LEGISLATIVE COUNCIL

Wednesday 23 November 1994

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

CORRECTIONAL SERVICES (PRIVATE MANAGEMENT AGREEMENTS) AMENDMENT BILL

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

That the sitting of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

PAPER TABLED

The following paper was laid on the table:

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

Department for Family and Community Services—Report, 1993-94.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the thirteenth report 1994-95 of the committee.

QUESTION TIME

INFORMATION TECHNOLOGY

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about outsourcing of information technology.

Leave granted.

The Hon. CAROLYN PICKLES: Yesterday the Minister tabled answers to a series of questions on the criteria used to evaluate tenders for the outsourcing of the Government's information technology requirements. This included advice that the process conducted was to ensure that the decision making was managed properly. The Opposition has now obtained a copy of a report prepared for Treasury by the South Australian Centre for Economic Studies which raises serious concerns about the Government's proposal for outsourcing.

These concerns included the following advice: there was a weak case for outsourcing to IBM, not EDS; savings under the EDS contract are at best $20 million, not the $100 million quoted by the Premier; significant risks are associated with a deal that sees all Government computer work to go to one company; cost estimates used are unreliable; and the deal would lock the Government into what could quickly become obsolete technology. This report raises very serious questions about the Government plan for outsourcing and, before directing a question to the Minister, I seek leave to table a copy of it.

Leave granted.

The Hon. CAROLYN PICKLES: My question is: Why did the Government ignore the advice commissioned by Treasury from the South Australian Centre for Economic Studies on outsourcing information technology warned against taking a whole of Government approach, which said that cost estimates were unreliable and which identified very significant risks to the State?

The Hon. R.I. LUCAS: I understand that the Premier has very satisfactorily and capably answered that question some 20 minutes ago in another place. I will endeavour to get a copy of the Premier's reply and that of any other Minister that may have a view on the question and bring back a reply for the honourable member.

RURAL ASSISTANCE

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about farm aid.

Leave granted.

The Hon. R.R. ROBERTS: Earlier this year the Minister for Primary Industries in another place announced there had been a change in the interest rate regimes for rural assistance loans. In answer to a question from the member for Flinders (Ms Penfold) in the House of Assembly on Wednesday 19 October, in explanation of the change in interest rates for these loans, the Minister went back over the history of this matter and in fact was quite critical of the then Minister for Primary Industries, Lynn Arnold, when he, in 1992, reduced the interest rates for rural adjustment loans for farmers in South Australia. In most cases they were reduced from 10 per cent to 8 per cent or from 8 per cent to 6 per cent.

I understand that, when the Minister for Primary Industries was in Opposition, he was very concerned about the plight of farmers and continually prevailed upon the then Government for relief for farmers. This particular action was a response in part to those representations. That regime has held for the past two years until the present Government came to power on a policy of farm revival and relief for farmers. As a consequence of this extra 2 per cent increase, I am told that many farmers at the beginning of the season were in dire consequences and could not meet their interest repayments under the old scheme.

Since that time, South Australia has suffered another mini drought. It is probably more accurate to say a patchy drought, because there are some areas in South Australia where crops are reasonable, but many areas on the West Coast are suffering a drought. In fact, the Minister for Primary Industries has put a proposition to the Federal Government that parts of South Australia ought to be declared 'drought area'. In his response to the member for Flinders, the Minister said:

Interest rates on those loans are going up by 2 per cent, but any farmer who can establish hardship will be looked at sympathetically with an interest rate subsidy or some other assistance.

Upon receipt of information from people on the West Coast, I am reliably informed that the application form for rural adjustment loans clearly states that, if you get a rural adjustment loan, you cannot get an interest rate subsidy. That being true, and I am sure it is, that is an example of incorrect information being provided to the Parliament. However, I will not delve into that at any length at the moment.

In that statement, the Minister did say that these farmers would be looked at sympathetically with an interest rate subsidy or some other assistance. In light of that statement, my question to the Minister is: What sort of assistance, if any, can the Minister provide to farmers who will be unable to meet their increased interest payments under his new interest rate hike, given that this year, as he has claimed, we are facing a drought in some areas?

The Hon. K.T. GRIFFIN: I will be pleased to refer the questions to the Minister for Primary Industries and bring back replies.

HIGHBURY DUMP

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Environment and Natural Resources, a question on an environmental impact study.

Leave granted.

The Hon. T.G. ROBERTS: There has been a lot of discussion in the community and questions have been asked in this Chamber about the proposal to fill a hole, supposedly in the ranges just east of Highbury, to make it a land fill dump. I have received a lot of letters at my office as, I guess, have other members. Enviroguard, the proponents of the dump, have put forward a detailed proposal about what it intends to do and that, in the current climate, is a step forward. Enviroguard organised a public meeting which a number of people attended, and again that is a good mark of improvement in public relations in that area. Many people were struggling because they did not have access to information. The steps that have been taken since it has become a political issue have been, in my opinion, progressive, but the company itself has prepared—

An honourable member interjecting:

The Hon. T.G. ROBERTS: I acknowledge that. The company had a report prepared by Woodward and Clyde. As I said, there have been some positive moves forward to educate the local community, but the proposal put forward for the restoration of the Highbury sandpit by land fill of solid and general waste, pulled together in good faith by Woodward and Clyde, to some people appeared to be an environmental impact statement. It appears that there has been some confusion as to the status of the report: whether it is a proposal, an environmental impact statement or an environmental impact study.

Did the proponents of the Highbury dump, Enviroguard, put forward a proposal drawn up by consultants Woodward and Clyde in good faith as an environmental impact study, and did the EPA ask the proponents of the dump, Enviroguard, to change the nature of the study from an environmental impact study to a proposal for a report?

The Hon. DIANA LAIDLAW: I will refer those questions to my colleague in another place and bring back a reply.

BEEF

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about toxic chemicals in Australian beef exports.

Leave granted.

The Hon. T. CROTHERS: In the past week we have been witness to the United States—

The PRESIDENT: Order! There is too much background noise; I can hardly hear the question.

The Hon. T. CROTHERS: Thank you for your protection, Mr President. In the past week we have been witness to the United States, Japan, Canada and South Korea placing bans on the import and consumption of Australian beef. These bans resulted from the fact that beef processed in New South Wales, and probably Queensland as well, was contaminated with toxic chemicals, the ingestion of which was caused by property owners feeding their animals with cotton trash. One can well understand, because of the serious drought which has prevailed for the past four years in most of the two States previously referred to, how desperate some of these farmers and graziers would be in respect of feedstock for animals and, indeed, the necessary cash to buy it, given that their own properties have been drought stricken for so long.

But it is beyond comprehension how the beef export trade should have been allowed to become so devastated, as appears to be the case here. The beef trade per year in respect of Japan and America alone is worth some $2 billion, and its value overall is worth some $5 billion to the nation per annum. Add to this tail of woe that it is not the first time this has happened.

Also, if we take into account that the beef industry and the Australian Government have spent many millions of dollars promoting the concept that exports of Australian beef and Australian foodstuffs are produced in a nation that is free of the contaminations with which most foodstuffs produced in other areas of the world are infested, this then truly makes the latest cotton trash foodstuff incident a recipe for absolute disaster. Some of our foodstuff export industries could also be involved because of the spin-off and people's perception.

People close to the industry say that it will require a massive public relations exercise to try to redress this matter. Those of us in this Chamber will remember that, in a debate which took place earlier this year on the number of abattoir meat inspectors that there should be, several Opposition members, of whom I was one, warned of the disaster waiting around the corner for our meat exports when the State Government, in conjunction with the Federal Government, determined to reduce the numbers of meat inspectors employed in South Australian abattoirs. They were prophetic words indeed, which unfortunately have come true.

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: Well, the Attorney says it has nothing to do with it. How would he know when I have not finished my question? You are appalling, Sir.

The PRESIDENT: Order!

The Hon. T. CROTHERS: Thank you for your protection, Mr President. Indeed, had it not been for the fact that it was an Australian abattoir, acting on its own initiative, that alone did the test which discovered the traces of the chemical in question, called helix, the disaster may have been bigger and of a more prolonged nature. As is usual in these matters, everyone involved is endeavouring to do a Pontius Pilate and wash their hands clean of any knowledge of wrongdoing and, indeed, issuing disclaimers to the effect that nobody could possibly have foreseen the harm that the feeding of toxic chemical infested cotton trash would do. Observers have said that that particular nonsense is a bit too much for anyone with any common sense to believe. In respect of the foregoing, I direct the following questions to the Minister:

1. Is the ban placed on the import of Australian live sheep by Saudi Arabia still in place?

2. Will the Minister give a categorical assurance that the meat inspectorate numbers employed in South Australia are high enough to prevent a disaster of this nature occurring in South Australia?

3. Does the Minister believe that with the experiences now before us from the 'cotton trash feedstock scandal' it is now necessary to implement a training program for primary producers about the damage that toxic chemical residue can cause to our export markets and, indeed, to enable them to

gain knowledge about how toxic poisons can be ingested into part of our foodstuff production?

4. Will the Minister take all necessary steps to ensure that a disaster such as this cannot occur in South Australia?

5. I hope that the Attorney is listening. Will the Minister inform this Council what he and his department believe will be required, if anything, to achieve a South Australian foodstuffs environment that will render us risk-free from such disasters?

An honourable member interjecting:

The Hon. T. CROTHERS: I would make a good Minister.

The Hon. K.T. GRIFFIN: It may be that the honourable member is seeking to challenge the Opposition front bench with such a question. I have to warn the Hon. Ron Roberts, who is the hope of the side, that he will have to watch his back.

Members interjecting:

The Hon. K.T. GRIFFIN: Was the interjection 'radium' or 'radiant'?

The Hon. T. Crothers: I am a good shining light.

The Hon. K.T. GRIFFIN: I am not sure why the Hon. Mr Crothers shines in the dark, but we will see. It may be that a few late night sittings will test his radiancy. Obviously some detail is required in those questions, which I will refer to the Minister for Primary Industries and bring back replies. But one has to recognise that the honourable member calling this 'the cotton feed stock scandal' is really fuelling the debate. I would have thought that it was a debate that needed to be played down internationally, rather than played up. The fact of the matter—

The Hon. T. Crothers: It should never have happened.

The Hon. K.T. GRIFFIN: It should never have happened, but it happened—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Well, it happened interstate and, as I understand it, the residues are minuscule and they come from a situation which could never occur in South Australia because we do not grow cotton in this State.

The Hon. T. Crothers: We export live sheep and they are part of the problem.

The Hon. K.T. GRIFFIN: Of course we export live sheep and it is a very good trade that we do as well, as well as exporting a significant amount of beef and other primary produce. The honourable member was tending to suggest in his explanation that in some way or another the number of meat inspectors in this State might have a bearing on whether or not the contamination might occur, but I am sure that the Minister for Primary Industries would only too quickly indicate to the honourable member that the number of meat inspectors in South Australia has nothing to do with whether or not this sort of event can occur in this State.

The Hon. T. Crothers: Nonsense!

The Hon. K.T. GRIFFIN: It is not a nonsense.

The Hon. T. Crothers: It is a nonsense. I hope you are right, but I think you are wrong.

The Hon. K.T. GRIFFIN: To suggest that the State Government might be adopting a Pontius Pilate approach, or anyone else might be adopting that approach, is I think so far from the truth that it does not really bear close examination, because there is nothing from which the State Government should distance itself. The fact is that it is not something which has happened in South Australia and it is, as I understand it with respect to meat inspector numbers, unlikely to happen in this State. So, there is nothing for the State Government to be concerned about except in respect of the damage that this is doing to the Australia-wide meat industry. As I said earlier, I will refer the matters to the Minister for Primary Industries and bring back a reply.

DIRECTORY LISTINGS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about directory listings.

Leave granted.

The Hon. A.J. REDFORD: I might say that this will probably be the first question for at least 25 minutes that will not have to be referred to another place. On 17 November 1994 I received an invoice from a company describing itself as 'IT&T-AG' of Innere Güterstrasse, Switzerland. It purports to bill me and my former firm some $975 with a 3 per cent cash discount and it purports to say that you get yourself into a directory.

Members interjecting:

The Hon. A.J. REDFORD: I know the Hon. Ron Roberts is most interested in this topic because he probably received a similar invoice. In any event, on the face of it, it would appear that, if the document was received by perhaps a larger company or a business that did not have proper control over its invoicing, it might well be paid in error. The fact is that the bill is for an unsolicited directory entry. I am not sure how widespread this is, but in view of this my questions to the Minister are as follows:

1. Would the Minister consider requesting the Commissioner for Consumer Affairs to provide a warning in relation to invoices of this nature?

2. Is the Minister aware of this occurring in other places at other times and to the extent of this sort of conduct?

3. What steps can be taken by the Government to ensure that the victims of this sort of scam are minimised?

The Hon. K.T. GRIFFIN: I recollect reading only a week or so ago some public references to the fact that businesses had been receiving unsolicited invoices.

The Hon. Anne Levy: It's not the first time, either.

The Hon. K.T. GRIFFIN: No, it is not the first time.

The Hon. Anne Levy: The *Investigators* did some programs about it.

The Hon. K.T. GRIFFIN: Everyone knows about it—I do not need to answer the question then.

Members interjecting:

The Hon. K.T. GRIFFIN: I am getting on with it—I am just waiting for the interjections to quieten down. As I was saying, I noticed only a week or so ago a report, I think in the *Advertiser*, which made reference to unsolicited invoices and, as members have interjected, this is not the first incidence of that occurring. It has been the focus of attention on many occasions. I am not sure that there would be any point in the Commissioner issuing any general warning about it. Certainly, I am prepared to refer it to him to get some response with respect to the Office of Consumer and Business Affairs' own experience on the issue, but I doubt that it needs to be the subject of a further warning. Such conduct occurs on numerous occasions and obviously, from a legal point of view, if an account is received and not paid either in whole or in part, there is no legal liability. I suspect that companies like this are just trying out potential customers to see whether the customer is interested in this sort of publication. Of course, once a customer commits to the advertisement, the

customer is locked into it and there is likely to be a binding contract. As I say, I will refer it to the Commissioner and if there is anything further to add I will bring back a reply.

HOUSING TRUST RENT

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Housing, Urban Development and Local Government Relations, a question about the frozen rent policy.

Leave granted.

The Hon. BARBARA WIESE: I was recently approached by a constituent seeking help to have her Housing Trust rent increase reviewed. She advised that, prior to her husband's death in 1993, the rent they paid had been frozen in accordance with the trust's policy for tenants turning 75 years which applied until July 1988. The problem for my constituent is that even though her husband was eligible for frozen rent, an amenity they both enjoyed for a number of years, this was not transferable to her on his death. This seems to me to be a most miserable interpretation of policy, particularly when one takes into account that it is likely to be a relatively small number of people who may be caught in this situation. It seems hard to believe that our society—

The Hon. Diana Laidlaw: What age is she? She must be under 75.

The Hon. BARBARA WIESE: She must have been under 75 when the policy was changed. It seems hard to believe that our society is so poor that we are not in a position to continue a small financial benefit to a few elderly people—mostly women—who have suffered the misfortune of losing a spouse. My questions to the Minister are:

1. How many surviving spouses of deceased pensioners who qualified for frozen rents have had to pay increased rents since the policy was discontinued in 1988?

2. What is the number of pensioner couples currently receiving the benefit of frozen rent in accordance with the pre-1988 policy?

3. What is the estimate of the number of spouses who may be subjected to increased rent in couples where the sole qualifying spouse dies, and what would be the estimated cost of extending the frozen rent amenity to the surviving spouses of deceased pensioners who became eligible for frozen rents prior to 1988?

4. Will the Government consider changing the policy to allow surviving spouses to continue to receive a frozen rent benefit on the death of the qualifying pensioner?

The Hon. DIANA LAIDLAW: There are a number of questions, requiring some research, I suspect. I will refer those questions to the Minister. I am not sure whether we can get a reply back by the time Parliament rises, but it will be forwarded to the honourable member if that is not possible.

MENTAL HEALTH

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about support services for mental health patients being discharged from Glenside Hospital.

Leave granted.

The Hon. SANDRA KANCK: I have been informed by a doctor who has colleagues working in the Mental Health Services that this year a number of patients who have been referred to Glenside Hospital have committed suicide within one month of leaving Glenside. My questions are:

1. How long does Glenside monitor the condition of patients who have been discharged and, if the hospital does have any knowledge of suicides following discharge, how many suicides and attempted suicides have occurred among patients over the past two years?

2. Has any dissatisfaction been expressed by private sector psychiatrists to hospital management, the South Australian Mental Health Services or the Minister about early discharges and/or lack of support for discharged patients from Glenside?

3. Is it true that the Chief Psychiatrist of the South Australian Mental Health Services has been off sick with no replacement, with his return to work unknown?

The Hon. DIANA LAIDLAW: I will refer those questions to my colleague in another place and bring back a reply.

NOARLUNGA THEATRE

The Hon. ANNE LEVY: I seek leave to make an explanation before asking the Minister for the Arts a question about the Noarlunga Theatre.

Leave granted.

The Hon. ANNE LEVY: On occasions the Minister has expressed interest in acronyms, and I am sure she is familiar with the acronym HOOT, which is the group Hands Off Our Theatre, otherwise the friends of the Noarlunga Theatre. This group is extremely concerned that, despite all promises about maintaining funds for the arts, this Government has cut funding to the theatre by $200 000 this year. This will of course make the theatre non-viable, and it is very likely that it will close or, if not close, certainly have its role and functions very much reduced, so depriving the people south of the metropolitan area of their main theatrical venue and the many services which it has supplied to them. I realise that the funding for the theatre has not come through the ministry for the arts but through TAFE, but it is the same Government, which is in effect extinguishing a theatre in the south, despite having given many promises before the election about looking after the south.

One way of assisting the Noarlunga Theatre to survive and also providing good theatrical performances for the people south of Tapleys Hill would be to make the theatre part of the circuit for touring performances which is organised through the South Australian Country Arts Trust, or SACAT, as it is often called.

Currently SACAT does not cover any part of the metropolitan area and Noarlunga is not part of its responsibility, so the very successful country tours of arts products, which are being organised by SACAT, cannot include the Noarlunga Theatre. To enable SACAT tours to make use of this theatre and so assist the community, it has been put to me that either the legislation establishing SACAT could be amended, so that the area of the State for which it is responsible could take in the Noarlunga Theatre—and I suppose, symmetrically, one could ask that it also take in the Octagon Theatre at Elizabeth—or alternatively an entrepreneurial fund could be provided either to HOOT or to some other group which would be prepared to take the responsibility, so that they could be the entrepreneurs to engage SACAT's touring arts product to come to the Noarlunga Theatre. It would seem that either of these approaches would be of enormous benefit in terms of arts product available to the people in the south of

the metropolitan area, and also would improve the viability of the Noarlunga Theatre. My questions are:

1. Will the Minister consider these two possibilities of enabling SACAT to include Noarlunga in its touring?

2. Does she see advantages to the artistic and cultural life of the south in such a proposal, as some means of compensating for the savage cuts made by the Government to this theatre?

The PRESIDENT: A lot of opinion has been expressed in that question, and I reiterate that it is not necessary to express opinion in a question.

The Hon. Anne Levy: What was the opinion?

The PRESIDENT: The honourable member's last statement was an opinion.

The Hon. DIANA LAIDLAW: One example of opinion was the suggestion that the theatre was very likely to close. That is not only comment; it is speculation, and there are no grounds at all to suggest that the theatre is to close. The Minister for Employment, Training and Further Education, who is responsible for TAFE colleges, has an officer who is dedicated to finding a solution to the question of the future of this community theatre. I am aware of that because we had discussions about the matter last Monday, and the Minister would not have allocated an officer for this purpose if he believed that the theatre was going to close.

I accept the statement by the honourable member that it is the Minister, through TAFE, who has cut the funding for this theatre; it is not an arts budget matter in that sense. I addressed a number of the issues raised by the honourable member when, possibly last session, she asked a very similar question on the future of the theatre. At that time I recall indicating that the South Australian Country Arts Trust Act does not—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: That is right; the South Australian Country Arts Trust Act does not embrace Noarlunga in terms of the area that it covers.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: I know; I also indicated at the time that the South Australian Country Arts Trust had no wish to see its boundaries moved from McLaren Vale to embrace the Noarlunga Theatre. I have received advice on this matter from the trust that it is aware that any move as proposed by the honourable member would also have to embrace the Shedley and Octagon Theatres at Elizabeth. So, there are many implications, including financial implications, for the trust in which it does not wish to be involved.

I would certainly not look at funding an entrepreneurial fund through the arts budget. However, there may be other sources of funding for this purpose. We are working extraordinarily hard with local government in a number of areas where TAFE has decided to no longer involve itself with theatres on various campuses. For instance, I met with representatives of the Whyalla council yesterday and I am shortly to speak to the Minister for Education and Children's Services about a wonderful arrangement whereby we believe that there can be community arts facilities, including rehearsal space, adjacent to the Middleback Theatre. In that instance, local government is working very closely with Government. We are speaking with the Elizabeth council about involvement in relation to the Shedley and Octagon Theatres. I understand that, to date, we have had no response from the Noarlunga council and therefore I will be interested to see whether Noarlunga council will come forward in the interests of the community in relation to this theatre.

So, at the moment I have no intention of moving for the amendment to the legislation, nor establishing an entrepreneurial fund. As far as I am concerned, the matter is still in the hands of the Minister for Employment, Training and Further Education, who has assigned an officer to address this issue.

The Hon. Anne Levy: You don't care about the arts in the south.

The Hon. DIANA LAIDLAW: I care a great deal.

QUALITY ASSURANCE UNIT

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about the Education Department's Quality Assurance Unit.

Leave granted.

The Hon. CAROLYN PICKLES: Earlier this year the Minister approved the abolition of the Education Review Unit and established a Quality Assurance Unit to monitor educational effectiveness and efficiency in key priority areas. My questions relate to the establishment of this unit and its functions. How many staff are employed in the Quality Assurance Unit? What are the terms of reference for this unit, and how does it monitor educational effectiveness?

The Hon. R.I. LUCAS: I will bring back answers to some of those questions. I think that there is of the order of about half a dozen staff in the unit. Generally, the terms of reference of the unit relate to assurance of quality of any programs which exist within the Education Department and which are nominated either in some way by the Chief Executive Officer, the Minister or indeed the unit itself to require evaluation. So, for example the Quality Assurance Unit is discussing with other officers of the department aspects of the new 'Early Years Strategy' of the Government, which is a multi-million dollar ongoing commitment from the Government to assist children with learning difficulties, to try to identify them early enough and then, importantly, do something about them through a range of early intervention programs. The object is to ensure that, as we introduce that new program and strategy, there is an ongoing monitoring and evaluation of its effectiveness.

There is a commitment within the department that there be some measure of evaluation of the effectiveness of all new significant programs. Sadly that has been one aspect of new program development that did not exist under the previous Government in relation to ensuring an evaluation as to whether or not a particular program was successful. We will also consider whether or not there ought to be evaluations of existing and ongoing programs.

A number of departmental managers and advisers responsible for a number of existing programs have sought advice on the possibility of evaluations being conducted of the effectiveness of their particular programs. So, again, the unit will be responsible in part for having a look at that, but there are many other aspects of quality assurance generally that the unit will have to address.

I will be pleased to bring back for the benefit of the honourable member a broad indication of the terms of reference, but more particularly a general description of some of the processes that the quality assurance unit will be following in that evaluation of programs.

SEAWEED

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Environment and Natural Resources, a question about the export of seaweed and seagrasses.

Leave granted.

The Hon. M.J. ELLIOTT: I note that in today's *Advertiser* there is an article relating to the export of seaweed and seagrasses for processing in the United States. It refers to the fact that interest has been expressed by other companies wishing also to remove material from the beaches for the making of fertiliser. I think the terms 'seaweed' and 'seagrass' tend to be used interchangeably and for a lot of people do not mean a whole lot. My understanding is that what is being taken from the beaches near Kingston are seagrasses, predominantly the species *Posidonia*, and it is predominantly seagrasses that are accumulating on the Adelaide beaches as well, as distinct from algae, which a lot of people think of as seaweed.

The seagrass which is being removed from Kingston is going to California for manufacture into fertiliser and, as I said, a number of other companies have expressed an interest also in processing the material.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: No, I think the medicines are coming from algae and not seagrass. The Coast Protection Board is reported as saying that several companies have expressed interest. It is illegal for the general public to remove seaweed, and councils can give licences for the removal of small amounts, as I understand it. Some of the concerns expressed about the removal of both seaweed and seagrass from beaches are that the problems of coastal erosion could be exacerbated in that the collection of seagrass and seaweed will be often from immediately in front of the dunes, and that is one more way of dissipating energy on an active beach.

There is also a concern because of the very reason for removal, which is to get the nutrients for use in growing crops. Those nutrients in other circumstances would go back into the marine environment. By world standards our marine environment is very low in natural nutrient levels. I read in a recent article which I do not have to hand that seagrass is quite high in Boron, and that its use over an extended period of time can create difficulties with Boron toxicity in plants. I ask three questions of the Minister:

1. Will the ramifications of the loss of this resource currently being explored by the Coast Protection Board be reported to this Parliament, and what time frame is this examination being taken over?

2. Can the Minister give any indication as to whether or not the seagrasses are high in Boron and therefore unsuitable for long-term use as fertilisers?

3. Will the Minister investigate, if there are no environmental difficulties with their use, our encouraging their processing in Australia, rather than simply exporting them overseas?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

BUSINESS CENTRE

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement made today in another place by the Minister for Industry, Manufacturing, Small Business and Regional Development on the subject of the new General Manager of the Business Centre.

Leave granted.

GLENBURNIE TO STRATHDOWNIE ROAD

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Glenburnie to Strathdownie road.

Leave granted.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: This is one with which the Hon. Mr Lucas would be familiar. I recently travelled on the Glenburnie to Strathdownie road.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: It has had a priority from the previous Government, and I am asking about a priority now. The road itself is quite dangerous in that it adjoins the Victorian border. The road from Victoria to Mount Gambier, as the Hon. Mr Lucas would know, is in very good condition. It is very wide and quite safe, but as it winds its way over the South Australian border and into Mount Gambier the road narrows and becomes quite dangerous in that log trucks use it quite regularly, and it is almost impossible to pass a log truck on any section of the road between the South Australian border and Highway 1 at Mount Gambier.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Yes, turn left at the racecourse and head towards the border.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: It goes to Casterton, but the section between Glenburnie and Strathdownie is the bad bit.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: Well, if the Minister is familiar with the section of highway, my question is: will the Minister make provision in the 1994-95 budget, given the concerns that local government and local people have with the state of the road, for its upgrade?

The Hon. DIANA LAIDLAW: I was not familiar with the road in terms of Glenburnie to Strathdownie, but certainly I am with the section from Mount Gambier to Casterton. The District Council of Mount Gambier has written to me often about this road. At their request, I visited them and bumped along this road in a truck with a driver who I think had been in training for some time to make it an awful journey. I learnt later that he had, I think deliberately, put no load in the back of the truck so that it was quite light and we did bounce a bit more than we would have done had the truck been stabilised with a load. Nevertheless, whether the truck was loaded or not, there was no doubt that the road was ghastly, especially when we reached the Victorian border in that same truck and drove on a quality road. The difference was marked and fantastic.

I recall correspondence that the Hon. Frank Blevins wrote to the district council some years ago promising that this work would be started in 1997. The former Government had to change that priority for funding reasons. We have indicated the same. I have spoken to the council saying that I would

hope that within the next three years (and I trust that will be possible) we will be able to do work on this road.

There is a new stabilising technique for recycling, for which the department and various contractors have won awards. We believe, as I canvassed with the district council, that we could get double the length for a given sum of money, or we would need to spend only half the amount of money by using this recycling technique, digging up the top surface and relaying it with a stabilising mixture. If it is proved that we could use this technique there, we would be able to start work sooner rather than later on this road.

SHELTER

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about Shelter study.

Leave granted.

The Hon. ANNE LEVY: In May I asked the Minister a question regarding the funding by the previous Government of the organisation known as Shelter to conduct a study as to whether it was desirable to have a tenants' advocacy group established in this State. In July the Minister replied to me by letter (as Parliament was not sitting), indicating that the project that Shelter was funded to undertake had reached the second of four stages of the entire project at that time and that it was expected then to complete its report on this matter in September of this year.

It is now the latter half of November and certainly the Minister has not released any such report. Has the Minister received the report from Shelter on the study regarding the establishment of a tenants' advocacy group in South Australia? If he has received the report, will he release it publicly? If he has not yet received it, when does he expect to do so, and can he assure us that he will make its contents public when it is available?

The Hon. K.T. GRIFFIN: I have no recollection of seeing the report but the question by the honourable member prompts me to now make some inquiries as to its whereabouts. I cannot at this stage give any indication about whether or not it will be released. I would certainly like to have a look at it. I generally take the view that this sort of information ought to be out in the public arena. I will make some inquiries and bring back replies.

INFORMATION TECHNOLOGY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Leader of this Council a question about computer outsourcing.

Leave granted.

The Hon. M.J. ELLIOTT: On Monday 14 November in the computer section of the *Advertiser*, an article appeared titled '$700 million computer error'. A conference was held in Adelaide the previous week and the keynote speaker, Mr Jones, of the UK-based McIntosh Jones IT Consultancy, made a number of comments. He said:

> Tell me what technology is going to be around in nine years' time and I will tell you it is going to be significantly better than what is available today and it is going to be significantly cheaper. . . . What you are giving away is skills.

He was commenting on the outsourcing. I note that when I met with the Government for a briefing, a short while before it announced which company would win the tender, the Government intimated to me that it would award a contract of either five or seven years, with its preference being five years. We now see that it is a nine year contract, and that is the point which Mr Jones in particular tackles. Mr Jones certainly said some positive things, and later in the article he said:

> Companies such as EDS and IBM are the biggest players there and they can always deliver cost savings.

However, he did question the Government's locking itself into a single supplier. Another person also quoted in the same article is Mr William Ehmcke, a partner of the Meta Group, a US-based information technology consultancy with more than 1 400 clients throughout Europe. Again, Mr Ehmcke was positive about outsourcing but was critical in some regards. He said:

> . . . the Government's wholesale outsourcing is going against the trend in Britain. If we look at the history of outsourcing in the US and the United Kingdom, the successful ones have been companies who selectively and progressively outsourced various components of their IT infrastructure as opposed to handing the full operation to one outsourcer.

Mr Ehmcke further said:

> The strategy suggested by Meta Group is to selectively outsource individual items of IT infrastructure to companies that may specialise in that particular service such as software maintenance, network services or desktop applications.

After an indication that the Government's preference was five years and that perhaps it might go to seven years, why did it agree to nine years? Was that at the absolute insistence of EDS, the eventual winner, which refused to play ball in other circumstances, and why, when there is increasing concern about using a single outsourcer rather than a number of outsourcers (something referred to in another question earlier today), did the Government choose to go against such advice both internally and externally?

The Hon. R.I. LUCAS: I will be happy to refer the honourable member's questions to the Premier and the responsible Ministers and bring back a reply. It is important, however, to say at the outset that a number of commentators are missing a very important issue in relation to the EDS arrangement. We are talking about two very important principles, one of which relates to outsourcing, and the honourable member has talked about that. The other issue, from South Australia's development viewpoint, relates to the industrial development opportunities that this arrangement provides to South Australians and to young South Australians.

For example, in relation to EDS we are talking a ball park figure of about 1 300 direct and indirect jobs. As a result of that, we have already had a handful of other companies looking at coming in on the back of EDS or because of EDS into Technology Park in South Australia to provide further jobs for young South Australians and experienced South Australians in this important area.

So, the Government takes the wider picture in relation to this big arrangement with EDS. We are not just concentrating on the outsourcing issue, to which some commentators are limiting their horizon. As a Government we are looking—and the Premier has indicated this on a number of occasions—not just at the outsourcing aspect but also at the very substantial industrial development opportunities and job opportunities for young South Australians. It is important that when we listen to some of these commentators—and we must always listen, of course—we ought at least to be a little bit cautious and bear in mind that this Government is not just looking at

outsourcing: it is looking at jobs, industrial development and future investment opportunities for South Australia.

MEMBERS' LEAVE

The Hon. G. WEATHERILL: I move:

That two weeks' leave of absence be granted to the Hon. Anne Levy from 29 November 1994 on account of absence overseas attending a conference.

Motion carried.

The Hon. G. WEATHERILL: I move:

That one week's leave of absence be granted to the Hon. T.G. Cameron from 23 November 1994 on account of illness.

Motion carried.

PROSPECT CORPORATION

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

That Corporation of Prospect by-law No. 2 concerning streets and public places, made on 23 August 1994 and laid on the table of this Council on 11 October 1994, be disallowed.

I propose to speak on this matter but briefly. The motion relates to a by-law of the City of Prospect which was disallowed, following the Legislative Review Committee's deliberations in another place last week. However, the reasons given on that occasion may not have fully informed the public of the grounds which motivated the committee. The by-law in question provides:

That no person shall without permission park a vehicle in any public place on which any sign is displayed, whether resting on the vehicle, affixed to it, painted or etched or otherwise adhered to it indicating either that the vehicle is for sale or which advertises products or businesses.

There is an exception only for licensed taxis. The committee was concerned that this by-law would have the effect of prohibiting the parking of any commercial vehicle which has painted on it conventional commercial signs. Other by-laws in other municipalities have adopted a somewhat different format which exempts not only licensed taxis but any vehicle which has a sign or signs on it which identify it as belonging to a business. That is the model that the Legislative Review Committee prefers to see adopted.

As I said, the by-law was disallowed in the other place and it is unnecessary for this motion to be proceeded with here. However, in explaining the reasons for recommending disallowance in another place, it was suggested, in an argument adopted by the redoubtable Mr Gordon Howie, that local government authorities have been deprived of the power to make by-laws prohibiting the parking of vehicles. It is true that that argument has been advanced by Mr Howie on this and other occasions. The Legislative Review Committee did not buy into that argument, but forwarded that part of Mr Howie's correspondence to the Minister for comment. With that explanation, I indicate to the Council that I do not propose to proceed with the motion, and I seek leave to withdraw the motion.

Leave granted; motion withdrawn.

WASTE MANAGEMENT

Adjourned debate on motion of Hon. M.J. Elliott:

That the Environment, Resources and Development Committee be instructed to investigate and report on waste management practices in South Australia and that it pay special attention to—

1. location of dumps;
2. design, operation and monitoring of dumps;
3. disposal of dangerous substances, including toxic and radioactive materials;
4. recycling;
5. container deposit laws;
6. waste generation.

(Continued from 16 November. Page 804.)

The Hon. T.G. ROBERTS: I support this motion. I do so not reluctantly, but I advise the Council that the committee had put on the Notice Paper of the Environment, Resources and Development Committee a similar motion for the investigation of problems associated with dumps and it was in the process of being accepted when the motion came on to the Notice Paper in the Council. The motion on the Notice Paper in the Council, if passed by the Council, takes priority over other matters being investigated by the committee. That is probably why the Hon. Mr Elliott has put it on the Notice Paper rather than allow the committee to prioritise its own agenda. I understand from the Chair that the Environment, Resources and Development Committee's priority on the disposal of rubbish and the issue of dumps was to be picked up in the new year.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: The Bill was first put in place to set up the committees, but the prioritising becomes important in relation to where one moves notification for priority from. There was a commitment from the Chair that we would be discussing it early in the new year; so the motion makes that a number one priority. If this motion is passed, we will be looking at problems associated with waste management. As we learned from Question Time and correspondence, waste management is a key issue in the community. In all sections of the metropolitan area and in country areas it is raising its head as a major issue.

In June we went to the South-East and looked at the entrance to the Canunda National Park where a toxic and domestic commercial dump is sited. One could not get a worse site for a dump if one tried. Whoever made the decision to set up a dump in pristine wilderness associated with a national park ought to be condemned. Having said that, the dump is there. It is a key issue amongst conservationists in the area and for townspeople that the dump is sited there. An issue was raised with me associated with the siting of the dump on my last visit. The tourism board was being inundated with complaints from tourists who were directed to the entrance to the national park. They would arrive at the gates of the rubbish dump, look at the rubbish dump, say, 'This is not the entrance to the national park; this is the entrance to a rubbish dump,' and they would then turn around and drive back into town, in many cases becoming confused and lost. The issue of dumps is not only a metropolitan but a regional problem associated with the disposal and management of waste in society today.

The other problem with that dump and other dumps in the South-East is how to manage toxic wastes out of industrial premises, how to dispose of chemical wastes from households and how to dispose of herbicides, pesticides and weedicides from agricultural premises that have had them stored and have no further use for them. The regional governments in that area have got together and are now starting to put together a management plan for prioritising waste manage-

ment in that locality, but I suspect that the Environment, Resources and Development Committee needs to take a positive overall view in relation to waste management in this State.

I have circulated an addendum to the Hon. Mr Elliott's motion. I have not spoken to the Hon. Mr Elliott about it, but I hope it will be acceptable to him. Although the motion deals with problems that would find their way into State and local government areas, the addendum to the motion would add a Commonwealth responsibility. The addendum is to insert Commonwealth responsibility for the transport, storage and dumping of Commonwealth generated waste. I have added that to the motion on the basis that it is timely for the States to consider how Commonwealth waste is to be dealt with—in particular, the transport, storage and disposal problems associated with toxic waste from the Lucas Heights plant.

The Hon. Mr Elliott's motion deals with the location of dumps; the design, operation and monitoring of dumps; the disposal of dangerous substances including toxic and radioactive materials; recycling, which is another problem that we have in relation to how much waste we put into landfill; and it deals with container deposit laws, because the impact of such laws affects the amount of landfill. It is a timely addition to the motion. We have a disallowance motion before us today on the Two Dogs lemonade problem, in relation to which we will discuss whether or not to grant the disallowance, and the other point is waste generation.

There is enough material included in the motion to have the committee sit for 12 months taking evidence on this motion alone. We will have to deal with other business, but as I have indicated it will be a priority listing now for the committee. We will have to take evidence from all areas in metropolitan Adelaide and from country areas that are having difficulty coming to terms with waste management. In earlier days waste management proposals were generally associated with rubbish dumps: they were out of sight, out of mind. Most country and metropolitan areas buried whatever waste accumulated and forgot about it.

We now have much more information available to us to alert us to the fact that a lot of waste that was disposed of in this way has now formed contaminant agents in soil and underground water, and we need to be far more careful about how we dispose of a lot of our waste that we generate as a twenty-first century society. So not only do we have to look at the disposal of current waste and at waste management practices now, but I suspect that we may have to look at the rehabilitation of some areas that have used questionable waste disposal practices in the past. I suspect that areas like Port Pirie, Port Augusta and Whyalla would all have, if looked at closely enough, major problems with disposal that people may or may not recognise as problems. In relation to those easy disposable programs that were put in place for what we now know to be toxic or dangerous material, such as asbestos, in some cases it is best that they are left where they are and that some sort of public notification is made of them. We have disposal problems associated with Radium Hill and the tailings dams in Port Pirie, which people have not come to terms with yet. There are, as I said, many communities struggling with how to deal with agricultural chemicals.

It is a timely motion that prioritises the issue for the Environment, Resources and Development Committee. As I said, the committee was in the throes of taking up the issue. The Committee has been very busy and the servicing staff have done an excellent job. We are carrying at least one referral that perhaps we should not be; that is the referral of the investigation into compulsory road checks. But we have it, nevertheless, and we will deal with it in a professional way. However, I suspect that this issue before us in relation to waste management will take up a lot of the committee's time next year and, if we are to do it properly, we are going to have a lot of submissions, verbal and written. There will be a lot of heat generated because of the issues that are raging out in the community; that is the issues that were raised in this Chamber before: the Dublin proposal, the Highbury proposal, the Wingfield extension—

The Hon. M.J. Elliott: Garden Island.

The Hon. T.G. ROBERTS: We have the Garden Island proposal, and I suspect if anybody went to create a dump in that area now they would never be given permission under any circumstances under any Government, no matter what their views. Eden Hills is another dump that needs to be looked at. The tailings from the mine at Barkura, near Nairne, is something we may have to look at.

The Hon. M.J. Elliott: Contaminated soil that is being dug up in Adelaide.

The Hon. T.G. ROBERTS: Yes, the disposal of contaminated soil is another problem. So, the committee is going to be very busy. But, as I said, there are very capable members on that committee and we have a very good staff servicing the committee. I would hope some time in the second half of the year we will be able to come back with a full report on a proposal to come to grips with waste management problems in this area. I hope that we are able to alleviate some of the problems that the Government has in dealing with local communities about the siting of the contentious issues of waste management and dumps. I notice that there are a lot of euphemisms now levelled at the renaming of dumps, but a dump is a dump is a dump.

I support the motion and look forward to picking it up as a prioritised issue in 1995, and I now formally move my addendum to the motion, as follows:

After paragraph 6 insert:

7. Commonwealth responsibilities for transport, storage and dumping of Commonwealth generated waste.

That is basically directed, as I said, to the specific issue of the transport, storage and/or disposal of waste generated by the Commonwealth, and with particular reference to the problems that the State Governments experience when the Commonwealth Government makes a decision about the use of Commonwealth lands in a particular State to transport, store or dispose of waste programs. So that is an addendum. I would hope the Hon. Mr Elliott would accept the addendum of the motion and support the motion.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

DAYLIGHT SAVING

Adjourned debate on motion of Hon. R.R. Roberts:

That the regulations under the Daylight Saving Act 1971 concerning summer time 1994-95, made on 15 September 1994 and laid on the table of this Council on 11 October 1994, be disallowed.

(Continued from 2 November. Page 706.)

The Hon. K.T. GRIFFIN (Attorney-General): The Government opposes the motion. The motion seeks to prevent the Government extending the period of daylight saving, that is summer time, by three weeks so that the period will end on the last Sunday in March 1995 rather than the first. The effect

of the motion will be to prevent any variation to the period of daylight saving being made by regulation in this instance. I would think that when the Hon. Mr Ron Roberts has heard me out we will see that his Party is being quite hypocritical about the resolution.

The Hon. M.J. Elliott: Just getting used to Opposition.

The Hon. K.T. GRIFFIN: Maybe they are. Let me tell the honourable member a few facts in a moment. What he is doing is blatantly contradictory to the Labor Party's policy and actions when they were in Government. I must say that I wonder whether this is in fact the policy decision of the whole of the Labor Party or just the Hon. Mr Roberts out front again taking the initiative and trying to demonstrate that somehow or other he is leading to the promised land, but only to find that there is no daylight saving in the promised land. It is an opportunistic motion. The fact is that daylight saving was introduced by the Labor Party in 1971 and support for it was confirmed by a general referendum at the instigation of the Tonkin Government in 1982.

A regulation making power addressed by this motion was also introduced by the Labor Party itself in 1986. Over 70 per cent of South Australians supported daylight saving at the referendum, and I would suggest that there is no doubt that there are significant economic and social advantages to the State as a whole. That has never been challenged by any of the major political Parties. Not only was the Labor Government responsible for the provision of the legislation and its enactment, but that same Labor Government used the provision to extend daylight saving no less than seven times during those years until it lost Government. It used this regulation making power to extend daylight saving no less than seven times during the years until it lost office.

The Hon. M.J. Elliott: The Hon. Mr Roberts was vigorously opposed to that.

The Hon. Caroline Schaefer: Secretly!

The Hon. K.T. GRIFFIN: Secretly, I suspect. Much has been made of the role of the Festival, yet the Labor Party again when in Government clearly used this provision to support the Adelaide Festival. Throughout the years since the provision was first put in the Act, only twice did the Labor Government not extend daylight saving, and they were two years in which there was no Festival. The Labor Party's claim of irrelevance to the Festival just does not sit comfortably with history.

The South Australian Tourist Commission strongly supports the Government's position and is of the view that extended daylight leisure time enables greater use of outdoor recreational amenities and facilities and provides more time for sightseeing and other tourist activities, many of a commercial nature.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: Well, the Information Centre across the road is now open for much longer hours because it recognises that tourists do not necessarily sleep. The possibility of a major cultural event in March year—WOMADelaide, next which is a major outdoor program—is expected to be another beneficiary of the Liberal Government's policy of flexibility in this area. Notwithstanding the above, there is a further opportunity to extend the economic benefits flowing from daylight saving this year and early next year in establishing uniformity of the starting and finishing times with our closest neighbouring State, Victoria. It is hoped that seizing this opportunity to have extended daylight saving until the last Sunday in March will put some additional pressure on New South Wales to cooperate and participate in ongoing agreed arrangements between the three States.

As I say, the Government opposes the motion and believes that this regulation is a responsible use of the flexibility that is permitted under the current provisions of the Act. The proposal properly caters for the Government's desire to achieve uniformity with Victoria and New South Wales and combines this with accommodating significant special events in order to maximise the benefits for the South Australian economy.

The Hon. M.J. ELLIOTT: I oppose the motion. From a purely personal point of view, I think daylight saving goes for too long by a matter of a month or so, but that is a personal view. The Democrats have not opposed daylight saving *per se*, but the period over which it extends in my view is too long. I would not achieve a great deal by supporting the motion and just creating an increased dog's breakfast of times around Australia as we have at present, with some States having changes to daylight saving and some not, and with a myriad of different time zones.

My preferred position is to have three time zones in Australia, with all of them going to daylight saving at the same time. They would all go out of it at the same time and the period would not be as long as it is at present. That is my preferred position, but I will take this opportunity to refer not only to this motion but to Order of the Day No. 5 as well, on which we will be voting in a minute.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: I will be supporting the motion to establish a select committee. The Government has not as yet had the courtesy to show us a copy of an amendment which suggests that the questions of time zones more generally will be looked at (and I hope that includes daylight saving). I have not seen the wording of the proposed amendment, but it would be sensible to look at all the questions—daylight saving and time zones—together rather than looking at them separately.

I have always dismissed as nonsense our need to go to Eastern Standard Time. The United States operates in four time zones. It has continental USA, plus another time zone that picks up Hawaii and Alaska, and it seems to cope well with those time zones. While there may be arguments about facilitating business with the eastern States, the proposal moved by the Hon. Caroline Schaefer has merit because it puts us on exactly the same time zone as a number of our Asian trading nations, including Japan, on my recollection. We will be doing increased trade with countries to our immediate north and west and there would be just as many advantages to get close to their operating time zones as there would be to getting close to the time zones operating in the eastern States.

Some businesses have complained that having a half hour time difference is ridiculous, because so few countries have it and we should not have that. It has never caused me a problem (we only have to wind our watch round half as far as we would have to otherwise). There have been a few who have preferred a one hour time zone difference to half an hour. That has been suggested by some senior business people and there is some merit in that as well. All those questions are best tackled by a select committee. I am not willing to support a motion at this stage when clearly many documents have been printed assuming that the proclaimed time of daylight saving will remain. I do not know what confusion we would create by trying to change it now.

The Hon. R.R. Roberts: People on the West Coast—

The Hon. M.J. ELLIOTT: I suspect that even some people on the West Coast by now have made some arrangements assuming the arrangements the Government has made, but certainly for business as a whole I imagine that aircraft timetables and the like have well and truly been printed by now. To have ourselves coming out of daylight saving at a time different from at least two of the eastern States would not be a good idea, certainly not on this sort of notice. I will oppose this motion but, depending on the amendment to Order of the Day No. 5 that a select committee be established to look at these related questions, I will be supporting that motion.

The Hon. R.R. ROBERTS: I thank members for their contributions. I was a little amazed by the Attorney-General's contribution to this matter when he went through the history of daylight saving. In 1971 a referendum was held with specific time frames within which daylight saving would occur. There has never been a referendum at any other time to change that. The Attorney-General rightly said that there were seven occasions under a Labor Government when extensions to daylight saving were made. On each occasion that question was taken back to Parliament and discussed. On every occasion Liberal Party country members waxed lyrical for hours and we ought to have had daylight saving during the debate to allow them sufficient time. It is just as well that they had a 20 minute time limit in the other place, or they would still be in there doing it.

When this matter was debated in another place on this occasion, so that the Premier could have his victory after first having wanted to go to Eastern Standard Time and then wanting a two month extension (I am reliably informed that the country members in the Caucus stood firm and opposed Eastern Standard Time and the two months extension) and in desperation the Premier dropped to his knees and said, 'Do not embarrass me completely' and they relented and gave him the three weeks. That is the history of this matter. There is great support. The Hon. Caroline Schaefer has been on the airwaves and I heard an extremely interesting debate between her and the Hon. Frank Blevins from another place, where for at least two minutes there was great unanimity of purpose about looking after people in country areas. It only lasted two minutes and I am reliably informed that Frank Blevins was shattered at the lack of unanimity that did appear.

I have been following papers on the West Coast with some interest, and the front page of the Eyre Peninsula *Tribune* states that the South Australian Farmers Federation and the Labor Party combined to stop this, and that is very praiseworthy. There are country members in this place and I hope we will not see another performance like what we have seen in the Lower House when this matter was going to be voted on, when the members for Custance and Eyre happened to be entering the Chamber at the precise moment when the matter was about to be put to a vote and they scuttled out the doors like something you have never seen, Mr President; they shot through and would not line up and vote. We have five or six members in this place opposite who have a country background. The Hon. Caroline Schaefer has been talking up this matter and she has a motion here to set up a select committee to talk about looking at another time. Someone made the point recently that they did not want to see four or five different time frames, but here we have another proposal and the Hon. Rob Lucas has an amendment which gives us another option.

There are 11 members on the other side; they have 12 different opinions already and they now want a select committee to come up with another option. I will be watching, and I still maintain some confidence that we will succeed on behalf of those people, especially in country areas and particularly on the West Coast—those members that the Hon. Frank Blevins cares so passionately about—and those people in the northern parts of the State who are subjected to these horrendous long hours of sunshine and that we can get this measure up. I am disappointed that on this occasion the Democrats have resiled from their usual principled position in looking after country people and have indicated that we do not enjoy their support on this occasion. However, the Hon. Jamie Irwin has a country background.

The Hon. R.I. Lucas interjecting:

The Hon. R.R. ROBERTS: Indeed, this irreverent interjector opposite, the Leader of the Opposition, has a country background in Mount Gambier.

The Hon. R.I. Lucas interjecting:

The Hon. R.R. ROBERTS: He was the Leader of the Opposition; he is easy to forget. The Hon. Caroline Schaefer and the Hon. Angus Redford come from a country background and last time we visited this, the Hon. Robert Lawson was very keen to have himself listed as a country member. So, with those five votes I maintain some confidence—

The PRESIDENT: Order! I know this is a very passionate subject and that the honourable member is getting very excited, but I would ask him to refer to members as honourable members.

The Hon. R.R. ROBERTS: If you insist, Mr President, I am happy to comply with Standing Orders. We have these five honourable members opposite who, along with many of their colleagues on past occasions when they knew well that they did not have the numbers to get the proposition up, have vehemently opposed the extension of daylight saving. This is the test of them: if we fail on the voices it will be our intention to divide so that those persons who are not prepared to look after those country constituents about whom I feel so passionately can be rightly identified in the eyes of their constituents. I make one last plea: that those members from the country stick up for country people and support this proposition.

Motion negatived.

TIME ZONE

Adjourned debate on motion of Hon. Caroline Schaefer:

I. That a select committee of the Legislative Council be established to consider and report on the economic and social viability and long term implications of altering the time zone for South Australia to 135° East;

II. That the select committee seek comment from representatives of the Northern Territory Government in respect of any change;

III. That Standing Order No. 389 be so far suspended as to enable the Chairperson of the Committee to have a deliberate vote only;

IV. 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;

V. 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.

(Continued from 12 October. Page 375.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move to amend the motion as follows:

Paragraph I—After 'South Australia to' insert the word 'either' and after 'East' insert the words and figures 'or 142 degrees 30 minutes East'.

As members would know, this motion refers to the very interesting question of time zones in South Australia, a matter which is near and dear to some members' hearts, as we have witnessed with the Hon. R.R. Roberts, who is a passionate supporter of something. Although I will not dwell on it at length, I must admit I was not quite sure how the passage of his motion would do something about the long hours of sunshine in South Australia. The Hon. Mr Roberts seemed to hold a view that if that motion passed, in some way we would stop the long hours of sunshine in South Australia. I assure him that, whether or not his motion had passed, the long hours of sunshine in South Australia would have continued. I know he has strong and passionate views on daylight saving and sunshine but, irrespective of his motion, the long hours of sunshine would have continued in South Australia. I will not dwell on that; I will let the Hon. R.R. Roberts reflect on the comment he made in the previous debate.

The honourable member indicated that there are some very strong views in the country and the city in relation to the whole question of time zones. Many people genuinely hold those views and have long argued various positions. There are some others who I suspect are opportunists who seek to put a position depending on what mischief they think they might be able to cause should they follow a particular line. I do not intend to dwell on the opportunists who might exist in relation to the time zone debate; I want only to refer briefly to the fact that many people in the community have very passionate views about either moving back by half an hour to Central Standard Time or by moving forward half an hour to Eastern Standard Time. I must admit—and I would seek a response at some stage from the Hon. Ron Roberts—that my understanding is that the Labor Party's long held position in South Australia has been to move to Eastern Standard Time. He has been a supporter of that move in his Party when in Government to move to Eastern Standard Time.

Whilst debating these particular issues in the past few weeks, he has done nothing to disabuse members of the notion that he, together with the Labor Party, is a supporter of moving to Eastern Standard Time. As I said, I issue an invitation to the Hon. Ron Roberts to place on the record the Labor Party's position. Whether or not he voted differently to the Labor Party under Premier Arnold and previously under Premier Bannon on at least two or three occasions when, on behalf of Labor Governments, they sought to implement Eastern Standard Time—

The Hon. T.G. Roberts: I supported it; you probably have got us mixed up.

The Hon. R.I. LUCAS: The Hon. Terry Roberts says that he supported it, but I understood that all Labor members supported the move. Certainly there was no indication of anyone opposing it.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: The Hon. Ron Roberts cannot even remember now; he has got rid of so many long hours of sunshine that he cannot remember. The move to Eastern Standard Time has been a longstanding Labor Government policy, which Labor members of the Caucus are pledged to uphold. So, it is nice to have a bit of fun and histrionics, and a touch of opportunism in the Parliament when talking about time zones, as the Hon. Ron Roberts and others may well seek to do, but nothing hides the fact that the policy of the Labor Party, including the Hon. Ron Roberts and the Hon. Terry Roberts, is to move not back half an hour but forward to Eastern Standard Time. I am sure that the constituents of the West Coast and the Mid and Upper North of South Australia will be interested to be reminded of that fact.

There are a number of differing and strongly held views in the Parliament. As I said, Labor members support Eastern Standard Time; I suspect that if you dig deep you may find even the odd Liberal member who, in their quieter moments, is partially attracted towards the notion of Eastern Standard Time. I am sure that one or two members would support a move to Central Standard Time and that a whole range of other members would basically think that we can talk about going backwards or forwards half an hour but that the simplest solution is the Democrat's solution, that is, to stay on the current time zones.

So, I am sure that the full range of views is reflected in the Parliament, as indeed it is in the community, and the Hon. Caroline Schaefer who, very eloquently, has argued her view in relation to time zones and the issue of Central Standard Time is seeking, in a genuine way, to gather information on the implications for a move back by half an hour. Sadly, one of the by-products of any debate on time zones is that pretty soon it goes off the rails: whether you are talking about going forward to Eastern Standard Time or backwards to Central Standard Time, all sorts of red herrings are introduced into the debate, and sometimes a rational debate on what is a very important issue, such as the appropriate time zone for South Australia, does not ensue.

Therefore, I have moved my amendment which, in effect, seeks to provide more information and perhaps also to assist Labor members of the Chamber in relation to their policy, and that is that this select committee be established to consider and report on the economic and social viability and long-term implications of a change either way—whether it be backwards to Central Standard Time or forwards, as the Labor Party would want, to Eastern Standard Time.

We have had many debates on this issue over the years, the most recent of which was held earlier this year, when, after the Liberal Party had discussed this issue, the Premier indicated that the policy of the Government was to remain at the *status quo*. The Government looked at this issue of moving back to Central Standard Time or indeed, as the Labor Party was wishing, moving to Eastern Standard Time, and made the judgment in the end, as both a Party room and Government decision, that it believed the *status quo* was the appropriate course.

However, these issues move on, and I think it will be a very useful task for members of this Chamber to provide some information, which can be used in rational debate, about the arguments for and against a movement away from our current time zone, whether it be backwards or forwards by half an hour. There are many arguments for and against. The Hon. Caroline Schaefer has referred to some of those.

There is the argument about the movement of Australia and South Australia into South-East Asia in relation to trade matters. The movement back by half an hour certainly is consistent; I understand that it would place us on the same time zone as Tokyo and a number of other prominent Asian cities. So, there are arguments for and against a move away from the current position and certainly, as a member of the Council, I will be interested, should this select committee

motion be successful, in seeing the information presented on this particular issue.

The Hon. M.J. ELLIOTT: I indicated earlier when speaking on another item of private members' business that the Democrats would be supporting this motion, although at the time we had not seen the amendment which was being moved by the Hon. Mr Lucas. It is a pity that the motion does not go a step further and raise the question of daylight saving and what the appropriate times for its operation would be. I think that daylight saving has to be included in any debate we have about zones. It is worth noting that, at present, when we adopt daylight saving we actually use a time zone which takes us close to the zone on which Lord Howe Island operates. I have a feeling that if we go to Eastern Standard Time as well, we will be operating on a time zone similar to that of Fiji, which is rather intriguing.

Members interjecting:

The Hon. M.J. ELLIOTT: I think that is the policy of certain of the Brown Government's senior Ministers as well. Somewhere along the line, this is all getting a little bizarre in terms of just how far we want to shift our time zones east, and farther east by adopting daylight saving as well. I say that as a person who, in general terms, supports daylight saving, although, as I said earlier, I was concerned about its going for a little too long into the Autumn as it is too dark for me to get my exercise in the morning and is bad for my health as a consequence. As I said, that is a purely personal point of view, and some people will have good reasons why they like having daylight after work rather than before work; each to their own taste.

I indicated that the Democrats would support this motion, although we prefer that we are not actually on the committee. I note that the Hon. Mr Rann has been rather keen to decrease the size of the Legislative Council, but frankly there are not enough members in this Chamber to carry out the current workload without having fewer members here. It is a nice political stunt to talk about decreasing the size of the Council, but the reality is that this Council could probably do with another four to six members for it to be—

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: I am sure the honourable member would on that basis, but in terms of workload that is the reality. Certainly in this place we have tried to adopt a general policy of not having anywhere near as many select committees as we had previously because of the presence of standing committees. We entertained the thought of referring this to a standing committee, but the question arose: should it go to an economics or social oriented committee, and which one would do it the most justice?

The reality is that it is one of those few issues that is probably best handled outside the standing committee system, and that is why we adopted the line of supporting a select committee in this case, rather than referring it to a standing committee. As I said, no one standing committee seemed to be quite right to handle the issues raised. We were of a mind not to go on the committee at all, but the Hon. Sandra Kanck has indicated a preparedness to go onto that committee, so it will be composed of two Government members, two Opposition members and one Democrat.

The Hon. R.R. ROBERTS: I rise to support this proposition, encouraged by the debate on the previous motion. I was interested in the comment by the Leader of the Government when he found some mirth in the fact that I talked about country constituents suffering long hours of sunshine. Obviously he is not experienced in the situation that confronts people living in country areas who have five and six year old children who must rise and catch a bus early in the morning. In fact, if they were working under the normal time, those children would be in bed for one hour longer and therefore would not be out.

The Hon. Caroline Schaefer would be aware of the problem confronted by young mothers in particular in country areas where the children are going to sleep on buses on their way to school and getting home in what is normally the middle of the day. I thought that this was an opportune time to make that fundamental observation very clear to the Hon. Mr Lucas. I am sure he would not understand, living in the leafy suburbs of Adelaide, some of the things that do confront country people.

I am disappointed at the outcome. Whilst I am aware that two voices are required before one can call for a division, I was disappointed that the opportunity did not arise for us to do that. However, I do think it needs to be put on the record that it was the unanimous decision of the Liberals and the Democrats not to support our country constituents.

But not being a dog in the manger, and in the spirit of unanimity, and with great respect to people in country areas, I am prepared to test this proposition that has been put up by the Hon. Caroline Schaefer, so that we can have five or six different options on times instead of the normal three that we have talked about previously. I am prepared to sacrifice myself and serve on this committee. If that necessitates trips to Darwin or Singapore to ensure that we get the facts, I will just have to endure that in my busy schedule. I support this proposition.

The Hon. CAROLINE SCHAEFER: In spite of the levity that this proposed select committee seems to engender in people, I would like to thank members opposite and the Hon. Mike Elliott for their contributions and what appears to be relatively bipartisan support. I am not opposed to the amendment moved by the Hon. Robert Lucas because I do sincerely want to look at the various time zones. I have stated my position quite clearly. I believe there is considerable scientific and logical reason to shift to three one-hour time zones across Australia. However, I recognise that I am here to serve the interests of the entire State and that there are a number of people with varying points of view. I look forward to looking at all those points of view within this committee and hopefully bringing down a report which mirrors those points of view—

The Hon. R.I. Lucas: Throw some light on the situation!

The Hon. CAROLINE SCHAEFER: Yes, throw some light on the situation.

Amendment carried; motion as amended carried.

The Council appointed a select committee consisting of the Hons Sandra Kanck, A.J. Redford, R.R. Roberts, Caroline Schaefer and G. Weatherill; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 8 February 1995.

SUPREME AND DISTRICT COURTS (APPOINTMENT OF JUDGES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 November. Page 819.)

The Hon. SANDRA KANCK: I am disappointed at the response given by the Government and the Opposition to this Bill, but their response is not unexpected, at least for the reason that they did not think of it first. Contributions came from the Hon. Robert Lawson and the Attorney-General, both of them lawyers, and the Hon. Ms Pickles, and that was probably with an input from a lawyer. The response therefore is predictable: fish swimming around in a glass bowl cannot see the glass bowl.

Despite assumptions made to the contrary in the contributions of the Attorney-General and the Leader of the Opposition, this Bill was not designed to get more women on the bench, although it would have been a natural consequence. Rather, it was an attempt to increase the range of people who sit in judgment on the rest of the community.

I remind members that the huge majority of judges in Australia are white Anglo-Saxon males who went to private schools. They do not reflect the needs and concerns of the poor, people of ethic origins or women, no matter how hard they try. If this Bill had been successful, these are some of the people who might have had a chance to be part of our judiciary.

The Attorney-General has commented that there are more women in South Australia's judiciary than in other States. That is probably a good thing but it does not address the issue of how or why they were chosen. It is strange that the jury system allows one to be tried by one's peers, but that right does not exist when it comes to judges.

The Hon. Ms Pickles' response really did not address the Bill and the apparent difficulties Opposition members had with it, so I cannot really address what she had to say. Despite her rhetoric, which was in itself half-hearted, she has certainly not said anything that will give people, particularly women, who have suffered at the hands of judges, any heart.

The Hon. Mr Lawson gave a well considered speech, but he seemed to be saying that because no-one was doing anywhere else precisely what this Bill proposes, we should not be doing it here. How ironic to hear such a view in this the Centenary Year of Women's Suffrage! If that view had been taken 100 years ago, South Australia would not have been the first place in the world to give women the right to stand for Parliament. Perhaps around the world, various countries and States might still be waiting for someone to take the lead.

However, it was interesting to hear the Hon. Mr Lawson speak about procedures that are occurring in other countries and, on balance, I would have to say that in a number of countries progress is being made. Australia, though, is not one of them. I was told about the provincial appointments in Canada when I met with community representatives to discuss the formulation of my Bill, and my Bill was based on that system. I must respond to the Hon. Mr Lawson's comment about my list of criteria for suitable appointees and, in particular, that of being willing to undertake extra professional training. He suggested that this was to obtain political correctness. That may or may not be the outcome of such training, but in the group of people I met with to discuss the formulation of this Bill we talked about the value of having judges who understand more about forensic science, or the understanding that could arise out of speaking with rape victims or with the young unemployed. The training undertaken by judges in Canada has shown that they learnt a great deal from such exposure. Mr Lawson also quoted a comment by Mr Rodney Meagher QC in New South Wales, and the comment is so damning I must take the opportunity to requote it. Mr Meagher said:

> An ideal legal profession should obviously be composed of 5 per cent convicted criminals, 5 per cent drug addicts, 5 per cent dole bludgers and 30 per cent cretins, just like the rest of the community.

Maybe the legal profession is already close to that, anyway, but the most fascinating part of what the Hon. Mr Lawson told us is that Mr Meagher QC is now Justice Meagher of the New South Wales Court of Appeal. Presumably Mr Meagher was so lauded by his peers for such patronising comments about the community at large that he was elevated to the bench. As to the comments made by the Attorney-General in his speech, everything he said about the reasons people would not put themselves through the selection process confirmed all the reasons the public has for their growing lack of respect for the judiciary. The Attorney-General commented:

> There are so many people. . . who may not want to run the gauntlet of what may well become a public process of application and vetting.

That is precisely why 11 000 people signed a petition of mine last year. They see that the judiciary is not accountable or being held accountable. So what is so terrible about having to go through this process? As the Hon. Mr Lawson acknowledged in his speech, in some States in the US judges are elected and there is no evidence that those judges are any worse than those who are chosen through a secret society method. The Attorney also said:

> There are others who will not take this step because they think it would be demeaning to make an application.

This process of application and selection, as in the Bill, would be just perfect to weed out such people—people who think they are too good to go through the processes that the rest of us go through in society when we apply for a job. Quite frankly, anyone who thinks that they are that good is the wrong sort of person to have on the bench sitting in judgment on other people. These comments remind me again of the arguments used by men in this Parliament 100 years ago to prevent women from being given the right to vote. We here in the Legislative Council appeared before a selection panel of 900 000 people, in an interview that went on for weeks and even months. We would not have any members in this place if everyone was to take such an exclusive and precious attitude. The Attorney stated in regard to the composition of the Judges Selection Committee:

> One may query the qualifications that some if not all of these latter bodies have to make recommendations about judicial appointments.

Of course, one may query anything in our society, but I wonder why one would query that, because many of these organisations are working in tandem with the legal system and its consequences on a daily basis. The Attorney-General is implying that only those people who are practising lawyers would have the capacity to make a sensible decision about choosing someone for a position on the bench. As such, he insults a lot of people. As to the attributes required, the Bill does not envisage that a successful applicant would have all those attributes. The suggestion that the courts could '. . . decide that the rules of natural justice apply to the deliberations of the candidate. A candidate may be able to claim to know the basis on which he or she was not nominated and demand the right to respond to the committee' is an interesting one. I do not know why the Attorney-General introduced the idea into the debate but it would certainly have ramifications for any interviewing panel for any job in this

State. At any rate, this seems to run counter to what he said about people needing to be persuaded to become judges.

I have spoken with a number of groups about this Bill, and I can tell the Government and the Opposition that they are out of touch with community attitudes. We have a very conservative Parliament at the present time but a member of one group I spoke to made the comment that if we had Citizens' Initiated Referenda in this State this Bill would quickly become law. Despite the protestations of the Government and the Opposition they will be replaced in time by others with more enlightened attitudes, and unless such changes are made our courts will become increasingly anachronistic. I have often said that if I were to be raped I would go after the man with a carving knife because I know it would be highly unlikely under the present circumstances that I would get justice in our court system. I thank members for their contribution and I am proud to have been the first person to introduce such a Bill in Australia. I know it will not be the last. The passage of a Bill similar to this will happen eventually somewhere in Australia and it will be applauded when it does happen.

The Council divided on the second reading:

AYES (2)

Elliott, M. J.	Kanck, S. M. (teller)

NOES (17)

Crothers, T.	Davis, L. H.
Feleppa, M. S.	Griffin, K. T. (teller)
Irwin, J. C.	Laidlaw, D. V.
Lawson, R. D.	Levy, J. A. W.
Pfitzner, B. S. L.	Pickles C. A.
Redford, A. J.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Stefani, J. F.	Weatherill G.
Wiese B. J.	

Majority of 15 for the Noes.

Second reading thus negatived.

WOMEN'S HEALTH CENTRES

Adjourned debate on motion of Hon. Carolyn Pickles:

That this Council—

1. supports the retention of stand-alone Women's Health Centres at Noarlunga, Elizabeth, Adelaide and Port Adelaide; and

2. opposes any move by the Liberal Government to integrate these existing facilities into the mainstream health services.

(Continued from 16 November. Page 820.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): I thank honourable members for their remarks. The Hon. Ms Laidlaw, in her contribution, says that the motion and the sentiments expressed in it have been overtaken by events. I refute this statement. Only last Friday, at the tenth birthday celebrations for the Dale Street Women's Health Centre Miss Di Davidson, the Chairperson of the Hon. Ms Laidlaw's Women's Advisory Council, made very strong comments that stand-alone autonomous women's health centres were essential and that the Women's Advisory Council would put this view strongly to the Minister—the very Minister who claims that everybody is now happy with what is happening with women's health centres. The Hon. Ms Laidlaw goes on to say:

> In today's economic climate we cannot afford to be preoccupied with infrastructure and organisational arrangements if it limits service delivery. . .

That is a pretty breathtaking statement. Is the Hon. Ms Laidlaw suggesting that women's health centres are so preoccupied with infrastructure and organisational arrangements that they neglect service delivery? If so, I would like to point out to her that 82 per cent of staff time at these centres is spent on providing and supporting clinical services.

The Minister for Health wants the efficient delivery of services. Yet, what does he do? He delivers a 5 per cent cut to women's health centres in the budget; he promises a further 5 per cent cut in the 1994-95 budget to the regional centres; and a further 5 per cent cut in the 1995-96 budget. That is what he promises this year. Goodness only knows what it will be by the time it comes around. If he goes on like this, he can guarantee that service delivery will fail. They just cannot manage on these kinds of cuts. Maybe that is the long-term intention of the Government.

The Hon. Ms Laidlaw says that the women's health centres have agreed in principle to the integration of the three regional centres and the amalgamation of the Adelaide Women's Health Centre with the Women's and Children's Hospital; but I must point out that there are still reservations and concerns that there may be a loss of focus on women's health, identifiable budgets directed to women's health issues and a loss of autonomy through some of the proposed changes. There may also be a loss of opportunities for women to be involved in representation at levels where decision-making regarding resources is made. Where is the scope in these new arrangements for women's voices to be heard?

It is true that women's health centres have attempted to work with the Government to ensure a future for women's health. Why wouldn't they? They believe in what they are doing and the service that they provide. They know that they have the Minister's budgetary gun at their head. That is not to say that they are confident about the outcome. It is vital that there remain identifiable women's centres that women know are there when they need them. These centres need to be staffed and managed by women and in which women need to feel comfortable, where they know they will be listened to and treated with respect. It is therefore vital that separate identifiable women's health centres be maintained within the proposed amalgamated and regionalised structures.

It is interesting to look at how the Minister for Health responded to this suggestion in a letter to the women's health centres dated 2 November. He said:

> I acknowledge the need for separately located and identifiable venues/space to be maintained for women. The word 'centre' implies that women's health services would be exclusively provided from unique centres. I believe that whilst a separate venue may be appropriate within the region, the guiding principle would be to provide separate women's space/venues throughout the region in response to community needs. It may, for example, be necessary for a separate women's venue to be provided for a specific period of time within a newly developing area, or for a specific women's health program to be provided at a range of community-based venues in order to adequately respond to community need. On this basis, I would suggest that the word 'centres' be replaced with the words 'space/venues'.

Why is the Minister so hung up about the word 'centre'? Why does the Hon. Ms Laidlaw have such difficulty with a women's health centre *per se*? I suggest it is because they just do not support the concept. The women's health centres have repeatedly put the view to the Minister that separately located and identifiable centres for women be maintained. Yet, the Minister repeatedly refuses to acknowledge that they should be.

I understand that other proposals have been put to the Minister that a Women's Health Council be appointed and processes for a women's health policy for endorsement by the Government be commenced; also, that there be a 50 per cent representation of women on the proposed regional community health service boards. I would like to know the Minister's views on these suggestions, and I will be monitoring his comments very closely to see whether he supports these suggestions.

The Hon. Ms Laidlaw has suggested that time has overtaken this motion. That is not the case. I still support the retention of stand-alone women's health centres, as do the centres themselves, the Women's Advisory Council and all the women who use the centres. I believe that this Council should express its strong opposition to integrating these existing facilities into the mainstream health services in order that the Minister gets the message that he just will not get away with it if and when he tries it on. I support the motion.

Motion carried.

TWO DOGS ALCOHOLIC LEMONADE

Adjourned debate on motion of Hon. T.G. Roberts:

That the regulations under the Beverage Container Act 1975 concerning exempt containers—Two Dogs Alcoholic Lemonade—made on 4 August 1994 and laid on the table of this Council on 9 August 1994, be disallowed.

(Continued from 16 November. Page 825.)

The Hon. SANDRA KANCK: I support this motion. Last week I was taken aback by the following comment made by the Hon. Diana Laidlaw:

This is not an argument about the future of container deposit legislation in South Australia.

She went on to suggest that, rather, this particular exemption could be viewed only in terms of giving a new product a start. She mentioned that the Labor Party, while in Opposition, exempted cider from the provisions of the Beverage Container Act. And while I am most sorry it did that, and I know it was an exemption vigorously opposed by the Democrats and the Conservation Council, the fact is that that was a mistake that should not have been made and it does not justify reinforcing that mistake with another one. The Government, I believe, is currently investigating container deposit legislation and it will be at least six months before we get some sort of result from that investigation.

If the Government was to be dealing with this issue correctly, what it would do would be to create a level playing field by removing the exemption on the cider bottle so that we have that level playing field. But by exempting Two Dogs Lemonade we now have a queue of other drink manufacturers also asking to be exempted. This process has now begun destabilisation of the whole system before we complete this inquiry that the Government is having. The Hon. Ms Laidlaw described the 5¢ deposit as being a tariff, but this is far from correct.

I remember attending a one-day seminar a few years ago on the issue of recycling, and a speaker representing CC-Bottlers was asked by a member of the audience about the differential costs of Coca-Cola per litre compared in its different containers. The deposit return glass bottle provided the cheapest form of this drink. I cannot recall now whether the aluminium can or the PET bottle was the most significant per litre, but the significant fact was that the glass bottle provided the cheapest drink per litre. The spokesman from CC-Bottlers explained that the cost differential was a direct reflection of the packaging cost and the deposit return glass bottles were the cheapest packaging for CC-Bottlers.

So, the CC-Bottlers experience proves the cost advantage to a company of using the famed South Australian deposit scheme. Despite what the Hon. Ms Laidlaw says, business does not have to go on its knees as a result of deposit legislation. I hope one day that the Liberal Party will be able to see that environmentalism and the economy do not need to be opposites. Indeed, it might be something it will eventually have to acknowledge when the damage that we human beings do to the environment builds to a point where it can no longer be ignored.

But it was the speech from the Hon. Trevor Crothers which really started to get me worried. He said he was appalled by the speeches from the Hon. Ms Laidlaw and the Hon. Mr Redford because they had drawn the conclusion that the Opposition would be supporting the motion. Well, I guess it is a fairly logical conclusion that the Opposition would be supporting its own motion, but the Hon. Mr Crothers astounded me by saying that, 'Our spokesperson in this Chamber has not come to a decision in respect of what attitude he may or may not take.'

Now, I would have thought that the Hon. Terry Roberts, who moved the motion on behalf of the Hon. Ms Pickles, for the disallowance of these regulations would not still be making up his mind on the issue, but on examining his speech I see that he spent most of the time giving us the history of deposit legislation, and spent only a short time addressing the issue of a deposit on Two Dogs Lemonade bottles, and even then it was in an apologetic way. I fear that once again the Opposition is about to renege on its publicly stated position. I hope that this is not the case, but we will see shortly when the vote is taken. I call on the Opposition to stick to whatever principles it might have remaining and do something which supports the environment by supporting its own motion for disallowance of these regulations.

The Hon. T.G. ROBERTS: The Hon. Sandra Kanck is right in accurately assessing the position in relation to my first contribution. I moved the motion for disallowance in the belief that the exemption at the point when the motion was moved was not required, that the company itself was in a position to be able to come to terms, as a business, with the container deposit legislation and that it would carry its responsibility in relation to the Act and that it—

The Hon. Sandra Kanck: How are they going to do that?

The Hon. T.G. ROBERTS: —it would not be a great imposition. That is what I am saying. I was hoping that the company itself would accept its responsibilities in relation to the container deposit legislation and not oppose it. The information that I had been given when I picked up the motion on the Notice Paper was that the Legislative Review Committee had the motion before it, and I just assumed that people had stated their cases to the Legislative Review Committee. But, unfortunately in this case, nobody had put a submission forward one way or another. It was not until the motion was on the Notice Paper that I had a number of telephone calls from people requesting an audience, if you like, or to put forward a view in relation to the difficulties it would cause an emerging business if the deposit was put on their product and left off other products of a similar nature.

I must say that one thing about the container deposit legislation is that it is consistent in its inconsistencies. Past exemptions have been provided to products that, in my view,

if the container deposit legislation was to work perhaps should not have been granted.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: I understand the interjection that the Hon. Mr Elliott makes, that it makes it more inconsistent and the interjection is quite accurate. But the position that the Opposition was faced with was to try to gather information from the manufacturers themselves and from the rest of the industry to see whether they were going to be unfairly dealt with in the market place. The submission put forward by the management of Two Dogs Lemonade was that if the imposition was to be made on them, why was it not to apply to their major competitors in the industry, and they were naming cider and other alcoholic beverages as their competitors. When faced with that submission—

The Hon. M.J. Elliott: Cider was the only exemption among them.

The Hon. T.G. ROBERTS: Yes. I can see their point but, as I said, I asked one of the directors of the company whether they would see that it would bring hardship. The consistent position they adopted was that they did not mind the imposition, as long as it was evenly placed against their competitors. I thought that was a pretty reasonable sort of position to adopt. I then made an approach to the Minister, Hon. David Wotton, in another place, to see whether the legislation could be evened out upwards; that is, to have container deposit legislation apply to the competitors of Two Dogs Lemonade. Unfortunately, the Hon. Mr Elliott and myself were given a negative on that, that the Government was not prepared to make the application to the competitors and that the exemption that Two Dogs Lemonade were making an application for would be granted.

So, faced with that dilemma, we requested a full review of the container deposit legislation in the new year to make a further assessment on whether the exemption could be applied on a temporary basis and that we examine the litter stream over the next 12 months to see whether Two Dogs Lemonade were going to become a major factor in the litter stream and also to make an assessment on whether other carbonated or other fruit-based alcoholic beverages were to become a major problem in the litter stream. The Act could then be changed to have no exemptions. The level playing field would apply to all fruit-based alcoholic drinks.

The position was not what I would have required as being the best position in relation to bringing about certainty in the industry and, as I said, Two Dogs Lemonade management were quite acceptable to a deposit being placed on their drink, as long as the deposit was placed on their competitors. We were not able to achieve that in our approach to the Government, so we now have this situation where I will be moving for discharge of my own motion, which is unfortunate, but it is the only position that the Opposition can adopt at this stage, and to try to keep the Government to its word to make a full assessment of the container deposit legislation in the new year and that the request made by Two Dogs Lemonade for an evening up of the tariff or the container deposit legislation on all drinks be the one that the Government move towards, so that there is no ability for people in the market place to have an advantage one over another with like product.

The other consideration confronting the Opposition was to make sure that an attempt was made for the integrity of the legislation to apply. That is where the pressure goes back on the Government, to make a full assessment or a review of the container deposit legislation and come down with a consistent legislative position that allows for no-one in the market place to have an advantage, one over the other.

When Two Dogs Lemonade mentioned it may be moving interstate, I contacted people in the eastern States. Certainly, South Australia cannot afford to lose new and emerging industries, although the compromises around our legislation for clean air, a clean environment and certainly the container deposit legislation should not be used as immobilisers to attract other industries. We would prefer emerging industries to apply their trade within the requirements, particularly of environmental protection legislation.

We believed it would be hard on the company to have a differential through the application of the legislation to similar drinks within the industry, given that the company was saying that they were being disadvantaged. Because of those new revelations made after the motion was put on the Notice Paper, that is our position. I apologise to those members who have contributed to the debate on the basis that the Opposition was supporting the motion because the motion was moved with the best intention of moving for the disallowance of the regulation so that the container deposit legislation would apply. Therefore, for the reasons I have given, I move:

That this Order of the Day be discharged.

The Council divided on the motion:

AYES (18)

Crothers, T.	Davis, L. H.
Feleppa, M. S.	Griffin, K. T.
Irwin, J. C.	Laidlaw, D. V.
Lawson, R. D.	Levy, J. A. W.
Lucas, R. I.	Pfitzner, B. S. L.
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Roberts, T. G. (teller)
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	Wiese, B. J.

NOES (2)

Elliott, M. J.	Kanck, S. M. (teller)

Majority of 16 for the Ayes.

Order of the Day thus discharged.

REPUBLIC

Adjourned debate on motion of Hon. M.J. Elliott:

That in the opinion of this Council, it is inevitable that Australia will become a republic, and that this Council therefore—

1. Endorses statements by the Premier (the Hon. D.C. Brown) that a republic is 'inevitable';
2. As a consequence, calls for a wide-ranging community debate on the options for constitutional change; and
3. Respectfully requests the concurrence of the House of Assembly thereto.

which the Hon. C.J. Sumner had moved to amend by leaving out all words after 'Council' and inserting:

1. Australia should become a republic and there should be wide-ranging community debate on the options for constitutional change.
2. The South Australian Parliament should examine the implications for South Australia's constitutional structure of Australia becoming a republic; and
3. The concurrence of the House of Assembly to this motion be requested.

which the Minister for Education and Children's Services had moved by leaving out all words after 'Council' and inserting:

1. There should be a wide-ranging and informed community debate on the options for, and the consequences of, constitutional change in Australia;
2. A national constitutional convention should be part of the wide-ranging community debate;

3. The South Australian Parliament should examine the implications for South Australia's constitutional structure should Australia become a republic;

4. Any possible change to a republic will only be achieved when there is broad community support for such a change;

5. Amongst all members of Parliament there is a wide variety of views about possible change including the public views expressed by the Premier; and

6. Any attempt to commit all members to support any change before the above process has been completed will be counter-productive.

(Continued from 16 November. Page 827.)

The Hon. M.J. ELLIOTT: In closing the debate I note the varying forms of support for the motion, although both the Government and the Opposition seek to amend the motion in slightly different ways. Without going over all the issues again, I indicate that I will be accepting the amendment originally moved by the Hon. C.J. Sumner, who set out to do two important things. One was to depoliticise the motion. I had congratulated the Premier, Dean Brown, on his remarks and endorsed his statements.

I understand that neither the Government nor the Opposition seems to be keen to endorse the remarks of the Hon. Mr Brown. If the Government is not willing to endorse the statements of the Premier, I do not want to embarrass it by insisting that the Premier's remarks be endorsed. Therefore, I will accept the Hon. C.J. Sumner's amendment which effectively depoliticises the motion.

Unfortunately, it appears that the Minister for Education and Children's Services in seeking to show that he does not support the Hon. Dean Brown also seems to be indicating that he supports Downer: he must be in the Downer faction and not the Brown faction, because some of the constitutional conventions he is calling for are things that Downer has been calling for lately. So, we have identified that the Leader in this place is in the Downer camp and not the Brown camp. I do not really want politics to get into this motion, so I think it is best that we accept the amendments moved by the Opposition which effectively depoliticise it and do not get involved in the factional brawls within the Liberal Party.

It is also important that we examine the implications for South Australia and its constitutional structure as Australia becomes a republic. It is something which I had not picked up in my motion, which is worth while and for which the Hon. Mr Sumner and the Minister for Education and Children's Services moved their amendments. So, with those few words I thank members for their support and indicate that the amendments which were moved originally by the Hon. Mr Sumner but which will now be picked up by some other member are acceptable to me.

Amendments carried; motion as amended carried.

THOMAS HUTCHINSON TRUST AND RELATED TRUSTS (WINDING UP) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the sale of the Hutchinson Hospital premises in Gawler and the winding up of the Thomas Hutchinson Trust and certain other trusts; and for other related purposes. Read a first time.

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

That this Bill be now read a second time.

The Hutchinson Hospital at Gawler East was established as the result of a testamentary disposition under the will made in 1896 by Thomas Hutchinson. The testator died in 1901 and his will was admitted to probate in that year. The direction in the will to establish and maintain a hospital were to come into effect on the determination of the testator's widow's life interest under the will.

Thomas Hutchinson directed that from and after the decease of his wife his real and personal estate not otherwise disposed of was to be held by his trustees on trust and that certain allotments should be used as a hospital for the accommodation of persons requiring medical and surgical aid. That hospital was then designated as "the said hospital".

Notwithstanding the contemplated use of the land "earmarked" by the testator for hospital use, the will also adverted to the possibility either that another public hospital might be established at Gawler, or that the other premises might be provided for "the said hospital". In the event, it seems that the "earmarked" land (which was in High Street, Gawler) was never used for the hospital. The testator's widow died in 1911, and in the same year the board of management of the proposed hospital and the trustees decided to sell that property and to seek another site. Shortly afterwards two acres of land in East Terrace, Gawler, were purchased, and this remained the site of the Hutchinson Hospital.

The trustees continued to hold other land owned by the testator, and also purchased further land in Gawler East, some of which was used as accommodation for nurses and the Director of Nursing. The South Australian Health Commission has built a new hospital complex at Gawler which is now completed and was officially opened on 30 October 1994. The patients of the Hutchinson Hospital have now been transferred to the new hospital. The site for the new hospital is owned by the commission and will remain vested in the commission.

When it became evident that there was to be a new public hospital built at Gawler, but not on the site of the Hutchinson Hospital, the trustees of the Thomas Hutchinson Trust took their own legal advice as to their options. They were advised that the terms of the will do contemplate benefiting any other public hospital which might be established in or near Gawler and would enable the trustees to apply income from the proceeds of sale of the old Hutchinson Hospital towards the new hospital, but not the proceeds themselves.

The application of the proceeds of sale of the old hospital buildings, once and for all, towards the cost of the new hospital could only be done pursuant to the authority of the Court; either under section 59b of the Trustee Act, or in exercise of the court's jurisdiction in respect of charitable trusts. The result can also be achieved by an Act of Parliament.

The Crown Solicitor has confirmed the advice given to the trustees. The terms of the will generally suggest that income, and not capital, is to be used for the benefit of a public hospital (whether the "original" hospital or a "substituted" one) and that the trusts of the will would clearly enable and would require the trustees to apply income derived from the proceeds of sale of the existing hospital for the benefit of the new hospital.

The trustees have requested the passage of an Act of Parliament to wind up the trust, sell the trust real estate (with the exception of the residence of the Director of Nursing), realise the investments, and permit the payment of the proceeds (after payment of debts and liabilities) to the South Australian Health Commission to be applied towards the cost of the building and commissioning of the new public Gawler Health Service. The Gawler Health Service wishes to retain the residence of the Director of Nursing.

In addition, five other trusts have income bequeathed in perpetuity to the Hutchinson Hospital (solely in three cases) and to the Hutchinson Hospital and the Children's Hospital jointly in two cases. It is proposed that these trusts also be wound up. This Bill therefore provides that the Thomas Hutchinson Trust be wound up. The trust property which was a residence for the Director of Nursing will be transferred to the Gawler Health Service, the remaining trust property will be realised and the net proceeds after clearing of debts be paid to the South Australian Health Commission for the purpose of offsetting the cost of building and commissioning the Gawler Health Service.

Provision is made for the James Commons Trust, John Alfred Dingle Trust and Lydia Helps Trust to be wound up and their proceeds to be paid to the Gawler Health Service. Provision is made for the Ann Magarey Trust and the John Potts Trust to be wound up and the net proceeds of the trusts to be paid in equal shares to the Gawler Health Service and to the Women's and Children's Hospital. Provision is also made for testamentary dispositions which may have been made to the Hutchinson Hospital to be taken to be a disposition in favour of the Gawler Health Service.

As required by Standing Orders this Bill will be required to be examined by a select committee. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Winding up of the Hutchinson Trust

This clause empowers the trustees of the Thomas Hutchinson Trust to transfer the former Director of Nursing's residence to the Gawler Health Service Incorporated for no consideration, to sell the remainder of the Hutchinson Hospital premises, realise all other assets, pay all outstanding debts and expenses and pay the net balance to the South Australian Health Commission. Subclause (2) provides that the Trust will be taken to have been revoked when the transfer referred to above has been registered and the final payment of the net Trust proceeds has been made to the Commission. Subclause (3) directs the Commission to apply all money received under subclause (2) towards the cost of building and equipping the new public hospital in Gawler.

Clause 3: Winding up of the other related Trusts

This clause empowers the trustees of the trusts established under the wills of John Potts, James Commons, John Alfred Dingle, Lydia Helps and Ann Magarey to wind up those trusts and pay the net proceeds (after clearing all debts and liabilities) to the Gawler Health Service Incorporated (in the case of those trusts in favour of the Hutchinson Hospital) or to the Women's and Children's Hospital (in the case of those trusts in favour of the Adelaide Children's Hospital). The trusts are revoked on that payment.

Clause 4: Certain testamentary dispositions are to benefit the Gawler Health Service

This clause provides that bequests (whether in existence now or in the future) in favour of the Hutchinson Hospital are to be taken to be in favour of the Gawler Health Service Incorporated unless the testator expressly provided otherwise in the event of the Hutchinson Hospital ceasing to exist.

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

LAND AGENTS BILL

Returned from the House of Assembly with the following amendments:

No. 1 Long title, page 1, line 6—Leave out 'and their sales representatives'.

No. 2 Clause 3, page 1, after line 21—Insert definition as follows:

'Court' means the District Court of South Australia;.

No. 3 Clause 3, page 2, lines 25 and 26—Leave out the definition of 'Tribunal'.

No. 4 Clause 7, page 4—lines 14 to 23—Leave out the clause.

No. 5 Clause 9, page 5, lines 6 and 7—Leave out this paragraph and insert the following paragraph:

(e) has not, during the period of five years preceding the application for registration, been a director of a body corporate wound up for the benefit of creditors—

(i) when the body was being so wound up; or

(ii) within the period of six months preceding the commencement of the winding up.

No. 6 Clause 9, page 5, lines 20 and 21—Leave out this subparagraph and insert the following subparagraph:

(iii) has, during the period of five years preceding the application for registration, been a director of a body corporate wound up for the benefit of creditors—

(A) when the body was being so wound up; or

(B) within the period of six months preceding the commencement of the winding up.

No. 7 Clause 10, page 5—lines 22 to 28—Leave out the clause.

No. 8 Clause 11, page 5, line 32 and page 6, lines 1, 6, 8, 10, 12, 14 and 17—Leave out 'or sales representative' wherever occurring.

No. 9 Clause 11, page 6, lines 11 and 13—Leave out 'or sale representative's' wherever occurring.

No. 10 Clause 11, page 6, line 14—Leave out ', with the consent of the Commissioner,'.

No. 11 New clause, page 6, after line 22—Insert new clause as follows:

Qualifications of sales representatives

12A. (1) A person must not employ another person as a sales representative unless that other person—

(a) holds the qualifications required by regulation; or

(b) has been registered as a sales representative or manager, or licensed as an agent, under the repealed Land Agents, Brokers and Valuers Act 1973.

Penalty: Division 5 fine.

(2) A person must not—

(a) be or remain in the service of a person as a sales representative; or

(b) hold himself or herself out as a sales representative; or

(c) act as a sales representative,

unless he or she—

(d) holds the qualifications required by regulation; or

(e) has been registered as a sales representative or manager, or licensed as an agent, under the repealed Land Agents, Brokers and Valuers Act 1973.

Penalty: Division 7 fine.

No. 12 Clause 13, page 6—lines 23 to 27—Leave out the clause.

No. 13 Clause 21, page 10, lines 12 and 13—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 14 Clause 22, page 10, lines 17 and 18—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 15 Clause 31, page 14, line 22—Leave out 'prescribed'.

No. 16 Clause 31, page 14, line 23—Leave out ', sales representatives'.

No. 17 Clause 33, page 15, line 15—Leave out 'Tribunal' and insert 'Court'.

No. 18 Clause 37, page 16—Leave out this clause and insert the following clause:

Appeal against Commissioner's determination

37. (1) The claimant or the agent or former agent by whom the fiduciary default was committed or to

whom the fiduciary default relates may, within three months after receiving notice of the Commissioner's determination, appeal to the Court against the determination.

(2) Where an appeal is not instituted within the time allowed, the claimant's entitlement to compensation is finally determined for the purposes of this Division.

(3) On an appeal, the Court may—

(a) affirm or quash the determination appealed against or substitute a determination that the Court thinks appropriate; and

(b) make an order as to any other matter that the case requires (including an order for costs).

No. 19 Clause 44, page 19, lines 11 to 14—Leave out the definition of 'sales representative'.

No. 20 Clause 45, page 20, lines 1 to 9—Leave out subclause (2).

No. 21 Clause 46, page 20, line 17—Leave out 'Tribunal' and insert 'Court'.

No. 22 Clause 47, page 20, lines 20, 23 and 28—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 23 Clause 48, page 20, line 30 and page 21, line 12—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 24 Clause 48, page 20, line 35—Leave out 'or sales representative'.

No. 25 Clause 48, page 21, lines 7 and 8—Leave out 'or from being registered as an agent under this Act'.

No. 26 Clause 49, page 21, line 29 and page 22, line 4—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 27 Clause 50, page 23, lines 8 and 9—Leave out paragraph (c) and insert the following paragraph:

(c) with the Minister's consent, to any other person.

No. 28 Clause 50, page 23, line 10—Insert '(except the power to direct the Commissioner)' after 'Act'.

No. 29 Clause 51, page 23, line 18—Leave out 'or sales representatives'.

No. 30 Clause 51, page 24, lines 1 to 7—Leave out subclause (4) and insert:

(4) The Minister must, within six sitting days after the making of the agreement, cause a copy of the agreement to be laid before both Houses of Parliament.

No. 31 Clause 53, page 24, lines 15 and 16—Leave out 'or sales representatives'.

No. 32 Clause 54, page 24, line 24—Leave out 'Tribunal' and insert 'Court'.

No. 33 Clause 63, page 26, line 10—Leave out 'or sales representative'.

No. 34 Clause 64, page 26, lines 23, 25, 30 and 31—Leave out 'or sales representative' wherever occurring.

No. 35 Clause 64, page 26, line 32—Leave out 'or sales representative's'.

No. 36 Clause 66, page 27, line 13—Leave out 'or sales representatives'.

No. 37 Schedule, page 28, lines 12 to 14—Leave out subclause (3).

No. 38 Schedule, page 28, lines 16, 17 and 20—Leave out 'or sales representative' wherever occurring.

No. 39 Schedule, page 28, after line 21—Insert subclause as follows:

(6) A reference in an Act or other instrument to a licensed agent under the Land Agents, Brokers and Valuers Act 1973 will be taken to be a reference to an agent registered under this Act.

Consideration in Committee.

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

A quorum having been formed:

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

That the House of Assembly's amendments be agreed to.

This is a series of amendments which reinstate the Bill to the condition it was in when introduced into this Council. I would like to deal with these amendments *en bloc* because I think that is the most efficient way to address the issues as we lead through to a deadlock conference on this Bill. I would be hopeful that, at a conference, we would be able to reach some accommodation on at least some of the issues that have been raised in this Council and to facilitate further consideration of it.

The Hon. ANNE LEVY: I oppose the motion. While there have been some informal discussions, I think that at this stage the Council should insist on its amendments, and I think it is more efficient to do it *en bloc* rather than to consider each one separately. There will doubtless be a conference on this Bill, and the sooner we can get to conference the sooner a resolution will be found.

Motion negatived.

The following reason for disagreement was adopted:

Because the amendments are contrary to the views of the Council.

CONVEYANCERS BILL

Returned from the House of Assembly with the following amendments:

No. 1 Clause 3, page 1, after line 20—Insert definition as follows:

'Court' means the District Court of South Australia;.

No. 2 Clause 3, page 2, lines 14 and 15—Leave out the definition of 'Tribunal'.

No. 3 Clause 7, page 3, lines 21 and 22—Leave out this paragraph and insert the following paragraph:

(e) has not, during the period of five years preceding the application for registration, been a director of a body corporate wound up for the benefit of creditors—

(i) when the body was being so wound up; or

(ii) within the period of six months preceding the commencement of the winding up.

No. 4 Clause 7, page 4, lines 1 and 2—Leave out this subparagraph and insert the following subparagraph:

(iii) has, during the period of five years preceding the application for registration, been a director of a body corporate wound up for the benefit of creditors—

(A) when the body was being so wound up; or

(B) within the period of six months preceding the commencement of the winding up.

No. 5 Clause 8, page 5, line 19—Leave out ', with the consent of the Commissioner,'.

No. 6 Clause 21, page 10, lines 12 and 13—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 7 Clause 22, page 10, lines 17 and 18—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 8 Clause 31, page 14, line 14—Leave out 'prescribed'.

No. 9 Clause 33, page 15, line 6—Leave out 'Tribunal' and insert 'Court'.

No. 10 Clause 37, page 16—Leave out this clause and insert—

Appeal against Commissioner's determination

37. (1) The claimant or the conveyancer or former conveyancer by whom the fiduciary default was committed or to whom the fiduciary default relates may, within three months after receiving notice of the Commissioner's determination, appeal to the Court against the determination.

(2) Where an appeal is not instituted within the time allowed, the claimant's entitlement to compen-

sation is finally determined for the purposes of this Division.

(3) On an appeal, the Court may—

(a) affirm or quash the determination appealed against or substitute a determination that the Court thinks appropriate; and

(b) make an order as to any other matter that the case requires (including an order for costs).

No. 11 Clause 46, page 20, line 2—Leave out 'Tribunal' and insert 'Court'.

No. 12 Clause 47, page 20, lines 5, 8 and 13—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 13 Clause 48, page 20, lines 15 and 31—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 14 Clause 49, page 21, lines 14 and 20—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 15 Clause 50, page 22, lines 8 and 9—Leave out paragraph (c) and insert—

(c) with the Minister's consent, to any other person.

No. 16 Clause 50, page 22, line 10—Insert '(except the power to direct the Commissioner)' after 'Act'.

No. 17 Clause 51, page 23, lines 1 to 7—Leave out subclause (4) and insert:

(4) The Minister must, within six sitting days after the making of the agreement, cause a copy of the agreement to be laid before both Houses of Parliament.

No. 18 Clause 54, page 23, line 24—Leave out 'Tribunal' and insert 'Court'.

No. 19 Schedule, page 27, after line 12—Insert subclause as follows:

(4) A reference in an Act or other instrument to a licensed land broker will be taken to be a reference to a conveyancer registered under this Act.

Consideration in Committee.

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

That the House of Assembly's amendments be agreed to.

I move this motion for the same reasons that I gave in relation to the Land Agents Bill. These amendments also should be dealt with *en bloc* on the basis that it is one of a package of Bills and also that it will end up at a conference.

The Hon. ANNE LEVY: I oppose the motion moved by the Attorney-General for the same reasons that I gave in relation to the Land Agents Bill. This Bill will travel with the other one, likewise ending up at a conference, and I think the sooner we can get it there the better it will be.

Motion negatived.

The following reason for disagreement was adopted:

Because the amendments are contrary to the views of the Council.

LAND VALUERS BILL

Returned from the House of Assembly with the following amendments:

No. 1. Clause 3, page 1, after line 15—Insert definition as follows:

'Court' means the District Court of South Australia;.

No. 2. Clause 3, page 2, lines 4 and 5—Leave out the definition of 'Tribunal'.

No. 3. Clause 8, page 3, line 2—Leave out 'Tribunal' and insert 'Court'.

No. 4. Clause 9, page 3, lines 5, 8 and 13—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 5. Clause 10, page 3, lines 15 and 24—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 6. Clause 11, page 4, lines 8 and 13—Leave out 'Tribunal' wherever occurring and insert, in each case, 'Court'.

No. 7. Clause 13, page 4, line 23—Leave out 'Tribunal' and insert 'Court'.

No. 8. Clause 15, page 5, lines 1 and 2—Leave out paragraph (c) and insert—

(c) with the Minister's consent, to any other person.

No. 9. Clause 16, page 5, lines 25 to 31—Leave out subclause (4) and insert:

(4) The Minister must, within six sitting days after the making of the agreement, cause a copy of the agreement to be laid before both Houses of Parliament.

No. 10. Schedule, page 8, line 7—Leave out 'Tribunal' and insert 'Court'.

No. 11 Schedule, page 8, after line 9—Insert subclause as follows:

(2) A reference in an Act or other instrument to a licensed land valuer will be taken to be a reference to a land valuer acting lawfully under this Act.

Consideration in Committee.

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

That the House of Assembly's amendments be agreed to.

This is in line with the position I have taken in respect of the two Bills immediately preceding.

The Hon. ANNE LEVY: I oppose the motion, for the same reasons as indicated for the two preceding Bills.

Motion negatived.

The following reason for disagreement was adopted:

Because the amendments are contrary to the views of the Council.

Motion carried.

LAND AND BUSINESS (SALE AND CONVEYANCING) BILL

Returned from the House of Assembly with the following amendment:

No.1 Clause 30, page 16, lines 14 and 15—Leave out all words on these lines and insert:

Except as authorised under the regulations, a conveyancer must not act for both the transferor and transferee, or the grantor and grantee, of property or rights under a transaction.

Consideration in Committee.

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

That the House of Assembly's amendment be agreed to.

Although this Bill is one of a package of four Bills, I think there is more joy for the Government in the likely outcome on this amendment. What the House of Assembly is seeking to do is to broaden the scope of the regulation making power. Members will remember that the Opposition moved an amendment to deal with the issue of conveyancers acting for more than one party. It was agreed that it should be in the form at that stage of a conveyancer not acting for both the vendor and purchaser, but it ignored the reality of the situation where there may be mortgagor and mortgagee, and lessor and lessee. It may be that there are other variations which may need to be regulated in the context of dual representation. This amendment merely broadens the power to make regulations dealing with those sorts of issues.

The Hon. ANNE LEVY: I support this amendment. It does seem desirable that it should not only be in the particular situation which was being considered earlier that the prohibition should apply but that lessors and lessees, transferors and transferees and other such situations should also be covered. I understand that the Attorney would expect the regulations, when drawn up, to include the type of provision which was envisaged when this amendment was debated before the Council, that is, that it would only be permissible for a

conveyancer to act for both parties to a transaction when there was agreement by both parties in writing that he or she should do so. That will certainly make life easier in country areas where there may only be one conveyancer who is handy, but even in the metropolitan area there may well be circumstances where it is perfectly appropriate that the one person should act for both. The regulations will of course be able to be scrutinised by Parliament when they are prepared.

Motion carried.

SOUTH AUSTRALIAN WATER CORPORATION BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 880.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contributions during the debate. I do not intend to unnecessarily prolong the second reading or, indeed, the Committee stage of the debate, because I understand an almost predestined course of action is in train here. As I understand, amendments to be moved in Committee may well be successful, but I will address those later. It may be that, in an attempt to resolve it, this Bill will end up at a conference of managers between the Houses, and therefore I do not want to cause unnecessary delay.

The Hon. Sandra Kanck raised some questions in the second reading; I will address some of those and provide some information for her. The honourable member raised a question about residential charges being handed over holus-bolus to the corporation while the water charges to industry are being retained by the Minister after consultation with the corporation. The Minister's response is that the Bill clearly provides for all water charging to be set by the Minister after consultation with the corporation. Reference to section 65C (residential) and section 66 (non-residential) of the Water Works Act, as amended in Schedule 2 of the Bill, will confirm that those powers remain with the Minister subject to consultation with the corporation.

The honourable member raised the question of cross-subsidisation of country water consumers. The Minister's response is that the Minister, on a number of occasions, has already indicated that cross-subsidy to country water consumers will not be removed. I refer the honourable member, for example, to what was an extensive debate in the other place. The honourable member raised questions about the new water pricing structure. I am advised that it is normal practice for Government to review water pricing each year. Corporatisation of the EWS does not change this process in any way.

The Minister in the other place has given an assurance that the Government will not jeopardise the low cost State base by increasing water prices across the board. The Government is determined to keep costs down in order to make South Australia an attractive place in which to invest. The honourable member raised questions about the outsourcing of EWS functions. I refer the honourable member to the Financial Statement of 31 May this year, when the Government announced that, subject to favourable tender prices, the EWS will outsource the following activities: operation and maintenance of metropolitan water and sewage treatment plants; operation and maintenance of Adelaide's water and sewer network; access to and extension of the Adelaide water and sewer mains network; and provision of logistic support services based in the metropolitan area.

The honourable member raised the question that from her viewpoint the Bill did not perhaps contain the human resource aspect. I am advised that the Bill does indeed address the protection of EWS staff by providing for them to be transferred to the corporation and for their rights to be preserved. The Government intends to deal sensitively as always with the impact of contracting out on existing employees.

The honourable member raised questions about the Government's initiatives to use BOO or BOOT schemes pre-emptive of Parliament. I am advised that the capacity of the Government to enter into BOO or BOOT schemes is not dependent on this Bill. Primarily, financing through BOO and BOOT schemes is intended to be used predominantly to bring forward capital intensive projects such as water filtration plants in the hills to towns along the river and the Barossa Valley. I would refer members to the recent publicity and debate covered on the front page of the Adelaide *Advertiser* when Mr Murdoch was in town, and the Government's reiteration of its plans in relation to capital works projects in the water filtration plant area. As I said, that was a reiteration of the Government's announcements back around about budget time. The Minister's view is, and the Government supports that view, that the corporation should also have the power to enter into such schemes should it deem it necessary.

Finally, the honourable member asked how will repair and replacement be funded when the profitable parts of the EWS are outsourced. I am advised that the outsourcing initiative is designed to produce greater profitability for the corporation in Government through the more efficient provision of services by outsources. This should keep down the cost of the services to consumers and provide a better return to Government. The contribution to Government this year is expected to be $51.6 million, rising to $85 million in three years. The Government has a comprehensive program of asset maintenance for the future, which it will expect the corporation, through its charter, to carry out.

Bill read a second time.

In Committee.

The Hon. T. CROTHERS: Mr Chairman, I draw your attention to the state of the Committee.

A quorum having been formed:

Clauses 1 to 8 passed.

New clause 8A—'Restriction on contracting out by Corporation.'

The Hon. R.R. ROBERTS: I move:

Page 3, after line 32—Insert new clause as follows:

8A. The board must not cause or permit water or wastewater services or facilities to be provided or operated on behalf of the corporation by another party under a contract or arrangement unless—

(a) the board first obtains a full and independent report as to the corporation's capacity to provide or operate the same services or facilities competitively; and

(b) the report discloses that the corporation could not provide or operate the services or facilities competitively.

This new clause seeks to provide the opportunity for the corporation's work force to be involved in the replacement and service of water and wastewater facilities to be operated on behalf of the corporation. The Bill seeks to change the operations of the Water Corporation and we believe that, as part of a rationalisation of the activities of the corporation, the Government is calling, in other Bills, for cooperation by the work force and a desire to go to better service facilities, more

competitive tendering, etc. This provision seeks to provide them with the opportunity to compete on an equal basis and, where they can show they are competitive with the provision of these services and maintenance facilities, they ought to be given the opportunity to do so. I ask for the Committee's support.

The Hon. R.I. LUCAS: The Government is very strongly opposed to this particular amendment being moved by the Labor Party to the Water Corporation Bill. I will indicate the Government's position in four broad categories. Certainly, the Minister has already said that, whilst outsourcing will occur subject to favourable tender prices, there are very many factors which will need to be considered and which will be considered by the Government and the Minister in this consideration. The first question is: who carries the risks if there is a price overrun? I refer honourable members to an example given by the Minister during the debate in the House of Assembly. He said:

> . . . the New South Wales Department of Water Resources requested the loan of a package water treatment plant to filter toxic algae-laden water. . .

The EWS projected cost for transporting the plant to Sydney was cheaper than quotes from two private sector companies. The Minister approved that the work be done by the EWS. However, as it turned out, the actual cost of $2 170 significantly exceeded the estimate of $800 and exceeded both the private sector quotes. This example highlights the reality that the Government must carry all the risk on all work performed by in-house groups.

The second broad area is that outsourcing provides the foundation for economic and industrial development. I referred to this issue earlier today in response to a question about the EDS arrangement that the Government has entered into in relation to IT outsourcing. The Government is able to leverage up its purchasing power, as it did with the EDS during the outsourcing of information technology. It also allows for the development of joint ventures between the South Australian Water Corporation and private sector companies to pursue best practice in the water industry.

The third area is that outsourcing puts South Australia in the best position to compete in international markets. Possible partnerships with the private sector enhance our pursuit of infrastructure work in the Asia Pacific region in particular. There is clear evidence already of an emerging huge market in places such as China, the Philippines, Thailand and Indonesia for such partnerships and joint venture activities.

The fourth area is that in-house competition discourages private sector bids. There are significant costs involved in mounting appropriately detailed bids for outsourced functions. There is a lot of evidence, interstate and internationally, that companies are disinclined to go to the expense of bidding when they are competing against in-house groups. Rightly or wrongly, the fear—and in some cases it is legitimate—is that in-house bidders might not have to meet all the costs and requirements of private bidders and perhaps are likely to receive favoured treatment. There is strong concern by the Government that in that sort of situation we may have some private sector bidders who are reluctant or who may in the end choose not to seek to compete against an in-house group because they believe that there might be an inside deal or that favoured treatment might be given. In this cut-throat business, companies are not interested in spending considerable sums of money on bids when there may be the prospect that that money will be money down the drain because a Minister or Government or department or agency may not genuinely be looking for this function to be outsourced.

In summary, the Government has stated on many occasions that it will not outsource for the sake of outsourcing; but it will outsource to gain a bottom line benefit for the South Australian community. The Government is opposed to the new clause because it requires consideration of only one factor, whereas from the Government's viewpoint many factors will be taken into account in achieving maximum benefit to the State. As I said, the Government is strongly opposed to this new clause. We have acknowledged that it is likely to be carried in this Chamber, and the issue may have to be resolved at a conference between the two Houses.

The Hon. R.R. ROBERTS: I appreciate the contribution made by the Leader of the Government. However, rather than satisfy me, the Minister's contribution makes me more alarmed. It is clear that the Government has no intention of allowing these people to compete, despite the fact that paragraph (a) provides:

> the board first obtains a full and independent report as to the corporation's capacity to provide or operate the same services or facilities competitively. . .

We are not saying that they ought to be advantaged. This clause seeks to provide a proper assessment of the ability rather than create a situation where the accusation can be levelled at the Government or the corporation that inside deals are being done. This new clause seeks to allow the corporation and its employees to compete on a properly assessed basis, not on a position of advantage or disadvantage. I get the strong impression from the Minister's contribution that the Government, much to my concern, is not about having the corporation involved, despite the loyal service that has been provided by these employees. Those people retain many of the inherent advantages of being in-house, because they have wide experience of things like the layouts of reticulation systems and so on, and they have developed specific skills which are required to carry out this class of work.

I feel that this is a reasonable proposition. It recognises the skills of those who are presently employed; it does not provide *carte blanche* or a walk-up start for the corporation. On many occasions contractors apply for contracts and they are beaten by another private company or group. As this new clause provides that there needs to be 'a full and independent report as to the corporation's capacity to provide or operate the same services or facilities' on a competitive basis, I believe that the safeguards are there. It gives the corporation and its employees the opportunity to remain in Government employment and provide valuable services to the community of South Australia.

The Hon. SANDRA KANCK: The Democrats will be supporting this new clause. Comments made in the other place by the Minister have put me on edge in this regard. I guess that it is best if I read what the Minister said:

> In January 1994 the New South Wales Department of Water Resources requested the loan of a package water treatment plant to filter toxic algae-laden water to maintain supply to an area near Cowra.

He gives certain measurements and then says:

> I asked the department what the cost was, and it estimated $800. We obtained two private sector quotations from external companies of $850 and $1 500 respectively. As the department's quotation was $50 under the nearest private sector competitor I authorised the department to export the filter. Here was a function for which the department wanted to compete with the private sector, it came in under the private sector quote, and so I authorised it.

Several weeks after the event I followed the matter up. I asked the department what the actual cost was, having completed the exercise. The department having originally quoted $800, the final cost to complete the delivery was $2 170—well in excess of the two private sector quotes. My point is that, if a function is outsourced, the risk is carried by the outsourcer—the private sector. I assume that it was a fair, equitable and legitimate quote, not just $50 under the nearest private sector competitor in order for the EWS to get the job. For whatever reasons—they are all listed and I saw why there was a significant overrun—the taxpayers of South Australia picked up the cost.

This is where I start to become worried, because I hear a philosophical overload in this which is of great concern. The Minister continued:

If the work had been outsourced, the taxpayers would have had zilch cost; it would have been as per the quote and the tender. One of the reasons why I am a strong advocate of the private sector doing work is that the Government—the taxpayer—does not carry the risk at the end of the day.

The sort of attitude that is espoused in that response indicates to me that there is a very strong view that most things should be outsourced. Because, if you take that sort of logic to its ultimate conclusion, it means that you would have to outsource everything on the basis that there could be a cost overrun. For that reason, I will support the Opposition's amendment.

The Hon. R.I. LUCAS: I am not going to unduly prolong this, but I find that logic extraordinary. I acknowledge the numbers are not with the Government on this particular occasion. We have an example there that the Hon. Sandra Kanck has just quoted where, in effect, the EWS has quoted in at $800 then come in at $2 100, which is 150 per cent or 160 per cent above the estimate, and the taxpayers of South Australia have to pick up the cost of it. The point the Minister is making is that under the current arrangements it is the taxpayers who are paying for this, who are paying for the feather bedding in relation to what goes on with some particular agencies. It therefore means that if more money is being spent on these sorts of things we cannot spend money on Modbury Hospital; we cannot spend money on schools; we cannot spend money in a variety of other areas if we are spending this sort of money doing quite basic functions in agencies such as the EWS and a variety of other areas.

The Hon. Sandra Kanck: It would mean we would have to outsource everything just in case.

The Hon. R.I. LUCAS: No, you have to make some mature judgements. If there is an example where you are coming in at a tender price of $800 and you blow out by 150 per cent or 160 per cent in what is a small sum of money, but when you start talking about the EWS with a range of other contracts, you are talking in terms of hundreds of thousands of dollars, or sometimes perhaps millions of dollars. We are talking big bikkies. You cannot afford to have agencies blowing out by 150 per cent or 160 per cent and just blithely saying, 'This is a philosophical overload; the taxpayers will pick up the cost' whether it costs us, in this case $1 200, or in some other case $100 000 plus or whatever. Is it good enough to say that this is some sort of an example of a philosophical overload, but never mind, the taxpayers of South Australia will pick it up?

The bottom line ought to be that we can have a situation where we do not have the taxpayers of South Australia picking up the cost of the blow out and that some other agency has to deliver the service, complete the function to some sort of accepted standard within some sort of cost estimate, and if it blows out that is their responsibility. Then, that is not a question of philosophical overload; that is a question of running a budget, running a State and running the finances in a way which means that we do not waste money. That is what the Government and the Minister are about: ensuring that we are not wasting dollars in areas like the EWS and, therefore, ensuring the contribution that can be made to the budget and consolidated revenue can be used for services such as education, health and other areas.

EWS has been a big contributor, as has ETSA and other semi-government agencies (or agencies like the two of them) to consolidated revenue. I acknowledge that the numbers are not with the Government and this is an issue which will need to be resolved probably in a conference of managers between the Houses and I, therefore, do not intend to pursue it much further.

The Hon. R.R. ROBERTS: It is unwise to talk about one example on one particular job. From someone who has worked in the industry, and been involved in the electrical area, in all the best circumstances there are things that go wrong in some construction jobs that are just beyond the pale. Now, unless the Democrats and the Australian Labor Party remain accused of not being responsible with the budget, I do not think that if the EWS were to quote for $1 380 for that job and then did the job for $840 the Minister for Education would rush out and buy another oval for a country school.

So, using that example is really not worthwhile. If you take your benchmark tender out, what you will find—and it generally happens if you talk around the industry—is that most of the contractors, when they do not have to compete against a legitimate contractor, all come in around the same amount. Generally, when there is no competitive pressure on them they go for the higher quote, and then if they come in $400 or $500 under the quote I can tell you that that money does not go in the pockets of the taxpayers either; it goes straight into the hip pocket of the contractor. I will not pursue it any further, but I do think that that needs clarification.

New clause inserted.

Clauses 9 and 10 passed.

Clause 11—'Establishment of board.'

The Hon. R.R. ROBERTS: I move:

Page 5, line 5—Leave out this line and insert—
(2) The board consists of—
(a) four members appointed by the Governor; and
(b) the chief executive officer.

What we are seeking to do is to have the board consist of five members, four members appointed by the Government and one the chief executive officer. I would assert that, in line with the Government's policy of a leaner, meaner Public Service, I feel quite confident that they will grab this with both hands because it will save the taxpayers of South Australia a significant amount of money. I am advised by the Minister in another place that the rest of the amendments are consequential on this. However, the Hon. Sandra Kanck has just indicated that she may wish to move a minor amendment to the amendment that I have proposed. However, I will leave her to make that contribution herself and I ask the Committee for its support.

The Hon. SANDRA KANCK: I move to amend the Hon. R.R. Roberts amendment as follows:

Page 5, after line 8—Insert subclause as follows:
(3a) At least one member of the board must be a woman and one a man.

Traditionally I would call this amendment the 'Levy amendment', as the Hon. Anne Levy usually inserts a similar subclause in those clauses of a Bill where boards are set up.

The Hon. R.I. LUCAS: It is highly unusual.

The Hon. Sandra Kanck: It has been done before.

The Hon. R.I. LUCAS: It might have been done before. The Water Corporation Bill has been on the Notice Paper for two or three weeks and we have come to an arrangement, after trying to do it last Wednesday, trying to do it last Thursday, trying to do it yesterday (Tuesday), to do it today. The Hon. Ron Roberts has circulated a series of amendments upon which I was able to take some advice and consult with the Minister and establish a position. The Hon. Sandra Kanck has had this Bill for a considerable period of time, and here we are at 6 o'clock on Wednesday afternoon, and without circulating an amendment the Hon. Sandra Kanck moves from the floor of the Chamber to insert an amendment.

The Government cannot support this amendment. Obviously, I would need to have some discussion at some other time with the Minister, but I just want to indicate that it is a most unsatisfactory way of conducting the business of the Chamber when an amendment is moved without any circulation or notice, is sprung on members in this Chamber so that we are not aware of it. The general position that the Government has—and certainly I would be guessing the position in relation to the view of the Minister to this—is that this particular board of five persons is going to have an extraordinarily onerous task to run the Water Corporation and that it ought to be a question of merit and merit alone that governs the make-up of this board.

It may well be that there are one, two, three, four, or indeed five—I do not know—female members of the Water Corporation board. But it is a small board and, from what I would understand of the Minister's position, his view is that it ought to be a question of merit. But I have not had an opportunity to consult with the Minister because the Hon. Sandra Kanck has sprung this amendment on members without any consultation and without any advice that it was going to be moved.

I am, therefore, in a very difficult position in seeking advice on it. I understand that the Labor Party through the Hon. Ron Roberts is supporting the amendment—he seconded the amendment. I acknowledge that the numbers are not with the Government in relation to it, but I will nevertheless, as it travels back to the House of Assembly, obviously have a discussion with the Minister and see what his attitude is to this particular amendment. It does leave me in a difficult position because the Government was intending to support the amendment being moved by the Hon. Ron Roberts. However, I feel constrained now not to be able to support the amendment of the Hon. Sandra Kanck. So, as I said earlier, it is likely to end up in conference, but I would indicate my opposition at least to that part of the amendment being moved by the Hon. Sandra Kanck, but indicate that the Government, and the Minister in particular, had indicated his preparedness in a spirit of compromise to agree to the amendment being moved by the Labor Party to the make-up of the board.

The Hon. R.R. ROBERTS: I understand the concern of the Leader of the Government about this matter and, as a general principle, all members in this Chamber would do their absolute best to make sure that their amendments are on file. However, I am confident that the Hon. Ms Kanck had done this with the right spirit. I do not think there are any traps or conspiracy about it. It is a situation that will arise from time to time and has arisen before.

As has been mentioned by the Hon. Mr Lucas, this Bill is destined to go to a conference. If there is a problem about merit, I cannot see it; it is a standard provision that has been put into most Bills allowing for equal opportunity for men and women in South Australia. As a consequence of the broad ranging education system that we have had in the past—and I cannot guarantee that for the future—opportunities are being given for men and women, and I do not think this provision should be defeated or opposed on the basis of a very sensible addendum to my amendment that at least one should be a woman and one should be a man. I ask the Leader of the Government in this Chamber, the Hon. Mr Lucas, to reconsider his position and support the amendment.

The Hon. SANDRA KANCK: I have been advised by Parliamentary Counsel that this amendment might be better placed after line 8, so I seek leave to withdraw the amendment and to move it at the appropriate time.

Leave granted; amendment withdrawn.

Hon. R.R. Roberts' amendment carried.

The Hon. SANDRA KANCK: I move:

Page 5, after line 8—Insert subclause as follows:

(3a) At least one member of the board must be a woman and one a man.

The Hon. T. CROTHERS: I support the amendment. I understand fully what the Hon. Mr Lucas has said, and he is quite correct. However, the opportunity arises if the amendment is carried and the Bill goes back to another place for further discussions to take place. I recognise that the Hon. Mr Lucas is right as to the lack of consultation, but this was not deliberately done; the lack of consultation was an accident that transpired and I support the Kanck amendment.

The Hon. R.I. LUCAS: I reiterate the Government's position. I have not been in a position to consult the Minister, so I feel constrained at this stage not to be able to support the amendment. However, I acknowledge the numbers in the Committee.

Amendment carried.

The Hon. R.R. ROBERTS: I move:

Page 5—

Line 9— After 'director' insert '(who must be the chief executive officer)'.

Line 10—After 'director' (first occurring) insert '(who must not be the chief executive officer)'.

Line 13—Leave out 'a director' and insert 'an appointed director'.

These are consequential amendments which put the Bill into a semblance of order.

The Hon. SANDRA KANCK: The Democrats support the amendments.

Amendments carried; clause as amended passed.

Clause 12—'Conditions of membership.'

The Hon. R.R. ROBERTS: I move:

Page 5—

Line 19—Leave out 'a director' and insert 'an appointed director'.

Line 20—Leave out 'a director' and insert 'an appointed director'.

Line 22—Leave out 'a director' and insert 'an appointed director'.

These amendments, too, are consequential.

Amendments carried; clause as amended passed.

Clause 13 passed.

Clause 14—'Remuneration.'

The Hon. R.R. ROBERTS: I move:

Page 6, line 2—Leave out 'A director' and insert 'An appointed director'.

Amendment carried; clause as amended passed.

Clause 15—'Board proceedings.'

The Hon. R.R. ROBERTS: I move:

Page 6, line 12—After 'director' insert '(who must not be the chief executive officer)'.

Amendment carried; clause as amended passed.

Remaining clauses (16 to 18), schedules and title passed.

Bill read a third time and passed.

[Sitting suspended from 6.11 to 7.45 p.m.]

NATIVE TITLE (SOUTH AUSTRALIA) BILL.

Adjourned debate on second reading.

(Continued from 22 November. Page 884.)

The Hon. SANDRA KANCK: I am pleased that we now have some form of native title legislation to consider in this Parliament, although I am not particularly happy with the content of the four Bills before us. In their first policy documents put together 17 years ago, the Australian Democrats recognised the prior possession of Australia by the Aboriginal people. The preamble for the Democrats' State policy reads:

> The Australian Democrats accept the fact that the indigenous people of Australia were in possession of the entire country prior to 1788. They were dispossessed of their land and culture from that time on. Australia's occupation by Europeans for two centuries has had dire consequences for the Aboriginal people, including genocide and extremely low standards of health and welfare. Consequently, their life prospects are by comparison extremely poor. These injustices should be redressed.

So, when the High Court handed down its decision in the Eddie Mabo case in 1992, the Australian Democrats welcomed it. However, the fact that the High Court was called upon to make such a determination is an indication of either the tardiness or unwillingness of our Federal Parliament through successive Governments effectively to address the issue of the prior possession of this country by Aboriginal people. It took over two centuries for it to happen and then it had to occur as a response to the Mabo decision.

I believe that the length of time spent debating the legislation in the Senate set a new record, and members may well remember as I do the television coverage showing that very strange conjunction of Senator Gareth Evans hugging the Australian Democrat Leader, Senator Cheryl Kernot, when the Native Title Bill finally passed late last year.

The relationship of the Aboriginal people to the land is different from ours, and the Hon. Caroline Schaefer reminded us yesterday that they see themselves as belonging to the land and not the way we see it, as the land belonging to us. In an article in the *Australian* on 30 June this year, Yami Lester attempts to describe this relationship. The word his people use for the land is 'Wapar'. He stated:

> Christians might call the Wapar the power of the holy spirit, coupled with the Australian Constitution, the High Court and laws governing land use and tenure all in one. I don't know of an English word that has all of these meanings intertwined into one.

Yami Lester says about mining operations on Wapar:

> When we see mining companies ripping out the ground, the old people say that it feels like their arms and legs are being ripped off. It hurts us when the earth is hurt, but to miners they are just digging up dirt to make money.

There is a growing understanding about this relationship which Aboriginal people have with the land, and I know there are in the environment movement people who feel a similar attachment to the land and who experience that hurt when the environment is damaged, even though we do not have a word for it in English.

So, it is clear that the Mabo decision and consequent legislation in Federal and State Parliaments have a great deal of significance to the Aboriginal people. There is no doubt at all in the minds of the Democrats that the Mabo decision was a just one, setting the stage to repair some of the damage that has been done over the past 200 years. As European settlers took more and more of the Aboriginal land, using the doctrine of *terra nullius* as justification, they took from the Aborigines not only their land but also their means of livelihood and their self-respect, and increasingly marginalised them physically and socially.

So, the Mabo decision set the stage to allow us to right some wrongs. But the Bills that we have before us may not achieve that objective, if indeed that is the Government's objective at all. I suspect it is not; I think this Government is attempting a minimalist approach to see what it can get away with. Its concern appears to be about States' rights, although I suspect chasing after the mining dollar might have something to do with it, rather than acting with a sense of goodwill towards Aboriginal people. This is sad, because it was under a previous Liberal Government—the Tonkin Government—that the Pitjantjatjara Land Rights Act was negotiated. This package reflects none of the magnanimity towards Aboriginal people that was implicit in that Act.

I would like to quote from Archbishop Faulkner's Christmas pastoral letter last year. He said:

> It is a matter of great importance for all Australians that our nation is built on truth and not on a lie. The lie that this land was unoccupied, that the Aboriginal communities were not here, and that their rights were non-existent has constituted a distorted, sinful situation in our land.

Archbishop Faulkner goes on to speak about some of the arguments that have emerged following the Mabo decision and the introduction of the Federal legislation as follows:

> Some claim that Aboriginal people should be treated the same as everyone else. Obviously at the interpersonal level we need to learn to treat each other as equals. But it is a fallacy to apply this to the legal and political level. It ignores Aboriginal peoples' prior history and possession of the land, and it ignores the shameful and destructive way they have been treated for 200 years. Others argue that Mabo legislation and further agreements for compensation will cost too much.
>
> It is simply a fact that many Aboriginal people do not have access to facilities such as adequate health care that other Australians take for granted. If we are to claim to be a just society, those of us who earn money and benefit from the abundance of this land must be prepared to pay taxes which contribute to a just future for Aboriginal people. Those of us who claim to follow the way of Jesus will want to see money used well in the cause of justice and reconciliation.

I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

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

SHOP TRADING HOURS (MEAT) AMENDMENT 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 represents a commonsense reform to the *Shop Trading Hours Act 1977* in relation to the sale of fresh red meat.

The objective of this Bill is to amend the Act to enable meat as defined by the Act to be treated in equal fashion to the sale of other food stuffs for the purposes of its retail sale.

This Bill remedies one of the most illogical and confusing anomalies in shopping hour laws in South Australia.

Under the provisions of the existing *Shop Trading Hours Act 1977* meat as defined cannot be sold in South Australia beyond 5.30 p.m. on week nights, except for one night per week when it can be sold until 9.00 p.m., cannot be sold beyond 5.00 p.m. on Saturdays and its sale is completely prohibited throughout the State on Sundays.

These archaic restrictions on the sale of fresh red meat are inconsistent with the times that non exempt and exempt shops selling food stuffs under the Act are able to lawfully trade.

The effect of these existing restrictions means that any shop selling food stuffs, whether it be a butcher shop, a delicatessen or a supermarket is prohibited from selling meat as defined beyond these stated hours even where the shop is lawfully trading beyond those stated hours.

The anomaly and confusion which this creates is self-evident. For example, food shops which currently trade on Sundays or seven day supermarkets which are exempt shops by virtue of their floor size and rely heavily on Sunday trade, are prohibited from selling one of their key products, fresh red meat, at those very times. The fresh red meat has to be taken off the shelf or covered up. These same consequences flow for shops which choose to trade additional hours under certificates of exemption—whether those additional hours be an extra late night or a Sunday.

This anomaly is compounded by the fact that these specific restrictions on the sale of fresh red meat apply under the Act to the whole of South Australia and not just proclaimed shopping districts.

As members may be aware, a number of major regional centres of South Australia are not located within proclaimed shopping districts. These centres include Whyalla, Port Augusta, Port Pirie, Victor Harbor and Naracoorte. This means that all shops in these major regional centres can, and in many cases do, trade without restriction on their hours. However, the specific provisions of the *Shop Trading Hours Act 1977* which declare meat to be a prescribed good means that butcher shops, delicatessens and supermarkets which sell fresh red meat before 5.30 p.m. week days and before 5.00 p.m. Saturdays cannot sell that same product to consumers in these towns on more than one late night and not at all on Sundays.

The farcical state of this law is exacerbated by the statutory definition of meat. Meat, as defined by the *Shop Trading Hours Act 1977*, means 'the flesh of a slaughtered animal intended for human consumption but does not include bacon, cooked meat, frozen meat, fish, poultry, rabbit, sausages and other smallgoods or any other prescribed meat or prescribed product derived from meat'.

The effect of this definition is that the restrictions on the sale of meat do not apply to fresh white meat such as chicken, fish, or rabbit, nor do they apply to frozen meat (whether frozen white meat or frozen red meat) nor cooked meat.

The effect of such an anomalous definition is to effectively prohibit only the sale of fresh red meat outside of the stated hours and discriminate against that product when compared with the sale of other white meat products.

Having outlined the illogical nature of the current law in relation to the sale of meat as defined, one could be forgiven for asking how such anomalies ever came to be justified, let alone enacted. The short answer to that question is that Labor Governments in the last 25 years have been reluctant to remove these anomalies unless given the green light by the trade union movement.

This issue has however been brought before the Parliament in varying forms in the last decade—and gradual reform has occurred. Members may recall the situation prior to 1985 when a shop could only sell fresh red meat on either the one night of late night trading or on Saturday morning, but not both, despite the fact that the shop traded at both times. Indeed, it was only private members bills introduced into the Legislative Council in August 1984 by the Liberal Party and the Australian Democrats which eventually caused the then Labor Government to recognise this absurdity and finally agree to amend the Act after a deal on industrial relations matters had been struck between retailers and the meat union.

Indeed, it was the then Leader of the Australian Democrats, the Hon Ian Gilfillan, who on 8 August 1984 urged this Parliament to do exactly what this Bill now does and who argued, as Hansard records, that 'further steps can be taken to free up the trading of fresh red meat. . . .there is scope for completely deleting any restriction on the sale of fresh red meat as provided under the Act.'

The historic reluctance by the Labor Party and the meat union to recognise the need for fresh red meat to be treated in the same way as fresh white meat and any other food stuffs for the purposes of the *Shop Trading Hours Act 1977* has had a counterproductive effect upon the meat industry. It is not surprising that during the 1980's the market share of fresh red meat in the local retail market declined whilst the market share of fresh white meat increased. This in turn has meant that in the last five years an aggressive advertising campaign has been initiated by the meat industry in an endeavour to recover some of that lost market.

Indeed, it is as absurd today as it was during the 1980's for this artificial restraint to be placed upon the retail sale of fresh red meat when the effect of that restraint is to depress local consumption at a time when producers and suppliers in the farms and abattoirs of this State are looking for new markets and trying to remain competitive on the local and international stage, often in the face of drought and regressive Federal Government rural policies.

This Bill therefore not only reflects the interests of consumers, but will also operate to advance the interests of the farmers and producers.

Importantly, this Bill does not require any shops, whether butcher shops, delicatessens or supermarkets to trade any different or additional hours. It means that shops selling fresh red meat are treated in the same way as shops selling other food stuffs for the purposes of legislation.

This Bill reflects one of the key recommendations of the independent Committee of Inquiry into Shop Trading Hours established by the State Government in February 1994. That Committee reported to the Minister for Industrial Affairs in June 1994. The Committee's report concludes that 'fresh red meat should be treated in a similar way to other grocery items or food stuffs and that it no longer be a prescribed good under the Act'. The Committee accordingly made a recommendation to this effect (recommendation 19). The Committee further recommended that this reform initiative be implemented immediately and not be subject to any phasing in period.

The Committee's report also indicates that the Committee made this recommendation after taking into account the interests of all relevant groups, including the Meat and Allied Trades Federation of Australia, the Australasian Meat Industry Employees Union, the Retail Traders Association, the SA Farmers Federation and other retail associations and consumer groups.

In making this recommendation the Committee concluded from these submissions that 'on balance the belief was that there needed to be fair treatment for all meat products. Smaller butchers would survive if they adapted their businesses to specific customer needs and accentuated the aspect of personal service'.

The State Government's willingness to accept this recommendation of the Committee of Inquiry was publicly announced by the Minister for Industrial Affairs in a Ministerial Statement on 9 August 1994. Notwithstanding the emotive debate concerning shopping hours since that time, there has been virtually no significant lobby of opposition against this proposal to reform this law with respect to the sale of meat.

This reform is also supported by the Inspectorate of the Department for Industrial Affairs who are charged with the obligation of enforcing existing trading hour laws. It is hard to imagine how it can be in the public interest to have Inspectors of the Department for Industrial Affairs going around to seven day supermarkets or butcher shops trading on Sundays or shops trading in the Iron Triangle or in Victor Harbor throughout the weekends checking on whether fresh red meat has been taken off the shelf or shielded from display to customers and checking whether it is only fresh white meat or frozen red meat that is being sold.

It is also hard to conceive of any public interest in Inspectors of the Department for Industrial Affairs having to waste their time obtaining legal advice from the Crown Solicitor on whether sausages or other smallgoods which contain fresh red meat and are sold on Sundays are sold in breach of the Act.

These are the realities which arise from the existing illogical and anti-consumer, anti-retailer and anti-producer provisions of the current Act.

Whatever view Members may have in relation to other aspects of the *Shop Trading Hours Act 1977* or the June 1994 Committee of Inquiry's report into shopping hours and the debate in the last six months in South Australia, the case for amending the Act in the

manner proposed by this Bill is overwhelming. I commend this Bill to Members.

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

The provisions of the Bill are as follows:

Clause 1: Short title

Clause 1 is formal.

Clause 2: Amendment of s. 4—Interpretation

Clause 2 amends section 4 of the principal Act. As the Act stands at the moment a shop the business of which is solely or predominantly the retail sale of meat cannot be an exempt shop. Paragraph (a) of this clause removes that restriction. Paragraph (b) of the clause removes the definition of 'meat' from section 4.

Clause 3: Amendment of s. 6—Application of Act

Clause 3 amends section 6 of the principal Act. Section 6 provides that the Act applies to shops the business of which is solely or predominantly the retail sale of meat whether situated within or outside a shopping district. This provision is no longer appropriate if existing restrictions on the sale of meat are to be removed.

Clause 4: Amendment of s. 13—Closing times for shops

Clause 4 removes from section 13 of the Act the subsection that prescribes the special hours applying to the closing of shops the business of which is solely or predominantly the retail sale of meat.

Clause 5: Amendment of s. 16—Prescribed goods

Clause 5 amends section 16 of the principal Act. This amendment is consequential on the amendment to section 13 of the Act.

The Hon. BARBARA WIESE secured the adjournment of the debate.

LAND AGENTS BILL

The House of Assembly intimated that it insisted on its amendments to which the Legislative Council had disagreed.

Consideration in Committee.

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

That the Legislative Council do not insist on its disagreement to the House of Assembly's amendments.

I indicate that this is the next step in getting the matter to a conference. On the numbers previously indicated, I would not expect to win my position, but one can always live in hope.

Motion negatived.

CONVEYANCERS BILL

The House of Assembly intimated that it insisted on its amendments to which the Legislative Council had disagreed.

Consideration in Committee.

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

That the Legislative Council do not insist on its disagreement to the House of Assembly's amendments.

I do so for the same reasons that I have indicated in relation to the Land Agents Bill.

Motion negatived.

LAND VALUERS BILL

The House of Assembly intimated that it insisted on its amendments to which the Legislative Council had disagreed.

Consideration in Committee.

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

That the Legislative Council do not insist on its disagreement to the House of Assembly's amendments.

Again, I move this motion for the same reasons as given in relation to the previous two Bills.

Motion negatived.

A message was sent to the House of Assembly requesting a conference in respect of certain amendments to the Land Agents Bill, the Conveyancers Bill and the Land Valuers Bill at which the Legislative Council would be represented by the Hons. T. Griffin, Sandra Kanck, Anne Levy, A. Redford and Barbara Wiese.

NATIVE TITLE (SOUTH AUSTRALIA) BILL

Second reading debate (resumed on motion).

(Continued from page 912.)

The Hon. SANDRA KANCK: In resuming my remarks about the Native Title legislation, I was speaking about the comments made by Archbishop Faulkner in his pastoral letter last Christmas, and he stresses the issue of justice for the Aboriginal people, which brings us back fairly and squarely to the four Bills that we are debating and their intent. I stress that these Bills are definitely not mirror legislation, and I have become more and more concerned about them as I have delved into them. They do not bring us into line with Federal legislation. In fact, if these Bills were to pass in this form—and I can promise you that if I have anything to do with it they will not—this State will be in conflict with and in contravention of the Federal Native Title Act. The process of progressively amending 18 Acts over a two year period is a very strange one. It will not provide the certainty which this Government says is necessary, and it will definitely be the cause of legal challenges. If the Commonwealth Native Title Act was a lawyer's jamboree, this State legislation will be a year round food and wine frolic for them.

I turn now to the individual Bills. The Native Title Bill and, in particular, clause 4(5), which relates to pastoral leases is probably one of the most contentious aspects of the four Bills. It has been put to me that in whatever form this Bill is completed, there will be a legal challenge about pastoral leases. If this clause remains in the Bill, the challenge would come from the Aboriginal people. If it is removed, the challenge will probably come from the Government, the Farmers Federation or the mining lobby. At the heart of this issue is the definition of 'a lease'. Common law says it is a grant of exclusive possession, and the question arises as to whether the pastoral leases in South Australia give exclusive possession. I have to say, on my reading of it, pastoral leases are not grants of exclusive possession because they are granted subject to quite a number of limitations and reservations.

In the Pastoral Act, the conditions of a pastoral lease are set out, and a principal one which reinforces to me that these leases are not grants of exclusive possession says that the lease is granted subject to the lessee's obligation not to hinder or obstruct any person who is exercising a right of access to the land, pursuant to the Act. The Commissioner of Highways can establish public roads across the land. A person, having given appropriate notice, can travel with stock across the land and, most importantly, Aboriginal people may at all times enter, travel across or stay on any unenclosed and unimproved parts of the land for the purpose of following traditional pursuits, and they are guaranteed access to water while doing so.

So, I do not believe that an argument can be sustained that South Australia's pastoral leases are a grant of exclusive possession and as such support for clause 4(5) would be going against my beliefs and logic. I could not morally make a statement that native title is extinguished on pastoral leases. I recognise that one way or another there will be a legal challenge to these native title Bills, but that is not good enough reason to allow the passage of this clause. To allow it to remain would give the wrong message to the pastoralists,

and there could be major implications in giving that message, particularly if the legal challenge that occurs takes a number of years, as did Eddie Mabo's original legal action.

I must acknowledge the lobbying efforts of Peter Day of the Farmers' Federation in regard to this issue. He has met with me, faxed and posted letters and messages to me and made numerous phone calls to my staff but, might I add, never in a belligerent way. He has put the point that the Democrats should support this clause in its existing form because, even if native title is not completely extinguished by pastoral leases, it is at least partially extinguished to the extent of the lease and that the pastoral lease is still the substantial interest in the land. If the clause is left in, miners would have to negotiate with both pastoralists and native titleholders if it is determined there is shared title of the land. But if this clause is removed, he has argued that pastoralists could find themselves in the position of miners negotiating with the native titleholders and giving pastoralists the miss. I appreciate the argument but I cannot on that basis alone leave this clause in. If it was to be determined that the Aboriginal people and pastoralists share the title, then I am certain that this Government would act properly with appropriate legislation.

The Land Acquisition (Native Title) Amendment Bill, in whatever form it is passed, will also surely be the subject of a legal challenge as the Federal Native Title Act is unclear about compulsory acquisition. It produces a result which to my mind is absolutely against the spirit of the Mabo decision. We will go through a process which confers to Aboriginal people the right to possession of land and then the Government will take it away. What is the point? Any of the land which is likely to be contested as native title land is likely to be out in the countryside and remote from most towns and certainly all cities. Under what circumstances would the Government be needing to compulsorily acquire this land? I object to the whole Bill because of that paternalistic attitude which underlies it.

The Federal Native Title Act allows the States to set up their own Court to adjudicate on native title questions and the Environment Resources and Development (Native Title) Bill puts that into practice. The ERD Court is an appropriate court, given that it has less formal procedures than some other courts. The process set up in the Bill of moving a case upwards to the Supreme Court is a somewhat unusual one, but I have been provided with two examples from the Strata Titles Act and the Summary Procedures Act to show that it is not an isolated procedure. I am told that if the case is complex it will no doubt end up in the Supreme Court, so this procedure would save costs, but I wonder if a little bit of the Government's paternalistic 'We know best' attitude might be behind it. Even when the Supreme Court hands down a finding, I wonder if the proposed new section 63R of the Mining Act will be used by the Minister to intervene if the court still has not come up with the decision that the Government wants?

I am most concerned about the Mining (Native Title) Amendment Bill, not just from the point of view of native title but because it is making other amendments to the Mining Act which will apply across all South Australia. The proposed new section 58A is an example. A miner who wants to enter land to carry on mining operations will be able to do so unless the court upholds an objection by the owner, and the reason the court would uphold the objection is if, '. . . the mining operations on the land would be likely to result in substantial hardship or substantial damage to the land'. But even if substantial damage is likely to occur, the court will still be able to order access, albeit with conditions imposed. As I see it, heads the mining lobby wins, tails the mining lobby wins!

The Aboriginal Legal Rights Movement met with me some weeks ago and raised with me the issue of conjunctive agreements and conjunctive determinations. Until that time, I had never heard of the terms, let alone knew what they meant, but I soon learnt once I examined this Bill in detail, although the words conjunctive agreements and conjunctive determinations never actually appear in the Bills. What this Government is doing is proposing a new twist to the process of obtaining mining rights. In the current process, a miner applies to explore a piece of land, is granted an exploration licence and then, if she or he finds something of potential value, she or he applies for a licence to mine that same piece of land. But in this Bill, the Government is proposing that this could all be agreed in one neat decision. Similarly, the court could determine that this process be followed.

The Aboriginal Legal Rights Movement is concerned that this procedure not be applied to native title claimants negotiating with mining companies, although they have no objection to registered native titleholders negotiating such deals. I have concerns about the process whether or not it is claimants or holders of native title. It appears to be fast tracking by stealth, and is a procedure almost guaranteed to advantage a mining company, the operators of which would probably know more about metal markets, projected world demand and such things. Although it appears to be applied only to native title land, I suspect that, if successful, there will be attempts to apply the same procedures to the rest of the State, and I will be proposing that, wherever conjunctive agreements and conjunctive determinations appear in the Bill, it be amended to allow only the current processes. This change is not contingent on native title at all. It reflects the hidden agenda of this Government.

I am also appalled by the paternalism of parts of this Bill, and the way the Government wants to give with one hand and then take away with the other. The proposed new section 63O is indicative of this. If native titleholders or claimants agree to let a mining proponent mine on their land, they can get a share of the profits under the proposed new section 63N, but if the proponent cannot get the agreement of the Aboriginal people and instead gets the ERD Court to impose an agreement, under the proposed new section 63O3(b), the Aboriginal people will not be entitled to any share of the profits. This means, of course, that it will make it almost impossible for native titleholders or claimants to do anything other than come to an agreement with the mining proponent.

So, here we have legislation that says, 'We will give you back your land', but then we say, 'but you have got to allow mining on it', so we give it very conditionally and finally, we say, 'If you do not meet our conditions, we will make sure you are disadvantaged for doing so.' That is not in the spirit of the Mabo determination, nor is it in the intent of the Federal Native Title Act. I have now spent more than 50 hours analysing these four Bills and consulting with people. My analysis is not complete. I have made a speech today because of pressure from the Government to do so and agreement from the Opposition that it is willing to go into Committee as soon as possible. I am still working on my amendments and, because I am making my second reading speech before completing my analysis of the many complex issues, I may have extra amendments which may not be able to be anticipated by reading my speech. It was only just a few

hours ago, for instance, that I received a copy of the Government's proposed amendments to the Mining Act and we are being forced to begin dealing with them without adequate time for consideration of their implications. I do not understand the need for this undue haste. I am convinced that it will lead to mistakes getting into the legislation.

I indicate again that the Democrats have very many concerns about these four Bills. The Government itself has quite a number of pages of amendments to its own legislation, and I suspect there will be more that will have to be made when the Federal Government provides a response to the State Government about the legislation. I understand that the Opposition will be moving amendments similar to those it had on file in the House of Assembly, and I will also have amendments to address the concerns I have raised and others for the matters I have not had time to indicate. Rather than go through a farcical situation of spending many hours in Committee and ultimately going through a conference of managers, surely it would be better for the Government to withdraw these Bills and start afresh. Without a great deal of enthusiasm for the process, the Australian Democrats support the second reading of these four Bills.

The Hon. R.D. LAWSON secured the adjournment of the debate.

LAND AGENTS BILL, CONVEYANCERS BILL AND LAND VALUERS BILL

A message was received from the House of Assembly agreeing to a conference, to be held in the second floor conference room at 11.30 a.m. on Thursday 24 November.

NATIVE TITLE (SOUTH AUSTRALIA) BILL

Second reading debate resumed.

The Hon. R.D. LAWSON: I support the second reading of the Bills before us, the Native Title (South Australia) Bill, the Mining (Native Title) Amendment Bill, the Environment, Resources and Development Court (Native Title) Bill, and the Land Acquisition (Native Title) Amendment Bill. These Bills comprise a legislative package which represents the South Australian Government's legislative response to the Mabo decision which recognised native title, and also to the Commonwealth Native Title Act 1993, which was the Federal Government's legislative response to that decision.

The decision of the High Court in Mabo has been the subject of a good deal of criticism in some quarters and it has also been warmly applauded in others. It has often been pointed out that, in making declarations of general effect and not confining their decision to the proven facts in relation to the Murray Islands, the majority judges in Mabo went beyond the legitimate exercise of judicial power and transgressed upon the proper function of the legislature. This criticism in a legal sense is well merited, but, by the same token, similar criticism could have been levelled at legislatures which, over the years, failed to take account of Aboriginal aspirations for land. But however the decision was arrived at it has been made. If we had insisted upon the High Court determining as a matter of principle whether the same principles applied on the mainland we could have had 100 cases dealing sometimes with whole States, sometimes with regions, mountain ranges, lakes, rivers, etc. We may still have to have such cases but they will not be determining the principle whether native title exists in general but rather whether it still subsists in relation to particular people and particular places.

The Commonwealth's legislative response is the Native Title Act 1993. The density and complexity of much of this legislation has put the plain English movement back by 25 years. It is now documented how the legislation was forged: there was great political pressure to have the legislation passed before the end of the parliamentary session in 1993. It is obvious that meeting that deadline became a matter of Prime Ministerial prestige. The Act had to be in place by the end of the International Year of Indigenous People. The Federal Government would brook no opposition. Any voice which suggested amendments to make the scheme more workable and fairer for all Australians, white and black, was howled down as racism.

We are still seeing the unsatisfactory aftermath of the process adopted by the Federal Government at the end of 1993. Only in the past few days the Land Fund arrangements, which were announced with great fanfare, have been found to be unsatisfactory by a number of Aboriginal groups.

In order to understand these Bills it is necessary to have an understanding of the Commonwealth Native Title Act. I make no apology for taking the Council to the provisions of that Act, because one suspects from some of the contributions given both in this House and in another place that some speakers have not taken the trouble to understand the legislative background against which this Parliament must introduce its measures.

The main objects of the Native Title Act are set out in section 3. They are: to recognise and protect native title; to establish ways in which future dealings affecting native title can proceed and to set standards for them; to establish a mechanism for determining claims to native title; and to validate past acts that native title has invalidated.

The Act defines 'native title' in section 223 as the rights and interests Aboriginal people or Torres Strait Islanders have in land or waters in accordance with their traditional laws and customs. These rights and interests may include hunting, gathering or fishing. The native title may be held by a community, a group, or an individual. The section further requires that the rights and interests claimed as native title must be recognised by Australian common law. This limits the concept in native title as recognised by the High Court in the Mabo case. In that case the High Court said that native title reflects the indigenous inhabitants' entitlement to their traditional lands in accordance with their laws and customs. Its nature and extent, that is, its content, is essentially a question of fact. What is required is an 'established entitlement', and an entitlement of sufficient significance to establish a locally recognised special relationship between the user and the land.

The High Court's description of native title was as follows:

> Interests in land derived by continuous actual occupation or enjoyment of the land by Aboriginal people.

This description was remarkably similar to words which appeared in the original Letters Patent issued under the Great Seal of the United Kingdom on 19 February 1836 to the Governor of South Australia and which fixed the boundaries of the new province of South Australia. Those Letters Patent added an important proviso, and I quote:

> Provided always that nothing. . . contained should affect or be construed to affect the rights of any Aboriginal natives of the said province to the actual occupation in their own persons or in the

persons of their descendants of any lands therein actually occupied and enjoyed by such natives.

This proviso in the original Letters Patent establishing this State was repeated in the Act of 1838, which amended the original Colonisation Act. From the very beginning of the province of South Australia the rights of native people to their lands, those actually occupied or enjoyed by them, was recognised.

To return then to the High Court's consideration of the meaning of native title. The court said that usually native title is communal although in rare cases it may be individual. Where it is communal individuals may nevertheless have rights derived from that community title and dependent upon it. Native title cannot be alienated outside the native clan or group, although it can be surrendered voluntarily to the Crown. The ways in which native title can be alienated within the clan or group (for example, on death or marriage) are determined by the laws and customs of that clan or group.

According to the High Court, modification of traditional laws and customs over the years does not extinguish native title, and indigenous society does not lose its title merely by modifying its traditional way of life. As long as the clan or group has continued to observe its traditions and customs, as varied from time to time, the native title remains in existence. The content of the title will vary to reflect the changes. If the clan or group abandons its laws or customs relating to the land or if it abandons the land itself, the title is lost, and once lost the High Court has said that native title cannot be revived.

There were differences of opinion between the judges whether native title constituted an interest in land. Some thought that it did; others that it did not. Justice Toohey in Mabo considered that a native 'presence' on land was essential for native title, but this concept was not picked up in the Native Title Act. Section 223 of that Act requires that claimants to title have by their laws and customs a 'connection' with rather than a presence on the land or waters over which the native title is claimed. In a more recent case in the High Court, *Coe v Commonwealth*, which is the Wiradjuri claim, the Chief Justice, Sir Anthony Mason, indicated that a physical 'connection' with the land is required.

I turn next to the status of native title under the Native Title Act. The Act protects native title by giving the common law regarding native title the force of a law of the Commonwealth. So common law is given the force of the law of the Commonwealth. This appears in section 12 of the Act. It is a fairly extraordinary provision, which was an amendment proposed in the Senate by the Greens and agreed to. Its meaning is not fully understood and was the subject of a protracted discussion in the recent case in the High Court instituted by the State of Western Australia.

I turn next to validating titles. This is a very important point, which the Hon. Sandra Kanck appeared to have overlooked when she complained of the haste with which this legislation is being introduced by the South Australian Government. She must have overlooked the fact that the Commonwealth, this champion of Aboriginal interests, has prescribed that compensation packages for States in relation to native title are conditional upon validating legislation being passed by 1 January. So there is a considerable imperative that this legislation proceed.

On the subject of validating titles, in Mabo the High Court held that as a general rule pre-1975 grants of land and also leases were not invalidated by pre-existing native title over the land. Crown grants necessarily extinguished native title and leases also extinguished it if they gave the lessee exclusive possession. Some uncertainty exists about Crown grants made after the Commonwealth Racial Discrimination Act was enacted in 1975. It is arguable that that Act invalidated Crown grants and leases since 31 October 1975 on the ground that they purported to extinguish native title without compensation and, further, that they were in that respect discriminatory.

The Commonwealth Native Title Act allows States and Territories to validate their past acts. An act is defined in section 226 to include almost any activity: for example, the granting of a licence or a permit, the creating of interests in lands or waters, any exercise of the Executive power of the Crown, or doing anything having legal effect in relation to land, and it also includes passing legislation.

A distinction is made in the legislation between past and future acts. A past act is defined to mean any act occurring before 1 January 1994 or legislation passed before 1 July 1993 which the existence of native title has cause to be invalid to any extent. Although the Act allows the States to validate their past acts, section 19 stipulates that they can do so only if their legislation adopts the Commonwealth Native Title Act's scheme governing when native title is extinguished by past acts.

One might be forgiven for thinking that validation of past acts necessarily extinguishes native title on land affected by those past acts. But that is not the case under the Native Title Act, because of the curious definition of past acts. Under the Native Title Act a past act is defined as an act that is to some extent invalid because of the existence of native title. Although the Act does not express it so bluntly, past acts are essentially acts done after the Racial Discrimination Act came into force in October 1975. Whether acts done before that date extinguished native title is left to the common law as explored by the High Court in Mabo. This is important in the context of the present Bills, because South Australia has adopted a particular definition of native title, to which the Opposition has taken exception.

When the Commonwealth Native Title Act gets to extinguishing native title by past acts, it starts to get a little complicated. The Act creates four categories of past acts. Some of these past acts extinguish native title; others do not. These four categories of past acts are categories A, B, C and D.

A category A past act extinguishes native title. These acts are broadly the grant of a freehold estate before 1 January 1994; the grant of a commercial, agricultural or pastoral lease, or even a residential lease, where that lease was still in existence on that date; or the construction of public works where the work was in the course of construction on 1 January 1994 or was constructed before that date and was still existing at that date.

The next area is category B past acts. The legislation defines these acts as the grant of a lease that meets a number of requirements; namely, that it is not a category A past act, it is not a mining licence, and it is not a lease to a Crown authority or for the benefit of Aboriginal people. Category B past acts also extinguish native title. However, this category of acts extinguishes title only to the extent that the act is inconsistent with the existence or exercise of native title.

Category C past acts are, for example, the grant of a mining lease, which includes permits or authorities to explore and to prospect or to conduct geological and geophysical surveys. So, category C past acts all relate to mining. These

acts do not extinguish native title. There is a principle in the legislation described as the so-called 'non-extinguishment principle', and this principle applies to mining acts. In a moment I will explain briefly the meaning of the non-extinguishment principle.

The fourth category of past act is the category D past act, which is a catch-all category, including all those past acts that are not caught by categories A, B or C. They are not defined, but presumably easements, licences and the like are caught by this category. Once again, these past acts, like the mining authorities under category C, do not extinguish native title and, again, the non-extinguishment principle applies to them.

The non-extinguishment principle is referred to in section 238 of the Act. Broadly, it may be explained as follows: if a lease is inconsistent with the exercise or enjoyment of native title rights, where native title does continue to exist, the rights and interests under the native title cannot be exercised to the extent of the inconsistency. However, once the lease, the licence, the permit or whatever else it is, comes to an end, the native title rights and interest become exercisable once more. Accordingly, exploration licences, mining leases and mineral claims, for example, do not extinguish native title, but the holders of that title cannot prevent the authorised activity or exercise their native title until such time as the lease or licence expires.

I refer now to compensation for past acts. Compensation is payable when native title is affected by past acts in two broad cases. Where native title is extinguished by category A or B past acts, the compensation must be paid on just terms to compensate the native title holders for the loss of their native title rights. Where a category C or D past act occurs—for example, the grant of a mining lease or some other form of licence or easement—and that act could not have been done without paying compensation if ordinary title were held—for example, an ordinary estate in fee simple—compensation will be paid to the native title holders on the assumption that they were the holders of ordinary title. Compensation for past acts of the Commonwealth must be paid for by the Commonwealth.

If a State validates past acts, as we seek to do in these Bills, the State must pay compensation. Even if the State does not validate its past acts, it must still pay compensation for the effect of those acts on native title holders. Accordingly, the point made when this legislation was introduced—namely, that a speedy passage was required—is reinforced. This State will still be required by a Commonwealth law to pay compensation in respect of certain past acts, if any occurred, and we will not, under present arrangements, be entitled to any reimbursement from the Commonwealth for that compensation.

I have dealt with the various categories of past acts. The legislation also deals with future acts, which are defined as, first, the passing of legislation that effects native title or, secondly, the doing of any other act after 1 January 1994 that affects or is affected by native title. Once again, we descend into the labyrinth when future acts are divided into two categories: permissible future acts and impermissible future acts. Under section 23, future acts are permissible if they treat native title holders in the same way as they treat ordinary title holders. A future act is permissible only if the right of native title holders to conduct negotiations is preserved. Accordingly, native title holders are entitled to the same procedural rights in relation to permissible future acts as are ordinary title holders. These include the right to be notified of things that might affect their title and also the right to object. In cases where the future permissible act is the compulsory acquisition of native title, the acquisition itself will not extinguish the native title.

Compensation is payable. Native title holders are entitled to compensation for permissible future acts that affect their native title. But where the future act does not extinguish native title but only impairs it—for example, where a mining lease is granted—compensation is payable on the same basis as if the native title holders were ordinary title holders. The compensation must be paid by the Commonwealth where the future act is attributable to it or by a State or Territory which is responsible for the permissible future act.

As to impermissible future acts, the legislation provides that any future act that is not a permissible future act is an impermissible act and is invalid to the extent that it affects native title.

The Commonwealth Native Title Act contains a regime which is described as the principle of the right to negotiate. The Act gives registered native title holders, and also native title claimants, the right to negotiate before the Government does certain future acts over native title. For example, by compulsorily acquiring the rights with a view to conferring rights in favour of non-Government parties, or creating a right to mine or to explore for minerals, or extending the duration of an existing right to mine. So, the native title claimants and also title holders are entitled to negotiate.

Procedures are laid down in the Commonwealth Act. The Government must give public notice of its intention to do a future act. It must also give notice to any registered native title holder or to any claimant. If no registered holders or claimants appear within two months—and again this time is important in the context of the current debate—the act can proceed and it will be valid. So, claimants or holders have two months in which to come forward. If native title parties do come forward and appear within that period, the Government must give them the right to make submissions and must negotiate in good faith with them and with any grantee party; that is, the party to whom the Government intends to confer the benefit of the act, for example, the granting of the licence or lease. Those negotiations in good faith must be conducted with a view to obtaining the native title parties' agreement to the proposed act. These negotiations may—and I emphasise 'may'—include the possibility of including a condition entitling the native parties to payments based on future profits or income from the land. The legislation creates a native title tribunal, which must mediate if any party to the negotiation process so requests. If the parties cannot agree within a fixed period, which is four months in the case of applications to prospect or explore for minerals, and six months in other cases, the tribunal can be asked to determine whether the act should be done.

So, under the Commonwealth regime, there is a period of up to six months: two months in which to give notice to native title holders and claimants, and a further four months during which time the parties have the opportunity to agree in relation to mining; and a further six months in relation to other future acts. The tribunal has the power to impose conditions and, when it does impose conditions, they will have the force of a contract between the parties. There does not appear to be any right of appeal against the imposition of conditions by the tribunal, but there is a right of appeal to the Federal Court against a determination on a question of law.

The tribunal's decision can be overturned by the Commonwealth Minister if he or she considers that overrul-

ing the decision would be in the national interest or in the interest of a State or Territory.

The Hon. Sandra Kanck in her second reading speech pointed to the possibility of a Minister (and she was talking of the State Minister) overriding arrangements reached between parties. That is not something that is an invention of the South Australian Government; it is in fact, as I have just mentioned, an existing provision within the Commonwealth Native Title Act, to which she seems wedded.

Moreover, if there is a State-equivalent native title tribunal—and we do seek to establish one in the legislation before the Council—the relevant State Minister can also override the decision of the local body if he or she considers it to be in the interests of the State or Territory. There is no appeal against the Minister's decision in either case, be it the Commonwealth or the State Minister.

There are certain exemptions to the obligations to negotiate. First, certain so-called low impact future acts can proceed without the need to pay compensation and without giving native title holders any procedural rights. The exact extent of these so-called low impact future acts is not clear. The intention appears to have been that they cover only minor licences and permits such as for bee keeping and the like, but they may not necessarily be so minor.

Secondly, there is an exemption from the obligation to negotiate in the case of renewals of rights that were granted before 1994. These acts must not directly interfere with the community life or sacred sites of native title holders and they cannot involve major disturbance to land or waters. Thirdly, there is no obligation to negotiate in cases where those who claim native title apply to the tribunal for a determination whether native title exists. These are claims by third parties. If no claims are lodged within two months in response to such a third party claim, the Government can proceed to do any act in relation to the land without the need for negotiation. However, if native title is later found to exist the act is not invalidated but compensation is payable.

The Commonwealth legislation does allow the State and Territory Legislatures to adopt different right-to-negotiate procedures. In order to be effective, such alternative right-to-negotiate procedures must receive a determination from the Commonwealth Minister under section 43 of the Commonwealth Act, and the procedures must comply with certain criteria. For example, the procedures must contain appropriate procedures for notifying claimants, etc.

In the proposed South Australian legislation the Government has availed itself of the opportunity for different procedures, procedures that have been devised to suit South Australian circumstances. The Prime Minister has acknowledged that this is quite appropriate. In a letter to the Premiers of the States on 3 February 1994 he referred to this aspect of the Commonwealth legislation and said that it provided:

> . . . considerable flexibility for the States and Territories to build on their existing processes as an alternative to the Commonwealth ones.

So, when the Hon. Sandra Kanck and others say that they are concerned that the South Australian Government has not slavishly followed the Commonwealth legislation, she and they are overlooking the fact that flexibility was something applauded by the self-proclaimed champion of this legislation. The invitation that the Prime Minister extended is one that this State has accepted.

The Commonwealth Act envisages that courts and tribunals will be set up under State and Territory legislation. Such bodies may be recognised, but they will be recognised only if their procedures and functions conform to those of the Federal law.

The stated aim is to ensure a nationally consistent approach to recognition and protection of native title. That aim is one which the South Australian Government has sought to meet—a consistent approach, but not necessarily precisely the same approach to the solution of the problems.

I have outlined in some detail the Commonwealth Act and I have mentioned certain relevant aspects of Mabo. It is important to do so because the Bills before the Council were drafted with a view to complying with the legal regime which presently exists and which, it appears to me, few people have sought to understand.

It will be readily seen from the complexity of the brief description I have given of the Commonwealth Act that preparing complementary legislation which complies with the scheme imposed upon us is no easy task. I have attended a number of meetings of officers charged with the responsibility for bringing these Bills forward, and I have been most impressed with their professionalism and dedication to produce a workable, worthwhile and just scheme. South Australian Parliamentary Counsel is also to be congratulated in adopting a more concise drafting style and producing a simpler, clearer and more workable scheme for this State.

The essential components of the package of Bills before the Council may be summarised as follows. The package ensures that the South Australian legislation will be consistent both with the Native Title Act and with the Racial Discrimination Act. It confirms Crown ownership of the water and mineral resources of our State. These resources are owned by the State for all South Australians—Aboriginal and non-Aboriginal.

The Environment, Resources and Development Court and the Supreme Court are the recognised bodies in this State relating to native title. Native Title Commissioners will be appointed to assist both courts in determining native title matters.

The obligation to negotiate with native title holders in relation to mining tenements is shifted from the Government, which was the Commonwealth scheme, to the holders of the mining tenements. Mining tenement holders will have security for their tenements while at the same time native title is recognised. The Crown will be empowered to compulsorily acquire native title land in the same way that it can acquire other land, but it must do so upon the same basis and in the same way that it currently acquires other land, namely, if that land is required for public purposes.

The Bills when passed will validate past South Australian acts and, finally, the rights of the Crown in relation to public lands, including waterways, their beds, their banks, the coastal waters, beaches and public places are confirmed.

I do not intend to go into a clause by clause description of the four Bills as a detailed explanation of the provisions appears in the second reading explanations so eloquently incorporated in *Hansard* by the Minister for Education and Children's Services. However, I want to refer to three topics mentioned by the Leader of the Opposition in this place as being primary issues of contention between the Government and the Opposition.

First, the Hon. Caroline Pickles expressed grave concern about the proposals in relation to conjunctive agreements. Similar concerns were expressed by the Hon. Sandra Kanck. It is said that these agreements could bind future Aboriginal communities to arrangements made under very different circumstances. It is said that the catch is that the State

Minister will have the power to override any agreements. In principle, I support conjunctive agreements. These are agreements under which native title parties (that is, claimants and native title holders, and not necessarily native title holders—but anyone making a claim to native title) can agree to the terms of an agreement to cover not only the exploration phase of the mining operation but also the production stage.

It suggested that the Commonwealth regime assumes that this process will involve a number of discrete future acts so that in the stage of mining there may be three, four or even five stages of obtaining a prospecting permit, a licence to enter, a licence to commence test production, a limited production licence or some other form of production licence. There may be a number of acts in the process of exploring to ultimate production. Under the Commonwealth regime, it will be necessary, before each of those steps is taken, to go through the right to negotiate the process which, in relation to mining, can take up to six months in relation to each step, two months for claimants to be given the opportunity to register an interest and four months in which to negotiate. Thereafter, if the negotiations do not produce a satisfactory result, a determination is made by a third party.

In the South Australian legislation, the Government has sought to give the parties the opportunity to enter into a conjoint agreement, that is, one which covers the whole stage. This may not be much to the liking of mining companies. They invariably prefer to pay very little, if anything, for a right of entry but are prepared to pay a more substantial and generous sum if some discovery is made or if the prospect becomes more worthwhile as a result of geological exploration. The opportunity is given under the regime established in the Government's Mining (Native Title) Bill to reach an agreement at the outset. It may well be that a mining company is prepared to be more generous at the outset in relation to what it would give if its exploration procedures were ultimately successful. However, it is my view that the Commonwealth Native Title Act does not preclude this form of procedure, and it is a sensible and workable solution. No native title claimant can be forced to enter into a conjoint agreement.

The second objection arises from the claim that grants of mining tenements can take place before negotiations have taken place. It is true that new section 63F under the Mining (Native Title) Bill allows mining operations on native title land in certain circumstances. The important qualification is that the mining operations must not affect the native title. The right to carry out mining operations on native title land can only derive from an agreement with the native titleholders or, if agreement cannot be reached, a determination of the ERD court. The clause makes clear that, even with an agreement, the appropriate mining tenement must still be held for the mining operations to be carried out. This provision is central to the South Australian scheme. It makes it more workable and at the same time it does not extinguish native title, and it allows for mining operations only to the extent that they do not adversely affect native title.

The Opposition's third objection is that the definition of 'native title' in clause 4(5) of the Native Title Bill contains a declaration that pastoral leases granted before 1975 extinguished native title. The Hon. Sandra Kanck raised that point as being a difficulty. This declaration is not an invention of the South Australian Government: it comes directly from the decision of Justice Brennan, with whom Chief Justice Mason and Justice McHugh agreed in the Mabo case.

In Mabo, part of the Murray Islands was land on which a lease had been granted for a sardine factory, and that lease contained a reservation which preserved the rights of the Murray Islanders to continue to use the land and pass over it in the way in which they had traditionally done and conduct gardens upon it. Notwithstanding the fact that that lease contained a reservation for the exercise by the Murray Islanders of their traditional rights, the High Court held that their title in respect of that land was extinguished. This is an analogous situation with South Australian pastoral leases.

An important part of the Mabo decision was the finding that traditional native title did not survive the colonisation of Australia where the Crown had made a grant which was inconsistent with the continuance of traditional title, at least to the extent of the inconsistency. Justice Brennan stated the matter as follows:

> Where the Crown has validly alienated land by granting an interest that is wholly or partially inconsistent with a continuing right to enjoy native title, native title is extinguished to the extent of the inconsistency. Thus, native title has been extinguished by grants of estates of freehold or of leases but not necessarily by the grant of lesser interests (e.g. authorities to prospect for mineral).

So, Justice Brennan, who was the judge who articulated the majority position in the case, stated clearly that native title has been extinguished by grants of estates of freehold or of leases. The same principle was adopted by Justices Deane and Gaudron, and those judges had a more expansive view than the majority of the nature of native title. Their Honours said:

> Common law native title, being merely a personal right unsupported by any prior actual or presumed Crown grant of any estate or interest in the land, was susceptible of being extinguished by an unqualified grant of the Crown of an estate in fee simple or of some lesser estate which was inconsistent with the rights under the common law native title.

In South Australia, Western Australia and the Northern Territory, pastoral leases do contain reservations for continual Aboriginal access to pastoral lands. The old reservation in early South Australian leases provided typically as follows:

> Reserving nevertheless and accepting out of the said demise [that is, the grant of the lease] to Her Majesty. . . for and on account of the present the Aboriginal inhabitants of the province and their descendants. . . full and free right of ingress, egress and regress unto upon and over the said waste lands of the Crown. . . and in and to the springs and surface water thereon and to make and erect and take and use for food, birds and animals *ferae naturae* in such manner as they would have been entitled to if this demise had not been made.

The modern form of reservation is framed differently, but is to the same effect. It is now a statutory right arising by virtue of section 47 of the Pastoral Land Management and Conservation Act. That Act provides, in less arcane language:

> Not withstanding this Act or any pastoral lease granted under this Act or the previous Act an Aborigine may enter, travel across or stay on pastoral land for the purpose of following the traditional pursuits of the Aboriginal people.

This section does not give an Aborigine a right to camp within a radius of one kilometre of any house, shed or other out-building on pastoral land or within a radius of 500 metres of any dam or other constructed stock watering point. So, the right conferred originally in the pastoral leases is now a statutory right. The general principles governing the recognition and extinguishment of native title at common law were laid down by the High Court. It is necessary to state this to indicate, in my view, the legitimacy of the proposition contained in the declaration to which objection has been taken. The principles were four fold: firstly, on the acquisition of sovereignty over any particular part of Australia, the Crown acquired what is called 'radical title' to all of the land

in that part of the country. Secondly, the native title of the indigenous inhabitants of that part of Australia continued unaffected by the Crown's acquisition of that radical title. Thirdly, the acquisition of sovereignty exposed native title to extinguishment by valid exercise of legislative or executive power inconsistent with the continued right to enjoy native title. So, when the Crown made grants of Crown land or issued fee simple title to persons, the actual ownership of the land passed to the person to whom that grant was made.

The fourth principle is that any exercise of power to extinguish native title must, in the view of the High Court, reveal a clear and plain intention to do so. The court held that native title was not extinguished by general legislation which regulates the manner in which land may be alienated or otherwise dealt with. So, for example, the Crown Lands Act, Pastoral Act or similar Acts did not of themselves extinguish native title because that legislation did not reveal the necessary clear and plain intention to extinguish native title but where, under one of those Acts, the Crown alienated land by granting an interest to some other person, for example, a Crown lease, pastoral lease or Crown grant, which was wholly or partially inconsistent with the continued enjoyment of the native title, the native title was extinguished either wholly or partly.

A pastoral lease is a lease in the true legal sense of the word. It is not merely a licence to occupy land. The grant of a pastoral lease by the State constitutes an exercise of sovereign power whereby the Crown acquired for itself the reversion expectant upon the expiration of the lease. If the lease was for 40 years, the Crown surrendered to the grantee of the lease the right of occupation, but at the expiration of that term the rights would come back, as lawyers describe it, as the reversion expectant upon the expiration of the lease. At that point, according to the High Court in Mabo, the Crown's title expanded from the mere radical title, which it had all along as sovereign power, to what was described by Justice Brennan as a *plenum dominum*—full ownership of the property linked with all its fruits and rights.

That was the view advanced not by some lawyer dissatisfied with the result in Mabo, but by one of the judges most clearly identified with the Mabo decision, namely Justice Brennan. The same principle was adopted by Chief Justice Mason in *Coe v. The Commonwealth*, the case decided in December of 1993 to which I have earlier referred.

So, there are good grounds for saying that pastoral leases in South Australia have extinguished native title. Native title is not extinguished by any legislation about to be passed or proposed. It is not extinguished by these Bills if passed. It is extinguished by the principle already enunciated by the High Court and, in many cases, it was extinguished not by this legislation but in many cases more than 100 years ago when the pastoral leases were first granted. It is perhaps unfortunate that the High Court has chosen to use the words 'extinguishment of native title'. It sounds insensitive to Aboriginal interests, and perhaps it is, but that is the legal terminology; that is what has been used; that is what we are using in the Bills that have been introduced into this House. One might as well call a spade a spade in this area.

There is yet another reason why the definition of native title in our legislation ought to contain a declaration of the fact that native title has been extinguished by South Australian pastoral leases granted before 1975. When this legislation was introduced in the Commonwealth Parliament, in the second reading speech the Prime Minister stated that the grant of pastoral leases extinguished native title. He said it clearly; he said it then; and the Federal Minister for Primary Industries and Energy, Mr Crean, said the same publicly. In very well publicised circumstances, at the end of 1993, they assured Mr Farley of the Farmers Federation that native title was extinguished by pastoral leases. Mr Farley's assent to the legislation on behalf of the farming and pastoral communities was based upon the assurances given to him that pastoral leases had extinguished native title.

For political purposes, the Federal Government was then prepared to assuage the concern of pastoralists and the wider community with assurances of that kind. Now, when it is asked to confirm the same it declines to do so because it fears offending Aboriginal interests. So, it is my view that the declaration in the definition of native title is entirely legitimate. It said against us that it is not worth the paper it is written on; it is going to be challenged. I suspect that this legislation, and indeed whatever legislation the South Australian Parliament passed in relation to native title, would be subject to challenge. This year, next year, in 50 years time or whenever, there will always be challenges to legislation of this kind. It will suit the interests of people from time to time, not necessarily Aboriginal people, but other interests in the community, to allege that State legislation dealing with this subject matter is in some way inconsistent with Federal legislation or with some treaty obligations adopted by the Commonwealth Government.

What harm is done by including a declaration of this kind? If, contrary to the view of Justice Brennan and the judges who agreed with him, if contrary to the view of the advisers to the Federal Government and of the Federal Government itself at the time, if contrary to the advice of our Attorney-General, the Solicitor-General in this State, and everyone else, native title does still subsist in land over which pastoral lease has been granted, no particular harm is done by this declaration.

I applaud these Bills. The Government is to be congratulated for bringing them forward. They are practicable and workable but, more importantly, they produce justice and fairness and equity for all South Australians. I support the second reading.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

ELECTRICITY CORPORATIONS BILL

Adjourned debate on second reading.

(Continued from 17 November. Page 859.)

The Hon. T. CROTHERS: I rise on behalf of the Opposition to indicate some tentative support for the Bill, but I indicate to the Council that, currently, the Labor Party is reviewing the whole of the Bill in the knowledge that at the third reading stage I may move one or two amendments to the main body of the Bill. If I am right and they are required, what I have in mind at this stage will be relatively minor when set against the body of the Bill as a whole.

However, it may well be that when the Bill is thoroughly perused some more major surgery on this Bill may be required. I think, however, this will not be the case, and I hope that I am correct as I would like to think that on a matter as major as this to the future well-being of South Australia the Government and its advisers will have got it right. However, I would have to say that, with events of enormous global and national economic change occurring daily all

around us and with at the same time the existence of the Hilmer report, the potential exists for the coming into being of a national trans-State electricity grid spanning the States of New South Wales, Victoria and South Australia, with the potential of Queensland and Tasmania being added to that national grid. These two matters must be coupled with the fact that a committee of the Parliament, namely, the Statutory Authorities Committee, and an inter-agency committee called the Electricity Sector Working Party are also looking at the structure of ETSA and other matters related thereto.

This means that everyone who is directly connected with this Bill will have much food for thought, because it is important that, whatever we do, we get it right. There may be no time left for this Parliament to have a second chance of so doing, because, as we all know, it is imperative, if this State is to succeed in serving the best interests of the people of South Australia, that we ensure an adequate and reliable supply of electricity to all the State's consumers in both the domestic and industrial arenas.

I for one believe that Australia's and this State's best interests will be best served, given the emergence of economic globalisation, by the national grid proposals which, if all goes well, should reduce the cost of supplying electricity, particularly to industry, throughout those Australian States which currently have accepted the concept of a national grid.

However, I stress that the first and major aim of South Australia must be to put itself in the position of being able absolutely to guarantee an adequate, continuous and reliable supply of generated electricity for this State. Anything less than that will simply just not do. It was for these reasons that the late Sir Thomas Playford, when he was Premier of this State, nationalised the then privately owned electricity generating industries of this State. He was the man who, after all, decided to pursue policies which ultimately led to the significant industrialisation of South Australia.

To do that, he realised that in order to attract industry here, whether from interstate or as sunrise industries, he first of all had to guarantee reliable supply and he acted accordingly to bring the essentials of that matter under Government control in order to achieve what he deemed to be necessary for South Australia's future interests. I would hope that the Party political inheritors of that great man's mantle well remember what he intended by his actions, although I must confess that sometimes, when looking at the Government benches, I get depressed just thinking about it.

The road for South Australia in respect of power generation has been a long, hard and tortuous one. For a start, when compared with Victoria and New South Wales, our coal supply has been further distanced than theirs from our major population centres, thus adding to costs for coal freight charges and also to costs when transmitting power from our power station located at Port Augusta, because as is known, the longer the major transmission lines, the more power that is lost from these lines before it reaches its destination.

In addition to all that, our rural population centres are much smaller than those of our larger eastern States neighbours in Victoria and New South Wales. Not only are they smaller, but they are further away from the source point of South Australia's power generation. So, it is a miracle at all and an eternal tribute to the late Sir Thomas Playford for the pugnacious determined and far-sighted way that, as a former Premier, he pursued his goals. I put to this Chamber that, whatever we do, we do not want to throw away that which he created.

For instance, the industrial relations harmony that exists currently, and as it has existed throughout the history of ETSA, is a tribute to both the company and the unions involved. This harmony has been one of the main reasons why South Australia in the past has been able to go from an agrarian society to an industrialised one. The capacity and ability to 100 per cent guarantee electricity supply was well known to that grand old man, Sir Thomas Playford, as a matter of attracting industry. In my view, if we were to lose this harmony, we would do so at our peril.

Turning now to what the Bill seeks to do, it seeks to divide ETSA into three main divisions. Primarily, it seeks to corporatise that entity currently called ETSA and to change it into the ETSA Corporation. This body will, in turn, be governed by a new board and led by a new chief executive officer. It is believed by the Government that this restructuring will further improve ETSA's performance, making it operate on a more sound commercial basis, as any successful business enterprise should. If this Bill passes, that new board, in conjunction with the CEO, will determine the future of the ETSA Corporation.

Provided that the issue of South Australia's role in a proposed new national power grid is finally resolved, as I previously indicated, the Bill allows, and the Government proposes, I believe, to disaggregate the ETSA Corporation into three other corporations whose responsibilities would lie in the fields of generation, transmission and distribution. The other States involved in the national grid have carried, or are in the process of carrying, out similar reforms to their own electricity supply industries. This Bill seeks to establish the ETSA Corporation and to provide the legislative structural framework for the future so as to enable South Australia's electricity industry to compete successfully in the national market.

Thus far, the Opposition indicates that it will be supporting this Bill, but of course the Bill by its nature brings us closer to the privatisation of ETSA, and if that were to happen the Opposition would have to reconsider its position, as we believe that the rationale that underpinned Sir Thomas Playford's logic in respect of Government ownership of ETSA is still as valid today as it was 50 years ago.

Prior to concluding my contribution, I would like to gently take some issue with my Democrat colleague, the Hon. Sandra Kanck. In her contribution on Tuesday, with respect to the water supply Bill, the Hon. Ms Kanck suggested that the Labor Opposition had not considered the cost of maintenance and renewal services in the event of privatisation of Government instrumentalities. Let me gently put her mind at rest on that one. If my memory serves me correctly, I made that very point in at least one and perhaps two questions I have asked of the Government in this place this year. I indicated earlier that I may have some amendments to move to this Bill at the appropriate stage. As yet, I have not quite got them to hand but, in order to assist the expedition of this matter, I place the following questions on record for the Minister, which basically involve schedule 4 of the Bill. There are four questions and they have commonality with five matters of concern of the Opposition, and there is a sixth matter which is also a concern for the Opposition. Let me now list the questions, and then I will separately list the matters of concern which will require answers from the Minister. The questions are:

1. How will the unnamed regulator or regulators be funded?

2. Who are they?

3. Where is the legislation to set them up?

4. In what manner and by whom will the regulations be applied?

I will now list the areas of concern to which I seek answers when the previous questions are answered: first, vegetation clearance operators; secondly, vegetation clearance inspectors; thirdly, electrical installation inspections; fourthly, electrical safety standards; fifthly, electrical worker and contract licence; and, sixthly, electrical appliance approval. This last matter requires some additional address, as well as the application of the four questions I have just asked. The Opposition believes that no legislated regulatory authority exists, despite assurances given to the contrary by the Minister in another place. In conclusion, the Opposition believes that these matters ought to be resolved and presented to the Parliament before the implementation of schedule 4. I commend my contribution to this Council.

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

STATUTES AMENDMENT (OIL REFINERIES) BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 878.)

The Hon. T. CROTHERS: The Opposition supports the Bill without amendment. The Bill itself amends the indenture that established Port Stanvac in 1958. This Bill, if passed, will remove the wharfage levies put in place by the 1958 oil refinery indenture. In return for that, Mobil Oil will pay the State Government a once only payment of $1 million. The Bill will also change the Government's guarantee of having to give preference to Mobil in the Government's procurement policies with respect to its need for petroleum products. The Opposition supports the Bill in its present form without amendment, and I commend it again to the Chamber.

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

ADJOURNMENT

At 9.32 p.m. the Council adjourned until Thursday 24 November at 2.15 p.m.