee that I am proposing be set up. I urge the Council to support the motion.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

BUSHFIRES

Order of the Day: Private Business No. 2: Hon. R.D. Lawson to move:

That regulations under the Electricity Trust of South Australia Act 1946 concerning bushfire risk areas—clearances, made on 30 September 1992 and laid on the table of this Council on 6 October 1993, be disallowed.

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

That this Order of the Day be discharged.

Order of the Day discharged.

SELECT COMMITTEE ON THE PENAL SYSTEM IN SOUTH AUSTRALIA

Adjourned debate on motion of Hon. Bernice Pfitzner:

That the evidence given to the Legislative Council Select Committee on the Penal System in South Australia be tabled and made available to the Social Development Committee for the purpose of its inquiry into HIV and AIDS.

(Continued from 9 March. Page 188.)

The Hon. CAROLYN PICKLES: I move to amend the motion as follows:

Leave out the words 'the evidence given to' and insert 'certain of the minutes of evidence and documents presented to'.

After 'AIDS insert the following—

'viz.:—

Minutes of evidence of—

Mr J. Dawes, Executive Director, Department of Correctional Services;

Mr G. Strathearn, Chief Executive Officer, and Dr R. Ali, Director, Treatment Services, Drug and Alcohol Services Council;

Ms. N.A. Bloor, Coordinator, Health and Welfare Services, Department of Correctional Services;

Dr C. Liew, Director, Prison Medical Service;

Professor P.J. McDonald, Chairperson, Commonwealth AIDS Research Grant Committee;'

and the following documents—

Written submission by Ms N.A. Bloor, Coordinator, Health and Welfare Services, Department of Correctional Services;

Written submission by Department of Correctional Services entitled 'Correctional Drug Strategy';

Written submission by Department of Correctional Services (Director's instruction No.151) entitled 'Prisoner urine Sampling' and Appendix;

Letter dated 14 July 1993 from Mr M.J. Dawes, Executive Director, Department of Correctional Services;

Written submission by Dr C. Liew, Director, Prison Medical Service; and

Written submission by Drugs and Alcohol Services Council, dated August 1991.

Since the substantive motion was moved by the Hon. Dr Pfitzner, as Chair of the Social Development Committee, to try to obtain some further information about HIV/AIDS in relation to the penal system, the committee has further considered this matter and has realised that there is some disquiet amongst some members of the former select committee in relation to having all the evidence tabled before the House.

Therefore, the Social Development Committee has ascertained which evidence could be of some use to it in relation to this matter, and it is therefore itemising those particular aspects of the evidence and submissions that it wishes to have referred to it. Those aspects and no more will be referred to the Social Development Committee.

All members of the Social Development Committee unanimously support this view. The Hon. Dr Pfitzner will be

supporting this amendment and I urge all members to do the same.

The Hon. SANDRA KANCK: I rise to support this motion. I, too, am a member of the Social Development Committee, and I will also be supporting the amendment from the Hon. Carolyn Pickles. I think it is quite delightful that somebody has done the work for us so that we do not have to read through all the documents and we can get straight to the important issues. I support the motion.

The Hon. BERNICE PFITZNER: I indicate my support for the amendment because, after looking at the 34 submissions, I think, as my colleagues have said, I realise that we have had our job done for us. I fully support the amendment.

Amendments carried; motion as amended carried.

The PRESIDENT: In accordance with the resolution, I lay upon the table certain minutes of the evidence and documents of the Select Committee on the Penal System in South Australia.

STATUTES AMENDMENT (NOTICE OF CLOSURE OF EDUCATIONAL INSTITUTIONS) BILL

Adjourned debate on second reading.

(Continued from 9 March. Page 189.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I oppose this Bill. In doing so, I indicate that it is the grossest example of hypocrisy from the Labor Party in South Australia that this Bill has been moved in the Parliament in the first session of the new Liberal Government. I want to refer to the record of the previous Labor Government over the past 10 years or so in relation to this vexed issue of school closures. The Labor record, as I have indicated on a number of occasions recently, over the past two parliamentary terms has seen the closure of more than 70 schools whether through outright closure, amalgamation or rationalisation.

At some future stage I intend to seek leave to have incorporated in *Hansard* a list of all those schools to indicate the range and extent of school closures in South Australia over the past two parliamentary terms in particular. Suffice to say that about 70 have been closed as a result of the Labor Government's initiatives or actions in education. In effect, 10 per cent of schools in South Australia have been closed by the Labor Government over the past two parliamentary terms.

When everyone jumps up and down about the actions of the Victorian Government in the last parliamentary term in closing about 200 schools—I do not know the exact number, but I know it was variously reported as being about 200—we ought to bear in mind that it is about 10 per cent of the total number of schools in Victoria. So, whilst that has attracted much opposition in Victoria and by some people in South Australia, it is worth while pointing out that the Labor Government closed about 10 per cent of schools in South Australia over the past two parliamentary terms or so.

When I came to office three months ago—I will talk in a little while about the hypocritical and disgraceful Labor campaign, during the election campaign, on closures—given what I had been hearing about school closures from the Labor Minister of Education, leaders like the Attorney-General and Labor candidates in various seats, I expected to find that there had been an order or directive issued by the Minister of Education, Susan Lenehan, and the Premier saying that there would be no more school closures and no more action by the department in relation to school closures.

One of the first dockets that came across my desk, as Minister, was an approval form for, in effect, a process of closure of another school in South Australia. That discussion and consultation had been continuing during 1993 with the knowledge and support of the Labor Minister, Premier and Government. In the first weeks of this Government I was advised that as part of the Labor Government's school closure program, which had not previously been announced publicly, the Cockburn Rural School was closed, the Wolseley Primary School was closed and the Willsden Junior Primary School was closed as it was amalgamated with the Willsden Primary School. There had been some public debate and discussion about Mawson High School, but the decision had been taken to close that school at the end of this year. The James A. Nelson School, a subject that the Hon. Dr Pfitzner has raised previously, about which a decision had been taken by the Labor Government and which had been announced and debated publicly, was due to close at the end of last year as well. So there were five school closures.

Another docket has come across my desk in recent weeks showing that during last year, with the support of the Labor Cabinet and Minister of Education, a junior primary school in the north eastern suburbs was to be closed and amalgamated with the primary school on the same site. I have been advised of up to half a dozen continuing discussions that the Labor Government had been having during last year in relation to school closures. I have seen one report which recommends the closure of three or four country schools in one particular area as part of a Labor Government authorised and approved rationalisation program. I have also seen evidence of continuing consultation and discussion in a number of other areas which were approved and authorised by the Labor Government during that period last year when it was engaging in its destructive and disgraceful campaign about school closures. Nevertheless, it continued to undertake work within the department and schools in relation to school closures.

It is quite clear that, if the Labor Government had been re-elected, it intended to continue with the comprehensive and extensive campaign of school closures that it had engaged upon over the past two parliamentary terms. Irrespective of what it was saying publicly about its own policies or possible policies of a Liberal Government, whether by statement or through paid advertisement, within the Education Department and within school communities it was nevertheless continuing with a number of school closures, rationalisations and amalgamations. That certainly was not the position that the Labor Premier and Minister of Education and other senior leaders like the then Attorney-General sought to portray during the two-month election campaign when they authorised the campaign strategy that caused such heartache within South Australian school communities.

Over the past two parliamentary terms it is fair to say that on the majority of occasions the Labor Party engaged in an extensive period of consultation prior to the closure or rationalisation of schools. As Liberal shadow Minister I supported that consultation process. It would have been very easy politics for a Liberal shadow Minister of Education, in effect, to seek to capitalise on a very difficult situation for any Government, and that is the process of rationalisation of schools in the State. I could have been cheered all over South Australia at packed meetings of 400 to 500 parents at Fremont High School in the northern suburbs a few years ago

and at many other parent protest meetings about the possibility of local school closures, but, with very few exceptions, in the end I made no public statement and I did not seek to capitalise politically on the program of school closures undertaken by the previous Labor Government.

I took the view that a wise Government has to look sensibly at the provision of school facilities throughout South Australia; that any sensible Government knows that it must build new schools in developing areas such as Greenwith, Seaford, Gawler, Munno Para and a variety of new outer suburban and developing areas of South Australia. In the past we had large numbers of children living in the inner suburban areas, in particular, and in the middle suburban areas and, therefore, we justified the extensive provision of large numbers of schools in those particular areas. So, it is sensible planning and it is sensible government to continue to look at the placement, the number and the construction of our school facilities throughout the State.

I recall opposing strongly the closure of the Ethelton Primary School, which is located in the working-class metropolitan part of Adelaide, because I saw no justification in the Labor Government's trying to close that school which had almost 300 students enrolled in it when, at that stage, it was projected to continue to grow because of some changes that were about to occur in that part of Adelaide. I recall opposing the closure of part of the Pinnaroo secondary school. However, with possibly one or two other exceptions out of the 70, the Labor shadow Minister would not be able to find me on the record as having gone out to local school communities saying that a particular school should not have been closed or as opposing a particular school's being closed. We supported the fact that any Government had to continue with some process of school closures.

Whilst on a few occasions I obviously had a differing viewpoint from that of the then Government and expressed it strongly, in many cases that was not the case. Generally consultation occurred, but there were some odd occasions when the Government, for whatever reason, decided to short-circuit the process. In relation to the Payneham Primary School closure I was advised (although I do not know all the details of the case) that it felt that it had been treated shabbily by the Government. Basically, it received a fax in August of one year stating, 'Goodnight nurse; that is the end of your particular school and you will not be operating from the start of next year.' I am not saying that that was typical but there were occasions when that occurred, for whatever reason.

Generally there was a very long period of consultation and, if there was ever a criticism that I heard from communities, it was that it was about time the Government made its decision one way or another. Because of the long period of consultation these schools under scrutiny and review literally die on their feet. Rumours circulate in these school communities that the Government is reviewing the future of the school; people are put on edge; and people are not attracted to a school because they will not send their children to a school that is potentially going to be closed down. Certainly the view seemed to be, more often than not, that, whilst they wanted consultation, there was a reasonable period within which they felt the Government and the Minister should take a decision one way or another: 'Either say you are going to close us down or say you are not, but make a decision one way or another.' Certainly that was an important point from parents in relation to their own planning as to whether or not their children should attend a particular school.

I want to turn now to the Labor election campaign and especially the disgraceful campaign on school closures. Mr Acting President, you will know that the Labor Party, through the election campaign, obviously made a decision that it was in great difficulty in relation to general economic and financial management performance and it sought to divert attention by alleging a whole series of things in relation to school closures by a future Liberal Government. In short, the suggestion was that the Liberal Government would close 363 schools in South Australia, that is, it would close down in effect 60 per cent of all schools in South Australia. That proposition was nonsense. I find it hard to believe that anyone within the Labor campaign, within the leadership of the Cabinet and people like the then Attorney-General and others, could have thought that anyone would believe that any Government would close down 60 per cent of the schools in the State. In essence it was being suggested that large parts of country South Australia would not have had a school in them at all. I do not know where it was going to be suggested that the students in large parts of country South Australia would go to school if we were closing down 60 per cent of all schools in South Australia.

Labor members of Parliament and candidates were putting out press releases that 16 of the local 18 schools in Port Pirie would be closed down, and that 17 out of 20 schools in another particular area of South Australia would be closed down. It really was quite a disgraceful scare campaign by the then Labor Government. I cannot go into the continuation of that matter because action is proceeding in relation to it and I therefore do not intend to go into all the detail in relation to some aspects of that particular campaign. However, it is fair to say that the criticism did not just come from objective members of the community or from members of the Liberal Party, but one of the Labor Government's most senior advisers has now gone on the public record as indicating what a disgraceful scare campaign the Labor campaign was.

Mr Paul Willoughby, who was a very respected senior adviser to the then Premier of South Australia, has given evidence to the Labor Committee of Review, which means he has gone on the public record, given the extent to which those submissions are being leaked to the media left, right and centre to justify varying views—

The Hon. T.G. Roberts: You cannot blame the left.

The Hon. R.I. LUCAS: No, I could not blame the left — the left never leaks. I say that with tongue in cheek. Mr Willoughby has gone on record saying that the Labor campaign in some areas in relation to law and order was factually incorrect.

The Hon. C.J. Sumner: When did he say that?

The Hon. R.I. LUCAS: It is in his submission to the Labor Committee of Review.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: Have a look at it. And also he made some trenchant criticism about the Labor advertising campaign on school closures and, again, I will not go into the detail of that. I suspect that might be a part of continuing court proceedings.

The Hon. C.J. Sumner: You don't think there's any sour grapes?

The Hon. R.I. LUCAS: None at all. He is a very senior adviser.

The Hon. C.J. Sumner: He is an ex-adviser.

The Hon. R.I. LUCAS: He is off with the ex-Premier watching cricket in South Africa at the moment, so he obviously is a very senior and most respected adviser. He was

the closest colleague you had in the Labor Caucus. He is away with the Hon. John Bannon, so no higher recommendation could you give him.

The Hon. C.J. Sumner: He did not get the job with the new Leader of the Opposition, that's his trouble.

The Hon. R.I. LUCAS: I am told that he did not want a job with the new Leader of the Opposition. There are many people who do not want to work for the Labor Opposition. No-one would want to work for the Labor Opposition at the moment, in particular the short-term, soon to be deposed, Leader of the Opposition. All those within Parliament House know that the current Leader of the Opposition will not be in his position for very long at all.

I now want to look at the practical effects of the legislation that is before the Parliament at the moment. The previous process used by the previous Government was a long period of consultation with communities. A project officer and a local committee of review would be appointed (this was when there were regional reviews, such as the western suburbs review, which looked at all the schools in the north-western suburbs, for example), and there would be a committee of review with departmental officers, local school representatives and some parent representatives, supported by a project officer. That committee of review would engage in consultations and discussions.

It would accept submissions, listen to arguments for and against, then make a recommendation which would be considered by the department and then eventually by the Minister for Education and Children's Services. It is a long period of discussion that can take six months or sometimes 12 months. I know in the Mount Gambier area the Schools of the Future Project has been going for two or three years. I know that that is an exceptional example, but in most areas it is generally a question of six to 12 months during which this consultation period goes on.

As I said, it is very unsettling for communities, and sometimes parents say, 'We want consultation, but eventually we want someone to make a decision and sooner rather than later.' That process of considering rationalisation of school facilities is exactly the process with which the new Liberal Government is continuing. In the three or four months that I have been Minister I have indicated that we will continue with the ongoing discussions that the Labor Government was obviously conducting, even through the election campaign, in considering the futures of schools in various parts of South Australia.

We are not in the business of walking in one day and pointing the finger at six or 10 schools and saying, 'You are going to close at the start of next year.' We are not in that process. We have given a commitment to ongoing consultation with local school communities about these issues. However, we have said that in the end the Government and the Minister for Education and Children's Services must make the decisions. They are difficult decisions, but they are not decisions that can be left in the wimpish fashion that the previous Labor Government sought to portray itself during the election campaign saying, 'Look, we will never have any more school closures in South Australia unless the parents of the remaining students in the school happen to agree.'

As I said once before, they were saying that if a school had 400 students and if over a period of years it ended up with just 10 or 20 students remaining, and if there was a school one kilometre down the road on a bus route, say, in the middle of metropolitan Adelaide, if those 10 parents said, 'We demand that the school stays open', then what the Labor Government said is that the school would stay open. That is a nonsensical proposition concerning sensible planning and the sensible provision of school facilities. To say that the remaining parents and the local school community or council had absolute right of veto over the final planning of whether a school should or should not stay open is just an abrogation of responsibility by either a Minister or a Government in relation to sensible financial planning and management in what are obviously difficult financial circumstances brought about by the previous Labor Government.

That is the process of consultation. Then a decision is taken and again a school is not closed overnight. Nine times out of 10 or 99 times out of 100 a school is closed at the end of the school year and before the start of the following school year. Again, that makes sense because it enables sensible planning for school communities and families, if they have to move students from one school to another, to make that provision. Once the decision is taken, it may involve a period of three or four months. If the decision is taken early in a year, in some cases it may be that there is 12 months notice and in some cases, particularly with high schools, it may be that one can give 18 months or two years notice about the closure. Although I do not have all the detail with me, Mawson High School, for example, is closing at the end of the year as the result of the decision taken by the Labor Government some time through last year. For that campus or facility an extended period of notification was given prior to the school closure. It is more difficult to close secondary schools because of subject provision for students. It is a little easier to close primary or junior primary schools in providing advice about when schools will eventually close.

One of the problems with this legislation is that if we say that after a period of six or 18 months of consultation during which we have an unsettled period for all the families in the local community concerning whether or not their school is going to close (I have talked about that before), if we make a decision in the middle of the year that we are going to close a school, then the Labor Party is trying to say that for another 18 months that school has to struggle on, literally dying on its feet, as parents withdraw their children before the school can eventually be closed. If we make a decision in the middle of the year after 18 months of consultation and then say that the school will remain open for the rest of the year and the rest of the next year, then it will not close until the start of 1996.

In those circumstances the Labor Party is trying to put in this Chamber that for three years we would have a school literally dying on its feet. For the last 18 months we would have parents withdrawing their children left, right and centre from that school because, first, no-one will send their child to a school earmarked for closure. For the rest of this year and for all of next year there will be no new students coming into the school; there will be no reception or year one or two intake because no parent will send their child to a school that they know will close at the end of next year. They would have a student at a school for one year or 1½ years and then they have to move to another school, so why not solve the problem by selecting another school straight away and going to that particular school?

We will also have parents withdrawing students from the school because they will make the judgment that, if they have to go to a new school eventually, they might as well do that sooner rather than later so that they can get used to their new community. If they are linked to a different secondary school with transition programs, they can be introduced at year six

and seven level to be linked to that other secondary school and they will make the decision for sound educational reasons to move their children out of the local school community to another school that will continue to remain open. We have seen this. This is not pie in the sky. If we look at the record in relation to those school communities that are being kept open for an extended period and look at their enrolments, we can see that they have literally died on their feet as parents have moved their children out of local schools.

In some cases we have had local school communities and parents going to the previous Labor Government and saying, 'You might as well close this school sooner rather than later because we are now down to 50 or 60 students. We now have 70 students for next year and we have a projection to fall to 50 or 60 students and we cannot pretend to offer a quality education program to those 50, 60 or 70 students who will remain in the school for next year. To leave them in the school will be penalising the futures for those children and those families left in the school for the 12 month dead period while we wait for the closure of the school.' It would be a severe penalty to be placed on the heads of those students remaining in such schools because we would not be able to offer the extensive programs offered in primary schools with 300, 400 or 500 students.

Such schools through their non contact hours or non instruction time hours and through the additional staffing with which they are provided have the capacity to offer specialties like drama, dance, physical education in some cases or extended support programs, science programs and a whole variety of other special programs that can be offered in schools with larger numbers of students. In the metropolitan area in particular, to in effect sentence small numbers of students to the penalty of having to continue their education in a school that is literally dying on its feet is really a dereliction of duty on the part of any Party such as the Labor Party, the Opposition in this case, that wants at some stage to regain the Government benches and to be responsible for the education of children in our schools.

I would have to say that in some cases during difficult or extended closure periods, governments in the past have been able to maintain extra staffing in those schools to see them through the remaining 12 to 18 months. I would have to indicate to members of the Labor Party and to the Australian Democrats that, because of the extraordinary circumstances in which we operate at the moment, brought about by the State Bank disaster and other financial catastrophes inflicted on us by the Labor Government, as Minister for Education and Children's Services I just do not have the financial capacity to provide additional staffing above the formula to some of these schools if they are to be kept open for extended periods before final closure.

If this legislation is to be passed, it will mean that, for the remaining 18 months in which the school is awaiting final closure, the new Government will not have the capacity to provide additional staffing to assist them during that very difficult period. Before members even contemplate supporting this legislation, before they even contemplate sentencing children to what will be very difficult educational circumstances for 18 months or so, they need to bear that factor in mind.

The Hon. T.G. Roberts: Is this a softening up speech?

The Hon. R.I. LUCAS: It is not a softening up speech; it is just the practical reality that we will not be able to provide additional staffing. The Hon. Mr Weatherill was involved in a school closure in the western suburbs, where Fulham and Henley Beach were involved in a school closure under the previous Labor Government. He knows the difficulties of school closures on parents and on staff in particular. Staff do not want to hang around in a school that is earmarked for closure and they are not too keen on hanging around in a school which is dead on its feet and which has already been identified as targeted for closure by any Government. The Hon. Mr Weatherill well knows that in that case some additional assistance was provided to the remaining school down there in the western suburbs when that school closure went through. We do not have the financial capacity to assist schools during this 18 month period over and above the formula. If members consider their position in relation to this legislation they will have to bear in mind that, in effect, those 60 or 70 students who might be left in the school for 18 months will be left in educational limbo for that period of time.

Another factor that needs to be borne in mind is that the Bill provides that 18 months notice of closure has to be given. If for example a decision is taken at the end of the third term of a particular year—let us say, about September or October of this year—this Bill will provide that a school that was identified in September or October of this year as needing to be closed could not be closed until about the end of first or second term of 1996. So this involves not just the remainder of this school year and the full school year next year but also a full term and a bit in 1996. The Hon. Mr Weatherill knows how many students will be in a school that has been targeted for closure next year, but I would ask him and other Labor members how many students they think will be left in a school in 1996 for a term or a term and a half under this legislation, which will close in the middle of second term, perhaps. There will be no more than a handful of students left in a school.

It is absolutely ridiculous to be passing legislation like this which provides that a Government has to keep open a school with its staffing, utilities, ground staff and all those sorts of facilities, not only for next year, which I am talking about if it has already been identified for closure, but in particular maybe for up to two terms of 1996, when there would be virtually no students at all, other than maybe the absolute diehards who want to fight to the end to maintain their school. What would happen in a school where all the parents decided to move their students elsewhere? What does the legislation say in relation to that? The legislation provides that we still cannot close it. If we have one student there, we have to keep the school open for the 18 month period. What are we saying to the one student and to the education community of South Australia? Is the Labor Opposition trying to say that we would keep a school open for one or two students? There is nothing in the legislation—

The Hon. Diana Laidlaw: Would they have done the same in government?

The Hon. R.I. LUCAS: Well, they did not do the same in government. I have got to say that this is just a typical Mike Rann and Chris Sumner political stunt. They thought it was a good idea at the time. Rann was running the publicity campaign; why it was the Hon. Mr Rann I do not know. But it is a typical Mike Rann-ism, if I can put it that way. The Hon. Mr Sumner has not been strong enough to stand up to the Hon. Mr Rann, so he has dutifully trotted it out in this Chamber. What they are saying is, 'We will keep schools open for 18 months, even if they have only one or two students.'

In relation to the staffing and administrative components, we might for example have two students down at Fulham Primary School, a Principal, a Deputy Principal and one teacher (at least we would not have to provide 15 teachers) and some ground staff and a secretary and so on. All five or six of them could have a great old time teaching the one student for 18 months. That is the sort of logic that the Labor Opposition is trying to inflict not only on this Parliament but also on the school communities in South Australia. There is a lovely, superficial attraction to it, to give 18 months notice to it all, but no-one thinks through the practical realities of what on earth it means.

In rural South Australia (and the Hon. Terry Roberts and the Hon. Jamie Irwin are here), another practical problem involves a number of small rural schools in the north and West Coast in particular where we keep schools open with maybe 15, 20 or 30 students because there is no other school in the local area. In some of these schools, if we lose a couple of big families when someone moves out or an industry closes down and so on, we lose the whole school. As I understand it, the previous Labor Government closed down Cockburn school because there were about four or five students left. A couple of families moved out and instead of 15 students the school ended up with four or five. The Labor Government decided that the school had to be closed and those four or five students were provided with distance education or helped in some other way. This proposition is forcing us to keep that school in country South Australia open for four or five students, and for 18 months that school has to be kept open, even though two big families may have moved out of the area and we are left with virtually nobody left in that local school community.

I conclude by saying that I would implore Labor members in this Chamber, now that they realise what they have been asked to support, to have a quiet word to the Leader of the Opposition, and I think if this Bill was just rolled over until the end of the session and then fell off the Notice Paper that would be the most sensible way to tackle this issue. I think the Labor members in this Chamber at the moment will see the good sense of what I am saying about that.

We have given a commitment that there will not be hundreds of schools closed down. I have given a commitment that if there are any more than 40 school closures in South Australia I will resign as Minister for Education and Children's Services during this parliamentary term, and I give that commitment again to members in this Chamber. I have given the commitment publicly on a number of previous occasions also.

That is the attitude which we are adopting in relation to school closures. We were honest and said that we would continue with the program of school closures, but we are not in the business of closing down 363 schools in South Australia. We are not in the business of pointing the finger at schools overnight and saying that this school or that school will be closed. We will engage in a period of consultation but there will have to be a continuing program of school closures.

Whilst I implore Labor members, I know that they are bound by the dictates of solidarity with the Hon. Mr Rann and the Hon. Mr Sumner, for as long as the Hon. Mr Sumner remains in this Parliament. I also implore the two Australian Democrat members to look sensibly at this Bill and in their final vote either assist it to roll over and fall off the Notice Paper at the end of the session by perhaps having a quiet word to the Hon. Mr Sumner and saying, 'If you are going to vote on this, you will not get our support.' If they do want to put down a position, I urge them to think sensibly about future education planning in South Australia and join with the Liberal Government in opposing this silly measure.

The Hon. G. WEATHERILL secured the adjournment of the debate.

ADELAIDE TO DARWIN RAILWAY LINE

Adjourned debate on motion of Hon. S.M. Kanck:

1. That recognising that the completion of the Adelaide to Darwin railway line is of prime importance to the prosperity of South Australia and the Northern Territory and that its completion enjoys the support of all political parties—Liberal, Labor and Democrat—the South Australian Parliament supports the setting up of a joint South Australian/Northern Territory Parliamentary Committee to promote all steps necessary to have the line completed as expeditiously as possible.

2. This Council respectfully requests the House of Assembly to support this measure and that the Presiding Officers approach the Presiding Officer of the Northern Territory Parliament with the aim of establishing the joint multi-party committee and to arrange a secretariat to the committee.

(Continued from 23 February. Page 125.)

The Hon. DIANA LAIDLAW (Minister for Transport): I am pleased to indicate that the Government agrees with the Hon. Sandra Kanck that construction of the Alice Springs to Darwin railway, or the missing link in the Transcontinental railway, is a project of prime importance to the prosperity of South Australia and the Northern Territory. We are also keen to be associated with a motion that recognises that all political Parties—the Liberal Party, the Labor Party and the Australian Democrats—support the completion of the Alice Springs to Darwin link. However, I will be moving a number of amendments to the motion. In fact, I move:

Leave out all words after 'South Australian Parliament supports' and insert the following:

(a) the setting up of a South Australian Government team comprising representatives of the Economic Development Authority, the Department of Mines and Energy, the Transport Policy Unit and the Marine and Harbors Agency to prepare a detailed submission for presentation to the Wran Committee on the costs/benefits of the rail link and to coordinate a strategy that enables the State to maximise the benefits which will flow from the railway, while minimising any potential repercussions to the Port of Adelaide.

(b) the initiative taken by the Premier to invite the Chief Minister of the Northern Territory to participate in a joint South Australian/Northern Territory team of officials responsible for the preparation of funding proposals to the Commonwealth Government and the identification of potential private sector investment in the project.

II. This Council endorses the State Government's decision to pledge $100 million over five years towards the construction of the missing link (Alice Springs-Darwin) in the transcontinental railway, a commitment matched by the Northern Territory Government.

The amendments acknowledge the actions that have been taken by the Government in the past 107 days to advance the project, including a pledge of $100 million over five years as South Australia's contribution to the construction of the railway.

This pledge is an important step in the history of the railway project. It represents for the first time in 122 years a commitment by a South Australian Government that is prepared to commit funds for this project. It is almost 122 years to the day since the South Australian Parliament debated in this Council the issue of the transcontinental railway. Members of the Legislative Council did so on 17

April 1872, when Sir Arthur Blyth moved the following resolution:

> That a railway from Port Augusta to Port Darwin would materially conduce to the prosperity of this province, and that with the view of promoting the formation of such a railway it is expedient a Bill be introduced providing for the grant of blocks of land to be situated alternatively on the east and west sides of the line, such land not to include any at present held either on free or leasehold.

This motion followed the construction a year earlier of the overland telegraph line, an initiative, incidentally, funded solely by South Australia. The overland telegraph line generated great excitement amongst South Australians, both amongst the general public and in the Parliament. It also prompted the discussion about the need for a north-south transcontinental railway.

In that year, 1872, the line stretched from Adelaide to Kooringa in the north, the year that Sir Arthur Blyth moved his motion. Eighteen years later, in 1890, a light railway stretched north to Oodnadatta and south from Darwin to Pine Creek. South Australians again paid for this initiative, as we had paid for the overland telegraph line. They also paid in respect of the railway line from Adelaide to Oodnadatta and Darwin to Pine Creek. They paid for the officers, the schools, police stations, residences, water supplies, health facilities and other civil infrastructure along this line. It is fair to say that it was a mighty effort in terms of commitment to infrastructure and a mighty vision, considering that South Australia's population at the time was only 160 000.

So, 122 years ago this whole matter of the railway from Adelaide to Darwin was debated in the Parliament. About 100 years ago the line stretched from Adelaide to Oodnadatta and from Darwin south to Pine Creek, all of that line at that time paid for by the South Australian Government.

In 1890, the South Australian Parliament again debated the funding of the railway and they looked at a land grant system to do so. Members will recall that 12 years later, in 1902, a resolution was passed in the House of Representatives in respect of the establishment of the Commonwealth, and that South Australia should cede the Northern Territory to the Commonwealth. This was formalised in 1911, when South Australia actually ceded the Northern Territory to the new Australian Commonwealth under the terms of the Northern Territory Acceptance Act 1910.

At that time, in 1910, there was a specific section incorporated in that Bill which provided the following undertaking:

> . . . .that the Commonwealth, in consideration of the surrender of the Northern Territory and the property of the State of South Australia therein. . . . shall construct, or cause to be constructed, a railway line from Port Darwin southwards to a point on the northern boundary of South Australia proper (which railway, with a railway from a point on the Port Augusta railway to connect therewith, is hereafter referred to as the transcontinental railway).

So, we have a situation today, 83 years later, where South Australia is still waiting to be compensated for ceding its property and investments in the Northern Territory to the Commonwealth in 1911. It is also important, in terms of that commitment of 1911, that the Commonwealth has, on two occasions since, amended that Act and also introduced the Tarcoola to Alice Springs Railway Act. On both occasions not only was there reconfirmation of the commitment of the Federal Government to construct or cause this line to be constructed but also, in fact, with the Tarcoola to Alice Springs Railway Act that commitment was strengthened.

We have a situation where the Federal Government, in both legislation and rhetoric, keeps saying that it is interested in building what is justly South Australia's in compensation for the ceding of the Northern Territory but, in practice, it continues to refuse to do so. Various reports over the years have provided different cost benefit analyses of this railway. The most recent—in about the 1980s—was by Mr David Hill, who refuted that there was an economic cost benefit basis for building the line. That report remained accepted wisdom for many years until Australian National did its own work on this matter, engaging consultants who proved that the foundation of Mr Hill's report was flawed and, therefore, his conclusions were flawed.

I am pleased that at the last Federal election both major Parties gave a commitment to spend money on the surveying of the last 1 000 kilometres of this line. An amount of $3 million was set aside in the last budget for this purpose. I am also interested that the Federal Government, in the last budget, established the Wran Committee, commonly known as the Darwin committee, to look at initiatives to ensure that Darwin is our port and our base for trade to Asia.

I have met, as has the Minister for Industry in South Australia, with Mr Wran, the Chairman of that committee. Subsequently, I was interested to note comments in the newspaper which reinforced our view that the committee considered the project had some merit and that it was looking at it closely.

It is important to note that this committee has been established and that it is chaired by Mr Wran. It is our obligation as a Government to ensure that the State is in a position to contribute strongly to the matters which this committee will consider, and it is for that reason that the Government has set up an interdepartmental committee to prepare the work required for presentation to the Wran committee.

I have made reference to that in my amendments. In particular, my amendment 1(a) asks this Council to support the setting up of a South Australian Government team, comprising representatives of the Economic Development Authority, the Department of Mines and Energy, the Transport Policy Unit and the Marine and Harbors agency.

The reason for this interdepartmental committee is the preparation of a detailed submission for presentation to the Wran committee on the cost benefits of the railway. The committee will also be responsible for coordinating straight Government input into the proposed joint South Australian-Northern Territory approach to the Commonwealth and the private sector for funding. Thirdly, the committee will be responsible for developing a strategy that enables the State to maximise the benefits which could flow from the railway and, at the same time, minimise any potential repercussions to the port of Adelaide.

I mention the port of Adelaide in this context because very few people do so when they are considering the Alice Springs-Darwin railway. Some grounds for concern exist about the impact of the railway on the future of the port and on the Port Adelaide community. It is true that over the past two or three years the volumes that have been put through the port of Adelaide have increased from 21 000 TEUs, or 20 equivalent units, to 62 TEUs at the present time. To become viable it is important that we increase it to about 100 000 TEUs, and that is the goal of Sealand, the current operator, and the Government. We propose to achieve that goal by 1997.

So a great deal of work is being undertaken on the port of Adelaide. There is certainly a large amount of Government investment at this site. Many companies, including freight

forwarding companies, have certainly spent a great deal on facilities. Last month I opened ANL's new office at the port of Adelaide.

It is important, in considering the Alice Springs to Darwin railway, that we also look at ways to minimise the potential repercussions to the port of Adelaide, and for that reason we have established this interdepartmental committee comprising representatives of the EDA, the Transport Policy Unit, the Department of Mines and Energy and the Marine and Harbors Agency.

The Wran committee, it should be noted, also is seeking an assessment of the industrial, manufacturing, primary industry and mining potential and investments arising from this railway line. It is important, therefore, that the Mines and Energy Department is involved in this group because it has expert knowledge in the field.

The Government is also proposing to establish a joint South Australian-Northern Territory team of officers to prepare funding proposals to the Commonwealth, including responsibility for ongoing negotiation, supported strongly by the Government and, I trust, all members of this place.

This joint committee will also identify, encourage and support potential private sector investment in the project, and it will address—and this, I believe, is most important—adverse perceptions for the project, particularly at the Commonwealth level. The Government has, through the Premier, approached by letter Mr Marshall Perron, Chief Minister of the Northern Territory, seeking the establishment of this joint officers' team to do the hard, detailed work which requires specialist knowledge in relation to our case for the Alice Springs to Darwin railway.

It is for that reason that we will not support the proposal by the honourable member that the committee advance the proposition that the Alice Springs to Darwin railway be a joint South Australian-Northern Territory parliamentary committee. I believe that all members of Parliament will support the work of the officers, who will be required to undertake the important, detailed work over the next few months.

One reason why I am not prepared to support this joint parliamentary committee is that members of Parliament will be increasingly engaged in a very heavy parliamentary program in the next few months. We may have a number going overseas or having a break. I am not too sure about the commitments of members.

The Hon. R.R. Roberts: We could all go up to Alice Springs.

The Hon. DIANA LAIDLAW: We certainly could go up to Alice Springs; that is an option. Some members in this place may recall the history of the country rail select committee. It was a notoriously unproductive select committee. I have rather—

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: Yes. It was established about four years ago and it put out a report finally. Because of frustrations by AN and other agencies, we did not prove to be as constructive as we would have liked in advocating the retention of country rail services in this State. I believe that at this time, with the urgency of the task to report to the Wran committee and to the Federal Government in terms of budget processes, a major effort has to be made in the immediate future to prepare South Australia's case. If we cannot influence the Wran committee within the next few months—and Mr Wran is impatient to bring down his report—we will be set back many years, if not forever, in our goal to establish this missing link in the transcontinental railway. There are officers who can devote the time and have the expertise and detailed knowledge to prepare this work. The Government and I believe that it is at officer level that South Australia should be moving fast at this time and that we should be complementing that work with joint effort by the Northern Territory Government to look for potential private sector support and investment and Commonwealth investment.

Earlier I mentioned the commitment by the State Government during the last Federal election campaign when the Leader, Dean Brown, pledged $100 million over five years for this missing link. Begrudgingly, we have had to accept that the Federal Government would not totally fund this project, notwithstanding its 1911 commitments, and I think that all parties in this State have come to accept that that is the case. So, just as we were investing in the railway in the late 1890s, I believe that in the late 1990s we again have to make a commitment from State sources to this project.

There are good grounds for generating private sector support. I believe that, with the matching effort from the Northern Territory Government of $100 million for this project, we could be looking at a contribution from the Federal Government of about $500 million. The project overall will cost about $1 billion, and therefore private sector support would be about $300 million.

I, with the Premier, presented a case for the missing link transcontinental railway to the Kirner committee on Monday of this week. That committee, set up by the Federal Government with State and Territory representatives, is looking at initiatives to celebrate the centenary of federation in the year 2001. It is important to recognise, in terms of the history of federation, that it was Sir Henry Parkes, the father of federation, when speaking at Tenterfield in New South Wales about his vision for a federation, who referred to the railways. He believed very strongly, because of defence concerns, that we must have a rail network around Australia and that that network must be of standard gauge. It is interesting that as we come to celebrate the centenary of federation we will only just have achieved a standard gauge from Brisbane, via Sydney, Melbourne, and Adelaide to Perth and up to Tarcoola. Unless we move quickly on this matter, we will not achieve the missing link between Alice Springs and Darwin to complete the transcontinental railway north and south across Australia. Only then will we be achieving Sir Henry Parkes' vision for Australia, which was one of the key reasons why he pushed for federation in the first place.

In terms of influencing the Wran and Kirner committees—and the Kirner committee will be seeking final submissions by the end of May and reporting in September—we have to move quickly. I have moved amendments to the motion because of the need for expediency and concerted efficient action. Nevertheless, I applaud the Hon. Sandra Kanck for introducing this important subject. The line is of prime importance for the prosperity of the State. It will be an important economic development and job creation initiative. Therefore, it will have immediate and long-term benefits for the State. It will also fire the imagination of many young people who are keen to see the railway built in order to link all capital cities in the country, including Darwin. It is also important for keen historians to see that Sir Henry Parkes' vision is finally realised.

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

CRIMINAL LAW CONSOLIDATION (SEXUAL INTERCOURSE) AMENDMENT BILL

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

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

That this Bill be now read a second time.

The crime of rape and some other sexual offences depend on the act of sexual intercourse. While this used to mean the more conventional kinds of contact, the definition has been widened over the years. The current definition is contained in section 5 of the Criminal Law Consolidation Act. It provides:

> 'sexual intercourse' includes any activity (whether of heterosexual or homosexual nature) consisting of or involving—
> (a) penetration of the vagina or anus of a person by any part of the body of another person or by any object;
> (b) fellatio;
> or
> (c) cunnilingus.

This is an inclusive definition, which was placed in the Act in 1985. Prior to that, the definition was an inclusive one inserted in 1976. It made no mention of the vagina, but was primarily concerned with including oral and anal penetration as 'sexual intercourse', for that was not the case at common law. Section 73(1) of the Act states:

> For the purposes of this Act, sexual intercourse is sufficiently proved by proof of penetration.

This provision was inserted by the 1976 legislation, but it replaced a provision containing similar words dating from 1876. It was untouched by the Act of 1985—presumably because it was thought to be consistent with the new definition.

It follows that the common law definition of 'sexual intercourse' survives. At common law, any degree of penetration at all sufficed for 'sexual intercourse'—authority goes back to 1777—but it is confined to penile penetration by male of female genitalia. The significance of this limitation will appear shortly.

The problem with the statutory definition—indeed, until recently, the statutory definitions in most Australian jurisdictions—is that it is physiologically ignorant. It is clear beyond any doubt that the legislature used the word 'vagina' as a surrogate for the entire female genitalia, but, of course, the vagina is but a part of that and, importantly, not the most accessible part.

This matter was the subject of litigation in *Randall* (1991) 55 SASR 447. The accused was charged with unlawful sexual intercourse with a girl of four years of age. The allegation was of cunnilingus. The question on appeal was whether cunnilingus required proof of penetration. It was held that it did not. In so doing, the Court of Criminal Appeal expressed the opinion that the word 'vagina' should be given the meaning plainly intended by Parliament and not the technical physiological meaning. In particular, Cox and Matheson JJ thought that the word meant penetration of the labia.

That dictum has now been overruled by the High Court. In *Holland* (1993) 67 ALJR 946, the court held that 'vagina' means 'vagina' and that the prosecution must prove that the accused penetrated the vaginal canal.

Since the current South Australian definition is inclusive, it follows that the High Court ruling will not affect the situation where there is an allegation of penile penetration, but will do so in all other cases not being covered by the description of fellatio and cunnilingus. That is to say, the effect of the High Court ruling is that, in cases where an element of the charge is unlawful sexual intercourse and the case is based on penetration by an object, or digital penetration, the Crown will be forced to prove penetration of the vaginal canal.

This requirement is absurd in all cases and particularly difficult in cases involving small children, in which digital penetration is prevalent. The DPP has reported that he has already lost a charge of rape on this ground. The difficulty of proving not only penetration but also the extent of the penetration beyond a reasonable doubt is obvious.

It might be argued that although the actual words of section 73(1) do not appear to take the matter further, their legislative history reveals that they are intended to enact the common law position—that is, that mere penetration will suffice. Whether or not that is so—and it is arguable—the position should be made clear beyond a shadow of a doubt.

The effect of the High Court ruling is that proof of penetration of the vagina has been required since 1985. It is undoubtedly true that no-one had thought so and cases have been conducted on the basis that mere penetration of the genitalia was all that had to be shown. That has been especially so since the Court of Criminal Appeal indicated that to be their view in 1991.

That view was also taken in other jurisdictions. The statutory definition using 'vagina' as a surrogate for female genitalia was introduced into the relevant legislation in, for example, New South Wales, Victoria, the ACT and Western Australia in the 1980s.

Western Australia legislated to make the intended position clear in 1992. It did so in the belief that 'vagina' meant female genitalia, because it had a Court of Criminal Appeal decision which said so [*Pinder* (1992) 8 WAR 438], and so its legislation was not retrospective. The motive for legislating was to put the original intention on the face of the legislation.

New South Wales also legislated to make the position clear in 1992. The Act purported to make the new definition apply retrospectively to 1981 (when the 'vagina' definition was first enacted). It was not necessary for the High Court in *Holland* to apply the retrospectivity to that case, for the court dismissed the appeal.

A lack of retrospectivity may well complicate future prosecutions, because the law that will be explained to the jury will be different according to whether the allegations concern behaviour between 1985 and 1994 or after 1994. The onus on the prosecution to prove 'sexual intercourse' will turn on the date of the alleged offence, and that may not be knowable.

In addition, no-one was in any doubt about the intentions of Parliament, and people can hardly be said to have ordered their conduct to conform with their understanding of the law. There can be no doubt that, if the change in definition is not made retrospective, there will be problems.

In any case after the definition is changed, there will be endless argument about whether the abuse took place before or after the date of proclamation. The onus on the prosecution to prove what is difficult to prove will turn on the date of the alleged offence, and that may not be knowable, as I have indicated.

In cases involving allegations in relation to the sexual abuse of young children, it is often impossible to specify exactly when each instance of abuse is alleged to have occurred. Criminal charges in such cases will be further

complicated by the need to charge carefully in relation to the date of operation of the changed definition.

No-one was in any doubt about the intentions of Parliament, and people can hardly be said to have ordered their conduct to conform with their understanding of the law. Indeed, the victim in *Holland* in her evidence used "vagina" in the colloquial sense.

The arguments against retrospectivity are, however, strong. There is a general principle that the criminal law should not make criminal that which was not criminal when it was done. This general principle is a powerful centrepiece of the idea of criminal justice and can be traced back to Roman times. The principle was firmly embedded in English common law and, with few exceptions, the sole instances of retrospective legislation in English legal history were intended to relieve an individual or group from unjust hardship. That general principle is that it is unjust that what was legal when done should subsequently be held criminal, that what was punishable by a certain sanction when committed should later be punished more severely, that procedural changes seriously disadvantageous to an accused should be applied retrospectively.

The present Government has maintained a strong public adherence to that general principle, most notably when the then Government sought retrospectivity in relation to legislation to overturn the decision of the High Court in *Dube v. Knowles* in relation to taking into consideration remissions on sentence. The then Opposition, now the Government, stood firm despite arguments that there would be great costs to the criminal justice system, a large number of prisoners would have to be re-sentenced, and everyone thought that the legislation had said what the High Court said that it did not say.

The Government has seriously considered the balance between the weighty general principle of justice and the degree to which that principle, if applied, will result in individual injustice to the alleged victims of sexual abuse. It has consulted on the question with senior lawyers in Government and in the private profession. In general terms, it can be said that the decision may affect a small number of cases already decided between 1985 and 1994, but that number of cases, much smaller than the sentencing question already referred to, is not enough to outweigh general principle. It can also be said that the decision may affect the outcome of an unknowable number of future cases—cases which may be conducted many years from now—in which the allegations include allegations of sexual abuse between 1985 and 1994.

After anxious consideration, the Government has taken the view that the general principle must prevail over the theoretical possibility that an unknowable number of cases may be harder to try in the future. Further, it is not as if the change will mean that an offender will go free. It does mean that the offender will likely be convicted of a less serious offence than would otherwise be the case. Hence, an offender may be convicted of attempted rape or indecent assault instead of rape or unlawful sexual intercourse. In real terms, the difference in penalty actually imposed is likely to be negligible.

In these circumstances, the Bill is not framed so as to be retrospective.

I commend the Bill to the House.

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s.5—Interpretation

This clause amends paragraph *(a)* of the definition of "sexual intercourse" to include penetration of the labia majora or anus of a person by a part of another person or by an object.

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

MENTAL HEALTH (TRANSITIONAL PROVISION) AMENDMENT BILL

Second reading.

The Hon. DIANA LAIDLAW (Minister for Transport): I move:

That this Bill be now read a second time.

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

Leave granted.

This short Bill is procedural in nature. During the last session of the last Parliament, the Mental Health Act 1993 was passed. That Act will repeal the Mental Health Act 1977.

The Supported Residential Facilities Act 1992 provides for the regulation of the range of accommodation facilities which provide care for people, including those with a psychiatric disability. This generic licensing legislation will accordingly replace the specific provisions of Part VI of the Mental Health Act 1977 which currently provide for the licensing of psychiatric rehabilitation centres.

When the Mental Health Act 1993 was passed, it was anticipated that the Supported Residential Facilities Act 1992 would be in operation prior to the Mental Health Act 1993 and accordingly, the Mental Health Act 1993 provided for the complete repeal of the old 1977 Act. However, the consultative process on Regulations to implement the Supported Residential Facilities Act has been extensive and has delayed the commencement of that Act until a date to be fixed later in the year.

It is intended that the commencement of the Mental Health Act 1993 (and the Guardianship and Administration Act 1993) should not be unduly delayed. In order to avoid a hiatus in licensing of psychiatric rehabilitation centres, it is therefore necessary to make some transitional provision, pending their eventual coverage under the Supported Residential Facilities Act. The Bill therefore inserts the necessary transitional provisions in the Schedule.

Explanation of Clauses

The clauses of the Bill are as follows:

Clause 1: Short title

Clause 1 is formal.

Clause 2: Amendment of Schedule

Clause 2 amends the Schedule of the Act which repeals the 'old' Mental Health Act 1977. Extra provisions are added to Clause 1, with the effect that the 'old' Act is amended by striking out all provisions of the Act except those that relate to the licensing of psychiatric rehabilitation centres. These amendments will be brought into operation when the 'new' Mental Health Act 1993 is brought into operation, and the provision repealing the 'old' Act will be suspended until such time as the Supported Residential Facilities Act 1992 is brought into operation.

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

SELECT COMMITTEE ON THE REDEVELOPMENT OF THE MARINELAND COMPLEX AND RELATED MATTERS

Adjourned debate on motion of Hon. R.I. Lucas:

1. That a select committee of the Legislative Council be established to consider and report on:

(a) the extent and nature of the negotiations by the Government and West Beach Trust which led to a long lease of West Beach Trust land to Tribond Developments Pty Ltd, an agreement for that company to redevelop the Marineland complex and a Government guarantee to the financier of that company for the purposes of the redevelopment;

(b) the extent and nature of negotiations between the Government, West Beach Trust, the Chairman of West Beach Trust

and Tribond Developments Pty Ltd (and such other persons as may be relevant) and the events and circumstances leading to the decision not to proceed with the development proposed by Tribond Developments Pty Ltd, the appointment of a receiver of Tribond Developments Pty Ltd, the payment of 'compensation' to various parties and the requirement to keep such circumstances confidential;

(c) all other matters and events relevant to the deterioration of the Marineland complex and to proposals and commitments for redevelopment;

with a view to determining the extent, if any, of public maladministration in these events and to recommending action to remedy any such maladministration.

2. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.

3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

4. That Standing Order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

5. That the evidence of the Legislative Council Select Committee on the Redevelopment of the Marineland Complex and Related Matters be tabled and referred to the select committee.

(Continued from 22 March. Page 235.)

The Hon. M.J. ELLIOTT: I support the motion on similar grounds to those I used when I moved a motion earlier today concerning the Select Committee on the Control and Illegal Use of Drugs of Dependence. A couple of matters have been before the Parliament for a considerable period, having been handled by select committees that were nearing the point of presenting reports when the election intervened. In those circumstances and in the light of the effort not just of members of Parliament but all the people who have taken the time to give submissions, it is not unreasonable that the opportunity be given for reports to be prepared and tabled before this Council. My only proviso, and it is the same proviso that I had in relation to my earlier motion, is that I hope that the life of these select committees will be brief. Since the advent of standing committees we have seen few select committees established and I expect such matters on future occasions to go before a standing committee. A select committee will be an extra burden for some members who have commitments to a standing committee but, on balance, it is reasonable that those committees have a chance to report and on that basis I support the motion.

Motion carried.

The Council appointed a select committee consisting of the Hons. T. Crothers, Anne Levy, R.D. Lawson, R.I. Lucas and Caroline Schaefer; the committee to have power to send for persons, papers and records, and to adjourn from place to place; and the committee to report on Tuesday 3 May 1994.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): In accordance with the resolution of this Council I lay upon the table the minutes of evidence of the previous Select Committee on the Redevelopment of the Marineland Complex and Related Matters.

SELECT COMMITTEE ON THE CIRCUMSTANCES RELATED TO THE STIRLING COUNCIL PERTAINING TO AND ARISING FROM THE ASH WEDNESDAY 1980 BUSHFIRES AND RELATED MATTERS

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

1. That a select committee of the Legislative Council be established to consider and report on the circumstances related to the Stirling council pertaining to and arising from the Ash Wednesday 1980 bushfires, the nature of claims, including but not limited to the nature and extent of the involvement of the State Government, the procedures leading to the settlement, the basis for the settlement of the claims, and the circumstances leading to the appointment by the Government of an administrator.

2. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.

3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

4. That Standing Order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

5. That the evidence given to the Legislative Council Select committee on the Circumstances Related to the Stirling Council Pertaining to and Arising from the Ash Wednesday 1980 Bushfires and Related Matters be tabled and referred to the select committee.

(Continued from 23 March. Page 266.)

The Hon. M.J. ELLIOTT: For the same reasons that I supported the establishment of the select committee on which we have just voted, I also support the establishment of this committee.

Motion carried.

The Council appointed a select committee consisting of the Hons. T. Crothers, K.T. Griffin, Bernice Pfitzner, J.F. Stefani and Anne Levy; the committee to have power to send for persons, papers and records, and to adjourn from place to place; and the committee to report on Tuesday 3 May 1994.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): In accordance with the resolution of this Council I lay upon the table the minutes of evidence of the previous Select Committee on the Circumstances Related to the Stirling Council Pertaining to and Arising from the Ash Wednesday 1980 Bushfires and Related Matters.

PAY-ROLL TAX (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 309.)

Bill read a second time and taken through its remaining stages.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 March. Page 221.)

The Hon. ANNE LEVY: The Opposition supports this Bill, two thirds of which was introduced prior to the election by the then Minister of Local Government Relations, the Hon. Greg Crafter. This Bill is doing three things. First, it is giving statutory recognition to the Local Government Association mutual liability scheme. This scheme was established by local government following the Stirling bushfire disaster, with the consequent problems which arose for Stirling council when it was found to be legally liable for the bushfires, with consequent enormous financial implications which of course the Stirling council was quite unable to meet from its own financial resources and which its own public liability assurance was not sufficient to deal with. At that time it only had public liability assurance of $1 million,

and it was found liable by the courts for a total of some $15 million, the final figure when all the settlements had occurred.

Subsequent to this, the LGA set up a mutual liability scheme, to which all councils in South Australia now belong. This amendment is giving statutory recognition to this mutual liability scheme. Giving recognition in this way will of course do more than just recognise the existing situation. I gather that currently the trust deed which set up the mutual liability scheme has a couple of problems which can be regarded as legal problems. One is that the trust deed has no end to it. The question of perpetuity is not possible for trusts, and there has to be a finite ending date, however far forward, mentioned in a trust deed, which does not occur in this trust deed. Giving the liability scheme statutory recognition will remove the need for amendment of the trust deed. It will also settle any questions which might arise regarding the possible tax liability of the scheme. It has not been liable for tax since it was set up, but the question remains whether it might at some time be deemed liable for tax payments, because it is set up under the central purchasing authority of the Local Government Association, and the central purchasing authority is not a tax exempt body.

New section 34a will remove any possible tax liability for the scheme and will overcome any problems of the trust deed not mentioning an end point. Section 34a is also a rewrite of the workers compensation section of the Act. The LGA and councils have always been exempt bodies from the point of view of WorkCover, but the current provision in the Act deals with a workers compensation insurance scheme and, since the establishment of WorkCover, insurance is not the term which is used any more in discussing workers compensation. So, section 34a(1)(b) is rewriting in modern language the exempt status of local government from WorkCover—that it is self-insuring.

This will be for the benefit of councils, the LGA itself and any other prescribed body, by which I presume this means controlling bodies such as controlling authorities which are set up consisting of more than one council. As it is to be a prescribed body, the Parliament will have the opportunity to examine any prescribed body and reject it if it were felt that it was not appropriate that that body should come under the local government workers compensation self-insurance scheme. But I do not imagine that it is anticipated that any prescribed body would go beyond the bounds of the local government community.

Furthermore, the clause extends the ability of the LGA to establish and manage any other indemnity or self-insurance scheme in the interests of local government, giving it flexibility, given the success of its mutual liability assurance scheme, and the ability to extend this to other areas of self-insurance if it was felt to be the in the interests of local government in the future. I am certainly glad to see in subsection (3) that the rules of a scheme must comply with any requirements prescribed by the regulations. If it were felt that the rules were not in the best interests of local government or that the rules omitted something that should be included, then the Government can prescribe the requirements for the rules and the Parliament can have an opportunity to comment on these if it feels it desirable.

I notice too in subsection (5) that, pursuant to a resolution at a general meeting, the LGA can transfer the management of a scheme to another body. It is felt that this is desirable, with the aim of efficiency of management of a scheme; it may be that if several schemes come to be established their management can be most efficiently carried out if vested in one body. It has been suggested to me that in fact the management of the mutual liability scheme might at some stage be best managed by the Local Government Finance Authority, which is an extremely competent and efficient body, which works to the advantage of local government in this State and which would be quite capable of managing such a scheme most efficiently.

That is a possibility for the future, but I am glad that the Bill before us allows that to happen at some time in the future if the members of the local government community feel that that would be desirable. Of course, transitional matters are dealt with.

I am certainly interested in subclause (8), which provides that:

> The rules of law relating to perpetuities or imposing restrictions on the accumulation of income do not apply in relation to any scheme, whether established before or after the enactment of this section.

This could be regarded as retrospective legislation, and I would have thought that the Hon. Trevor Griffin might feel that this was undesirable, given his intense dislike of retrospectivity. I do not feel that it is undesirable in this case because it makes clear that if any tax liability or perpetuities fault is found with the current scheme no action can be taken for the period since its establishment up to the time of the proclamation of this legislation, although I think it is quite clear that it is retrospective legislation in this regard.

The next three clauses relate to the equal employment opportunity (EEO) sections of the Act which members may recall were included in the Act three years ago with a three year sunset clause. It was quite a breakthrough at the time to provide in the Local Government Act that local government had to abide by the principles of equal employment opportunity, even though at that time Government and the entire private sector was bound to do so. It was surprising that there was opposition to local government also having to abide by these principles. However, it was inserted into the Act at that time.

As well as the principles, a structure was set up to ensure that local government was assisted in establishing EEO within each council, and this was done by setting up an advisory committee which was to work with local government in establishing guidelines for plans of action and working with local government in carrying out those plans of action, as many councils were not familiar with the principles of EEO or had any idea as to how to apply those principles in their daily activities.

Furthermore, each council was required to set up a program for EEO and provide annual reports to the advisory committee as to how they were proceeding in establishing EEO in their activities. I understand that the advisory committee has been working very well in the past three years, but not surprisingly the fulfilment of the requirements has varied from one council to another.

Some councils have embraced this wholeheartedly, have drawn up detailed plans and worked with the advisory committee, and are well on track for having EEO firmly established within their procedures. A large number of councils have undertaken their requirements under the Act, perhaps not with great enthusiasm but nevertheless have undertaken what was required of them and, as one might expect, there are some councils, a small number I hope, which have resisted this and have not been as helpful as they could have been. They have been very slow in drawing up

their plans and very slow in even trying to implement them, so that the three year sunset clause which existed in the Act was not sufficient time to ensure that all councils were complying fully either with the Act or with the spirit thereof.

I strongly support the extension of the sunset clause for another three years. This will ensure that all councils will have the opportunity to work fully with the advisory committee to establish and implement their EEO plans and provide evidence of their compliance through their annual reports to the advisory committee. Eventually, I hope that reports on EEO could be incorporated into the annual reports which councils now have to prepare for their ratepayers.

There are requirements on councils as to what must be included in these reports, or at least there are guidelines which I understand most councils follow in preparing their annual reports that are presented for ratepayers, and I certainly hope that at some time, rather than preparing a separate report on EEO for the advisory committee, a report on the EEO activities of a council could be included in their annual reports for ratepayers.

However, that is further down the track. I certainly hope that in three years time, when the new sunset clause will see the end of the advisory committee, some reporting mechanism will replace what is in the Act. As I say, it seems to me that the councils' annual reports would be a good place for this to occur, seeing that they are preparing annual reports, anyway.

I suggest that the Government undertake discussions with the LGA in the next three years regarding this matter. One would hope that such a change to the guidelines for annual reports would be readily agreed to by the LGA in 1997 but, if not, further legislative provision may have to be made to ensure that councils are not only carrying out EEO policy but also are reporting on it and are publicly accountable for EEO activities in the same way that Government and private industry are accountable. As I say, I certainly support the extension of the sunset provision for another three years to give the councils which have been a bit slow in this regard time to catch up, to work with the advisory committee and to institute proper procedures.

The third topic dealt with in this Bill is a new measure which was not part of the Bill introduced by the Hon. Greg Crafter late last year. Members may recall that some years ago this Parliament decided with regard to rates levied by councils that it was unacceptable for a council to impose a minimum rate on a very high proportion of the properties within its boundaries. This Council decided that 35 per cent of all ratepayers on the minimum rate was the maximum that could be contemplated. Time was given, of course, for councils to achieve this; they were not expected to achieve 35 per cent on minimum rates overnight, although there were a few cases where they did attempt to achieve it overnight, causing considerable disturbance amongst ratepayers.

In general, councils have been very responsible and have been working to bring down the proportion of properties that are on minimum rates. It is certainly interesting to see the variation between councils as to the proportion of ratepayers who are on minimum rates. In some councils the figure is as low as 3½ per cent on minimum rates, but the latest figures for the 1992-93 financial year (not the current financial year) indicate that quite a number of councils had considerably above the 35 per cent limit which had been imposed by this Parliament. The data for this financial year is not yet available but I understand that the LGA has suggested that in the current financial year about 10 councils still have more than 35 per cent of ratepayers on minimum rates. Of course, with the legislation as it now stands, in the next financial year no council should have more than 35 per cent on minimum rates.

I appreciate that for some councils—and I understand about five councils in particular—it would be very difficult to achieve what is currently set out in the legislation, that is, no more than 35 per cent of councils on minimum rates. Councils in this situation, while not numerous, are scattered around the State; they are not concentrated in one area; they vary amongst themselves in population, so that one cannot say that these difficulties are related to a particular geographical area or a particular population size.

Certainly, I find it regrettable that these councils will find it extremely difficult to comply with the requirement of the Act to achieve no more than 35 per cent on minimum rates in the next financial year. However regrettable it may be, I appreciate that a small number of councils, probably about five, will find it extremely difficult to achieve and, in consequence, I support the provisions set out in clause 8 of the Bill.

It is being suggested that which have not achieved the 35 per cent maximum on minimum rates will have another two years amnesty granted to them to achieve the goal. In return for this undoubted concession on the part of the Parliament, they will have to draw up a plan showing how they propose to achieve the maximum of 35 per cent on minimum rates within two years; that this plan must be available for their ratepayers to examine; and that they must publish information about the plan in a newspaper, circulating within the area, so that the maximum number of people in their communities will know that they have a plan and what it contains, and that it must be available for public inspection for at least three months. This will ensure that all ratepayers in the area have this plan drawn to their attention and are fully cognisant of its contents.

I understand that the LGA is also concerned that a few of its member councils will be unable to comply with the existing legislation, and the LGA certainly hopes to work with this small number of councils to enable them to achieve the goal, hopefully within one year, but within a maximum of two years. I am sure that, through the LGA, councils with these problems can have drawn to their attention how other councils have achieved the goal, albeit with some difficulty in some cases.

However, if some councils can achieve it, then obviously others can also. Sharing of information and working with the LGA, with its great accumulation of experience and wisdom, will enable those few councils to achieve within two years the goals set by this Parliament.

I would certainly not like to see any further extension. Councils were given three years to achieve this goal. It was not news to councils that this requirement was inserted into the Act, and the fact that some small number has not achieved it is, I think, a cause for disappointment. I certainly hope that by providing this extension, with the strict qualification that plans must be laid as to how to achieve the goal, these councils will be able to achieve it within two years. I repeat that I would not like to see any further extension granted, and I regret that some have not been able to achieve what Parliament has laid down. However, I appreciate that some councils have had great difficulties and, I think, by working with the LGA and with their ratepayers they can do so within the next two years.

I reiterate that I certainly hope that no-one will come back to us in two years time to extend the sunset period even further: that having five years notice should certainly be sufficient for all councils in the State to comply with the requirements set down by the Parliament.

Parliament laid down different ways of calculating rates. It is possible for a council to have a minimum rate, as many councils have, but it is also possible for councils to set an administrative charge and have a progressive rate above that minimum administrative charge. Information from the Local Government Grants Commission shows that an increasing number of councils have changed to an administrative charge with a progressive rate on top, rather than use the minimum rate. In consequence, I suggest that the five or so councils with problems may be looking at a plan which involves the administrative charge to solve their problems rather than the minimum rate approach to their striking a rate.

I support the Bill, two thirds of which was included in a Bill introduced by the previous Government. The one additional measure relating to the achievement of a maximum of 35 per cent on the minimum rate, while disappointing, is understandable and deserves the full support of this Parliament.

The Hon. DIANA LAIDLAW (Minister for Transport): I thank the honourable member for her considered response to this Bill. I acknowledge that she may have taken more interest in this matter than other members, having served as a Minister with responsibility for local government for a number of years. It was when she was Minister that we had the debate on minimum rates.

The Hon. Anne Levy: And equal opportunity.

The Hon. DIANA LAIDLAW: And equal opportunity. I would agree fully on minimum rates, but it is hard to believe that such a heated issue, which went to conference, was debated in this place in 1988.

The Hon. Anne Levy: Initially.

The Hon. DIANA LAIDLAW: Initially, yes. Councils have had six years to comply with this matter. I share the honourable member's disappointment, as does the Minister in the other place, that in a number of councils this matter remains outstanding. I note from information with which I have been provided from the Minister's office that a couple of councils have made no effort at all to reduce their rate. I am sure that the Minister will be urging them to prepare this plan and comply with the law, as have other councils. I commend those councils which have made a considerable effort to meet the minimum rate provisions of the Local Government Act. I know that there was much agitation at the time about the measure. Nevertheless, they have complied and it is beholden on the others to do so.

In terms of the guidelines to local councils in preparing their annual reports, I will take that up with the Minister. I believe he will share my enthusiasm for this to be addressed as an important matter for councils and ratepayers with regard to reporting through annual reports. We have three years to work on them and we may as well start now.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. ANNE LEVY: Can the Minister indicate when the Act will be proclaimed? I ask this particularly in relation to clause 8. If councils have to publish a plan within 21 days of the declaration of a rate, they will be looking to declare their rates in three or four months. If they are to have that time, plus three weeks, to prepare a plan, it would be as well for them to know of this as soon as possible.

The Hon. DIANA LAIDLAW: I share the honourable member's concern. I have been told that it will be proclaimed as soon as possible. On further questioning, I have learnt that there is a maximum of two months, which would enable the plan referred to in clause 8 to be addressed. However, 10 councils, of which five are the worst offenders, are not complying with the minimum rate provisions. I suspect that, because of this provision about the plan, those 10 councils would be contacted and urged to start working on this matter prior to the proclamation of the Bill.

Clause passed.

Remaining clauses (3 to 8) and title passed.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (STALKING) AMENDMENT BILL

Returned from the House of Assembly without amendment.

STATE BANK (CORPORATISATION) BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill marks a fresh start for the State Bank.

It is time to get on with planning the future and that includes restructuring the State Bank to contribute to that future.

At its core, the Bank provides a range of services which South Australians value. These include:

- lending for housing and personal loans;
- convenient deposit facilities;
- credit card services;
- rural lending and trade finance;
- lending for South Australian business and leasing;
- school banking and sponsorship.

These activities are appropriate for a solid regional bank.

They are the areas in which it has solid expertise. They are the services provided by the majority of staff in branches throughout the State.

The Bank has a core of good, loyal staff who are expert in providing banking services to ordinary South Australians. It clearly has not had the necessary expertise for the big national or international corporate scene.

Over the past three years, the Bank has been shedding the activities which got it into difficulty.

With this Bill, the Government is moving decisively to complete the process.

From 1 July 1994, the Bank will be focussed completely on its core activities, the activities in which it has expertise and which it has shown that it can do well. This is primarily banking in South Australia, with only limited activities in other States, which are to be carefully controlled and restricted to areas of the Bank's expertise in small scale leasing and commercial lending.

From 1 July 1994, the Bank will also be run on the same basis as most other banks.

It will be a company like other banks, rather than a statutory authority and it will be capable of being sold or listed on the stock exchange. Accordingly, the word "State" will be dropped from its name and it will become Bank of South Australia Limited, or BankSA for short.

It will have a new logo, retaining the existing colours of red, white and blue, but based on the State floral emblem, Sturt's Desert Pea. This signifies the continuing nature of the Bank's core business, but also the Bank's new beginning.

Like other banks, it will be formally supervised by the Reserve Bank of Australia. As Members are aware, the Reserve Bank is charged with the supervision of the Australian banking system. The Reserve Bank supervises all of the major banks and it is appropriate that it should supervise our Bank too. To achieve this, the Bill provides for the State to refer its banking powers to the Commonwealth in respect of Bank of South Australia. From 1 July 1994, it will come under the Commonwealth Banking Act.

As with other banks too, the Bank will be subject to the Corporations Law. The Corporations Law, which is administered by the Australian Securities Commission, sets stringent requirements for the directors of public companies and it is appropriate that the directors of Bank of South Australia should be subject to these requirements.

From 1 July 1994, the Bank will also pay Commonwealth tax.

Like other regional banks, it will provide the security which comes from specialising in loans for housing, personal loans, loans for small business and supporting corporate South Australia, rather than large scale national business.

Retail deposits currently held by the State Bank will be transferred to BankSA. However, with these changes, it will neither be appropriate nor necessary for the State Government guarantee on deposits with BankSA to continue indefinitely. However, all retail customer deposits will be guaranteed at the time the new Bank commences business on 1 July 1994 and will continue to be guaranteed until 1 July 1999. Term deposits in existence on 1 July 1994 and maturing on or after 1 July 1999 will continue to be guaranteed until maturity. Arrangements regarding new deposits and additions to existing deposits will not change for twelve months, but any deposits made after 28 February 1995 (including additions to existing deposits) will not be guaranteed.

On 1 July this year, Bank of South Australia will come into being as a bank with a bright future, operating on the same basis as other banks.

This Bill provides for the steps necessary to achieve this. This Bill alone, however, is not sufficient. Complementary legislation will also be introduced by the Commonwealth and by other States and Territories.

As Members will note from the Bill, the actual process involved in creating the new Bank is a technically complex one. However, apart from the change of name and logo, there will be little change for most customers on 1 July 1994. Present deposits will still be Government guaranteed and there will not be any disruption to loans, investments or other services. In this respect, the change will be no greater than the changes which occurred with the original Bank merger in 1984.

Over time, however, the change will provide better service for customers. The Bank will be smaller, with about $7 to $8 billion of assets compared to $16 billion at June last. It will be focussed on South Australia and be a simpler operation. As a result, it will be better able to concentrate further on servicing the needs of its customers. One of the Bank's first actions will be to seek the suggestions of its customers on further improvements to service.

The creation of the new Bank also includes the strengthening of the Board and management, while providing necessary continuity. In this respect, I am pleased that Mr John Frearson, the current Chairman of the State Bank, has agreed to be the inaugural Chairman of the Bank of South Australia. Other appointments to the Board and senior management will be announced in due course.

The Government has a very clear purpose in creating the Bank of South Australia. We are committed to sale of the Bank.

Our preference is for a public float, although all options remain under consideration.

To be capable of being floated, Bank of South Australia will need to be competitive and this will require further operating improvements. However, the Government's approach offers the opportunity of greater job security for staff than would an early trade sale to another bank.

It also offers the possibility of significantly increasing the value of the Bank. Like many banks, the present bank has an excessive cost base. By improving the efficiency of the new Bank, over the next year or so, the value of the Bank will be increased and, at the same time, job security will also be increased.

On this basis, the Government expects to retain a shareholding in the new Bank until 1996 or thereabouts. However, this does not preclude an earlier sale of part or all of the Bank if market conditions are favourable.

Among other things, the Bill provides for the transfer of staff from the existing entity to the new company.

Not all existing staff will be transferred to BankSA. Those associated with activities being wound down, together with the Group Asset Management Division, will remain behind in the existing statutory authority.

The large majority of existing staff, however, will transfer and will be doing much the same jobs as they are doing now. As the Bill makes clear, the transfer of staff will not affect the remuneration of employees, their leave or their continuity of service.

The Bill as introduced does not cover all staffing matters, particularly in respect of superannuation. For example, because the Bank will ultimately be sold, there is likely to be a need to change arrangements in respect of the old State Superannuation Scheme. The Government believes that these matters should be the subject of consultation with staff and negotiations are currently under way. Accordingly, the Government will introduce the necessary provisions by way of amendment.

The existing statutory authority will continue in existence to facilitate the continued operations of the Group Asset Management Division, the wind down of performing assets which are not appropriate for the Bank of South Australia and the wind down of the present Bank's Government guaranteed liabilities to the capital markets. The Bill provides for the authority to be renamed the South Australian Asset Management Corporation. The Corporation will be a sizeable entity, with an opening balance sheet of the order of $7 to $8 billion. It will continue to be Government guaranteed. This will include a sizeable funding facility of approximately $3 billion provided to Bank of South Australia for a transitional period.

SAFA will also have an important role in the new arrangements in managing the Corporation's liabilities and the funding facility to the new Bank.

An information paper on Corporatisation for the information of Members is also being tabled.

Part One of the Bill covers preliminary matters.

Part Two allows the Treasurer to subscribe capital to the Bank of South Australia. As noted previously, the Bank's capital base is expected to be between $400 million and $500 million compared to the capital base of the present Bank of over $600 million.

Part Three provides that Bank of South Australia is not an agency of the Crown. This is appropriate for an entity which will be privatised. The provisions of this Part will also render it subject to Commonwealth taxation, even while it is wholly owned by the State. This fulfils one of the conditions agreed with the Commonwealth Government.

Part Four provides for the transfer of assets and liabilities from State Bank to Bank of South Australia. While the provisions are relatively complex, they operate to free customers of the need to do anything to transfer their business to the new Bank. Similar provisions will be enacted in a number of States and Territories in which the Bank undertakes business.

Part Five deals with staffing. As already noted, the overriding principle is that the transfer of staff to BankSA will not affect remuneration, leave or continuity of service. At the same time, it will not constitute a retrenchment or give rise to any right to damages. Staffing provisions are a very important part of the legislation and the Government believes that they should only be enacted after close consultation with staff. Accordingly, further provisions may be introduced, following such consultation.

Part Six deals with the Government guarantee.

Part Seven provides for the reference of banking power to the Commonwealth. This is necessary to make BankSA subject to Reserve Bank supervision under the Commonwealth Banking Act. This is another condition agreed with the Commonwealth.

Part Eight contains miscellaneous provisions.

Schedule Two of the Bill provides for consequential amendments to the State Bank Act.

Some of the more important amendments include:

- changing the name of the Bank to South Australian Asset Management Corporation;
- providing for a Board of between four and six members;
- providing for the Board to be subject to the direction and control of the Treasurer;
- provisions to allow the present capital in the Bank held by SAFA to be transferred to the Treasurer;
- provisions to protect customer confidentiality.

It should be noted that the amendments do not vary Section 21 of the existing Act which is concerned with the Government guarantee of the Bank's liabilities. This Section remains without amendment.

There will also be legislation in other States and Territories which deals primarily with the transfer of assets and liabilities to BankSA. Legislation in a number of States is common in situations of this type and has often been needed in the course of bank mergers.

Commonwealth legislation is necessary to bring the Bank within the Banking Act, to facilitate bringing BankSA within Commonwealth taxation legislation and to avoid various administrative problems.

Because Bank of South Australia will be a company, its operations will be governed by its Memorandum and Articles rather than legislation. There will also be a Shareholders' Agreement and a Lending Agreement for the funding facility provided by the Corporation. Outlines of these documents will be tabled prior to the commencement of the debate on this Bill.

As I noted at the outset, this Bill marks a fresh start. The Bank of South Australia will be a solid, viable regional bank based in Adelaide. With support from its customers and commitment from its staff, the Bank will have a bright future.

I commend the Bill to Honourable Members.

Explanation of Clauses

The provisions of the Bill are as follows:

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the measure to come into operation on a day to be fixed by proclamation.

Clause 3: Interpretation

This clause contains definitions of terms used in the measure.

"Assets" and "liabilities" are given expansive meanings.

"BSAL" is defined as the public company with the name "Bank of South Australia Limited" formed under the *Corporations Law*.

"SBSA" is the State Bank of South Australia or, according to the context, that body as continued in existence under the name the "South Australian Asset Management Corporation".

"SBSA subsidiary" or "subsidiary" is—

(a) a company specified in Schedule 1; and

(b) any company classified by proclamation as an SBSA subsidiary.

"Transferred assets" and "transferred liabilities" encompass assets and liabilities transferred under a corresponding law of another State or a Territory as well as those transferred under this measure.

Clause 4: Territorial application of Act

The measure is to apply both within and outside the State and is to apply outside the State to the full extent of the extra-territorial legislative power of the State.

PART 2

PROVISION OF CAPITAL TO BSAL

Clause 5: Capital subscription, etc.

The Treasurer is empowered by this clause to provide capital or loan capital to BSAL and to transfer non-pecuniary assets of the Crown to BSAL.

Unless the Treasurer otherwise determines, capital subscriptions and advances are to be paid out of the Consolidated Account.

The Treasurer may exercise these powers on conditions which may include conditions providing for the issue of shares to the Treasurer.

Provision is made exempting an instrument to give effect to such a transaction from stamp duty.

PART 3

BSAL'S RELATIONSHIP WITH CROWN

Clause 6: Relationship with Crown

The clause declares that BSAL is not an instrumentality or agency of the Crown, does not have the privileges and immunities of the Crown, does not represent the Crown, and is not a public or government authority.

The clause is designed to ensure, as far as is possible in terms of the Commonwealth Constitution, that BSAL is subject to Commonwealth banking and taxation laws.

This Part should be read together with Part 7 of the measure which, by way of reinforcement, provides for the reference of a banking power to the Commonwealth Parliament.

PART 4

TRANSFER OF ASSETS AND LIABILITIES TO BSAL

Clause 7: Transfer of assets and liabilities to BSAL

This is the basic provision of the measure and empowers the Treasurer to transfer assets and liabilities of SBSA or an SBSA subsidiary to BSAL. This is to be done by order in writing made before, or within the period of six months beginning on, the appointed day (a day fixed by proclamation). However, this period may be reduced by proclamation.

An order may be varied or revoked by the Treasurer by further order in writing made before the order takes effect.

The clause declares that a transfer of an asset or liability operates by force of the statute and despite the provisions of any other law or instrument.

It further declares that the transfer of a liability operates to discharge the body corporate from which the liability was transferred from the liability.

Clause 8: Conditions of transfer

Under this clause, the Treasurer may fix the conditions on which assets or liabilities are transferred to BSAL under this measure or a corresponding law.

The conditions of transfer may free transferred property from a trust (if each beneficiary is SBSA or an SBSA subsidiary) and may fix the value of transferred assets and liabilities and impose a liability on the transferee reflecting that value.

Clause 9: Transferred assets free of statutory trust in favour of Crown

This clause is intended to make it clear that a transferred asset is not subject to any statutory trust in favour of the Crown arising under the *State Bank of South Australia Act 1983*.

Clause 10: Indemnity if transfer and discharge of liability not recognised under other law

This clause deals with a possible private international law problem. It provides that if the transfer of a liability from a body to BSAL and the consequent discharge from the liability is not recognised under the law of a place outside South Australia, the body is entitled to be indemnified by BSAL for any payment it may be required to make under the law of that place.

Clause 11: Transitional provisions

This clause contains a series of transitional provisions related to transferred assets and liabilities. The general purpose of the provisions is to put BSAL in the same legal position as SBSA or the SBSA subsidiary from which assets or liabilities are transferred.

Clause 12: Direct payment orders to accounts transferred to BSAL

This clause is designed to ensure that an instruction, order or mandate given to a bank or other financial institution for payments to be made to an account at SBSA or an SBSA subsidiary continues to operate so that the payments are made to the account when transferred to BSAL under this measure or a corresponding law.

Clause 13: Registering authorities to note transfer

Under this clause, the Registrar-General and any other registering authority will be required to register or record in the appropriate manner the transfer to BSAL of any transferred asset or liability and to register an instrument in registrable form, executed by BSAL, relating to property that is a transferred asset even though BSAL is not registered as the proprietor of the property.

The Registrar-General or other registering authority is authorised by the clause to register a dealing with Bank group property by SBSA or the subsidiary in whose name the property is registered or by BSAL without being concerned to inquire whether the property is or is not a transferred asset.

Clause 14: Exclusion of obligation to inquire

Under this clause, a person dealing with SBSA or an SBSA subsidiary or with BSAL is relieved of any obligation to inquire whether property to which the transaction relates is or is not a transferred asset.

Further, the clause provides that if SBSA or an SBSA subsidiary was entitled to property before the appointed day, and after that day, SBSA or the SBSA subsidiary, or BSAL, purports to deal with the property as if entitled to it, the transaction is valid even though the body corporate purporting to deal with the property is not entitled to do so because the property is, or is not, a transferred asset.

This will not, however, validate a transaction if the party dealing with SBSA, the SBSA subsidiary or BSAL has actual notice of the deficiency of title, or acts fraudulently.

Clause 15: Caveat in respect of land not transferred to BSAL

This clause is intended to prevent the possibility of there being a dealing by BSAL with land that has not been transferred. Earlier provisions of the measure facilitate dealings by BSAL by removing any requirement for registering authorities or third parties to inquire whether property has or has not been transferred to BSAL. This

clause will allow SBSA or an SBSA subsidiary to lodge with the Registrar-General a caveat under the *Real Property Act 1886* in respect of such land forbidding the registration of any dealing with the land by BSAL without the consent in writing of SBSA or the SBSA subsidiary concerned.

Clause 16: Re-transfer of assets or liabilities

The Treasurer is authorised by this clause to re-transfer assets or liabilities (or both) from BSAL to SBSA or an SBSA subsidiary.

Clause 17: Stamp and other duties or taxes

This clause provides an exemption from stamp duty, financial institutions duty or debits tax in respect of any transfer effected by order of the Treasurer under this measure, any other transfer or assignment of assets or liabilities by SBSA or an SBSA subsidiary to BSAL and anything done for a purpose connected with, or arising out of, such a transfer or assignment.

Clause 18: Evidence

This clause provides for a certificate issued by the Treasurer to be conclusive evidence as to whether an asset or liability is or is not a transferred asset or liability.

PART 5
STAFF

Clause 19: Transfer of staff

Provision is made for the transfer of Bank group staff to the employment of BSAL by order of the Treasurer.

The clause declares that such a transfer does not affect remuneration, leave rights or continuity of service and does not constitute a retrenchment or redundancy.

It further declares that such a transfer is not to give rise to any right to damages or compensation.

PART 6
GUARANTEE

Clause 20: Government guarantee

This clause provides for a statutory guarantee by the Treasurer of certain BSAL liabilities. For the purposes of this guarantee, the clause (at subclause (11)) establishes a guarantee period—eight months from the transfer date or a longer period fixed by regulation.

The liabilities to be guaranteed are—

(a) liabilities of BSAL on deposits, being deposits at call or on a period of notice, transferred from SBSA to BSAL together with interest accrued on the deposits up to the transfer and further interest accrued on the deposits up to the end of the guarantee period;

(b) liabilities of BSAL on deposits, being deposits at call or on a period of notice, made with BSAL within the guarantee period, but only to the extent of $1 000 000 in respect of any one account together with interest accrued on the deposits (to the extent that they are guaranteed) up to the end of the guarantee period;

(c) liabilities of BSAL on term deposits transferred from SBSA to BSAL together with interest accrued on the deposits up to the transfer and further interest accrued on the deposits until payment or satisfaction;

(d) liabilities of BSAL on term deposits maturing no later than 30 June 1999 made with BSAL within the guarantee period, but only to the extent of $1 000 000 in respect of any one account together with interest accrued on the deposits (to the extent that they are guaranteed) until payment or satisfaction;

(e) transferred liabilities arising on negotiable instruments, bank guarantees or letters of credit;

(f) such other transferred liabilities and liabilities incurred by BSAL within the guarantee period as are specified by the Treasurer, by notice published in the *Gazette* within the transfer period, on terms and conditions fixed in the notice.

The guarantee is to expire on 1 July 1999. However, the guarantee continues if a written demand is made not later than 30 June 1999 for payment of a guaranteed liability falling due on or before that date, or, in the case of a liability falling due after that date, if a written demand is made for payment not later than six months after the liability falls due.

The clause authorises the Treasurer, after consultation with the board of directors of BSAL, to make an order fixing charges to be paid by BSAL in respect of the guarantee as it relates to specified liabilities and imposing restrictions binding on BSAL as to the acceptance of deposits by BSAL within the guarantee period or the variation by agreement at any time of the terms or conditions governing any guaranteed liability. Any such order must be made within the transfer period.

Under the clause, BSAL may agree with a depositor that a deposit is not to be subject to the guarantee.

The clause makes it clear that if the Treasurer makes a payment to a person under the guarantee, the Treasurer is subrogated, to the extent of the payment, to the person's rights (including rights of priority as a creditor in a winding-up) in respect of the liability guaranteed.

PART 7
REFERENCE OF BANKING POWER TO COMMONWEALTH

Clause 21: Reference of banking power to Commonwealth

Section 51 (xxxvii) of the Commonwealth Constitution empowers the Commonwealth Parliament to make laws relating to matters (not otherwise within its powers) referred to it by a State Parliament. The power of the Commonwealth Parliament to make laws with respect to banking does not extend to State banking. In this context, the measure refers the matter of State banking to the Parliament of the Commonwealth.

However, this reference is, under the clause, to operate only—

(a) in relation to the banking business of BSAL to the extent (if any) that it constitutes State banking and is not otherwise included in the legislative power of the Parliament of the Commonwealth; and

(b) for a period from the commencement of this provision until a day fixed by proclamation as the day on which the reference is to terminate.

Further, the clause limits this by excluding any power on the part of the Parliament of the Commonwealth—

(a) to prohibit BSAL from carrying on banking business without holding an authority under the law of the Commonwealth or to provide for the granting of such an authority to BSAL; or

(b) to impose a restriction affecting the name in which BSAL may carry on business; or

(c) to provide for the sale or disposal of BSAL or any part of its undertaking, or for the merger or amalgamation of BSAL or any part of its undertaking; or

(d) to provide for the reconstruction of BSAL.

PART 8
MISCELLANEOUS

Clause 22: Exemption from stamp duty, etc.

This clause provides for further exemptions to be granted by the Treasurer, by notice published in the *Gazette*, from stamp duty, financial institutions duty or debits tax. Such exemptions are for—

(a) a transaction involved in the winding up of a trust in which SBSA or an SBSA subsidiary is a beneficiary or discretionary object; or

(b) the assignment of the beneficial interest, or a part of the beneficial interest, in a trust by or to SBSA or an SBSA subsidiary; or

(c) a transaction involved in the winding up of a partnership of which SBSA or an SBSA subsidiary is a member; or

(d) the assignment of an interest in a partnership by or to SBSA or an SBSA subsidiary; or

(e) any assignment or other transaction involved in the winding up of the affairs of SBSA and the SBSA subsidiaries; or

(f) an application or entry made, or receipt given, or anything else done for a purpose connected with, or arising out of, such an assignment or other transaction.

Clause 23: Dissolution of SBSA subsidiaries

Under this clause, the Governor is empowered to dissolve an SBSA subsidiary by proclamation.

The clause provides that if an SBSA subsidiary is so dissolved, its assets and liabilities are vested in SBSA.

Clause 24: Act overrides other laws

This clause is designed to ensure that the measure has effect despite the provisions of the *Real Property Act 1886* or any other law.

Clause 25: Effect of things done or allowed under Act

This clause declares that nothing done or allowed under the measure is to—

(a) constitute a breach of, or default under, an Act or other law; or

(b) constitute a breach of, or default under, a contract, agreement, understanding or undertaking; or

(c) constitute a breach of a duty of confidence (whether arising by contract, in equity, by custom, or in any other way); or

(d) constitute a civil or criminal wrong; or

(e) terminate an agreement or obligation, or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy; or

(f) release a surety or other obligee wholly or in part from an obligation.

Clause 26: Regulations

This clause is the usual regulation-making provision.

SCHEDULE 1

SBSA subsidiaries

This schedule lists subsidiaries of the State Bank.

SCHEDULE 2

Consequential amendments to State Bank of South Australia Act 1983

This schedule makes a number of consequential amendments to the *State Bank of South Australia Act 1983*.

Clause 1: Interpretation

This clause is formal.

Clause 2: Substitution of long title

A new long title is provided for:

An Act to continue the State Bank of South Australia in existence as the South Australian Asset Management Corporation with the function of managing certain assets; and for other purposes.

Clause 3: Amendment of s. 3—Interpretation

A new definition of "the Bank" is inserted reflecting the change in name to the "South Australian Asset Management Corporation".

Clause 4: Substitution of heading to Division I Part II

The heading is amended to reflect the provision for change of the corporate name.

Clause 5: Amendment of s. 6—Establishment of the Bank

The section is amended to make it clear that the body is now an instrumentality of the Crown and to ensure that it is exempted from State taxes in the same way as other instrumentalities of the Crown.

Clause 6: Insertion of s. 6A—Change of corporate name

The clause inserts a new section providing that the Bank continues in existence as a body corporate under the name the "South Australian Asset Management Corporation".

Clause 7: Amendment of s. 7—Membership of the Board

The Board of the Bank is reduced in size from a minimum of 6 and a maximum of 9 to a minimum of 4 and a maximum of 6.

Clause 8: Amendment of s. 8—Term of office

The clause adds a new provision to ensure that a person who, at the time of appointment as a Director of the Bank, is an employee in the Public Service of the State ceases to be a Director on ceasing to be an employee in the Public Service.

Clause 9: Amendment of s. 9—Casual vacancies

This clause makes a similar amendment so that a public servant on the Board of the Bank may be removed from office by the Governor while the person remains a public servant for any reason the Governor considers sufficient.

Clause 10: Substitution of s. 15—Control and direction by the Treasurer

The clause replaces section 15 (setting out the general banking policies to be observed by the Board) with a new provision that the Board is to be subject to the control and direction of the Treasurer.

Clause 11: Amendment of s. 17—Staff of Bank

The clause adds a new provision allowing the Bank to make use of the services of persons employed in an administrative unit of the Public Service.

Clause 12: Amendment of s. 19—General functions of the Bank

The clause restates the functions of the Bank as being to manage, realise and otherwise deal with its remaining assets and liabilities and, with the approval of the Treasurer, other assets and liabilities of the Crown or an instrumentality of the Crown, to the best advantage of the State.

Certain provisions relating to banking operations are removed in view of the new limited functions of the body.

Clause 13: Amendment of s. 20—Advances by the Treasurer

The section is amended by striking out subsection (3) which prevented repayment of capital grants to the Bank except on resolution of both Houses of Parliament.

Clause 14: Insertion of s. 20A—Capital or advances provided by SAFA

The clause adds a new provision authorising the Treasurer to determine that capital or advances provided to the Bank by the South Australian Government Financing Authority, or a specified part of any such capital or advances, is to be treated as capital or advances provided to the Bank by the Treasurer.

Such a determination may include provision for compensation of the South Australian Government Financing Authority.

Under the clause, the Treasurer may require the Bank to repay to the Treasurer the capital or advances or a specified part of the capital or advances.

Any such determination or requirement must be made before the appointed day (the day for transfer of assets and liabilities to BSAL).

Clause 15: Substitution of s. 22—Surplus funds

The clause replaces section 22 of the Act (providing for tax equivalent payments and payments in the nature of dividends to the Treasurer) with a provision requiring any annual surplus to be paid into the Consolidated Account or otherwise dealt with as the Treasurer may determine.

Clause 16: Amendment of s. 23—Accounts and audit

The clause inserts a provision requiring audits of the body's accounts to be by the Auditor-General rather than an auditor appointed by the Board as currently required under section 24 of the Act.

Clause 17:Repeal of s. 24

This clause provides for the repeal of section 24 and is consequential to the preceding clause.

Clause 18:Substitution of ss. 26, 27 and 28—Customers Unclaimed Moneys Account

This clause removes sections 26, 27 and 28 of the principal Act dealing with, respectively, the Bank's powers in relation to the money and securities of customers who have died or become of unsound mind, the Bank's handling of unclaimed money and payments to minors. The clause inserts a new provision continuing the Bank's obligations in relation to unclaimed money in the account established for that purpose.

Clause 19:Substitution of ss. 29a and 30—Validity of transactions of Bank

Sections 29a and 30 of the principal Act are repealed and a provision is substituted ensuring the validity of prior Bank transactions despite any deficiency in the corporate capacity of the Bank.

Section 29a dealt with customer confidentiality and is replaced by proposed new section 35a dealing with the same matter. Section 30 (relating to notice of trusts affecting deposits and investments with the Bank) is no longer required in view of the new limited functions of the Bank.

Clause 20:Substitution of heading to Part VI

The heading to Part VI of the principal Act is replaced with a heading extending the reference to the restructuring of the Bank to the disposal of BSAL.

Clause 21:Amendment of s. 32—Definitions

The clause adds to the definitions for the purposes of Part VI a definition of "BSAL".

Clause 22:Amendment of s. 34—Restructuring and disposal

Section 34 of the principal Act currently provides for action (the "authorised project") necessary in preparation for the restructuring of the Bank and its subsidiaries. This is now largely completed with the proposal for transfer of assets and liabilities to BSAL and plans for the disposal of assets of or shares in that body.

The clause, accordingly, enlarges the scope of the authorised project so that it will include the disposal of assets of, or shares in, BSAL. Subsection (3) of the section is the basic provision ensuring access to Bank group information as required for the authorised project. This is now reworded by the clause so that it applies both to Bank group information and to information that will be in the possession or control of BSAL and so that it relates to disposal of BSAL assets or shares.

The clause makes other similar consequential amendments and removes subsection (6) which deals with matters now to be covered by proposed new section 35A.

Clause 23:Substitution of s. 35—Confidentiality

Section 35 of the principal Act currently deals with confidentiality as to customer matters. This is replaced by a new confidentiality provision in wider terms.

Under the new provision, a person who, through membership of the Board or staff of the Bank, or involvement in the authorised project, has acquired information about the affairs of some other person who is or was a customer of the Bank must not disclose or make use of the information unless—

(a) the disclosure or use of the information is reasonably required for, or in connection with, the carrying out of the authorised project or the proper conduct of the business of the Bank or BSAL; or

(b) the other person approves the disclosure or use of the information; or

(c) the disclosure or use of the information is authorised or required by or under some other Act or law.

A penalty is fixed for such an offence at the level of a maximum of $5 000 if the offender is a natural person, or if the offender is a body corporate, a maximum of $50 000.

Despite this offence, provision is made authorising information to be provided to the Treasurer about any Bank group transaction if another party to the transaction is in default and certain specified

conditions are satisfied. The conditions require that (either before or after the commencement of the clause) the Bank or a Bank subsidiary takes certain enforcement action in respect of the transaction, or the other party becomes an externally administered body corporate or becomes bankrupt or the other party's affairs are dealt with under Part X of the *Bankruptcy Act*, or the Board of the Bank resolves that it has formed the opinion on reasonable grounds that there is a strong probability of any of the above occurring in the near future. Where confidential information is so provided to the Treasurer, the Treasurer must in turn observe confidentiality in respect of the information except to the extent (if any) that his or her duties of office otherwise require.

The clause also inserts a new section 35a protecting the disclosure or use of information relating to Bank group or BSAL matters from any civil law consequences where the disclosure or use of the information is reasonably required for, on in connection with, the carrying out of the authorised project or the proper conduct of the business of the Bank or BSAL.

Clause 24:Amendment of second schedule

The clause removes certain provisions relating to Bank staff and classification of offices, promotions and discipline.

Clause 25:Expiry of certain provisions

This clause provides for the expiry of subsections (3) and (4) of section 34 of the principal Act on a day fixed by proclamation for the purpose. These provisions require the disclosure of information by the Bank group and BSAL for the purposes of the Bank group restructuring and disposal of BSAL assets or shares.

SCHEDULE 3

Consequential amendments to other Acts

This schedule makes consequential amendments to certain Acts other than the *State Bank of South Australia Act*.

Clauses 1, 4, 5 and 7 remove definitions of "bank" that make reference to the State Bank. The term "bank" is left to its ordinary meaning for the purposes of each of the Acts concerned.

Clause 2 amends the *Government Financing Authority Act 1982*. Section 16 empowers the Treasurer to give directions to semi-government authorities as to borrowings and investments, but makes an exception from this for the Local Government Finance Authority and the State Bank. The exception for the State Bank is removed in view of its new more limited functions.

Clauses 3 and 6 replace a definition of "prime bank rate" with a new definition of the term based on the indicator rate for prime corporate lending of the Commonwealth Bank rather than the State Bank. The references to this term appear in the *Industrial Relations Act (S.A.) 1972* and the *Local Government Act 1934*.

Clause 8 amends the *Public Finance and Audit Act 1987*. A provision requiring the current Group Asset Management Division to be treated as a public authority is removed. Also removed is a provision authorising investment of money under the Treasurer's control in the State Bank. Section 18 of the Act requires the Treasurer's consent for certain financial transactions entered into by semi-government authorities, but makes an exception from this for the State Bank and SAFA. The clause changes this reference to the Bank to that body under its new name the South Australian Asset Management Corporation.

Clause 9 amends the *State Supply Act 1985* so that it is clear that that Act applies to the South Australian Asset Management Corporation.

Clause 10 amends the *Trustee Act 1936* by widening the meaning given to "bank" in section 5(1) of that Act.

The Hon. G. WEATHERILL secured the adjournment of the debate.

ADJOURNMENT

At 6.19 p.m. the Council adjourned until Tuesday 12 April at 2.15 p.m.