LEGISLATIVE COUNCIL

Wednesday 7 June 1995

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

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

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

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

Motion carried.

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 Acts—
Petroleum Products Regulation Act 1995—General.
Superannuation Funds Management Corporation of South Australia 1995—Election of the Board.

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

Regulations under the following Acts—
Fisheries Act 1982—Fish Processors.
Mining Act 1971—Application.
Pipelines Authority Act 1967—Form of Pipeline Lease.
Workers Rehabilitation and Compensation Act 1986—Various.
Supreme Court Act 1987—Rules of Court—Various.

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

Regulations under the following Acts—
Conveyancers Act 1994—General.
Land Agents Act 1994—General.
Land Valuers Act 1994—Qualifications.

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

Regulations under the following Acts—
Local Government Act 1934—Cemetery.
West Terrace Cemetery Act 1976—General.
Racing Act 1976—Rules—Greyhound Racing Board—Sires and Brood Bitches.

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

Regulation under the following Act—History Trust of South Australia Act 1981—General.

By the Minister for the Status of Women (Hon. Diana Laidlaw)—

Response to Statutory Authorities Review Committee—Report on ETSA and board membership.

LEGISLATIVE REVIEW COMMITTEE

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

HINDMARSH ISLAND BRIDGE

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I lay on the table a copy of a ministerial statement made by the Premier in another place today on the subject of the Hindmarsh Island bridge.

QUESTION TIME

CAPITAL WORKS

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 capital works.

Leave granted.

The Hon. CAROLYN PICKLES: Members will recall that last week I drew attention to the Minister's misleading statement that this year's capital budget was $10 million more than Labor's last budget. For the record, I pointed out that Labor's last budget was $87.683 million compared with $90.6 million, and the difference was not $10 million. The reason why the Minister declined to reveal actual expenditure on capital works would be that this year it became obvious from the budget papers. The revised expenditure this year is estimated at only $66.2 million. This is $10 million less than last year, and a shortfall of $22 million against the budget. Seven major projects involving the construction and redevelopment of schools simply slipped a year. Even worse was the underspending of maintenance by $9 million. My questions are:

1. Did the Government deliberately underspend this year's education capital works budget by $22 million to make up for the over expenditure of the recurrent budget?

2. Was it underspent to prop up this year's capital works program by $22 million, or has the Building Services Branch of the Minister's department been reduced to a level where it can no longer deliver the programs?

The Hon. R.I. LUCAS: As I have indicated on a number of occasions, there are a number of reasons for the underspending on the capital works budget. I will cite four or five examples. The Government has allocated $3.5 million to the Tanunda Primary School, and there is a raging dispute in the Tanunda community at the moment between the local school council, which wants to build the new school on one site, and the local council, which wants to build it on another site. As I have said publicly, I have never had so much difficulty in spending $3.5 million as I have in terms of the location of the new school at Tanunda.

The Hon. R.R. Roberts: We'll have it at Port Pirie.

The Hon. R.I. LUCAS: Port Pirie will have it. Well, they are very lucky. For the first time in donkey's years the Government has allocated $650 000 to John Pirie Secondary School. After decades of neglect they were jumping with joy at the notion that they would get a significant capital contribution from the capital works budget. So, Tanunda is one example with $3.5 million. The Government has allocated $5 million for the Glossop Secondary School. A debate has been going on within the Glossop community whether to have a senior secondary college at Berri and a junior secondary section at Glossop or to redevelop on the Glossop site. They have not been able to resolve that issue satisfactorily with departmental officers.

A third example is Seaton High School, where the Government has allocated $1.3 million for its redevelopment. The Government is desperate to spend the money in the traditional way, but the school Principal and the school council have come to us and said, 'Please don't spend the money yet; we want to spend it in an ecologically sustainable way with a new form of housing development at the Seaton High School. Will you please give us the time to prove that this is a financially viable proposition?' As the Principal, Mr

David Tonkin, is a former President of the Institute of Teachers and a close friend of the Leader of the Opposition, the Government was, of course, prepared to allow him and the local school community to determine whether or not this ecologically sustainable development is more financially viable than the traditional form of redevelopment that the Government has in mind.

A fourth example is the Coromandel Valley Primary School, where the Government is desperate to spend $650 000. The school has come to us and said, 'Please don't spend the money yet, because we want to look at a different form of redevelopment of the school, and if you go ahead and spend the money in the way in which you are currently contemplating it might cut across our proposal.'

I could cite a further half dozen or so examples where school communities are coming to the Government and saying, 'Please don't spend the money yet,' or 'We still need to resolve this issue in terms of how the money will be spent in those areas.' The Government takes no pleasure in those sorts of issues and concerns but, of course, as it is a Government that listens to the people and the concerns of teachers, principals and parents, it has been prepared in those cases and others to defer those capital works until the local issues can be resolved.

The second broad area in which there has been a problem—and I mentioned this last week; it is exactly the same problem that the Labor Government struck in 1993-94—relates to the downturn in the property market. A number of schools and school properties have been declared surplus to the department's needs. We are trying to sell them, but at this stage—and this applies over the past two years in some cases—there are no buyers for those properties.

CHEMICAL SPRAYS

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about the use of chemical sprays at Bundaleer Forest.

Leave granted.

The Hon. R.R. ROBERTS: Members will be aware of the massive strides made in recent years to promote Australia's primary produce in world markets as being clean and green. One aspect of this marketing approach has been the development of organic farming on both a small and large scale and, in some instances, broad acre farms. At the forefront of this development has been the Malone family at their Maleer farm just outside of Jamestown in South Australia's mid-north. For over 20 years this family has worked to develop their broad acre property as an organic-biodynamic farm, which is a truly sustainable method of agriculture without the use of water soluble fertilisers or chemical sprays.

For the past five years their property has been certified at the highest level under the national certification program operated by the industry organisation, Biological Farmers of Australia—one of the few broad acre farms in Australia to achieve this level of certification. The certification has allowed them to sell lucerne, oats, wheat, radish, chickpeas and safflower to local and overseas markets under the banner of organically grown products. The family is moving to sell its beef and mutton on the organic market and is investing considerable sums to ensure that the processing of such products occurs in a chemical free environment.

The Maleer property is a true success story of people who are at the leading edge of production and marketing and it should be noted that this success has not come about by accident, but rather through hard work, experimentation, innovation and large amounts of investment. These are the attributes that we praise so readily.

Members would appreciate that the continued success of this type of primary production is reliant on the Malones maintaining their level of organic-biodynamic certification and being able to continually reassure their markets that their products are indeed clean and green. In recent times the Malones have been concerned with the use of chemical sprays at the Bundaleer Forest which is adjacent to their property and which is operated by Primary Industries SA. I am informed that in July 1994 the chemicals Simazine and Bel-Par were aerial sprayed at the Bundaleer Forest to remove weeds from within the forest. I am further advised that the spray drift from this application caused some damage to crops, grazing feed and trees on another property adjacent to the forest owned by another family and this led Primary Industries SA to apply the same chemicals in a granulated form on 29 May this year to avoid any spray drift problems. However, no account appears to have been given to the possible effects the dispersal of these types of chemicals may have on the properties of surrounding primary producers, particularly the effects it may have on the Maleer property owned by the Malone family.

A couple of concerns raised with me by Mr John Malone outside of the problem of spray drift include the possibility of chemicals leaching into the ground water and the run-off containing chemical residues. Mr Malone has pointed out to me that one of the major sources of his income comes from his lucerne, which is a plant with deep roots that can survive up to 20 years and which is reliant on ground water for survival. It would be obvious to all members that any hint of chemical contamination in any of the produce from an organic farm would destroy that farm's reputation and its business, particularly in the export of produce to markets such as the United States.

Mr Malone is also concerned that the dosages of chemicals used at the Bundaleer Forest have been extremely high with eight litres per hectare being used, whilst farmers are advised not to use more than 1.25 litres per hectare. I understand that my explanation has been lengthy, but it is a matter of grave concern to the Malone family that their business could be destroyed in the long term by the continued use of these chemicals in such high doses. Therefore, my questions are:

1. Will the Minister have the use of all chemical agents in State forests investigated by his officers, perhaps with the assistance of officers from the Department of Environment and Natural Resources, to ensure that their continued use, and the levels of use, pose no threat in the short term or the long term to landholders on adjacent properties?

2. Will the Minister issue instructions to PISA forestries to ensure proper consultation and prior notice of intended chemical spraying operations is given to neighbours of PISA controlled properties that are about to be sprayed?

The Hon. K.T. GRIFFIN: I will refer those questions to the Minister for Primary Industries in another place and bring back a reply.

DISTINGUISHED VISITORS

The PRESIDENT: Order! I draw members' attention to the President's Gallery. We have there a group of Commonwealth Parliamentary Association delegates, Pacific Islanders, who are here on a study tour. I welcome you to this Chamber and to South Australia and hope that you enjoy your tour.

PATAWALONGA

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

Leave granted.

The Hon. T.G. ROBERTS: We all know that the Government is embarking on a clean-up program of the Patawalonga, which is long overdue. We also know that the Government has embarked on an option which has not met with the approval of all the local residents in the area and which has raised concerns with medical specialists and other health specialists because of some of the contaminants that have found their way into the bottom of the Patawalonga over a long period of time. I have been approached by a community group or organisation acting in the area and by individuals who are concerned that the soil contains microbiological contaminations that will cause and have caused associated health problems.

A constituent by the name of Mr John Hill, a retired businessman and a concerned citizen of Adelaide, has claimed that the toxic sludge that has accumulated in the Patawalonga Basin over the past 30 years is a serious health hazard and that he, Mr Hill, contracted a disease called Grovers Disease, an unusual disease, and it sent me scurrying for the medical books, which I had not read for a long time. It is a recurring, painful, itchy skin rash which he claims he contracted as a result of swimming at the Glenelg beach near the Patawalonga sea outlet during January of 1993. The local Messenger Press has also covered stories of rashes occurring to the feet or legs of lifesavers and swimmers who have come into contact with the contaminants.

The way in which the Government has dealt with that is to allow for the outlet to be opened in the evening or at night so that the risk of contamination reaching swimmers is minimised. It is certainly not a good advertisement for South Australia, to be handling the sludge and the dredged material in this way. Mr Hill believes that, if the State Government proceeds with the present Kinhill plan to dredge 300 000 cubic metres of sludge and sediment from the Patawalonga Basin on to Federal Airport Corporation land, it will be necessary, to protect public health, to close the beaches at Glenelg and West Beach during the nine-month period of dredging operations.

The polluted water contains a chemical cocktail of pathogens, viruses, bacteria, parasites, chemicals and heavy metals, which have been shown to be the causes of many diseases. These will flow back through the Patawalonga Creek which itself is polluted with blue-green algae. My questions are:

1. Why did the Government fail to carry out an independent microbiological analysis of the sludge contained in the Patawalonga Basin to protect public health before the current dredging process began?

2. Can the Minister assure the public that the transportation and storage of the Patawalonga toxic sludge to both the disposal and rehabilitation areas will be carried out in such a way as to make sure there is absolutely no contamination of or danger to surrounding residential areas?

3. Will the Government appropriate funds to allow for the testing for microbiological contamination of the sludge being dredged from the Patawalonga?

4. Will the Government make provision for decontamination of these dredged soils if the soils are found to be contaminated?

The Hon. DIANA LAIDLAW: I will refer those questions to the Minister and bring back a reply. In brief, I remind the honourable member that the decision to dredge and even embark on the project at the Patawalonga follows an agreement between the Premier and the Prime Minister, and therefore both the State and Federal Governments, to commit Building Better Cities funding to the project. As part of the agreement signed between the Prime Minister and the Premier, there was a commitment that the Building Better Cities funding be spent by 30 June 1996. Therefore, the Minister's actions in committing to a contract for dredging works to be carried out during the winter of 1995 is fundamental to the achievement of the requirements of the Building Better Cities agreement. It does not in any way put the funding at risk in terms of the dredging program that is being conducted now. I understand that the Minister has received a copy of the letter to which the honourable member refers and will be addressing the concerns. I repeat that every approval in relation to the program has been endorsed and accepted by the Commonwealth Government.

RAILWAYS, SOUTH-EAST

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport a question in relation to the South-East rail lines.

Leave granted.

The Hon. SANDRA KANCK: There have been several reports on the commercial viability of the Wolseley to Mount Gambier and Millicent railway in recent years. Some have recommended closure of the line. These have all been based on the *status quo* of Australian National costings and falling traffic levels and none of them surveyed any existing or potential rail customers in the South-East. A recent report from Deacon University, the Lander report, recommends retention and standardisation of those lines. Frank Lander, the author, has personally surveyed every potential rail customer in the South-East. In this report, one customer said that dealing with AN was positively awesome while it was also found that one huge potential customer had never been approached by AN. Some customers wondered whether AN had actively discouraged business, either through incompetence or deliberately. The Lander report found that the railway could be commercially viable on the basis that the cost structure of running the railway is that of an efficient market-driven private operation. My questions to the Minister are:

1. Does the Minister accept the superficial reports recommending closure and abandonment of the South-East rail lines and what credence does she give the fully researched and costed Lander report from Deacon University?

2. Will the Minister give a commitment that under no circumstances will she permit Australian National to dismantle the Wolseley to Mount Gambier to Millicent railway line during the life of her Government?

3. I understand that the dispute between the Minister and Australian National is to be arbitrated—

The Hon. M.S. Feleppa interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: I understand that the dispute between the Minister and Australian National is to be arbitrated. What stage has this reached?

The Hon. DIANA LAIDLAW: As the honourable member noted, there have been various reports into the status of the Wolseley to Mount Gambier line. AN ceased operating that line a few months ago. There was an option at that time for me to protest to the Federal Minister. I chose not to do so at that stage because in the balance was funding that we required for the standardisation of the Murray-Mallee lines. The Federal Government came through with $5 million of the $15 million required for the standardisation of those lines in the Federal budget. That was a very important development in terms of the future of the rail lines in South Australia.

It was important to ensure that, with the standardisation of the Melbourne-Adelaide line, which was opened by the Prime Minister at the weekend, we fought hard to ensure that the broad gauge branch lines were standardised also. As I indicated, I did not want to put those negotiations at risk in terms of the Murray Mallee lines by objecting at that time to the closure of the operations of the Wolseley to Mount Gambier line. We have now found that those funds have been granted in part in the Federal budget. It is certainly time to move, and the Government has done so in respect of the Mount Gambier to Wolseley line.

I share the honourable member's concern that AN may well plan to use some of the sleepers and the rail from the Wolseley to Mount Gambier line in terms of reconstructing and standardising the branch lines in the Murray Mallee. Several requests for confirmation of AN's plans have been directed to management but to date we have not received a satisfactory reply. In fact, at best I would suggest that they are playing a hedging game. I suppose if I were in their position I would probably do the same, but it certainly does not help the State in determining AN's plans and in assessing the most appropriate responses.

The Lander report has been deemed by most people who have analysed it to be an overly optimistic view of the potential for traffic to use that line in the future. On two occasions the Federal Minister has commissioned the Bureau of Transport and Communications to look at that line but to date it has proved impossible to convince the Federal Government that the line has any future, and therefore it has refused to provide any money for the standardisation of that line. I have received a letter to that effect from the Federal Minister, Mr Brereton, within the past fortnight.

I have received some, and am receiving more, advice on the options available to us, because the Liberal Government has given a policy undertaking that it will work diligently—in fact as far as the High Court, as I recall the policy—in terms of upholding the terms of the Rail Transfer Agreement. The first step in that process is to seek arbitration. The Federal Minister has not formally advised me that the operation has ceased so, in the legal sense of the Rail Transfer Agreement, I cannot call for the appointment of an arbitrator at this stage. However, in the spirit of the Act the fact that—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Frank Blevins did, because he received a formal request from the Federal Minister. It is outlined in terms of the legal protocols that we must first receive a formal request. I think quite deliberately a formal request has not been presented to me and to the South Australian Government: rather, they have just ceased to operate the line. A letter has been prepared for my signature to indicate that, in terms of the spirit of the Rail Transfer Agreement, we consider that there has been a determination by the Federal Government to close the operation and that I would like to receive formal advice of the Federal Government's intentions.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: I have; that is what I am doing. I am seeking formal advice of the Government's intentions because that is important in terms of the staged process towards arbitration, and I have no doubt that that is where we are heading at this stage. When the Hon. Frank Blevins took the Federal Government to arbitration in relation to AN's decision to cease the passenger rail service to Mount Gambier the State won, and we would be equally determined to win on this occasion.

The Hon. SANDRA KANCK: Has the Minister any costing to indicate, in the event of the rail line's being permanently closed, what sort of money would be needed to upgrade the roads to deal with the extra freight that they would then have to carry?

The Hon. DIANA LAIDLAW: I spoke to a representative of Rail 2000 about this matter at the Islington freight yards on Monday and immediately came back to the department seeking such information, but as of today I have not yet received it. I will make another request because it is an important consideration.

TRANSPORT FARES

The Hon. M.S. FELEPPA: I seek leave to make an explanation prior to directing a question to the Minister of Transport about fee increases for public transport.

Leave granted.

The Hon. M.S. FELEPPA: The *Sunday Mail* of 4 June 1995 contained an article which brings to the attention of the public the fact that the new fare structure for public transport has in it an increase which will amount to 26 per cent over the next three years. This increase for multi-trip tickets will be from $15 to $18.90 and will commence with a $1 increase from 23 July this year. The Government seems to enjoy some sort of satisfaction in that the price of the tickets compares favourably with those charged interstate. In my view it should not be a matter of what level of fares applies interstate: there is no justification whatsoever for raising fares simply for the sake of following what they do in another State.

The Government is also claiming that the new fare structure with its increase will result in increased use of public transport. The assertion is an error. Simple economics says that, if the price rises, demand will drop and when demand drops supply drops in proportion. It is sound economics that increased fares will result in less use of public transport, and not an increase therein, as the Government supposes. Perhaps that is the strategy: up the price, reduce the demand and then there will be an excuse to reduce the supply. There will be less use of public transport, because these people will make alternative arrangements. The little that will survive can then go to private enterprise and, finally, the whole public transport system will be outsourced. It is, in my strong view, a flawed strategy which would discourage many people from using public transport.

Will the Minister explain to the Council the strategy for increasing fares and the reasoning that an increase in public

transport fares will result in an increase in the use of trains, trams and buses?

The PRESIDENT: I remind members that there should not be too much opinion in questions. There was a considerable amount thereof in that question.

The Hon. DIANA LAIDLAW: In terms of all the comment and opinion, I thought that the honourable member was outlining the strategy adopted by his Labor Government in the 10 years between 1982 and 1992, when public transport in this State loss 30.3 million passenger journeys. It is the task of this Government to try to restore respect and integrity for, and the use of, public transport in this State.

It is true that these services, which I announced in May, in the north and north-east have responded to the requests both of bus drivers and of passengers for new services, extension of services and more frequent services, the last of which we know are critical to win back passengers to public transport, and that is our goal. Therefore, as part of that goal, the Government has considered it necessary to develop a long-term plan in terms of fare strategy.

There are two reasons for that: we know that passengers need to have some confidence about planning their future travel arrangements and that they should do so in the knowledge that a standard fare will apply, irrespective of the distance that they travel in the metropolitan area. Secondly, under the system of competitive tendering, whether that tender is won by TransAdelaide or by private contractor or operator, it is important for that operator to have confidence to introduce the new and more frequent services which we believe will arise from competitive tendering, again secure in the knowledge that people will not become disillusioned by any *ad hoc* fare increases, which have plagued public transport in the past few years.

The honourable member mentioned an increase of 26 per cent over three years in terms of this strategy. I point out that the strategy is confined to the purchases of multi-trip tickets only—not single trip tickets and not concession travellers. I point out that, when the honourable member's Government was in power, between December 1990 and January 1992—essentially just over one year—fares on public transport increased by 30 per cent. So, some research should be undertaken by members opposite before they launch into any ill-informed attack on the strategy that the Government has developed for public transport fares.

Also, this measure has not been introduced to satisfy any rate relationship with other States. In explaining why we are reducing the discount on the purchase of multi-trip tickets, we have indicated that, compared to other States, the multi-trip discount is the most generous in the nation, and I suspect the most generous in the world. The Adelaide regular all-time fare, which is across the system, so one can go from Gawler to Noarlunga, is $27, if one buys one's 10 single trip tickets. If one buys a multi-trip ticket it is $15, and it will rise to $16. That is a 44 per cent discount. The average discount on multi-trip tickets across Australia is 23 per cent. The reason why that is so high is the high discount that South Australia provides. If we take out South Australia, the discount is much less than that 23 per cent average.

So, we will be moving to a target of 30 per cent, which is again much higher than the average. I seek to incorporate in *Hansard* a table outlining both a comparison of ticket prices around Australia in terms of multi-trip discounts and also fare increases since 31 July 1988 to the last proposed increase.

The PRESIDENT: Are those tables purely statistical?

The Hon. DIANA LAIDLAW: Both are statistical tables.

Leave granted.

Comparison of ticketing prices

	$	$	%
Adelaide reg. All times	27.00	15.00	44
Adelaide reg. Interpeak	16.00	9.60	40
Brisbane bus Zone 1	12.00	9.00	25
Brisbane bus Zone 2	18.00	14.40	20
Brisbane bus Zone 3	24.00	19.80	18
Brisbane bus Zone A	28.00	23.40	16
Melbourne Zone 1 and 2	36.00	32.40	10
Perth Zone 1	14.00	12.00	14
Perth Zone 2	20.00	17.15	14
Perth Zone 4	30.00	25.70	14
Sydney bus 3-9 Sections	25.00	15.40	38
Sydney bus 16-21 Sections	40.00	30.80	23
Sydney bus 22-27 Sections	44.00	38.50	13

Fare increases in the past

31/7/1988	+12.8 per cent	Revenue raising
16/7/1989	+2.8 per cent	CPI fare adjustment
1/11/1989	-5.0 per cent	Seniors Card introduced
30/1/1990	-25.0 per cent	Free student travel introduced
1/7/1990	+6.9 per cent	CPI fare adjustment
15/12/1990	+0.5 per cent	Reintroduction of student fares after 6 p.m.
1/8/1991	+10.6 per cent	Establishment of on-board premium fares
5/1/1992	+20.0 per cent	Major revision of concessions policy
2/8/1992	+2.6 per cent	CPI fare adjustment
1/8/1993	+1.9 per cent	CPI fare adjustment
5/2/1995	+3.7 per cent	CPI fare adjustment

First increase in 18 months.

The Hon. DIANA LAIDLAW: The last thing that I should add is that, in developing this strategy, we have tried to ensure that there is fairness throughout the whole ticketing structure. Therefore, we have frozen the fares with respect to student concessions; there will be no increase there. Also, we have frozen the price of the single trip regular fare or all-time fare at $2.70. We have done that because this is the area where TransAdelaide has lost the most patronage in recent times. It is the short, single trip fare, whether it is from Woodcroft to Noarlunga or something like Evanston to Gawler. It is that short, single trip ticket where the system has been the most vulnerable and where most passengers have deserted the system. It is also that ticket which is important in terms of the tourism market, where people buy on a single ticket basis. Where we have analysed that there are weaknesses in the system, with respect to our new tourism approach with TransAdelaide, we have decided that they should be frozen over the next at least two years of the three year strategy.

Just for the record, regular single trip journeys fell from 2.887 million to 2.003 million in 1993-94. The concession single trip journeys fell over the same period from 1.722 million to .847 million. Also it is very important to note that this strategy maintains the existing flat fare structure as opposed to the introduction of any distance based or zone fares. I indicate that in that regard, just as our multi-trip discount tickets are the most generous in the country, we remain the only place in the country—and possibly other than Hawaii, the only place in the world—that has this flat fare structure and not a distance-based or zone structure. Nevertheless, that structure will remain under this strategy.

FORENSIC SERVICES

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Attorney-General a question about the outsourcing of South Australia's forensic science services.

Leave granted.

The Hon. T. CROTHERS: The recent sale of the State-owned gas pipelines and the State Bank, and the projected sales of the State Government Insurance Commission and other mooted sales, has led to a lot of unease amongst current Government employees. In other Government-owned instrumentalities, these matters have led to a lot of job dissatisfaction and boundless rumours concerning these employees' future job prospects.

The latest buzz which is concerning some people is that the State Government is contemplating the outsourcing of State forensic science services. I am told that this is causing considerable disquiet amongst employees in that area, which I am sure the Council will not need reminding is essential to our—successfully at times—giving effect to the proper pursuit in the courts of breaches of South Australian laws. Generally, I am led to believe that these breaches are of a fairly serious nature. My question following that small preamble is a simple one: is the Government contemplating the outsourcing of State forensic science services and, if so, is the Attorney concerned about the Director of Public Prosecutions having reduced access to top quality forensic scientific services?

The Hon. K.T. GRIFFIN: That is not within my area of responsibility; it is with the Treasurer through State Services or some other agency. What I will do is undertake to refer it to the appropriate Minister, obtain a reply and bring that back.

As far as the DPP is concerned, I have not heard any opinions expressed about forensic sciences, either at present or in the future. From the DPP's perspective, it is important to have good quality evidence. I do not suppose that it matters where the evidence comes from as long as it is good quality material and evidence that will stand up to scrutiny in the courts system. I have certainly not had any suggestion from the DPP that there is any present or future concern about forensic science evidence. As the matter relates to an area of responsibility which is not mine, I will bring back a reply.

GOVERNMENT PAMPHLET

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister representing the Premier a question about the pamphlet entitled 'We are coming into the home straight'.

Leave granted.

Members interjecting:

The Hon. T.G. CAMERON: Well, it is a campaign; it is an election campaign. In another place yesterday, the Premier advised that the electioneering pamphlet 'We are coming into the home straight' was available to all members. Yesterday, the Minister of Education offered to provide us with free copies. This pamphlet would make any campaign director proud. It turns the use of Government money for election campaigning into an art form. It is interesting to note that the pamphlet is not authorised nor does it state who printed it.

Members interjecting:

The Hon. T.G. CAMERON: I realise that. I'm just making the point.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: You just said it was.

The PRESIDENT: Order!

The Hon. T.G. CAMERON: My questions to the Premier are: will the Premier provide the Council with the total cost of producing, printing and distributing this electioneering pamphlet? Did the Government charge Liberal members of Parliament for the tens of thousands of pamphlets which they are currently letterboxing, with a little compliments slip attached conveniently so that members can put their stamp on it; if not, why not?

The Hon. K.T. Griffin: You could put your stamp on it, if you like.

The Hon. T.G. CAMERON: Why would we put our stamp on this rag of a pamphlet? Hand out your electioneering material? No way! What a joke! If a charge was made, was it done on the basis of a full recovery of costs? Finally, were Liberal Party officials from Greenhill Road consulted on the text and layout of this pamphlet and asked to comment on a draft copy of it?

The Hon. R.I. LUCAS: I am delighted to refer the honourable member's questions to the Premier and bring back a reply, but I indicate to the honourable member, as I indicated yesterday in response to a question on this matter, that this is an information leaflet. It provides information on the State budget as to how taxpayers' hard earned money is being spent. It indicates where the money is being spent in terms of the State budget. It is as simple as that: it is information. Every budget provides factual information in a package of documents. Under the previous Government, that package of produced documents was usually about two feet high, and it indicated where the money was being spent. This Government has reduced that pile of glossy documents, which the previous Government used to produce, by a few centimetres. It has compacted the information and provided it in a more readily digestible form so that the people of South Australia can understand where their money is going, because the people of South Australia will not read documents the size of something like this—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Because it can't be distributed. Clearly, the previous Government did not want the information about the budget to be distributed to many people in South Australia.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Because you didn't produce the copies—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —to enable the people to understand what the budget was doing, the rationale behind it and where the money was going. This Government is interested in informing the people about the budget, its strategy and what its key results and initiatives are. So, the answer to the honourable member's question is that, at Government expense, the Government has reduced that two foot high pile of documents which the previous Labor Government used to produce, at Government expense, to something that is more readily understood and digestible by the average person in terms of what the budget will do for the taxpayer. So, the Premier and I are certainly not concerned about the way in which we are genuinely providing factual information to the people of South Australia regarding what the budget has done. I am sure that the Premier will be only too delighted to look at the total costs of the previous Government in providing information on the budget documents and papers compared with what this Government has done.

COMMUNITY RADIO

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for the Arts a question about community radio grants.

Leave granted.

The Hon. ANNE LEVY: The news has come through that all grants to community radio are to be cut. In South Australia, currently there are 12 fully licensed community radio stations: seven in the metropolitan area and five in non-metropolitan areas. There are five stations with aspirant licences and there is one narrowcast station, the Aboriginal radio station in Port Augusta. I understand that the Minister has said that community radio is outside her department's core business. I quote from a letter from one of these community radio stations. It states:

> The fact that you see community radio as being 'outside your department's core business' shows little understanding of the role and function of community radio in the community. Community radio is a *bona fide* community art form practised by thousands of people in this State. More people are creatively involved in community radio than, for instance, furniture making, poetry reading or a host of other equally *bona fide* community art forms.

Currently, 3 000 people in this State are involved in community radio, which can be regarded as a very worthwhile community development and creative activity. Community radio has 400 000 listeners throughout this State which, incidentally, is about the same number as Radio National.

The Minister promised the South Australian Community Broadcasters' Association only 10 months ago that funding for community radio would not be cut.

The Hon. T.G. Roberts: It hasn't been cut; it's been taken away.

The Hon. ANNE LEVY: I agree, it hasn't been cut, it's been eliminated completely. This is not my opinion, but the letter from a community radio station states:

> This can be regarded as mean spirited and vindictive.

Community radio in this State has been supported by the Dunstan Government, the Tonkin Government, the Bannon Government and the Arnold Government, and the Minister, when shadow Minister, frequently said in this place that she supports, and does not want to see a diminution in, community arts. The Minister has also said that she supports peer group assessment as a principle on which arts grants are made in this State. Community radio further stated:

> . . . community radio is vital to the continued viability of the practice of art in this State. Witness the success of many Adelaide contemporary musicians over the years. They didn't get their break on SAFM! It was, and is, community radio that exposes and nurtures these artists.

My questions are:

1. Did this axing of money for community radio come as advice from the Community Arts Advisory Committee, or was it not consulted about this community art cut, therefore bypassing and ignoring peer group assessment?

2. Has any analysis been made of the effect of this axing on the 18 community radio stations involved; how many may become non-viable and have to close and, if so, which ones?

3. Does this axing of grants for community radio result from pressure on the Government from one or more commercial radio stations which perhaps fear the competition from community radio?

The Hon. DIANA LAIDLAW: I am not too sure what the honourable member is implying in respect of her last question, but I can assure you that this matter arises from an in-depth analysis of the arts budget and the directions over past years and where we wish to pursue arts funding in future years. It is as limited as that. Certainly, I have had no contact with anybody who has ever suggested that the commercial sector has any concerns in any way similar to those that the honourable member has just suggested. This matter was discussed with representatives of the Department for the Arts and Cultural Development and myself. In terms of the analysis that was made, it arose from the arts task force report, a report which had Labor, Liberal and Democrat sympathisers—although I do not know, nor do I necessarily care. But I do know that that report, which was compiled by representatives of arts communities, irrespective of their political views, and by tourism and business representatives said that the arts under Labor and Minister Levy was being strangled by little cuts everywhere—it was a thousand lashes or something like that. They did not want the arts to suffer as they had suffered in the past and they wanted the arts to shine again in this State. On almost every page they challenged us to make the decisions which the arts—

The Hon. Anne Levy: My name is not mentioned in that document.

The Hon. DIANA LAIDLAW: No, it is unmentionable in the arts, that's why.

The Hon. Anne Levy: You just said they mentioned my name: they did not mention my name.

The Hon. DIANA LAIDLAW: The inference is there all the way. Perhaps they were too polite, perhaps they did not want to embarrass the honourable member further for what she had done to the arts over recent years and that slow death. Hard decisions had to be made; hard decisions have been made: that was the challenge. We looked at every area of the portfolio.

In terms of budget requirements and the task force report, every area of the arts has been assessed by me and by representatives of the department. We have not engaged in reviews because the arts are sick and tired of reviews. In fact, in relation to the Film Corporation, I promise that there will be no reviews for the next four years and it thinks that is the best thing that could ever happen to it. It is doing very well with a new Government, with a new commitment and no more reviews.

In terms of this analysis, it is quite apparent (and I can give the results to the honourable member) that over the past four years the public radio funding line has changed dramatically from the time when it was first established, and there was no doubt then that the arts was emphasised and the arts was funded. In the past few years, however, it has principally been equipment that has been funded. There are other lines in the arts that provide funding for such equipment purposes. The community development facilities fund is one such line. The honourable member conveniently overlooked—perhaps she did not wish to acknowledge—that my letter stated that we would encourage the community arts area to seek funding under that more appropriate source of funding and that more appropriate line.

I am a strong supporter of community radio, always have been and remain so. I also believe that community radio, if it has 400 000 listeners, and is as important as I believe it is to the community and as it claims it is, must also look to the community for some support. I do not believe, in those circumstances, that it has any concern about its viability, nor that any should close in the circumstances. I have also indicated that, if it wants to look at other sources of funding,

sponsorship and the like, I am prepared to assist in that exercise.

I would indicate, too, that in terms of community television we have received various requests for funding—first from ACE, and we understand there will be more. Community television challenged us with regard to the fact that, if we were not prepared to fund it, why were we funding community radio? It was a fair challenge and we have addressed the issue. There are other sources of funding that are more appropriate for community radio in terms of the equipment grants in respect of which it has essentially been seeking funds and receiving funds in the past few years. Those lines are still open for it to apply and to receive funding that reflects those needs.

MATTERS OF INTEREST

FRENCH NUCLEAR TESTS

The Hon. CAROLYN PICKLES (Leader of the Opposition): I would like to refer my contribution today to French nuclear testing in the Pacific. Like a flashback to the post-war era, France's conservative Government is likely to resume nuclear testing in the Pacific. Although President Chirac has not yet made a decision to approve the resumption of testing, there are signs that he will be receiving a recommendation from the Government to do so following a report into the issue.

An article in today's *Australian* states that the French Defence Minister, Mr Charles Millon, strongly hinted that France would resume its tests. Asked in a radio interview if he would order a resumption of tests, Mr Millon replied:

> I believe Admiral Lanxade's report. . . concluded quite obviously on the need to resume nuclear tests if we want to guarantee the security and efficiency of our nuclear arsenal.

The article continues:

> The report by armed forces Chief of Staff Admiral Lanxade was released more than a year ago at the request of then President, Mr Francois Mitterand, to see whether more tests were needed. Mr Mitterand imposed a moratorium on testing in 1992 shortly after the new *Rainbow Warrior* was last forced to leave the testing area.

This kind of rhetoric belongs in the Cold War, and even then it was sadly inappropriate from a nation whose military importance had long since gone. If this decision is made to resume nuclear testing, it will speak volumes about France's attitude to the world. It will indicate that France is still stuck in the mid-century view of international relations where nations bristled with nuclear weapons. It will even suggest that France does not perceive itself to be part of the new Europe, where all European nations cooperate to have a joint defence system. It will imply a France which does not understand the new world order, which seeks to move beyond nuclear weapons. Finally, it will hark back to a time when the colonial powers used land far from their soil for the nasty jobs they would not impose on their own people. We in South Australia know all about that kind of international relations from our experience with Maralinga—to the ongoing cost to our Aboriginal people.

When President Mitterand imposed a moratorium on testing in 1992, relations between the Pacific region and France became much more amicable. A reversal of that decision would mean that the Pacific is again treated with disdain by the French. Australia and New Zealand have made very strong protests and have strongly condemned the resumption of any tests. Greenpeace, with its ship the *Rainbow Warrior,* has also made very strong protests about the resumption of any kind of any nuclear testing. I believe that those of us who live in countries in proximity to nuclear testing should condemn this latest move by the French Government.

I like France. It has a very sophisticated culture. If only it would live up to its cultural heritage and stop trying to act the major power in the Pacific waters. I think that I speak for all residents of this region when I urge France to leave us alone and to leave nuclear weapons testing in the past. If they do have to resume it, maybe they would like to take a leaf out of the book of the present Governor-General, who made a suggestion that, if the French want to test nuclear bombs, let them do it in their own backyard.

HARRIS, MAX

The Hon. L.H. DAVIS: I should like to take some extracts from a recent article by Geoffrey Dutton in the *Overland* magazine called 'The Public and Private Max'. It is a tribute to the late Max Harris. The article reads:

> Max Harris died of cancer on Friday 13 January 1995 in Adelaide. He is best known as a columnist in various newspapers, especially the *Australian*, and a writer of articles for journals, notably *Nation*. And he was, of course, the victim of the Ern Malley hoax. He should be remembered, rather, as a poet, editor and publisher and man of ideas.
>
> I knew Max well for more than 40 years, and was associated with him in a number of successful literary ventures. These included *Angry Penguins* (of which, as is often forgotten, Donald Kerr was one of the two original editors); *Australian Letters* which we edited together with Bryn Davies, joined later by Rosemary Wighton (who also later joined Max and myself in editing *Australian Book Review*). Max was, with Brian Stonier and myself, part of the original team responsible for the creation of an Australian publishing list for Penguin, and he had the same involvement with us when we all resigned from Penguin and established Sun Books. When Sun became part of Macmillan, Max was adviser both in Britain and Australia. He was also involved in radio and in the ABC's TV session, *The Critics*. We lunched regularly and consumed large quantities of red wine and made lots of notes of our brilliant ideas. . .

Mr Dutton continues:

> Max was born in Adelaide, but was raised in Mount Gambier. The South-East of South Australia is an essential ingredient, both loved and hated, of some of his best poems, such as 'The Tantanoola Tiger' and 'On Throwing a Copy of the *New Statesman* into the Coorong'. He was a scholarship boy at the most snobbish of Adelaide schools, St Peters. He rejoiced in putting the boots into the Adelaide establishment. . . A socialist in his youth, and influential in Don Dunstan's coming to power, he later voted Liberal. . .
>
> He was a dandy who was also a good Australian rules footballer when young (proud of being described in a newspaper as a 'nippy little rover') and remained a fanatical fan. A lover of Blake, Schubert and Australian jazz, he was, at the opposite pole of sensibility, for many years an extremely successful and shrewd businessman. He was a supporter of many Australian writers while running and finally owning Mary Martin Bookshop. . .
>
> Max was a brilliant publicist and he felt strongly about certain causes, but in most cases he was not a joiner, perhaps because of his intense love of privacy. His intuition and zest as a loner were a vital part of his success with Mary Martin. Brian Stonier has pointed out to me how Max made Mary Martin into an influential cultural supplier of important works. His hunches were good and his actions swift. . . His practice of buying big quantities at good discounts and

firm sale set the scene for new retailing philosophies, long before people like Kevin Weldon.

Max also sponsored all sorts of diversions through Mary Martin. Many Australians bought their first packets of Twinings teas—Earl Grey, Irish Breakfast, Russian Caravan and so on—from Mary Martin. Max caused a vogue for certain records, notably mandolin music by Vivaldi and others. . .

One of Max's most attractive characteristics was that he was unafraid of the rich and powerful, who in turn usually admired him for standing up to them. . . Apart from some delicate, beautiful early lyrics, all Max's best poems were written after the Ern Malley affair. It is deplorable that he is not more highly regarded and discussed as a poet. . .

I also think that it is no credit to our academic and literary community that, apart from my chapter on Max and Walter Murdoch in my *Snow on the Salt Bush* (1984), there has been no extensive survey of his involvement in the Australian literary scene, which was long and fruitful. One could go so far as to say that you cannot truly understand Australian literature, and a wider culture, in the 1950s to 1970s without taking into account Max's writings. However, now that he is dead, no doubt people will start writing articles about him.

One of the most pleasurable experiences I had was in 1991 when we invited Max Harris to open the Dennis Cottage at Auburn. He was passionate about Australian literary icons such as C.J. Dennis, and he opened that cottage with great flair and with a great sense of history and place, given that C.J. Dennis was born in the hamlet of Auburn in the Clare Valley. Australia and South Australia will be the poorer for his passing.

CADELL TRAINING CENTRE

The Hon. SANDRA KANCK: In the past 24 hours we have been made aware that a report has gone to the Minister for Correctional Services recommending the closure of the Cadell Training Centre. Just three weeks ago I was in the Riverland so I arranged to visit the Cadell Training Centre. I was motivated to do this because the future of Cadell had been uncertain for some time and I was very interested to see if this particular correctional services institution had anything special to offer or anything special to justify its staying open. I spent almost two hours being shown around it and I could probably have spent another hour there if I did not have other commitments. Within minutes of beginning that tour, I was impressed, and I kept on being impressed, and I kept on asking myself, 'How could the Minister for Correctional Services even think of closing this place?'

This prison has no walls and no fences. The prisoners tend to be those who have served their time in another prison and Cadell acts as a sort of halfway house as a way of preparing prisoners for their release. It civilises them and gently eases them back into a position of being allowed to make decisions for themselves, and the first choice that must confront every prisoner who arrives there is, 'Will I escape?' Yet despite the lack of physical barriers, there are a minimal number of escapes. Today's *Advertiser* refers to an escape rate of 2½ times that of the departmental average, but that should be seen in its context of a prison without fences. In 1993, there were just three escapes and in 1994, there were 10. They are generally not dangerous prisoners or they would not be at Cadell anyway.

The prisoners well and truly earn their keep and in terms of primary production, I would not be surprised to find that the prison breaks even in costs. There are all sorts of stone fruit and citrus fruit trees on the property. On the day I visited the prison, the cannery had just finished canning the last of the apple crop. The prison is able to supply canned food to hospitals in Adelaide. The prison has its own dairy in which the prisoners work and they are basically self sufficient in dairy products. Over the years, they have demonstrated their horticultural skills and, as a consequence, a 10 acre carrot crop which had just been planted has already been sold to a local cannery for juicing, ultimately for export to Asia.

The prison is commercially successfully with a winter lucerne crop which has built-in contracts for 1 000 bales per month to a Fleurieu Peninsula customer and an export contract to Singapore. Because of the prison's record, it has been approached to grow 50 000 capsicum plants with a guaranteed return of $200 000 if it enters into the contract. However, not only does the prison make a financial contribution back into the system, it teaches skills. The prison superintendent told me that many prisoners who arrive at Cadell have never had a job in the outside world and have no skills. Indeed, some of them come from second generation unemployed families so they have never had a role model for employment.

At Cadell, prisoners learn about keeping to a routine, to take instructions and to follow something through from start to finish. In other words, they learn the basics of what it is like to be in the work force. They learn about job satisfaction. Prisoners also play an active role in rectifying environmental damage in the community by planting to regenerate native bush and via an affiliation with Greening Australia, they provide 1 000 seedlings for the rural sector two or three times a year. Prisoners also learn social skills as they begin to interact with Correctional Services officers as human beings and as they learn to work with each other. When they have proved their capacity to be trusted, which is measured in terms of three months without violence or signs of drug use, they are eligible to move into a cottage with another prisoner.

Prisoners learn or relearn how to manage their finances and to achieve targets with what they earn. They work long days and are paid $4.90 a day for what they do and they use that money to buy things like phonecards, cigarettes and cans of soft drinks. However, they run the canteen at a profit and they use the profit to buy, for example, equipment for their football team.

The Cadell Training Centre is greatly needed in our prison system. It does such a magnificent job in training and therefore preparing prisoners to be more able to contribute to society when they are released. I remain mystified as to why this Government does not clearly state that its future is secure. I recommend that any honourable members, particularly those in the governing Party, should take advantage of an opportunity to visit Cadell and to recommend back to their Party that it should stay open.

CIVIC EDUCATION AND CITIZENSHIP

The Hon. BARBARA WIESE: Yesterday, the Prime Minister officially launched a four year, $25 million civic education and citizenship program as a result of the report from the civic experts group established by him in June 1994. The group's task was to recommend a non-partisan program to enable Australians to participate more fully and effectively in the civic life of our country and, thereby, to promote good citizenship. That included suggesting how Australians might acquire a better understanding of their rights and responsibilities, proposing ways to help them gain greater knowledge of our system of Government and advising on means by which skills to enable full participation in the civic life of our society might be acquired.

The group consulted widely and initiated a detailed national civic survey of 2 500 people around Australia. Among the things the survey showed were that only 19 per cent of people have some understanding of what Federation meant for Australia's system of Government; only 18 per cent know something about the content of the constitution; only 40 per cent can name the two Federal Houses of Parliament and only 24 per cent know that Senators are elected on a Statewide basis; 60 per cent have a total lack of knowledge about how the constitution can be changed, despite having voted in referenda.

Only 33 per cent of people have some knowledge of the rights and responsibilities of citizens. Perhaps most surprisingly, the survey identified 15 to 19 year olds as the least knowledgeable group in our community on these issues which the experts group suggests arises because our education system has not laid a foundation of knowledge about the structure, functions and origins of Australian Government. The experts group proposed around 35 recommendations which would require the concerted effort of Commonwealth, State and Territory Governments to implement various programs in our schools through higher education institutions, TAFE colleges, adult and community education providers and a range of other areas.

Clearly, the State Government has an important role to play in making this program work. South Australia's share of $25 million is a fine incentive to encourage the Minister for Education and Children's Services and other Ministers to become involved. I suggest that one area that the Minister could examine immediately is the work and resources provided for the Parliament House education officer. If adequately resourced, this officer—whose time is currently shared equally with the Law Courts—could help to educate very large numbers of South Australians of all ages about the role of Parliament and parliamentarians. If she had an annual resources budget larger than the $1 000 which she shares with the Law Courts, she could produce material for use in schools. With clerical and other support, she could arrange a number of mock parliamentary debates for which there is considerable unmet demand, instead of the one per year currently provided.

I recommend that the Government and the Joint Committee on Women in Parliament should study the civic experts group's report because, through the education process suggested by the group, we may encourage greater involvement in public life from all citizens, particularly those groups currently under represented such as women, Aboriginal and Torres Strait Islanders and people of a non-English speaking background.

VE DAY

The Hon. J.F. STEFANI: I wish to say a few words about the fiftieth anniversary of the end of World War II and, in a small way, to participate in the theme 'Australia Remembers' by paying tribute to all those people who lost their lives fighting for freedom. I can still remember 8 May 1945, VE Day, when as a child living in Italy, news reached my late mother and family that my late father, who had been interned at the Loveday detention camp for 42 months, had been given his freedom. His only crime had been that he had not been naturalised after his arrival in Australia in 1925 or during his arduous 20 years of work in such remote places as Tennant Creek, Katherine, Alice Springs, Rum Jungle and Darwin and New Guinea where he found work to provide for his family in Italy.

Church bells across Europe joyfully proclaimed the end of six years of carnage, oppression and devastation caused by World War II. However, for many the end of hostilities had left a bitter taste. The war was pursuing its relentless course in Asia while back in Europe the discovery of mass graves and the full horror of the concentration camps, the magnitude of the loss and destruction, and anxiety about the future, gave little cause for jubilation. An entire generation had been decimated by the ferocity of the fighting. Air raids and massacres had claimed as many victims among civilians as the fire and the sword had claimed among the soldiers engaged in battle. All over Europe, countries had been ravaged by the passage of armies. Entire cities had been systematically destroyed, communications paralysed and food stocks and harvests depleted. The world had witnessed so much terrible suffering that it could not fully rejoice in the end of hostilities.

On 8 May 1995, Australia and Europe began to celebrate the fiftieth anniversary of the end of the war; 50 years dominated by the divisions of war, the division of the cold war and the dismantling of the colonial empires. In Europe, the cold war came to an end with the fall of the Berlin wall and the disintegration of the Soviet Union.

Sadly, far from bringing with it the widespread peace for which all had hoped, it has led to a period of renewed turbulence that has not yet emerged into a new world order. For many Australians reference to the war evokes memories of choppers and conscription or moratoriums and minefields. If the Great War shaped the mental and political landscape of Australia for the first half of this century, Australia's involvement in the Vietnam War shaped Australia for the 1980s, the 1990s and beyond. The Vietnam War was fought in the context of ideological battle lines of cold war—it was a civil war, a war of jungle fighting and of small Australian forces fighting alongside a great and powerful ally.

The reasons for and consequences of these wars and the support and opposition which they arouse will always be remembered by many Australians because they reflect our nation's place in a changing world and because ultimately they helped to change Australia's society. So, as Australia remembers, we commemorate the 50th anniversary of the end of World War II, and I pay tribute to the veterans who fought in the war and recognise the widows and children of those who died fighting for their country and for peace.

RURAL COUNSELLING SERVICE

The Hon. R.R. ROBERTS: My contribution today will be on the continuation of rural counselling in South Australia. Yesterday I raised a matter in this Council with respect to the continuation of rural counselling in South Australia. Members would recognise my keen interest in this matter over the past five or six years. On a number of occasions I have been able to assist rural counsellors who, as all members would recognise, are doing such sterling work in a rural South Australia which has been racked by mouse plagues, low commodity prices and droughts over the past few years.

However, over the past few weeks considerable concern has been raised about the future access of rural counsellors to State Fleet cars. The Commonwealth Government has in part contributed to the present funding arrangement; its commitment has been upheld right the way through and rural

counsellors are very happy with that. However, they do have some concerns about the Rural Trust Fund which is administered by the State Government, and they have been trying for some weeks now to get a determination as to what the position will be after 1 July with respect to the provision of cars.

A considerable component of the funding for rural counsellors comes from the communities themselves but, given that they have suffered locust plagues, commodity price drops and droughts, that is becoming more and more difficult.

The other unfortunate consequence arising from those events is that more people are requiring the services of rural counsellors, who travel thousands of kilometres per year. Currently the State Government supplies the vehicles and pays for the insurance and the petrol costs. However, rural counsellors have been told for some weeks that that is in jeopardy and, despite their best efforts, they have not been able to get any answers. Once again the burden of responsibility for looking after rural constituents fell on the broad but willing shoulders of the Australian Labor Party. I raised this matter yesterday, and I am pleased to say that one of the members of the Legislative Council immediately raised the matter with the Minister, and he was able to explain to me and to others that what I had said was incorrect and that access would be given.

People in the rural counselling area are extremely pleased that they will have access to State Fleet cars. However, in future they will be required to pay $184 a month for two years and to pay for the comprehensive insurance and the petrol.

One of the other disturbing aspects for rural counsellors—and this is a serious matter—is that the Treasurer has insisted that the cars bear Government number plates. There are a couple of reasons why that is a bad idea and ought to be scrapped. First, there is a matter of security: these counsellors are dealing with people who are in a sensitive state, and anonymity is an essential ingredient in the work that they do. Some of these people are suffering trauma and in many cases facing the loss of their farms; they have a great deal of pride in rural South Australia and do not want people to know that they are in dire straits. So, the provision of private number plates would be very helpful to the customers of rural counsellors.

I can cite at least one example where a rural counsellor was run off the road because they were involved in a case. Also, we do have what I call 'the Heini Becker principle' where people will and do accuse Government workers of using those cars out of hours. It is a well known fact, as you, Mr President, would realise that much of this work is done after hours and on weekends. So, I call upon the Minister and the Government to reassess their position in respect of the provision of these cars. The Government ought to provide these vehicles free of charge as it has in the past and support these counsellors—as has the Federal Government—and it ought to allow them to have private plates on their cars in the interests of the security and comfort of their customers.

PARKING REGULATIONS

The Hon. J.C. IRWIN: For years I have been asking questions in this place of two Governments on various aspects of the Local Government Act relating to parking regulations. The situation today is no more acceptable than it was three or four years ago. I recall some years ago in Opposition moving to disallow the parking regulations but I was persuaded by the then Minister of Local Government Relations, the Hon. Anne Levy, that I should support them and that, for that support, a meeting would be organised between the Local Government Association and Mr Gordon Howie, who had been giving me a lot of information, and the Local Government Association would advise its 118 or so member councils to adhere to their responsibilities under the Local Government Act.

That was at the time that the Department of Local Government had been disbanded and, under the memorandum of understanding between the then Government and the Local Government Association, local government itself would be deemed responsible for the parking regulations. I have never accepted that because this Parliament and the Minister are ultimately responsible for an Act of the Parliament and, although we can handball that off to someone else, the ultimate responsibility rests in these Chambers.

I am satisfied that the Local Government Association did in fact make some attempt to advise its member councils of their responsibilities under the parking regulations, and a meeting was held with Mr Howie. Both those were arranged by the Hon. Anne Levy and they took place. However, that was three or four years ago.

I am still being bombarded by Mr Howie at least weekly, and he can always present evidence of problems within the regulations, usually by deliberately parking his car in the wrong spot so that he can be taken to court and then win the court case. Mr Howie continually shows me how bad the regulations are and how many councils make no effort at all to deal with the issues properly.

In October 1993, Mr Howie had a major success with a challenge to the clearways legislation. In summary, the court found that the signage and procedures in certain areas were illegal; and many motorists were fined for parking in these areas while that signage was there, whereas they should not have been fined because of those illegalities. As I recall, new regulations had to be drafted and tabled. Despite my asking many months ago whether these illegal fines would be refunded, I have received no answer from the Government.

Mr Howie constantly points out to me and to councils the sometimes idiotic placement and direction of signs denoting the parking regulations in that particular area, the marking on the roads associated with the parking, and the non-compliance by some councils with the requirements to monitor the parking regulations. I instanced a few examples given to me in March this year by Mr Howie following a trip to the country in relation to councils not having parking registers: the City of Port Augusta could not find a register; the City of Port Pirie had no register; the City of Crystal Brook had no register, and it would appear that this council was not aware of the parking regulations after 15 years; the District Council of Willunga could not find a register for parking controls; the District Council of Victor Harbor has a very unsatisfactory parking register; and the District Council of Goolwa and Port Elliot also had unsatisfactory registers.

I have mentioned only a few examples from the many I have, including a number from city councils. Clearly the Local Government Association has not or does not follow up its initial advice to its constituent councils to get their act together regarding their responsibilities under the Local Government Act. The association is demonstrating to me, using parking as an example, that it is not able to cope with some of the responsibilities that it has assumed under the

memorandum of agreement. The people or electors have nowhere to go with regard to complaints against their council. The Minister cannot cope without a department, and how does local government intend to deal with this matter in future?

Both the righting and administration of parking control in this State need urgent attention and I have brought that to the attention of two Ministers. I have always said, and will go on saying, that the motorists of this State deserve to be able to trust their council. It goes further in that motorists must be able to move around the State confident that, if they are fined for a parking indiscretion, the fine is based on proper attention to the details of the legislation.

FINANCIAL INSTITUTIONS (ACCOUNT KEEPING FEES) BILL

The Hon. T.G. CAMERON obtained leave and introduced a Bill for an Act to prohibit financial institutions from charging account keeping fees on savings or cheque accounts. Read a first time.

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

That this Bill be now read a second time.

If passed by the Parliament, this Bill will prevent banks, building societies, credit unions and other financial institutions from charging an account keeping fee in respect of accounts which do not keep a defined minimum balance. The normal practice of banks is to charge a monthly fee of $2 per month on accounts which do not hold a minimum balance of $500. In the case of BankSA, I understand that the amount is $300. It is also worth noting that credit unions in South Australia currently do not charge any account fees, and they are to be commended for this policy decision.

It is my intention that this legislation sit on the table until 5 July so that other members may examine the Bill and hopefully the Prices Surveillance Authority will have handed down its report on this matter. This report is due at the end of June and it should determine whether banks are unfairly exploiting their market power and should provide some useful analysis in regard to bank fees and charges.

The maintenance fee of $2 per month does not sound a great deal, but it is for many people in our community. With the continual move towards electronic banking, teller machines, and so on, many people now have to keep open an account, and this applies particularly to people who receive a Social Security benefit. Often their payments are made directly into an account or they require an account to bank their Social Security cheque. I understand that in some instances when these people take their cheques to the banks they are required to pay a $2 fee to have them cashed. These people are pensioners, the unemployed, single parents, young people and recipients of child support payments.

Additionally, low income people with little surplus money do not reach the threshold of $500 and are therefore hit with this monthly penalty. Young people starting out their working life often incur expenses such as purchasing a car or furnishing a flat and are required to open a bank account and have their pay put into it, and again the banks hit them with this fee.

If it were possible to pick out all those in the community who can least afford to pay this fee, they are the ones who are forced to pay it. If this Government had sympathy for the battlers in our community it would support this Bill, but I expect that it will argue that it does not have the constitutional power to do so.

It is true that the Federal Government does have the constitutional power over banking. However, this Bill would apply to banks in South Australia. If the Commonwealth then proceeded to introduce legislation, it is my understanding that that legislation would override the State legislation. No Act covers this matter federally, and I understand that there is no intention in the foreseeable future to introduce one. Therefore, this Bill would come into force until the Federal Government legislated on the issue. In any case, the Bill would cover credit unions and building societies.

Legal opinions were sought on this matter, as was the opinion of the Federal Treasury. Both opinions were that, if no Federal Acts take precedence and no subordinate legislation applies, the Bill would be binding in South Australia.

A brief examination of the circumstances that led to the banks charging this fee for that section of their customer base that can least afford it is worthwhile. The simple fact of banking life is that, unless you are a significant depositor or borrower, the banks do not want to know you. It is a fact of life that cash in our economy is slowly but surely disappearing. People have to have bank accounts whether or not they want to. Life becomes unbearable without one.

In the early 1980s the banking system was deregulated. In an effort to corner the market share, the banks engaged in an orgy of lending. The name of the game became how much you can lend and the deals subsequently became riskier. In October 1987 we had a worldwide share market crash, followed by a commercial and industrial property crash in every major city in Australia. Bad bank loans soared. Billions of dollars were written off by the banks. The only one that escaped (and then not entirely) was the National Bank. Nonperforming loans, mortgagee sales and provisioning for bad debts became the norm in the banking community. Naturally this played havoc with bank balance sheets. Banks desperately sought to repair their balance sheets and a plethora of new banking charges and increases on existing charges occurred.

Frankly, the banks decided that they did not want small unprofitable accounts. They could not rid themselves of them, so they introduced a maintenance fee, that is, they hit those least able to pay. I suspect that they were trying to get rid of this part of their customer base. The banks probably will not agree with me, but in this day and age banks have a community service obligation. We must have bank accounts, so the banks should be forced by this legislation to end the discriminatory practice of making those with the least in their accounts pay this fee.

Government members of this place can send a clear message to the banks by supporting this legislation. More importantly, they can send a clear message to the battlers and the less privileged in our community that that is their situation and that that is what the Government is prepared to do. I commend the Bill to the House.

The Hon. R.I. LUCAS secured the adjournment of the debate.

MOUNT GAMBIER PRISON

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

1. That a select committee of the Legislative Council be established to inquire into and report on the tender process and contractual arrangements for the operation of the new Mount Gambier prison with particular reference to:

(a) the forward program for rehabilitation through education, training, work, psychiatric support and counselling;
(b) costs and benefits to the people of South Australia resulting from any transfer to the private sector;
(c) the criteria upon which the tender was assessed;
(d) the recommendations of the tender assessors;
(e) whether or not the tendering process was genuinely competitive;
(f) the role and conduct of the Minister for Correctional Services;
(g) the legality, or otherwise, of the contract;
(h) public standards of accountability as embodied in the terms of the contract;
(i) methods by which Parliament can ensure scrutiny of expenditure of public funds in the provision of correctional services by organisations other than the Department of Correctional Services;
(j) methodology for evaluating contract management of the new Mount Gambier prison which includes:
(i) the basis on which costs should be compared;
(ii) the basis on which quality of service can be assessed;
(iii) the overall financial and other impacts on the State and State's corrections system of contract managed centres;
(k) any other related matters.

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

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

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

(Continued from 31 May. Page 2039.)

The Hon. SANDRA KANCK: I support this motion, which seeks to establish an inquiry into the processes surrounding the Mount Gambier Prison privatisation. In November last year, the Parliament forced legislation which would have permitted the privatisation of South Australia's prisons to effectively be withdrawn. Since then, the Government has snubbed Parliament with its introduction to our prison system of privatisation by stealth, away from the public eye. Therefore, Parliament has a responsibility to act to ensure the public interest is protected. The actions of the Correctional Services Minister have led to the Parliament's being kept in the dark about this process, and will lead to the Parliament's being kept in the dark about the ongoing management of the Mount Gambier Prison. In other words, we have a situation of less public accountability not more, in the name of commercial confidence. The overriding objective of the corrections system should be the protection of the public. This occurs by virtue of the process of incarceration itself, of physically separating from mainstream society people our courts deem dangerous to the public, and through trying to ensure that prisoners are returned to mainstream society, having the highest possible chance of not reoffending. This second objective is achieved by rehabilitation.

In the execution of Government contracts, the imperative for profit maximisation is the reduction of costs. In prisons, this is achieved by minimising the number of people employed, both in the rehabilitation and custodial areas of prisons management, and by reducing the amount of money spent on training staff. This can only have the effect of reducing the effects of rehabilitation, and therefore protection of the public from crime in the longer term. Thus logic would suggest that the profit motive works against the public interest. But, enough of theoretical logic and commonsense; this Government seems to pay little regard to either of those most of the time, anyway. What about practical experience overseas with private management of prisons? In particular, what is the practical experience with Group Four overseas? What can South Australians expect?

The Hon. R.D. Lawson interjecting:

The Hon. SANDRA KANCK: In the U.K., Group Four has been the target of pretty regular adverse publicity for a number of its bungles in the running of the prisons it is contracted to run by the British Government: documented escapes, Mr Lawson, avoidable deaths in custody, overcrowding, rampant drug use and ballooning costs to taxpayers have become synonymous with Group Four run prisons.

On 8 March this year, an article in the British publication *Today* told of some of the problems. I quote:

> 'Prisoners at a privately run gaol were so drugged up to the eyeballs it was difficult to identify those at risk of suicide' a doctor said yesterday. Dr Gianther Illangaratny told an inquest that illegal substances were rife at the Wold's Prison on Humberside, run by Group Four. Darryl Barson, 30, was found hanged in his cell at the gaol.

The Hon. T. Crothers: The Government of Great Britain has called for an inquiry into Group Four.

The Hon. SANDRA KANCK: That's right. The publication continues:

> Dr Illangaratny instructed that he should be visited every 15 minutes, but the order was not followed. 'Most of the staff were inexperienced in dealing with this kind of prisoner, and it was a very difficult task for them,' he said.

Of course, it does beg the question of how Group Four will handle things at Mount Gambier, because it will have a mostly inexperienced staff. We have heard of plenty of other stories about Group Four and the way it has managed to lose prisoners on their way to and from prisons. Although we are not dealing with an escort service, it does raise doubts. Again, experience in Britain finds Group Four embroiled in controversy over prison contracts awarded to it. With the contract to run the Wold's prison in Britain, which I mentioned earlier, Group Four was actually only the third lowest tenderer, and the British taxpayers had to carry a $5 million difference. A few years on, the House of Commons Public Accounts Committee found that projected cost to the taxpayer for running the prison would be $18 million higher than expected.

Shortly after that, to add insult to injury for British taxpayers, the Commons Public Accounts Committee tabled a report which was highly critical of the tender process, saying that those Government bureaucrats who awarded the prison contract to Group Four could not provide a full explanation for why the contract was not awarded to one of the two lower bidders. Pertinently for South Australians and the Mount Gambier Prison, Group Four was awarded the contract to run the Rogdale prison in Britain over a lower bid by an in-house team. At around $600 per prisoner per week, Group Four was nearly $100 per prisoner per week dearer. These facts speak more loudly than any of the South Australian Government's pro-privatisation bluster and its 'trust me' approach to this tendering process. The Democrats support the motion.

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

CORRECTIONAL SERVICES ACT REGULATIONS

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

That the regulations under the Correctional Services Act 1982 concerning communication with prisoners, made on 11 May 1995 and laid on the table of this Council on 30 may 1995, be disallowed.

(Continued from 31 May. Page 2039.)

The Hon. SANDRA KANCK: It seems that at all times this Government has been determined to push a privatisation agenda in relation to our prisons. Last year the Government introduced a Bill to allow private management of South Australia's prisons, how many and which ones would be entirely up to the Minister. It was a case of 'trust us'. I was certainly led to believe that Mount Gambier would be the first and probably would not be the last. The Democrats voted against that Bill at the second reading and, although we were not successful in defeating the Bill at that stage, we proceeded to support the Opposition's amendments which substantially altered the Bill.

The subsequent and expected disagreement about the Bill between the two Houses resulted in a deadlock conference, and that was not able to achieve a compromise of any sort, so the Bill was laid aside. Clearly, Parliament had spoken. However, even at that stage, after the conference had concluded, the Minister for Correctional Services informally told the Opposition spokesperson (Hon. Terry Roberts) and me that he had had Crown law advice that showed that he could turn the Mount Gambier Prison over to private management, that he did not necessarily need the Bill, although it would cost the Government a little more because it would require the presence of a couple of correctional services employees on site. He went on to tell us that six months down the track he would reintroduce the Bill, because we would see the sense of supporting it then when there was a private manager already installed, and we would not want to be held responsible for the extra costs that the Government would have to bear by having those correctional services officers on site.

In the light of the absolute determination of the Minister to privatise, it came as no surprise to see an advertisement appear in the newspaper within days of that deadlock conference calling for expressions of interest from companies interested in running the Mount Gambier Prison. The rest is history. The unexpected twist was the appearance of regulations in the Government *Gazette* of 11 May. Rather than the reintroduction of legislation which the Minister had indicated would happen, we got regulations. I have heard that in response to a media release that I issued the Minister said that these regulations have nothing to do with the privatisation of the Mount Gambier Prison. However, I am not taken in by this bluff. When I put out a media release revealing that the in-house bid to run that prison had finally been defeated, the Minister told Mount Gambier media outlets that I had egg all over my face. Then, two weeks later, came the announcement that Group Four was the successful tenderer. So, when the Minister for Correctional Services says that these regulations have nothing to do with the privatisation of the Mount Gambier Prison, I can only laugh.

Let us look at what these regulations say. Currently, regulation 8 provides:

For the purposes of section 51(a) of the Act, all manners of communication between a prisoner and a person other than an employee of a department are prohibited. . .

It goes on to give certain exceptions. Effectively, the words 'other than an employee of the department' have been crossed out and the words now to be inserted are 'other than a person who is lawfully in the same place as the prisoner'. Regulation 24 provides:

A prisoner must not disobey, or refuse to fail to comply with—

(b) a lawful order or direction of an employee of the department;

Added to that will be the words:

or of a person authorised by the manager of the prison individually or by class to give directions to prisoners.

Regulation 33, which formerly provided:

A prisoner must not hinder or obstruct an employee of the department in the exercise of the employee's powers or functions—

has disappeared, and regulation 47, which provides:

A prisoner must not use equipment or machinery of the department without the authorisation of an employee of the department—

now has added after the word 'employee':

or of any other person who has lawful control over the use of the machinery or equipment.

All those regulations, in one way or another, allow someone other than a prison officer to run the prison and give instructions to prisoners.

Why does the Minister need that power to be available to a non-departmental person? What has altered? The only thing that is different in the South Australian prison system now that would require a non-prison officer to have these powers is the imminent introduction of private management of the Mount Gambier Prison. What are the implications if these regulations are disallowed? It will mean that Group Four employees will not be able to issue instructions to prisoners at Mount Gambier Prison and legally expect them to be complied with. It will mean, as the Minister told me late last year, that he will have to have correctional services officers on site at all times who would act as the conduit between Group 4 and the prisoners. What is wrong with this? Group Four is used to it in Britain where it operates with the British equivalent of our correctional services looking over its shoulder. If it is good enough for Britain, surely it is good enough for us. I see it as a positive move to have correctional services employees on site. Not only will they be able to act as the conduit for communication, but the Minister, as an added bonus for the taxpayers of this State, could use them to keep an eye on Group Four and make sure that it delivers what it is supposed to deliver.

This Parliament has already given a clear message to the Government about privatising our prisons. This Parliament said 'No,' but the Minister has not accepted that message. He expects us meekly to accept his method of doing it by subterfuge: that is, via regulation. Sorry, but it is time now to tell the Minister that what he is doing is not acceptable. He made the decision to privatise despite Parliament's saying 'No.' He signed the contract with Group Four and snubbed his nose at Parliament. I see no reason at all for assisting him in the process of privatisation. So it is time for Parliament to snub its nose at the Minister. Accordingly, the Democrats are pleased to support the Opposition's motion to disallow these regulations.

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

PORT ADELAIDE COUNCIL

Adjourned debate on motion of Hon. L.H. Davis:

That the Legislative Council expresses its concern about the administration and financial management of the Port Adelaide council and asks that the State Government conduct an investigation into the matters raised in debate on this motion.

(Continued from 11 April. Page 1927.)

The Hon. L.H. DAVIS: In the seven weeks since I last spoke, I have received telephone calls and letters of support from people in the flower industry in South Australia and interstate. No-one has presented information to suggest that any of the detail in my speeches has been inaccurate. One of my central concerns was the fact that an unsuspecting public was to be offered an investment in the Port Adelaide Flower Farm and the Perce Harrison Environmental Centre without any knowledge of its trading losses. To underline the strength of my argument, I asked a financial institution with no interest or connection with the Port Adelaide council and the Flower Farm to provide me with an independent view of the prospectus. ABN Amro Australia Hoare Govett Limited agreed to independently review and comment on the 'Flowers of Australia' draft prospectus of May 1994. Mr Stuart McKibbin, Associate Director Corporate, has provided me with a written analysis of the prospectus and he is happy for this to be made public.

ABN Amro is the largest bank in the Netherlands with $A285 billion in assets as at June 1994. It is the sixth largest bank in Europe and the eighteenth largest bank in the world. It has 1 055 branches in the Netherlands and, outside the Netherlands, it has over 540 establishments in 63 countries. It provides advice and raises funds for governments and leading international companies.

In Australia, some of its clients include the nation's largest company, BHP, together with Shell, Woodside Petroleum, CSR and Mobil. This is what ABN Amro has to say about the 'Flowers of Australia' prospectus:

Further to our discussions, you have asked me to make some brief comments as to the merits of the AFCORP draft prospectus. I have not undertaken a detailed analysis of the underlying business nor have I sought independent assessment of the merits of the structure for tax purposes. However, we have undertaken a brief review of the prospectus to identify any apparent major irregularities from the viewpoint of professional advisers and investors. These are some brief conclusions from my initial review of the prospectus. In order to fully evaluate the document so it could be registered by the ASC, we would need to complete a thorough analysis of all aspects of the prospectus.

The Chairman's address, dated 19 May 1994, clearly states that AFCORP 'is acquiring an existing flower farming business developed since 1988 by the Port Adelaide City Council. It will expand this enterprise by acquiring a second farm and greenhouse business, all of which will be under the direction of a capable and experienced board of directors'.

The major area where there appears to be significant deficiencies is in regard to full and adequate disclosure and, in this regard, I make the following comments.

1. The business to be acquired from the Port Adelaide City Council, namely, the Port Adelaide Flower Farm, the export processing business and the nursery within the Perce Harrison Environmental Centre, would need to be valued independently and represents arm's length transactions given the circumstances of matter. I can see no references to any independent reports that are available and included in the prospectus for analysis. The facts as they appear in the prospectus suggest that the relationships involved in these transactions are of such a nature that an independent expert's report would seem appropriate to evaluate the transaction considerations.

2. Part of the funds are being raised for the 'acquisition of viable businesses', but there are no detailed financial statements as to the past performance of these operations to enable investors to make a critical evaluation, and hence evaluate the likely future performance of the businesses. I believe that both historical and forecast, detailed financial statements are an essential requirement for full disclosure. The only reference that I can see to the past performance of the businesses being acquired is in the introduction where it states: 'since the 1990 financial year the farm has produced in excess of 4 million stems for an income of $3 million. During this development phase it has also acted on behalf of other South Australian flower producers generating export income of approximately $1.3 million'. These figures by themselves may well mislead potential investors. On closer inspection, the figures were accumulated four year gross sales figures.

3. The prospectus is seeking to raise $9.6 million or a minimum subscription of $4.8 million. This substantial amount of money is being put up for 'the acquisition and expansion of an existing viable business'. The assets to be acquired are approximately $1 million, which represents only 10 per cent or 20 per cent of the total subscription moneys to be raised. Although there are independent expert technical reports on the merits of the management approaches, there are no detailed cash flow statements, including capital expenditure statements, which could be used to make an independent assessment of the use of the remaining funds. I feel that detailed disclosure of the proposed usage of the remaining funds would be essential in order to make an informed investment decision.

4. The total costs for the formation, registration and management of the issue is $1.43 million, which represents 14.9 per cent of the maximum subscription raised of $9.6 million. However, I also note that in the first two years, under the umbrella agreement between Port Adelaide council and AFCORP, the company has rental payments of $1.4 million relating to the nursery and buildings and the plant and equipment relating to PAFF. These rental and formation expenses total $2.8 million and represent a significant proportion of the funds raised. I believe that increased disclosure of these costs should be made in order to highlight their commercial significance.

The effect of inadequate disclosure in prospectuses is to potentially mislead investors and the directors of a company, should they fail to meet the 'reasonable investor' standard of prospectus disclosure under the Corporations Law, would expose themselves to liability if any person suffers loss as a result of that conduct.

That letter is signed by Mr Stuart McKibbin, Associate Director Corporate of ABN Amro Australia Hoare Govett Limited.

This independent view confirms everything that I have argued about the Flowers of Australia float. Of particular interest is ABN Amro's comments under point 1 when it says that:

The relationships involved in this transaction are of such a nature that an independent expert's report would seem appropriate to evaluate the transaction considerations.

This is, no doubt, a reference to the fact that BCG Rural was named as manager of the share issue for the Flowers of Australia prospectus and was to receive large fees from this issue. BCG Rural is also named as the manager of Flowers of Australia and has two directors on the Flowers of Australia board. But the BCG Rural Group had also acted for the Port Adelaide council in considering the various options available for the Flower Farm.

On 30 August 1993, Mr Keith Beamish told the Port Adelaide council:

Earlier in the year, I commissioned Birss Consulting Group (BCG) to consider various options available for the disposal of. . . the Port Adelaide Flower Farm.

Someone described this cosy arrangement as 'floral incest'. BCG Rural could hardly be described as independent.

ABN Amro is also critical of the fact that there are no detailed financial statements as to the past performance of the Flower Farm and nursery operations, and also raises questions about the large costs involved with a formation, registration and management of the issue along with the huge

rental payments proposed between Port Adelaide council and Flowers of Australia.

Finally, ABN Amro makes the point that directors could well have been exposed to liability if any person had suffered loss as a result of being misled by the inadequate disclosure in the prospectus.

The ABN Amro analysis is not a ringing endorsement of the prospectus. This is an independent view from an internationally respected investment banker. It provides compelling evidence about several unsatisfactory aspects of the prospectus and goes some way to explaining why the Australian Securities Commission may have rejected the Flowers of Australia prospectus in May 1994 and again in February 1995.

On the other hand, Mr Beamish produced a letter to the Port Adelaide council on 10 April from a Robert P. Smith, Dip.FP of Maple Securities, financial planners, and a group associated with the proposed Flowers of Australia share issue. Mr Smith, in a letter to one of the directors of BCG Rural said:

> We consider that a launch of the prospectus would be doomed. . .

following the adverse publicity created by my comments. Mr Smith said:

> It is our opinion that should a successful rebuttal be made in Parliament—

that is of my speech—

> a new launch could be attempted for May 1997.

Interesting and weighty stuff!

The Port Adelaide council is lamenting that my speeches have snuffed out its opportunity to unload the Flower Farm and possibly receive a minimum $1.4 million in return. Has it ever occurred to them that if the Flowers of Australia prospectus had managed to raise the $4.8 million minimum subscription (which I never for one moment believed it could have), that the council's reputation and that of local government would be badly damaged because of the continuing financial losses which almost certainly would have been sustained by Flowers of Australia.

The council may have been offended by the timing and content of my speeches, but no-one has rebutted the arguments raised point by point. There has been no spirited and factual defence made of Flowers of Australia by Dr Don Williams, Chairman of Flowers of Australia, or any other parties to the issue.

ABN Amro was more than willing to provide me with its view about the inadequacies of the Flowers of Australia prospectus. I am confident that any number of major investment houses would have had a similar view.

Most long-serving Port Adelaide council members are hardly in a position to complain about by my attack because for years they have never asked for the facts about the Flower Farm, despite the lingering community unrest. Indeed, they have never been told the facts. What must be disappointing to the ratepayers of Port Adelaide is that the councillors representing them have not even been able to ask the simple questions about the Flower Farm, let alone the hard ones. I have recently been told that a group—

The Hon. T.G. Roberts interjecting:

The Hon. L.H. DAVIS: Mr Roberts interjected unwisely and said, 'It has taken someone from Norwood to point out the inadequacies of the Port Adelaide council administration,' and indeed on the football field we showed them another lesson last Saturday.

I have recently been told that a group of flower industry leaders in South Australia, when they heard of the plan to seek monies from the public for the Port Adelaide Flower Farm, burst into hysterical laughter. This is not an untypical reaction.

No flower industry leaders in Adelaide and interstate who have inspected the Flower Farm over the years believe it is a viable operation. It is time for the Port Adelaide council to join the real world.

In addition to the persuasive view of ABN Amro about the inadequacy of the Flowers of Australia prospectus, I have received a letter from the executive of the South Australian Flower Growers Association, the peak body representing flower growers in this State. This letter, dated 6 June 1995, reads as follows:

> The executive of the South Australian Flower Growers Association Incorporated (SAFGA) has had the opportunity of reading your speeches of April 5 and 12 made in the Legislative Council. We were particularly interested in your comments about the Port Adelaide Flower Farm (PAFF) and the export of Australian native flowers from South Australia.
>
> When PAFF was first established, some members of the flower growing industry in South Australia expressed doubt about the economics of cultivating Australian native species in grow bags. Doubts were also voiced about the agronomy of such a venture as little was known about the performance of plants grown under such conditions. In addition, the site was also regarded as questionable because of the salt laden winds of the region.
>
> However, the industry did welcome the decision to make PAFF facilities available to package and market Australian native flowers on behalf of other South Australian growers.
>
> We regret to confirm your observation that this whole venture has been less than successful. Local and interstate horticulture professionals who have visited PAFF over recent years have confirmed the poor condition and hygiene of PAFF.
>
> South Australian growers have also been disappointed by the service provided by International Horticultural Marketing Pty Ltd (IHM) as initial managers of PAFF in the marketing of their product. We can confirm that several growers now market their product through other outlets rather than use IHM.
>
> Furthermore, the effect of this disappointment has translated itself amongst some growers as a reluctance to become involved in an extended market for their product. SAFGA believes that there is enormous potential for increased export income from Australian native flowers. However, Australia's reputation has been seriously damaged in export markets by the delivery of poor quality product and the unacceptable activities of some operators. SAFGA supports your stand in highlighting some of the problems which have occurred in the flower growing industry because we are anxious to ensure that the flower growing industry in South Australia is seen as being professional, efficient, and of bringing real benefits to our economy.

That letter is signed by Gerard Faber, the secretary of the South Australian Flower Growers Association, which is the peak body representing flower growers in this State. The ABN Amro letter and the letter from the Flower Growers Association shows that the speeches I have made about the Port Adelaide Flower Farm and the activities of Dr Freeman and IHM are not those of a lone ranger. The Port Adelaide council should properly understand how grave the situation is for it.

In my speech of 12 April, I noted that the Department of Agriculture had expressed its concerns about the project. A detailed written assessment of the Port Adelaide Flower Farm proposal was prepared at short notice in response to a request from the Department of Local Government. This letter was dated 3 August 1988. Anyone reading the six-page letter from the Department of Agriculture nearly seven years later would be impressed by its devastatingly accurate forecast. I will quote some of the more relevant extracts from the letter, as follows:

1.2 In relation to the proposed production system of grow bag culture, I am unaware of any long term commercial experience using this technique for the production of kangaroo-paw and Geraldton wax flowers for export markets. The concern particularly relates to Geraldton wax because it is a woody shrub that can grow to a substantial size and will not tolerate water stresses that may occur in grow bag culture. In the case of kangaroo-paw, this is a smaller, herbaceous plant that is more likely to be tolerant and amenable to grow bag production. Apart from the lack of long term commercial experience, there is a lack of research experience into this technique as a system for flower production. Most research has only been using plants over one to two years in grow bags or pots to assess a potting mixture or, say, a particular fertiliser regime. Essentially, commercial schemes are being developed ahead of the research and development work. Hence the risk involved.

The real concern is not how the plants will go in the first year or so when they are getting established but thereon after once flower production commences. There is no question that the plants will, with good management, grow well in the first year and survive for many years in pots (nurserymen and individual flower growers have often maintained individual plants in pots as a source of propagation material). The real question is whether the anticipated yields of export quality blooms can be achieved over the long term, say, five years plus, with this production system. This is unknown. It is worth noting that grow bag culture has also been proposed for the production of kangaroo-paw, protea sp., leucospermum sp. and leucodendron sp. by the Australian Horticultural Trust Nos 1 and 2. However, the prospectus does include comments by the New South Wales Corporate Affairs Commission from the New South Wales Department of Agriculture that such an investment project is speculative and that there is no record of long-term growth or consistently high yields of these flower crops in growth bags above the ground.

1.3 Why use the grow bag technique? The prime reason appears to be the soil in site L3A being unsuitable for the field production of kangaroo-paw and Geraldton wax. The soil is alkaline at surface levels and saline at depth. Because the Port Adelaide City Council wishes to have the Flower Farm site within its council boundaries and as there do not appear to be other available or suitable sites for field production within these confines, the grow bag technique appears to have been chosen to enable the use of an unsuitable field site. If a commercial flower grower were confronted with this problem, he/she would seek out suitable alternative sites elsewhere, for example, sandy locations in the South East, Blewitt Springs, the Riverland and in the Northern Adelaide Plains.

1.4 By opting for the grow bag production technique, there will be extra costs over and above those involved with the field production of these crops. These extra crops include:

- the purchase and transport of large quantities of sand media to the site, employing labour and mechanised techniques to fill the grow bags with sand and place them on the site. As well, there is the cost of grow bags. This process will need to be repeated on a much greater scale after three years when rebagging is proposed.
- trellising may be needed to support the plants/shrubs to prevent them from blowing over. This is despite the use of windbreaks.
- the extra height of the plant (it is above the ground) may result in extra harvest costs.

It is clear that extra costs will be involved with this production system compared with field production. Unless these costs can be offset by earlier cropping, heavier yields and/or better quality (and hence higher priced) blooms, there is no advantage in using grow bags except that it enables the use of this particular site. However, it would mean that this farm would be a higher cost producer compared with field producers. This could affect the viability of the project.

In discussions I have had with the consultant to the Port Adelaide City Council, Dr B. Freeman of International Horticultural Management (IHM), he is confident that any technical problems with the production system can be solved. In a sense, the consultant is correct because most technical problems can be solved. However, the real question is at what additional cost and will it prohibitive?

1.5 . . . because of the production system proposed it is not proven for long term flower production. I am unable to comment on the proposed yields. . .

3. Economic viability of the project:

I am unable to make comment on this as I do not consider the financial plan in draft 4 has incorporated all the necessary changes in going from field production (as originally envisaged) to grow bag culture.

Certain cost headings for particular items that I have raised elsewhere do not appear. Further, from discussions with Dr Freeman, a number of matters have not been finalised, for example, potting media costs. Some experienced commercial field growers of kangaroo-paw and Geraldton wax with whom I have discussed the feasibility of this project have questioned whether the 'grow bag' production technique is economically viable.

4. Other matters.

In order to protect the Port Adelaide City Council in this project if it goes ahead, I would recommend:

The equity involvement of IHM in the project should be maximised. Why not a joint venture?

That the board of directors for the project include persons with technical expertise in major flower production and export marketing. I consider it important for the council to have its own independent source of advice, apart from that provided by IHM.

On another matter, it is important that whatever organisation is established to undertake this venture it must have the necessary commercial flexibility and not be encumbered with council working hours and conditions.

5. Conclusions.

This proposal, while welcome in terms of its potential to expand the export flower business from South Australia, is considered to be a moderate to high risk venture, principally as a result of the production system to be used. The 'grow bag' system is unproven for the long-term commercial production of flowers of the kangaroo-paw and Geraldton wax for export markets. This risk is likely to be greater with Geraldton wax than kangaroo-paw due to the nature of the plant.

Ideally it would be better to shift this project to another site which is suitable for field production of flowers.

I am unable to comment on the matter of financial viability of the project, as insufficient information is provided. However, what is certain is that this will be a high cost project. To what extent these higher costs can be offset by higher returns is uncertain.

That concludes extracts from a letter from the Department of Agriculture in 1988. Was the letter from the Department of Agriculture to the Department of Local Government made available to the Port Adelaide council? If not, why not? Certainly, it is hard to understand why the council proceeded with the project after reading the advice from the Department of Agriculture.

Less than one year later, the Department of Agriculture was again asked to comment on a proposal by IHM, this time to establish an export flower enterprise at the Adelaide International Airport. In a letter dated 18 April 1989, the Department of Agriculture was critical of the merits of the proposal. The department believed that the poor soil would require preparation estimated to cost $60 000, double the $30 000 figure quoted. Water logging during winter would also be a major obstacle to producing a crop such as Geraldton wax.

The site also required expenditure of more than $500 000 over and above what would be necessary in a more suitable agricultural location. Additional items included bird netting, grow bags and sand beds.

Of particular interest is the following paragraph from the Department of Agriculture:

> With respect to the enterprise budget, I also query the $2.50 cost per plant (for Geraldton wax). Current nursery prices on all varieties of Geraldton wax are 80¢ to 90¢ for tube stock, and contracts for large orders will reduce this stock further. Geraldton wax should not be planted as older nursery stock, as they are very prone to being root bound in the pot and suffering transplant disorders. A saving of $27 200 should be realised by this adjustment.

The department, in commenting on the proposal to plant leucodendrons in grow bags, notes that:

> [this] is a technique untried on leucodendrons and one that is very controversial in horticulture at present.

The department states that there is:

. . . very little supporting evidence that plants will perform well in this cropping system. There is particular concern with using grow bags for large, woody plants such as proteas and Geraldton wax where the root system is confined in mass and can be easily subject to stresses in production.

The department concluded that:

. . . it is our opinion that this proposed project represents a high cost enterprise for producing export flowers and that a high degree of financial risk is involved in growing a horticultural crop at this site. Considerable savings would be realised by investing in a field-grown operation at a suitable site elsewhere and establishing a handling/packing facility at the airport in conjunction with the Export Park development.

I have spent some time detailing the proposal because it is of direct relevance to the Port Adelaide Flower Farm. First, the Department of Agriculture advice was very similar for both the export flower enterprise proposal at Adelaide Airport and the Port Adelaide Flower Farm. Fortunately, the department's negative attitude about the Adelaide Airport project prevailed and it did not proceed. Sadly, that was not the case for the Port Adelaide Flower Farm.

Secondly, the department made some comment about Dr Freeman's *modus operandi*—namely, that he was not averse to selling a more mature plant for $2.50 when a 90¢ plant would have done the job. That is a pattern which has been mentioned to me by growers and others on several occasions. It makes money for IHM and Dr Freeman, but it milks the grower of valuable dollars, often unnecessarily.

There is a strong suspicion from many people to whom I have spoken that the tens of thousands of plants provided to the Port Adelaide Flower Farm when it was first established and subsequently by Dr Freeman and IHM were not the cheapest plants in town. I have also been told that the farm could have been supplied with younger and less expensive plants. Employees at the farm in those early years have also suggested that the quality of some of the original plants was below the standard that would be expected for export quality native flowers.

Why did not the Port Adelaide council require that the contract for plants be put out to tender when the Flower Farm was being established?

On 16 May, just over three weeks ago, the Port Adelaide council was finally told what I predicted in my speech to the Legislative Council on 12 April. I said then that:

It is quite clear that the Port Adelaide Flower Farm is heading for another massive loss in the current year. Prices received were very low because of some poor quality and the fact that the season was. . . late. There are serious allegations about poor cultural techniques and hygiene at the Port Adelaide Flower Farm and that during 1994 it had fungal disease and was infested with weeds.

At their meeting on 16 May 1995, council members were advised finally that the loss for the Flower Farm and nursery for 1994 was estimated to be $417 000. That loss, of course, does not include the interest paid by the Port Adelaide council on the $2 million Flower Farm debt and it probably does not include depreciation. Making proper allowance for those figures would suggest that the effective commercial trading loss was over $700 000 for 1994-95.

The council was told that production was 35 per cent below budget at the Flower Farm.

. . . largely due to environmental factors and the late season means some product was not processed.

Prices were lower than budgeted. The Flower Farm income was $213 000 under budget and nursery sales were forecast to be 75 per cent or $220 000 below budget due to 'site management problems and unsatisfactory marketing and sales'.

The *Portside* Messenger of 31 May 1995 quoted the council's financial manager, Jim Keough, saying that the manager of the nursery 'talked well, but didn't deliver'. There we go again. It is always someone else's fault at the Port Adelaide Flower Farm or nursery.

In the private sector, the CEO of a company takes ultimate responsibility. In Port Adelaide, the buck stops with Mr Beamish.

Surely the Port Adelaide council was entitled to receive information about the Port Adelaide Flower Farm 1994-95 financial position well before 16 May.

I knew that the losses were going to be massive in December because the season effectively finished in December. In fact, one nursery owner driving past the farm last October was able to advise me that the farm was struggling because the kangaroo-paw stems were so short.

However, until 16 May 1995, conveniently after the council elections, council members had not been provided with one skerrick of current financial information about the Flower Farm and nursery in the calendar year 1995. Mr Beamish, as CEO of the Flower Farm, was clearly in possession of that financial information.

The Hon. Barbara Wiese interjecting:

The Hon. L.H. DAVIS: He was the CEO of the Flower Farm.

The Hon. Barbara Wiese: Who is your informant?

The Hon. L.H. DAVIS: You are still concentrating on the messenger. Start listening to the message.

The Hon. Barbara Wiese: I am asking you: who are your informants?

The Hon. L.H. DAVIS: I have more than 100 informants in this story. Certainly by the middle of January nearly all sales for the financial year would have been completed and an accurate financial assessment of the budget outcome would have been available for presentation to the council. But on 12 December—

The Hon. Barbara Wiese interjecting:

The Hon. L.H. DAVIS: I will respond to the Hon. Barbara Wiese: she has asked who were my informants. I have informants in the—

The Hon. Barbara Wiese: I asked, 'Who told you that there had been no information before the council?'

The Hon. L.H. DAVIS: Do you know these things and, if not, why not? The honourable member has a particular interest in this matter. I should have thought that after my first two speeches she would have found out—

The Hon. Barbara Wiese: I know more about it than you do.

The Hon. L.H. DAVIS: Well, you will have an opportunity to reveal it in due course. I will be interested to hear your contribution, and I will ask you to respond specifically to the facts that I am putting before you now.

The ACTING PRESIDENT (Mrs SCHAEFER): Order! Under Standing Orders both members must address the Chair.

The Hon. L.H. DAVIS: On 12 December 1994, when the financial fate of the Flower Farm season was quite obvious, Mr Beamish advised a meeting of the Port Adelaide council as follows:

. . . income will start to flow in 1994-95 from the increase in farm capacity funded by the local capital works program. Present indications are that budgets will be met.

I have noticed in the past of course that the Hon. Ms Wiese is not shy in using leaked information herself, and I think she does it quite well on occasions.

If an officer or director of a public company listed on the Stock Exchange knowingly makes false statements they can face severe penalties.

I would strongly suggest that on 12 December 1994, when Mr Beamish said, 'Present indications are that budgets will be met,' he knew that was not true: it was a lie.

I have been following the Port Adelaide Flower Farm closely since early 1994 and I knew that the farm's budget had been blown before Christmas.

I believe that Mr Beamish misled the council. At the time it was critical that the credibility of the farm be maintained. The Flowers of Australia float was imminent and for the Port Adelaide council it represented the greatest escape since Houdini was around.

This failure over many years by Mr Beamish to present information about the Flower Farm on a regular basis to the council is totally unacceptable. The problem was compounded by the council's meek acquiescence to this uncommercial and unprofessional approach to the council's single biggest problem.

At the 10 April 1995 Port Adelaide council meeting there was a flurry of papers and protests about my first speech on the Port Adelaide Flower Farm. However, the financial information provided to council members for the period 1988-89 to 1993-94 confirms the seriously deteriorating balance sheet figures which I inserted in *Hansard* to be absolutely correct. Net assets had deteriorated from $980 289 in 1991-92 to $666 000 in 1993-94. In addition, the operating results, after properly taking into account the interest payments paid by the Port Adelaide council which has taken over the Flower Farm debt, were again accurate. Mr Beamish does not lay one glove on the facts.

Ironically at the 10 April council meeting he provided council with the audited financial statements for the farm over the past six years and, later on in his report, provided a further set of financial results for the Flower Farm. In only two of the six years were Mr Beamish's figures the same as those in the audited financial statements. So who is confused? It is not me. Curiously, the farm does not take into account depreciation because 'depreciation has not been a factor in determining council budgets and rates'; it is described as 'non-funded depreciation'.

In my days as an accountancy student, provision had to be made to replace depreciating assets. The main asset of the Flower Farm is the 64 000 grow bags and plants, which almost certainly depreciate. Indeed, many are overdue for replacement.

Mr Beamish has used every trick in the financial book to try to minimise the loss from the Port Adelaide Flower Farm. In his 10 April presentation to council he excluded interest paid on the debt owing on the Flower Farm, claiming that it is not relevant to Flowers of Australia, and also depreciation on the basis that it is a non-cash item.

I have made it quite clear in my speeches that I was looking at the past performance of the Port Adelaide Flower Farm on a commercial basis, and also taking into account the cost to ratepayers. In seeking to attack my speeches and defend the indefensible, Mr Beamish makes the breathtaking statement that the Port Adelaide Flower Farm's past results are not relevant to the prospectus. Mr Beamish told council:

> Mr Davis's flawed argument is that the production won't be there and the financial analysis won't produce the profits forecast.

After six years of losses which have effectively cost the Port Adelaide ratepayers $2.5 million and, after consistently overstating profit forecasts and ignoring the grim reality of the persistent failure of the grow-bag culture and the inappropriate site, Mr Beamish says that it will be all right in the end. What does a potential investor think about a Flower Farm that has accumulated effective losses of $3 million in six years with the benefit of no rent, no land tax and no council rates on a site that is beyond redemption? Even if no interest is payable by Flowers of Australia, if it had managed to raise $4.8 million in exchange for assets worth only $1 million, the answer is still a lemon.

One experienced nursery operator believes that the Flower Farm assets could be overstated. A total of 18 000 plants were budgeted for replacement in 1994-95 at a cost of $4 each. As I have already stated, many of the remaining plants are tired, old and due for replacement. If, for example, the 64 000 plants are valued at $4 each, that provides a valuation of $250 000. The cool-room equipment and conveyancing and packing equipment may be worth around $200 000 to $250 000, leaving other assets, such as office equipment, some very tired tractors, vehicles and other farm plant and equipment. The proposal to raise a minimum of $4.8 million for these Flower Farm assets, the nursery and a $180 000 Flower Farm at Penola is breathtaking.

The principle of an audit is, first, to ensure that stock is physically there and, secondly, to determine its value. The traditional methods of valuing stock are either at cost, market sale price or replacement value. As at 30 June 1994 the farm was riddled with weeds. What steps were taken to check on the valuation of stock, plant and equipment at that time?

In a previous speech, I have highlighted the inadequate detail in the 1993-94 Flower Farm balance sheet in relation to farm assets. The May 1994 Flowers of Australia prospectus claimed that there were 76 192 plants. However, as I have mentioned, I understand that during 1994 there were only 64 000 plants. Of course, none of this information has been made available to the potential investors.

Perhaps Port Adelaide council members could consider this another way: what if they had become an investor in the Flower Farm without knowing what a bodgie investment it had been over the past six years?

Mr Beamish advised the council in writing on 10 April that the Newco Trust proposal of May 1991, which put together the Port Adelaide Flower Farm, Australian Blueberry Farms of Coffs Harbour and IHM, did not proceed 'because of various factors, including adverse publicity deliberately generated by persons for political motive'.

This is pure fantasy. Mr Beamish should tell the council what major adverse publicity the Newco Trust proposal did receive which had been generated by persons for political motives.

I have carried out a Presscom search of all media articles on the Port Adelaide Flower Farm in the period from May 1991 to June 1992. The only articles about the Flower Farm in the Messenger Press and the *Advertiser* in that period were positive articles about the open day at the Port Adelaide Flower Farm, the Port Adelaide traders visiting the Port Adelaide Flower Farm, and two major stories reporting the proposed Newco restructure—one in the Messenger Press and one in the *Advertiser*. The only criticism in that 14 month period was a statement in the *Advertiser* by the Port Adelaide Ratepayers Association President, the late Mr Stan Rogers, who I believe was a member of the Australian Labor Party—

An honourable member: A sub-branch President.

The Hon. L.H. DAVIS: —and a sub-branch President of the ALP who expressed fears about the Flower Farm's $2 million debt following public disclosure that the farm was no longer able to service this debt. The Port Adelaide Ratepayers Association claimed that Mr Beamish should stand down pending an investigation into the council's Flower Farm management. But to argue that this one article was responsible for the failure of the Newco Trust proposal is clearly a nonsense. It is an old trick: invent mythical enemies to distract people from the truth.

Mr Beamish has still not explained to council how Australian Berry Farms in Coffs Harbour was valued at $650 000 for the Newco Trust in May 1991, but within two years was sold for just $225 000 when there had been no depreciation in land prices in that region over this two year period. This amount was barely one- third the alleged value of the farm for the purposes of the Newco Trust.

In May 1991 did Port Adelaide council see a sworn independent valuation for the Australian Berry Farms land at Coffs Harbour? Does one exist?

Mr Beamish has perpetuated some myths which are overdue for exposure. He told the 10 April council meeting in writing:

> The investment provides about 50 jobs and training for local people each year.

When the Port Adelaide Flower Farm was first proposed it was claimed that it would provide permanent and casual employment for up to 130 people. In more recent years the Port Adelaide council press releases and a widely circulated council pamphlet on the Flower Farm dated 29 June 1994 claimed the farm employed 50 people at peak periods. That figure in recent years has never been above 30 permanent and casual employees. This is yet another untruth.

Mr Beamish's statement to the 10 April council meeting claimed my speech on 5 April was based on superseded material because I relied on information in the draft prospectus dated May 1994 when, in fact, a prospectus exists dated March 1995.

Council is entitled to ask the question, 'If the March 1995 prospectus is materially different from the May 1994 prospectus, why has the council, as the *de facto* owner of the Flower Farm for the time being, not seen a copy of it and, if it is different, in what way is it different?'. Certainly the one thing we know is that the financial position of the Flower Farm has continued to haemorrhage in the period from May 1994 to March 1995.

Mr Beamish argued to council that I have ignored the fact that 'the Port Adelaide council will improve its productive capacity with the biological development of the plants'. This is a meaningless statement. The capacity of the Flower Farm to produce top-quality export stems and turn in a profit is always going to be limited by the grow-bag culture, the higher costs and the vagaries of the site.

Mr Beamish, as CEO of the Flower Farm, apparently still does not understand the inherent limitations of the Port Adelaide Flower Farm, which were underlined by the Department of Agriculture report in 1988.

In my speech on 12 April I listed a number of complaints about the activities of IHM. Since then much more information has come my way. The evidence is all one way. For example, Mr and Mrs Goerner of Swan Reach started dealing with the Port Adelaide Flower Farm in 1989 because they wanted to establish an export market for Geraldton wax out of South Australia but did not have the capital to do it themselves. They visited the Port Adelaide Flower Farm and were surprised to find Geraldton wax growing in plastic bags. They thought that Swan Reach had much more favourable conditions than the grow-bags of Port Adelaide. In their first year they were verbally promised by Dr Freeman and IHM about $1 a bunch for top quality one metre long stems, but received only 10 cents a bunch on the 20 000 bunches delivered. This is a common complaint from growers across four States. There was always big gap between the verbal promise on price by IHM and the amount actually received. Many months later they received a highly complicated computer printout of the transaction.

In the second year the Goerners exported again through IHM because they did not know of any other options and this year their experience of IHM was satisfactory. But in the third year (1991) and subsequently IHM's performance was most unsatisfactory. Payments were poor for wax of high quality, which Japanese and Israeli visitors to their farm said was as good as any they had seen. On one occasion IHM rang up and ordered wax, but an hour later rang back to cancel the order. Documentation was slow and unsatisfactory. They no longer deal with IHM.

Another South Australian grower was advised by Dr Freeman to plant leucodendrons and rice flower. He received fees as a consultant and also supplied the plants. Much of the plant stock proved to be inferior. The grower was concerned about the threat of frost and raised the matter with Dr Freeman who assured him it would not be a problem. The grower was doubtful about Dr Freeman's advice and did attempt to safeguard the crop from frost damage. However, it was wiped out by frost and the grower lost many thousands of dollars.

A grower in Western Australia ordered rice flower from the Port Adelaide Flower Farm two years ago: he never received it, nor has he received any further communication. Other South Australian growers have sent native flowers to be processed and marketed by the Port Adelaide Flower Farm through IHM and, although verbally promised good prices, they have on some occasions received a nil return after expenses. People in the industry have told me that they have seen proteas, delivered to the Port Adelaide Flower Farm for processing and sale, still in the cold room one week later. This was unprofessional and unprofitable.

It is not surprising that there has been a mass exodus of growers from IHM in South Australia. That was confirmed by the letter that I read earlier from the South Australian Flower Growers Association.

The Port Adelaide council cannot ignore the activities of IHM and Dr Freeman because these stories ultimately damage the reputation of the Port Adelaide council which is, at this point, the owner of the Port Adelaide Flower Farm and the processing and packaging sheds where IHM has been retained to process and market product from growers.

One of South Australia's leading horticulturalists said:

> When Dr Freeman looks at a flower project he puts optimum flower prices on top of optimum yields. This leads to horrendous over-the-top forecasts and very attractive gross margins.

Growers and potential growers attending a recent seminar addressed by Dr Freeman boggled at the size of the pot of gold promised at the end of the floral rainbow. Sham projects and over-optimistic projections have done a lot of harm to the Australian horticultural industry.

The consistent message from the Port Adelaide Flower Farm has been that the profit estimates every year for six years have been far too optimistic and have never been

achieved. That is also the pattern with IHM and Dr Freeman's dealings with growers.

The University of Adelaide Department of Horticulture, Viticulture and Oenology in good faith gave Dr Brian Freeman the exclusive propagation and marketing rights to two varieties of banksia. But Dr Freeman has failed to honour his agreement over the past two years and the university recently terminated his contract.

Sadly, Australia does not enjoy a good reputation as a flower exporter. Many in the industry admit that Australia is an unreliable supplier of highly variable standard product. There is not the volume, consistency and quality of product. Grower product is handled incompetently. Prices suggested to growers by exporters like IHM are rarely met. IHM over the years has gambled on the Japanese option system rather than offering a fixed price contract to growers.

Respected people in the flower industry also have been concerned at the direction taken by the Flower Export Council of Australia, known as FECA, in recent years. FECA was created as a result of an initiative by Austrade in 1989 and certainly has done much good work, particularly in the early years in promoting Australian flower exports that have more than trebled in value over the past seven years. However, many people believe FECA's role and direction is in urgent need of review. It receives Federal Government grants, which has helped develop overseas markets, especially Japan, and also to collect intelligence, but all this information has not necessarily been shared with growers.

FECA is seen by many in the flower industry around Australia to have become a club for the benefit of a few rather than for the industry as a whole. It is important that these development moneys are directed to projects which will assist the development of the industry. FECA should be representing the interests of all exporters, including the growers. It was argued that this has occurred less and less in recent years. Dr Brian Freeman is a director of FECA and Mr Keith Beamish is its Treasurer.

I am confident that a body such as FECA can play a valuable role in developing future export markets for Australian flowers.

On 1 July 1994, BCG Rural took over management of the Port Adelaide Flower Farm from IHM. This was a curious move. IHM was dismissed from the role that it had first performed since the farm opened in 1988. There was obvious tension and strain between BCG Rural and IHM, which continued to be located on the Port Adelaide Flower Farm in its role as marketer of product.

On 22 June 1994, the Port Adelaide council agreed to proceed with the Flowers of Australia proposal. The council was told that the new management arrangements with BCG Rural for the Flower Farm and Willochra Nursery were to help prepare for the Flowers of Australia float. But who made the decision to replace IHM, which allegedly had the technical competence and had, in fact, been the project manager, establishing the farm and then managing it through until 30 June 1994? It apparently came as a surprise to IHM. Why was IHM replaced by BCG Rural which had expertise more in the field of business management and accounting rather than hands-on horticulture? The council was never told the full story.

In May 1994, the Flowers of Australia Prospectus had been lodged for registration with the Australian Securities Commission in Sydney. That prospectus was refused, as was a second prospectus lodged in February 1995. The third prospectus lodged in March 1995 was withdrawn the day after my first speech about the Flower Farm on 5 April. But for 11 months, the would-be owner of the farm, Flowers of Australia, was actively working toward raising between $4.8 million and $9.6 million during 1995, so cutting loose Port Adelaide council's problem child and its $2 million debt.

But what was happening down on the farm during this time? Following the end of the flower picking season in December 1993, it was reasonable to expect that the farm would be maintained, with the necessary weeding, fertiliser and replacing or rebagging of root-bound plants in grow bags. What did happen? There were only two permanent employees on the farm between January and early August 1994. IHM refused to make money available for basic maintenance. Weeds were choking the plants. IHM told staff there was no money. Plants in original grow bags were dying. Grow bags were disintegrating. One casual worker told me that, when the Flower Farm started in 1988, it was emphasised that the plastic grow bags were to last only four to five years. But now many are in their sixth and seventh year. These plants become root bound and need to be divided up and many, of course, need to be replaced.

When the kangaroo-paw first came to maturity, their stems were growing up to 1.5 meters, but they are now well under 1 metre. The longer the stem, the more valuable it is. Weeds were as high and sometimes higher than the plants. There were thistles in the grow bags.

It was only in August 1994 that BCG Rural Group, which had taken over from IHM on 1 July, agreed to employ four people to clean up the farm. It took those four persons one month to weed the farm and to get rid of the thistles and other weeds, such as cudweed which has to be physically removed rather than sprayed.

Every person in the flower industry that I have spoken to who had visited PAFF in the last two years has commented on the disgusting state of the farm and the obvious lack of money spent on maintenance. This poor maintenance was not the fault of staff. The blame rests directly with IHM, the farm manager, the Flower Farm board and, in particular, the CEO of the Flower Farm, Mr Keith Beamish.

These visitors to the Flower Farm, who are leaders in the flower industry here and interstate, including members of the Rural Industry Research and Development Corporation—a peak body under the Federal Department of Primary Industry—all expressed the same view to me. They said that weeds impact on plant growth. Weeds compete with plants for water and fertiliser. This total failure to provide money to weed and maintain the farm until August, when in fact the flower season started in July/August, obviously retarded growth of the flowers and affected farm profitability. I have already discussed the disadvantages of the site and the problems and additional costs of the grow bag culture. The vigour of a plant decreases if left too long in a grow bag.

But there is more. The salt marsh and conditions of the farm and non-permeable nature of the soil (if it can be called that) mean that with just 20 points, or five millimetres, of rain, parts of the farm go quickly under water. In the summer, evaporation draws salt to the surface, and when it rains the salty water seeps through the bottom of the grow bags, which obviously have holes for drainage. The wind, the rain and salt water make for a very unhappy cocktail.

Although IHM had been dumped as managers of the farm, it retained an officer on the site and was in a position to observe what was happening on the farm. Brian Mills, as the former manager of the farm but still located on site, was critical of the way BCG was managing the farm. In mid-

November 1994, in a note, he warned the float would be jeopardised and the farm was in the worst condition for 6½ years. This was perhaps the pot calling the kettle black!

But what about the other players? During 1994, Dr Brian Freeman still came to the farm roughly once a month. Mr Keith Beamish, the CEO of the Flower Farm, would turn up occasionally to have his photo taken with a bunch of flowers.

The equipment on the farm was like everything else—it was horribly run down. There was one tractor that would have been more appropriately used as a marine park—the turning circle was too wide. Another tractor tipped over if the load was too big. Another was underpowered and inappropriate. So the three main conveyances were bad news. Management was told about it, but nothing happened.

BCG Rural paid staff late on several occasions and once badly underpaid staff. Understandably, this made the casual staff resentful and it did not help productivity.

What happened during the 1994 season? According to Mr Beamish's statement to council on 12 December 1994, the Flower Farm was likely to come in on budget in 1994-95. But these budgets were a figment of fertile imaginations, with very little opportunity for staff to have a meaningful input. Inadequate funds were made available for necessary expenditure to maintain and upgrade the farm.

In July/August, the leucodendron crop was a disaster. The weeds, the poor nutrition and inadequate care meant they were too short and could not sell. In September, the one bright spot for the farm was the rice flower, which sold for roughly $1 per stem.

In October, the boronia was a disaster. It was too short. Boronia does not grow in grow bags. Several flower experts have expressed disbelief that Dr Freeman and IHM attempted to cultivate boronia in grow bags. Boronia is one of the most sensitive Australian native plants—the pH factor has to be just right and the root system has to be kept cool. In fact, one expert said that, to try to grow boronia in grow bags, was verging on professional negligence. Boronia roots are very susceptible to over-watering.

In November/December the kangaroo-paw was harvested. The stems were far too short, reflecting the weed problem, the lack of maintenance, and the fact that many of them needed to be split and rebagged or replaced. Because the stems were short, they were much less valuable. The late season compounded all these problems.

A kangaroo-paw in the ground is free to develop its root system. But in a grow bag, the root growth of the plant is restricted. The plant is also constrained by the amount of soil and water available to it, and water stress will occur much more rapidly in a confined space, or where there is water over supply, such as occurs at Port Adelaide. Native plants suffer badly from root diseases as a result of over- watering. They are much more vulnerable than conventional flowers. And weeds suck out available moisture and deplete nutrient. At the Port Adelaide Flower Farm, in some cases, the weeds are higher than the plants, so reducing the light available to the plants. Weeds in grow bags reduce the flowers to second and third-rate product.

But the Flower Farm, through negligence and lack of care and money, was badly diseased.

Ninety per cent of the 7 500 boronia plants have died since October 1994. They suffered from phytophora which is the grower's worst nightmare. Overwatering and poor hygiene caused phytophora. This is a major killer of native plants. It reflects an inadequate irrigation system at the Flower Farm. Phytophora is a fungal disease which can be held at bay only by expensive chemicals. However, in the end, the plants will die.

Fusarium, or root rot, is another disease which is prevalent at the farm and is also due to over-watering. Many of the kangaroo-paws have black spot, which also makes them unsaleable. Some plants also have bad nematodes—worm-like creatures which burrow and destroy the roots.

Mature, semi-mature and immature plants are located in the same bay and receive the same amount of water. There is an inadequately designed irrigation system at the Flower Farm. The hydraulics of the watering system do not provide for flexibility, so the young plants receive the same water as mature plants. Overwatering causes disease. This is a basic horticultural mistake, which has been made by IHM.

A high grade nursery would have pots laying on gravel with black plastic or benches, but not on the ground. This minimises disease.

By the end of 1994, just before the Flowers of Australia Prospectus was scheduled to be launched to the unsuspecting public, the company's main asset—the Flower Farm—was a shambles.

Coming into 1995, 10 000 kangaroo-paws were bulldozed because of disease. Almost all the 7 500 boronia had died, along with 1 250 rice flower and other plants. Of the 64 000 plants in the Flower Farm, between one-third and one-quarter had died or become diseased and must be replaced.

The inappropriate site, salt laden winds, inherent problems with grow bag culture, inadequate care, poor horticultural hygiene, little management direction, lack of money, staff and fertiliser, diseased and inferior plants, poor equipment, and a badly designed watering system have combined to make the Port Adelaide Flower Farm an investment from hell.

The Hon. R.I. Lucas interjecting:

The Hon. L.H. DAVIS: Yes. It was, as someone in the flower industry said to me, a plot which John Cleese would have killed for.

The Port Adelaide Flower Farm has a big replanting program under way in a desperate attempt to ensure a continuity of product and income in the coming seasons.

Of the plants on the Flower Farm, 70 per cent are kangaroo-paw, but that should be spelt kangaroo 'poor'. Two-thirds of the kangaroo-paw must be replaced because they are diseased or root bound or due for replacement. This is at the very time the unsuspecting public were going to be sold an investment in the Flower Farm.

Management has finally realised what others could have told it years ago: boronia cannot be grown in grow bags commercially.

The Port Adelaide Flower Farm had an earlier painful lesson when the Geraldton wax also proved to be a total failure: a failure predicted by the 1988 Department of Agriculture report.

Incredibly, staff in 1994 were placing new plants in grow bags which still had the thick roots of dead Geraldton wax—hardly a desirable practice. This is another elementary horticultural mistake. Agricultural science students in senior secondary schools would be aware of this fact.

As always, the 1994-95 budget was grossly over optimistic. After failing properly to care for the plants for a major part of the calendar year 1994, it is little wonder that only 750 000 stems were harvested as against a budget estimate of 1.1 million stems. The quality of the kangaroo-paw was atrocious: the stems were far too short, and tens of thousands were far below export quality. There were 13 000

leucodendrons budgeted to be sold in 1994-95, but only a few hundred were marketed.

Port Adelaide councillors should not have to read speeches made in the Legislative Council to be educated about the ongoing disasters, mismanagement and never ending losses at the Port Adelaide Flower Farm, nor should they have to read these speeches to find out about the total unsuitability of this site and the failure of unproven grow bag technology to deliver the promises made when the Flower Farm was first established in 1988.

What evidence has been provided to say that the future can be any better?

The CEO of the Flower Farm, Mr Beamish, as CEO of the Port Adelaide council, the owners of the Flower Farm, had a duty to keep the council fully informed of what was happening at the farm. Clearly, he did not, nor did the majority of councillors down through the years appreciate the vital importance of asking questions about the Flower Farm and the Perce Harrison Environmental Centre.

Council members forgot the ratepayers they are meant to serve. Lemming-like, most believed what little information was dished up to them about the Port Adelaide Flower Farm. The council was kept in the dark and fed on flower fertiliser.

There are many battlers in Port Adelaide who are being rated at higher levels than anywhere else in metropolitan Adelaide. If you want to live on the Woodville council/Port Adelaide council boundary, just make sure you are on the Woodville council boundary side. An average house worth $120 000 would attract an annual council rate of only $456 in the Woodville council area, but across the road the same house in Port Adelaide would be slugged $665 in annual council rates: $209 more or 46 per cent higher.

Alderman Nick Milewich suffered the indignity of moving motions asking for information about the Port Adelaide Flower Farm which lapsed for want of a seconder. He was made fun of for daring to raise questions about the Flower Farm. He had precious little support, apart from Councillor Stephen Spence. The council seems mesmerised about the Port Adelaide Flower Farm. It would like to pretend that this is not happening—

The Hon. R.I. Lucas interjecting:

The Hon. L.H. DAVIS: He's my mate?

The Hon. R.I. Lucas: Is that the one?

The Hon. L.H. DAVIS: Yes. At least he has some courage. He is a feisty fighter when it comes to asking questions about the Port Adelaide Flower Farm.

The Hon. Barbara Wiese: That probably says something about the both of them.

The Hon. L.H. DAVIS: The Hon. Barbara Wiese says something unkind about Mr Spence, a card carrying member of the Labor Party, someone over whom she presided during her term as Minister of Arts. I think that the Hon. Barbara Wiese has just made an unfortunate and unnecessary reflection on Councillor Stephen Spence.

The council would like to pretend that it is not happening, that it is not really its problem. Tell that to the ratepayers of Port Adelaide who are paying such high rates because of the Port Adelaide council's entrepreneurial activities.

It is sobering to realise that, by the end of June this year, the Port Adelaide council will have racked up effective losses on the Port Adelaide Flower Farm and the Perce Harrison Environmental Centre which, in commercial terms, approach $3.5 million.

Nearly half the recently elected Port Adelaide council are new members. There is an opportunity for a fresh start. But can the past be ignored?

The Hon. Barbara Wiese: There would have been an opportunity.

The Hon. L.H. DAVIS: Come on! You don't believe that, do you?

In the story about the flowers that ate Port Adelaide and the flower cowboys, both the Port Adelaide council and the *Portside Messenger* weekly newspaper have been shooting the messenger and ignoring the message. I would have thought from recent experience in South Australia that some attention should be paid to the message. I suspect that there are many people in the Labor Party who wish that they had paid closer attention to the murmurings about the State Bank of South Australia and the persistent questioning of members of the Liberal Party Opposition before and after the 1989 State election. It is worth remembering that those questions were being asked for nearly two years before the sad truth became public. I worked behind the scenes on the State Bank and, in particular, helped to decode the maze of off balance sheet companies headed by Kabani Pty Ltd.

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: Say that outside, Ron. I had been leaked information about these hitherto unknown companies which confirmed that the State Bank had become a financial monster.

I was also involved in unmasking the terrible truth about 333 Collins Street, which SGIC was forced to acquire for $465 million in July 1991 following its decision to take a put option on the project in August 1988 for the sum of $10 million. When this transaction was finally revealed in the 1988-89 SGIC annual report, tabled a few weeks before the 1989 State election, I flew to Melbourne to make inquiries. It was obvious immediately that this one building had the potential to destroy SGIC financially: 333 Collins Street represented over one-third of the investible funds of the SGIC, whereas the Insurance and Superannuation Commission guidelines for insurance companies require that no more than 5 per cent of funds should be in one investment. The loss on this building is still growing and must now be around $400 million. If 333 Collins Street had not been removed from the SGIC balance sheet and placed with the Bad Bank assets, SGIC would have been technically bankrupt.

In September 1987, my background knowledge and contacts in the timber industry led me to believe that the scrimber project, which had been launched by the Bannon Government with great fanfare, was a high risk, costly and almost certainly doomed project. Australian and overseas timber industry contacts confirmed that the scrimber project was using old fashioned technology and was being viewed with bemusement by companies which had rejected the opportunity of taking on the scrimber process. In the early days, the high technology scrimber project was headed up by a fitter and turner. The South Australian Timber Corporation had no technical expertise whatsoever. The scrimber pilot plant had never produced scrimber under factory conditions; rather, it had been manually contrived.

I pursued this project and continued publicly to criticise the Government's involvement in the project for four years. The costs blew out from an initial estimate of $12 million to a final figure of $62 million before Minister Klunder finally slammed the scrimber gates shut in 1991. SGIC had a 50 per cent interest in the scrimber project, which it had taken up without receiving any independent advice whatsoever.

There have been howls from the Opposition about the relevance of those arguments.

It is clear that there is a moral to that history lesson about three Government instrumentalities which lost the taxpayers countless millions in recent years. The messenger in each of those cases was continually attacked. The Liberal Party and its spokesmen were reviled for daring to raise such matters.

I well remember going to a Christmas party in December 1990 where some of Adelaide's leading businessmen launched a head-on attack on me over the Liberal Party's questioning on the State Bank. A few weeks later the accuracy of that questioning was unquestioned.

Ultimately, the media, the public and, hopefully, the Port Adelaide council will make judgments about the weight of evidence provided, the source of evidence and the messenger delivering that evidence.

Although Port Adelaide is a Labor Party stronghold, perhaps even seen as the citadel of the Labor Party in South Australia, the fact is that there has been much criticism—

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: I did that when you were out—of the Port Adelaide council by respected parliamentary members of the Labor Party and, as I have already revealed, by an ALP sub-branch in Port Adelaide.

Some Labor members have been quite open in telling me that they are not surprised to be hearing what I have said about the Port Adelaide council, its management and financial administration, and the Port Adelaide Flower Farm.

What I find particularly surprising is that the Messenger Newspaper Group has been attacking the messenger rather than taking any notice of the message. In the Eastern suburbs, Messenger Newspaper readers are served up a regular diet of council scandals. Alleged credit card abuse in Unley and conflicts of interest involving Unley council members and the Centennial Park Cemetery Trust, secret meetings in Mitcham and regular shenanigans in the Burnside council have all been blazed across page 1 in recent months.

Messenger reporters and a senior Messenger executive confirm that Messenger reporters have been instructed to search for juicy council stories.

But what happened in Port Adelaide? The page 1 heading in the *Portside Messenger* of 12 April, following my first speech was 'Sale of Flower Farm Stalled', with a subheading 'MP's allegations of financial bungling called "stunt"'. The story by Craig Cooper commenced:

> Plans to sell the Port Adelaide Flower Farm to a private company have been stalled following a stinging, but mysterious, attack on Port Adelaide council in Parliament last week. Flowers of Australia has withdrawn a public prospectus for the float which would have opened the way to buy the council owned Pelican Point Farm, following an hour long attack by Liberal MLC, Legh Davis.

There was little attempt made to address the issues raised in my speech, including the serious allegations concerning Streetwise Signs, where specific details had been provided.

Before this article was published Craig Cooper had rung me but showed little interest in the speech. He expressed surprise that I was involving myself in matters in Port Adelaide and wanted to know how long I had been working on the story and why I was interested in Port Adelaide. I suggested he should go and look at the Port Adelaide Flower Farm and find out how profitable it was likely to be in the 1994-95 year. Because the season had ended in December, I told him information would now be known, although at that stage the council had still not been advised.

On 19 April, following my second speech in the Council, the headline was 'Davis maintains attack on Flower Farm'. Only general details of the subjects raised by me were provided in the article.

On 26 April, the page 1 headline was 'Port CEO Beamish hits back at MP's claim over Flower Farm. Davis farm attack costs $12 million.' The article, which was longer than the two previous articles, contained information provided by Port Adelaide Council Chief Executive, Keith Beamish, except for one small paragraph. Ironically, in the same week, some other Messenger Newspapers carried a political column by Alex Kennedy headed 'Davis's proper use of privilege'. The article detailed the background to the Flower Farm story and noted:

> The detail used in Parliament showed the Flower Farm now accounts for just over $2 million of the council's $12 million debt in a council area that is poor and whose ratepayers are the least able to afford rate hikes to pay for any failing entrepreneurial venture.

Why was not that article printed in the *Portside Messenger*? Alex Kennedy was writing on a matter of great community interest and of particular relevance because of the council elections being held on 6 May.

Politicians are often bagged by the media—and sometimes deservedly so, but sometimes the boot is on the other foot. In my judgment, this was one such occasion. For only the second time in my 15 years in Parliament, I rang the media to object to its reporting. I told Messenger management that, in my strong view, the paper had not been balanced in its reporting. Messenger management admitted that reporters did have a brief to investigate council mismanagement. It is fairly obvious the media steward should be called in to look at the *Portside Messenger*.

I wrote a letter about the Port Adelaide Flower Farm to the Editor for the next edition of the *Portside Messenger* on 3 May. This letter was faxed to them on Friday, 28 April. On Monday, 1 May a woman from Messenger rang to say that the letter had been lost and could it be faxed again because they were intending to use it. The letter was faxed, but was not used in the 3 May edition. Perhaps the fact that the Port Adelaide council elections were being held on Saturday, 6 May had something to do with it. To add weight to this matter, I was contacted by a person whom I had not met, but who advised me that he had also written a letter about the Port Adelaide Flower Farm to the Messenger in that same week. He had been contacted by the Messenger and told that the letter was a bit too long. The letter was shortened through a telephone discussion and he was advised that the letter would be used, but it was not. This letter also attacked the Port Adelaide Flower Farm.

My letter was finally published on 10 May. At the time I discussed my letter to the Editor with the Messenger I had offered to write an article about the Flower Farm for the 3 May issue. Although my letter was not published on 3 May, the page 1 headline of 3 May *Portside Messenger* continued the pattern. It was 'Flower Farm Counterattack' with a sub-heading 'Two dissenters as Port council bags Davis'.

Finally, on 31 May 1995, Craig Cooper wrote the page 1 story in the *Portside Messenger* which was headed 'Flower Farm and nursery facing $417 000 loss'. Without any reference to my speeches, or the fact that I had forecast another dramatic loss in 1994-95 for the Flower Farm, Mr Cooper reported that the Port Adelaide council had been told of the loss at the 16 May meeting. Reasons for the loss were outlined in the story.

Seven weeks earlier I had suggested to Mr Cooper that there was a story in the performance of the Flower Farm. He

told me I needed to provide him with names if he was going to follow this story through. I suggested that investigative journalists make their own leads and create their own stories. It seems strange to me that Craig Cooper, who recently received publicity for winning an award for investigative journalism, was seemingly unable even to walk though the front gate of the Flower Farm to investigate this important story and follow through on the numerous and obvious leads and angles on the Flower Farm or the saga of Streetwise Signs.

Mr Rupert Murdoch is the proprietor of Messenger Newspapers. Although it is well down the chain of importance in this world-wide media empire, Messenger Newspapers' extraordinary failure to investigate and report on a story, which surely dwarfed most of the other council stories being run by Messenger Newspapers around the metropolitan area, says a lot. I do not think Mr Rupert Murdoch would be very impressed that the *Portside Messenger* ran dead on the Flower Farm story.

In summary, I have spoken at length on management and financial administration of the Port Adelaide council, particularly as it relates to the Port Adelaide Flower Farm. The evidence that I have presented to the Legislative Council in my speeches points overwhelmingly to the need for a thorough Government investigation into the matters which I have raised. There are many more matters which have been drawn to my attention which I will not raise in this debate, because I have already taken enough time. The saga of the Port Adelaide Flower Farm and Perce Harrison Environmental Centre is not just a story of bad luck or a business venture gone wrong. While in the 1980s such programs might have been applauded for the employment opportunities and entrepreneurial approach, it is clear that, from the outset, the Port Adelaide council has been led on these projects by the Chief Executive Officer, Keith Beamish.

As the CEO for both the Port Adelaide council and the Port Adelaide Flower Farm, Mr Beamish has been in a position of conflict. Over the years Mr Beamish has consistently omitted to advise council of important information about the Flower Farm. His failure to advise the council of the massive budget blow-out for the 1994-95 financial year is the latest example of this point.

As I have conclusively shown today, the failure to achieve budget targets in the 1994-95 year would have been known to Mr Beamish in December 1994. If I knew about it, having never set foot in the Flower Farm in my life, then how could not Mr Beamish know this fact as the Chief Executive Officer of the Flower Farm and the Port Adelaide council?

If he was a CEO of a public company listed on the Stock Exchange, that company would have been suspended. This behaviour in any company following good business practice would inevitably result in the sacking of the person concerned.

I have made many serious allegations which are strongly supported by facts. Today, I have presented persuasive and powerful independent views to support these serious charges. The letter from the Department of Agriculture, which expressed strong doubts about the viability of the Port Adelaide Flower Farm and the appropriateness of the Pelican Point site, the letter from one of the world's largest banks expressing grave reservations about the inadequate disclosure provisions and lack of independent advice in the Flowers of Australia prospectus and the letter from the South Australian Flower Growers' Association are nails in the Flower Farm coffin.

There are many questions that remain unanswered. What was the cost overrun when the Flower Farm was first established? How much money did IHM receive on these original contracts? What contracts were not put out to tender? Why was not IHM required to contribute equity to the Flower Farm, as originally stated in the business plan? Why was IHM's contract never reviewed by council when it fell due in June 1993, and why was not IHM's performance monitored regularly as required by the original business plan? Why was not council given regular financial details about the Flower Farm? Why did the Newco Trust Proposal of 1991 not proceed and why was the Australian Blueberry Farm's valuation for Newco Trust so inflated compared with the subsequent sale price?

Why was clause 32 of the Terms of Reference requiring the Port Adelaide Council Annual Report to detail the statistical data and performance of the Flower Farm not complied with? What was the role of Mr Beamish in the Flower Farm, in view of the fact that clause 11b of the Terms of Reference required that he should 'be responsible for the efficient management, financial organisation and administration of the activities of the Board?'

These are facts which stretch back down through the years and have continued into 1995.

The Hon. Barbara Wiese interjecting:

The Hon. L.H. DAVIS: Well, as I emphasised, the role of Mr Beamish in the Flower Farm was outlined in clause 11b of the Terms of Reference, which require that he should be 'responsible for the efficient management, financial organisation and administration of the activities of the board.

Why were the budget forecasts for the Flower Farm over a six year period inevitably over optimistic to the point where income received was little more than half what was budgeted for? Why did not the CEO take more active steps to monitor the management of the Flower Farm, in view of the continued complaints about poor maintenance, poor cultural techniques and inadequate equipment? Why was not more notice taken of the Department of Agriculture advice regarding Geraldton wax cultivation in grow bags? Why was so much misleading information provided to the Port Adelaide council and the public over a long period of time in relation to the profitability and activities of the Flower Farm?

The harborside quay land deal, which cost the council and ratepayers at least $500 000, was another unsatisfactory entrepreneurial activity. There were many other instances which I have not had time to relate and which have surfaced in relation to the administration and financial management of the Port Adelaide Flower Farm, including Streetwise Signs. Many of the members of the Labor Party in Port Adelaide have been uneasy about the financial administration and management of the Port Adelaide council and the flower farm.

This is not a political witch hunt. This is a cry of anger from the long-suffering ratepayers of Port Adelaide. It is time that something was done about this financial scandal.

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

ROAD TRAFFIC (SMALL-WHEELED VEHICLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 April. Page 1943.)

The Hon. T. CROTHERS: On behalf of the Opposition, I indicate that we will support this Bill in an amended form. I might say at the outset that the Opposition will move amendments to this Bill because we consider that the efforts made by the Minister are much too wide relative to that which she seeks to achieve. However, we congratulate the Minister on pursuing this policy, which was initiated by the Hon. Ms Wiese when she was Minister for Transport. I understand that she initiated the first inquiry into the matter and, as a consequence of that, that good work was continued on by the present Minister (Hon. Ms Laidlaw).

The Opposition is mindful that, relative to the width and breadth of the measure as introduced by the Minister, it might thwart the purposes that we think are contained in the framework of the Bill; that is to say, of recent times there has been a whole spate of fairly serious accidents brought about by the practice of young adults and children of reasonably mature age taking to the roads of the State in general and the city in particular with blade skates. A number of fairly serious accidents have occurred that were the fault of no-one else than the user of the blade skates skating in a public place. The Opposition's view is that small-wheeled vehicles as defined in the Bill were not designed for use on public thoroughfares.

This has also led to a number of injuries being caused to pedestrians, particularly older pedestrians going about their day-to-day business on the streets of our various suburbs and even the streets of the inner city. They are injured not deliberately but carelessly by people who try to protect themselves from injury by the utilisation of their own vehicles on the road by taking to the footpaths of Adelaide and its greater urban environments. That has its problems as well, particularly in respect of the cost to the community of the injuries that are suffered by people doing what I have described. There is needless hospitalisation, and sometimes fatal injury is caused, sometimes on the user but sometimes through their very presence on others as motorists and pedestrians seek to avoid the people who are shooting past them on these small-wheeled vehicles, as the Bill so describes.

As I have indicated, the Opposition is supportive of what we perceive to be the main thrust of the Bill, that is, that instead of trying to ban the subject matter in question we should endeavour to set aside places where people can continue to enjoy the sport they have taken up in a manner that is safe to them and to pedestrians, to older citizens and to road users driving cars, trucks, motor bikes, etc.

The Hon. M.S. Feleppa: Will it be set aside by way of regulation?

The Hon. T. CROTHERS: I am not certain as yet how our amendments will in the end address those matters. The honourable member asked whether it would be set aside by regulation. I understand that there is a problem with the local councils and the Local Government Association with regard to the Bill. The sad fact of life is that the Parliament's hand has been forced by the fact that, no matter how hard the various authorities, State councils, the State Government and our police have tried to stop the activity, they have not succeeded.

I believe that it was under State Premier Sir Thomas Playford (although it may have been in the early Dunstan years; I do not recall) that a phenomenon—and this may not be the proper simile to use with regard to drawing a comparison—emerged in the State in respect of the use of two-wheeler bikes on our roads, which were becoming fairly congested with traffic.

The Government's solution—whichever Government it was—which was supported substantially by some concerned private citizens, was to form associations which provided land on which people could practise their sport and enhance and increase their skills and therefore play a thoroughly useful part in the community. That helped people to develop as they matured over the years so that they could play a more appropriate part in the community in later life. Mr President, you and I are of a similar age and we will remember the Findon Skid Kids.

The Hon. R.I. Lucas: Hear, hear.

The Hon. T. CROTHERS: I hear a former, or perhaps a present, Findon Skid Kid. He might have been a Skid Kid. He is certainly very slippery in here at times.

My amendments, which have not yet been formalised, have not been placed on file. I would like to ask the Minister for an in-depth explanation of what precisely the amendments do before I debate the matter with the Minister for Transport without in reality—

The Hon. R.I. Lucas: Very wise.

The Hon. T. CROTHERS: Thank you very much. 'Too wise you are, too wise you be, I see you are to wise for me.' I would not want to debate the amendments without knowing what they were about. For that reason, the Democrats' spokesperson, Ms Kanck, and I have some problems. We had a little talk about this and she, like I, would like to seek to adjourn the matter until we have had time to catch up on the matters to which I have just referred. With the benefit of time, we can more effectively deal with the matter at the next sitting on 6 July.

We believe that the Minister is on the right track. She has set up a Bill on which, when we debated it in our Caucus, there were different opinions. That obviously happens in a Caucus. However, on balance—

The Hon. Caroline Schaefer: I did not think that you disagreed on anything.

The Hon. T. CROTHERS: I would hope that in the honourable member's Party room differences of opinion prevail as well. Discussion is the way in which one sorts out the wheat from the chaff with regard to our debates. The cut and thrust of the Party room prepares one well for the cut and thrust in this Legislative Council Chamber.

I recommend that the matter be adjourned directly because, as I have said, while we believe that the Minister is certainly on the right track in that, rather than adopting an ostrich-like pose and burying her head in the sand and pretending that it was not happening, she has developed a Bill which we believe is far too wide flung. We believe that the Bill will assist greatly in bringing the matter to heel without destroying what, after all, keeps younger people out of the courts. If the sport is properly pursued, we believe that it would help, in part, to deal with the delinquency that occurs from time to time because the younger generation has nothing to do or cannot get a job.

The Hon. Sandra Kanck: Tell us about your go on roller blades.

The Hon. T. CROTHERS: That was with my grandchildren. The Lyell McEwin was very pleased to see me.

The Hon. R.I. Lucas: You would have been all right TC: you landed on your head.

The Hon. T. CROTHERS: I would not have been injured had I landed on my head. It was the other part of me. As well as setting the parameters for the matters to which I have referred, we understand that the Bill will also seek to ensure that, if councils set such areas aside, they will not be respon-

sible—provided that the areas are properly sign posted—in respect of any monetary claims made on them as a consequence of roller bladers using their areas.

As I understand the Bill, councils do not have to touch the matter at all. However, if they choose to do so, the Bill will indemnify them against any claims which might be made in future as a consequence of injury occurring to a person who used a designated area. That is my brief understanding of the matter.

I do not have a great deal more to say, except that we commend the Minister for sticking to the task which was first entered into by our Minister and our former Government. We believe that the Bill extends too far with regard to the net to make provision for those involved. Our amendments will seek to narrow that aspect. In my second reading speech, I will place the amendments on file at the first available opportunity and, with regard to those parts of the Bill that we support, I will commend the Bill to the Council.

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

[Sitting suspended from 6 to 8.30 p.m.]

STATUTES AMENDMENT (RECORDING OF INTERVIEWS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Summary Offences Act 1953, the Summary Procedure Act 1921, the Magistrates Court Act 1991, the District Court Act 1991 and the Supreme Court Act 1935. Read a first time.

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

That this Bill be now read a second time.

Over the past decade—perhaps for even longer than that—there have been two aspects of a movement towards the introduction of a comprehensive system for electronically recording interviews of suspects by police. The first aspect of that movement can be seen in the recommendations of official reports and inquiries into police practices and the law of criminal investigation. Examples of reports that have recommended electronic recording of police interviews include the reports of the Mitchell Committee (1974), the Australian Law Reform Commission (1975), the Australian Institute of Judicial Administration and Victorian Bar Association Shorter Trials Committee (1985), the Coldrey Committee (1986), the Gibbs Committee (1989), the New South Wales Law Reform Commission (1990) and the National Committee on Violence (1991).

The reasons why there has been this sustained and unanimous chorus of support for the idea are not hard to find. They include—

- reduced interview times;
- an increase in the number of guilty pleas;
- earlier indication of guilty pleas;
- fewer police officers required to attend court;
- shorter and more focused trials;
- fewer appeals and retrials.

The second aspect of that movement occurred in the courts. Courts function less strategically and are, properly, more concerned with the rights and wrongs of the individual case. Many criminal trials are characterised by contests between police witnesses, who allege a significant confession or admission by the accused, and the accused, who alleges that the confession or admission was fabricated or coerced.

The evidence that concoction or coercion has on occasion occurred cannot be disputed. Over the years, it became more and more obvious that the courts in general, and the High Court in particular, were becoming concerned about the quality and reliability of the evidence of police interviews that were coming before them. A series of High Court cases culminated in 1991 when a bare majority held, in a case called *McKinney and Judge* (1991) 171 CLR 468, that a trial judge must warn a jury that it is dangerous to convict on the basis of an alleged confession or admissions made while in police custody unless there is reliable corroboration. Signing the record of interview does not suffice for that corroboration. The High Court made its message clear by referring to developments in electronic recording of such interviews and saying:

> The central thesis of the administration of criminal justice is the entitlement of an accused person to a fair trial according to law.It is obvious that the content of the requirement of fairness may vary with changed social conditions, including developments in technology and increased access to means of mechanical corroboration.

Technology now exists to electronically record all police interviews for at least serious offences. It is relatively inexpensive, simple to operate, portable, reliable and secure. Electronic recording of interviews is now taking place in all Australian jurisdictions. In Victoria, the practice is backed by legislation. In Queensland and New South Wales, the practice has been put into place administratively, although New South Wales has a Bill in the public domain. In Western Australia, legislation to enforce the practice has been passed but not yet proclaimed and in South Australia, it has been the practice for some time to electronically record some police interviews.

In 1991, the Commonwealth Parliament enacted the Crimes (Investigation of Commonwealth Offences) Amendment Act 1991 which required, in relation to Commonwealth offences, the electronic recording of police interviews with suspects. If South Australia does not move in the same direction—the direction being taken all over Australia—the untenable situation would be reached in which the set of rules for investigating Commonwealth offences would be markedly different from the rules applying to the investigation of State offences. That would lead to complexity, expense and the possible escape of offenders in such overlapping areas as fraud and drug offences.

The Statutes Amendment (Recording of Interviews) Bill aims, therefore, to set the electronic recording of police interviews for indictable offences into a legislative framework with clear cut rules to be applied during investigation. This is achieved by inserting a new Part into the Summary Offences Act 1953 and by amending the Summary Procedure Act 1921. Other amendments consequential on the passage of this Bill are required to the Magistrates Court Act 1991, the District Court Act 1991 and the Supreme Court Act 1935.

The objectives of this legislation are—

- to promote and enhance the visible integrity of the criminal justice system;
- to ensure that consistent rules apply to the investigation of both Commonwealth and State offences in South Australia and to prevent anomalies arising between jurisdictions;
- to minimise the necessity for *voir dire* hearings and for judicial warnings to the effect that it is dangerous to trust in the veracity of police officers;
- to enhance the quality and efficiency of police interviewing techniques.

In doing this, it is contemplated that the system, once in place, will generate the kinds of savings and cost benefits referred to in the reports which recommended the system. In order for that to occur, the Bill is framed with three explicit assumptions—

- that the legislation applies only in relation to persons suspected of having committed an indictable offence;
- that the recorded interviews will only be transcribed in limited circumstances; and
- that the setting up and capital costs are phased in over at least three years.

The most recent methodical attempt to quantify the cost benefits of such a system occurred in Western Australia in 1990-91. In summary, the report from that State's trial project concluded that electronic recording of police interviews could reduce criminal jury trials by as much as 50 per cent with a reduction in backlog and a saving in court trial costs in excess of $2 million per year. The report also predicted that the system would save the police force 6 000 person hours per year covering 3 000 interviews at a saving of between $75 000 and $90 000 per year.

At the second annual Australian Institute of Judicial Administration Meeting of Australian Higher Courts on Case Management and Delay Reduction conducted in November 1992, Underhill J of the Supreme Court of Tasmania said:

> The need for case flow management in criminal cases has been reduced, if not eliminated, by the introduction throughout the State of video recording of interviews with accused persons. Initially, video facilities were only available in the southern part of the State. Cost was said to be the bar to their introduction in other areas. The bar was overcome in late 1991. The result during the 1991-92 year was an increase of pleas of guilty from 55 per cent of persons indicted to 64 per cent. After allowance for cases which were not proceeded with after committal, only 17 per cent of committals resulted in trial.

This Bill is the result of a great deal of thought and consultation between the South Australian Police Department, the Attorney-General's Department, Courts Administration, Treasury, the legal profession and the judiciary. It promises to result in many benefits to the criminal justice system as a whole. I commend the Bill to members, and seek leave to have the detailed explanation of clauses incorporated in *Hansard* without me reading it.

Leave granted.

Explanation of Clauses

PART 1—PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

A reference in this Bill to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART 2—AMENDMENT OF SUMMARY OFFENCES ACT 1953

Clause 4: Substitution of heading preceding s. 67

The Division (comprising sections 67 to 74B) is proposed to be headed—*Police powers of entry, search, etc.*

Clause 5: Insertion of Division

A new Division (comprising new sections 74C to 74G), headed *Duty of investigating officers to record interviews,* is proposed to be inserted in the principal Act.

74C. Interpretation

New section 74C provides definitions of 'interview' and 'investigating officer' for the purposes of the new Division.

74D. Obligation to record interviews with suspects

New section 74D provides that an investigating officer who suspects, or has reasonable grounds to suspect, a 'suspect' of having committed an indictable offence and who proposes to interview the suspect must—

- if it is reasonably practicable to record the interview on videotape—make a videotape recording of the interview;
- if it is not reasonably practicable to record the interview on videotape but it is reasonably practicable to record the interview on audiotape—make an audiotape recording of the interview;
- if it is neither reasonably practicable to record the interview on videotape or on audiotape—make a written record of the interview as soon as practicable after the interview, read aloud the record to the suspect and record the reading on videotape. During the recording of the reading aloud, the suspect must be given the opportunity to interrupt to point out errors or omissions.

At the end of the reading, but while the videotape recording continues, the suspect must be again invited to point out errors or omissions in the record. If the investigating officer agrees that there is an error or omission, the officer must amend the record to correct the error or omission. If the officer does not agree that there is an error or omission in the record, the officer must make a note of the error or omission asserted by the suspect in an addendum to the record of interview.

If the suspicion, or a reasonable ground for suspicion, arises during the course of an interview, the investigating officer's obligations under this new section arise then and apply to the interview from that time.

The following matters should be considered when deciding whether it is reasonably practicable to make a videotape or audiotape recording of an interview:

- the availability of recording equipment within the period in which it would be lawful to detain the person being interviewed;
- mechanical failure of recording equipment;
- a refusal of the person being interviewed to allow the interview to be recorded on tape;
- any other relevant matter.

As soon as practicable after a tape recording is made under this new section, the investigating officer must give the suspect a written statement of the suspect's right—

- if a videotape recording was made—to have the videotape played over to the suspect or the suspect's legal adviser (or both) and to obtain an audiotape recording of the sound track of the videotape; or
- if an audiotape recording only of the interview was made—to obtain a copy of the audiotape recording.

Arrangements must be made, at the request of a suspect, for the playing of the videotape at a reasonable time and place. Fees may be fixed by regulation for the cost of obtaining an audiotape recording under this new section.

74E. Admissibility of evidence of interview

New section 74E provides that in proceedings for an indictable offence, evidence of an interview between an investigating officer and the defendant is inadmissible against the defendant unless the investigating officer complied with this new Division or the court is satisfied that the interests of justice require the admission of the evidence. However if, in the course of a trial by jury, the court admits evidence of an interview conducted by an investigating officer who did not comply with the new Division, the court must—

- draw the jury's attention to the non-compliance by the investigating officer; and
- give an appropriate warning in view of the non-compliance, unless the court is of the opinion that the non-compliance was trivial.

74F. Prohibition on playing tape recordings of interviews

New section 74F provides that a person must not play to another person a videotape or audiotape containing an interview or part of an interview recorded under this new Division unless the videotape or audiotape is played—

- for purposes related to the investigation of an offence; or
- for the purposes related to legal proceedings, or proposed legal proceedings, to which the interview is relevant; or
- with the permission of a court before which the videotape or audiotape has been tendered in evidence.

74G. Non-derogation

The new Division does not make evidence admissible that would otherwise be inadmissible nor does it affect a court's discretion to exclude evidence.

Clause 6: Insertion of heading before s. 75

The new heading *Arrest* is proposed to be inserted before section 75 of the principal Act.

Clause 7: Substitution of s. 85

The current section 85 of the principal Act is obsolete and it is proposed that a new section 85 that provides that the Governor may make regulations for the purposes of the Act be substituted.

PART 3—AMENDMENT OF SUMMARY PROCEDURE ACT 1921

The amendments to this Act are consequential on the amendments proposed to the *Summary Offences Act 1953*.

Clause 8: Amendment of s. 4—Interpretation

This provides for the insertion of the definition of investigating officer into section 4.

Clause 9: Amendment of s. 104—Preliminary examination of charges of indictable offence

This clause provides for the repeal of subsections (3), (4) and (5) of section 104. The proposed substituted subsections (3) and (4) deal with the preliminary examination of charges of indictable offences and the filing in court of material relevant to the charge.

Proposed new subsection (3) provides that a statement filed in the court—

- must be in the form of a written statement verified by declaration in the form prescribed by the rules; and
- if the statement is tendered for the prosecution and relates to an interview between an investigating officer and the defendant that was taped under the proposed new Division of the *Summary Offences Act 1953*—must be accompanied by a copy of the tape recording.

Proposed new subsection (4) provides that there is in exception to the rule of new subsection (3) if the witness is a child under the age of 12 years or a person who is illiterate or suffers from an intellectual handicap. In that case, the following provisions apply:

- the witness's statement may be—
  in the form of a written statement taken down by an investigating officer at an interview with the witness and verified by the officer as an accurate record of the witness's oral statements at the interview so far as they are relevant to the subject matter of the charge; or
  in the form of a videotape or audiotape record of an interview with the witness that is accompanied by a written transcript verified by an investigating officer who was present at the interview as a complete record of the interview;
- if a videotape or audiotape is filed in the Court under paragraph *(a)*(ii), the prosecutor must—
  provide the defendant with a copy of the verified written transcript of the tape at least 14 days before the date appointed for the defendant's appearance to answer the charge or, if the tape comes into the prosecutor's possession on a later date, as soon as practicable after the tape comes into the prosecutor's possession; and
  inform the defendant that the defendant is entitled to have the tape played over to the defendant or his or her legal representative (or both) and propose a time and place for the playing over of the tape; and
- the time proposed for playing the tape must be at least 14 days before the date appointed for the defendant's appearance to answer the charge or, if the tape comes into the prosecutor's possession at a later date, as soon as practicable after the tape comes into the prosecutor's possession (but the time and place may be modified by agreement).

SCHEDULE—*Consequential Amendments*

The schedule contains minor amendments to the *Summary Offences Act 1953*, the *Magistrates Court Act 1991*, the *District court Act 1991* and the *Supreme Court Act 1935* consequential on the passage of Part 2 of the Bill.

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

CRIMINAL LAW (UNDERCOVER OPERATIONS) BILL

Adjourned debate on second reading.

(Continued from 6 June. Page 2068.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. The Bill obviously touches on an important aspect of law enforcement. For certain types of criminal activity it is often difficult for police to get sufficient evidence for prosecution without becoming a trusted acquaintance or associate of the person who intends to commit the crime. Undercover operations have therefore become one of the regularly employed strategies of our Police Force, along with law enforcement agencies around the world.

The objective of this Bill, as the Opposition understands it, is to cast a cloak of legitimacy over existing police practices in relation to undercover operations. It has been put to the Opposition that there will be a number of unfortunate consequences if we were to defer consideration of this Bill for a month or so to allow more thorough consideration of the implications and possible imperfections. The superintendent in charge of the Drug Task Force has indicated that a number of undercover operations presently in place could be jeopardised if the Bill is not taken through this Parliament with the utmost haste.

In addition, there is the possibility that accused people currently awaiting trial will be able to take advantage of what could be seen as a windfall opportunity presented by recent judicial pronouncements. Government initiatives to counter organised crime and drug trafficking can generally be assured of bi-partisan support. In respect of this legislation we have been consulted by the Attorney-General, but it must be appreciated that we only set eyes on a draft version of this Bill earlier this week and the Government has modified the draft since then. We simply have not had time to fully ponder the implications of the Bill, nor have we had time to receive submissions from a cross-section of the legal profession, which we would prefer to do.

We appreciate that the Bill is a response to two recent drug dealing cases, namely, the High Court decision of *Ridgeway* and another case recently the subject of a pre-trial ruling by Judge Bishop of the District Court. On balance we have accepted that there is some urgency about the Bill, so our approach will be to voice some of our reservations about the Bill but, nevertheless, to let it pass with only minor amendment.

One serious issue raised by the Bill is that of retrospectivity. The Bill aims to validate undercover gathering of evidence that was carried out in the past. This would include those cases presently before the courts in which evidence was gathered in this way. Clause 4 of the Bill, if passed, would then give the result that those carrying out the undercover operations in the past would effectively be granted immunity from prosecution. As a consequence, the evidence of police officers or informants will be much less likely to be ruled inadmissible in court. Accordingly, a repetition of the outcome of Judge Bishop's case will be avoided.

In that case a heroin deal was set up by police undercover agents and $150 was handed over to the accused for a small quantity of heroin. The police agents operated in accordance with past practices and within official police guidelines. Even though there was clear evidence of heroin selling, Judge Bishop excluded the vital evidence on the basis that the police had instigated the involvement of the accused and because the police had made the sale possible by handing over cash for the heroin.

His Honour said that the illegal conduct of the police 'may be regarded ... as assuming a particular malignancy', yet there was nothing to suggest that police had encouraged the heroin dealers in the case to set up their business. They had essentially presented the accused with the opportunity to demonstrate what their business was. In the end result the heroin dealers in the case were acquitted last week. They seem to

have been very lucky indeed from the consequences of that judgment.

I will not mention the names of the accused as the court saw fit to suppress their names and they are now innocent men in the eyes of the law. This Bill will not change that, but public opinion may differ on this matter. It is perfectly understandable that both police and the prosecutor would have been very disappointed in that result and it is understandable that the Attorney has moved so quickly to address the legal problem perceived by Judge Bishop in that case.

It should be mentioned that the DPP will be likely to refer the question of law to the court of criminal appeal, but that process will not be as speedy as will be the passage of this Bill through the Parliament and the result of this Bill will presumably have the immediate effect of letting the police know what they can and cannot do legitimately in terms of undercover operations. The Opposition accepts that this will be an issue of acute importance in respect of operations currently in place.

The general principle that legislative change in the criminal law should not be retrospective is widely accepted. The Opposition has carefully considered the Government's decision to make this legislation retrospective and, ultimately, it has decided to support that approach because the Bill is essentially about law enforcement procedures rather than taking away existing rights. It could be argued that the Bill takes away the right of an accused person currently awaiting trial to object to evidence gathered by illegal police conduct, even though such evidence would otherwise be inadmissible due to unfairness to the accused, in accordance with pre-Ridgeway law. But the Opposition is assuming that the principles under which illegally or unfairly obtained evidence can be excluded in the discretion of the judges would continue to apply.

Furthermore, the word 'reasonably' in the definition of 'approved undercover operations' suggests that the clause 4 immunity would not be afforded to those involved in operations which did not objectively meet the criteria set in subclause 3(2). I suggest that this is one point that could well be tested in the courts. In any event, we will not reject the retrospective effects sought by the Act. We are satisfied that the community would not wish to see heroin dealers and the like walk free due to judges taking the law in an unexpected direction, when the remedy appears to lie in this Bill.

Another contentious issue is raised by the types of offending behaviour in relation to which this Bill will authorise undercover operations. These types of operations are usually employed in relation to those forms of criminal activity carried out consensually and privately. In the case of drug transactions and drug use, usually none of the participants are willing to provide information to law enforcement authorities, particularly when they themselves are committing drug offences in relation to the deal by which drugs are obtained. Because this Bill has no impact on the substantive criminal law, I will not go into options for drug law reform, although there are issues which will need to be debated another day and there is currently a Bill before the Parliament which will deal with some of those issues. Of course, there are numerous other crimes where no single victim is available to come forward and give evidence, unlike theft, assault, rape and so on. Conspiracy and bribery are two such examples.

On the whole, the Opposition is satisfied with the suggested approach as to coverage of the Bill. I will mention some of the areas that it covers. They include indictable offences, which are generally the more serious type of offences. Perhaps a better option would have been to have restricted coverage to offences with a certain minimum gaol term, for example, five years, although I suppose undercover operations might be useful in infiltrating a stolen goods racket or something like that where one is looking at organised and multiple offending of what would otherwise be relatively minor crimes.

In relation to drug offences under the Controlled Substances Act, again some of the offences there are relatively minor, and various other offences are linked by the fact that convictions can lead to confiscation of assets pursuant to the confiscation of proceeds of crime legislation. At some stage, the Attorney had on file some draft amendments, one of which was of some concern. I understand that he is wishing to withdraw this amendment, so I will not discuss that matter any further. However, we may wish to touch on it in Committee when we deal with those issues generally.

One further reservation that members might have with this Bill is the secrecy of police practices in this area. Obviously, details of any specific operation cannot be disclosed publicly, but a case is made out for limited access to command circulars and the like so that at least members of this Parliament can know what police are getting up to.

The history of this State demonstrates some justification for this concern, and certainly interstate there is that kind of concern. We have acted on this concern to a limited extent by amending the reporting requirements in clause 5 so that Parliament at least gets to know the types of offences in relation to which undercover operations are carried out.

A further concern is the range of people who might benefit from the approval system set out in the Act. We are not just talking about police officers being authorised to commit crimes or even to incite the commission of crimes by others; we are delegating that freedom to people other than the police. One can see why a superintendent might wish to authorise the NCA or Federal Police personnel to carry out undercover operations in our jurisdiction in the context of some joint agency operation, but we are also creating the possibility of authorising habitual criminals or drug dealers to go undercover for police, presumably on the basis that they will act as informants in due course.

While the Opposition expresses some concern about these practices, we have taken into account that there are situations where immunity is granted to criminals even now if they have given some undertakings as to gathering and giving evidence about the criminal behaviour of others. In conclusion, we support the second reading, and we hope that the Attorney-General's Bill will not create as many problems as it solves.

The Hon. T. CROTHERS: I rise to support the remarks made by my colleague the Leader of the Opposition about this Bill. The Bill was made necessary—and I know I am only reiterating what we all know—by a decision of the High Court on the Ridgeway case. It seeks to restore the law of entrapment which all people believed had existed prior to the High Court's decision. For instance, because of that decision one of the things that might well prove unacceptable is the video on police corruption that was screened recently at the New South Wales Royal Commission. That might render the Ridgeway decision inadmissible as evidence relative to the High Court decision.

The Bill seeks to confine the issue of entrapment to indictable offences. Indeed, I am led to believe by our shadow Minister, the Hon. Michael Atkinson, that in addition the Government has agreed—and I think it is fair enough—that,

as a safeguard against abuse, police seeking to engage in entrapment activities will have to get the appropriate authority and permission from a superintendent of police as opposed to obtaining it from an inspector, as previously obtained.

As an additional safeguard, the superintendent who is approached will have to be told whether a previous application with respect to the matter had been made relative to the same suspect or operation. By all who considered this matter, it is believed that that will be a safeguard against police officers doing the rounds of superintendents, trying to find one who will agree to the proposed entrapment operation. A superintendent who has approved the procedure will have to report to the Attorney-General and his department and they, in turn, will have to report the number of entrapment operations to Parliament annually.

In addition to those comments, when the Opposition Caucus considered the matter, there was some significant debate around the prospect of the Bill being made retrospective. When in Opposition, in my time in this Chamber the present Government led the fight against Bills or amending Bills that contained retroactive provisions. However, as the present Opposition said when it occupied the Government benches, there are cases when retrospectivity must be pursued.

In the final analysis, the Opposition believes that this is one such case. I must say—and I remember the present Attorney supporting the then Government, now Opposition, on one matter of retrospectivity—that the present Government, when in Opposition, took an even harder line than we did. I am not cavilling about that; I simply put that on the *Hansard* record as a fact. We believe that the Bill has to be pursued, and that retrospectivity must be incorporated therein if it is to facilitate a number of other situations that are presently being engaged in or being pursued.

Whilst I am on my feet, I want to say (and I would like to the Attorney to listen very carefully to what I am about to say): it seems to me that time and again, when we in this Parliament, in other Legislatures of the nation, the Federal Parliament and, indeed, in Legislative Assemblies worldwide, consider the question of drugs and how to deal with a problem that is spiralling out of control, no-one could contradict me if I said that we had not yet got it right.

The methods that we use to deal with drugs could in no circumstances be considered successful. The drug problems in our society today, not only in Australia but globally, continue to grow. Early in the piece the drug cartels have realised that we are in a global economic village, that electronic transfers can be done at the flick of a switch, that all sorts of communications can be effected much more quickly than is and has been the case up until the past decade. One of the cartels in the South America, the Medlin cartel, would obviously be the most vicious of all the drug cartels—and that is saying something—even built a submarine. That is how much it can embrace technology. It built a submarine to smuggle drugs into the United States of America. I note that to our Far North, particularly on the Asian mainland and in some of the other States such as Singapore, Malaya and Thailand, the penalty for being caught with an amount of illegal drugs in one's possession is death by hanging. That has not stopped the problem there. Even with the supreme penalty, the problem continues to grow.

Indeed, I am mindful of a position that arose in the United States when the Volsted Act, that is, the Act prohibiting the drinking of alcoholic beverages, was introduced into some 13 States. It failed miserably, simply because organised crime got in, provided that which had been made illegal for those who were more than willing to buy it, and put such a financial funding underneath their feet to underpin their operations that I do not believe it is possible ever for the United States to wipe out organised crime.

Indeed, it is said and believed by most that organised crime is the next biggest spender and garner of money in the United States after the US Federal Government. That is something to be considered when we look at all the bandaid measures such as this one, worthy and necessary as it is. That is something for the Attorney to consider when he looks at the totality of what has been occurring in respect of drugs in South Australia: the penalties both here and in other areas of Australia. I do not care what is the philosophy of the Federal Government; it has not been successful, because we have said that the only way in which to proceed against these people is to enforce the normal methods of punishment. That is not working, nor will it work: it requires a totally new and radical approach.

The Attorney-General has the opportunity to have his name put up in lights as the person who first grappled with the problem and who did something meaningful and productive to try to combat drugs. I am talking as someone who has suffered somewhat from the illegal use of narcotics—not personally but within my own family. I say to the Attorney with all the conviction that I can muster—and one has to look only at the statistics to realise this—that Bills such as this one, while they are necessary, are bandaids. My own Government, the previous Government, did not grapple with the problem; no State Governments, of whatever philosophical persuasion, have grappled with the problem. Indeed, no Government in the world has done so, and one need look only at Russia and China where the problem is beginning to manifest itself.

As my Leader has said, we support the Bill. I think we will move a couple of minor amendments—I do not know, because my Leader has the carriage of the Bill—but I urge the Attorney, who I think is prepared to look deeply at matters (and I hope my judgment will be vindicated), without fear or favour, to move on matters in ways which may well be radical and new. I believe that they are necessary if we are even to try to get onto an even footing with the drug culture that persists.

I conclude by saying that the amounts of money that are generated world wide by the drug culture are so massive that members of the judiciary, the Police Force and Legislatures, all sorts of people in important positions, even Presidents of nations—there is one, Noriega, doing 50 years in Florida for it—have been ensnared by the wealth that is available for them should they allow themselves to be corrupted by this vicious evil of the twentieth century.

Unless we are prepared properly to grapple with the problem, it will get on top of us. It is doing that now. That is the appeal I make to the Attorney. When you see the massive amounts of money, and the weight and the authority that that can buy, it is frightening. In this culture in which we live where the great god mammon is deemed to be almost a deity in respect of pandering to the greed of a few, the problems are vast and many.

I think the Attorney has the capacity to grapple with those problems. I have some faith in him, and I indicate that it is my view that one of the most important tasks that he will ever undertake as Attorney, or indeed even if he were to progress further up the ladder should he decide to switch to another

place, will be to embark upon a set of legal procedures which will properly address the problem so that we are not simply paying lip service to it or trying to keep pace with it, when, in fact, it is getting ahead. I admit that our Federal officers, in conjunction with the State Police Forces, have had some notable successes, but for every notable success that they have half a dozen get away.

That is the appeal I make to the Attorney, and I thank him for listening to me. As my Leader has indicated, the Opposition supports the Bill. We recognise that it is necessary, but personally—and I know that my Leader agrees with me—I believe that the time has come when a full in-depth study of the totality of the matter must be undertaken by the Attorney and his department in respect of South Australia. I realise that, because of the international nature of the peddling of drugs, the matter must go further, but I request the Attorney to make a start here. Let us again lead the world as we have done at other times in this State.

The Hon. A.J. REDFORD: I rise to support the second reading of the Bill. As members would appreciate, before coming into this place my occupation as a legal practitioner meant that I practised extensively in the area of criminal law. From time to time, when defending clients I came into contact with the sorts of operations that are covered by this legislation. I have some concerns about the legislation and about the speed with which we have had to deal with it. I point out that the possibility of this legislation was first mentioned to me late last week. A copy of it was received by me on Monday at about lunch time. With due acknowledgment to the Attorney-General, a number of amendments and proposed amendments to the proposed legislation have been put forward during that period of time.

I am not confident that the provisions in the Bill will not cause more problems than they attempt to solve. Be that as it may, there are important issues that need to be resolved. I understand that the Director of Public Prosecutions and various other bodies have suggested that there is a real need for this legislation, so, in that context, I am prepared to support it.

I think it is important that we understand what led to this Bill and recognise a number of principles and issues that underlie it. First, I adopt a number of comments that have been made by my colleague the Hon. Robert Lawson on previous occasions about the role of Parliament and that of the courts. In the area of criminal law and, in particular, the laws of evidence to which this Bill relates, Parliaments have generally been inactive in this country, leaving much of the law-making role to the courts. Often a court is faced with difficult and competing issues with which it must deal on the basis of the facts that come before it.

The issues that are raised under this Bill and, indeed, the issues raised in the High Court decision in *R. v. Ridgeway* regarding illegal conduct on the part of the police and what courts can do with evidence obtained as a consequence of that illegal conduct have been with us for 30 or 40 years.

There are a number of cases, and I will cite a couple of those for the benefit of this Parliament, going back to 1985 where the High Court said that under no circumstances would illegal conduct on the part of the Executive be countenanced or accepted by the courts and that Parliament is the sole arbiter of what should be legal and illegal and who should be exempt, if I can use that term, from the fundamental principle of the rule of law. For those who do not understand what the rule of law is, it is simple; it is basic. It is that, no matter who or what you are in this community, you are subject to the laws of the land and it is a fundamental principle associated with the Anglo-Saxon common law system.

What we seek to do with this legislation is to make certain conduct under certain circumstances which was illegal now legal. The case of Ridgeway (I will deal with the facts very quickly later) is a case in point. I will not go into the details of the case, but the basic principle that was applied in the Ridgeway case was a principle relating to how the courts deal with illegal evidence. The principle is this: where evidence is obtained illegally then the court has to weigh up whether the evil that was caused or the evil that the crime or the charge is directed at is outweighed by the evil of an authority such as the police breaking a law. It is fundamental, and the courts have recognised this, that the police have a responsibility not only to enforce the law, but to uphold the law and to apply very high standards. It was basically that principle that was enunciated by the then Chief Justice Barwick in the case of *R v Ireland* where he said:

> Whenever such unlawfulness or unfairness appears, the judge has a discretion to reject the evidence. He must consider its exercise. In the exercise of it, the competing public requirements must be considered and weighed against each other. On the one hand there is the public need to bring to conviction those who commit criminal offences. On the other hand there is the public interest in the protection of the individual from unlawful and unfair treatment. Convictions obtained by the aid of unlawful or unfair acts may be obtained at too high a price. Hence the judicial discretion.

The High Court again revisited the issue some eight years later in the case of *Bunning v Cross*. In that case Justices Stephen and Aickin distinguished the previous case and said, when looking at unfairness (where they used the term 'unfairness' the same principle applies in relation to illegal conduct):

> What Ireland involves is no simple question of ensuring fairness to an accused but instead the weighing against each other of two competing requirements of public policy, thereby seeking to resolve the apparent conflict between the desirable goal of bringing to conviction the wrongdoer and the undesirable effect of curial approval, or even encouragement, being given to the unlawful conduct of those whose task it is to enforce the law. This being the aim of the discretionary process called for by *Ireland* it follows that it by no means takes as its central point the question of unfairness to the accused. It is, on the contrary, concerned with broader questions of high public policy, unfairness to the accused being only one factor which, if present, will play its part in the whole process of consideration.

The question of whether or not the Executive is immune from the law has been discussed on a number of occasions, and in particular by the High Court. I draw members' attention to a case of *A and Others v Hayden and Others*. For those members who are not familiar with that case, that involved the situation where there was some is ASIS officers who broke into the Hilton on a rather shambles of a raid—

The Hon. T.G. Roberts: Snuck in.

The Hon. A.J. REDFORD: No, I think they broke the door down. It was another example of the Federal Keystone Cops in operation. In that case the issue that came to be looked at was whether these men involved in this exercise were immune from the law of the land. The then Chief Justice, Sir Harry Gibbs, said:

> It is fundamental to our legal system that the Executive has no power to authorise a breach of the law and that it is no excuse for an offender to say that he acted under the orders of a superior officer.

He further said:

> For the future, the point needs to be made loudly and clearly, that if counter-espionage activities involve breaches of the law they are

liable to attract the consequences that ordinarily flow from breaches of the law.

It is fortunate that the enterprise resulted only in very minor damage to property and that no-one sustained personal injuries. The publicity given to the incident will no doubt almost certainly ensure that exercises of this kind will not be repeated.

I am not sure that Sir Harry Gibbs is quite right in that because we have since seen other examples of Keystone Cop activities, not the least of which is Ridgeway, occurring notwithstanding Sir Harry Gibbs's warning.

In the same case the then Justice Murphy—and I agree with what he said—said:

In Australia it is no defence to the commission of a criminal act or omission that it was done in obedience to the orders of a superior or the Government. Military and civilians have a duty to obey lawful orders, and a duty to disobey unlawful orders. Any defence that conduct out of which this case arose was in obedience to orders which were not apparently unlawful may arise in other proceedings, but it is not now pertinent.

Justice Brennan said:

This is no obsolete rule; the principle is fundamental to our law, though it seems sometimes to be forgotten when Executive governments or their agencies are fettered or frustrated by laws which affect the fulfilment of their policies.

He went on and quoted the decision of the then Chief Justice Hale, an English Chief Justice of the Court of Appeal some 300 years ago when, in response to an assertion made by a captain of the military, he said:

Whatever you military men think, you shall find that you are under civil jurisdiction, and you but gnaw a file, you will break your teeth ere you shall prevail against it.

Justice Deane also said that the Executive was not above the law.

Again, in 1987 the New South Wales Court of Criminal Appeal in the case of *R v Chow* also looked at this and cited, with approval, the principles mentioned by the High Court. It said that the application of principles in no way excludes persons, whether they be Ministers, police or other persons charged with law enforcement, from the operation of the criminal law. The court goes on and says:

It follows in the present case, that the mere fact that the Federal police might *bona fide* believe that it is in their interest in the suppression of the drug trade that arrangements be made for a narcotic such as heroin to be imported into Australia, so that persons here might be arrested and dealt with by the criminal law for offences committed under the Customs Act(Cth), will afford no defence at all to a prosecution for a breach of the provisions of the Customs Act(Cth) in relation to importation of heroin. The police involved and the person who actually brought the goods in would all have transgressed against the provisions of the Customs Act(Cth) and would be liable therefor. Accordingly it follows that his Honour's directions to the jury were correct.

The point I make, and I make this very clearly, is one of criticism of the Federal authorities and the Federal DPP in the Ridgeway case. I make a broad and general criticism of the failure of Parliaments over the last 20 odd years to confront some of these difficult issues.

What happened in the Ridgeway case was that two men, one of whom was the accused Ridgeway, were incarcerated for some time. Both were in gaol on drug offences. One of those gentlemen was released early and he became an informant and an undercover operator for the Australian Federal Police and the Malaysian police. When Ridgeway was released, it was felt that they could catch Ridgeway out and, when Ridgeway approached his former cell mate about engaging in the drug trade, the Federal Police, in their Keystone Cops manner, hatched a plot. The plot was very simple: they would go to Malaysia, buy some heroin, bring it back through customs in Malaysia and Australia, take it to Ridgeway and tell him that it had been imported from Malaysia, and, when he took the heroin, they would arrest him under a Commonwealth offence. Essentially, the Commonwealth offence was that of being in possession of heroin knowing it to be imported.

The High Court said that all of one element of the charge, that is, the importation, had been conducted by the Federal authorities. The High Court said that it could not understand why State charges were not applied in that case. I am amazed that they did not find some heroin in Australia, avoiding the airfares and stupid subterfuge, sell him the drugs and charge him with possession of heroin under our State laws. If the penalties in the State are not more serious, they are so close to it that it does not matter.

In a sense, I lay the blame in the Ridgeway case with the Federal Police and, to a lesser extent, the Federal DPP for trying to grab something that quite properly should have been dealt with by State authorities. I have some misgivings about that. I will not go too much further because there did not appear to the High Court, on the information it had, to be any reason why Ridgeway could not be charged under our State laws with a different offence where a different application of the law might apply. At the end of the day, it was very poor police and prosecution practices that led to the problem that we currently have.

Like the Hon. Trevor Crothers, I invite the Attorney-General to consider at some stage in the not-too-distant future a complete review of this Bill, particularly having regard to the fact that it has been drafted in some haste. I also draw members' attention to the annual report of the Police Complaints Authority, which was tabled in this place on 12 April 1995, and a very weighty and important document it is. I will not refer to matters in too much detail, but merely draw members' attention to a couple of very important issues raised in that report. At page 14, the author of the document states:

The fact is, however, that modern police enjoy extensive powers and are unique in our society in that they have the legal power to use coercive force on individuals. The use of such power is not theirs by right. It is entrusted to them by society and, therefore, society has the right to require that police are accountable for its exercise.

The report continues:

Individuals in society have become more reluctant to accept without inquiry or question decisions made by those in some sort of authority. People are less satisfied with the expressed or implied age-old maxim 'Trust me, I know' if it relates to something which concerns them.

He goes on to talk about some of the difficulties he has had, particularly the lack of resources, over a number of years covering the period when the current Opposition was in Government and extending into this current Administration. I know that the Attorney-General has been diligent and vigilant in attempting to address some of the difficulties that the Police Complaints Authority has. One example is that the Police Complaints Authority has the job of monitoring intercepts or audits under the Telecommunications Interceptions Act, and the report clearly sets out some of the difficulties the author has had in relation to monitoring that task. It seems to me that, to date, the only real and effective monitor against illegal or improper conduct on the part of police officers has been the courts, and I hope that this Government, over the next 18 months, will seek to ensure that the Police Complaints Authority becomes more effective than it has been in the past.

It is also important that I draw members' attention to the fact that, in 1992-93, 878 complaints were made under the Act. In this current financial year, the author predicts that there will be between 1 500 and 1 600 complaints. That is a doubling of complaints in the space of two years. The explanation for that is a matter for speculation, and the author of the report says that but, in the context of the issues that we are dealing with in this Bill, it is important to note the figures in relation to complaints associated with the investigation of crime. In 1991-92, there were 29 complaints and 59 allegations of police misconduct. In 1992-93 there were 21 complaints and 64 allegations of police misconduct. In 1993-94, there were 42 complaints and some 90 allegations of police misconduct. There has been a substantial increase in that two-year period in relation to complaints made about police investigations.

It is important that, if we give police the sort of power contained in this legislation, we ensure that there is a proper complaints process, one that has integrity and is acceptable to the public. If we manage to achieve that, the courts will be less likely or more reluctant to throw out relevant evidence which might lead to the conviction of criminals. At the end of the day, the High Court in Ridgeway's case pointed out that not one person involved in the importation of heroin from Malaysia to Australia was prosecuted and, indeed, the Director of Public Prosecutions conceded that no discipline was applied in relation to the police conduct, which was quite obviously illegal. It is to be regretted that we have to deal with this with such speed, but the warnings were there. The warnings had been made by the High Court and it is something that not just the South Australian Government but all Governments have had to deal with. I hope that the Attorney-General and the Government will look at that. Indeed, I know that the Attorney-General is a great supporter of it. If we are to maintain public confidence in the police, which we still have in South Australia, we must have a system which is beyond reproach and which deals with inappropriate, illegal and improper conduct on the part of our police.

The Hon. R.D. LAWSON: I take up where the Hon. Angus Redford left off, with Ridgeway's case. It should be pointed out that that was an exceptional case in which the High Court ruled, first, that the defence of entrapment, which is well established in American criminal law, has no place in this country.

However, the court went on to say that there were public policy considerations which led to the rejection of the evidence illegally obtained by persons themselves committing offences in Ridgeway's case. In Ridgeway's case, a number of considerations combined to make it inappropriate that the police operation should have received the disapproval of the courts. Those factors included—and the High Court mentioned them—the 'grave and calculated police criminality'; the creation by the police of an actual element of the offence with which the accused was charged; a selective prosecution on the part of the prosecution authorities of some, but not all, of those involved; the absence of any real indication of official disapproval or retribution in respect of the officers who had misconducted themselves in relation to that operation; and the fact that, if the prosecution was allowed to go ahead, the police by improper means would have achieved the objective of their own criminal conduct.

Those factors combined to make this an extreme case and one in which it was appropriate to reject the evidence which had the effect of someone who was undoubtedly in possession of a substantial quantity of heroin for commercial purposes escaping prosecution under Federal law. However, the High Court went on to say that as the accused was in possession of a quantity of a prohibited substance in South Australia he could have been charged under South Australian law with offences that had penalties of a fine of $500 000 and life imprisonment. Had the Commonwealth authorities chosen to ignore the illegally obtained evidence and simply rely upon the fact of possession in South Australia, the wrongdoers could have been convicted—or were liable to be convicted, I cannot of course say that they would have been convicted—and they could have sustained heavy penalties.

I support the measure and I admit that I had some misgivings when I first saw it. Frankly, the melodramatic title 'undercover operations', led me to believe that it was something out of an American police drama. However, when I considered similar legislation, for example, that in Victoria under its Drugs, Poisons and Controlled Substances Act, I saw that other legislation was inappropriate because although it sought to achieve the public purpose of this legislation, it contained absolutely no protections. Presently, we have no legislative protection in place. The Victorian Act contains a provision that:

> No member of the police force. . . acting under instructions. . . of a member of the police force—
>
> of senior sergeant rank or above—
>
> shall be deemed to be an offender. . .

although that person might otherwise have committed an offence under that Act. There is in that provision absolutely no protection. There are no criteria under which the member of a Police Force can authorise these operations and there is absolutely no public protection. Nor is there any mechanism whereby the operation can be questioned in a court by an accused person.

In Ridgeway's case, the High Court clearly contemplated the fact that this was a matter for legislatures. The majority judges said:

> . . . it is arguable that a strict observance of the criminal law by those entrusted with its enforcement . . . [may] hinder law enforcement.

The High Court went on to say that:

> Such an argument must, however, be addressed to the Legislature and not to the courts. If it be desired that those responsible for the investigation of crime should be freed from the restraints of some provisions of the criminal law, a legislative regime should be introduced exempting them from those requirements.

This Bill is such a legislative regime. It is clear from the brief reading that I have been able to undertake on the issue that undercover operations are employed extensively in the United States. When one thinks of some of the recent events in this country, it is pretty clear that they are also conducted here. A book by Professor Brent Fisse, formerly of the University of Adelaide, and others entitled 'The Money Trail' which deals with the confiscation of proceeds of crime, money laundering and the like, deals with undercover operations. The authors state:

> Undercover operations have been the most successful method in the United States for penetrating organised criminal groups and money laundering organisations. Undercover agents can pose as criminals in search of laundering services, or launderers willing to exchange illicit money for criminals. Government agents are thus becoming skilled at laundering operations, so much so that in some cases they are actually creating laundering opportunities.

It seems that that last point—the possibility of creating criminal opportunities—contains the seeds for caution which must be exercised in the area. The authors go on to say:

> Undercover operations must be carefully designed and controlled, or otherwise they may undermine public confidence in the police and government institutions. There is also a danger that they may damage innocent and uninvolved parties and cause unfair injury to targeted individuals.

That passage also shows the need for caution in this area because of the obvious dangers of police being authorised to break the law in a manner not available to other citizens. In the United States undercover operations are undertaken not only in relation to money laundering and drug activities. Professor Fisse refers to an operation entitled 'Operation Mish-Mash' under which FBI agents penetrated the inner workings of the Chicago futures markets by posing as traders, buying seats on the commodity exchanges and secretly recording conversations of both traders and brokers. The operation led to the discovery of a gigantic fraud on the exchange itself and the indictment of more than 40 members of Chicago's futures exchanges. The scope of those frauds on the exchanges would never have been discovered in the absence of an undercover operation and, one suspects, in the absence of criminal activities on the part of the police officers. One advantage of such undercover operations is the fear of those operations themselves. The fear that undercover agents might be working among those engaged in illegal activity has a deterrent effect.

Undercover operations have always occurred and the community requires that the executive engages in them here in the detection of crime. I am glad to see that the Opposition supports the substance of the measure.

The amendment on file indicates that the serious criminal behaviour in respect of which undercover operations can be undertaken, and the officers concerned obtain the immunity which the Act confers, is limited to indictable offences and also to certain other offences which, it seems to me, are as important and offences which one would imagine require undercover operations from time to time. For example, these include offences against section 34 of the Fisheries Act 1982 which prohibits persons from engaging in fishing activities unless the person holds a licence and offences against section 44 of the Fisheries Act 1982 which makes it an offence to sell or purchase fish taken 'not pursuant to a licence.'

It is easy to understand that not only police officers but also inspectors on occasions might have to buy or even to sell fish for the purpose of obtaining evidence of illegal activity from those who they suspect are engaged in that trade. The Bill as proposed to be amended by the Hon. Attorney-General also will include provisions under the Lottery and Gaming Act in relation to unlawful bookmaking. Section 63 of that Act provides that no person shall act as a bookmaker unless he is the holder of a licence. Section 75 of the Lottery and Gaming Act provides that a person who is the occupier of a common gaming-house is guilty of an offence. Not only a police officer but certain contacts might have to commit an offence against that Act in order to secure a conviction. One would not imagine a conviction of some ordinary punter or citizen but rather a conviction of the operator of some illegal operation.

Certain sections of the National Parks and Wildlife Act also are included in the measure. For example, offences of unlawful taking of native plants and the illegal possession of native plants that are illegally taken or acquired. Under the same Act provisions which will be covered by this Bill relate to the taking of protected animals or the eggs of protected animals. It would be well known to members of this Council that there is an extensive criminal trade and illegal trafficking of protected animals and birds as well as eggs. So it is appropriate that these offences be included in this Bill. Likewise, certain provisions of the Racing Act are affected by this legislation, such as the offence of acting as a bookmaker without a licence for which over the years it has been quite conventional for police officers or persons collaborating with them to obtain evidence of illegal bookmaking.

Finally, this Bill will affect a couple of summary offences—not indictable offences, but summary offences as are these other statutory offences—under the Summary Offences Act, namely committing frauds upon charitable institutions and obtaining money and valuable property by false pretences. Again, that is the type of offence in which it may from time to time be necessary for police to engage in undercover activities.

It is not only offences such as these, where there is the existence of some elicit substance, product or contraband, which give rise to undercover operations. Dealing in stolen goods, which is an indictable offence, is the type of offence in which it is frequently necessary for persons to commit offences in order to catch the perpetrators of criminal activity. We have found that in this country there have been a number of very noteworthy cases of official corruption and police corruption, where officials both elected and unelected have been detected by undercover police operations. Only this week a police undercover operation secured evidence, which has been given great publicity, that Inspector Graham 'Chook' Fowler in Sydney was allegedly detected accepting bribes. Again that was by an operation which could have been described correctly as an undercover operation.

It is not possible to adopt the simple solution that, for example, the Road Traffic Act provides: it simply exempts the drivers of police vehicles in the course of their duty from offences relating to speed limits, stopping at stop signs, giving way and so on. It is not possible to include after each section of the criminal code or even at the end of the criminal code provisions of this general kind. It is appropriate that they be included in a separate measure.

One might say that this type of immunity ought to be given only to police officers themselves, and the Bill would allow some person who is not a member of the police from engaging in undercover activities. However, reflection upon that proposition easily leads to conclusion that there will be occasions when it is necessary for the police to use persons other than their own members. The ability to infiltrate criminal activities very often depends upon the use of persons who are not police officers, the use of informers and the like.

It seems to me that the great advantage of this measure is that section 3 specifies the criteria under which the police may authorise these activities. The existence of these criteria will mean that officers will be forced to direct their minds to the issue of whether or not it is appropriate to authorise the particular activities. The statement of those criteria is appropriate; it has that educative function; and it makes it perfectly clear to police what it is that this Parliament considers is appropriate and what are the factors that ought be taken into account. It requires that these operations are not conducted for the purpose of getting some innocent citizen to commit a crime which he or she would not otherwise have contemplated—it is not a charter for entrapment.

The requirements of section 3 are stringent requirements but, more importantly, they are requirements that will be

ultimately examinable by a court. I do not expect that the use of these operations will be all that often but, if these activities are used, the police will have to realise that defence counsel will be able and probably will desire to call the police officer who authorised the operations, to examine him, to examine the reasonableness of the grounds advanced and to see whether in fact it is demonstrable that there was satisfaction on reasonable grounds that the operations were not only justified but that they satisfied the statutory criteria.

At the moment there are no criteria; Parliament really has had no say in what happens in these operations. They are conducted purely by the police; there is no protection for accused persons and there is no protection for the community. The community does have a serious interest in ensuring that the police conduct their operations fairly and honourably towards the community generally.

The requirement must be in writing, must state the nature of the conduct and will impose on the police a discipline. I have heard it said that the police have examined this regime and not expressed opposition to it. If that is correct, it shows a mature and sensible approach on their part. I commend the second reading.

The Hon. T.G. ROBERTS: I rise to support the second reading and offer the same cautionary notes in which other better qualified speakers have disguised their contributions. Others have been far more honest in relation to some of the problems that they perceive may emanate from the carriage of the Bill. I respect all contributions made in relation to trying to find or impart a solution to the difficult problem with which we have to grapple.

The South Australian State Parliament is dealing with a national and international problem and must provide in part a solution which satisfies the wishes and requirements of our constituents and which deals with a complex problem, one with which legislators in many countries have tried to deal. In many countries the problem has overcome all the crime fighting programs that have been set up to provide solutions. It has corrupted not only the Parliamentary systems but also the justice system in some countries.

I do not think we are in that position in Australia or South Australia at this point, and some would say that the legislation is timely. It certainly wakened the Legislative Council to many of the problems emanating in the community in relation to how we deal with problems associated with the drug industry, and the only problem I have in relation to providing legislative solutions is that I do not think we as a Parliament have come down with any recommendations on how to deal with drug problems *per se* across the spectrum or on how to deal with individual programs that emanate from changed habits in which the community involves itself in relation to the use of drugs.

Some in the community would say that the problems associated with marijuana use should not be approached in the same way that we approach the problem associated with addictive drugs such as heroin, morphine and other hard drugs. Young people in the community would say that drugs that they would use on a casual basis on a Friday or Saturday night, to ensure that their energy takes them through to the final discotheque on a Sunday night, are casual drugs with no addiction and are just that: they are casual drugs used by casual people on a casual basis.

In a legislative form we have thrown a blanket over the whole of the problem associated with a range of drugs that exclude tobacco and alcohol and have said that the processes of the law up until now have not been able to find solutions to the problem and that we must tie down not demand but supply. That is a real problem that I have in having any confidence in handing over broader powers to those that we commission on our behalf in society to fight that problem because as a society we have not drawn a consensus around the solutions that we require to enable us to draw up legislative programs to come to terms with those difficulties.

As a Parliament we have set up a number of select committees—as has probably every other State—to identify the problems associated with drug use and abuse. We, like most other States, have not had the political resignation or the fortitude to be able to come down with the legislation that deals with those problems in an orderly way. We as a Parliament in this State, under previous Governments and now under this Government, have reacted to problems that are basically supply driven.

We have to be able to identify the reasons why society is turning to drugs in the way that it is because it is quite clear, as other speakers have stated, that the increasing use of drugs is a major problem in society and the legislative program is dragging well behind not only in the identification of why people are turning to drugs in society but also in ascertaining why crime authorities and the justice system are not able to deal appropriately with the problem—either to halt the increasing use of drugs in society or to curb them.

In prisons today something like 70 per cent of inmates are incarcerated because of drug use or crimes associated therewith. The circumstances are not improving. As a Parliament we need to be courageous and need to look further than retrospective legislation in terms of entrapment to be able to put together a program that identifies why people turn to drugs. Drugs of addiction involve not only those which are commonly singled out in the media as being hard drugs, that is, heroin, morphine and their companions: they need to be broken down into categories to ascertain why society is using drugs in an ever-increasing way. Parliament merely responds by bringing about solutions that do not deal with the crisis which humanity faces in relation to abuse; rather, it adds to the misery of those people who are caught in the entrapment process of the drug cycle by adding punitive measures to entrapment and incarceration.

The call from the justice system to increase its ability to snare those people who involve themselves in the trade will be an addition to the problems that the justice system will face in adequately equipping law enforcement officers to enable them to fight the problems associated with crime and the corruption that it brings. Law enforcement officers will be divided. We have not had the time, in relation to the Bill, to contact those people who are in the forefront of fighting for a reduction in the supply side of drug demand. We have not been able to talk to police officers about whether it will make their job easier or harder. We have not been able to talk to police officers to find out whether it will make their jobs more dangerous or easier in relation to what they regard as a success rate in being able to stifle the demand side of the drug trade.

In relation to legislation such as this, it is always a two-sided or a two-edged coin. With entrapment comes danger, and the danger is that those police officers who have to prepare, draw up and to involve themselves in entrapment programs inevitably face greater physical dangers than those who have to pull together evidence that may be based on other methods of collection.

A greater number of women will be faced with physical danger in entrapment programs. Many of those women and experienced young officers who must be involved in entrapment programs inevitably will have to resort to the use of firearms. I suspect that the legislation itself could accelerate the placing of those officers in physical danger in relation to how they get their evidence to bring about convictions.

So, it is an escalating move that is being demanded by the justice system and by those people who are in the forefront of trying to arrest the supply of the drug trade. We must listen to them, because that is the only advice we will get in the absence of any legislation being put forward by Parliaments in relation to how we come to terms with drug use.

As legislators we must be confident in our own minds that the Police Force, which is at our disposal and which is looking at gathering evidence for prosecution, is able to put forward programs that will not be faced with those physical dangers that I described or are able to escape the network of corruption that inevitably comes with supply-side programs that may be used by some elements of the Police Force to hide behind in relation to corruption within their own ranks.

That is where I have some difficulty in supporting this Bill, given the time frames that have been allotted to us. The Attorney has basically given us a time frame that is based on trust and on a respect for the Government's decisions that have been made on the best information it has. However, for all the issues I have raised, it concerns me that we are so distant from the front line of the fight against those drug cartels that are corrupting elements within our society. As members of Parliament, because we do not have an alternative to drug use, and because we have not been able to separate those people who do not see casual drug use as an offence—those people who see even addictive drugs as a right that they ought to be able to obtain—and those whom we see as victims and who are not on rehabilitative programs for hard drug users, we have deemed that a program of punitive measures is necessary to come to grips with those problems, and I find that difficult to support.

As I said, I am confident that the Attorney-General is putting forward a program that has no alternative in relation to how the Commonwealth and the State see the drug fight being carried out. I would like to see the information that was collected by the select committee into drugs put to the test by further debate away from the emotional heat of a newly introduced Bill. I would like to be able to see all those elements of society involve themselves in a debate as to what parliamentarians should do in the best interests of society about the use and abuse of drugs; this could be put to the test in the next 12 or 18 months within not just the State but the Commonwealth. I issue that as a challenge to the Attorney to take back to the Federal authorities in relation to the use and abuse of drugs, so that we can have a look at just what programs the States should be running in an attempt to minimise the impact and effects of drugs being introduced into society.

One of the reasons why I believe people are increasing their use of social drugs is not only for the short-term pleasures—and many individual users will tell one there is no harm in that—is that many people who have been isolated out of mainstream society have turned to alcohol and drugs to break the monotony of their life. As legislators it is up to us not just to look at the punitive use of legislative measures to impose penalties on users but also to look at ways in which we can use our powers to legislate to make society a fairer and more equal place to live so that drugs are not used as an escape method, making people think that they are not a part of the mainstream.

The way things are going, people like us in Parliament may not be seen as mainstream at all, and casual users of so-called soft drugs will be seen as mainstream. Alcohol and cigarettes could be things of the past. What can be regarded as soft designer drugs could be the fashionable drugs that will be used and accepted in generations to come. As I said before, perhaps the Legislative Council ought to embrace a program of investigation to look at the information that is available not only throughout the State and the nation but internationally to draw up some recommendations for the long-term debate that needs to be drawn into the community so that we can ascertain what the norms are and what we can legislate for in relation to those undesirable elements that are not a part of what would be regarded as normal mainstream society.

The Hon. M.J. ELLIOTT: I rise to support the second reading of the Bill. I am concerned that a matter of great significance should be before us for such a short period before we are being asked to pass legislation. I understand the circumstances which have necessitated that but, regardless of the law, getting your first draft on one day and within five days having to get it through Parliament—and having changes in the drafts happening in between—while being involved in substantial debate in other areas is not particularly conducive to good legislation.

When it involves an area of great sensitivity, that must be doubly of concern. I cannot recall anything matching the significance of this measure proceeding with this sort of pace during my 9½ years in this place. I may be wrong, but I do not recall anything of this significance going through with this sort of speed. I would normally expect the existing Attorney-General, if he were in Opposition, to express grave concern if as an Opposition member he had to confront that sort of circumstance—and I think he would probably agree. I am not attributing bad motives; I understand why we are in this situation. But it is absolutely unprecedented, and it causes me grave concern that we have to handle this matter with this sort of haste.

I have had an opportunity to circulate this Bill to a few people who have been able to have only a quick look at it and make overall comments. That is the position I am in: I can make only overall comments about a piece of legislation that we are about to pass. That is quite amazing. A number of matters are of concern to the Australian Democrats, as follows: the Bill provides that the police can give permission to the police to commit a crime—of course, it will not be a crime because this Bill will say that it is not; the Bill provides for retrospective consent to criminal activity, albeit by police; and the Bill allows police to incite people to commit crime. I think those are fairly significant issues. Regardless of whether or not at the end of the day they can be justified, they are pretty significant issues to pass in two sitting days.

What I would have liked to examine if I had had the time would have been the long history of *agent provocateur* cases which have gone before the courts and the volumes which have been written about Government agents who provoke people to commit crimes by providing them with the means or leadership which they would not otherwise have had. It is regrettable that we are to sweep away centuries of informed debate on this subject without having informed community discussion about it. Where is the Law Society's submission? Perhaps it made one to the Attorney-General. I have not seen

the Law Society's submission. I have not seen any submissions from any of the groups from which one would normally expect submissions to come.

The fact that the police will be able to excuse themselves from their crimes, even retrospectively, is the sort of thing you might expect in a police State. I know of no precedent for this in a democratic society. There are constitutional issues and international covenants which must be considered. The 007 mentality of placing the police above the law is a flagrant violation of the cornerstone of our democracy of rule by law in that no person, not even the Queen, is above the law. I therefore think that this legislation would be open to constitutional challenge. What seems ridiculous about this attempt at retrospectivity is that the court has already determined that the police committed a crime, and this Bill changes the law retrospectively, so that all the Attorney needs to do, as I understand it, is to exercise an executive pardon in relation at least to the impact upon the police.

I am not in a position to provide the detailed analysis that I would have liked clause by clause, comma by comma, full stop by full stop in order to decide whether or not at the end of the day this Bill does more than is intended. Once it passes this place we will lose control of it. The Attorney-General says that, subject to what the courts later determine, he may repeal this Bill quite quickly, but it will certainly be out of our hands. So, in two days we will have passed something of which we will lose total control with potentially serious and unprecedented implications.

I have an amendment on file—so, at this stage, I will not oppose the second reading—which seeks to recognise the importance and, I suppose, the legitimacy of what the Government is trying to achieve in general terms. At the same time, I say that I would have liked the opportunity to revisit the Bill to examine those full stops and commas. My amendment simply allows the Act to expire one year after the date of its commencement. In reality, I hope and expect that, one way or another, we will revisit it within months, because either it becomes unnecessary or there are issues that need rectification. Allowing one year for expiry means that the police may go ahead with what are supposedly and apparently their normal operations—they will not be cut off midstream. Well before the expiry date the Parliament will have a chance to give this matter due consideration with the proper chance to consult the public and interested parties, and then to decide what is the Parliament's final intention.

At this stage, I do not know fully whether the Government or the Opposition will support my amendment. I raised the matter with the Opposition spokesperson in the other House who then asked me what I was going to do with the Shop Trading Hours Bill. At that stage, the conversation ceased because it was not taking us anywhere. I ask members to consider how serious are the potential implications. If my amendment is not supported my position will change and I will oppose the Bill, not because I disagree with what the Government is trying to achieve but because I believe that the processes are unreasonable, and I would have thought that if the Government were reasonable it would realise that.

The Hon. K.T. GRIFFIN (Attorney-General): I want to place on record my appreciation for the diligence with which members of the Opposition and the Australian Democrats have considered the Bill which I introduced yesterday, having made the first draft available to them towards the end of last week. I recognise that this matter is particularly sensitive and somewhat difficult. In most circumstances, one would not expect a Bill of this sort to be passed so quickly, but I hope that members will appreciate that there are some good reasons for endeavouring to clarify the law at the earliest possible time following the judgment in the District Court last week. So, I appreciate that support.

As members would recognise, there is nothing of a partisan political nature in this legislation, although philosophically there may be differences of view about certain aspects of it, but the approach which I took was to endeavour to keep, initially, the shadow Attorney-General and the Hon. Mr Elliott fully informed of the problems that we were facing, to alert them to the fact that we may need to put legislation through the Parliament as a matter of urgency and to ensure that there were full briefings available at the earliest opportunity and on those occasions when members requested further information. So, it is most helpful to have the support of members in dealing with this difficult piece of legislation.

I also acknowledge the observations of the Hon. Mr Elliott that it is unusual to rush legislation through the Parliament, but I say that it is not unprecedented. I am reminded that several years ago the previous Government pushed legislation through the Parliament to deal with a decision of Justice Debelle in the Adelaide development case. My recollection is that there was an amendment to the then Planning and Development Act which the previous Government sought to deal with. My recollection is that we did not support every aspect of that Bill, but we facilitated consideration of it.

There was another piece of legislation where, as I recollect, an amendment to the Controlled Substances Act was required as a matter of urgency to change some weights of controlled substances which formed the basis of legislation and offences which attracted quite significant penalties. Again, I am reminded that that went through the Parliament in something like 24 hours.

So, there are these occasions where Bills do have to be expedited and mostly they are not Bills which are of a partisan-political nature. Of course, with the way in which the Legislative Council is balanced anything of a partisan nature which was significantly controversial would be unlikely to pass in that time frame, anyway. But, notwithstanding that, where it is necessary in the public interest to deal with matters quickly, it is encouraging that we are able to deal with them in that manner.

In relation to the way in which I would propose to approach this Bill, if enacted, it is, to some extent, groundbreaking legislation, although it does endeavour to reflect the principles upon which entrapment has occurred over decades and the principles which generally have been understood to apply to police officers, and others, being engaged in illegal conduct for the purposes of such entrapment. The first point is that we have endeavoured to reflect what we interpret to be the law prior to the decision of Judge Bishop.

The second point is that we are certainly taking a case stated on the Judge Bishop decision up to the Court of Criminal Appeal. It may be that we do not receive a considered decision from that court for maybe three months—maybe longer, maybe a bit shorter—but that, hopefully, will clarify the law in relation to law enforcement officers undertaking undercover operations where they do commit a breach of the law. Having indicated that we will do that, I want to give a commitment to the Council and to the Parliament that, within a reasonable time after that decision has been delivered by the Court of Criminal Appeal, I will bring a report to the Parliament which reflects upon the judgment and this particular piece of legislation.

I make no secret of the fact that we want to keep this piece of legislation under review, not just in relation to the judgment which will come from the Court of Criminal Appeal, whichever way it goes in relation to the issue, but also because in implementing this legislation it may be that it results in very lengthy *voir dire* examinations of police officers in trials of indictable and other offences. If we end up with extensive trials within trials, then we will certainly want to examine that. My predecessor, the Hon. Mr Sumner, in fact sought to eliminate, in some areas of the law, extensive *voir dire* examinations because they can be quite technical and not really go to the heart of the issue. For those reasons alone, it is important for the Government to keep this legislation under review and I repeat the commitment which I gave that I will, within a reasonable time after the decision has been handed down, bring a report to the Parliament on that decision and the relationship to this law and this law's effectiveness. It may be, of course, that that ultimately goes to the High Court, but that is something that I can reflect upon at the time that I report to the Parliament.

I notice that the Hon. Mr Elliott has a sunset clause amendment on file. I must say that I am uncomfortable about that because with sunset clauses one can never tell whether the time frame is adequate within which to ensure definitive answers to the dilemma which might face the community law enforcement officers, agencies of the Crown and even the Parliament, and whether that will enable legislation to correct it to be appropriately passed through the Parliament. So, I am uncomfortable about that and hope that—

The Hon. A.J. Redford: The defence will keep adjourning for 12 months.

The Hon. K.T. GRIFFIN: It may be that one could keep adjourning a case for up to 12 months. One would hope that the courts would not allow that to occur, but there are all sorts of reasons why that might occur, and, even in the course of case flow management, it may be that adjournments are allowed. As I say, I am uncomfortable about that. I hope that what I have indicated to the Council in good faith will be accepted as an indication of my intention certainly to inform the Parliament of the decision of the Court of Criminal Appeal and also the relationship to this piece of legislation.

In relation to what the Hon. Mr Elliott said about placing police above the law, that is constantly a dilemma for society. It is a constant dilemma for law officers—

The Hon. M.J. Elliott: Not in China.

The Hon. K.T. GRIFFIN: We are not in China. We are in Australia where there is a democratic system, where you have independent courts (and we know how independent the courts are), where you have a Parliament which is open to public scrutiny, and where members of the Opposition in particular, but all other members, can raise questions of Ministers. If there is embarrassing material, you have a free and democratic press.

Members interjecting:

The Hon. K.T. GRIFFIN: You have a free and democratic press, you know that, or a free press, which is important in a democratic society. We may not agree with what the press does, but that is another issue. The fact is that it is a constant dilemma and you do have to balance what is the public interest in detecting criminals who need to be brought to justice and the way in which that is done. The Hon. Mr Elliott says that he would have liked longer to investigate the law relating to *agents provocateurs* and made the point that provoking people to commit crimes is a matter of some seriousness, and of course what he suggests necessarily follows is that we are sweeping away centuries of practice.

The Hon. T.G. Roberts: Lawyers have been using that as a defence for years.

The Hon. K.T. GRIFFIN: The fact is that the involvement of police in entrapment and in illegal conduct in the course of that entrapment has been accepted by society. It is unfortunate that it has never been reduced to statute law, but the problem is, once you bring it into statute law, you then open up the prospect that the lawyers will begin to take very technical points which will not go to the merits of a particular matter.

The fact is that this law is not just about providing a protection for police. It is about admissibility of evidence. That was the issue in the Ridgeway case, in the case before Judge Bishop. Because the police in the South Australian case were involved in illegal conduct, Judge Bishop took the view—which I think is the wrong view: nonetheless, it stands until it is overturned—that it so tainted the evidence that the evidence was not admissible and therefore there was no evidence upon which to charge the two defendants. It is broader than what the Hon. Mr Elliott suggests.

We have tried to address the issue of provocation in the Bill and in the amendments that we have on file to ensure that it is not a matter of provoking someone who would not ordinarily enter into criminal behaviour. It is to put the temptation in the way of a person who would ordinarily and who would in any event succumb to that invitation and opportunity, and thus commit criminal conduct.

The Hon. T.G. Roberts: Guilty until proved innocent.

The Hon. K.T. GRIFFIN: It is very difficult, I acknowledge. Other issues will be raised in the course of the Committee consideration relating to the reporting to Parliament. The Hon. Carolyn Pickles has an amendment on file which I am prepared to accept because I acknowledge that, not only should there be a report to the Attorney-General but there should be a report to the Parliament. There is an amendment to clause 2 which is designed to clarify the drafting and some specific offences are included in addition to indictable offences. Those offences are covered by the Crimes (Confiscation of Profits) Act, with one important exception which has been excluded relating to the law in so far as it relates to keeping a brothel. I understand the sensitivity of that, but the fact of the matter is that both the DPP and the police inform me that they do not need the protection of this Act because any entrapment used in relation to that particular offence does not involve the police committing any criminal act. On the basis that there is some concern about that issue, I indicate that the amendment that I will move excludes that offence to assist in the general consideration of the Bill.

The Hon. Terry Roberts and the Hon. Trevor Crothers raised issues which I suggest are too difficult to really deal with in the course of this debate. They relate to important issues about drug control, drug use, drug abuse and the extent to which the law ought to make that illegal and, if it does make it illegal, in what respect. A select committee of this Chamber is already dealing with that issue and that will add to the body of knowledge on what is a very contentious issue, which I do not think is capable of easy resolution. I acknowledge the kind remarks of the Hon. Trevor Crothers, but I will probably not accept his challenge to be a ground breaker or leader in respect of significant reforms to the drug law, certainly not at this point.

The Hon. R.R. Roberts: What about your elevation to the High Court?

The Hon. K.T. GRIFFIN: I am not going to the High Court, I can tell you that. I will repeat what I said at the beginning of this reply: I appreciate the preparedness of members to give such quick and informed consideration to this legislation and to facilitate its passing.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Interpretation.'

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

Page 2, lines 4 and 5—Leave out paragraph (c) and insert:

(c) an offence against section 34(1) or (2) or 44(1) or (2) of the Fisheries Act 1982; or

(d) an offence against section 63(1)(a) or 75 of the Lottery and Gaming Act 1936; or

(e) an offence against section 47(1), (2) or (4), 48(1), 48A(1), 51(1) or 60(1) of the National Parks and Wildlife Act 1972; or

(f) an offence against section 117(1) of the Racing Act 1976; or

(g)an offence against section 37 or 38 of the Summary Offences Act 1953;

In the Bill before the Committee, the definition of 'serious criminal behaviour' means behaviour involving the commission of, in paragraph (c), another offence that is, under the regulations, an offence to which this definition applies. Representations were made to me about the use of regulations for this purpose. I acknowledge that it is inappropriate for regulations to prescribe what may be serious criminal behaviour and, for that reason, I have quite willingly moved this amendment to delete paragraph (c). In its place, I seek to insert a number of offences which are covered by the Crimes (Confiscation of Profits) Act, remembering that something like $340 000 of criminal profits have been confiscated in the last three years. I have not been able to gather all the information about the sort of offences in respect of which that has been confiscated. I therefore took the view that, if we could specify the bulk of the offences under the Crimes (Confiscation of Profits) Act which relates to the confiscation of profits, that would generally cover the field, particularly because this legislation validates actions which may have resulted in some confiscation of profits.

In my second reading reply, I made the point that specifically that section of the Summary Offences Act which relates to keeping a brothel has been excluded. It is no more than a recognition that it is a sensitive issue. It is not removed for the purpose of indicating any particular view of the Government or of mine, for that matter, in relation to that offence, but it is something which is not necessary to be included and, in order to avoid controversy about that, I took the view that it was best not moved to be inserted in this clause.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment. We note the remarks made by the Attorney-General in relation to the measure that he previously intended to insert concerning keeping a brothel, and we appreciate his considered response to some submissions put to him, and his reply.

Amendment carried.

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

Page 2, lines 6 to 9—Leave out the definition of 'undercover operations' and insert:

'undercover operations' means operations (which may include conduct that is apart from this Act illegal) of which the intended purpose is to provide persons engaging or about to engage in serious criminal behaviour an opportunity to—

(a) manifest that behaviour; or

(b) provide other evidence of that behaviour.

In the course of the consideration of the Bill, it was suggested that there were some matters which needed to be addressed with regard to drafting to clarify the fact that 'undercover operations' means operations in respect of which the intended purpose is to provide persons engaging in, or about to engage in, serious criminal behaviour with an opportunity to manifest that behaviour or provide other evidence of that behaviour. They are alternatives. It removes the reference in the Bill to the intended purpose which is to encourage persons who are suspected of serious criminal behaviour to do certain things. We took the view that 'encouragement' was perhaps not the best word to use and that it was more appropriate to deal with the suspicion of serious criminal behaviour in clause 3. The amendment to clause 3, particularly in relation to paragraph (d) of subclause (2), is designed to link in with the definition of undercover operations. I believe that there is better precision in the drafting. It will therefore be less contentious if, or when, the matter should be debated by the courts.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment. It improves the interpretation and the definitions are much clearer.

Amendment carried; clause as amended passed.

Clause 3—'Approval of undercover operations.'

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

Page 2, lines 13 to 20—Leave out subsection (2) and insert:

(2) An approval may not be given unless the officer—

(a) suspects, on reasonable grounds, that persons (whose identity may—but need not—be known to the officer) are engaging or about to engage in serious criminal behaviour of the kind to which the proposed undercover operations relate; and

(b) is satisfied on reasonable grounds that the ambit of the proposed undercover operations is not more extensive than could reasonably be justified in view of the nature and extent of the suspected serious criminal behaviour; and

(c) is satisfied on reasonable grounds that the means are proportionate to the end i.e. that the proposed undercover operations are justified by the social harm of the serious criminal behaviour against which they are directed; and

(d) is satisfied on reasonable grounds that the undercover operations are properly designed to provide persons engaging or about to engage in serious criminal behaviour an opportunity—

(i) to manifest that behaviour; or

(ii) to provide other evidence of that behaviour;

without undue risk that persons without a predisposition to serious criminal behaviour will be encouraged into serious criminal behaviour that they would otherwise have avoided.

I move the amendment because, as we worked through some of the issues, it became obvious that we needed to clarify some of the drafting and to build in some additional protection. Paragraph (a) picks up, to some extent, what was included in the previous definition of undercover operations and the suspicion, on reasonable grounds, that persons:

. . . are engaging or about to engage in serious criminal behaviour of the kind to which the proposed undercover operations relate.

The officer who is giving approval must be:

. . . satisfied on reasonable grounds that the ambit of the proposed undercover operations is not more extensive than could reasonably be justified in view of the nature and extent of the suspected serious criminal behaviour.

Under paragraphs (c) and (d), the officer must be 'satisfied on reasonable grounds' that the operations are properly designed etc. That places a burden upon the authorising

officer. We have taken a view that, notwithstanding the potential difficulty for officers of the rank of superintendent or above, it is important to place those checks and balances in the system. It will require us to give proper instruction to police officers, but my office will do that in conjunction with the Commissioner of Police. I believe that we have here a better form than what is presently in subclause (2) of clause (3).

The Hon. CAROLYN PICKLES: The Opposition supports these precautionary measures.

Amendment carried.

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

Page 2, lines 28 and 29—Leave out paragraph (e) and insert:

(e) specify the date and time the senior police officer signs the approval and the time from which it takes effect (which may be contemporaneous with or later than the time of signing but cannot be earlier); and

(f) must state a period (not exceeding three months) for which the approval is given.

The amendment covers an additional matter. It was drawn to my attention during the course of the consideration of the Bill that we should be specifying the date and time the senior police officer signs the approval and the time from which it takes effect. We have tried to build in a provision that it should be contemporaneous with or later than the time of signing, but cannot be earlier, so that you could not have a situation whereby a police officer could, in effect, back date it. If the authorisation is back dated, it does not confer protection. In effect, it is for a period not exceeding three months although that can be renewed. It seems to me that that again builds in several additional protections against abuse.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5—'Report on approvals.'

The Hon. CAROLYN PICKLES: I move:

Page 3, lines 8 and 9—Leave out all words in these lines after 'specifying' and insert:

—

(a) the classes of offence for which approvals were given or renewed under this Act during the period of 12 months ending on the preceding 30 June; and

(b) the number of approvals given or renewed during that period for offences of each class.

As I indicated in my second reading contribution, the Opposition does have some reservations about the secrecy of police practices in this area. Obviously, details of specific operations cannot be disclosed publicly, but the public and Parliament do have a right to know what kinds of actions the police are taking in this area. We have acted on this concern to a limited extent, which we believe is a reasonable extent, by amending the reporting requirements so that Parliament gets to know the types of offences in relation to which undercover operations are carried out.

The Hon. K.T. GRIFFIN: As I indicated in my second reading reply, there is no difficulty with this amendment from the Government's point of view. I am happy to indicate agreement with it.

Amendment carried; clause as amended passed.

Clause 6 passed.

New clause 7—'Expiry of Act.'

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

Page 3—After clause 6 insert new clause as follows:

7. This Act expires one year after the date of its commencement.'

As I said during the second reading stage, there are significant civil liberties implications in relation to this legislation. In the light of that, I have had no opportunity to talk to any of the organisations which have such an interest. I have had no opportunity to talk with the Law Society. I have had only preliminary responses from a couple of people with whom I have spoken. I have had even a first draft of the Bill for a total of five days. Whilst I indicated support, during the second reading debate, for what the Government is seeking to achieve, I believe that it is not unreasonable that a sunset clause of 12 months be included. That is a fair way away.

I am not saying it needs to be reconsidered at that point, but that gives us ample time for reconsideration in this place: it is far enough away to ensure that any operations under way now will not be interfered with. I believe it is a reasonable safety valve and a responsible thing to do. I hope to God that I do not receive correspondence from someone tomorrow asking, 'Do you realise that this clause, as it reads now, will have the following implications?' I will have to write back and say, 'I am sorry but we have passed it.' I am not criticising the Government for legislating in this way or with this haste. Without this amendment, as I indicated during the second reading stage, I would have to oppose the legislation, because I would be voting without having a full awareness at this stage as to the possible implications, and that is irresponsible.

The Hon. R.D. LAWSON: I do not support the sunset clause. I think it is unnecessary to have a provision of the kind proposed by the Hon. Mr Elliott. As I mentioned in my second reading contribution on this matter, I had some misgivings about this legislation, as had not only the Hon. Michael Elliott but other members who have spoken in relation to this measure. However, it seems to me that the operations of this sort of measure ought to be kept under review.

It is perhaps somewhat incongruous that undercover operations can be authorised by a senior police officer, and those undercover operations can be quite extensive and important. However, the simple mechanism of obtaining a telephone tap under the Listening Devices Act requires the authorisation of a judge of the Supreme Court. I do not believe that the Bill we are now examining will enable the police to get around the Listening Devices Act. I make the point only to indicate that previously the Parliament has thought it necessary for something like a telephone tap to require the approval of a judge, whereas in this measure it is merely a senior police officer. It seems to me the appropriate approach will be to keep the operation of this measure under close review. There will be a reporting to Parliament. If amendments are required, they should be made. It is unnecessary to adopt the draconian step of a one year sunset clause.

The Hon. K.T. GRIFFIN: The view expressed by the Hon. Robert Lawson is the view I have, and I reiterate the commitment I gave to the Council in my second reading reply. It is something I am certainly sensitive to with respect to the need to keep it under review. That, I suppose, can be very broad or very narrow. When the courts give a definitive interpretation of what is the law, according to their understanding of it, we will be in a better position to determine where, if at all, this legislation should be modified, or even whether it should be repealed. I am certainly uncomfortable with a sunset clause in that context.

The Hon. CAROLYN PICKLES: I note that the Attorney has given an undertaking to bring to Parliament a report on the outcome of the case stated. Would he at that

stage assess the outcome of the case stated and the efficacy and necessity of the Bill, and consider repeal?

The Hon. K.T. GRIFFIN: It will depend on whether or not there is to be a further appeal to the High Court. I do not know; we cannot predict every aspect of what may or may not happen. All I can say is that it is my intention to report to the Parliament in respect of the judgment which is given by the Court of Criminal Appeal. If it is possible then to enunciate a position in respect of this Bill as and when it becomes law, I will certainly endeavour to do so. It may be quite possible that we can indicate then that we will repeal it or that it needs to be amended in this or that way, and I will endeavour to do so.

However, it would be foolish of me to give the Leader an unequivocal commitment that without a doubt we will combine the two. As I said in my reply, I think the two need to be linked together, and this Bill needs to be related to the principles which might be enunciated in the Court of Criminal Appeal decision, and certainly I will be endeavouring to do that.

The Hon. CAROLYN PICKLES: I thank the Attorney for those undertakings. The Opposition opposes the amendment because the Attorney has given undertakings to the Parliament that he will seriously consider at an appropriate time repeal of this legislation if necessary, and the amendment moved by the Hon. Mr Elliott unnecessarily restricts the Government on this issue.

In relation to the Hon. Mr Elliott's complaint about this legislation coming before the Parliament in haste, I point out that this amendment also has come before the Parliament in haste, and the Opposition has endeavoured to have discussions to enable it to decide whether or not to support the amendment. I take great exception to the Hon. Mr Elliott's revealing a private conversation within the confines of the Parliament; that is not the kind of behaviour we expect in the Legislative Council. I oppose the amendment.

New clause negatived.

Title passed.

Bill read a third time and passed.

SHOP TRADING HOURS (MISCELLANEOUS) AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. R.R. ROBERTS: I take this opportunity at the outset to make a few remarks about this Bill and to give some outline as to what attitude the Opposition intends to take thereon in Committee. This Bill has had a long and tortuous history, and we need to have a look at what we are trying to achieve. We must remember that this Bill came about (without going over the whole argument again) as a consequence of a High Court decision in respect of the way in which the Minister acted in declaring the CBD or Rundle Mall, in particular, a district for shopping on Sundays.

Before we go into Committee we need to remember that that court case was about the declaration of Rundle Mall or the CBD as a shopping precinct on Sundays. There was no doubt about the situation in respect of hardware stores, hairdressing shops and petrol and oil retailers. Those decisions where exemptions had taken place had never been challenged, and we must remember that those decisions were taken after agreement between the employees' representatives—the Shop Distributive and Allied Employees Union—and the employers. That was the case in respect of the supermarkets that were enabled to trade five nights a week by the outgoing Arnold Government. There was complete agreement between the majority of the employees, and there probably would have been some scope for legislative change; however, it was quite clear that the then Opposition was not prepared to enter into those discussions.

Nonetheless, there has never been any objection to those trading hours. I assert that, as a consequence of that Full Court five:love decision in favour of the position that was always put by the shop assistants' union, it vowed right the way through that section 13 ought to have applied in these circumstances. That was the substance of the hearing before the High Court. The finding stated quite clearly that the proposition, as asserted by the SDA, was correct and that the Minister had used the wrong section of the Act, section 5, to give an exemption to a district.

The Minister was quite clear about what he was trying to do. The court upheld the position put by the SDA. We must remember what has occurred since then, because this Bill now seeks to talk not just about Sunday trading but also about alterations to other traders who have been caught up in it.

We must remember why there is some threat to the convenience that the public has enjoyed as a consequence of those exemptions that were given by previous Labor Governments because of the lack of agreement by the then Opposition. There was no question that these facilities would continue until this Liberal Government, in somewhat of a tantrum and a spoiling attitude, brought them into the argument. It said that if it does not get Sunday trading it would cut out the lot. This is dog in the manger stuff and not the act of people with integrity but rather the act of people who cannot get their own way and indeed want to spoil the facilities for people in the community. It has said to the community that, unless it gets what it wants, it will take away the rights that the community has enjoyed. It was a form of blackmail. It said that it will take away the facilities in the suburbs if we do not introduce a new proposition in the metropolitan area.

The Government even drew out its big guns and Mr Brown, on 27 May 1995, in an article by Greg Kelton (in that democratic South Australian newspaper, the *Advertiser*), is quoted as stating:

> South Australia could lose all late trading unless the city keeps Sunday shopping, the Premier Mr Brown has warned. He said yesterday that, unless the shopping law changes were passed without amendment, hundreds of small stores in the city and suburbs could be forced to close outside their usual trading hours. These businesses, including furniture, hardware, garden and automotive dealers and service stations with food stores, would have to fall into line with other shops. 'If this legislation is defeated the effects will be very widespread indeed,' Mr Brown says, 'It will mean that South Australia is closed not only on Sundays but at other times as well.

It was quite clear that, in an effort to force South Australians into supporting Sunday trading against their will, he was prepared to do whatever he could, including the use of blackmail and subterfuge, to try to get his own way.

Clause passed.

Clause 2 passed.

Clause 3—'Certificate of exemption.'

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

Page 1, lines 18 to 21—Leave out paragraphs (a) and (b).

I intend to talk about the other clauses in this batch of amendments to clause 3 as it will save some time down the track. The Opposition opposes this clause and seeks to strike it out as it would make hairdressing shops exempt under the

Act. At the moment a hairdresser who is the sole proprietor is exempt and we have no opposition to the maintenance of that position. Under the existing Act, however, the Opposition is concerned about the employment conditions of hairdressing employees in general. There is no provision in this Bill, as we will point out during debate on other clauses, for an absolute blanket right for employees not to be forced to work on Sundays.

When the Minister issued his certificates of exemption with respect to the hours of work, he also made it a condition that it was voluntary whether existing employees would work. That is not contained in the existing legislation. As well as doing some chest-beating, the Minister said that retail industry employees cannot be forced to work on a Sunday, but there is no legal means by which any current employee in the industry could enforce what the Minister says they are entitled to, and hence our opposition in respect of hairdressing shops.

Likewise, with employees potentially being exploited in respect of working an undue number of hours over seven days of the week, we oppose paragraph (b). At the moment, shops exempt under the existing Act have a maximum number of employees who can be employed—that is, three. The Government is seeking to withdraw that protective limit.

In his speech in another place, the Minister said that he wants to get away from the anti-employment conditions in the existing Shop Trading Hours Act. The Minister will no doubt recall that the maximum number of three employees was inserted by his own Leader, the Premier of South Australia, the then Minister for Industrial Affairs in the early 1980s. The purpose of including three as the limit with respect to hardware stores in particular was purported to be designed to protect small businesses.

There is a need to protect small businesses from having their market share encroached on by larger organisations, as the Hon. Mr Elliott has indicated. If we allow that to happen willy-nilly simply by allowing the fittest to survive, we will have an undue monopoly in South Australia and cause immeasurable dislocation and pain to a number of small business people, many of whom have had their entire life savings tied up in their businesses. They would be severely put at risk by the relaxation proposed in the Bill.

Our opposition to paragraph (d) follows consequentially on our opposition to paragraphs relating to hairdressing shops other than solely employed, and I refer to my comments on paragraph (a). Likewise, our opposition to paragraph (e) is also consequential on arguments that I have already advanced with respect to the protection of small business, and that is the maintenance of the limit of the maximum of three employees to be able to work.

With respect to our opposition to paragraph (h) referring to the definition of 'public holiday', the Government does not regard Sunday as a public holiday. The current Public Holidays Act provides that Sunday is a public holiday. The Government's position on the Bill would enable Sunday trading to take place as on an ordinary day. We have grave concern about that matter, and I will probably make a further contribution when we deal with that clause.

I will not go into our opposition in great detail now. I will focus more particularly on the Opposition's stance on Sunday trading when dealing with clause 5(a)(1), in which the Government specifically provides for Sunday trading.

The Hon. K.T. GRIFFIN: The amendment is opposed. It is important to recognise that paragraph (a) relates to hairdressing shops, as does paragraph (d). In a sense, paragraphs (a) and (d) go together and paragraphs (b) and (e) go together. They relate to the removal of the employment limitation. It is important also to recognise that the Government is seeking to remove the regulation of hairdressers' shops from the Act where it previously applied to shops that employed staff other than the proprietor.

If this Bill passes and the amendment is not carried, hairdressers will be exempt from the provisions of the Act where they are under 200 square metres or solely or predominantly a hairdresser. It is important to realise that this course of action was recommended by the report of the committee of inquiry into shop trading hours—that is recommendations 28 and 29. This industry provides personal services in the retailing of products as only a sideline. The State Government decision in August 1994 was to accept this recommendation, and certificates of exemption were issued by the Government to hairdressers' shops for exemption since that date. It is important also to realise that the Hairdressers and Cosmetologists Employers' Association does support this exemption. The High Court decision invalidated only one certificate of exemption issued, while complete exemptions to 27 stores were considered valid.

In respect of paragraph (b), which as I said is related to paragraph (e), the Government was concerned to reduce the restrictive practice of limiting exempt stores by virtue of floor area less than 200 square metres or 400 square metres for a food store to having a maximum of only three persons working at a store at any one time. It is a barrier to employment, and I must say I am surprised that the Opposition is opposing it. If the restriction was removed, as we proposed, then it would provide increased employment opportunities in this State. It should be recognised that the current restriction on employment has created a variety of anomalies over the years in relation to industry compliance and enforcement. For example, some retailers have excluded managers and owners in this restriction whilst others have not, whilst other retailers have applied this restriction only during extended trading hours and not during regular trading hours.

Anomalies have also existed in relation to the definition of 'employee', and in particular the distinction between casual, part time and full-time employees which apply in this industry. I suggest to the Committee that the restriction is contrary to the public interest. If we remove it, it will provide additional flexibility in employment for small exempt retailers. I would suggest also that the removal of the restriction will not compromise the scheme of the Act, because it does not really broaden the category of 'exempt shop'; exempt shops will still need to comply with restrictions on floor area or product range in order to obtain exempt status. I indicate opposition to the amendment.

The Hon. M.J. ELLIOTT: The Democrats' general approach to this Bill will be to support the *status quo*, with a few exceptions. So, looking just beyond this clause and making some general comments about the Bill, which I did not do in the second reading debate when I focused on the Sunday trading issue, we would be looking to maintain the general classifications of exemptions that already exist, for instance, the furniture stores, hardware stores and service stations. Where those exemptions have been of longstanding and of general acceptance, we will support those exemptions.

Also, picking up a point made by the Hon. Ron Roberts, in what must be one of the most bizarre threats I have heard for a long time, I note that we had threats from the Government saying, 'We will close down all these things if we don't get the whole of this Bill through.' So it will have to go to the

public and explain that, although everybody in the Legislative Council voted for service stations to be open, they are shut; although everybody in the Legislative Council voted for hardware stores to open, they will be shut; and although everybody in the Legislative Council voted for furniture shops to be open, they will be shut.

People will be left scratching their head and saying, 'How come everyone voted for it, supported it and they are not opening?' I do not think that logic will stand up well, particularly as it applies over a period of about four months or whatever before the Government realises it had better patch that up. I make clear that the Democrats, the Labor Party and I understand the Liberal Party—although I am not absolutely certain about the Liberal Party—will be supporting the existing extended trading for all those areas outside the CBD as it currently exists. So far as it is necessary to make legal what may or may not be in relation to exemptions, we would support that.

I have been waiting to see how the Sunday trading in the city issue resolved itself before finally getting to amendments and, at a later stage, I will be bringing a few amendments forward and they will touch on a few subjects referred to by the Hon. Ron Roberts. There is the question of whether workers can or cannot be forced to work on Sunday and whether shops can or cannot be forced to open on Sunday. These questions are not addressed in the Bill and there will have to be amendments in relation to those no matter what else happens. Still other amendments may be necessary depending on whether or not the Sunday trading issue resolves itself. I gave up predicting that one about two days ago.

As to the amendments at hand, I seek clarification from the Attorney-General about paragraph (a). I think the Attorney said a number of exemptions had been granted which had this effect. Adhering to the general principle I talked about before as to maintaining the *status quo*, can the Attorney identify exactly how many exemptions can be granted that fit into this category and over what timeframe they have been in existence?

The Hon. K.T. Griffin: You are referring just to hairdressers?

The Hon. M.J. ELLIOTT: Just to hairdressers.

The Hon. K.T. GRIFFIN: There are the sole proprietors.

The Hon. M.J. Elliott: They are already exempt.

The Hon. K.T. GRIFFIN: I was going to make that point. There are 27 exemptions: 26 were issued by the Liberal Government, so they came into effect after 1 November last year, and one previously by an ALP Government.

The Hon. M.J. ELLIOTT: I want to spend a little time on this matter. The amendment moved by the Hon. Mr Roberts is in two parts: he seeks to leave out paragraphs (a) and (b), which relate to quite separate issues. The first relates to hairdressing shops and the second to the number of people who may work in a store which does not exceed 200 square metres. I would have preferred to handle those issues separately. I am unhappy with the concept of going from three persons to no limit whatsoever. The Opposition has not tried to amend it from three to four but has simply changed it from three to no limit—a substantial change. I am prepared to support the amendment and not the Bill as it stands in relation to paragraph (b). However, in relation to paragraph (a) I do not have the same concern. So, I seek for that amendment to be split so that it can be treated in two parts.

The Hon. R.R. ROBERTS: I thank the Hon. Mr Elliott for his indication that he will support what is essentially the *status quo*, because quite clearly what we seek to do is not to introduce any change: we seek to leave the Act the way it is. This is where the Government's pea and thimble trick comes in: the press says that we are talking about Sunday trading, but the Government uses this opportunity to make other significant changes. The reasons why these prescriptions were put into the Act must be remembered, and it is also important to remember who put them into the Act and why that person did so.

These amendments were introduced by the Hon. Dean Brown when he was Minister for Labour. His whole purpose was to ensure that small business would not be run over. Everyone has used small business in their arguments for or against the—

The Hon. K.T. Griffin: Time has moved on since then.

The Hon. R.R. ROBERTS: Time might have moved on, but the Premier has been away and come back. He went out to work in business, so he ought to have a greater appreciation of the needs of small business. Members opposite are quick to land on their feet and praise small business. The Leader of the Opposition in the Federal Government last night made his headland policy—and we have a wasteland policy of this particular Government—and he was going to unleash the significant power of small industry to get Australia working again. The Leader of the Government in South Australia and the Minister now seek to take away any protections that were given to small business.

If we delete paragraph (a), relating to the size of a shop, we will get bigger shops with more employees and then, instead of protecting small business people or owner/operators—the engine room of South Australia—the industry will open up so that the bigger employers can come in and take over. That is what will occur if paragraph (a) is removed. The Hon. Mr Elliott indicated—and I congratulate him for this—that, by and large, he wants to protect the *status quo*, and that is exactly what we are supporting. We are not prepared to allow the Government, by subterfuge, to come in and change this Act under the guise of Sunday trading to fix up things for some of its other bigger mates at the expense of small business and those employees who work within that small business range.

The Hon. K.T. GRIFFIN: I suggest to the Hon. Ron Roberts that he get into the real world. Time has moved on since the restriction was put into the Act. Hairdressers might want to provide a service and trade outside normal hours. For example, if a hairdressing salon is trading at Glenelg in a tourist venue and it has customers who want to come in and out and the salon wants to provide a service, why should it not provide that service? If it employs a few people, what is the problem with that? In this world some people are entrepreneurs who are prepared to take risks, who are prepared to manage and who have the skills to manage, and others are happy to work for them.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: They may work late at night. In my view, if they want to change their hours of work to suit the clientele, that is fine; it gives them an opportunity to expand as a small business. I urge the Committee not to accept the Hon. Ron Roberts' amendment in that respect. The Hon. Mr Elliott wants to deal with paragraph (b) separately, and I have no disagreement with that, but I would put to the honourable member that, if he is inclined to support the amendment and not the Bill, that is a limiting factor on employment.

One must remember that the limit of three employees presently relates to a shop with a floor area less than 200 square metres or, if it is a food store, 400 square metres. The area is not changing. If it is Christmas time and a store has a mad rush of people coming through for a week and the store needs a couple of people to stock the shelves, and three people at the check-out, or if the store is of such configuration that someone must be behind the counter delivering smallgoods, and it requires a couple of other people elsewhere and someone else on the check-out, why should the employer not be allowed to have more than three employees to provide that service? They might all be casuals, or they might be permanent—who knows?

Only so many employees can fit into a 400 square metre food store, but it might be a particularly popular venue, and it may provide a special service or, if it is less than 200 square metres, why limit it to three people? With all due respect to the Hon. Mr Elliott, to leave the limit where it is restricts the opportunity for proprietors to employ more people if they want to, and I would have thought that that ought to be a decision which the employer takes rather than being controlled by the legislation.

Amendment to leave out paragraph (a) negatived; amendment to leave out paragraph (b) carried.

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

Page 1, lines 25 to 27—Leave out paragraph (d).

The Hon. K.T. Griffin: That is consequential on the one that has just been lost.

The Hon. R.R. ROBERTS: It also talks about the square metres again. It seems quite clear that we will lose this amendment, but I put it anyhow.

The Hon. K.T. GRIFFIN: The Government is opposed.

Amendment negatived.

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

Page 2, lines 1 to 4—Leave out paragraph (e) and insert the following paragraph:

(e) by striking out paragraph (e) of the definition of 'exempt shop' in subsection (1);

I gave an explanation in respect of this matter in my first contribution.

Amendment carried.

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

Page 2, lines 12 to 15—Leave out paragraph (h).

This is the clause in respect of what constitutes a public holiday. What the Bill seeks to do is to not include a Sunday for the purpose of this Act in respect of the fact that it is under the Holidays Act a public holiday. The Opposition has some deep concerns in respect of this matter and we believe, quite clearly, that Sunday ought to remain as a defined holiday. Once Sunday becomes an ordinary trading day—and this ties in with further amendments to section 13 of clause 5 of the amendments that are proposed—we see that these things are intertwined. I indicate at this stage that I intend to expand further on this matter, but I note the time and suggest that we report progress.

The Hon. K.T. GRIFFIN: This is part of the major argument about Sunday trading. It is consequential on that later amendment, but it is probably the point at which we could have the substantive debate and, in view of that and in view of the hour, I think we ought to pull up stumps.

Progress reported; Committee to sit again.

SGIC (SALE) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

This Bill involves the eventual sale of the State Government Insurance Commission (SGIC). This sale, which the Government intends to conclude this calendar year, is an important part of the Government's debt reduction program. This program, mandated by the 1993 election, aims to return South Australia's economy to one of growth and prosperity. The Government's program involves a substantial effort to reduce the State's debt which blew out of all proportion with the economic disasters which occurred during the late 1980's and early 1990's.

SGIC commenced business in January 1972, predominantly as a motor vehicle and household insurer. It was set up by an Act of this Parliament to provide an alternative provider of general insurance for the South Australian public.

Over the years SGIC expanded its business operations. In the early 1970's the SGIC began writing Compulsory Third Party Insurance, and since 1975 it has been the sole CTP insurer in South Australia.

In 1977 the SGIC Act was amended to allow the SGIC to write life insurance, and in 1987 the SGIC commenced its health insurance operations.

In the forthcoming sale of SGIC the Government will sell the competitive business operations of SGIC. These are general insurance, health insurance and life insurance. The Bill allows for the creation of a new corporate structure, referred to as the 'Newco Group'. It is expected that the Newco Group will consist of a holding company and five subsidiary companies. Two of these companies are existing SGIC subsidiaries being the health insurance company, SGIC Health Pty Ltd, and the superannuation trustee company, SGIC Superannuation Pty Ltd. The Bill provides the Treasurer with the power to vest asset and liabilities of SGIC into the Newco Group. It is intended that the assets and liabilities of the General Insurance, Life Insurance and the Head Office operations will be vested into separate subsidiaries in the Newco Group.

This will leave the Compulsory Third Party Insurance fund and the discontinued operations in the Commission. The discontinued operations include the businesses that SGIC should never have entered into, but, used the Government Guarantee to underwrite. These include Inwards Reinsurance, Financial Risk (including aircraft residual value insurance) and securitisations.

The underwriting of Compulsory Third Party Insurance will not be included in the sale. Instead, the Government will amend the *State Government Insurance Commission Act 1992* to form the Motor Accident Commission. This statutory authority will have responsibility for the CTP scheme, and will contract out the management of that scheme to the SGIC for a period of three years. This management contract will be part of the SGIC sale.

Over the next three years the Government will appoint a Committee to review the operations of CTP insurance in South Australia. In consultation with the Motor Accident Commission, the Premiums Committee and other interested parties this Review Committee will consider reforms to CTP operations that may be desirable.

CTP insurance is a significant cost to South Australian motorists and the Government wants to consider the future options for CTP with due care and in a timely manner. If CTP, after a three year period, were to be deregulated, the SGIC because of its ongoing experience with this South Australian business, would be initially granted a share of the deregulated market.

In selecting a purchaser, the Government will not be driven by price alone. Although price will be a key objective of the sale, the following objectives are of similar importance:

- to sell all the SGIC businesses offered for sale as a whole;
- to maintain SGIC as major financial institution in South Australia;
- to maintain SGIC's existing staff and branch structure;
- to maintain SGIC headquarters in Adelaide;
- to deliver future economic benefits to South Australia; and

· to ensure that the purchaser capitalises SGIC's businesses to current industry standards, and gains all necessary regulatory approvals and licences.

The last objective is particularly important. The SGIC has always had its liabilities covered by a Government Guarantee. This has permitted the SGIC to operate its businesses with less capital than private sector insurers. The Government Guarantee also enabled the SGIC, in the 1980's, to venture into areas of risk-taking where its capital base was inadequate and to undertake activities which have cost this State dearly.

After the sale of the SGIC the Government will phase out the Government Guarantee. All existing policies at the sale date, which are covered by the Government Guarantee, will remain covered until their renewal date. The only exceptions to this are those policies in the life insurance area which have indefinite or very long terms. In these cases the Government will continue the guarantee for five years and then phase it out.

The purchaser of the SGIC will be immediately regulated by various bodies, including the Insurance & Superannuation Commission. The ISC sets minimum capital requirements that must be met. Further, as part of the sale requirements, the Government will insist that the capital backing of the SGIC meets industry standards. This will ensure that the capital of the SGIC exceeds regulatory requirements.

At present the SGIC is not legally required to meet all regulatory rules and (after the 1980's) it has not always had the capital to do so. The sale of SGIC will ensure that SGIC's capital base meets and exceeds regulatory standards.

Preparing the SGIC for sale involves considerable restructuring. The businesses for sale will be transferred into a corporate structure—the Newco Group—which allows the Government to sell its shares in the Newco Group and its various subsidiaries.

There are a number of assets and liabilities, mainly left from the excesses of the 1980's, that will be excluded from the sale. These include financial risk insurance. These operations will be managed and worked out as soon as possible. The responsibility for that will rest with the MAC.

The operations for sale are well performing insurance operations in competitive insurance markets. There is no reason for Government ownership of these businesses and their sale will allow SGIC to compete in these markets without the hindrance of public ownership.

The Government is aware of the sensitivities of employment in this asset sale. The SGIC workforce contains specialised insurance and finance sector people. This workforce is expected to be required by the purchaser of SGIC.

SGIC employees and management have worked closely together to achieve substantial productivity gains which has assisted in making SGIC an attractive purchase option for companies seeking to enter the insurance industry or for those seeking to expand their operations in Australia, and South Australia. Indeed, substantial interest has been expressed already from national and international companies in this sale. I commend this Bill to the House.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause contains the definitions required for the purposes of the new Act.

Clause 4: Date of divestiture

This clause defines the date of divestiture for Newco and the Newco subsidiaries. The date of divestiture is a concept of particular importance to the provisions dealing with the government guarantee.

Clause 5: SGIC subsidiaries

This clause defines SGIC subsidiaries. These are the bodies corporate listed in Schedule 2. Additions to, or variations of, the list may be made by proclamation.

Clause 6: Territorial operation of Act

This clause is intended to give the new Act extra-territorial operation to the full extent of the legislative power of the State.

PART 2

NEWCO

Clause 7: Provision of capital to Newco

This clause provides for capital subscriptions to Newco.

PART 3

TRANSFER AND SALE OF ASSETS AND LIABILITIES

Clause 8: Transfer of assets and liabilities to Newco and Newco subsidiaries

Under this clause assets or liabilities of SGIC or an SGIC subsidiary may be transferred to Newco or a Newco subsidiary.

Clause 9: Re-transfer of assets or liabilities

This provides for the re-transfer of transferred assets or liabilities.

Clause 10: Conditions of transfer (or re-transfer)

Conditions may be imposed under this clause on the transfer or re-transfer of assets or liabilities.

Clause 11: Supplementary provisions

This extends the operation of securities in relation to transferred assets or liabilities.

Clause 12: Legal proceedings

This provides for the continuation of legal proceedings in respect of transferred assets or liabilities by or against the transferee company.

Clause 13: Evidence

Under the clause the Treasurer or the Treasurer's delegate may issue certificates about the transfer or re-transfer of an asset or liability under the new Act. The certificate is to have evidentiary value in legal proceedings.

Clause 14: Transfer of shares in Newco or a Newco subsidiary

This provides for the Treasurer to enter into a sale agreement shares in Newco or a Newco subsidiary, or assets or liabilities in Newco or a Newco subsidiary.

Clause 15: Application of proceeds of sale, etc.

This clause deals with the application of the proceeds of the sale.

PART 4

STAFF

Clause 16: Transfer of staff

This clause deals with the transfer of staff from SGIC or an SGIC subsidiary to Newco or a Newco subsidiary.

PART 5

GOVERNMENT GUARANTEE

Clause 17: General guarantee

This is a general guarantee of all liabilities of Newco or a Newco subsidiary that fall due before the date of divestiture.

Clause 18: Government guarantee (Part A policies—general insurance)

Clause 19: Government guarantee (Part B policies—term life and other insurance)

Clause 20: Government guarantee (Part C policies—continuous insurance)

Clause 21: Government guarantee (Part D policies—investment contracts)

Clause 22: Government guarantee (Part E policies—unit investment contracts)

These clauses provide for less extensive guarantees of liabilities under various kinds of policies where the liabilities fall due after the date of divestiture.

Clause 23: Amortisation principle

The amortisation principle is the principle under which liability under a guarantee is gradually reduced and then extinguished. The principle is used in the above provisions for guarantees operating after the transferee company's date of divestiture.

Clause 24: Appropriation of Consolidated Account

This provides for the appropriation of money that may be required for the purposes of a guarantee.

Clause 25: Subrogation

If a liability does have to be paid out under the guarantee, the Treasurer is subrogated to the rights of the person to whom the payment was made against the company whose liabilities were guaranteed.

Clause 26: Agreement that this Part will not apply

This clause provides that a company may enter into a policy on the basis that the guarantee will not apply.

Clause 27: Restrictions on the application of this Part

This clause empowers the Treasurer to impose restrictions binding on a transferee company about the terms and conditions on which insurance policies and investments offered by the company may be entered into or made, or about the variation by agreement of the terms and conditions governing a guaranteed liability.

Clause 28: Government guarantee under the State Government Insurance Commission Act 1992

This provides that the guarantee under section 21 of the *State Government Insurance Commission Act 1992* has no application to transferred liabilities.

Clause 29: Schedule 5 proclamation

Schedule 5 may be varied by proclamation made during the transfer period by the addition of further items.

PART 6
MISCELLANEOUS

Clause 30: Transfer of assets and liabilities to other authorities
The Governor may, by proclamation, transfer assets and liabilities of SGIC or an SGIC subsidiary to an authority or person nominated in the proclamation.

Clause 31: Payment to be made to Consolidated Account
A transferee company that makes a profit before it ceases to be an entity under the control of the State may be required under this section to make a payment to the Treasury in lieu of income tax.

Clause 32: Registering authorities to note transfer
This provides for registration authorities to note the transfer of land and other assets under this Act.

Clause 33: Stamp duty
Transfers of assets under this Act are exempted from stamp duty.

Clause 34: Act overrides other laws
The new Act will operate override the *Real Property Act 1886* and any other laws that might impose limits on its operation.

Clause 35: Effect of things done or allowed under Act
This clause will prevent action taken under the new Act being treated as the trigger for a liability or other adverse consequence under another law or instrument.

Clause 36: Regulations and proclamations
This provides for the making of regulations and proclamations for the purposes of the new Act.

SCHEDULE 1
Consequential Amendments to the State Government Insurance Commission Act 1992

This schedule makes amendments necessary to transform the present State Government Insurance Commission into the *Motor Accident Commission* to operate the compulsory third-party motor accident insurance scheme.

SCHEDULE 2
SGIC Subsidiaries

This schedule lists the companies that are to be regarded as SGIC subsidiaries for the purposes of the new Act.

SCHEDULE 3
Superannuation

This schedule defines the superannuation rights of transferred employees.

SCHEDULE 4
Amendment of Motor Vehicles Act 1959

This schedule amends the *Motor Vehicles Act 1959* to provide (in effect) that insurers cannot be approved to enter the compulsory third-party insurance field until 1 July 1998.

SCHEDULE 5
Policies subject to Government guarantee and referred to in Part 5

This schedule categorises the various kinds of policies issued by SGIC for the purposes of the provisions dealing with the government guarantees.

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

ESTIMATES COMMITTEES

A message was received from the House of Assembly requesting that the Legislative Council give permission to the Minister for Education and Children's Services (Hon. R.I. Lucas), the Attorney-General (Hon. K.T Griffin) and the Minister for Transport (Hon. Diana Laidlaw), members of the Legislative Council, to attend and give evidence before the Estimates Committees of the House of Assembly on the Appropriation Bill.

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

That the Minister for Education and Children's Services, the Attorney-General and the Minister for Transport have leave to attend and give evidence before the Estimates Committees of the House of Assembly on the Appropriation Bill, if they think fit.

Motion carried.

ADJOURNMENT

At 12.3 a.m. the Council adjourned until Thursday 8 June at 2.15 p.m.