LEGISLATIVE COUNCIL

Wednesday 15 March 1995

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

PAPERS TABLED

The following papers were laid on the table:

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

Regulations under the following Act—
Fees Regulation—
Education Fees.
Water and Sewerage Planning Estimates.

LEGISLATIVE REVIEW COMMITTEE

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

SOCIAL DEVELOPMENT COMMITTEE

The Hon. BERNICE PFITZNER: I bring up the report of the committee on long-term unemployment and the adequacy of income support measures and move:

That the report be printed.

Motion carried.

FARM BEACH

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a statement made by the Minister for Primary Industries in another place in relation to discoloured water off Farm Beach.

Leave granted.

QUESTION TIME

SCHOOL FEES

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 school fees.

Leave granted.

The Hon. CAROLYN PICKLES: I wrote to the Minister on 16 January regarding school fees, and his response to me, dated 25 February 1995, states in part:

In September 1994 I sent a letter to school principals accompanying the first instalment of the 1995 support grant. In relation to school fees, this letter stated:

> A number of schools have written to me seeking strategies to assist with the collection of school fees. Existing guidelines are being amended to allow schools to use debt collection agencies where all previous avenues and strategies have been used and exhausted, and where it is considered reasonable that the parent has the capacity to pay. Court action, however, will not be allowed.

This information was also distributed to schools in the October 1994 Corporate Services newsletter. No other advice has been given either formally or informally. The policy provides schools with an alternative to the time-consuming administrative function of collection and recovery of late fees.

The policy is consistent with legal advice received, noting that court action is not allowed. Also, where it is considered reasonable that the parent has a capacity to pay, schools are required to use and exhaust the strategies listed in the *Financial Management in Schools* manual and the *Collection of School Fees, Principal Training* document before using debt collection agencies. The school card scheme, of course, exists to support the education of students where economic hardship is an issue.

On 9 March, in response to a Question on Notice by the member for Taylor, Minister Such replied:

Over recent years, the legal position in relation to the payment of school fees or levies has been somewhat confused. Advice was provided to a previous Minister in 1989 by the Crown Solicitor's Office that schools did not have the power to impose school fees or to recover them. That advice has been reconfirmed on a number of occasions since then. However, it has only recently been confirmed by a small number of schools that they have been able to win cases in the Small Claims Court against parents who had refused to pay school fees. As a result of this information, I have discussed the issue with the Attorney-General, and we have agreed that this issue should be referred to the Solicitor-General for his consideration and advice.

Has the Minister received that advice from the Solicitor-General on the legality of the imposition and recovery of school fees and, if so, will he table that advice? If not, will he table the advice as soon as it becomes available?

The Hon. K.T. Griffin interjecting:

The Hon. CAROLYN PICKLES: Well, if the Minister will not table the advice will he furnish me with a copy of that advice? People should know what the advice is.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: I do not care what the previous Attorney-General did. The people of South Australia should know what that advice is, because they are improperly using the advice given by the Solicitor-General.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: What are the charges made by schools for school fees? Will the Minister table a list of the charges made by each public school in this State? What items are covered by school fees? How many parents have been visited by debt collectors? Which schools issued orders for debt collection? Which schools have had successful cases in the small claims court against parents who have not paid school fees? What regulations are there to limit the level of schools fees? Will the Minister immediately establish an inquiry into all aspects of the school fee system and, in particular, the disparity of costs between schools, the level of fees being charged, the services being received by students and the ability of parents to pay, particularly in the light of changes to school card?

The PRESIDENT: Order! The honourable member should be aware by now that Standing Orders do not allow for the seeking of information about matters which are by their very nature secret, that is, for example, Cabinet decisions, Crown Law advice to the Government or matters reflecting on the decisions of courts of law or matters that are *sub judice*. I think the Leader should be aware of that. I am not criticising her; I am just pointing out that fact to her.

The Hon. CAROLYN PICKLES: I thank the President for his advice, but I believe it has been the custom in the past to paraphrase the advice given for the edification of the Council.

The Hon. R.I. LUCAS: Mr President, you have rightly put the position. The answer to the question is 'No, we have not received the Solicitor-General's advice.' Therefore, I am not in a position to paraphrase, summarise or provide copies of the Solicitor-General's advice. You, Sir, have rightly pointed out what has always been the position adopted by Attorneys-General over recent years in relation to tabling copies of Solicitor-Generals' advice. The honourable

member's question was whether I would table a copy of the advice, and the answer is 'No.' However, I will consider, as always, the Leader's question, and when I receive the advice I will obviously want to share, once we make a decision, that information with parents, teachers and principals. As one part of that I will be happy then to share my considered view of that, having discussed the matter with the Attorney-General and the Leader of the Opposition as well. As always, the Government is very reasonable about these sorts of things, but clearly I cannot table copies of a Solicitor-General's opinions as the Leader of the Opposition has requested. She knows that is the case and, indeed, the former Attorney-General, Chris Sumner, for many years waxed lyrical about the importance of not tabling Solicitor-Generals' advice—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: No, he didn't always; but sometimes when it suited him he would do it. As I said, we are a reasonable Government and, when I receive the Solicitor-General's advice, I will give it consideration with the Attorney-General. As I said, it will then be important for the Government, having received the advice, obviously to have discussions with parents, principals and teachers, because the situation at the moment out there in schools is that it is parents on school councils and principals in schools who are, in effect, saying to the Government, 'Give us some help; we want some help.'

The vast majority of parents willingly and voluntarily pay their school fees, but they are getting pretty angry, and some of them up around Salisbury and the northern suburbs are getting pretty militant when they see people coming back from their interstate holidays, driving the latest model car, well able to afford their school fees or levies and refusing to do so, resulting in every other parent in that school community having to pay a higher school fee or levy because those parents refuse to do their bit. That is the sort of anger that exists out there at the moment amongst parents and principals, with people saying, 'Please give us some help.'

There was a number of letters from schools urging the previous Labor Government to take the step of assisting them and supporting them in the collection of the levy or fee, whether it be voluntary or otherwise. They said to previous Labor Governments, 'Please give us some help, because unless you do so we have these huge unpaid fees and levies and it means that every other parent in the school community has to pay higher fees or levies when they might not be able to afford them,' yet you have a small percentage of parents who have, perhaps, just returned from an interstate holiday or bought the latest model car but who are refusing to pay their levy. The Leader of the Opposition says that the average school fee is $300.

The Hon. Carolyn Pickles: I didn't say that.

The Hon. R.I. LUCAS: You are quoted on the front page of the *Advertiser* as saying that and quoted in transcripts of radio interviews as having said that. The Leader of the Opposition is sadly out of touch if she believes that the average fee is $300. The fee ranges from $70 or $80 through to a maximum of around $300: it is not the average fee being charged to all parents. That is the statement made by the Leader of the Opposition yesterday and on previous occasions to the media, that the average school fee is $300. The Leader of the Opposition knows that is not correct, yet she continues to quote that figure out there to the media and to anyone who will listen to her. It is not correct. I will consider the honourable member's questions. We do not have the information on some of the questions the Leader of the Opposition has put. Previous Ministers have sought information in relation to this. It is not centrally collected—

The Hon. Carolyn Pickles: It should be.

The Hon. R.I. LUCAS: The Leader of the Opposition criticises previous Governments and Ministers.

Members interjecting:

The Hon. R.I. LUCAS: You were the head of the Education Ministers Advisory Committee: where were you for the past five years? That is the position. There has never been a collection centrally of that sort of information. What I can say is that the fees range from around $70 or $80 through to about $300. In most primary schools and junior primary schools you will find that the fee ranges from between $70 and $80 to between $150 and $170 per child, and for secondary schools it will be higher. The average fee for secondary schools will certainly be higher than it will be for primary or junior primary education, because of the cost of the delivery of the sorts of specialist curriculum subjects that secondary schools students have as opposed to primary school students. Some of the information is not available and will not be, but we will be able to provide some detail for the honourable member in relation to some of the more detailed aspects of the questions. In relation to whether or not I will establish an inquiry into this issue, the answer is 'No'.

The Hon. T. CROTHERS: As a supplementary question, Mr President. Does the Minister believe in the principle of striking a school fee levy?

The Hon. R.I. LUCAS: I believe in the principle that our school system in South Australia would grind to a halt unless we continued to have the contribution, voluntary or otherwise, from parents. This system has existed for decades under Labor Governments and under Liberal Governments on the combination of Government tax revenue—over a $1 billion a year—going into our school and children's services system, together with many millions of dollars that are contributed by parents through either school fees or levies or their fundraising. The system would grind to a halt if we did not continue to have the contribution from parents, voluntary or otherwise, in relation to fees or levies.

The vast majority of parents willingly contribute towards their children's education, first, by way of the fee or by levy as a payment for the services provided and, secondly, through fundraising or other activities at the school. It is those parents, the vast majority, who are so angry at the minority of parents who thumb their nose at the rest of the parents, the principal, teachers and students of the school and say, 'We can afford it. We have just been on a holiday and we have just got the latest model car, but we will not pay the school fee as a matter of principle.' They penalise all the other parents with higher fees. That is a fair statement of my view in relation to fees.

The Hon. T. CROTHERS: I have a supplementary question, Mr President.

The Hon. L.H. Davis: You've already had one.

The Hon. T. CROTHERS: But I haven't had it answered. It is a very simple question requiring a very simple answer. Does the Minister personally believe in the striking of a school fee levy? I do not need the waffle; I just need 'Yes' or 'No.'

The Hon. R.I. LUCAS: I just answered that question.

MBf

The Hon. ANNE LEVY: I seek leave to make an explanation before asking the Minister for Education and

Children's Services, as Leader of the Government in this Chamber, a question about MBf.

Leave granted.

The Hon. ANNE LEVY: I have received a copy of a fax that was sent to the Premier's press secretary on 4 August last year from MBf's public relations firm in Singapore on the topic of Randall Ashbourne, with copies being sent to Tan Sri Loy and others who are members of MBf. I will quote a few sections of this—

Members interjecting:

The Hon. ANNE LEVY: I will take up that invitation by way of interjection and, so that the full document can be read by the honourable member and others, I seek leave to table a copy.

Leave granted.

The Hon. ANNE LEVY: To quote a little from the document, the public relations firm states:

> We think it is a terrific idea to pre-empt the Opposition's query and the media story and will load all barrels to back you up in any way necessary. I have touched below on some of the important considerations and attached general and specific news coverage. Some related directly to Wee [that is, Mr Wee, a member of the Opposition in Malaysia] and some for your interest only.

The fax further states:

> Randall apparently interviewed some aggrieved depositors—probably in relation to the Sakapp thing or MBf Finance—even though that seems a little odd as it is a long time ago.

It further states:

> We're still working on having the tapes confiscated, but this may not be possible.

It also says:

> When the Premier mentions the issue in Parliament I would like to follow up with a story in Malaysia. The story I will try to see run, depending of course on what the Premier actually does say, is along the lines of:
>
> The Premier of South Australia today defended one of South Australia's largest investors and the owner of MBf Sealink. 'We have heard', said the Premier, 'that a political roundsman has travelled to Malaysia to talk with a Mr Wee and Mr Lim, representatives of the Opposition up there—the DAP and Mr Wee, the defendant in a contempt case brought against him by MBf and currently being heard in Malaysia. The correspondent did so based on anonymous information passed in a brown paper bag; we think to the Opposition at the same time as we received a little brown paper bag of negative press clippings and a handwritten note on Tan Sri Loy and the MBf Group of Companies.
>
> We were obviously smart enough to disregard the story for what it was and particularly in light of the fact that one of the companies in the MBf group, Sealink, one of South Australia's largest tourism organisations, is far from mismanaged and, in fact, is the recent recipient of not one but three tourism awards etc. etc. I also believe that the Opposition while in power held meetings with Tan Sri Loy in Malaysia in an attempt to get the company to extend their investment in this State, something we have been able to achieve through the conclusion of Wirrina Cove's purchase and proposed redevelopment.
>
> It is appalling that Australian journalists can be so blatantly and easily manipulated by foreign political interests, possibly being used to help engineer a run on one of the very companies that has supported South Australia. Undoubtedly, the tactic will be unsuccessful as it has been in the past.'
>
> The Premier may or may not like to mention that in fact Mr Wee has had two police reports laid against him with regard to conduct unbecoming of a lawyer. I can source these if you want them. He is known to have slept with clients etc. etc. How deep do you want us to go? Traditionally, we tend not to fight mud with mud as it is not the way up here, but please feel free if necessary to use what you like.

I will not quote any more as members can read it from the tabled copy. I can perhaps suggest that members might like to compare the speech suggested in this fax from Malaysia with the ministerial statement given the same day in the House of Assembly by Minister Ingerson. My questions to the Minister are:

1. Did the Government seek information from MBf's public relations firm in Singapore in order to discredit a Malaysian Opposition MP, a Mr Wee Choo Keong?

2. Did the Premier or a member of the Premier's staff ask MBf or anyone acting on behalf of MBf to monitor the activities of South Australian journalists covering MBf stories in Malaysia and, if so, why?

3. Did the Premier or any member of his staff request people acting on behalf of MBf to attempt to confiscate TV camera tapes from a journalist covering MBf stories in Malaysia and, if so, why?

The Hon. A.J. Redford: This is outrageous.

The Hon. Anne Levy: I said the Premier or his staff.

The Hon. R.I. LUCAS: I am delighted that the honourable member has reminded me of the firm MBf because it was not more than a week or so ago that the Leader of the Australian Democrats, the Hon. Mr Elliott, was in here trawling in his normal fashion, suggesting in effect that MBf was Catch Tim and that the Minister for Transport had, in effect, done certain things as a result of this donation—an inference to which she quite rightly took great exception. So, I am delighted that the Hon. Ms Levy reminds me of the company MBf. I am sure that Mr Elliott quivers every time he hears the name, on the basis of the question that he asked in this Chamber just a week or so ago.

I understand that about 35 minutes ago the same question was put to the Premier, who more than adequately handled it, as it directly relates to his area, together with the Minister for Tourism, who I understand was also referred to in the question and the ministerial statement. I have not had the advantage of hearing or seeing all of the Premier's reply, but I am reliably informed that he handled it very capably and fully. I can say two things: the Premier of South Australia in no way would ever request that anybody confiscate tapes in Malaysia or anywhere else in relation to this issue; and, the suggestion by the Hon. Ms Levy that the Premier in some way might be involved in that only rivals the political ethics which the Hon. Mr Elliott displayed some two weeks ago in relation to his attempt to smear the Minister for Transport and others.

Public relations companies the world over might make a whole range of suggestions after discussions or without discussions, but that remains their view or opinion. In the end, the Government must be judged by what it eventually does. The suggestion by the Hon. Anne Levy that the ministerial statement made by the Hon. Mr Ingerson in any way reflected closely suggestions that we should talk about who was sleeping with whom in relation to this gentleman again rivals the political ethics of the Hon. Mr Elliott when he raised the question just a week or so ago.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: The inference is there again—we read this, and then we say, 'Read the ministerial statement and see how closely it reflects that.' You know the spicy bit is who is sleeping with whom in this suggestion. We know the inference the honourable member was making. The honourable member has been around for 20 years or so in this Chamber. She knows the juicy, spicy little bits that she read into *Hansard*, and then she says, 'Read the ministerial statement.' I can assure members that there is no reference in the ministerial statement to those little juicy, spicy bits that the Hon. Ms Levy wanted to put on the *Hansard* record. As

I said, I have been told that this question was handled very adequately by the Premier some 40 minutes ago in the House of Assembly. I will pass on the honourable member's question, and as to any aspects of it which have not been handled adequately by me I will endeavour to obtain further information.

KICKSTART

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Minister for Education and Children's Services, representing Minister for Employment, Training and Further Education, a question about KickStart.

Leave granted.

The Hon. R.R. ROBERTS: Members may be aware of the KickStart program, which was established to assist local communities provide employment and training opportunities. The major aim of KickStart (according to its published guidelines) is to assist in employment development by creating new jobs in new businesses and provide additional positions in existing businesses. KickStart also aims to target people in the labour market who come from disadvantaged backgrounds including the long-term unemployed, Aborigines, people with disabilities, sole supporting parents facing retrenchment and other regional groups suffering special disadvantages.

The program is administered by local committees, often with the assistance of local government bodies in the region. The scheme has a worthy aim and I hope is of considerable assistance to regional areas suffering high rates of unemployment. However, it has been alleged that in one instance the scheme might have been abused. It is not usually my style to raise these matters without conducting a thorough check myself. However, my constituents have been threatened with legal action. Before I outline the details of this matter, I point out that I will not name the individuals or the region involved; instead, I will past those details on to the Minister after Question Time.

I am informed that on 21 December last year the Chairman of the regional KickStart committee in question, a person who is also a long-standing mayor of a local district council, wrote to the secretary of the local swimming centre management committee informing him that KickStart would provide $1 500 for a swimming pool operations project. The secretary of the swimming pool management committee was the former CEO of the district council of which the chairman of the KickStart committee is still the mayor. I am told that the former secretary of the pool management committee had resigned as the local chief executive officer late last year and will take up a position in local government elsewhere in the State.

I am also informed that the swimming pool management committee had, in fact, arranged for five people to attend a swimming pool managers' course in Adelaide in the period between 9 and 11 December and that a KickStart grant of $1 500 was used to pay the expenses for that course. The five people who attended the course included the former chief executive officer of the council, the manager and the assistant manager of the swimming centre, who are employees of the centre, as well as a full-time employee in a local electrical company and one unemployed person. I understand from the minutes of the local KickStart regional management committee meeting on 8 December 1994 that funding for the swimming pool operation project had been approved 'between meetings of the committee'. Therefore, the committee's only role was to endorse a between-meetings approval.

There is considerable disquiet in the local community about some of these matters, and that came to a head at a meeting of the swimming centre management committee earlier this month. On 9 March, the secretary of the management committee tendered his resignation in writing. On the following day, he wrote to the local KickStart committee and returned the $1 500 on behalf of the swimming centre management committee. It is quite clear that four of the people who attended the course were not by any test disadvantaged: three were employed and the first had just resigned as the chief executive officer of a local council. My questions are:

1. Will the Minister immediately implement an investigation into the administration of the KickStart program in the region in question to ensure that funding for all projects meets KickStart guidelines and administrative procedures?

2. Will the Minister also act to remove any hint of nepotism or cronyism from the disbursement of KickStart funding in order to protect the integrity of the KickStart program?

The Hon. R.I. LUCAS: If the honourable member provides the information, I will ensure that it is given immediately to the Minister, who I am sure will treat it with the seriousness it deserves.

ALGAL BLOOM

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about his ministerial statement in relation to algal blooms.

Leave granted.

The Hon. T.G. ROBERTS: Yesterday, I asked a question of the Government relating to when a management report would be made of the southern regions regarding competitive land use and environmental impact reports. The statement by the Minister for Primary Industries indicates that there is also a problem with perhaps point source pollution or land run-off pollution at Farm Beach in the Coffin Bay area.

There are also problems in the South-East in relation to nutrient build-up running into a number of bays and impacting on the fish stocks in that region, and it appears not only that fish stocks at sea are at risk from algal blooms and nutrient build-up but also that the very valuable and infant aquaculture industries that are starting to build up around the coast now appear to be in danger.

The question I asked yesterday and the questions I ask today are indicative of some of the problems that are emerging in the management of land-based human activities of an industrial nature and associated with point source pollution from sewage treatment, plus agricultural chemical run-off, which is leading to problems within the aquaculture and fishing industries. Will the Government commission a study to determine the potential dangers to all fish stocks (that is, aquacultural and naturally occurring fish stocks) within the South Australian coastal regions by offshore agricultural, human and industrial activities?

The Hon. K.T. GRIFFIN: I will refer the honourable member's question to the Minister for Primary Industries and bring back a reply.

WINE INDUSTRY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing both the Minister for the Environment and Natural Resources and the Minister for Industry, Manufacturing, Small Business and Regional Development a question about the Wine Industry Commission interim report and its impact on the Murray system.

Leave granted.

The Hon. M.J. ELLIOTT: About a week ago an interim report was released by a committee chaired by a Commissioner of the Industry Commission in relation to the wine industry. It has received a great deal of media attention but the media have concentrated very much on the question of wine taxes. Indeed, a very wide range of recommendations were made, some of which will have ramifications on South Australia that are every bit as great as the question of a wine tax.

A series of recommendations were made in relation to water allocation and other matters in respect of the Murray River. It was recommended that entitlements to water be separated from land ownership, that property rights detail the quantity of water available, security of supply, and tenure of permitted access, etc. It was further recommended that irrigation infrastructure be provided and operated by a separate infrastructure service entity, that such entities should not be permitted to restrict transfers out of the region, and that Governments should minimise transaction costs and other restrictions imposed on water transfers. One or two further recommendations focused on making water transfers much easier to achieve.

When this matter has been discussed on previous occasions, issues have been raised such as what would be the impact if many unused licences were bought and transferred and for the first time water was drawn from the river, and what would happen if water could be transferred out of irrigation schemes. For instance, the Government runs schemes around Cobdogla, Loxton and Waikerie, etc. If we start pulling out water licences, the efficiency of those schemes will drop and the costs for those who remain in the schemes will increase quite markedly. Those are some of the issues, but in particular there is the potential for more water to be drawn out of the river.

In addition to those recommendations there are two further recommendations: first, where existing environmental flows are insufficient that Governments repurchase necessary water entitlements; and, secondly, that Governments in conjunction with relevant water authorities (multi-jurisdictional bodies such as the Murray-Darling Basin Commission) identify environmental requirements of river systems and quantify—and this is their words—the minimum flow levels necessary to meet these requirements.

It is worth noting that almost every summer either the Murray River or the lakes at the end of the river have had outbreaks of blue-green algae, due largely to low flows and high nutrient levels. As a consequence of that, I ask the Ministers whether they will ensure that, before any decisions are made about transfers of licences, a full study is made of the Murray-Darling system as to just how much water can be drawn from the system and therefore the impact that transfers would have, and also the impact that it would have upon Adelaide and many other towns and cities which are reliant upon Murray River water either in whole or at least as a backup?

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

CITIZEN INITIATED REFERENDA

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Attorney-General a question about citizen initiated referenda.

Leave granted.

The Hon. M.S. FELEPPA: At the national conference of the Young Liberals held earlier this year the notion of citizen initiated referenda at all levels of government (Federal, State and local) was rejected. The issues have been canvassed for some time now and keep recurring. No definite steps have been taken one way or another so that the citizen initiated referenda issue can be decided. The issue has supporters and opponents, and each has put forward cogent evidence for their different stance.

The matter of citizen initiated referenda has excited the minds of some people within our community who see it as an opportunity for their intervention in Government more widely than simply casting a vote at the ballot-box or petitioning Parliament. This opportunity for intervention in Government by citizen initiated referenda is open to abuse by pressure groups and crank opportunists.

In view of the fact that the Young Liberals have seen fit to take the matter seriously and to condemn the notion of citizen initiated referenda, I ask the Attorney-General whether he shares the views of the Young Liberals that the notion of citizen initiated referenda should be completely rejected. What is the Attorney-General's personal stand on citizen initiated referenda from the constitutional and democratic points of view?

The Hon. K.T. GRIFFIN: I suppose it is a matter of public interest as to what my personal views may be, although I would have expected Question Time to be used largely to question Ministers on issues of Government policy or action and not particularly relating to what personal views Ministers have. The fact is that the issue of citizen initiated referenda has been on the public agenda for a number of years. It raises its head periodically in relation to particular issues. I think this happens more when citizens are concerned about the behaviour of Governments, and one notices that it seems at the moment to be going through a popularity phrase in respect of the Federal Government. I think that is largely because there is a lot of community concern about the arrogance and high-handedness of the Federal Government and the way in which it deals with citizens.

There has certainly not been any significant movement in relation to citizen initiated referenda in relation to this State Government, although I must say that it was an issue when the previous Government, in the latter years particularly of its office, was really making a mess of South Australia and seemed to be quite rudderless. The community felt, as I understand it from some people who supported citizen initiated referenda, that they needed to find some way to bring the then Government to heel.

It is an issue particularly in the United States and to some extent in Switzerland and it is recognised in some other countries. One of the difficulties that has been suggested for its implementation is that it deals with issues that attract a great deal of emotion and deal with issues in a black and white context, when there is not a lot that one can address in real life that is absolutely black or absolutely white with no

grey in between. It is much more difficult through the citizen initiated referenda process to manage the grey areas and make the necessary adjustments to satisfy the needs of the community. On the other hand, Governments have more flexibility in that respect but less so when they do not have the capacity to get all their legislation through a Parliament.

So far as the Government is concerned, it has not made any decisions in relation to citizen initiated referenda. It is an issue which from time to time is raised with the Government. We are examining it only with a view to identifying what the arguments for and against it might be. That should not be taken as any indication that we are favourably disposed towards the initiative. So far as my own views are concerned, they are the views which I share with the Government.

So far as the Young Liberals are concerned, they are entitled to raise these issues. Members opposite will know from their own experience of Young Labor that younger people who are involved in the political process frequently take a different point of view from those who may have had more years in the political process. That is not necessarily a bad thing. It helps to stimulate debate and discussion, and I certainly encourage it, even though I do not always agree with what either the Young Liberals or even the Young Labor group or other young persons' groups might necessarily present.

It is an important facet of community debate to have a range of stimulating debates on issues upon which people hold differing points of view, and citizens initiated referenda is one of those issues. They are entitled to raise the issue. They are entitled to reject it or support it as the case may be. There are arguments both ways.

POLITICAL DONATIONS

The Hon. T. CROTHERS: I seek leave to make a brief statement before asking the Minister for Education and Children's Services, as the Leader of the Government in the Council, a question about matters arising out of the $100 000 Catch Tim election donation.

Leave granted.

The Hon. T. CROTHERS: Much has recently been said about the Catch Tim electoral donation to the South Australian division of the Liberal Party and which aimed at assisting the Liberal Party's campaign for the 1993 South Australian election. Because of the foregoing content of my statement, I come direct to my question. I ask that the question be answered in a forthright manner and not in the normal manner. Will the Minister guarantee that the true source of the $100 000 Catch Tim donation to the Liberal Party of South Australia has not benefited in any manner whatsoever from any decisions made by the South Australian Liberal Government or any decisions that are likely to be made in the future?

The Hon. K.T. Griffin: The general economic upturn—

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I will refer that question to the Premier and to other Ministers in another place who may well be aware of the sorts of decisions that are being taken. In everything that the Premier has indicated publicly on this issue there has been no connection. I will refer the question and bring back a reply.

ABORIGINES, DOCUMENTS

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Attorney-General a question about Hindmarsh Island documents.

Leave granted.

Members interjecting:

The PRESIDENT: Order! The Minister.

The Hon. BARBARA WIESE: I must say that, if I were the member for Barker, I would be pretty annoyed by the political stunts which led to this issue arising and which were caused directly by the actions of the Minister for Transport. However, that is not the topic of my question.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Yesterday I raised the matter of the Federal member for Barker (Ian McLachlan) obtaining confidential documents relating to Hindmarsh Island and Aboriginal issues. I asked the Attorney-General whether he would ascertain from his ministerial colleagues whether they or their officers had received copies of these documents. This was not a frivolous question, in view of Mr McLachlan's admission that he had forwarded copies of the documents to certain people and organisations. The Attorney-General tried to avoid my request that he approach his colleagues by indicating, first, that he did not have to but, when pressed, said that he would give consideration to my question.

In view of the Federal Government's desire to retrieve all copies of these documents as soon as possible and in light of the reported statement of Federal Attorney-General Lavarch that legal action to do so is a possibility, will the Attorney-General (as the State Government's chief legal officer) now indicate whether he has considered my request to approach his colleagues to determine whether they have copies of the documents in question, and will he do so?

The Hon. K.T. GRIFFIN: The answer is that I have not yet had an opportunity to give consideration to the question.

PASSENGER TRANSPORT BOARD

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the—

Members interjecting:

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

Members interjecting:

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

Members interjecting:

The PRESIDENT: Order! You will cease this arguing the point across the Chamber. If you have questions, get up and ask them or answer them.

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport a question about the charter of the Passenger Transport Board.

Leave granted.

The Hon. SANDRA KANCK: I refer the Minister to the Passenger Transport Act 1994 and, in particular, to clause 21, which relates to the charter of the Passenger Transport Board. Clause 21 provides:

(1) The board must prepare a charter after consultation with the Minister and the committees established under section 25(1).

(2) The board may, with the approval of the Minister, amend the charter at any time.

(3) On the charter or an amendment to the charter coming into force, the Minister must, within 12 sitting days, have copies of the charter, or the charter in its amended form, laid before both Houses of Parliament.

I also refer the Minister to a document entitled 'South Australian Government response to the Commission of Audit recommendations'. In response to recommendation 7.1 of the document, which relates to public sector management and accountability, the Government offered no explanatory remarks but simply confirmed this recommendation 'adopted'. To remind the Minister, the primary recommendation—recommendation 7.1—read:

All public sector agencies should publish summaries of their corporate plans, including indicators of the appropriateness, efficiency and cost effectiveness of their programs. Corporate plans should include specific strategies for achieving the core business goals within specified time frames.

I note that the charter of the Passenger Transport Act, which was assented to on 26 May 1994, has not yet been laid before Parliament. My questions to the Minister are:

1. Why has no charter been laid before Parliament? Has preparatory work begun on the charter?

2. Has the Minister drawn the Passenger Transport Board's attention to section 21 of the Act? If not, why not?

3. Given that the Passenger Transport Board is required to develop a charter, what action has the Minister taken against the board for not fulfilling its legal responsibilities? If no action has been taken, why not?

The Hon. DIANA LAIDLAW: There is no need to take action, because the board has prepared a charter that is in draft form, and I understand it was considered at the last board meeting. It is meeting again either today or tomorrow and I trust that it will be considered then or at the subsequent meeting. Certainly, the whole issue is before the board at the present time.

EDUCATION FOR BOYS

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 education for boys.

Leave granted.

The Hon. CAROLYN PICKLES: An article in the *Sunday Mail* referred to a scathing attack launched by the Minister on 'gender equity police', whatever that might mean, for ignoring men, following studies that show that girls easily out-perform boys in both primary and secondary schools. The problems faced by young men and the stereotypes that have moulded their behaviour were discussed in a very interesting article published in the *Australian* magazine last weekend, entitled 'Some mothers do have 'em'. This pointed out that the problems are not unique to Australia and that, as parents, schools and societies strive to copy with gender equity, new kinds of masculinity are emerging in a social revolution that will change Australia.

The article was quite explicit in listing the difficulties faced by young men: young men are committing suicide at five times the rate of girls; young males have a 300 per cent higher death rate from motor vehicle accidents; they are most likely to be early school failures and truants, school dropouts and offenders; and they are more likely to be imprisoned and the victims of death in custody. These are tragic statistics and these issues must be addressed. However, the answer will not be found by attacking those in the community who have been concerned for equity issues facing girls and women in our society. Will the Minister give a guarantee that his focus on special help for boys will not affect special programs designed to assist girls and young women?

The Hon. R.I. LUCAS: I have done that on a number of occasions. The Government is committed, first, to the recognition of the special needs of both girls and boys, young women and young men, within our education system. So, in this push that I have been involved in both at State and national level to try to have the issue of the problems that boys suffer in education on the national and State agenda, on all occasions I have indicated that there remain particular problems that girls and young women suffer and experience within our school system. I have no problem at all in giving that undertaking, because it is consistent with undertakings that I have given on a good number of occasions that what we ought to be about is acknowledging the special problems that girls and boys suffer within our education system. The problem that I see and have seen for a number of years is—

The Hon. Carolyn Pickles: What did you mean by 'gender equity police'?

The Hon. R.I. LUCAS: You can recognise them quite easily when you see them. If you have a problem, you need to sort that out. Ask some of your colleagues. When I refer to the 'gender equity police', they are the sorts of people who, whenever there is a television commercial which gender stereotypes women, will be loud and eloquent in their criticism and protestation about how demeaning it is, but where are they when the same commercials are demeaning to men and when men walking through airport lounges are stripped by women airport attendants—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: But where are they? We always hear—and rightly—the issues in relation to women. But where are these people when exactly the same issue is raised? What about that song recently? I will not use the phrase, but it referred to men with short appendages, and it was being played on all the contemporary music stations in South Australia.

The Hon. Carolyn Pickles: Did you—

The Hon. R.I. LUCAS: Yes, amongst a number of other people. Even Graham Cornes and a number of others protested. But if the same contemporary song—

Members interjecting:

The PRESIDENT: Order! I would like to hear the answer.

The Hon. R.I. LUCAS: If the same song had referred to women—and I will not refer to 'similar appendages'—in the same way, then I can assure members there would have been protests long and loud in relation to that issue.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: And I did. They are the sorts of issues that I referred to on the weekend when talking about the fact that some people were prepared to raise certain issues but not prepared to raise others.

Members interjecting:

The Hon. R.I. LUCAS: I'm not going to sing it.

MATTERS OF INTEREST

The Hon. BERNICE PFITZNER: I rise to speak on an issue of importance, namely Aboriginal health. The health of Aboriginal Australians continues to deteriorate despite the

injection of $232 million over five years. Some depressing statistics on our indigenous Australian population are: Aboriginal children born today can expect to die almost 20 years earlier than non-Aboriginal children; Aboriginal boys have a 45 per cent chance of living to the age of 65 compared with 81 per cent of non-Aboriginal boys; Aboriginal girls have a 54 per cent chance of living to 65 years compared with 89 per cent of non-Aboriginal girls.

Members interjecting:

The Hon. BERNICE PFITZNER: Mr President, I find it very difficult to concentrate.

The PRESIDENT: Order! I accept that. Members on my left should be a little discreet in their private conversations.

The Hon. BERNICE PFITZNER: The death rates for Aboriginal men are 4.8 times those of Aboriginal men; the deaths of Aboriginal women are 3.3 times those of non-Aboriginal women; Aboriginal infant mortality has declined over the past 25 years from 60 deaths per thousand in the 1970s to around 20 deaths per thousand in the 1990s. However, in that same time, infant death rates for Australians generally declined from 15 deaths per thousand to seven deaths per thousand. Aboriginal people have 13 times the death rates from infection and parasitic disease compared to non-Aboriginal people.

Aboriginal Australian health is worse than that of other indigenous people in the United States, Canada and New Zealand. As the *Observer* says, they are known as the 'fourth-world people'. For example, the gap between life expectancy of indigenous people and the rest of the population are, for American Indians, a three-year gap and, for New Zealand Maoris and Indian Canadians, a seven-year gap. However, for Aboriginal Australians there is a 20-year gap. The reason for the state of Aboriginal health has been attributed to poor coordination between the Commonwealth and the States in administering Aboriginal health programs.

Aboriginal morbidity and mortality can be attributed to the environment of poverty, to the lack of access to basic primary health services, to the lack of access to properly coordinated, adequately supported and culturally appropriate health services, the failure of institutional commitment and the sickness of anger and despair requiring a change in social and environmental circumstances. We also note that the Prime Minister has admitted to failure in this area. A working paper published by the National Centre for Epidemiology identified the barriers. The first of those is the Commonwealth-State cost-shifting and buck passing and the second is the contradiction between structures in the Council of Aboriginal Health and the structures in ATSIC.

The paper proposes rationalising the bureaucratic and planning maze through which Aboriginal funding is presently administered and, secondly, providing back-up support to the community-controlled sector of Aboriginal health care delivery. We ask ourselves why the Aboriginal health program is such a failure and clearly someone has to take responsibility for making sure there is a simplified national system in place strategically to address the issue of Aboriginal health.

The Hon. M.S. FELEPPA: My topic today will be the shortage of skilled workers. It was recently quite rightly reported in the *Advertiser* (3 February 1995) that South Australian companies have had to recruit 36 qualified toolmakers from overseas. For some years now there have been stories in the press drawing attention to the shortage of skilled workers such as toolmakers—which was my profession for many years—boiler makers and machinists. I have copies of articles dating back to 1988 calling for an increase in the number of these workers if our economy is to remain healthy.

These workers may not be academics, as members would realise, but they are highly trained and skilled and industry could not function without them. The shortage of these workers is hindering the expansion of our industry, which adversely reflects on the economy of our State. The question is what to do about the shortage. Do we rely on importing skilled workers or do we train our youths to fill the gaps in the labour market? Most of the press articles I mentioned call only for an increase in skilled migrants.

There has had to be recruitment from overseas in the past few years from countries such as England and Germany, where there seems to be an excess of skilled workers. Why, with the youth of Australia still finding it difficult to get work, do we not train our own work force? Dr Bob Such obviously and rightly agrees that this is a problem. He was reported on Friday 3 March on the channel 9 news to have expressed great concern that we are bringing skilled workers from overseas given that we have so many unemployed young people here in Australia.

The recession is blamed for the shortage which resulted in our restricting the number of apprenticeships and limited the places for further training of staff. Those restrictions and limits are really due to short sightedness, I believe, on the part of the public and private sectors of our industry. Business has itself to blame for the present shortage of skilled workers. Business has not in my view shouldered sufficiently its responsibilities. If employers in both the public and private sectors have long-term confidence in their business then they should provide for the time when the effect of the recession will have passed. By recruiting overseas, the employment problems here in Australia are not being solved but are being made still worse. Jobs that in the long-term and with some foresight might have been filled by our own people are being filled by outsiders and Australian unemployed people are not able to fill the employment slot.

A recent article in the *Weekend Australian*, dated 11 February 1995, dealt with the issue of training responsibilities. The Prime Minister is reported as saying:

> It seems to me we should consider moving towards a European model where employer associations take a key responsibility for training.

The Chief Executive of the Australian Chamber of Commerce and Industry, Mr Ian Spicer, is reported to have responded by saying:

> It recognises that training must be industry-driven and the best way it can be achieved is to have it run by and controlled by the industry in which the person is eventually to be employed.

The article in the *Advertiser* observes that the approach pushed the training issue out of the hands of the State and Federal bureaucracies, and I believe that that it is how it should be. Of course, our current State Government cannot be blamed entirely for the critical situation, but it should be promoting the Australian Chamber of Commerce and Industry approach of having industry accept the main responsibility for employees' training.

The State Government should do more in a public sector industry by setting the example for all industry training so that more Australians can be drawn into the work force and this is far better than importing overseas trained people to the exclusion of Australian unemployed.

The Hon. M.J. ELLIOTT: Today I want to speak about aquaculture—perhaps one of the most exciting new prospects in South Australia, but unfortunately not at this stage being handled with due care by either the previous or present Government. It has been worth looking at the algal bloom that has occurred near Coffin Bay and the major emphasis from that was that it appears that the environment has not affected the oysters. A much more important question that does not seem to have been asked is indeed whether the oysters have affected the environment. We will not know for some time which way around that is, but it is fundamental to the issues I want to look at today.

There has been quite rapid expansion of oyster and other marine aquaculture and it is something which in general terms I support, with due care. The most interesting place to look at is perhaps Coffin Bay, which was one of the first places in South Australia to start producing oysters and very good oysters at that. There has been grave concern by local residents in two regards: first, in relation to planning matters; and, secondly in relation to environment protection.

A management plan was drawn up for Coffin Bay and that management plan clearly showed where people could and could not go. As I understand it, it was drawn up on clear advice given by SARDI scientists that environmental monitoring would proceed in tandem with the growth of the oyster industry in Coffin Bay. The advice that I have now is that indeed the management plan has already been altered, which is now going to appeal, and the environmental studies promised to start in 1991, by the start of 1991 had virtually ground to a halt. I am in possession of reports which quite clearly show the concern held inside Government departments about this. We have to differentiate between the monitoring of the impact of shellfish farming on the environment under a program, SEMP, and monitoring the impact of the environment on shellfish farming, which is a South Australian quality assurance program.

Unfortunately, most of the money being raised so far from aquaculture is being spent on the latter and not the former. It is an act of gross irresponsibility not only in terms of taking significant environmental risks in itself but also, if the industry grows beyond what is ultimately sustainable, that is an act of irresponsibility to the farmers who go in as well. They will make massive investments. We only have to look at the prawn fishery in Gulf St Vincent to see what happens. If you are not monitoring things carefully and seeing where things are going, you suddenly get people with their fingers badly burnt.

It is my belief that, due to the lack of proper environmental programs (and I have ample evidence in writing to show that that is not occurring) we are taking a significant environmental risk and, ultimately perhaps, a significant risk for people who invest in the industry because, if the industry outgrows itself, it will start having impacts upon its own viability. I call on the Government to ensure that funds are available and that these environmental monitoring programs which are not being run adequately at this stage, barely at all on my understanding, are run at a proper level so that we can measure what are the impacts and make sensible decisions about the speed at which aquaculture can grow and where it can grow.

While time still allows, having focused on the oyster industry, we could look at the tuna industry as well, which is based very much upon catching pilchards. I have had grave concerns expressed to me that the pilchard fishery on the West Coast is being savaged at this stage. If we are not careful, the tuna farming industry that can continue to give significant returns could suddenly find itself in trouble. That has not happened at this stage and I hope it does not. Again, the monitoring programs that fisheries management should be going on with in relation to the pilchards fishery, on my understanding, simply have not been occurring.

The Hon. R.D. LAWSON: An article written by me was recently described in the press as being fiercely critical of the High Court of Australia. I plead guilty to having been critical of some of the decisions of the High Court and of certain trends which many legal and political commentators have noted, but to accuse me of ferocity in this matter is questionable. In an issue like this, the ferocity with which criticism is delivered does not necessarily reflect its validity. If there is a relationship between the ferocity of criticism and its effectiveness, the relationship is probably an inverse one.

Leaving aside ferocity, one important point is that I do not believe personally in attacking the High Court or any other court. All members of this Chamber will be aware that we in this Chamber are not permitted under Standing Orders to attack the courts or judges. That is a wise measure because, although it is not based on any notion of mutual admiration, it is wise because the rule is based upon the fact that the courts ought be free from criticism from other arms of Government. By the same token, it does not mean that the decisions of the courts are not open to criticism.

A couple of points are worth making about the current debate on the role and function of the High Court. Some criticism is made of the court's alleged tendency to make new law. This criticism is summarised in the proposition that it is the court's function to interpret the law, not to make it. That criticism is, it seems to me, ill-founded. In our system of law where precedent plays an important part and the decisions of appellate courts are binding upon lower courts in the hierarchy, it is necessarily so that judges make rules and in a sense make the law.

It is misguided to criticise them for that. It is misguided also to criticise the High Court for being involved in political controversy. It is the highest court in this country, the court of last constitutional resort in this country and, as constitutional law is a matter of not only legal but political philosophy, it is inevitable that the court will be involved in controversy and always has been.

The real concern is that the High Court is beginning to engage itself in matters of political policy. It seems that judicial interference in political issues does distort the democratic process. Governments should be permitted to make political decisions and be judged by the electorate and not by the judges. It is not the role of the High Court to save a government from the political consequences of an unwise decision. The decision in the political advertising case is a prime example. There, the High Court struck down a bad law made by the Federal Labor Government in relation to political advertising on radio and television. The court ought not to have saved the Government from the opprobrium that it richly deserved for a poor law. My concern about the High Court is that it is increasingly engaging in debate upon political and policy issues.

The Hon. R.R. ROBERTS: I take the opportunity in this grievance debate to express my concern about the education situation in Port Pirie and the treatment of my Port Pirie constituents with respect to education matters. Some two or three years ago the school councils at the Port Pirie and

Risdon Park High Schools took the very responsible view that, in line with education demographics and predictions of future population, it was inevitable that there had to be some amalgamation of the high schools in the Port Pirie region. The councils put a proposal to the then Minister for Education (Greg Crafter) that there ought to be one college in Port Pirie with two campuses, one at the Port Pirie High School and the other at the Risdon Park High School.

For various reasons the agenda was hijacked by different people. However, it was clearly expressed by the bureaucracy in the Education Department that they agreed with the amalgamation but that it ought to be on one site. This was resisted by the local community and, as a consequence of other events, a committee was set up to review the future of secondary education in Port Pirie. There then was a change of Government and we had a new Minister, wet behind the ears with respect to education matters and amalgamations of schools, and I assert that it was very easy for bureaucrats to hijack the agenda.

The proposition that was being promoted—and rightly so—by the two school councils was that there should be one college with two campuses, which would have allowed for a development of curriculum, an adjustment of numbers and, over time and with the agreement of both school councils, an amalgamation on the most appropriate site. However, that was overtaken by the bureaucracy and, lo and behold, an announcement was made that an amalgamation would take place. I would not have argued too much about that; there are some good reasons why that should occur, but one would have thought that, if we were to amalgamate two high schools on one site we would ensure, before actually moving students in, that the infrastructure on the site was appropriate for a modern day school.

However, under the present Administration we saw the temporary buildings from the Risdon Park High School site, including some of the Loveday huts of the 1950s, which have been on sites in country areas—we do not see them in Adelaide because they would not be tolerated by people in the metropolitan area—being taken down and dumped on the site of the old Port Pirie High School, now renamed the John Pirie Secondary School. So we now have a site which looks like a retirement home for obsolete Education Department buildings. We have old buildings on the site that were there prior to recent improvements made by the Labor Government and we have a crop of Education Department obsolete buildings which are clad in wood, except for the one that caught on fire which was reclad with an asbestos substitute, just for good measure. There is no air-conditioning in half of the buildings, although that problem is being addressed.

My greatest concern is that, since all the demographics and forward projections were done and the necessity for amalgamating the high schools was identified, we now find that the site of the solid construction building in the prime building areas of Port Pirie, the most valuable areas, has been sold to a private school organisation. The effect of this will be that there will be added stress on numbers in the other four primary schools in Port Pirie so that curriculum choice will be diminished and obviously school teaching numbers will be diminished. One has to ask: where will these students come from? It would seem to me that, if the high schools were not going to have enough numbers in some future years, obviously there has to be a shortage of infant students in Port Pirie. I see this as an attempt to back door privatise education in Port Pirie, which will disadvantage the constituents in an already disadvantaged area. I think these moves ought to be condemned.

The Hon. J.C. IRWIN: Mr President, my contribution today relates to the recent hospital dispute and the outrageous tactics of the Miscellaneous Workers Union in that dispute. On 11 March the Australian Industrial Relations Commission found that industrial action by the union and public hospitals had reached a stage where the personal safety, health and welfare of the public was at risk. There has been widespread criticisms and disgust at tactics used by the MWU, an example of industrial relations, I put it to you, at its worst, where the union showed utter contempt for the safety of the public, including children and intellectually disabled people.

Despite the union claiming for two weeks that its industrial action was designed to avoid harm to the public, the union gave evidence in the commission to the effect that damage to public health was planned as an industrial tactic. The union's actions have shown its hypocrisy. The union no doubt makes political donations to the Labor Party so that that Party can do its bidding in this Parliament. What hypocrites are those in the Labor Party with their sanctimonious argument about political donations.

The commission heard evidence from the union witnesses that the union escalated work bans last Thursday in a deliberate attempt to try to put patients at risk. This is reprehensible. For example, under sworn evidence, union witnesses claimed that bans had included porters in the Women's and Children's Hospital refusing to respond to fire alarms. Union witnesses also claimed that the bans were intended to prevent the sterilisation of teats and bottles for babies and children. Union witnesses also threatened to abandon people at the Strathmont Centre for the Intellectually Disabled knowing that some could not properly feed or bathe themselves. It is also known that when volunteers cleaned up certain areas in a hospital, unionists tipped up the rubbish containers and scattered the rubbish all over the floor again—and one would have to say: how childish!

It is hard to believe how anyone could deliberately impose these life-threatening work bans, let alone as a tactical industrial device. The fact that the Federal Government's industrial laws encourage the union to escalate bans so that public health is at risk is disgraceful and the Federal Minister for Industrial Relations should immediately amend his Government's legislation to prevent, rather than reward, this type of stupid behaviour. The union's slogan, which it has been using in recent days in notices to its members, 'Kick them where it hurts,' is the very attitude that has prevented resolutions of this dispute. I am pleased that the community and many employees and workers of the public health sector have defied the union and shown a sense of decency and responsibility.

The Federal Act gives the union legal rights to take industrial action, called 'protected action'. The Federal laws not only encourage the union to take industrial action to progress its wage claims but then encourage the union to deliberately escalate the industrial action as soon as the employer responds with its notice of protected action.

The Hon. T.G. Cameron: What a load of rubbish.

The Hon. J.C. IRWIN: Well, you respond. What is worse, the Federal laws encourage the union to escalate industrial action so that the union can demonstrate that its industrial action is endangering the life of persons and safety and the health and welfare of the public. That is a clear indication that the Federal Industrial Relations Act, amended

last March, is exactly what the Liberal Party claimed at the time—a pay-back by the Labor Government to the ACTU for the massive industrial campaign against the Coalition in the last Federal election, another political campaign funded by unions wanting a pay-back from the Keating Government. We should remember that these laws were founded on the United Nations Convention signed by the Federal Government without ever being discussed by the Federal Parliament and without ever being disclosed to the Australian people before the last election.

Given that the Federal enterprise bargaining laws give union officials the whip-hand over enterprise bargaining, it is no wonder that these unions, which are putting the interests of their officials above the interests of their members, are trying to rush blindly into the Federal industrial relations system. Incredibly, the State Labor Opposition last May tried to put in South Australian industrial laws these same legal rights to strike for unionists that we find in the Federal industrial laws.

The Hon. T.G. ROBERTS: The Hilmer report is a very underdiscussed report and I would like to put a few words on record in this Chamber about it. That is a report that will have great social, economic and political implications for the State and ultimately for us in this Chamber, I suggest. The report basically outlines a set of proposals under which States and their instrumentalities will have to remove the barriers to free trade within Australia as a trading nation. This is a federally driven report that indicates to those people who want to read it that Australia must become a single trading nation, that all barriers to equity and competitive fairness must be maintained, and that the traditional role that the States have played by using their statutory authorities and Government departments to kick start their own economies at various points of their economic cycle now appears to be limited and is certainly being changed as a result of all aspects of the Hilmer report.

The report diminishes the role of the States and their ability regionally to energise their economies away from a centrally dominated controlled body, authority or mechanism that appears to have a *laissez faire* or free market approach to economics. The implications of that are that the larger States will be able to survive and the hot spots that are appearing in the economy at the moment will thrive and be maintained, while regional economies, such as Tasmania, will fall by the wayside.

There is no provision at all for cross-subsidisation within those regionally developed economies. In fact, at the moment, South Australia and other small States are unable to cross-subsidise their own regional economies. The current State Government is faced with a budget strategy which I suggest will impact unfairly on country people, because the mechanisms that are generally available are—I will not say hollow logs—but those areas that Governments have been able traditionally to use for funding from statutory authority profits or Government owned instrumentalities (some of the profits that can be hidden when dealing with the Federal Government at budget time) will no longer be available. Those hollow logs or cross-subsidies will not be available to stimulate regional and country economies. There will be a withdrawal of Government services and Government employees from country and regional areas, and I am afraid that many small country towns and regions will look for Federal moneys to be supplied so that their economies can be maintained.

I do not totally despair that those economies will wither and die. I am confident that people in country areas and regional Australia will be able to put on their lateral thinking caps and work towards energising their local economy by doing a stocktake of the strengths and weaknesses of their general economy and trying to get value added industries which are self-supporting and which maintain training and employment opportunities.

The Hon. Mr Feleppa referred to the inability of the private sector to maintain training programs for skilled workers. I point to the dismantling of the Government sector at the moment. The Government has been a traditional supplier of trained young people in the work force for the private sector to pick up. That will no longer be possible because no Government departments will be large enough to be able to supply the training programs and skills development that is required. Private employers require trained employees to walk off the street into a position and immediately deliver a service to them so that they can profit from that individual's skills development. No-one can argue with that, but in the past employers themselves have taken the responsibility for training programs.

The PRESIDENT: Order! The honourable member's time has expired.

SOCIAL DEVELOPMENT COMMITTEE: UNEMPLOYMENT

The Hon. BERNICE PFITZNER: I move:

That the report of the Social Development Committee on long-term unemployment and the adequacy of income support measures be noted.

This is the sixth report of the Social Development Committee. I thank the parliamentary staff for their efforts, and I refer in particular to our research officer, Mr John Wright, who collated the report so efficiently and effectively. This report is in response to the terms of reference passed to the committee in April 1992 on a motion of the then member for Stuart, Mrs Colleen Hutchison. At that time, the unemployment rate in South Australia was 12 per cent, 2.4 per cent above the national jobless rate. That reference reflected the concern felt by many members at that time both for those caught in the unemployment net and as an indicator of the state of the South Australian economy.

Let us look now at the unemployment rate in European countries. In Australia at present the unemployment rate has fallen from 12 per cent to 9.8 per cent or 9.5 per cent. We note that in European and other countries which are our traditional trading partners the unemployment rate is as follows: Canada, 10.1 per cent; the US, 5.9 per cent; New Zealand, 7.8 per cent; France, 12.6 per cent; Germany, 6.9 per cent; Italy, 11.8 per cent; the Netherlands, 7.1 per cent; the United Kingdom, 9.6 per cent; and Switzerland, 3.8 per cent. Unemployment levels in our neighbouring countries (that is, South-East Asian countries) are as follows: Malaysia, 2.9 per cent; China, 3 per cent; Taiwan, 1.5 per cent; Singapore, 2 per cent; and Thailand, 3 per cent. Of course, there is a wide range of variation between Vietnam with 15 per cent and Indonesia with 40 per cent.

Since this Liberal Government came into power, and with its excellent management of the State's finances and services,

the State of South Australia's economy is, I believe, on the upturn and the current unemployment rate, as I have stated, is 9.8 per cent or 9.5 per cent. At the time the committee proposed to commence its inquiry, a Federal committee was established to 'begin fashioning an effective response to the problem of unemployment'. This Committee on Unemployment Opportunities had before it terms of reference that were not dissimilar to those before the Social Development Committee, namely, to report on the causes, extent and characteristics of unemployment in Australia and to prepare a discussion paper outlining options for assisting unemployed people back into work. The committee was to focus particularly on devising a policy for returning long-term unemployed persons to the work force.

This Federal committee released a discussion paper entitled 'Restoring Full Employment: A Discussion Paper' in December 1993 and its final report entitled 'Working Nation' in May 1994 after extensive community consultation. I point out that the resources made available to the Federal committee included a research staff of 23. As you would know, Mr President, the research staff allocated to standing committees in this Parliament consists of just one research officer. Considering the similarity in the terms of reference and the huge disparity in resource allocation for undertaking the task of investigating the reference, the committee decided that to attempt to duplicate the work of others would not be an efficient use of the committee's sparse resources.

Therefore, what we have produced is an overview of the policies of both the State and Federal Governments aimed at reducing unemployment. Most members would know of the heartbreaking cycle of long-term unemployment and the way that individuals and families are locked into the poverty trap as the term of unemployment extends beyond six months, 12 months, or more. Evidence shows that the longer a person is unemployed the more difficult it is to obtain employment, and this is well documented.

It has been found that over time skill levels are eroded along with personal confidence and morale. Employers, whether rightly or wrongly, generally have a poor perception of the long-term unemployed. It has also been found that the combination of personal and community perceptions and the associated financial hardship lead to the unemployed being over represented in domestic violence and marriage breakdown figures.

While the personal costs of unemployment are considerable, the cost to the Australian economy is also high. The costs of the mismatch between available jobs and the skills of the unemployed which result from long-term unemployment and the enormous cost of social security payments with the associated loss of revenue from decreased taxation are well documented.

The extremely high representation of young people in the 15 to 19 year age group among the unemployed must be of grave concern to all of us. Combined with figures which show that approximately 40 per cent of all people who have been unemployed for 12 months or more are aged under 30 years, the implications for the social and economic consequences for South Australia and Australia are ominous.

The success of Australia's multicultural and reconciliation policies will be judged in part by their ability to fully integrate non-English speaking background and Aboriginal and Torres Strait Islander people into not only the social but also the economic fabric of Australian society. At present, both groups are over represented in the unemployment survey.

The White Paper on Employment and Growth—the Federal Government's initiative to reduce unemployment—provides detailed descriptions of the policy and program initiatives of the Federal Government to meet the unemployment challenge. The key elements are:

· Reform and augment existing labour market programs so as to assist the unemployed and in particular the long-term unemployed to gain employment.

· Reform training and education programs to improve the skills base of employed and unemployed persons.

· Restructure the social security system so that disincentives to enter employment are removed. (This particular point is a most important one.)· Stimulate economic development and employment growth in regional Australia.

· Introduce workplace agreements to create a more flexible and responsive work force.

· Introduce microeconomic reforms and industry policy that improve the performance and competitiveness of Australian business, particularly in international markets.

In addition to the various initiatives of the Federal Government, the South Australian Government has also introduced a range of initiatives designed to stimulate business development and therefore employment growth in South Australia. In particular, initiatives aimed specifically at encouraging the participation of the young unemployed in the work force have been introduced. Briefly, some of these initiatives include:

1. The WorkCover Levy Subsidy Scheme. Under this initiative employers whose annual payroll is not more than $1 million are exempt from the WorkCover levy for the period of one year for each additional long-term unemployed or school leaver taken on.

2. The Export Employment Scheme. This will encourage South Australian businesses to become more export oriented. The Export Employment Scheme pays private sector businesses a grant of up to $10 000 to assist them in employing a person with marketing experience. The scheme, which commenced in July 1994, applies to companies with fewer than 100 employees. The sum of $2 million has been allocated to fund the scheme for an initial period of two years. For a business to be eligible to receive the grant the person employed must have appropriate marketing qualifications, be an additional staff member and be employed full-time.

3. The Payroll Tax Rebate Scheme. This three tiered system is specifically targeted at businesses involved in value-added exporting of goods or services. Briefly, a 10 per cent rebate is available on wages and salaries for existing exporters, while a 50 per cent rebate on payroll tax is available to businesses which show that value-added export growth is attributable to company growth, the establishment of new ventures or the relocation of operations from another State. Where a long-term unemployed person who is additional to the existing staff is taken on, exemption from payroll tax is available.

4. Business development plans. The State Government has also provided funding to assist companies prepare business development plans. The Government set aside $2 million for the 12 months beginning 1 February 1994 so that South Australian companies could get professional help with the preparation of business plans. Companies with fewer than 25 employees who are involved in import replacement, new exports or value-adding to agricultural products are eligible to apply for a grant. Each eligible company will be entitled to a grant of $2 000 to be used to get professional help with a business development plan.

5. Traineeship and group training schemes. The South Australian Government has allocated $1.5 million to expand industry training by assisting in the development of new traineeship courses to meet industry specific shortages. In selected industry, a $50 a week subsidy is available for employers for each new trainee taken on.

6. Employment Broker Scheme. The Employment Broker Scheme has been established to provide paid work experience for young people. The South Australian Government has set aside $1.5 million in the 1994-95 year to fund the scheme. Private agencies act as central brokers and employ young people with a range of skills and then hire them out at an hourly rate to businesses that need their services. Employees receive appropriate award wages and broker agencies cover all employment costs, including WorkCover.

7. Young Farmers Incentive Program. The object of the Young Farmers Scheme is to encourage young South Australians to remain in farming. The program provides an interest rate subsidy of up to 50 per cent on commercial loans to buy farming land or participate in share farming. Assistance of up to $20 000 a year will be available for three years to people aged under 30 years, as long as they are not directly buying a farming property from a parent. The State Government has allocated $3 million a year to this program. Finally;

8. The Greening Urban South Australia program. The State Government has allocated $1 million to help councils establish more parklands in urban areas. The program aims to establish a series of greening companies to give long-term unemployed people skills and experience in landscaping and other environmental activities. Once established, the companies will be equipped to tender for contract work. How Australia is able to address its unemployment problem will determine its long-term place in the world economy. The steady reduction in unemployment experienced by South Australia indicates that this Government, in partnership with the Federal Government, is addressing the problem with the gravity that it deserves.

I reiterate that, for the Social Development Committee to try to duplicate the work of both the Federal and State Governments with its very limited resources, would have been both ineffective and inefficient. I therefore table the report and recommend it, in the knowledge that other agencies are continuing to address the unemployment issue using expertise developed through time and commitment.

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

LEGISLATIVE REVIEW COMMITTEE: CRIMINAL INJURIES COMPENSATION ACT

Adjourned debate on motion of Hon. R.D. Lawson:

That the report of the Legislative Review Committee on the Criminal Injuries Compensation Act 1978 be noted.

(Continued from 8 March. Page 1382.)

The Hon. A.J. REDFORD: I rise in support of this motion and congratulate the Hon. Robert Lawson and his committee on the report. However, I have a number of comments to make in relation to some of the recommendations made by that committee in regard to this important issue of criminal injuries compensation. I remind members of the terms of reference of this committee, which were to report on the Criminal Injuries Compensation Act and, in particular, the effect of the introduction of the 1993 amendments to that Act, the adequacy of compensation, the change of burden of proof, the question of indexing damages, the issue of *ex gratia* payments and the discretion of the Attorney-General and other related matters. In particular, I want to comment about the effect of the 1993 amendments and how they have adversely affected certain important groups within the community.

Page 11 of the report sets out the basic method for calculating compensation, as set out by Lord Blackburn in the case of *Livingstone v Raywards Coal Co.*, where his Honour said:

> . . . where any injuries are to be compensated by damages, in settling the sum of money to be given for. . . damages you should as nearly as possible get at that sum of money which will put the party who has been injured, or who has suffered, in the same position as he would have been if he had not sustained the wrong for which he is now getting his compensation. . .

That basic principle applies to both economic and non-economic damages. The new legislation brought in a scale in relation to non-economic damages of 0 to 50, and the net effect is that the courts apply a number in order of seriousness and that is multiplied by $1 000, and that would then set out the award of non-economic loss for a victim of a crime. The report quite correctly says that the effect of that new method is to reduce the payments or awards for non-economic loss arising from criminal conduct by about 75 per cent. The report (at page 13) quoted the evidence of the Law Society to the committee as follows:

> . . . someone has tried to introduce a piecemeal system which affects only non-economic loss. In doing so, we have cut out the people whom this Act was meant to serve. The consequences for the poor and unemployed are very serious.

I and the various members of the committee (and I think everyone in this place) would have to agree with the submission put by the Law Society in relation to the effect of the new amendments. Obviously, the previous Attorney-General, when bringing in these amendments, did so for a reason. Page 14 of the report sets out the reasons that the former Attorney gave in the introduction of that previous legislation. According to the report, the Attorney-General did not describe the effects of the changes that were being brought in. In fact, it notes that there was little comment in this place about those amendments, other than the then Attorney-General's comment that compensation would be assessed on the basis of a motor vehicle accident claim under the Wrongs Act.

The former Labor Attorney-General, in endeavouring to reduce the financial burden on the Government, adopted a wholly inconsistent approach to the rest of his colleagues, particularly when one has regard to the profligate way in which they managed the State budget and economy, and the negligent way in which they administered the State Bank. But it really surprises me that a Labor Attorney-General could come into this place and bring in an amendment that will reduce payments of compensation, and that reduction will fall pretty much on the poor and disadvantaged in the community.

There is a suggestion by the then Attorney that the proposal he put at the time trod a path between compassion and economy. I suggest that it probably treads a path very close to economy and not very close to compassion. It would be remiss of me if I did not note that there is a potential deficit of some $22 million in relation to this scheme and, obviously, a Government would be negligent if it did not address that problem and did not ensure that a deficit, if there must be one, is kept within a manageable frame. However, I have to say that I am disappointed with the recommendation

that there be no change regarding the non-financial loss component of this criminal injuries compensation legislation.

On any analysis, the victim of the crimes of rape, sexual assault and various other crimes of this nature tend to be women. If one analyses it in any detail they tend to be women who are unemployed or not in the work force and, at the end of the day, in terms of the compensation package that has been offered, it is those people who miss out the most. I am not sure whether that was the actual intent of the former Attorney-General or whether he did not realise that that would be the effect, but on either explanation I think that he ought to be condemned for not properly addressing those issues.

At the end of the day I would hope that, despite the recommendation of this committee that there be no change, at least a serious look will be given at an alternative regime for compensation of victims of crime. In the final analysis it is those who are not in employment, the poor and the disadvantaged in this community, who tend to be victims of crime. Our system has been set up to support those people on the one hand and, on the other hand, the former Government takes it away with very little explanation.

I am also pleased to see that there has been a suggestion regarding the question of legal costs—that there be some review. I note that the current Attorney-General has written to the Law Society and is awaiting a response as to an appropriate level of costs to be paid to solicitors. I have to say from my own experience that the bulk of the legal profession does not do this sort of work simply because it is not properly remunerated. If we are going to have an effective compensation system people need to be in a position where they can get full and proper advice.

I would like to draw this Chamber's attention to a case that I am currently dealing with in my private practice involving criminal injuries compensation. It is a very sad case that indicates how the system at every step of the way has let down this particular victim. My client is an 18-year-old woman who was molested by her father on repeated occasions when she was 12 years old. Her mother had a series of relationships with a number of men. On one occasion when my client was about nine, she had a serious accident. She received criminal injuries compensation and that money was to be invested in a trust fund by her mother in accordance with the court order. In effect, the mother managed to get her hands on that money and wasted it. Very little of it was spent on this woman.

The Hon. K.T. Griffin: How did that occur?

The Hon. A.J. REDFORD: How did that occur? The trustee released the money. Given the amounts and the cost involved, there was not adequate supervision. I make no criticism directly of the Public Trustee on those grounds. However, it becomes an important factor when one considers that when my client went for her criminal injuries compensation as a result of her stepfather's molesting her there was no mechanism put in place to protect that women's claim or moneys—she got some $6 000—and the money was paid directly to her mother. The mother then went off into another relationship interstate and took the money with her. We currently have a situation where this woman had been let down by her mother, by her stepfather and, in fact, by the lawyer who represented her. As it turned out, she did not even know that the initial criminal injuries compensation claim had been made.

Quite frankly, she was let down by the lawyers acting at the time in not insisting that the money be invested with the Public Trustee. I must say that I am surprised that the judge allowed the money to be paid directly to the mother when, generally speaking, in my experience the courts have been more than insistent that moneys paid on behalf of minors be invested through the auspices of the Public Trustee in order to protect them. I draw the attention of this place to this case. It is hugely disappointing that someone can fall through the system so easily.

In conclusion, I commend this report. I think that the criminal injuries compensation system is exceedingly important as far as our community is concerned. It is quite important and fundamental that society recognises the victim in the whole of the criminal process. In my experience the criminal justice system is not really designed nor, in fact, in my view was ever meant to be designed, as a system to protect victims. It is really directed wholly and solely at whether or not someone is guilty or innocent of a crime and what society should do in terms of penalty and sentencing as far as that offender is concerned. The criminal injuries process, on the other hand, is more focused on the victim. Certainly members on both sides of this place would agree that it needs to be carefully monitored and looked at to ensure that victims of crime do not believe that society as a whole lets them down. I commend the report to this Chamber and I support the motion.

The Hon. J.F. STEFANI secured the adjournment of the debate.

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

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

That the report of the select committee be noted.

(Continued from 8 March. Page 1387.)

The Hon. T. CROTHERS: I think most of what needed to be said was covered by my select committee colleagues, the Hon. Mr Griffin and the Hon. Anne Levy, in respect of this matter. However, there are some comments that I would like to make. To the best of my knowledge, this committee is probably one of the longest ever to have sat in the duration of this Parliament. Certainly, I am on another committee at the moment that may surpass the longevity of this committee.

I would like to preface my remarks by saying that we have been very fortunate in that, unlike other reconstituted committees, the committee of five that was set up has 80 per cent of the members on a committee of the previous Parliament prior to that Parliament's being prorogued. As a consequence of that I want to pay particular tribute to the chairperson of the previous committee of the past Parliament and the chairperson of the present committee, the Hon. Ms Levy and the Hon. Mr Griffin, respectively. Whilst they are different committees, one is the sequel to the other. Suffice for me to say that the Hon. Mr Griffin, in the best Westminster tradition, chaired the committee, sought for the committee to extract whatever truth he could out of it, in my humble view, behaved admirably and is to be congratulated on the report brought down with which all members of the committee were in agreement.

I owe the Hon. Ms Levy a greater debt of gratitude. She is at times when addressing herself to the spoken word

somewhat loquacious. I must confess myself to be guilty of the same loquaciousness. However, as a written wordsmith she would have to be almost without parallel. I was fortunate that the Attorney-General was not far behind her. But as a written wordsmith, and speaking as one of the two Labor members on the committee, I must say that she was of enormous assistance. Much of the final report is the work of her and the Attorney-General. She never flinched when I explained to her that she was a much better written wordsmith than I and she never flinched from the enormous amount of work that her contribution necessitated, along with that of the Attorney-General, in respect to drawing up the report and the manner in which it is drafted.

There are a couple of things I wish to say that are germane to the findings of the committee. After the passage of such a lengthy period of time from the bushfire, it was very difficult for the committee to sort out the wheat from the chaff with respect to matters of an evidentiary nature. We deferred to the Attorney-General's legal background and, perhaps if rumours are right, he may not be with us for much longer, but we will come to that bridge when we do. I thought that it would be remiss if I did not pay a tribute to those two people. When these committees are formed there are people who are foot soldiers like myself who delve and dig and others who are the intellectual spine of the committee and thus it was with the two people to whom I have paid a tribute. The State owes much to the two of them.

I must say that it was difficult to divine truth from fact and myth from mythology with respect to the voluminous evidence that we took. The present and previous Governments had already taken steps to try to redress some of the weaknesses they saw in a case of that nature, that is, a case brought about by natural disaster and from which many people were traumatised and suffered material loss. In the final analysis, the case was settled by the Government of the day introducing a fast tracking method which used Mr Justice Mulligan, or Mulligan QC as he was then, of the State Supreme Court, to fast track the issue, something which brought much criticism at the time. Certainly, in order to undo the Gordian knot that existed because of litigation that was in progress, pending or intended, the committee was of the view that that was the best way forward.

The whole of the exercise certainly cost a lot more money than it should have done. No doubt the Hon. Ms Levy and the Attorney-General, Hon. Trevor Griffin, will correct me if I am wrong, but I think litigation costs were sourced in dollar and cent terms to be in the vicinity of $7 million, clearly something that was beyond the capacity of any but the absolutely rich litigant to sustain and to sustain in this case by the council without doing harm to its capacity to pay those who were claiming compensation. Indeed it put Mr Justice Olsson of the Supreme Court in the position of laying on some criticism in respect of that matter. Steps have been taken by the former Government and by the present one to try to address the matter but, at the end of the day, citizens and bodies corporate still have their rights to their day in court and, whilst we can lay down guidelines, it would be very difficult, if one is to maintain one's attitude towards the Westminster traditions and the separation of power, to stop that.

I find it absolutely appalling that legal costs would account for almost half the total bill that the Stirling bushfire brought about. People can make up their own mind as to whether the blame lay there and who should shoulder the burden for that. I do not want to be critical, but I have no doubt in my mind as to who I think was to blame but because I espouse the principle of not playing the man but playing the substance I will refrain from putting my own viewpoint on record. Suffice to say that it was a viewpoint that may not have been held as strongly by the other four members of the committee, but certainly without being untruthful about their position it was a viewpoint that they came to recognise at the end of the day. The position was, in my humble view, absolutely appalling—and they may wish to give account in various degrees of the word 'appalling' and all the consequences that emanate out of that.

The other point concerns the role that the media played. It played a role in this which I do not think could be subject to all that much criticism, unlike other committees of which I am a member and to which I will give subsequent futuristic reports. The media could not be open to that much criticism in respect of that matter and I place that on record, because I may not be so kind on another occasion in future. One of the witnesses that stood out in my mind from the many dozens of witness that came in (and many good witnesses told the truth as they saw it) was Professor Sandy McFarlane, who was a State-based expert on the suffering of people of trauma of the type that can be inflicted upon them by natural disasters, floods, bushfires, incidents at sea and so on where—and although I am an agnostic I will say it—man proposes and God disposes, *Deo volente*, or, as the insurance industry calls it, freaks of nature in the environment in which we live.

I will not demean Mr Stefani, as he played a constructive role in the matter; but what clearly struck me was the amount of trauma that these people had suffered not only because of the incident itself but for the trauma inflicted upon them by the lengthy period of time it took to get their own cases for compensation and damages to the decision-making bodies of the State. That is something that the legal and medical profession should bear in mind. I know that the medical profession have advisers, my own doctor being one, who go to the fourth year medical schools at both our universities and lecture voluntarily to those fourth year medical students on the issue of their social responsibility to the community.

It may well be that that is something the Law Society could take on board and look at because there can be no doubt that, if McFarlane's evidence is to be believed (and it was evidence based on years of experience and he is up there with the best of them in so far as world recognition is concerned with this type of trauma) it is absolutely heart-rending. One of the recommendations that the committee made was in respect of that matter. If anything came out of the four and a half years of continuously meeting and hearing dozens and dozens of witness in the matter, along with the legal costs of the matter being pursued in a legitimate way through the courts of the land, it was the position of the traumas incurred by these people or perhaps inflicted on them.

When reportage is being done in respect of an incident like that, it is imperative that the media get its act into gear, report it accurately and bear in mind that they, like the legal and medical profession, should have an awareness of the social damage that can be inflicted perhaps unknowingly or unwittingly on people but inflicted nonetheless. According to Professor McFarlane, some of these people to this day have not recovered their memory of the events when they were caught up and embroiled in the middle of that fire. It is an awful tragedy that has emerged for a number of people who still suffer the consequences of the tragedy to this day.

I commend the work of the committee to the Chamber and, in particular, the work of those two doggedly determined expert wordsmiths, one a former Chair and the other the present Chair—the Hons Ms Levy and Mr Griffin. The committee was conducted in the best Westminster fashion possible. As such, it leads me to think that, after all, there still is a place for select committees in the Parliament of South Australia. I commend the report to the Council.

The Hon. J.F. STEFANI: I support the motion that was moved by the Attorney-General, the Hon. Trevor Griffin, who tabled the report of the Select Committee into the Stirling Council Ash Wednesday 1980 Bushfires. As the Attorney-General mentioned in his contribution, the committee considered a wide range of issues including issues within its terms of reference. The terms of reference restricted the committee from taking evidence or investigating the quantum and nature of the claims. I know that some members of the South Australian public wished that the committee could have taken evidence and tested the veracity of some of the claims. This matter was an important community concern but, unfortunately, the terms of reference covering the work of the committee did not include the testing of the claims which were made by the many residents who suffered losses as a result of the fire.

All the claims were based on losses due to liability, nuisance and negligence. The types of claims covered a broad spectrum and can be categorised into damages based on personal injury and property loss. The State Government's involvement was complex due to the attitude of the plaintiffs and the Stirling Council, the legal representatives of both sides and, later, the reactions of the community. The liability for the damages arising from the 1980 Ash Wednesday bushfires was determined to be that of the Stirling Council. The council looked to the State Government to provide a solution, either legislative or financial assistance. The State Government maintained that the council had the entire responsibility for the claims. However, it offered help by way of advice and assistance in pursuing appropriate funding options but gave no financial undertakings and did not accept any of the liability of the Stirling Council.

The State Government recognised that it had no power to direct any parties involved in this matter. It also recognised that the council did not have the financial capacity to meet the whole or a significant amount of the potential claim without a substantial increase in rates or the severe reduction of services. Both options were recognised to be undesirable. A group of 14 plaintiffs, including the Casley-Smiths and their legal advisers, would not cooperate with the Stirling Council in giving complete details about the amount of damages claimed because the council would not admit liability. The council, even after it lost the Delaney case, would not admit liability because it believed that it did not have the financial ability to pay the claims against it. The council would not mount a thorough defence for the damages claims because it did not know the extent of the claims. The position of both parties was intractable and there was no possibility of a negotiated settlement without the Government's intervention. The State Government was of the view that the councillors had a legal obligation to council to act reasonably, properly and in the best interests of the ratepayers of Stirling. The Government was of the opinion that council members would be in breach of that obligation if they acted in any way to increase the council's liability. By February 1989, the council acknowledged that it did not have the financial ability to continue the case.

Throughout 1988 and 1989 the lack of progress in resolving the case was the cause of public concern. Both parties were blaming each other. Despite the urging of the State Government, it became apparent that the Stirling Council and some of the plaintiffs expected the Government to provide the solution—that is, the money—for matters arising from the fires. The Government would not commit itself without knowing the final liability or that a reasonable settlement was possible and without having some measure of influence in the conduct of the case.

In May 1989 the community saw a completely new council which was elected on the basis of dealing with this matter. The newly elected council immediately commenced discussions with the Government. This council claimed that it could not afford to continue to meet the high litigation costs and proposed that it would leave itself undefended in the current damages assessment trial. The Government advised the elected members that such action would probably represent a serious breach of their responsibility under the Local Government Act. An alternate dispute resolution procedure was agreed and established in early June 1989. The plaintiffs and the council agreed to an initial adjournment of two weeks in the Casley-Smith trial to enable Mr Mullighan QC to commence his work. Later in June, the Government negotiated with the council to have Mr Mullighan's brief altered from providing detailed advice on the damages claims to forming a view on the amount for which he thought the claims could be settled and whether such settlement was reasonable.

By the end of July 1989 the damages claims of 14 plaintiffs were settled for $9.5 million, an amount which Mr Mullighan considered as being not unreasonable. This settlement was unanimously approved by the Stirling Council, which warmly thanked the Government for its assistance and asked for Mr Mullighan's assistance to resolve the other claims which had not been settled.

On 1 August 1989, the Stirling Council entered into an amended debenture of $12.5 million to cover the additional cost of the settlement of the damages cases. Mr Mullighan continued until early September 1989, when all but one of the significant damages claims had been settled with the approval of the Stirling Council for a total of $14.3 million. These claims, which had previously totalled $27 million, obviously had been settled for a much lesser figure.

These are some of the findings of the report. The volume of written and oral evidence received by the committee was very extensive. I acknowledge the work of the research officers who assisted the Stirling Council select committee throughout its working procedures, and in particular I pay a tribute to Mr Richard Coombe, who worked very diligently to bring the report to its conclusion. I am pleased to see the committee report on this matter and to see the committee finalise its work. I support the motion.

The Hon. BERNICE PFITZNER: I note the report of the select committee into the Stirling Council Ash Wednesday 1980 Bushfires. This committee began taking evidence in September 1990 and is reporting now in March 1995—a 4½ year stint. It has obviously been a marathon run and very heavy going, and I congratulate the original members of the committee and the committee staff for their diligence. As I only joined the committee in the last year when deliberations were taking place, it appeared very civil

and accommodating. In view of my short time on the committee, my contribution will be brief.

I remember vividly the occasion of the 1983 bushfires because I live at Skye, and when it looked like the fire was moving to our area we were asked to evacuate with only a few essential possessions. I remember that we were delayed as the two children could not make up their minds as to what were essential possessions. Even at that distance from the fire there was fear and, in a way, excitement. The fire did not come down as far as Skye, as the winds changed and the fire was deflected from that area. I recall that the fire burnt houses to the ground along Greenhill Road, especially along Yarrabee Road. My father-in-law was on his block at Piccadilly when the fire came. He was passing buckets of water to douse the flames on his property mainly in order to stop the fire from spreading to his neighbour's vineyard. He then had a heart attack, and I understand that he fell into the flames and died. That Ash Wednesday fire will not be easily forgotten, and I imagine it will be the same for those who were caught up in the 1980 fire.

I am particularly interested in counselling and support for victims. It is encouraging that the committee suggests that the State Disaster Plan be expanded to include counselling and support services as well as legal advice. I understand that evidence was given by Professor McFarlane regarding post-disaster or post-traumatic stress and that he 'strongly argued that justice delayed is justice denied'. However, one must not be too accepting of counselling or debriefing following trauma 'as the proper thing to do', said Dr Justin Kenardy, Senior Lecturer in Psychology at the University of Newcastle. Dr Kenardy carried out research on 195 emergency services workers following an earthquake. The results showed that of the people in the debriefed group 34 per cent reported that debriefing was very or extremely helpful and 46 per cent said that it was somewhat helpful. The outcome measures for the two groups did not differ.

However, Dr Kenardy warns that this does not automatically mean that stress debriefing is worthless. Perhaps one must look at the quality of the counselling and debriefing, whether it is compulsory and who conducts the sessions. It seems to me that counselling is and should be done by experienced and qualified people. I hope we have learnt something in this exercise which involved tense moments with local government, State Government, ratepayers and their lawyers. However, I am sure we would all agree that the prevention of fires is always much better than the cure. I commend the report to the council.

The Hon. K.T. GRIFFIN (Attorney-General): I acknowledge the contributions of members of the select committee. As the Council can identify, there was a significant measure of goodwill among the members in an effort to resolve this longstanding select committee. The recommendations of the committee are important ones that look to the future, and that is the perspective that the select committee wished to give in its consideration of the evidence and submissions made to the earlier select committee and subsequently wound up by this one. I again reiterate my appreciation to members of the committee and the staff for their contributions to this work.

Motion carried.

ENVIRONMENTAL PROTECTION ACT

Order of the Day, Private Business, No. 4: Hon. R.D. Lawson to move:

That the regulations under the Environmental Protection Act 1993 concerning variation to schedule 1, made on 27 October 1994 and laid on the table of this Council on 1 November 1994, be disallowed.

The Hon. J.C. Irwin (on behalf of Hon. R.D. LAWSON): I move:

That this Order of the Day be discharged.

Order of the Day discharged.

Order of the Day, Private Business, No. 5: Hon. R.D. Lawson to move:

That the general regulations under the Environmental Protection Act 1993, made on 27 October 1994 and laid on the table of this Council on 1 November 1994, be disallowed.

The Hon. J.C. Irwin (on behalf of Hon. R.D. LAWSON): I move:

That this Order of the Day be discharged.

Order of the Day discharged.

Order of the Day, Private Business, No. 6: Hon. R.D. Lawson to move:

That the regulations under the Environmental Protection Act 1993 concerning ozone protection, made on 27 October 1994 and laid on the table of this Council on 1 November 1994, be disallowed.

The Hon. J.C. Irwin (on behalf of Hon. R.D. LAWSON): I move:

That this Order of the Day be discharged.

Order of the Day discharged.

Order of the Day, Private Business, No. 7: Hon. T.G. Roberts to move:

That the regulations under the Environmental Protection Act 1993 concerning variation to schedule 1, made on 27 October 1994 and laid on the table of this Council on 1 November 1994, be disallowed.

The Hon. T.G. ROBERTS: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

PUBLIC SECTOR MANAGEMENT BILL

In Committee.

(Continued from 14 March. Page 1510.)

Clause 74—'Operation of Industrial and Employee Relations Act.'

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

Page 35, after line 30—Insert subclause as follows:

(2) Nothing in this section is to construed as affecting the operation of the Industrial and Employee Relations Act 1994.

The intention of the amendment is to make clear that any other matters which would normally be determined or to which access would be afforded under the Industrial Relations Act are not exempted by the inclusion of this clause within the Public Sector Management Bill. The amendment outlines that there should be no expectation that matters that are normally accessible to the Commission would be exempted under this Act. The amendment is designed to clarify the situation, and I ask the Committee to support it.

The Hon. R.I. LUCAS: The Government very strongly opposes this provision. It is not the simple matter that the

Hon. Mr Roberts has just referred to but masks a significant issue, and we will perhaps explore a little further the reasons why this amendment is being attempted to be reintroduced. Clause 74 of the Public Sector Management Bill was included as a transfer of clause 77 of the GME Act with updating to allow for the present industrial climate where enterprise agreements are envisaged.

These sections were inserted respectively simply to provide a reminder reference about the application of the industrial legislation. So much detail specifying particular employment conditions appeared throughout the Public Sector Management Bill/GME Act that it was thought necessary to balance any impression created that the industrial legislation did not apply. The Government's phrasing is strongly preferred because it limits the jurisdiction of the industrial legislation specifically to remuneration and employment conditions matters. The Opposition's amendment opens up the potential application of the Industrial and Employee Relations Act to all possible decisions of the Industrial Relations Commission for the jurisdiction and power of the Industrial Commission to operate at large.

The previous Public Service Act 1967 had an additional subsection (2) which allowed the Industrial Relations Commission to operate at large. It provided that nothing in the section be construed as affecting the operation of the industrial code or any subsequent corresponding enactment. This was not retained in the GME Act. This is an attempt by the Labor Party and perhaps the PSA, through this clever mask, in effect to allow the Industrial Commission to have application to every issue in relation to the Public Service.

When the Labor Government introduced the GME Act in 1985 it removed the provision from the Public Service Act. A similar provision to this used to be in the Public Service Act, and the Labor Government removed it on the basis that it allowed the Industrial Commission (or its equivalent at that time) to have control over and a say on everything that related to Government management of the Public Service. In 1985, the Labor Government, I presume with the support of the Liberal Party and the Democrat representatives, Mr Gilfillan and Mr Milne, supported the removal of that provision.

The Hon. Mr Roberts now seeks to insert it on the basis that it is of no great consequence, but it really is a significant amendment. I can only surmise that the Hon. Mr Roberts is doing it at the behest of the Public Service Association, and perhaps it has not explained the full import of this provision. I think that leaves the Hon. Mr Roberts a little exposed on this issue, which places him in a difficult position, and I have some sympathy for that. The Democrats and the Labor Party were saying that we needed to return to the GME Act; that we promised we would keep the GME Act; and that we would therefore stick with the provisions of that Act. I have not heard from the Hon. Mr Elliott, but the Labor Party is suggesting that we do not return to the GME Act but that we go back to the 1960 Public Service Act to put in this provision which, as I said, then gives free reign for the Industrial Commission to operate right across all decisions of public sector management that have been for 10 or 15 years the province of Government management.

I do not know where that leaves us. I guess it depends on the position that the Hon. Mr Elliott takes. However, the Government has a strong view in relation to this. It was the reason we adjourned last night: to enable us to seek further advice on this matter. The Government cannot accept this provision. We urge the Hon. Mr Elliott in his consideration not to support it, and that might perhaps solve all the problems. Should it be inserted, it will create significant problems for the Government, and it is not really the provision that the Hon. Mr Roberts thought he was inserting in relation to this matter. So, I urge reconsideration of the matter.

The Hon. M.J. ELLIOTT: The Hon. Mr Lucas is correct in saying that, in general terms, where I have been concerned by elements of the Public Sector Management Bill I have in effect sought to reinstate the GME Act, which was the Government's position before the election. This issue has not been brought to my attention as being one of great concern. I have not been informed by anyone that they felt this change was necessary; nor have I been told that there are any particular difficulties with the way in which things operate under the GME Act. If the clause itself is a duplication, albeit an update of that, there is no reason to believe that there would be any troubles with it, either. Unless the Hon. Mr Roberts has further information to add, I will not support this amendment.

The Hon. R.R. ROBERTS: Far from being convinced by the arguments put forward, it seems to me that a couple of considerations need to be taken into account here. There have been recent alterations, and the Minister in his contribution talked about what was in the GME Act in 1985 and beyond. I point out that the Industrial Relations Act has just been changed and I am advised that this clause was proposed to be inserted by the Hon. Ralph Clarke, so the assertion that it is the child of the PSA is not entirely correct, although I have taken some advice from officers of the PSA as to what this means. The amendment does not seek to provide open slather for someone to rush off and do dastardly deeds or have access to something that is not normally applicable or available to an employee.

The Industrial Relations and Employees Act provides for access on a whole range of matters to arbitration or conciliation in the case of agreements. It provides for determinations to take place. The contribution of the Minister has alarmed more than placated me because, quite clearly, it is the intention of the Government to deny members of the Public Service the same access to disputation settling procedures that are available to everyone else. I do not believe that is acceptable. I understand that at this stage the Hon. Mr Elliott does not intend to support the amendment proposed by the Opposition, and I suppose that is his right. But it does concern me when it is pointed out that the clause being proposed by the Government denies employees access to disputes resolution procedures that are available to almost every other employee in the State, and I do not know that there is anything of exceeding moment beyond remuneration and conditions of employment that may be considered.

However, it is a system which has been legislatively put into place to resolve disputes about conditions of employment, things that affect employment or disputes in relation to employment and which has proved to be fairly successful over time. I am more concerned than I was when I first made inquiries about this clause that this clause is denying, and is intended to deny, employees of the Public Service in South Australia access to the disputes resolution processes that any other employee can expect to access. I am disappointed that the Hon. Mr Elliott is not at this stage disposed to support our amendment. However, I put on the record my absolute support for this. The Opposition believes that this is a condition that ought to be available to members of the Public Service Association, or public servants.

The Hon. M.J. ELLIOTT: I do not know whether or not the Hon. Mr Roberts has clause 77 of the GME Act to hand, but I invite him to show how proposed clause 74 is in any significant fashion different from section 77 of the GME Act. On my reading I do not find a substantial difference.

The Hon. R.R. ROBERTS: I do not have the clause at my fingertips. I understand that the existing GME Act is in similar terms to this. I point out that there have been some alterations in the Industrial Relations Bill, and we debated many of those last week, which talked about who may access the system and who may represent people in that area, and it is very clear that what is available is closely defined as to how it can be accessed and who can access it. I agree with the Hon. Mr Elliott that this clause may be in similar terms, but the shadow Minister for Industrial Relations obviously is of the opinion that it needs to be determined that we are not taking away any rights that people automatically would have under the Industrial and Employee Relations Bill. So, it is a determination.

It is a fairly simple principle and I suppose one could take the view that the Hon. Mr Elliott is contemplating that, because it is the same as the GME Act, it presents no drastic alteration. I submit that the clarification clause we have put in ensures that there will be no misconstruing of the rights of employees to access the disputes resolution processes that are available to other employees under the Industrial and Employee Relations Act 1994. However, I will not pursue this clause at great length at the moment: it is fairly clear that we do not have the numbers. That worries me a little. However, I believe that we ought to determine this matter and move on.

Amendment negatived; clause passed.

Clauses 75 to 78 passed.

Clause 79—'Evidentiary provision.'

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

Page 36, line 34—Leave out 'Minister' and insert 'Commissioner'.

This is consequential on a principle established some time ago.

Amendment carried; clause as amended passed.

Clauses 80 and 81 passed.

Clause 82—'Delegation by Minister.'

The Hon. R.R. ROBERTS: The Opposition is opposed to this. We believe it is consequential on alterations or determinations we made to clause 27.

The Hon. M.J. ELLIOTT: Does the Minister, whether he agrees or not, accept that this is actually a consequential amendment?

The Hon. R.I. LUCAS: We do not agree with it, but the advice I have is that, because of the decisions taken by the Democrats and the Labor Party with clause 27, we consequentially have to do this.

Clause negatived.

Clause 83 passed.

Schedule 1—'Persons excluded from Public Service.'

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

Clause 1, page 38, line 17—Leave out 'a Minister to the' and insert 'the Premier to a'.

In effect, this recognises the fact of the matter; that is, that ministerial staff are not actually appointed by the Ministers currently, they are appointed by the Premier—there is a contract of employment between all staff in all Ministers' offices and the Premier. This really more accurately ought to refer to the Premier.

The Hon. R.R. ROBERTS: The Opposition supports the amendment.

Amendment carried; schedule as amended passed.

Schedule 2—'Hours of attendance, holidays and leave of absence.'

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

Page 39, line 15—Leave out 'Minister' and insert 'Commissioner'.

Page 39, line 17—Leave out 'Minister' and insert 'Commissioner'.

Page 40, line 7—Leave out 'Minister' and insert 'Commissioner'.

Page 40, line 8—Leave out 'Minister' and insert 'Commissioner'.

Page 40, line 11—Leave out 'Minister' and insert 'Commissioner'.

Page 40, line 12—Leave out 'Minister' and insert 'Commissioner'.

Page 40, lines 15 and 16—Leave out 'Minister' (twice occurring) and insert, in each case, 'Commissioner'.

Page 40, line 23—Leave out 'Minister' and insert 'Commissioner'.

Page 41, line 6—Leave out 'Minister' and insert 'Commissioner'.

Page 41, line 7—Leave out 'Minister' and insert 'Commissioner'.

Page 41, line 9—Leave out 'Minister' and insert 'Commissioner'.

Amendments carried.

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

Page 41, line 10—After 'employees' insert 'so as to authorise the establishment of a pool of sick leave credits for the benefit of any member of the group who has a longer term.

This Bill makes provision for modifying sick leave schemes but does not define the circumstances under which this can occur. The amendment picks up what is understood to have been the Government's intention. Without this amendment no parameters or limits exist and the clause could operate to the detriment of the employees. I have some concerns about the pooling of sick leave, but I understand that it is within the parameters of minimum standards of awards. I am advised that it falls within similar provisions that apply with long service leave. Therefore, there is some protection in the ability to trade away sick leave. It is my understanding that this is not to trade away sick leave: it is to change the way sick leave credits are distributed for the benefit of the members in a group. Whilst I have some reservations about this amendment, I ask for the Committee's support.

The Hon. R.I. LUCAS: If I read the Hon. Ron Roberts correctly, he has spoken passionately on a number of amendments. I suspect that that was one of his less passionate defences. In the words of the Hon. Terry Roberts, it is probably one of those tradeable ones, one would have thought. The Government opposes this provision because it restricts the flexibility that employees may wish to see in relation to modifications of sick leave provisions. The subclause was specifically developed. It provides:

The Minister may, with consent of the employees concerned, approve a scheme modifying the application of this clause in relation to employees.

Therefore, it is flexible. It has to be with the consent of the employees concerned. Again, it is not a nasty, right-wing ideologue, Government or chief executive screwing the workers, should there ever be a Government or a chief executive like that. This is with the consent of the employees concerned, which is a very powerful protection. We are providing that this is with the consent of the employees. If they do not consent then they do not consent. The provision would restrict it only as to authorise the establishment of a pool of sick leave credits. I am advised that there may well be a range of other measures that do not relate to a pool of sick leave credits that the employees might be quite happy to

agree to. This would unnecessarily restrict employees in their consideration of various options. I would have thought that the protection is there in the drafting. With the consent of the employees concerned there can be some modification. I would have thought that that is what flexibility, enterprise bargaining, discussions, allowing employees—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: You want to go in harder than you did the first time—to have a bit of a say in relation to these issues. That is the provision. The Government's strongly held view is that this is unnecessarily restrictive. We notice that the Hon. Mr Elliott does not have a similar amendment and we urge him not to support this amendment.

The Hon. M.J. ELLIOTT: I recognise that the Minister, like myself, is not a lawyer, but—

An honourable member: Hear! Hear!

The Hon. M.J. ELLIOTT: And there should be more of it. That aside, it appears to me that there could be some rather interesting legal questions arising out of paragraph (d) as it stands regardless of amendments. We talk about the consent of the employees concerned.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: That is the sort of question. Presumably it means that it requires every member of the group to consent or a group can only consist of those who consent and you cannot have most of them consenting. I presume that is the case, but I do not know so. You then have a question of whether the right to consent is a right to remove that consent and, if so, when. Can you sign something that says, 'for as long as I am working for the public sector'? Is it legally possible that that could happen or is it possible that a person giving consent can remove that consent at any time? They are a couple of questions to which I do not have answers, but they are important.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: On both those questions?

The Hon. R.I. LUCAS: I am advised that the way it is drafted at the moment would mean all employees, so you could not have 50 per cent plus one forcing their will on 49 per cent minus one, which the Hon. Mr Elliott raised. On the second point in relation to some sort of review mechanism and whether you are locked in for the rest of your life, I am told that the schemes could make arrangements for a review period of 12 months, two years or whatever.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: I suppose you could do that, but the normal arrangement would be that you would do it for a period, particularly if there is any doubt. You are talking of consent employees. If they are looking at a very good deal from their viewpoint, they may be happy to sign up on the basis that it is good and will go for it. If there is any concern or through normal improvements they may do it for one or three years or whatever, but again it is a decision they take to look at it. That is the advice with which I have been provided.

The Hon. M.J. ELLIOTT: I have some concern that some sort of consent might be granted that might not be revocable, which appears possible under subclause (d) as it stands. You cannot even do that under an enterprise agreement as it has to be reviewed every two years.

The Hon. R.I. Lucas: That problem would be there—the Labor amendment does not change that.

The Hon. M.J. ELLIOTT: I understand that, except that, while the Labor amendment does not give the flexibility you hope for, at least it is so specific that you know what can happen with it and as such there does not appear to be any down side to it.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: I am not sure that we will get another bite at it this time around. I have some sympathy for the Minister's argument that there may be other things we may like to do besides what the Opposition is proposing. However, for the sake of keeping it alive (and there needs to be some amendment that puts some limitations around (d)), at this stage I will support the amendment, but make the point that I have no great commitment to it as such but feel that there may be some problems within the subclause itself.

The Hon. R.R. ROBERTS: I thank the Hon. Mr Elliott for his contribution. In the few moments he was speaking, I have made a closer check and I am now much more committed to this amendment than may have appeared in the first instance. I have had the opportunity to read more closely the clause proposed by the Minister which says 'the Minister may' and, as I recall, we have gone through this to some extent in most other areas and said that it ought to be the commissioner. By keeping the proposition alive, as the Hon. Mr Elliott puts it, by supporting the amendment he has—

The Hon. M.J. Elliott interjecting:

The Hon. R.R. ROBERTS: I am comforted by that. However, he has also laid down the parameters whereby the commissioner or Minister may in fact, with the consent of employees, approve a scheme modifying the application of this clause in relation to a group of employees. The amendment specifies the parameters of where those movements can take place. I am quite comfortable about saying that I do not agree with the pooling of sick leave. Under Acts in this State each employee is entitled to 10 days' sick leave, fully cumulative, on a personal basis. I believe that that ought to be an individual entitlement and ought not to be traded away in a group scheme or any other scheme. However, many other employees do agree, and I am told that it is an established principle that does occur. If it is going to occur, parameters ought to be laid down whereby abuses of the system beyond the fears that I may have held will be contained. I am thankful for the Hon. Mr Elliott's indication of support for this amendment and, as it will keep it alive, I would hope that it is a life that we will visit only briefly and reindorse if the matter is recommitted.

Amendment carried.

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

Page 41—

Lines 16 and 17—Leave out 'Minister' (twice occurring) and insert, in each case, 'Commissioner'.

Lines 21 and 22—Leave out 'Minister' (twice occurring) and insert, in each case, 'Commissioner'.

Line 27—Leave out 'Minister' and insert 'Commissioner'.

Line 31—Leave out 'Minister' and insert 'Commissioner'.

Line 32—Leave out 'Minister' and insert 'Commissioner'.

Page 42—

Line 4—Leave out 'Minister' and insert 'Commissioner'.

Line 11—Leave out 'Minister' and insert 'Commissioner'.

Line 21—Leave out 'Minister' and insert 'Commissioner'.

Line 24—Leave out 'Minister' and insert 'Commissioner'.

Line 32—Leave out 'Minister' and insert 'Commissioner'.

Page 43—

Line 17—Leave out 'Minister' and insert 'Commissioner'.

Lines 27 and 28—Leave out 'Minister' (twice occurring) and insert, in each case, 'Commissioner'.

The amendments are consequential.

Amendments carried; schedule 2 as amended passed.

New Schedule 2A.

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

After schedule 2, page 43—Insert new schedule as follows:

SCHEDULE 2A

Promotion and Grievance Appeals Tribunal and Disciplinary Appeals Tribunal

1.(1) The following Tribunals are established:

(a) the Promotion and Grievance Appeals Tribunal; and

(b) the Disciplinary Appeals Tribunal.

(2) Except where the contrary intention appears, the remaining provisions of this schedule apply in relation to both the Promotion and Grievance Appeals Tribunal and the Disciplinary Appeals Tribunal.

Appointment of Presiding Officer and Deputy Presiding Officer

2.(1) The Governor may appoint—

(a) a suitable person to be Presiding Officer of the Tribunal; and

(b) a suitable person to be Deputy Presiding Officer of the Tribunal.

(2) Before the Governor makes an appointment under subclause (1), the Minister must invite representations from recognised organisations on the proposed appointment.

(3) A person is not eligible to be appointed as Presiding Officer or Deputy Presiding Officer of the Disciplinary Appeals Tribunal unless that person is a member or a former member of the judiciary of the State or the Commonwealth.

(4) A person is not eligible to be appointed as Presiding Officer or Deputy Presiding Officer of the Promotion and Grievance Appeals Tribunal—

(a) if the person is an employee; or

(b) unless the person has, in the opinion of the Governor, appropriate knowledge and experience of principles and practices of personnel management in the public sector.

(5) In the absence of the Presiding Officer of the Tribunal, or if there is temporarily no Presiding Officer of the Tribunal, the Deputy Presiding Officer has all the powers and functions of the Presiding Officer.

(6) A Presiding Officer or Deputy Presiding Officer of the Tribunal is to be appointed for a term of office (not exceeding five years) determined by the Governor and specified in the instrument of appointment and, at the end of a term of office, is eligible for reappointment.

(7) A person ceases to be Presiding Officer or Deputy Presiding Officer of the Promotion and Grievance Appeals Tribunal if the person—

(a) completes a term of office and is not reappointed; or

(b) resigns by written notice addressed to the Minister; or

(c) is removed from office by the Governor on the ground of—

(i) misconduct; or

(ii) neglect of duties; or

(iii) incompetence; or

(iv) mental or physical incapacity to carry out official duties; or

(d) is convicted of an offence punishable by imprisonment; or

(e) becomes a member, or a candidate for election as a member, of the Parliament of the State or the Commonwealth.

(8) A person ceases to be Presiding Officer or Deputy Presiding Officer of the Disciplinary Appeals Tribunal if the person—

(a) completes a term of office and is not reappointed; or

(b) resigns by written notice addressed to the Minister; or

(c) ceases to be a member of the judiciary.

(9) A person who ceases to be Presiding Officer or Deputy Presiding Officer of the Tribunal on completion of a term of office, on resignation under this clause, or on retirement or resignation as a member of the judiciary, may continue to act in the relevant office for the purpose of completing the hearing and determination of proceedings part-heard at the completion of the term of office, or at the time of the retirement or resignation.

Panels of nominees

3.(1) For the purpose of constituting the Tribunal there is to be—

(a) a panel of employees nominated by the Commissioner; and

(b) a panel of employees nominated by recognised organisations.

(2) The Minister may from time to time invite the recognised organisations to nominate employees to constitute the panel referred to in subclause (1)(b).

(3) If a recognised organisation fails to make a nomination in response to an invitation under subclause (2) within the time allowed in the invitation, the Minister may choose employees instead of nominees of the recognised organisation and any employees so chosen are to be taken to have been nominated to the relevant panel.

(4) A person ceases to be a member of a panel if the person—

(a) ceases to be an employee; or

(b) resigns by notice in writing addressed to the Minister; or

(c) is removed from the panel by the Minister on the ground of misconduct, neglect of duty, incompetence or mental or physical incapacity to carry out official duties; or

(d) has completed a period of two years as a member of the panel since being nominated, or last renominated, as a member of the panel, and is not renominated to the panel.

(5) A person who ceases to be a member of a panel on retirement or resignation from the Public Service, on resignation under this clause, or on completion of a period of two years as a member of the panel, may continue as a member of the panel for the purpose of completing the hearing and determination of proceedings of the Tribunal part-heard at the completion of the period as a member, or at the time of the retirement or resignation.

Constitution of Tribunal and divisions of Tribunal

4.(1) For the purpose of hearing and determining any proceedings, the Tribunal is to be constituted of—

(a) the Presiding Officer or Deputy Presiding Officer of the Tribunal; and

(b) a member of the panel of nominees of the Commissioner selected by the Presiding Officer for the purpose of those proceedings; and

(c) a member of the panel of nominees of recognised organisations selected for the purpose of those proceedings—

(i) by the appellant; or

(ii) if there are two or more appellants and they do not agree on the selection of a nominee—by the Presiding Officer.

(2) The Presiding Officer, if of the opinion that it is expedient that separate divisions of the Tribunal should be constituted, may direct that the Tribunal sit in separate divisions.

(3) A division of the Tribunal is to be constituted in accordance with subclause (1).

(4) Separate divisions of the Tribunal may sit contemporaneously to hear separate proceedings.

Procedure at meetings of Tribunal

5.(1) The Presiding Officer or Deputy Presiding Officer of the Tribunal must preside at the hearing of any proceedings by the Tribunal.

(2) The Presiding Officer or Deputy Presiding Officer of the Disciplinary Appeals Tribunal must decide any question of law arising in proceedings before that Tribunal but any other decision in which any two or more members of the Tribunal concur is a decision of the Tribunal.

(3) A decision in which any two or more members of the Promotion and Grievance Appeals Tribunal concur is a decision of that Tribunal.

Employee not subject to direction

6. A member of the Tribunal who is an employee is not subject to direction as an employee in respect of the performance of duties as a member of the Tribunal.

Secretary to Tribunal

7. There is to be a Secretary to the Tribunal.

Principles upon which Promotion and Grievance Appeals Tribunal is to act

8. In proceedings under this Act, the Promotion and Grievance Appeals Tribunal—

(a) is to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms; and

(b) is not bound by any rules of evidence, but may inform itself on any matter in such manner as it thinks fit.

Notice of proceedings, etc.

9.(1) The Presiding Officer or the Secretary to the Tribunal must give a party to proceedings before the Tribunal reasonable notice of the time and place at which the Tribunal is to hear those proceedings.

(2) The Commissioner is to be treated as a party to all proceedings before the Tribunal.

(3) A party must be afforded a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses, and to make submissions to the Tribunal.

(4) If a party does not attend at the time and place fixed by the notice, the Tribunal may hear the proceedings in the absence of that party.

Representation

10.(1) Subject to subclause (2), a person is entitled to appear personally, or by representative, in proceedings before the Tribunal.

(2) A person is not entitled to be represented by a legal practitioner except in proceedings before the Disciplinary Appeals Tribunal.

Powers of the Tribunal

11.(1) In the exercise of its powers or functions under this Act, the Tribunal may—

(a) by summons signed on behalf of the Tribunal by a member of the Tribunal, or the Secretary to the Tribunal, require the attendance before the Tribunal of any person; and

(b) by summons signed on behalf of the Tribunal by a member of the Tribunal, or the Secretary to the Tribunal, require the production of any record or object; and

(c) require a person to make an oath or affirmation to answer truthfully all questions put by the Tribunal, or a person appearing before the Tribunal; and

(d) require a person appearing before the Tribunal to answer relevant questions put by a member of the Tribunal or by a person appearing before the Tribunal.

(2) Subject to subclause (3), if a person—

(a) who has been served with a summons to attend before the Tribunal fails without reasonable excuse to attend in obedience to the summons; or

(b) who has been served with a summons to produce a record or object fails without reasonable excuse to comply with the summons; or

(c) misbehaves before the Tribunal, wilfully insults the Tribunal or a member of the Tribunal or interrupts the proceedings of the Tribunal; or

(d) refuses to be sworn or to affirm, or to answer a relevant question when required to do so by the Tribunal,

the person is guilty of an offence.

Penalty: Division 6 fine.

(3) A person is not obliged to answer a question or to produce a record or object (other than a record or object of the Government) under this clause if to do so would tend to incriminate the person of an offence.

(4) In the course of proceedings, the Tribunal may—

(a) receive in evidence a transcript of evidence in proceedings before a court or tribunal and draw any conclusions of fact from the evidence that it considers proper; or

(b) adopt any findings, decision or judgment of a court or tribunal that may be relevant to the proceedings.

Witness fees

12. A person who appears as a witness in proceedings before the Tribunal is entitled to reimbursement of expenses in accordance with the regulations.

Reasons for decision

13. At the conclusion of an appeal, the Tribunal must, at the request of a party to the appeal, furnish the party with a statement of the reasons for the Tribunal's decision on the appeal.

Report on proceedings of the Tribunal

14.(1) The Presiding Officer of the Tribunal must, within three months after the end of each financial year, report to the Minister on the work of the Tribunal during that financial year.

(2) The Minister must, within 12 sitting days after receipt of a report under this clause, cause copies of the report to be laid before each House of Parliament.

This new schedule is consequential on previous debate.

New schedule inserted.

Schedule 3—'Repeal and transitional provisions.'

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

Clause 6, page 45, lines 6 and 7—Leave out paragraph (b).

The Government believes that it is appropriate for all executives to work within the framework of agreed performance standards. This reflects the importance of such positions and market standards for executive employment in the private sector. However, the Government recognises that it may be seen as unreasonable to expect existing executives to become subject to such requirements within employment arrangements which exist at the time of the repeal of the GME Act and, therefore, proposes this change to the transitional arrangements. If these executives enter into subsequent contracts under the new Act, then they would become subject to the requirements related to agreed performance standards.

Amendment carried.

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

Clause 7, page 45, line 18—Leave out 'four weeks' and insert 'three months'.

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

Clause 7, page 45, lines 18 to 20—Leave out paragraph (c).

This amendment is consequential on some changes that were made when we were debating the body of the Bill in relation to executives. To be consistent, I will oppose the Minister's amendment.

The Hon. Mr Lucas's amendment negatived; the Hon. Mr Elliott's amendment carried.

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

Clause 8, page 46, lines 34 to 42 and page 47, lines 1 to 3—Leave out clause 11 and insert:

Tribunals continued

11. The Disciplinary Appeals Tribunal and the Promotion and Grievance Appeals Tribunal as constituted under the repealed Act immediately before the commencement of this Act continue as the same Tribunals subject to this Act.

This amendment is consequential, recognising that in Schedule 2A the Disciplinary Appeals Tribunal and the Promotion and Grievance Appeals Tribunal have been established. They are just continuing in existence.

Amendment carried.

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

Page 47, after line 13—Insert new clause as follows:

Interaction with Superannuation Legislation

15.(1) Termination of an employee's employment in the Public Service under Division 4 of Part 8 is to be taken to constitute retrenchment for the purposes of the Superannuation Act 1988, the Superannuation (Benefit Scheme) Act 1992 and the Southern State Superannuation Act 1994.

(2) Termination of an employee's employment in the Public Service under Division 5 of Part 8 is to be taken to constitute termination on account of or on the ground of invalidity for the purposes of the Superannuation Act 1988, the Superannuation (Benefit Scheme) Act 1992 and the Southern State Superannuation Act 1994.

(3) Termination of an employee's employment in the Public Service under Division 6 of Part 8 is to be taken to constitute termination on the ground of incompetence for the purposes of the Superannuation Act 1988.

There has been ongoing concern by the PSA that the use of the word 'terminate' in the Bill in relation to employees in circumstances of excess mental or physical incapacity or unsatisfactory performance rather than the use of the word 'retire' as in the GME Act will affect an employee's superannuation entitlements. This amendment makes it clear that, for the purposes of the State Superannuation Schemes, in such circumstances the word 'terminate' in the Bill has the same meaning as the word 'retire' in the GME Act.

The Hon. R.R. ROBERTS: We support the amendment. We had this argument earlier, and it has been determined that way.

Amendment carried; schedule as amended passed.

Title passed.

Progress reported; Committee to sit again.

GAMING SUPERVISORY AUTHORITY BILL

Adjourned debate on second reading.
(Continued from 15 February. Page 1190.)

The Hon. T. CROTHERS: I rise to indicate that, basically, the Opposition supports this Bill, but that, in Committee, I will move a fairly minor amendment. The necessary essence of the Bill derives in the main from the fact that, in a sense, South Australia no longer has the Casino as its sole gaming area following the introduction of poker machines into this State. This Bill will establish a Gaming Supervisory Authority, a body designed to give improved control relative to the licensing, supply and monitoring of gaming machines. This power is currently vested in the Liquor Licensing Commissioner although, to all intents and purposes of his current powers, absolute effective control depends, at least, on the cooperation of persons or bodies who hold a current licence.

The Bill presently before us will transfer that authority away from the Commissioner by expanding the role of the present Casino Supervisory Authority, which currently supervises gaming operations at the Adelaide Casino, including those operations that give account to gaming machines. The newly constituted body, assuming that this Bill passes, will have further responsibility for all matters which are pertinent to gaming in South Australia. Two exceptions to that are the independence of the Police Commissioner and the Auditor-General. That is the view of the Opposition as to how it should be: we concur with the view of the Government on that matter.

This Bill will increase to five the number of members on the new authority, as opposed to the present Casino Supervisory Authority. The Opposition would like to place on record that it is its hope that the new gaming authority will be balanced in the public sense, that is, that it will fairly represent South Australian public opinion in gaming matters. The Opposition supports the Bill and, in order to facilitate the third reading, I indicate that my amendment will be to clause 5.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank the Hon. Mr Crothers for his broad support of the Bill, and I indicate also that the Treasurer is prepared to accept the honourable member's amendment.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Constitution of authority.'

The Hon. T. CROTHERS: I move:

Page 2, after line 2—Insert new subclause as follows:
(1a) At least one member must be a woman and one a man.

This amendment refers to the composition of the five member authority.

The Hon. R.I. LUCAS: As I indicated earlier, the Treasurer is always very supportive of the principles behind the amendment moved by the Hon. Mr Crothers and has indicated his preparedness to support it.

Amendment carried; clause as amended passed.

Remaining clauses (6 to 15) and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (GAMING SUPERVISION) BILL

Adjourned debate on second reading.
(Continued from 15 February. Page 1191.)

The Hon. T. CROTHERS: I rise to indicate that the Opposition supports this measure. It is our view that the measure correlates with the Gaming Supervisory Authority Bill in that it seeks to amend the present Liquor Licensing Act so as to allow the Licensing Court to hear appeals which could arise from orders or decisions of the Licensing Commissioner under the terms of the Gaming Machine Act. The Opposition supports the measure without amendment.

The Hon. R.I. LUCAS (Minister of Education and Children's Services): I thank the honourable member for his support of the legislation.

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

[Sitting suspended from 5.58 to 7.45 p.m.]

DOG AND CAT MANAGEMENT BILL

In Committee.
(Continued from 9 March. Page 1437.)

Clause 2 passed.

New clause 2A—'Objects.'

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

Page 1, after line 16—Insert:
Objects
2A. The objects of this Act are—
(a) to encourage responsible dog and cat ownership;
(b) to reduce public and environmental nuisance caused by dogs and cats;
(c) to promote the effective management of dogs and cats (including through encouragement of the desexing of dogs and cats).

The amendment inserts an objects clause into the Bill and, as the objects are pretty well explanatory, I will not comment further at this stage.

The Hon. DIANA LAIDLAW: The Government supports the amendment.

New clause inserted.

Clauses 3 to 10 passed.

Clause 11—'Composition of board.'

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

Page 5, line 23—Leave out 'six' and insert 'seven.'

This is the first of a series of amendments that I will be moving so I will explain them all together. It relates to the composition of the board. I intend to try to be a little more specific about the sorts of people who should be on the board. As I said previously the issues surrounding dogs in particular in relative terms have matured because we have had dog control in South Australia for a long time. While there has been some refinement, I think the principles around that are pretty well understood.

I was particularly concerned that, with this legislation for the first time looking also at issues of cat management, we really needed some people to give some input into the deliberations of the board, because management of cats will clearly have to be very different from the management of dogs, by their very nature. I do not mean this with disrespect, but if we have traditional local government people who understand dog problems because they have handled them for

a long time, I wonder how they will cope with trying to come up with the sorts of protocols, rules etc. which eventually will need to be involved in the management of cats. As I said, that is not a matter of disrespect: it is just recognising that we have a significant new issue to confront.

For that reason I have been looking for a board that had not only local government people but also representatives of dog associations, cat associations and several organisations with interests in dogs and cats. Unfortunately, the Local Government Association did not seem to be too flexible on my proposal at the time. I understand that it had signed some memorandum of understanding with the Government. I do not know the background of all that, but if there has been a memorandum of understanding it is perhaps a pity that some of these other organisations were not a little more involved in the developments of those sorts of things to start off with.

I have discovered, even since filing my most recent amendments, that there is a great deal of concern among organisations representing dog owners about the composition of the board as originally proposed, and I imagine they probably still have reservations under the proposal I am now putting forward. I have no doubt that they would have fully supported what I originally proposed. I am now starting to wonder just how much some other organisations in the community have realised what the implications are of the composition of the board. I had not anticipated that some of these other organisations were not quite as aware as they might have been.

I may be wrong about that, but the major problems that I faced revolved around the fact that the Government had this memorandum of understanding with local government, and my suspicion is that, whilst that was all very well intentioned by both those groups, perhaps locking out other groups, which effectively it did, was not totally wise.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: If you listened all the time rather than half the time, you would have heard that I did make some other comments. You can read it tomorrow. The proposal I now put forward is that there will be three persons nominated by the Local Government Association, who should have the following attributes: there should be a person with veterinary experience; people with a demonstrated interest in the welfare of dogs and cats; and a demonstrated interest in the keeping and management of dogs and cats. Other than requiring people to have those three attributes, the Local Government Association can choose whomever it wants to fill those positions. Those persons will be chosen from a panel of persons nominated (in accordance with the directions of the Minister) by associations or bodies that in the opinion of the Minister have a relevant interest.

What I hope the Government would then do is approach the Canine Association, the cat associations, the Animal Welfare League, the RSPCA and those sorts of groups and ask them to put forward nominations, and the Minister will make a spread of interests available from which the Local Government Association can choose those three persons. By doing this, we will still be getting a guaranteed spread of knowledge and experience being put into the board.

The Hon. DIANA LAIDLAW: The Government supports the package of amendments that have been moved by the Democrats in relation to the composition of the board. I want to comment on the issue of sets of amendments that have been before the Council in relation to this Bill. It is true that the Hon. Mr Elliott had an earlier set of amendments, we responded with a further set and then there was discussion between the Minister's office, the department and Mr Elliott, and both the Government and the Hon. Mr Elliott decided to withdraw that package of amendments. The Government and the Democrats decided to withdraw that package of amendments and agreed that the Hon. Mr Elliott would move further amendments, which had our support. Certainly, it will make the handling of this Bill in this place tonight much easier than it was first suggested that the process would be. Having just gone through the public sector Bill, I think everyone will be quite relieved about that.

In terms of the memorandum of understanding, the honourable member would appreciate that there is an overriding agreement between the Government and local government on a whole range of matters. The memorandum of understanding is signed between the President of the LGA and the Premier every two years. As part of that we would seek to develop further memoranda of understanding that are of a more micro nature, dealing with specific areas of activity. We considered that it was important in this respect to have a memorandum of understanding, because local government will be responsible for the administration of this legislation.

Local government is already responsible for dog control measures: it has agreed to extend that responsibility to cats. As the honourable member noted, this is a new area of activity for us all. If the Government considered it to be important and we wanted local government to participate actively by accepting responsibility for the administration, then we felt it was important to develop that understanding through a memorandum of understanding. I wanted to explain the background to that: it was not a matter of seeking to freeze out any other interest group; it was a matter of something that the Government felt was important. I know that all members consider the issue to be important. They all appreciate that it was quite controversial from the time it was first mooted. It was also a matter of some alarm to local government that it would have this foisted upon it without its being involved in discussions as to how the whole issue would be administered.

So, we were able to calm local government fears by this memorandum of understanding and, once we found a basis for administering the legislation, the whole process of the legislation was much easier. It was never without its trauma but it was certainly easier once we found a way of administering it, knowing that we in this Parliament all wanted something to be done about it. On that basis, the memorandum of understanding was entered into. The package of amendments allows for increased community representation on the Dog and Cat Management Board. It ensures that the relevant interest groups have significant input into the process of selecting nominees who will represent the community, while minimising potential conflicts of interest amongst board members.

Importantly, in terms of the Government's reflection on these amendments, they are consistent with the negotiated agreement for the transfer of dog control from State to local government. The Local Government Association has indicated that it can work within this framework, and the Government appreciates that advice.

The Hon. T.G. ROBERTS: The Opposition understands the delicacy of getting a board and advisory committee together that takes into account the difficulties and the nervousness that people are having when looking at a Bill for the first time. There has been a great deal of negotiation and consultation, particularly through the LGA and other interested bodies. Some of those people who would like to

have had representation on the board were a little slow in coming forward and stating their case. Others were quite forceful in doing that.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: The last week has been fairly hectic. The board needs to be of a size that is not unwieldy. It needs, certainly in the first stages of the implementation of the legislation, to be able to act decisively while maintaining contact with all those people who have a vested interest in making an input. I am certainly happy that the make up of the board will enable it to consult more broadly through an advisory committee, where I think a lot of the negotiations and discussions will take place in relation to implementation.

I will be supporting the proposal being put forward that both the Democrats and the Government have indicated. I would be pleased to see the Government and the LGA pick up those organisations that have a large indicated membership. They are the ones that have had a historical link, particularly to dog management. I suspect that the LGA and the Government will ensure that those bodies are broadly representative of those interests that we are trying to administer. It is in everybody's interest to ensure that that happens. I think the proposal is fair and reasonable. It has been indicated that if changes are needed in the make up of the Bill, which may include changing the operations of the board or the indicated make up of the board, that can be considered at a later date. I suspect that the starting point of the Bill is correct and I support it.

Amendment carried.

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

Page 5—
Line 24—Leave out 'five' and insert 'six'.
Line 29—Leave out paragraph (b) and insert:

(b) three persons—

(i) who together have the following attributes:

(A) veterinary experience in the care and treatment of dogs or cats;

(B) a demonstrated interest in the welfare of dogs or cats;

(C) a demonstrated interest in the keeping and management of dogs or cats; and

(ii) who have been selected from a panel of persons nominated, in accordance with the directions of the Minister, by associations or bodies that, in the opinion of the Minister, have a relevant interest.

Lines 30 to 33—Leave out subclause (3).

These amendments all relate to the composition of the board and are consequential.

Amendments carried.

The Hon. T.G. ROBERTS: I move:

Page 6, after line 6—Insert:

(4a) At least one member of the board must be a woman and one a man.

This fits in with the equal opportunity policies of both State and local governments.

Amendment carried.

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

Page 6, line 4—Leave out '(who must not be the member nominated by the Minister)' and insert '(who must be one of the member's representing the LGA)'.

Amendment carried; clause as amended passed.

Clauses 12 to 19 passed.

Clause 20—'Functions of board.'

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

Page 9, after line 12—Insert:

(ba) to inquire into and consider all proposed by-laws referred to it under this Act, with a view to promoting the effective management of dogs and cats, and, to the extent that the board considers it appropriate, the consistent application of by-laws throughout South Australia.

This clause relates to the functions of the board. In some later amendments we are looking at the question of by-laws in relation to both dogs and cats. Specifically, I have some concerns about cats. Some councils will decide to have by-laws affecting cats and some will decide not to. A number of councils have contacted me over the past couple of years saying that they want to be in a position to do so. That is fine, and ultimately this Bill will allow that. If we are going to have by-laws, it is important that they be consistent. It would be pretty crazy if we had different councils with significantly different by-laws using different methods for marking cats, if they decide to do that, or whatever. Looking at proposed by-laws and at consistency of application would be an important function for the board.

The Hon. DIANA LAIDLAW: The Government considers this amendment to be desirable. In fact, it is an important amendment in terms of having some consistency in this issue. I should also indicate to the Hon. Terry Roberts that it was not because of a lack of interest that I did not speak to the amendment that he has just moved: I just was not quick enough. So I would also indicate that the amendment he moved concerning gender—that at least one member of the board must be a woman and one a man—is also supported strongly by the Government and it is consistent with our equal opportunity policies. I am not sure why I did not pick it up in Cabinet and do something about it earlier.

Amendment carried; clause as amended passed.

Clauses 21 to 28 passed.

Clause 29—'General powers of dog management officers.'

The Hon. T.G. ROBERTS: I move:

Page 13, line 29—Leave out 'justice' and insert 'magistrate'.

Basically, the amendment strengthens the process by which a justice rather than a magistrate can carry out some of the functions of the Act. I understand this is not being supported.

The Hon. DIANA LAIDLAW: The Government opposes this amendment and I outlined the reasons at some length when summing up the debate. In general terms, the Government believes that the justice provisions that the honourable member has talked about are unacceptable and are so because justice warrants are required for inspectorial functions and matters that are likely to occur both reactively and frequently in all areas of the State. Magistrate warrants are required in instances where imprisonment is likely or the matters constitute a significant offence. Justice warrants are more quickly obtained—and we think that this is important in this area—and they do not impinge on the time of the courts. They are therefore more accessible for people. The Dog and Cat Management Bill relates to local issues and it would seem to us, and I hope to the Democrats, that to require a warrant from a justice rather than a magistrate is more appropriate to the nature of this Bill.

The Hon. M.J. ELLIOTT: I have not had an opportunity to discuss this outside this place with the Hon. Mr Roberts. Does he want to expand a little on the reasons for his wanting to see 'magistrate' rather than 'justice'?

The Hon. T.G. ROBERTS: It was felt by those people who lobbied me on this issue that the status of a magistrate rather than a justice was necessary on the basis of the

seriousness of how they viewed some aspects of the Bill in relation to the safety and welfare of their animals and they felt that, first, a justice of the peace could be tied to a particular local government or council area and be carrying out the policy of that local government area or precinct. That could have been dispelled by an amendment that allowed for a justice to come from outside that council area to be able to make those orders. It is not an issue that has been lobbied heavily in the past week. I have not been inundated by faxes or letters, but people had concerns about it in the early stages of the drafting of the Bill. Some changes have eliminated some of their concerns, but it is the way that people view the welfare of their animals. In particular with dogs there was a feeling that, if their animals did stray or were put in a position of being put down, they preferred a magistrate to oversee the orders rather than a JP.

The Hon. DIANA LAIDLAW: I will add further to this issue because the Government also has considered the matter. We have not wiped it aside because the honourable member suggested it, but submissions have been presented to us on the same issue. We took into account that in the Dog Control Act it is a justice warrant presently. To refer to the different types of warrant and their application, the best example is the Public and Environmental Health Act 1987 as it highlights the distinction. Under section 31 of this Act a magistrate's warrant is required to order a person suspected of having a notifiable disease to undergo a medical examination or to detain such a person in a quarantine station. That is specific action requiring in the Parliament's view a magistrate's warrant. However, section 36 of the same Public and Environmental Health Act specifics that a justice warrant is required to inspect premises or seize goods to prevent the spread of infection. A justice warrant is the appropriate form of warrant for the Bill we are addressing and extends the type of warrant in the Dog Control Act and has worked well for that purpose.

The Hon. M.J. ELLIOTT: Perhaps the most compelling argument of all is that it has already been in operation. I am not aware of its being a problem and it seems inconsistent with other pieces of legislation where similar sorts of things are done. I will not support the amendment.

Amendment negatived; clause passed.

Clauses 30 to 64 passed.

Clause 65—'Defences in civil actions.'

The Hon. DIANA LAIDLAW: I move:

Page 32, lines 9 to 17—Leave out this clause and insert:

Liability for dogs[1]

65(1) The keeper of a dog is liable in tort for injury, damage or loss caused by the dog.

(2) It is not necessary for the plaintiff to establish—

(a) negligence; or

(b) knowledge of the dog's vicious, dangerous or mischievous propensity.

(3) However, the keeper's liability is subject to the following qualifications:

(a) if the injury, damage or loss results from provocation of the dog by a person other than the keeper, the keeper's liability (if any) will be decided according to the Wrongs Act 1936 principles;

(b) if the injury, damage or loss results from an attack on the dog by an animal for the control of which the keeper is not responsible, the keeper's liability (if any) will be decided according to the Wrongs Act 1936 principles;

(c) if the injury, damage or loss is caused to a trespasser on land on which the dog is kept, the keeper's liability (if any) will be decided according to the Wrongs Act 1936 principles;

(d) if the injury, damage or loss is caused while the dog is being used in the reasonable defence of a person or property, the keeper's liability (if any) will be determined according to the Wrongs Act 1936 principles;

(e) if the injury, damage or loss is caused while the dog is in the possession or control of a person without the keeper's consent, the keeper's liability (if any) will be determined according to the Wrongs Act 1936 principles;

(f) the keeper's liability (if any) is subject to any other defence available under the law of tort.

(4) If the plaintiff's negligence contributed to the injury, damage or loss, the damages will be reduced to the extent the court thinks just and equitable having regard to the plaintiff's share in responsibility for injury, damage or loss.[2]

(5) In this section—

'keeper' of a dog means the owner of the dog, or if the owner is under 18 years of age, the child's parents or guardians, and includes a person into whose possession the dog has been delivered;

'provocation' means—

(a) teasing, tormenting or abusing the dog;

(b) any act of cruelty towards the dog;

(c) attacking the owner of the dog, or a person towards whom the dog could reasonably be expected to be protective, in front of the dog.

1. At common law, the keeper of an animal was strictly liable for injury caused by the animal if the animal was *ferae naturae* (ie an undomesticated animal). If the animal was *mansuetae naturae* (ie a domestic animal), liability was dependent on proof of *scienter* (i.e. knowledge of the animal's dangerous or mischievous propensity). These rules were abolished by Part 1A of the Wrongs Act 1936 which provides that negligence is the basis of liability. This section, however, qualifies the Wrongs Act 1936 principles by imposing strict liability in relation to dogs subject, however, to statutory qualifications.

2. Compare Wrongs Act 1936, s.27A(4).

This is the amendment motivated by some self-interest on the part of politicians door knocking and relates to the question of liability; but it has a more general application and community benefit in relation to the amendment I am moving. It deals with a liability for dogs. Under this amendment section 65 will maintain strict civil liability of the owner of a dog which attacks, but will include the following exemptions under which the Wrongs Act applies and must be considered by the courts. These cases are, first, where the dog is provoked; secondly, the owner is not the person in control of the dog; thirdly, the victim is trespassing; or, fourthly, the dog is protecting the personal property of the owner at the time of the attack. I outlined in a second reading debate speech more reasons why we would be moving this amendment. In fact, the credit for the amendment should go to the Hon. Angus Redford who raised this in debate and who has worked with the Attorney-General on this matter.

Clause negatived; new clause inserted.

Clauses 66 to 70 passed.

Clause 71—'Reserves and wilderness.'

The Hon. T.G. ROBERTS: I move:

Page 34, line 4—Leave out'lawfully' and insert', in accordance with and in circumstances allowed by the regulations.'

This is not a major amendment, but fairly minor. The basis for the amendment is to allow for regulations through negotiations to be set to administer a whole range of administrative details to enable local government to put into effect the Bill and its intentions.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: No, but the regulations will determine some of the basis by which the Bill will be administered.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The regulations will be drawn up I hope by the people who will administer it and

those affected by it, namely, the advisory committee or people with a vested interest in outcomes, so there can be a continuation of the discussions already going on.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. We appreciate the motivation for it and note that what the honourable member is seeking is already practised. We believe that if we move from a situation where a warden may lawfully seize, detain, destroy or otherwise dispose of any cat found in a reserve to a situation where a warden may, in accordance with the circumstances allowed by the regulations, seize, detain, destroy or otherwise dispose of any cat and so on, we will become enveloped in a bureaucratic mess.

For instance, I know that when the wardens plan to trap cats at the Morialta National Park and in other parks they letterbox the people in the neighbourhood and alert them to the fact that they will be doing this at a certain time and indicate that residents should keep their cats under tight reign, because nobody would wish their pet to be rounded up in that blitz of cats. However, that is not required in a national park which may be miles from the capital city. So, what we would have here are regulations for different parks and different situations and, as I said, I think that would become a bureaucratic nightmare. There will be sufficient complications with administering this legislation without imposing further complications.

In their current form, clauses 71, 72 and 73 allow for the removal of a cat from sensitive areas as long as it is done legally. This amendment of the Hon. Terry Roberts would mean that the removal must be done in accordance with regulations. Parks in populated areas, as I have indicated in relation to Morialta, already have developed systems to contact residents and warn them of trapping programs. To make this a legal requirement under the regulations of this Act would be to impose unnecessary bureaucratic limitations on procedures which have been developed through processes aimed at maintaining good relations with neighbours.

The Hon. A.J. REDFORD: I wish to add something to which the honourable member has not referred. I assume that the amendments in clauses 71, 72 and 73 are a package of amendments. An ordinary person, such as an owner or occupier of land or a person in a remote area, will not be familiar with regulations and what they contain, whereas if it is in the Act they will know exactly where they stand: that is, that they have the lawful right to act with regard to what is in the legislation. My experience is that people do not look at regulations unless they are professionals. I have no doubt that that would not be a problem for a warden, who is a professional, but it would be for owners and ordinary people in remote areas. That is the problem I see with the amendment.

The Hon. T.G. ROBERTS: One of the reasons why it was included, as the Minister has described, was to allow some flexibility for different circumstances that prevail in different geographical regions, in particular where national parks border metropolitan areas: so that there could be some flexibility in drawing up the model by-laws, as indicated by the Hon. Mr Elliott. We could have a range of recommendations that suit the circumstances and needs of local governments that have problems with cats only. With dogs the problem will be uniform, but with cats it will be slightly different. The intention was to try to allow that flexibility.

The indications from local government and the board are that education campaigns will be run to alert the community to their responsibility in relation to their animals and to alert local government to its responsibility in relation to the administration of the Bill, so we could include some variations which suited the needs and requirements of those areas. I understand what the honourable member is indicating.

The Hon. M.J. ELLIOTT: I will not be supporting the amendment. The Hon. Mr Roberts may have misunderstood what the model by-laws will be. They will relate specifically to local government, and none of the clauses 71 to 74 are related to local government. The by-laws I am proposing and the model by-laws that will be set up will not have any impact in relation to these clauses. We are talking here largely about national parks and wilderness areas, and that will be policed by wardens, who will be public servants. I have no doubt that they will have protocols under which to operate. Most of the others relate to remote areas. In fact, most of the parks will be in remote areas, anyway. The only concern could be in relation to animal cruelty, but we have an Animal Welfare Act which would tackle those questions. I do not see that we are gaining much in that regard. There are very clear instructions about what a person must do if they get a cat that is owned.

Amendment negatived; clause passed.

Clauses 72 to 88 passed.

Clause 89—'By-laws.'

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

Page 39, lines 1 to 4—Leave out subclause (2) and insert:

(2) Without limiting the generality of subsection (1), the by-laws may—

(a) limit the number of dogs or cats that may be kept on any premises;

(b) fix periods during which dogs or cats must be effectively confined to premises occupied by a person who is responsible for the control or entitled to the possession of the dog or cat;

(c) require dogs or cats to be identified in a specified manner or in specified circumstances;

(d) require dogs or cats to be effectively controlled, secured or confined in a specified manner or in specified circumstances;

(e) make provision for a registration scheme for cats (including payment of a fee for registration) and encourage the desexing of cats;

(f) exempt (conditionally or unconditionally) classes of persons or activities from the application of the by-laws or specified provisions of the by-laws.

(2a) By-laws under this Act—

(a) may be of general application or limited application;

(b) may make different provision according to the matters or circumstances to which they are expressed to apply;

(c) may provide that a matter or thing in respect of which by-laws may be made is to be determined according to the discretion of the council.

I support what the Government is seeking to achieve but I want to spell out and put beyond any doubt that a range of things can be done under the by-laws set out by local government. The clause starts out by saying 'without limiting the generality', but nevertheless I think it is still useful and instructive to give some guidance as to some of the matters that can, if local government so chooses, be covered by its by-laws. This amendment is fairly self-explanatory. Particularly in relation to cats, it is common knowledge that I was keen to see a State scheme which might involve registration and desexing of cats, but that is an argument I have not won at this stage. Some local governments have expressed an interest in having that ability, and I want to make it quite clear that they do have the by-law making capacity, for instance, to set up a registration and desexing scheme if they so choose.

The Hon. DIANA LAIDLAW: We support the amendment, which provides local councils with the ability to pass a wide range of by-laws, after consultation with the community, that address problems within their municipalities. I indicated earlier that it would be seen as desirable that, while there is discussion with local communities in terms of by-laws, we do not see different matters addressed in different ways in every council area because this could, without some care, become quite a shambles. Certainly, local community discussion and consultation is involved in the procedure that the honourable member has moved with this amendment.

The Hon. T.G. ROBERTS: If we had uniform principles, the by-laws may not have got into a state of shambles or anarchy. Responsibility for administration can now be accomplished through the by-laws. There probably will be lobbying at local government level to ensure that the administration of the Act through the by-laws is what local communities want. There will be a lot of lobbying on the methods of identifying cats. The last round of letters recommend a tattoo for desexing. Could the methods that have been described in letters be recommended as models?

The Hon. DIANA LAIDLAW: In such an instance, the reasons would have to be given to the board, which would then debate them and either support them or not. The by-laws would then have to go through the legislative process of this Parliament. Those checks exist, but there is also the means by which the community can have its concerns addressed.

The Hon. T.G. ROBERTS: The point I am making is that support could be given to organisations and individuals who approach us with recommendations. Those recommendations could be accepted as appropriate for local government to adopt through the mechanism of the board's recommendation.

Amendment carried.

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

Page 39, line 5—Leave out 'such a by-law' and insert 'a by-law limiting the number of dogs or cats that may be kept on premises' and after 'prevent dogs' insert 'or cats' and leave out 'at the kennel'.

The Hon. DIANA LAIDLAW: Does the honourable member want to include the words 'at a kennel or a cattery'?

The Hon. M.J. ELLIOTT: I am not sure whether those words add anything in a legal sense.

The Hon. DIANA LAIDLAW: It is not considered that they do. The Government supports the amendment.

Amendment carried.

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

Page 39, line 8—After 'section' insert 'subject to the following modifications:

(a) a council must, at least 42 days before resolving to make the by-law (and consequently at least 21 days before public notice of the proposed by-law is given) refer the proposed by-law to the board; and

(b) at the same time the council must provide a report to the board—

(i) outlining the objects of the proposed by-law; and

(ii) setting out how it is proposed to implement or enforce the proposed by-law; and

(iii) explaining the reasons for any difference in the proposed by-law from other by-laws about a similar subject matter applying or opposed to apply in other council areas; and

(c) the council must consider any recommendations of the board relating to the by-law.

As I have said, I foresee the board having some model by-laws or guidelines that councils might follow. Councils having drawn up their by-laws, this clause sets out the mechanism that they would go through prior to those by-laws being given final approval. This gives the board the power to carry out the role that I envisaged for it to try to bring about some consistency between by-laws in different council areas.

The Hon. DIANA LAIDLAW: The Government sees this amendment as an improvement to the Bill. Essentially, it addresses the question that the Hon. Terry Roberts raised earlier about the way in which people influence the course of events. This amendment clarifies those concerns by ensuring that councils determine why they want a by-law and how they intend to implement it. It provides the board with sufficient information to determine whether or not a by-law is appropriate in a particular instance and to inform the council of its recommendations. Should the council choose not to abide by that recommendation, the Legislative Review Committee would consider this variation in deciding whether or not to disallow the by-law. This clarifies the processes within the Bill. It is a useful and important amendment.

Amendment carried; clause as amended passed.

Clause 90, schedules (1 and 2) and title passed.

Bill read a third time.

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

That this Bill do now pass.

The Hon. M.J. ELLIOTT: It is with some satisfaction that I see this Bill leave this place, and I suppose other people will share that satisfaction to a greater or lesser extent and sometimes for different reasons. The issue of cat management is one that I first raised in this place (and I have lost track of time) about four years ago. I know that at the time I raised it some people questioned why but in the ensuing time there has been a great deal of growth of awareness in the community about the issues surrounding cats. I do not think most people realised that cats did not even have legal status. Dogs and most animals have had legal status but cats, under the law, did not have a legal status and the Bill for a start does that. Dog control is an issue that has been with us for a long time and we have essentially been refining that, but for the first time we are also looking at issues surrounding cat management.

I refer to issues that relate to animal welfare, issues that sometimes relate to animals in our control being a nuisance to neighbours, issues in relation to the environment and issues particularly in relation to feral cats or the semi-owned cat—the cats which people feed but do not actually own and which spend most of their time somewhere else. They are important issues. There is no doubt that they have excited a great deal of debate and much heat in the community, but there is also no doubt that there is vast community support for laws of this general type. It will be a learning experience for all of us, for the board and for local government. There will be quite a fast learning curve in this area of cat management. Although cats are very different beasts from dogs in behaviour, etc. I have no doubt that things will settle down pretty quickly.

It is no secret, as I commented during the Committee stage, that if it had been my choice this Bill would have been significantly different but it would be unreasonable for me to say that this has not been a major advance and a major breakthrough. I am grateful that both the Government and the Opposition have been supportive of this legislation. It is the sort of legislation that potentially could have been politicised in the Party sense and that would have really destroyed any reasonable debate. That has not happened and it is a pity that

what happened on this occasion does not happen more often. I am pleased to support the third reading of this Bill.

The PRESIDENT: Order! I point out that we are a little bit out of plum. We should have had these little speeches prior to the Bill being read a third time. I have allowed it once now and I cannot restrict the Hon. Terry Roberts.

The Hon. T.G. ROBERTS: The Government's previous position was to allow for the management of cats, in particular, to be left to local government but at a fairly local level without too many rules, regulations and laws. There was some progress being made but it was slow in relation to reducing the number of cats. Most of the submissions revolved around the problems associated with the number of cats. Most of the submissions that I have had suggest that with or without legislation the problem will still remain. That will be a problem that local government will have to deal with. The sensitivity of the issue is probably why neither Party within the provinces of Parliament has tried to make a major issue out of it, because it is an emotional issue in the electorate. You could quite easily come unstuck by highlighting any of the issues around the management Bill because of that emotion.

People may not be able to comment on the current progress of the economy or economic rationalism versus an ordered economy but they do have views and opinions on how to manage cats and dogs and they have attachments to them. The only ones who I thought made any mileage out of it in the media at that particular time highlighted one side or another to grab some attention and headlines. The real work to be done now is by local government. It will need all the support it can get to bring about an orderly process which allows for cat and dog management to be brought in for all the reasons outlined by the Democrats, the Government and the Opposition in our second reading speeches which highlighted some of the problems that exist out there with dog and cat management controls.

The Hon. DIANA LAIDLAW (Minister for Transport): I acknowledge that my comments are out of order as were those of other members but I appreciate your tolerance, Mr President. The Government thanks all members for their positive contribution to this debate. I must admit that, when I was told by the Minister for the Environment and Natural Resources that this Bill was to be debated, I had no wish to be involved with the Bill because it looked as if it would be ugly and heated and would rival palliative care in the number of views that would be expressed in this place. That has not been the case and it is a compliment to all members and, in particular, the Minister and his officers. I know it has been a testing time for him as he has worked through all the various emotional submissions, as the Hon. Terry Roberts has mentioned. I know, too, that sometimes the Minister's colleagues have not taken this issue as seriously as it should have been taken.

When dealing with huge issues of debt and economy it is tempting to dismiss issues such as cat management from the Government's agenda. But the Minister was persistent in indicating that this Bill had to be addressed and that the community was demanding change. The only trouble for the Minister and others was that there were so many proposals for change that the Minister had to wade through. It is a credit to the Minister and everybody involved in this place that we have come up with a measure that will work well in the community's interest and will essentially meet the concerns of all in the community. I point out, as the Hon. Caroline Schaefer pointed out, that this will not be the end of the exercise by any means, because this Bill does not address the issue of feral cats. It will be important for us to do so on a national level. I know the Minister is keen to work on a threat abatement strategy for feral cats that is being developed with the Australian National Conservation Agency.

This Bill encourages responsible ownership and permits the removal of unwanted cats without civil liability, and that is an important reform. As I have learnt so often in this place, sometimes it is much better to move forward slowly than to try to address everything at once and then get everybody off side and make no progress at all. This Bill does not move slowly nor does it hit all the issues head on. It is a considered and good piece of legislation. I thank all members.

Bill passed.

STATUTES AMENDMENT (FEMALE GENITAL MUTILATION AND CHILD PROTECTION) BILL

Adjourned debate on second reading.

(Continued from 7 March. Page 1332.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports this Bill. Female genital mutilation is now considered to be a violation of women's and children's rights. It is a practice which is contrary to the United Nations Declaration on Violence against Women and the United Nations Convention on the rights of a child, the agreement to which Australia is a signatory. While reading many articles on FGM and viewing tapes I find myself quite outraged at the physical and psychological violation of women by this action. Female sexuality has been repressed in a variety of ways in all parts of the world throughout history and up to the present. Female slaves in Ancient Rome had one or more rings put through their *labia majora* to prevent them becoming pregnant.

Chastity belts were brought to Europe by the Crusaders during the twelfth century. Until recently, clitoridectomy was performed as a surgical remedy against masturbation in both Europe and the United States, and unnecessary genital surgery continues until this day. It is a cruel and, in my view, barbaric practice that has no place in modern Australia. Many people have asked me why we should just condemn FGM and not male circumcision. The practice is very different. I understand that modern views about male circumcision are very different from views in Australia of 20 years ago or over 30 years ago when my sons were born, and a debate is currently taking place about whether or not this practice is a violation of children's rights. However, male circumcision does not alter the sexual feeling of a male.

Female circumcision destroys all sexual feeling and causes excruciating pain to babies and young girls while the operation is performed. Death often occurs, as mutilations are mostly performed without anaesthetic and often by medically unqualified people. It causes agony for women having sexual intercourse, often causing severe complications in childbirth. It is the embodiment of male power over women, their tragic loss of a sexual identity, of human feeling and joy.

In September 1993 the Federal Attorney-General asked the Family Law Council to examine the following: the adequacy of existing Australian laws to deal with the issue of female genital mutilation and, in particular, the adequacy and appropriateness of existing laws, not just criminal laws but also in child welfare and medical health areas; consideration

of Canada's 1993 Bill C-126, an Act to amend the Criminal Code and Young Offenders Act, to protect children being removed from Canada with the intention of assault; whether, in light of the above, more Australian legislation is needed (that is, Commonwealth, State or Territory) and what should its contents be; and which court or courts should exercise jurisdiction.

As the Attorney-General has indicated, following the recommendations of the Family Law Council all Attorneys-General, except the Attorney-General of Western Australia, agreed that specific legislation should criminalise female genital mutilation. Three of the recommendations of the Family Law Council are of particular relevance here, and I would like to put those on the record. The council considered that because of: (a) doubts about the adequacy of the existing laws; (b) the desirability of having a clear legislative statement on the issue; (c) existing doubt within the general community about the status of the practice in this country; and (d) the need to give the protection and support of the law to women and children who wished to resist the practice within their community, there should be special legislation that makes it clear that female genital mutilation is an offence in Australia.

The council agrees that education must be a priority in any program for the elimination of female genital mutilation. To this end it recommends that:

(a) a national communication and education program on female genital mutilation be developed by the Commonwealth Department of Human Services and Health in consultation with the States and Territories and the relevant communities, and that the campaign be integrated with Australia's health advancement and child value and protection agenda;

(b) the education program's primary focus be on members of the community coming from countries where female genital mutilation is practised and that, wherever possible, these education programs should be conducted by members of the communities themselves with the assistance of others, such as health workers;

(c) it is essential that vulnerable communities be involved in planning as well as delivering education programs and that adequate funds be provided for education;

(d) other target groups for education include child protection workers, care providers (including doctors, midwives, nurses, educators, child and ethnic care workers, social workers and community workers), police and the courts and legal profession;

(e) the Commonwealth Department of Immigration and Ethnic Affairs cooperate in the development and delivery of an effective information program for newly arrived migrants from countries that practise female genital mutilation; and

(f) that the Commonwealth Government provide adequate funds for community education.

The report goes on to say:

> There are doubts about the capacity of the present law to cope with international offences against the rights of the child. In the circumstances, and having in mind the serious consequences for the children concerned in relation to matters such as female genital mutilation, council has concluded that legislation should be passed to put these issues beyond doubt and to provide as much protection as possible for the children and women concerned.

This legislation responds to these recommendations but I would like the Attorney, perhaps in his response, to indicate how he understands that the education program is to be conducted. Will the State contribute to the costs of any education campaign? What kind of education campaign will be conducted by the immigration and health departments at the Commonwealth level? And has funding been allocated by the Commonwealth for this purpose? The first part of the Bill amends the Criminal Law Consolidation Act by creating two new offences. The second part amends the Children's Protection Act to allow the Youth Court to make orders in respect of children at risk of female genital mutilation.

The court might order a person not to take a certain child out of the State, or might provide for periodic medical examinations to ensure that the child is not subject to FGM. The court may also order that a family care meeting be convened to ensure that parents are informed of the criminal and cultural implications of the Act. Another question that I have for the Attorney, and I address it at this time since I understand that there are no amendments to this Bill, is this: will the Attorney advise whether under new section 26B the court has power to make orders against residents who are not citizens of Australia?

This is a Bill which, I hope, when mirrored across Australia, will demonstrate our commitment as a nation to the protection of women's and children's rights. At the same time, I hope that it sends an international message to those countries where female genital mutilation is still carried out. For example, more than 90 million African women and girls are victims of FGM. I hope that our example here in Australia will lend some support to those women and girls throughout the world who have their sexuality destroyed by what is now regarded internationally as a violation of human rights. On behalf of the Opposition I am very pleased to support this measure, and I will be happy if the Attorney can respond to some of those questions when he replies.

The Hon. R.D. LAWSON: I, too, strongly support this measure. It is now a little more than a year since the practice of female genital mutilation was given prominence in Australia by the member for Adelaide in the House of Representatives, Ms Trish Worth. She moved a motion in the House of Representatives inviting the House to recognise the practice and made calls for the Federal Government to recognise its obligations and introduce legislation to outlaw female genital mutilation in Australia. Ms Worth was prominent in public arenas as well in bringing to the attention of the general community, first, the practice and, secondly, the need for reform.

In June 1994 the Family Law Council delivered a report to the Federal Attorney-General on this subject. That report concluded that female genital mutilation was being practised in Australia, although the extent of the practice could not be specifically determined. The report made a number of recommendations, including a recommendation that steps be taken to implement an education program condemning the practice. The report also recommended that criminal legislation be introduced, although its introduction should be deferred until an education program was satisfactorily established and operating.

In my view it is a matter of some satisfaction that the State Governments in Australia have moved to outlaw this abhorrent practice and that we have not seen in this matter, as we have so often seen in other matters, the Federal Government—which has not a great responsibility in relation to the criminal law of this country—stealing the march and introducing so-called reforms for the purposes of window dressing. It is good to see that the States, with the exception of Western Australia at the moment—although I imagine that

in the fullness of time it will come into line—have taken up the cudgels.

It was recognised in the report of the Family Law Council that if legislation is to be fully effective it should first put beyond doubt that female genital mutilation in all its forms is a criminal offence. I must say that I have seen the arguments of some that under the existing criminal law the practice would have been a criminal offence. However, it seems to me that that point might have been arguable, especially as there is, as far as I am aware, no law in this country regarding male circumcision nor any case in which that practice has been reviewed in the criminal justice system.

It is a matter about which we in this legislature should take some pride, and particularly the Attorney for introducing the measure, in saying that we have put beyond doubt the fact that female genital mutilation is an offence. Not only does that put that matter beyond legal doubt, it also sends a strong message to the community. The legislation does impose severe penalties. That was one of the recommendations of the Family Law Council and the penalties recommended include imprisonment for seven years for the offence of performing female genital mutilation and a similar maximum term of imprisonment for removing a child from the State for the purposes of mutilation.

It seems to me that female genital mutilation is abhorrent to the Australian community. It is not, as was noted in the Family Law Council report, based upon any religion; it is purely a cultural practice. This Parliament should send a strong message that there are limits to multiculturalism in this country and that some practices are beyond the pale and will not be tolerated in this society. Moreover, female genital mutilation is invariably practised on girls between the ages of six and 12 years. These are people who are powerless to make personal decisions in these matters.

The offence of female genital mutilation applies to mutilation of a person of any age. That is important: it sends the signal that this is not merely a matter of child protection—although that is a very important element of the legislation—it is also a matter of this Parliament's setting limits beyond which the society will not permit its citizens to go. It is gratifying to see that the Children's Protection Act is also amended. Appropriate provisions are inserted for the protection of children at risk and the Youth Court is given appropriate powers.

I must say that I am somewhat sceptical of the suggestions in the Family Law Council report that a strong emphasis should be placed upon education in this field. I am sceptical because Federal education programs are very often expensive, thousands of glossy leaflets are printed, translated into many different languages, despatched to the four corners of the country where they reside in the offices of members of Parliament, in waiting rooms and in various social welfare agencies, but little is done. I know it is claimed that this program, unlike many others, was to be appropriately targeted. However, it is extremely difficult to target programs of this kind in respect of a practice the extent of which is not actually known within this country. Although there might be a place for education programs if they can be appropriately targeted and economically delivered, the suggestion in the Family Law Council report that legislatures wait until such programs are in place was a misguided recommendation. I strongly support this measure. I congratulate the Attorney for bringing it forward and once again I pay tribute to Ms Trish Worth, the member for Adelaide, who first brought this matter to public notoriety.

The Hon. SANDRA KANCK: The Democrats welcome this Bill. I should mention that seven years ago I was actually successful in getting a clause in the Democrats' health policy opposing this practice, although I must say that back in those times I phrased it fairly genteelly and called it female circumcision. The Attorney has said there is no doubt that almost all instances of female genital mutilation are criminal under existing law. I think it is important to single out this one particular act in this way. The process of naming this crime—and it is indeed a crime—gives a clear message that as a practice the act is both unacceptable and untenable. The stand that we take in this Parliament cuts across cultures.

While we all accept multiculturalism, there is a point at which we must say 'Stop', and this is one of them. We have to say to anyone living here in South Australia that we value the wholeness of women rather than preserving a cultural tradition, that the damage done to girls and women as a result of that traditional practice far outweighs any value ascribed to the culture. I recognise that female genital mutilation has been important in some cultures because they actually believe that a woman with intact genitals is ugly and undesirable. In cultures where it is vital for a woman to find a husband it is difficult for other women in that culture, including the mothers of these girls, to say 'No' to the practice.

It really is quite an appalling practice, and I do not think we can disguise it. I want to read a small piece from a fictional account of female genital mutilation. It is from Alice Walker's book *Possessing the Secret of Joy*. It is an awful example of what this operation can involve, because often in traditional ways it is done without anaesthetics, using razors, broken glass or even tin cans. In this fictional account, which shows dramatically the effect it can have, this young woman—her mother had put off having the operation done, so she has it as a young woman—has been unable to walk for a number of weeks post operation and had her legs unbound at this point. When she walks and takes her first few steps she finds, as she puts it, that her own proud walk had become a shuffle. This account states:

> It now took a quarter of an hour for her to pee. Her menstrual periods lasted 10 days. She was incapacitated by cramps nearly half the month. There were premenstrual cramps; cramps caused by the near impossibility of flow passing through so tiny an aperture as M'Lissa had left after fastening together the raw sides of Tashi's vagina with a couple of thorns and inserting a straw so that, in healing, the traumatised flesh might not grow together, shutting the opening completely; cramps caused by the residual flow that could not find its way out, was not reabsorbed into her body, and had nowhere to go. There was the odour, too, of soured blood, which no amount of scrubbing, until we got to America, ever washed off.

I know that it is not pleasant, but we really have to recognise the reality of what some of these practices are about. As I mentioned when I succeeded in getting a clause opposing this in the Democrat health policy, I referred to it at that stage as female circumcision. The Hon. Ms Pickles has mentioned that the comparison with male circumcision is not valid: it does not restrict urination, it does not result in cramps, and it does not result in the complete cessation of sexual satisfaction. It is good that we now recognise it for what it is: genital mutilation, and a crime at that.

In supporting this Bill, the message we give goes out past South Australia and Australia to the countries where it is still widely practised. We are setting an example, giving a clear message to the rest of the world that this is a practice that must stop. It also sends a message of support to those women in African and Middle Eastern countries who are fighting what must look like to them an uphill battle in attempting to

oppose this practice. The Democrats are very pleased to be supporting this Bill.

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

A quorum having been formed:

The Hon. BARBARA WIESE: I support the second reading of this Bill and welcome the introduction of this legislation most warmly. Female genital mutilation is just one of a number of acts of violence against women that are allowed to continue in the name of religion or cultural practice and diversity in many places throughout the world. Along with such practises as domestic violence, rape, early childhood marriage and bride burning, to name but a few, female genital mutilation is designed to exert control over women and women's sexuality. Ignorance, economic and social vulnerability, religious teachings and traditional practices have forced women to accept and even to believe in such acts of violence.

In a very powerful and moving address at last year's international conference on Women, Power and Politics, held in Adelaide as part of the celebrations for the centenary of women's suffrage, Berhane Ras-Work, President of the Inter-African Committee on Traditional Practices, Geneva, outlined some very disturbing statistics to show the extent of violence against women throughout the world. In so doing she reminded us that the problem of violence against women is not confined only to developing nations with a low standard of living and education. I ask members to consider some of the facts that she gave, and I quote from her speech:

> More than 90 million African women and girls are victims of female circumcision or other forms of genital mutilation.

These figures are provided by the World Health Organisation. She continued:

> Six out of every 10 Tanzanian women have experienced physical abuse from their partners; 50 per cent of married women are regularly battered by their partners in Bangkok, Thailand; an estimated 1 000 women are burned alive each year in dowry related incidents in the state of Gujarat in India alone; 78 000 female foetuses were aborted after sex determination tests between 1978 and 1982; in Mexico a woman is raped every nine minutes; more than half the Nicaraguan women beaten by their partners have been beaten for more than a year before laying charges—one woman had been beaten systematically for 32 years.

That was part of an official report from Nicaragua. She further stated:

> In the United States a woman is beaten every 15 seconds; one in 10 Canadian women will be abused or battered by her husband or partner; eight out of 10 Aboriginal women in Canada will be beaten by their partner.

Those facts are truly horrifying and to those we can add what we know of the incidence of violence against women in our own country. Ms Ras-Work pointed out that gender bias against girls, which leads to the practice of violence against women and acceptance of it, begins before birth and continues. She describes the practice of abortion of a female foetus following early detection methods. She says:

> Those who come from China, India, Pakistan, can tell us more about this situation whereby girl babies are denied the rights to be born because of their gender bias. The preference of a son in its extreme situation leads to lack of care, food privation and privation of educational opportunities. Girls learn in many ways their lesser status and value.

Later she says:

> If the first born is a girl, in the regions of the Middle East and of North Africa, she has probably a young mother, who is not self-assured and who is a victim of social pressure to give birth to a son. The mother's reaction will be to shorten the period of breast-feeding in order to increase her chances of becoming pregnant again, with the hope of having a son. She might also wean the little girl too abruptly, thus putting her in danger of becoming infected, leading to frequent diarrhoea and acute respiratory infections. The child might also be neglected and receive less food and protection than a boy in the same situation. When the girl is sick the mother might be less eager to care for her, which would lead to problems of growth or even survival. She might not be immunised at all or too late.
>
> In societies where food is rare, the most nutritious food is given to boys for their growth and well-being. For a mother, a son is the guarantee for her marriage and that is the reason why she cares for his health and development.
>
> A boy receives more care in cases of illness than a girl. Different studies carried out in Nigeria show greater tendency towards bringing boys to the PHC clinics than girls. Parents with modest income prefer to spend money for the health of their sons rather than for their daughters.
>
> Similar studies carried out in Egypt show the same tendencies. Differential feeding and health care have serious consequences for girls and could in extreme cases lead to female mortality. At the worst, male preference may lead to the abandonment of baby girls and even infanticide. However, its most common form is sheer neglect of girls. Although male infants are more vulnerable to illness and health, neglect of baby girls reverses this natural tendency. Available data show that female infant mortality rates are higher than those of male infants.

She also describes the harmful practice of early childhood marriage which exists in many African and Asian countries. Girls as young as seven are married and become pregnant in early puberty before they have had time to finish their own physical growth. This leads to nutritional deficiency for mother and child and often serious complications in labour as well as lasting health problems.

In my view, it is in this context of violence and abuse of women that the practice of female genital mutilation should be considered. Some people say that this is a cultural issue, that it is a matter to be decided within families or even that it is a religious issue. Some argue that the State or Governments, particularly Western Governments, have no right to interfere in this matter, and that to do so is a form of cultural imperialism. These concerns are real and should be taken seriously.

I was pleased to see that the Family Law Council, which was asked to inquire into female genital mutilation in Australia, addressed each of these issues in turn. I agree with the conclusions that it reached. First, on the question of religious significance, the practice of female genital mutilation is usually associated with Islam. The Family Law Council report, and other previous studies, have found that this is not so. The practice pre-dates Islam, Christianity and other major religions, and Muslim and non-Muslim religious leaders alike, both here and overseas, have made it clear that there is no religious basis for the practice.

On the question of family autonomy and the right to cultural diversity, the Family Law Council had some interesting things to say. I quote from its report, as follows:

> The general right of parents to decide what is best for their children has existed for many years and there is an expectation that the State will not interfere in decisions which are rightly the province of individual families. In effect, the 'privacy' of the family has generally been protected by society.

On the right to cultural integrity, the report states:

> Those who defend the right of parents to have their daughters 'circumcised' sometimes refer to their traditional values and their right to cultural integrity without interference from persons who hold different cultural values. Council considers, however, that there is a distinction to be drawn between neo-colonialist attempts to impose Western human rights standards on Third World countries and cultural practices which are no different from practices in the West through which women are valued less than men.

In recent years, however, it has been pointed out that the concept of 'family privacy' has sometimes masked abusive and hurtful behaviour in the family, such as domestic violence and child abuse. As a result there are a number of situations where it has been considered inappropriate to defer entirely to the family. Our domestic violence laws and our laws about child abuse are examples of our society not being prepared to leave matters solely to the internal regulation of the family.

Just as the concept of the 'privacy of the family' has come under scrutiny for concealing and, in effect, endorsing abuses which take place within families, so also has the idea of 'culture' come in for criticism when it is used as a defence of practices that we would otherwise condemn. For example, it has been suggested that [and the report quotes a book written by Anna Funder]:

> . . . the epithet 'culture' functions to establish a category in which certain practices are removed from the purview of legitimate Western or international scrutiny. The realm of the 'cultural' in this way resembles the 'private'. . . To examine culture through the prism of the public/private distinction is to see similarities in the effect of culture in Western and Third World nations. It is to look underneath the terms 'cultural practice' or, in the West for example, 'domestic violence' and see violence to women *simpliciter*. Such violence is inexcusable whether in the name of culture, or of privacy; whether in the West or in the Third World.

In my view those are sound conclusions. They led the Family Law Council to the view that female genital mutilation should not be accepted in Australia. The acceptance of this position in turn by the Federal and State Attorneys-General, with the exception of Western Australia, has led to the introduction of the legislation before us. It is also consistent with international treaties and declarations to which Australia is a signatory and follows the enactment of similar legislation in other parts of the world.

It is not my intention to speak in any detail about the Bill before us tonight, because I think other members have covered that very adequately. I want to make only one point in closing. We have learnt from Ras-Work, the Family Law Council and others who have studied these issues that two of the major factors influencing the persistence of this practice are low economic and educational status of women and a lack of strong Government policy and action to eradicate the custom. It is therefore commendable that the Government has stated its intention to pursue a two-pronged approach to this matter: legislation to ensure that the legal position is beyond doubt; and, a community education program to raise awareness among affected cultural groups and to provide support for women, girls and others who wish to oppose the practice. I strongly support the Bill and congratulate the Attorney-General on its introduction.

The Hon. K.T. GRIFFIN (Attorney-General): I thank all members for their indication of support for this Bill. I am very pleased that this will in fact have tripartisan support within this Council, and I would be surprised if it did not have bipartisan support in the House of Assembly. I think that, in itself, will send some good signals to the community that the Parliament is united in its support for the outlawing of this totally unacceptable practice of female genital mutilation. I agree with the views that members have expressed: that it is an act of violence, that it is something which will not be tolerated, and that we need to send some strong signals to those members of our community who may seek to practise this act of violence.

Members have raised several issues which I think need to be responded to. The Hon. Carolyn Pickles, in particular, raised a number of issues about education and funding. When I introduced the Bill, I indicated that the Government intended to make a two-pronged attack. First, it will send a clear signal through the law that the procedure is criminal, that serious penalties are likely to be imposed by the courts if anyone is convicted of an offence, and that children need to be protected through specific amendments to the Children's Protection Act.

The second point relates to education. I have said on some occasions that we do not know how widespread this practice may be in South Australia. Some have suggested that it may affect 1 000 families, but we do not know that, and it will be important to deal sensitively with the educational issue by trying to pinpoint those cultural groups in which the practice is at least believed to occur.

I say that this will have to be done with some sensitivity because at the recent Standing Committee of Attorneys-General there was some discussion among Attorneys about some of the problems which have been drawn to their attention as they address so directly this particular issue. On the one hand, there may be young women who have been subjected to female genital mutilation, and if the education program is too publicly strident it might cause them to feel inferior in some way. On the other hand, there are those young women who may not have had the procedure performed but, again, if the publicity and the education program are too strident equally that may cause problems for those young women.

It is important to try to work with communities to help women, in particular, as well as men to appreciate that in Australia, as it should be in other countries of the world, this is a criminal act. It is unacceptable and it will not be tolerated. What I would like to see in terms of any education program is a targeted approach, not a strident public education program, although we will certainly make statements publicly in the hope that both the English language and ethnic media will report the directions which this Government (indeed, this Parliament) wants the State to take in respect of female genital mutilation.

I expect that we will work with the Multicultural and Ethnic Affairs Commission, and that work will be done in conjunction, in particular, with women from various cultural backgrounds in respect of whom this practice is believed to occur, and in other ways through medical practitioners, and so on.

I can give members some information that I have been able to obtain through the Minister for Health. The education program is likely to be managed largely through the office of the Minister for Health or the South Australian Health Commission, but I expect that other portfolios such as that of the Attorney-General will participate, if not in the immediate education program then certainly in assisting in the development of the program from the different perspectives which we each have.

I should say in relation to education that in November, at the Standing Committee of Attorneys-General, the Federal Attorney-General indicated that he understood that funding was to be made available through the Commonwealth Minister for Health. That was reiterated in February at the next meeting of the standing committee. I am informed by the office of the Minister for Health that on 24 November 1994 Federal Cabinet agreed to a two-fold strategy of specific offence legislation and a national education program to respond to the recommendations of the Family Law Council Report on Female Genital Mutilation. It also agreed that the education program is to be developed in conjunction with States and Territories and with affected communities.

On 8 December 1994, the Commonwealth Minister for Health (Dr Lawrence) wrote to her State and Territory counterparts seeking agreement to officer level discussions on the development of the education program in their jurisdiction. She asked them to nominate a person as a contact officer for this purpose. By 9 March, replies had been received from Western Australia, South Australia, Tasmania, the Northern Territory, the ACT and Victoria, all agreeing to such discussions. There had been some consideration at the Federal level of a budget which might be available for the education program. I am told that the final package will be announced in the 1995-96 Federal budget in a couple of months.

Negotiations on the shape of the program in each jurisdiction will commence as soon as all States and Territories have responded to the Commonwealth's invitation to hold officer level discussions. I suppose there is some measure of disappointment that one can reflect that it is seemingly moving so slowly. On the other hand, it is encouraging that there is recognition of the need for Commonwealth funding, in particular.

As far as the States and their contributions are concerned, I am not in a position to say what the States will be requested to make available in terms of funding. The South Australian Government has not yet made any decision about that, largely because it has been waiting to see what directions have been proposed at the Federal level.

In response to the Hon. Carolyn Pickles's question about the sorts of programs I envisage, I cannot provide the honourable member with a full range of programs because they have not been explored and I do not confess to be an expert in communication on this particular issue. However, the range of matters will undoubtedly include discussions with affected community groups and specially targeted education programs for them, perhaps through SBS television, the print media or some brochures, although I share the Hon. Robert Lawson's concern that brochures generally are not an effective way of communicating the spirit of a Government's concern about these sorts of cultural issues which, in this case, relate particularly to the criminal law.

Too often, State Governments are no better than Commonwealth Governments in that respect. Too often, Governments believe that by putting out brochures in a number of languages that will solve the problem when, in fact, many people cannot read or, if they can read, they cannot comprehend or, if they can comprehend, sometimes they still find explanations either confusing, mystifying or in other ways unable to be properly understood and implemented.

So, I have concerns about that. Again, I do not profess to be an expert on it but I express a concern just to reflect that in the development of any particular programs there will have to be more than just reliance upon the print media and brochures. I have answered the question of the Hon. Carolyn Pickles as to whether funding has been allocated by the Commonwealth. As I said earlier, that I understand is to be considered in the context of the 1995-96 Federal budget.

The Leader of the Opposition raised a question about new section 26B. My understanding of her question was to ask whether the court had power to make orders in relation to residents who are not Australian citizens. If that is not a correct interpretation of the question perhaps she might raise it again during the Committee debate. If it is then when we pass this law it will apply to everybody in South Australia. It may have some extra territorial application where there is a sufficient nexus between South Australia and either the person or the event to which the legislation applies. There are some principles in the Criminal Law Consolidation Act which clearly indicate that the Criminal Law Consolidation Act is intended to have some measure of extra territorial application. In the context of new section 26B, which deals with amendments to the Children's Protection Act, it will deal with everybody in South Australia. Whether you are a resident, non-resident, visitor passing through, citizen or a non-citizen, it is clear that it will have that breadth of application.

I now turn to the Hon. Robert Lawson who made one observation, apart from expressing his scepticism about the Family Law Council Report recommendations about educational programs, indicating that female genital mutilation was cultural and not based on any religion. I do not think there is any doubt about that, but I do not believe that even if it were religiously based it would be an acceptable practice. If you come to Australia and live in Australia you live by civilised standards. Civilised standards do not permit this practice or any other form of behaviour which is violent or which degrades the relationship between individuals. In the Aboriginal context I refer to spearing which is a point I have made strongly before.

In relation to the Hon. Sandra Kanck I do not think there were any questions she raised that I needed to address. In relation to the Hon. Barbara Wiese I pursue the point I have just made, because she made some observations that some believe that Governments, particularly western Governments, have no rights to be involved in these sorts of matters. I reiterate as strongly as I can that I do not agree (the honourable member does not agree either) that Governments should not have some sort of involvement in these matters where it affects relationships between citizens, where it affects particularly young people (whether children or adolescents), and where violence is involved. Governments have a final and overriding responsibility to ensure that the law is properly in place and adequately administered to address these sorts of issues which in other countries might be tolerated but which in this country and in this State will not.

Bill read a second time.

In Committee.

The Hon. CAROLYN PICKLES: In relation to the education program envisaged to be supported by the Commonwealth, will the Attorney write to the Federal Minister for Immigration and ask what kind of proposals he intends to put through his department in relation to advising overseas residents who are proposing to emigrate to Australia of the criminal law in relation to this practice.

The Hon. K.T. GRIFFIN: I am happy to do that. I must confess that I did not address that issue about immigration because we as a State have no direct responsibility or corresponding Minister in that area. I am happy to do that and I will undertake that the appropriate letter will go from me to the Minister in respect of that matter. If there are other Ministers at the Federal level to whom this should be addressed where there is not a corresponding Minister I am happy to pursue that as well.

The Hon. Carolyn Pickles: Foreign Affairs.

The Hon. K.T. GRIFFIN: I am happy to draw it to the attention of Foreign Affairs and raise the issues referred to by the Leader of the Opposition.

Clauses 1 to 3 passed.

Clause 4—'Insertion of ss. 33-33B.'

The Hon. SANDRA KANCK: I was told of a case where the father of a family who had come from the Middle East was intending to take his two daughters on a holiday to the

Middle East without having booked a ticket for the mother to go with them. The two girls were aged 10 and seven and the mother feared that her husband was intending to take them back to the Middle East to have the operation performed. However, he vowed and declared that it was only to take them back because he wanted them to see the country. In that instance would there be grounds for stopping that father from taking his two daughters out of the country under this clause?

The Hon. K.T. GRIFFIN: Not in relation to clause 4 because clause 4 deals with the Criminal Law Consolidation Act. It really seeks to put in place a sanction which I suppose in some respects is really after the event. I draw attention to clause 5 because that is the relevant clause in respect of children's protection. What we have sort to do is to provide a specific protection for children at risk of genital mutilation in new section 26B which provides:

(1) If the court is satisfied that there are reasonable grounds to suspect that a child may be at risk of female genital mutilation, the court may make orders for the protection of the child.

Then there are some examples. The court might, for example, make an order preventing a person from taking the child from the State, or requiring that the child's passport be held by the court for a period specified in the order or until further order, or providing for the periodic examination of the child to ensure that the child is not subjected to female genital mutilation. In subsection (2), an application for an order may be made by a member of the Police Force or by the Chief Executive Officer of the Department of Family and Community Services. Then the court may make an order on an application *ex parte*, that is, without giving a person who is to be bound by the court's order notice of its proceedings or an opportunity to be heard.

That is to deal with that very point: that if there is a reasonable basis upon which the court can conclude that it is proposed to take the child overseas but there is something suspicious, such as no ticket for the mother or it is to one of the Middle East cities and returning within two or three weeks, there might be a strong presumption that there is some sinister purpose for which the child is being taken out. I cannot do any more than address it in that way. It is hypothetical, but we have endeavoured to provide within clause 5 sufficient basis upon which the Chief Executive Officer or officer of the Police Force can make an urgent application to the court. That is really as much as we can do. If the honourable member has some concerns about it, I am happy to address them further.

Clause passed.

Remaining clauses (5 to 8) and title passed.

Bill read a third time and passed.

CO-OPERATIVES (ABOLITION OF CO-OPERATIVES ADVISORY COUNCIL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 February. Page 1299.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. The Cooperatives Advisory Council obviously had a significant role to play when the legal framework for cooperative ventures was established in South Australia in 1983 but, apparently, the need for the advisory council to make submissions and the need for Government to receive submissions from the advisory council has diminished over the years. The Attorney-General points out that the advisory council did not meet at all during the last term of office of its members. It appears that the Cooperative Federation of South Australia Incorporated acts as a representative body for South Australian cooperatives. If the membership represents a fair cross-section of the cooperatives carrying on business in South Australia, then the federation could well be an adequate source of information and advice for the Government as the need arises.

Presumably, the federation has the capacity to lobby the Government if there are any particular concerns that need to be raised on behalf of cooperatives in South Australia. Before we take the Bill through the Committee stage, will the Attorney be able to inform the Council of the membership of the federation and whether the membership represents only the larger, commercially oriented cooperatives? I would also like to know the primary source of income of the federation and with which cooperatives are the current board members of the federation particularly associated.

The reason why I wish to understand these issues is to ascertain whether the federation is truly representative of South Australian cooperatives. This is an important issue for the Opposition, if we are going to do away with the advisory council. The Attorney may wish to proceed with the passage of this Bill through its Committee stage and might like to write to me on this matter. I do not wish to hold up the passage of the Bill unnecessarily.

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

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 8 March. Page 1390.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. The Opposition has carefully considered the amendments proposed by the Government. We are able to agree to the amendments put forward for the reason given by the Attorney in respect of the Bills that are contained in this portfolio of Bills: the Bail Act, the Criminal Law Consolidation Act, the Evidence Act, the Legal Services Commission Act, the Magistrates Act, the Summary Offences Act and the Summary Procedure Act.

We have one concern in relation to the amendment to the Parliamentary Committees Act; that is, if the quorum for some committees is to be reduced to three, we are concerned that a series of committee deliberations could take place with only Government members present. Accordingly, we have placed an amendment on file to ensure that at least one Opposition member must be present before those committees can properly meet. The quorum on the other parliamentary committees ensures that there is a balance present during all deliberations.

The other amendment we have placed on file does not strictly relate to topics addressed in the Government amendments. However, it relates to an important issue that falls within the province of the Attorney-General's portfolio. The question is about how strictly home owners must keep to notice provisions of the Fences Act if they are going to sue a neighbour for financial contributions to a fence to be

erected on a common boundary. I will put the argument more fully in the Committee stages. However, essentially our concern is about inconsistency between provisions of two different Acts overseen by the Attorney.

Sections 8 and 38 of the Magistrates Act provide for considerable discretion on the part of a magistrates when dealing with a minor civil action, which is still called a 'small claim' by most people. On one view of those provisions magistrates are effectively given free reign to ignore the law in coming to a judgment about one of these types of dispute. This approach is inconsistent with the strict notice provisions of the Fences Act. The fences legislation is obviously based on a view that people putting up fences may miss out on a financial contribution from their neighbours if a contribution notice is not given to the neighbour and opportunity then given to the neighbour to challenge that notice. That is, of course, in the situation where the neighbours cannot agree on the fence and the costs in the first place. Our amendment will change the Fences Act to ensure that there will again be certainty in this area. I am confident that the Attorney would agree that certainty is desirable in this area and I hope the Government sees its way clear to supporting both of the Opposition's amendments. We support the second reading of the Bill.

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

PETROLEUM PRODUCTS REGULATION BILL

Adjourned debate on second reading.

(Continued from 8 March. Page 1420.)

The Hon. SANDRA KANCK: The issue of fuel taxes is one that comes up regularly, particularly at election times, with the RAA being one of the loudest voices calling on more of the money collected to go back into road building. The Democrats have never been able to support these calls in their entirety. Most certainly we must maintain and occasionally upgrade our roads, but we have always seen the need to direct such revenue so it is used to assist the transportation of people in more socially and environmentally responsible ways.

We are particularly pleased to see that Part X of this Bill is making some advances in this area, with a proportion of the money collected by this tax going towards the Environment Protection Fund. We are pleased also to see the recognition of the road toll, with a proportion of the money collected going towards the cost of health and ambulance services. Previously the money has gone only to the Highways Fund. I would be interested in finding out from the Attorney how much of the fee that is going to be allocated under this section of the Bill would actually be directed towards those ends. The Democrats are proposing to amend this part of the Bill still further so that money can be directed towards transport fuel research and towards public transport and bicycle usage.

I refer first to the question of research into alternative transport fuels. We really do have time limits. When I say 'we' I am talking about all of us on this planet in terms of needing to find a substitute to replace the petroleum-based products that are non-renewable. It is quite likely that within about 20 years limits will be placed on the sale of such products. We need to use this valuable lead time and any money we can get to find an alternative.

The other two areas I mentioned are the promotion of and support for public transport and also the promotion of and support for the use of bicycles because Adelaide is ideally a bicycle city, being largely flat. The Democrats are pleased also to see those aspects of the Bill that prohibit the sale of petroleum products to children. The problem of petrol sniffing, particularly by Aboriginal children, has not been very successfully addressed in the past. This should go some way towards that. I am sure that the parents of children who are involved in petrol sniffing will be very grateful to see this provision, particularly with the substantial penalty of up to $5 000 for selling petrol to these children.

There is a few aspects of the Bill about which I have questions. Clause 8 provides that a person must not keep petroleum products and there is a fine of $10 000. I would like some clarification of how this will impact on me with my little can of lawn mower fuel at home.

Part IV relates to general safety and environmental duties and raises the question of the leakage of petroleum products into the ground at a service station. I would like to know whether these duties apply only to a newly constructed service station or will it place some responsibility upon the owners of existing service stations?

Finally, clause 49 relates to the delegation of powers. I have not made up my mind on this and I am still looking at it. I am not sure that it is appropriate for all the Minister's powers or functions under this proposed Act to be able to be delegated, particularly to 'any person or body' and I hope the Attorney will explain at the conclusion of the second reading debate who he envisages 'any person or body' may be. With those few questions remaining to be answered, I indicate that the Democrats support the second reading.

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

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

A quorum having been formed:

CONSUMER CREDIT (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

(Continued from 9 March. Page 1439.)

The Hon. ANNE LEVY: I support the second reading of this Bill which, in effect, brings into operation the uniform credit code, which has been the subject of conferences, discussion and debate for at least 10 years. The previous Attorney-General, Chris Sumner, predicted that uniform credit legislation would not be achieved in his lifetime. If he meant his political lifetime, he was correct, but certainly the matter has been dragging on for many years. The consumer credit Queensland Act—which this legislation will make legislation for South Australia—is a lengthy document of 150 pages. I have not had time to study it in great detail but it seems to include most of the points that have been discussed for years regarding uniform credit legislation for Australia.

In South Australia we have had credit legislation which has been highly regarded and considered a model for other States to follow ever since 1972. However, the State legislation could not, of course, deal with banks as the States have no power over banks, that being a Federal responsibility. It also dealt largely with credit provided by finance companies, which were the major source of finance 23 years ago. It does not deal with building societies and credit unions, which have

become far more prominent in recent years. It was also limited in its effect in that monetary limits were imposed which, while quite substantial at the time it was brought in, have become quite insignificant with the passage of time. While it was very good legislation, its extent has become more and more limited as the years have gone by.

Other States in the intervening time have introduced credit laws which were not regarded as being as satisfactory as ours and led to the move for uniform credit laws throughout Australia. It obviously is of great advantage to credit providers to have uniform laws, as many of the credit providers act across State borders and it will be far more efficient for them if the laws with which they have to abide are the same in every State of the Commonwealth.

I am sure honourable members will recall that nearly two years ago in May 1993 the Ministers of Consumer Affairs from around Australia reached agreement on the content of uniform credit laws. The Ministers from all States and the Federal Minister met in Sydney and made decisions regarding the few remaining points of contention between them at that time. As they stated in their press release at the time, the basic purpose of uniform laws is to protect consumers by applying the principle of truth in lending to all credit provided for consumer purposes, including housing, and to all credit providers including banks, credit unions, building societies and finance companies. Certainly the application of those credit laws to housing will be something new for South Australia.

The Ministers also said that, although the prudential standing of banks, credit unions and building societies is supervised by other legislation, uniform credit laws will be the first time that fair trading and consumer protection laws have applied to their operations throughout the whole of Australia.

The legislation will ensure that financial institutions abide by the principles of full disclosure and fair treatment. The new policy which was agreed to was a compromise position with different States conceding different points with the aim of achieving uniformity. The main features which were decided at that time and which are embodied in the Queensland Consumer Credit Act 1994 were full pre-contractual disclosure to borrowers and guarantors of all financial details of the credit contract so that they can make an informed decision before signing a contract. Furthermore, there is to be provision of regular statements and notices so that borrowers are advised of the progress of their accounts and any changes in the terms and conditions, including changes in the interest rates, and timely notice of those changes. People are not to wake up one morning and find that their interest rates have changed.

Also, there must be power to negotiate a variation of contracts to the value of $125 000 if the borrower is undergoing temporary hardship, and power for a court or tribunal to reopen unjust contracts and scrutinise unconscionable interest rate variations or establishment fees. There must be protection against unfair contract enforcement and repossession practices. The Ministers at the time agreed that there would be an automatic civil penalty regime which would penalise credit providers who failed to make proper disclosure of the important financial details of the contract.

The legislation will permit the use of a comparison rate, the formula for which will be set out in regulations. The rate must be accompanied by a warning about the limitations of the comparison rate. The Ministers at that time also commended the decision by the Commonwealth Government to fund a consumer information centre to provide comparative information on financial products. The Queensland Consumer Credit Act 1994, which we are being asked to adopt, covers all these points in great detail with one exception, which relates to automatic civil penalties. The regime which is set out in the Bill means that, if a credit provider breaches one of the core or key requirements which are set out in the Act, they are liable for a penalty if a borrower or a guarantor takes them to court. However, it is not an automatic penalty: it relies on a borrower or guarantor taking them to court, although the Government consumer agency can also do so. I presume in South Australia that the Commissioner for Consumer Affairs would have the ability to take that action.

I have previously commented that this decision to maintain automatic civil penalties was decided by the Ministers in May 1993 and, furthermore, that the Ministers at that time decided that they would not alter any of the decisions they had made at that meeting. However, since then there has been reneging on those two decisions so that the legislation from Queensland contains not automatic civil penalties but a civil penalties regime which must be initiated by a borrower or guarantor, as I have indicated.

I think it is sad that that decision was reversed and that the Ministers throughout the country agreed to this, particularly as it was part of a package agreed to by the Ministers at that time. It was a compromise, and in return for maintaining automatic civil penalties other Ministers had agreed not to insist on having an automatic comparison rate provided to every borrower seeking credit, as had been very much desired by some of the Ministers. However, they agreed to drop a compulsory comparison rate for the voluntary use of a comparison rate as a *quid pro quo* for maintaining automatic civil penalties. So, although automatic civil penalties did eventually go, the use of the comparison rate remains voluntary and has not reverted to being a compulsory one.

That aside, I think the Bill is a great advance. It will cover all credit transactions, not only those for low amounts. Housing will be covered in this State for the first time, and all credit providers will be covered, be it credit in the form of a mortgage, a bank loan, revolving credit as used by department stores, or the general credit card system. It will be of great advantage to all parts of the country to have this uniform code.

One other matter does concern me somewhat. The Bill before us is to adopt the Queensland code as our code. While I applaud the Queensland Bill which we have had provided to us, there is no way whatsoever that this Parliament can make any amendments to the credit code. It becomes a 'take it or leave it' situation; we can either adopt the Queensland Consumer Credit Act as an Act of South Australia or we can decide not to adopt it. But we have no means whatsoever of amending it.

The legislation does not enable us to consider the detail of the Queensland Act and make any changes which we might feel desirable for South Australia. I note that the Queensland Act, before dealing with the code, does contain a clause which will not apply in South Australia but which does apply in Queensland, and that is in relation to being able to set a maximum annual percentage rate for a credit contract, which has long been a feature of Queensland credit laws but does not apply anywhere else in Australia. That will be something that is peculiar to Queensland. There is no means whereby this Parliament can change that Queensland Act.

I know it has been agreed to by the Government of South Australia, but as we know with regard to the balance of power

in this Chamber what is agreed to by the Government of this State is not necessarily what is agreed to by the Parliament of this State.

If there were some part of this Queensland Act to which this Parliament disagreed, there would be no way in which we could change it, even in respect of specifically South Australian conditions if we felt it was appropriate. I am not suggesting that I wish to make any such changes, but I think it is unfortunate that the Bill is presented in such a way that we are unable to make changes even if we feel that they are highly desirable for South Australia. This will, of course, apply to any future changes. If it is agreed by the Ministers that changes should be made, the Queensland Parliament will enact those changes, and then, under the provisions of the Bill before us, they will become part of the law of South Australia.

Again, given the balance of power in this State, I feel it is unfortunate that changes can be brought in by the Government but not by the Parliament. In consequence, I think it fair to say to the Attorney as Minister for Consumer Affairs and to all future Ministers for Consumer Affairs from whichever Party that, if they feel that changes to the code are necessary, before agreement is reached between Ministers around the country to be adopted by Queensland there should be consultation with the Opposition. In this way, the Government can be sure that the Parliament is in agreement with the projected changes before they are made the law of this State by being enacted in Queensland, because there is no other way that this Parliament officially can influence the consumer credit laws of Queensland.

Having said that, I strongly support the second reading of this Bill. It will be an historic occasion when uniform credit laws become operative throughout Australia. Many cynics have said that this would never be achieved. I am delighted that we have been able to prove them wrong and that uniform credit laws will be achieved for this country. It has not been an easy road to achieve this uniformity, but it is highly desirable, and I am sure that every borrower and credit provider in the country will benefit as a result.

The Hon. K.T. GRIFFIN (Attorney-General): As I understand that no other members wish to speak on the Bill, I will therefore take the opportunity to respond immediately, although I indicate that the Bill will not go through the Committee stage tonight but will be considered in conjunction with its companion Bill, the Credit Administration Bill.

I thank the Hon. Anne Levy for her support of the Bill. I note the observations she has made about the history of the development of the uniform credit code. It has been a long and arduous task, she having participated in it for a longer period than I, and I think to a large extent when I became Minister the die had been cast for the legislation, although the honourable member indicates that there was one substantial change in relation to automatic civil penalties which was made after the 1993 State election in this State, in which I participated and which I supported.

Some other administrative and drafting changes were made to the legislation subsequent to that election which I was prepared to support. However, I do not think the issue of automatic civil penalties will create any injustice: there will still be a significant deterrent to credit providers in respect of errors, either deliberate or inadvertent in their financing arrangements. Of course, the Commissioner for Consumer Affairs in this State will be authorised to take proceedings for civil penalties, and those civil penalties are still substantial.

The major difficulty with the automatic civil penalties regime which had been proposed was the whole issue of prudential requirements placed upon companies by the corporations law. As I recollect it, the concern expressed by auditors and corporations through the Ministerial Council was that the unlimited automatic civil penalties would have caused, in relation to all credit providers, a potential qualification to their audited accounts. That was an issue of concern which the Ministers addressed. We took the view that—

The Hon. Anne Levy: And staggered in relation to their total assets. It was to be automatic, but with the amount depending on the size of the institution.

The Hon. K.T. GRIFFIN: Sure. Whatever the framework, the fact of the matter was that there were still some major difficulties. The point I make is that in the whole scheme of credit provision and regulation under this code, notwithstanding that the Hon. Anne Levy has expressed concern about the withdrawal from having automatic civil penalties, it will not be a significant problem or issue in its implementation or application.

The only other observation I want to make relates to the Hon. Anne Levy's comments about the way in which the law will be made uniform across Australia. I have the same reservations that she has about the way in which this is being done. When I became Minister, the die had really been cast. I thought about alternative means by which this could be done.

Of course, Western Australia is enacting through its own Parliament a code in similar form to this code. It indicated during 1993 that that was the way in which it would proceed.

The Hon. Anne Levy: It couldn't be any more onerous than anything in here—guaranteed.

The Hon. K.T. GRIFFIN: It couldn't be any more onerous; that is correct. The difficulty may well be that there would be some disuniformity as a result of different provisions being considered by the Parliament in Western Australia—there may also be complete uniformity. However, the difficulty was that the South Australian Government and I as Minister felt that the development of this was too far advanced and that the South Australian position had been built into the scheme as an application of laws model to make any changes at that point. It may be that they could have been made, but it would have meant some revisiting of some of the agreements and mechanisms by which we should do it.

The Hon. Anne Levy: In the future.

The Hon. K.T. GRIFFIN: In the future, too. I felt the same way in relation to the Corporations Law. The honourable member may recall that the Corporations Law is probably much more significant in the way in which this Parliament has allowed its own sovereignty to be severely impaired because, under the Corporations Law, laws passed in the Commonwealth Parliament over which we have no control either as a Government or a Parliament become South Australian laws by virtue of the application mechanisms within the framework legislation which the Commonwealth and States have passed.

The Hon. Anne Levy: You don't have any control over Queensland, either.

The Hon. K.T. GRIFFIN: No, but the National Companies and Securities Scheme took effect in 1980. Again, I seem to have come in a bit too late to change that, too, because when I became a Minister for Corporate Affairs the die had been cast. It was an application of laws model just as this credit code is an application of laws model and it was too late to make any changes then, too. Under that scheme the

Commonwealth agreed that, under the inter-governmental agreement, it would enact laws which the Ministerial Council approved and it would put them through without amendment. The Senate and the House of Representatives members individually became uptight about that on occasions, but at least there was, by virtue of the voting strength within the Ministerial Council where each State had one vote and the Commonwealth had one vote, an absolute majority which could decide the way in which the law would be changed. The Commonwealth would then agree to put it into the Parliament. That same framework applies to Queensland. It always has the potential to go wrong but the inter-governmental agreement seeks to address that issue. If it goes wrong then it is the right of any State, through its Parliament, to enact laws which repeal the application structure and we can withdraw from the arrangement. It is unlikely to happen but it is also unlikely for Queensland not to enact the sort of legislation which the majority agree through the Ministerial Council should be enacted.

The Hon. Anne Levy: Sure, but the Government here cannot speak for the Parliament as the Government in Queensland can speak for the Queensland Parliament.

The Hon. K.T. GRIFFIN: Or the Government in New South Wales where there are some difficulties of balance.

The Hon. Anne Levy: Or in the Commonwealth.

The Hon. K.T. GRIFFIN: But that was also the difficulty in relation to the National Companies and Securities Scheme and the agricultural chemicals legislation that we passed last year. It is more of a difficulty in relation to the Corporations Law which was passed through this Parliament when again the previous Government did not have a majority in the Upper House. I understand the difficulties and I am not just wiping them away or sweeping them under the carpet: I am acknowledging that there are some difficulties.

There are a couple of things that can happen. It has been drawn to my attention that the code in relation to the AFIC legislation, dealing with financial institutions, which again is another model of application of laws passed by the previous Government and supported by the Opposition but where the Ministerial Council makes decisions (I do not think we were consulted about any amendments but I am not relying upon that as a precedent), is not available through the State information service. I recently sent a minute to the Treasurer drawing attention to this and asking when (I think in that case it was Queensland law which is the law of this State by way of a code) it will be printed up in the South Australian model form and be available through the State Information Office. The same I would hope will happen here. What is presently the Queensland code will actually be dressed up, when it becomes the law of South Australia, as the South Australian code and will be available to South Australians through the State Information Office.

Consideration is being given to the gazettal (and I think it is actually in the other Bill) of amendments including regulations which might be made under the uniform scheme and tabling in the Parliament of changes. They, I hope, will be available again so that people know what is the law of South Australia. I can give the commitment that I will endeavour to remember to consult. I cannot give an unequivocal commitment because I may slip up or there may be something urgent but I will do my best to ensure that there is proper consultation with the Parties in the Parliament about changes proposed to the law relating to the credit code. I would expect the same process to be followed in relation to amendments to this code as were followed by the old National Companies and Securities Scheme which, to some extent, is followed with the Corporations Law and that there be exposure drafts of amending legislation for public comment and that they will be available throughout Australia including South Australia.

This model requires a greater level of publicity to be given to decisions taken by the Ministerial Council where it changes the law than otherwise because of the very nature of the power of the Ministerial Council. I hope the honourable member will be satisfied that in good faith I want to ensure that there is proper public notification of proposed changes and consultation. That is really as far as I can take that. I understand the concerns which the honourable member has expressed, as I have expressed them in Opposition and in Government. Sometimes one has to make a judgment that in the circumstances we probably have no option. In this area we still retain the day-to-day responsibility for implementation and enforcement of this code in South Australia; that is important. I hope that that now answers all the matters that needed to be responded to. I thank the honourable member again for her indication of support for the second reading of this Bill.

Bill read a second time.

CREDIT ADMINISTRATION BILL

Adjourned debate on second reading.

(Continued from 9 March. Page 1440.)

The Hon. ANNE LEVY: I support the second reading of this Bill, too. It is the companion Bill to the one we have just discussed and deals with matters which are within the province of the Parliament of this State: the arrangements for implementation and administration of the credit legislation in this State. This matter was not decided as necessarily uniform throughout the country, and each State is making its own arrangements though I have no doubt there will be strong similarities between the States in the way the credit legislation is administered. What is being suggested in the Bill is that matters which need to be decided by a court and disciplinary matters regarding breaking of the code by credit providers are to be considered by the administrative and disciplinary division of the District Court.

This seems highly appropriate, particularly as assessors can be used for complicated actuarial and accounting matters that may well arise in questions relating to the Credit Code. I have one comment and one disagreement. I note that, while there is a severe penalty under the Bill of $30 000 for contravening an order of the court, in relation to the penalties under disciplinary action, where a credit provider has breached part of the code, the maximum financial penalty is only $8 000, which seems a fairly small amount. It is certainly a great deal less than the penalty for contravening a court order. I am not quite sure why there should be this imbalance. I note that in the Credit Code itself the penalties are described in units but, looking at the miscellaneous section of the Queensland Act, one can see that most of the penalties there translate as being $5 000, $10 000 or $15 000, and I suppose the $8 000 picked here is somewhere in the range of most of the penalties there. There does seem to be a great difference between the penalty that can be imposed for breaching of the code and the penalty that can be imposed for breaching a court order, where the latter is nearly four times the former. I would be interested in comments from the Attorney on this matter.

The other query I have is with regard to clause 15, which deals with the liability for an act or default of an officer, employee or agent of a credit provider. It virtually states that an employer is not liable for or has an easy way out of liability for the actions of his or her employees. This, it may be recalled, we discussed in great detail when dealing with the Land Agents Bill, the Conveyancers Bill and the Land Valuers Bill, and we amended the liability clauses there so that an employer is in fact liable for acts or defaults of employees unless they are acting quite outside their authority as employees.

I have already put on file an amendment to make this liability of an employer in relation to employees the same as we recently agreed for the land agents, land valuers and conveyancers. I hope that the Attorney will look kindly on such an amendment, which is certainly not novel but, as I say, is continuing a form of words and a principle that we decided recently for other similar situations. Apart from that, the procedures set out for the administration and implementation of the uniform credit legislation in South Australia seem admirably sensible, and I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): Again, I appreciate the indication by the Hon. Anne Levy of her support for this Bill. She raised several issues, and I will endeavour to answer them now, have some follow up undertaken tomorrow morning and, if I need to add to what I am now saying or correct any difficulty, if the honourable member is happy we will do that during the Committee stage. In terms of the penalty, I note the point about the apparent disparity in the maximum penalty for a person who is employed.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: That is right. I note the disparity between the two. The only reason I can give for that, although I do not have it totally at my fingertips, is that the order of the court, when the court makes its order, must be obeyed, and any sort of thumbing of the nose at the court is a much more serious act than breaching the code.

The Hon. Anne Levy: Four times as serious?

The Hon. K.T. GRIFFIN: I am not sure. All I can say is that I think that is the rationale. The honourable member may have a good point in relation to the disparity: it is something that I will take up. In relation to the other issue, all I can do is take that on notice for the moment. In the drafting of clause 15 we took the view that there should be some onus upon the officer, employee or agent in the manner expressed in the Bill. It may be that that is too onerous and we ought to deal with issues of authority rather than what they could reasonably have been expected to do to prevent the act or default. Again, I will take that on notice and try to bring back an answer for the Committee consideration of the Bill.

Bill read a second time.

PHYLLOXERA AND GRAPE INDUSTRY BILL

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

ADJOURNMENT

At 11.15 p.m. the Council adjourned until Thursday 16 March at 11 a.m.