LEGISLATIVE COUNCIL

Wednesday 27 September 1995

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

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to question on notice No. 160 of the last session be distributed and printed in *Hansard*.

HALSEY, MR R.J.

160. **The Hon. CAROLYN PICKLES:**

1. What are the details of the salary and allowance package being paid to Mr R.J. Halsey in his new position as chief of staff to the Minister of Education? (Details sought include the level of salary and allowances, any other payments, telephone, car, car parking, expense accounts, conditions of official travel and accommodation and the term of appointment.)

2. Are there any performance conditions and incentives and, if so, what are the details and how will performance be assessed?

The Hon. R.I. LUCAS:

1. Mr Halsey, chief of staff in the office of the Minister for Education and Children's Services, is paid an annual salary of $75 000 per annum. Access to car parking is estimated to cost $1 680 and continued access to his superannuation scheme is estimated to cost $15 750.

Other payments including telephone, expense accounts, conditions of official travel and accommodation are in accordance with standard public service conditions and arrangements.

Mr Halsey's term of appointment is for the term of the government commencing 3 April 1995.

2. There are no performance pay arrangements attached to Mr Halsey's employment.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. CAROLINE SCHAEFER brought up the report of the committee 1994-95.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the first report 1995-96 of the committee and move:

That the report be read.

Motion carried.

The Hon. R.D. LAWSON: I bring up the second report 1995-96 of the committee and move:

That the report be read.

Motion carried.

The Hon. R.D. LAWSON brought up the third report 1995-96 of the committee.

PAWNBROKERS AND SECOND-HAND DEALERS

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of pawnbrokers and second-hand dealers.

Leave granted.

The Hon. K.T. GRIFFIN: Over the past few months a great deal has been said and written about pawnbrokers and second-hand dealers and their role in disposing of second-hand goods. A great deal of pressure is being applied to reintroduce licensing in the mistaken view that this will somehow reduce the traffic in stolen goods. There is also the perception—at least in some quarters—that, since the removal of the need to license, trafficking in stolen goods has increased dramatically. In view of this, I believe it is important to provide an update on where the Government is in relation to this issue.

Reform of the legislation which currently applies to pawnbrokers and second-hand dealers is currently under consideration by the Government. The legislation is at present contained in the Summary Offences Act, sections 49 to 49G. These resulted from the deregulation exercise undertaken by the former Government in relation to second-hand dealers in 1988 and in relation to pawnbrokers in 1990. The deregulation of the two industries was supported by the then Liberal Opposition.

The Summary Offences Act imposes record keeping obligations on those who acquire second-hand goods so that matters such as an accurate description of the goods, serial number, description of any mark or label that identifies ownership, date of buying or receiving the goods, and the full name and address of the person from whom the goods were purchased are recorded.

There are also provisions dealing with the obligations of second-hand dealers where goods are suspected of being stolen. There are wide and comprehensive powers of entry and inspection of second-hand dealers' premises and second-hand goods markets. The legislation contains a simple negative licensing system, and a court is able to take action against any person convicted of a dishonesty offence or other specified offences to prohibit the offender from carrying on the business as a second-hand dealer.

The issue of second-hand dealers and pawnbrokers, whilst not formally on the national agenda of consumer affairs Ministers, is being considered or has recently been considered by most other States. Western Australia and Tasmania enacted new legislation in 1994, while New South Wales and Victoria are currently considering new legislative initiatives. The primary focus of the Government's consideration of legislative changes in the area of pawnbroking and second-hand dealing will be to facilitate the work of the police in recovering stolen property and to make it more difficult for persons to dispose of stolen goods through second-hand dealers, thus limiting the trade in stolen goods.

The objectives will be: minimisation of regulation and administration; minimisation of costs to industry and Government; adequately addressing community concerns relating to stolen property and its recovery; provision of an adequate and effective audit trail to enable the police to deal with the traffic of stolen goods; and to strengthen the current negative licensing system for pawnbrokers and second-hand dealers. At this stage, the Government is examining the developments being undertaken in other States. Of particular interest is the position now adopted in Tasmania. In 1991 the Tasmanian Parliament considered a Bill which was identical to the Summary Offences Act provisions applying in South Australia. This Bill was defeated following concerns raised about policing issues. The new Tasmanian Act passed in 1994 is identical in many respects to our Summary Offences Act provisions with the addition of provisions to make it easier for the police to recover stolen property and more difficult for persons to dispose of stolen goods through second-hand dealers and pawnbrokers. This is achieved in the following way:

· the period for which second-hand goods must be retained after receipt was increased to seven days. (In South Australia there is currently no holding period, and this is regarded as a serious impediment to effective policing of the trade in stolen goods);

· dealers and pawnbrokers have a duty to obtain documentary proof of identity from the person selling or supplying them with goods. It is intended that regulations under the Act will require that dealers and pawnbrokers keep a record of the identity document proffered by the person selling or supplying the goods. (The Summary Offences Act requires the maintaining of records showing the full name and address of the person from whom the goods were bought or received, but there is no requirement for documentary proof of correct name and address, nor for the proposed regulatory requirement that a record of the identity document be kept);

· requirements that the promoters of weekend markets, trash and treasure markets, etc., keep records of persons selling second-hand goods at such markets;

· dealers and pawnbrokers have a duty to inform the police where they suspect goods of having been stolen (this is the same provision as our section 49B(2));

· powers of entry, search and arrest are conferred on police (these provisions are similar to the Summary Offences Act, section 49C).

The Tasmanian Parliament was informed that the above provisions would ensure that, although second-hand dealers and pawnbrokers would be delicensed, the crime prevention aspects of the legislation would be strengthened. The Tasmanian system also introduced a new system whereby a person wishing to open a new business as a second-hand dealer or pawnbroker is required to give at least one month's notice to the local police. This will enable the Commissioner of Police or his delegate to examine any criminal history of that person, and if the commissioner has any objection to that person operating a business as a second-hand dealer or pawnbroker then the police may lodge a notice of objection with the Court of Petty Sessions (equivalent to our Magistrate's Court) and then a magistrate will make a decision as to that objection.

This particular aspect of the Tasmanian reforms is being examined; however, it was easier to introduce in Tasmania because that State moved immediately from a licensing system to the notification system, so that the notification system applies only to new entrants into the industry. Generally, however, the manner in which the Tasmanian Parliament has refined and built on the provisions in our Summary Offences Act is worthy of close consideration. In addition, other matters have been suggested for consideration to facilitate the work of the police in tracing stolen goods; namely, notification to police of changes to trading address; prohibition on trading if convicted of certain types of offence; and strengthened record keeping.

Consideration is also being given to activities which are peculiar to pawnbrokers. Areas such as the form of notice required to be given by pawnbrokers, the period of redemption and the disposal of goods taken by pawn and the effective interest rates charged require some consideration. One way in which these matters can be addressed is by way of an enforceable code of conduct under the Fair Trading Act; alternatively these matters could again be set out in legislation. It must be made clear that the Government has no intention of reintroducing licensing. My officers have been discussing the issues with the police in relation to the issues of pawnbroking and second-hand dealing. I have met with representatives of the industry. I expect that this preliminary work will result in draft legislation which will be circulated to interested industry groups for consultation and comment before final decisions are taken by the Government.

AUDITOR-GENERAL'S REPORT

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of the ministerial statement made today in another place by the Premier on the subject of the Auditor-General's Report.

Leave granted.

LEIGH CREEK COAL RAIL FREIGHT SERVICE

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement made by the Minister for Infrastructure on the subject of the Leigh Creek coal rail freight service.

Leave granted.

FLINDERS MEDICAL CENTRE

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a copy of a ministerial statement given today in another place by the Minister for Health on the subject of a case at Flinders Medical Centre.

Leave granted.

QUESTION TIME

SCHOOL AMALGAMATIONS

The Hon. CAROLYN PICKLES: I seek leave to make an explanation before asking the Minister for Education and Children's Services a question on the subject of the review of Sturt Street, Gilles Street and Parkside Primary Schools.

Leave granted.

The Hon. CAROLYN PICKLES: On 26 July the Minister advised me that it was not possible for him to predict the future of the Sturt Street, Gilles Street and Parkside Primary Schools. The Minister said that he was waiting for advice from the review management group. Since that date, the review management group has held public meetings at each of the three schools on 23, 24 and 29 August as part of the community consultation process. At each meeting, five options were considered. They were as follows:

1. Amalgamate Gilles Street and Sturt Street at Gilles Street.
2. Amalgamate Gilles Street and Sturt Street on two sites.
3. Amalgamate Gilles Street and Parkside on two sites.
4. Amalgamate Gilles Street and Parkside at the Gilles Street site.
5. Maintain *status quo* with cooperation and enhancement.

The meetings were very well attended and each meeting strongly supported option 5. My questions are:

1. As it is now clear that only option 5, which seeks to retain the *status quo* with enhancement, has any support, and that that will be the advice from the review group, will the Minister confirm that he will accept option 5?

2. Will the Minister end the uncertainty of this unnecessarily long and drawn-out process that has damaged these schools?

3. Will the Minister provide extra support to help the schools develop their programs and enhance student enrolments for the 1996 school year?

The Hon. R.I. LUCAS: The answer is 'No'. I will not accept the honourable member's guesstimate of what an independent review committee might find in its report. The report is meant to be completed by the end of this term, which is at the end of the week, so it is either near completion or has already been completed for forwarding to the department. I will not pre-empt that committee's findings. The only point that I will make, which I have made consistently in relation to this and other reviews, is that the review committee's recommendations will be considered by me as Minister. I will not necessarily accept the findings of the review committee because the final decision rests with me: as Minister, the buck stops on my desk.

The review committees collect the views of local communities. That was the commitment that the Government gave, but there has never been and there will never be a commitment to accept the views of local communities on all occasions. In the end, the Minister for Education and Children's Services, based on his department's advice and on the advice of the review committees, must make the difficult decisions about restructures. Whatever the recommendation might be, I will consider it, but I will certainly not lock myself into accepting the recommendations of any review at this stage. The final decision rests, as it should, with the Minister, based on all the advice available to him.

DOMESTIC VIOLENCE

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about funding for domestic violence victims.

Leave granted.

The Hon. CAROLYN PICKLES: I am sure all members would agree that one of the most pressing needs for the Government lies within the area of domestic violence. Despite the good work of the Domestic Violence Resource Unit and its predecessor, another agency such as the Domestic Violence Outreach Service and the various women's shelters, many politicians and members of the community fail to understand the full complexity of the problems and the terror facing individual victims. Recently, members of the Labor Party and, I am sure, members of the Liberal Party and the Australian Democrats, had the opportunity to listen to some victims of domestic violence in a briefing that was held at Parliament House.

One aspect of the problem arises because of the urgency with which many women flee the family home. Often the decision to depart, although frequently thought about, is not acted upon until a particularly brutal act compels a woman to leave the family home, if only because medical attention is required. At the same time habitual domestic violence is often accompanied by total control over the victim's finances, even in cases where the victim has income independently of the spouse. Thus, women will often flee their spouse with nothing but the clothes they wear and taking their children with them. They then face the hugely daunting prospect of starting a new life and that means building up some basic personal assets—things as simple as tables and chairs. I understand in the past, and I have received correspondence on this issue, that the Housing Trust has commendably helped women in these desperate circumstances by providing for removal expenses so that property which is rightfully that of the departing spouse can be recovered. Funding for this purpose has been greatly appreciated by those who have had the courage to have left violent, abusive relationships behind them. Recently, the Housing Trust decided to discontinue this funding for removal assistance for women leaving scenarios of domestic violence.

My question is addressed to the Minister for the Status of Women because the victims of domestic violence, specifically spousal violence, are overwhelmingly women—and I hope she will not try to dodge it like she did yesterday. Will the Minister immediately intervene with her colleague the Minister for Housing to ensure that funding is maintained for women fleeing domestic violence to help them with removal expenses?

The Hon. DIANA LAIDLAW: In relation to the question asked yesterday about music, as I recall, that decision is the responsibility of the Minister for Education. I did not dodge the question. The Minister was the appropriate person to answer and he did so adequately. In respect of the references to domestic violence and the South Australian Housing Trust, I will check with the Minister concerned the basis of the honourable member's question and certainly raise the matter to ascertain whether or not it is correct and have the discussions that the honourable member has suggested.

STATE ECONOMY

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Leader of the Government in this place a question about *South Australia—State of Business*.

Leave granted.

The Hon. R.R. ROBERTS: In response to my question yesterday regarding the publication of *South Australia—State of Business*, the Hon. Mr Lucas invited the Opposition to join with the Government in a spirit of cooperation to assist in the development of the South Australian economy. In fact, the Hon. Mr Lucas said:

> It is now time for South Australians, together with the South Australian Government, to work together to turn around that image. The selling of South Australia to the rest of Australia and to the world ought not to be a partisan issue.

The Hon. Mr Lucas went on to say:

> The Government has entered this new session with the view that, with goodwill, we should try as much as possible to portray to the national and international business community the preparedness of the South Australian Government and community to work together to portray South Australia as a good place in which to invest and create employment for young South Australians.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: The words of the Leader of the Government in the Legislative Council somewhat mirror the suggestions made by the Leader of the Opposition in South Australia, the Hon. Mike Rann—so we do agree with it—who has publicly called on the Premier to get together with him in order to formulate a charter for growth. The Leader of the Opposition said in a media statement on 17 August that he would be prepared to meet with the Premier, the Australian Democrats, business, rural, local government and union leaders to thrash out a charter. In that release the Leader of the Opposition said:

> It would be immensely powerful to tell prospective investors, developers and industrialists interested in South Australia that the economic direction of the State and key initiatives had bipartisan

support and the backing and support of big and small businesses and unions.

Mike Rann's call for a bipartisan approach to the development of the South Australian economy was met with derision by the Premier who, from memory, declared that the Opposition's views were irrelevant. Given the Leader of the Government's heartfelt comments yesterday, and given his agreement with the calls made by the Hon. Mike Rann for a bipartisan approach, my questions to the Leader of the Government in this place are:

1. Will he immediately take up the Opposition's suggestion of a bipartisan approach to develop the South Australian economy with the Premier and his Cabinet colleagues?

2. Will he report back to the Legislative Council on the results of his discussions with the Premier and his colleagues on this issue?

The Hon. R.I. LUCAS: The Government does not need help in making the decisions: we are making the decisions and we are getting on with the business of correcting the problems. What we want is some support for the decisions that we have taken. We are the Government. Have members forgotten what happened two years ago? The people of South Australia elected the Liberal Party to govern, to make decisions and get on with the business of solving the economic and financial problems of this State. We have made the decisions.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: What we want from the Opposition is some support for the decisions that we have taken, and sadly that is not what we are getting. We are not in a position of wanting to sit down for a couple of years to look at what decisions we might make to resolve the problems of South Australia. We have done all of that. We did that prior to the election. We developed a program and we developed policies, and we are implementing those decisions.

What the Government and the people of South Australia want to see is some support from the Opposition, in a bipartisan fashion, for the policies of this Government. The people of South Australia do not want people sitting down, having summits and trying to arrive at decisions to resolve the economic dilemmas of South Australia. They elected a Government that has the policies and programs to put into action. The Government is doing it.

What the people of South Australia want is a positive attitude from the Opposition and support for the decisions that the Government has taken. No more talk: what we want is action. We do not want to sit down and talk about what might happen. Now is the time to support the policies of the Government and let the Government get on with it. That is what the Opposition should do. If the Deputy Leader is prepared to get from his Leader a commitment to support, in a bipartisan fashion, the Government's policies and programs which are being put into action to resolve the economic dilemmas of this State, I will personally be happy to meet with the Leader and then discuss what might be followed up with the Premier. Until I can get that commitment from the Deputy Leader the onus rests on the Deputy Leader. The ball is in the Opposition's court.

RAPE

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Attorney-General a question about Judge Hume's actions with regard to a rape charge acquittal.

Leave granted.

The Hon. SANDRA KANCK: Yesterday, when the Attorney answered a question on this issue, in his most gentle way he appeared to be saying that Judge Hume had got it wrong and that he had got it wrong at least twice. Today's *Advertiser* confirms my understanding of what the Attorney said yesterday in this place, and he is quoted in the *Advertiser* as saying:

> I am prepared to say on the record that my advice is that the judge was wrong in this case.

However, the Attorney believes that there is nothing further that can be done because the law is quite clear. Furthermore, he stated that there have already been two prior test cases to reiterate this point of law and therefore 'there is no purpose to be served in stating yet another case on this point'.

Last night I attended a meeting of angry and outraged women. They are angry precisely because we have been told that there is nothing that can be done about this. They are angry because of the message that this judge has given to some men that all they have to do is ply a young woman with enough alcohol and they will be able to get away with raping her. They are angry because of the implications for mentally impaired young women. They are angry that once again a judge has acted without accountability. They want to see Judge Hume removed from the bench. My questions are:

1. Does the Attorney-General truly believe that the standards being prepared by the Chief Justice can improve the standard of the summing up of some judges given that, first, two test cases have already been undertaken and that, secondly, one of these test cases actually involved Judge Hume?

2. When was Judge Hume appointed to the bench and how many more years can we expect to have him there? What particular qualities does Judge Hume have that caused the Attorney-General of the day to appoint him to the bench?

3. Given that Judge Hume has stuffed up twice, how many times will he be allowed to do this before the Government contemplates his removal?

The Hon. K.T. GRIFFIN: It is probably typical of the facile way in which the Hon. Sandra Kanck sometimes deals with these issues to put it in such personal terms. The fact is that, as I said yesterday—

The Hon. Sandra Kanck interjecting:

The Hon. K.T. GRIFFIN: You say what you want to do about it instead of asking me all the questions and casting all these aspersions without having the guts to say what you would do about it. Do you want to move in this House for his removal? Do you want to get a motion in the Lower House to do it? You say so and then people can judge you for what you are.

Members interjecting:

The Hon. K.T. GRIFFIN: Of course we are the Government. The Hon. Anne Levy raised a question quite properly yesterday. I answered it in what I believed was a quite proper fashion, and I provided information to the Council. I just repeat what I had to say—

The Hon. T.G. Cameron: You have bipartisan support here and you are canning it.

The Hon. K.T. GRIFFIN: Well, are you going to move the motion?

Members interjecting:

The Hon. K.T. GRIFFIN: Gutless, aren't you. You are gutless.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: You can read the transcript; it is available. Let me say what I said yesterday. I believe that, on the advice I have been given, the judge did get it wrong. There were two counts. The first count was a charge of rape. The second was unlawful sexual intercourse. The judge directed the jury that they should bring in an acquittal on the rape charge because, in the course of the evidence, the judge had required the Crown to elect which particular set of circumstances the Crown relied upon to establish that the count of rape was committed.

In the first instance, it was my advice that the judge should not have asked the Crown to have elected. The events should have all been regarded as a compendious whole. My advice is that the judge was wrong.

The second was that the judge should have allowed the matter to go to the jury, and again my advice was that the judge was wrong. The fact is that he did not allow it to go to the jury. There was in any other sense a direction that the jury should bring in an acquittal, and that is what the jury did. Under our system, there is no right to appeal against an acquittal by a jury.

If members want to change 150 or more years of the practice in the criminal courts where the jury of 12 men and women selected at random make the decision whether, on the facts—the evidence which is presented—a person is innocent or guilty, they should say so. The fact is that neither I nor the Government has any plans to change the jury system of dealing with criminal trials. That is the first point.

In relation to any other appeal, cases have been stated and taken up to the Court of Criminal Appeal by the Director of Public Prosecutions, and the Director of Public Prosecutions has argued in the context of similar sorts of cases what the law should be, and the Court of Criminal Law has made decisions. The DPP has advised me that there is no point in taking this matter on a case stated to deal with issues of law.

In relation to the second count, the accused person pleaded guilty to unlawful sexual intercourse because the victim was under 16: she was 14 years of age, and a conviction was recorded. I do not think any penalty has been imposed at this stage. The issue of sentencing is something that will be addressed by the court appropriately after submissions have been made about the penalty that ought to be imposed.

I am on the record that in those circumstances, under our system, there is nothing that I or the DPP can do in relation to that acquittal. It ought to be recognised that that does not suggest, without equivocation, that there would have been a conviction if it had been left to the jury. There may still not have been a conviction, and you have to put it into that context. With those two errors that I have indicated, in relation to the requirement of the Crown to elect on which set of facts they relied in respect of the charge of rape, and the second was in relation to the direction to the jury that the jury had to bring in an acquittal. In those circumstances, there is nothing more that can be done.

I will not come into this Chamber and recommend to the Government or the Parliament that we ought to move a motion in relation to any particular judge because of one or two cases which come up. The whole basis of our constitutional system is that the judges are independent of the Executive. The judges are appointed by Governments. My practice is that I consult with the shadow Attorney-General, other judges and other people who might have some understanding of the nature of the task involved and the qualities that are required. Then I will recommend a particular person to be appointed to judicial office, and the Cabinet can agree or disagree with that. The Cabinet generally agrees with the Attorney-General's recommendation. It happened also under previous Governments and my predecessors, and then the appointment is made. Once appointed, a judge of the District Court or the Supreme Court holds office until he or she reaches the age of 70 years.

The Hon. Anne Levy: They can resign.

The Hon. K.T. GRIFFIN: Yes, they can resign. It would be outrageous for me as Attorney-General to go to a particular judge and say, 'You made a mistake; I do not like what you did. You ought to resign. I will put pressure on you to resign.' That is the height of improper interference with judicial independence. You cannot, in our system—

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: You take those things up if you want to. As Attorney-General, I will not begin to involve myself in improper practices. I will not do it. My predecessor did not do it in relation to the judiciary and, as far as I know, no Attorney-General in this State has done so, and I do not intend to change the precedent.

The Hon. Sandra Kanck interjecting:

The Hon. K.T. GRIFFIN: The question of accountability is a broad issue and a vexed question that has been considered for centuries in relation to the judiciary. I have raised it myself on several occasions, particularly in the context of the Courts Administration Authority being established. When we were debating that Bill, I raised the same sorts of issues. It is an interesting and difficult question to resolve: how do you ensure accountability? What does that accountability mean? Does it mean that no judge can make a mistake? Does it mean that a judge must act reasonably, with propriety, and according to appropriate community standards, but act in accordance with the evidence which is presented? I think that is what it must mean. It cannot mean that every time we do not like a decision made by a court we haul a magistrate or judge before the Parliament and say, 'You are under threat of dismissal if you do not toe the line.' That happened in Russia; it happened in all those countries where there was not independence of the judiciary from the executive arm of Government. That is really as far as I can take it. If the honourable member wants to make some suggestion she is at liberty to do so.

The Hon. SANDRA KANCK: As a supplementary question: in general terms, without referring to a specific judge, how many times would a judge have to make mistakes before the Government would consider their dismissal?

The Hon. K.T. GRIFFIN: It is a hypothetical question and I do not intend to embark on some discourse about the circumstances in which judges might be removed from office. Judges have not been removed from office by any Parliament around Australia for the decisions they take. They have been removed from office on the basis of impropriety. There were Vasta and the magistrate Farquhar in New South Wales. It is for that sort of impropriety for which judicial officers have been removed.

In this State, only one judge—Justice Boothby—was removed, back in the early part of the colonies; it was a long time ago. Important constitutional issues are involved, and I will not start counting up and saying, 'I like this decision', 'I think that one is wrong', or 'I do not like that decision' and then begin keeping a record of those occasions where we, the

Court of Criminal Appeal or the High Court says that a judge has been wrong. That is just not the way you make an assessment of the appropriateness of a person continuing in judicial office.

The Hon. T. Crothers: I agree with you.

The Hon. K.T. GRIFFIN: I am pleased that the Hon. Trevor Crothers agrees. That is the rationale upon which every Government of every political persuasion has attempted to distance itself from interfering in judicial decision making. I have made it clear that I will not do it. If there is a disagreement with a judge's decision which is appealable it will be the subject of an appeal, and that is the proper way by which those matters should be dealt with.

The PRESIDENT: Order! Before I call on the next questioner, I remind the last questioner of Standing Order 109, which deals with hypothetical questions. I suggest she read that. This place is not a place for hypothetical questions: it is a place for fact. I call on the Hon. Terry Roberts.

PRISONS, OUTSOURCING

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question about prison privatisation and outsourcing.

Leave granted.

The Hon. T.G. ROBERTS: Currently a select committee is looking into prison privatisation and outsourcing, and it was set up during the last session. The terms of reference include: to look into the cost benefits to the people resulting from transfer to the private sector; the criteria upon which the tender process was assessed; the recommendations of the tender assessors; whether or not the tendering process was generally competitive; the role and conduct of the Minister for Correctional Services; the legality or otherwise of the contract; and public standards of accountability as embodied in the terms of the contract. The terms of reference go on to seek information that at the time the select committee was being set up we felt should have been supplied to Parliament without the process of setting up a select committee.

Yesterday in his report, the Auditor-General set out some recommendations, given the changed circumstances in which the Government finds itself in relation to accountability through dealing with the public and private sectors.

The Hon. K.T. Griffin: What page?

The Hon. T.G. ROBERTS: Page 12, part A of the audit overview. I understand that the Leader of the Government in another place has put out a release (which I have not read) as an explanation of the Auditor-General's remarks. These remarks are directed towards the changed nature in which the Government finds itself in dealing with major contracting outsourcing and privatisation arrangements. On page 12 of his report the Auditor-General states:

> Transactions between the public and private sectors are being entered into, or are proposed to be entered into, with *major and ongoing* financial implications for the State. These warrant adequate 'before the event' processes which are not provided for under current legislation. It is evident that Parliament is aware of the need to address this issue (the only example to date being with respect to the sale of the Pipelines Authority of South Australia). In my opinion, the intention of Parliament, in this instance, was limited by matters detailed later in the section entitled 'Financial accountability in the South Australian public sector'. I have suggested that various precedents which already exist in legislation in this State be built upon to achieve improved accountability mechanisms in this respect—in particular, to ensure that major public/private sector transactions, including asset sales, contracting out arrangements and special industry assistance packages, take place only *after* Parliament has had an opportunity to be informed of them and, if necessary, to make decisions about them. I recognise that this is not an easy task and requires that complex issues such as confidentiality and balancing timing, with accountability, be addressed.

Finally, he says:

> It is to be emphasised that this is not a new concept. The principle of accountability to, and the ultimate control of, Parliament with respect to financial matters has been long established in this State, and even longer elsewhere. There are legislative precedents already in place which can be reviewed, improved and added to.

The Auditor-General is saying that we find ourselves in new circumstances dealing with important matters of financial accountability and that we need a process where Parliament is able to scrutinise the importance of those contracts. I have already read out some of the terms of reference of the privatisation of the Mount Gambier prison and some of the questions that have been raised in this Council in relation to the concerns that have been referred to the select committee. In view of the Auditor-General's remarks, will the Minister make available to Parliament all details of the outsourcing arrangements and tender documents and the process associated with the private management of the Mount Gambier prison; and, in accordance with the Attorney-General's principles in any future outsourcing privatisation programs, will he provide Parliament with the same details?

The Hon. K.T. GRIFFIN: I will certainly refer the questions to the Minister for Correctional Services in another place and bring back a reply. If one looks at the Auditor-General's Report one sees that it is not saying categorically that all those matters have to be examined by Parliament or by structures within the Parliament: he is raising the issue of accountability. Elsewhere in this report he is also referring particularly to issues of commercial confidentiality and the way in which they should be dealt with.

So, it is not by any means a foregone conclusion as to what might ultimately be developed to deal with that issue. The Premier's ministerial statement in another place, which has already been tabled in this Council, addresses some of the matters to which the honourable member refers in terms of the way in which the Government is developing concepts and exploring issues raised by the Auditor-General further. I would certainly refer the honourable member to the Premier's ministerial statement, but I do not think one can jump to a conclusion that everything in this area has to be in some way or another examined by the Parliament. However, the Government does recognise that there are issues of accountability; we have made no secret of those.

During the debate in relation to the outsourcing of Mount Gambier prison we did endeavour to identify the principles upon which the Government had operated and upon which the tendering process, the monitoring thereof and the awarding of the contract were undertaken, in order to ensure that there was some transparency in the processes. I should have thought that what is of critical importance in all these matters is that the processes be clearly identified and developed in a way which identifies proper respect for the principle of accountability. I will refer the issues to my colleague and bring back a reply.

CRIMINAL INJURIES COMPENSATION

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question about criminal injuries compensation.

Leave granted.

The Hon. R.D. LAWSON: Recently, there were newspaper reports of a case in New South Wales in which a notorious prisoner recovered criminal injuries compensation in respect of an injury sustained in an assault by another prisoner whilst they were both in prison. Newspaper reports suggest that the Government in that State is introducing amendments to the legislation to preclude prisoners from making claims. The South Australian Criminal Injuries Compensation Act does not contain any prohibition on prisoners from making claims or receiving compensation. As far as I am aware there is no publicly available information on the number of prisoners in South Australia who claim or receive compensation. The Legislative Review Committee examined some aspects of the operation of this scheme and published a report in 1995. However, although the committee did not investigate this issue, it heard evidence that the statistical data relating to the composition of claims is not extensive.

A report of the Victorian Crime Commission Compensation Tribunal indicated that in that State a number of prisoners—up to 93 in one year—received criminal injuries compensation. If the newspaper reports are to be believed, the public views with disgust and dismay the receipt by prisoners of substantial awards. On the other hand, some observers see no problem with prisoners receiving awards because the prisoners are then able to compensate their victims. I know of one such case where a youth in South Australia whose sister was murdered was awarded $15 000 compensation for the death of his sister. He was awarded a further $6 000 in compensation because he was the victim of an assault. That person then assaulted his girlfriend and an award of $24 000 was made against him. The Crown refused to pay him the $21 000, and the person himself had to pay the further $3 000 to his girlfriend. My questions to the Attorney are:

1. Do figures exist from which can be extracted the number of prisoners claiming and/or receiving compensation under the South Australian scheme in recent years?

2. What amount has been paid to such prisoners?

3. Does the Attorney consider that it would be appropriate to amend the legislation to preclude prisoners from making claims?

4. Are mechanisms in place to ensure that claimants who have caused criminal injuries to others do not receive compensation?

The Hon. K.T. GRIFFIN: I am not sure whether statistics exist about the number of prisoners who might receive or apply for criminal injuries compensation. I will have to take that question on notice, and I think that also relates to the second question. It has to be recognised that in this State the law dealing with criminal injuries compensation has been in operation since about 1969. There is nothing in the legislation which will prevent a prisoner from claiming or even receiving criminal injuries compensation in circumstances where that person himself or herself has been a victim of a criminal act—even in the prison system. I suspect that there have been a number of cases in this State where prisoners would have been compensated for criminal injuries caused whilst in prison. It is also important to put that into a context. If it appears that the claimant has himself or herself caused injury to other persons which has resulted in a payment from the criminal injuries compensation fund, any compensation awarded to the prisoner is automatically deducted from his or her debt to the State arising from any previous claim against him or her. But if the prisoner is incarcerated for offences that for some reason or another have not resulted in claims against the prisoner, then under the present law the Crown has no option but to deal with the claim in the same way as it would with any other matter.

I have no intention to amend the legislation at the present time to prevent prisoners from receiving compensation. It is very difficult to argue logically against prisoners obtaining compensation where they have been victims of criminal acts; but, on the other hand, if they have caused injury to others, whatever they are entitled to should be used to pay off other debts to those whom they have injured in other circumstances. That is what I would have thought happened in the New South Wales case. There was this great uproar about the $50 000 compensation claim—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: Well, in New South Wales a murderer claimed $50 000 compensation. I would have thought that in those circumstances the family of the murder victim of that prisoner would most probably benefit or at least the Crown would benefit by being able to recoup some of its own expenditure through criminal injuries compensation from the amounts which may have been awarded to this murderer. In South Australia it has been part of the law that prisoners can be compensated in the circumstances I have outlined. I have not yet had put to me any persuasive reason why that might change. I know that a knee jerk reaction might be: why should prisoners be compensated in this way? But if one looks at it logically it is very difficult to argue that, in the circumstances of criminals being victims of criminal acts, they should not be entitled to put their hands out for some criminal injuries compensation. They are all carefully assessed and there is some benefit, as I said, to the State in getting back some of the moneys which it may have paid out for other purposes related to that particular criminal.

AUDITOR-GENERAL'S REPORT

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Tourism, a question about the report of the Auditor-General.

Leave granted.

The Hon. T.G. CAMERON: I draw the Minister's attention to the sixth paragraph on page 68 of part A of the report, as follows:

> In the course of the audit of the South Australian Tourism Commission it has come to notice that the commission has paid sums of money to external third parties at the Minister's direction in circumstances where the matter had not first been dealt with by the board of the commission.

My questions to the Minister are:

1. Will the Minister provide full details of to whom these sums of money were paid, the times and dates of such payments and precisely what the payments were for?

2. Did the Minister subsequently report the details of and the reasons for such payments to the board and, in particular, was the board of the commission notified of his intention to bypass it? If not, why not?

3. Will the Minister give an undertaking to the board and to the Auditor-General's department that this practice will cease?

4. At any time did the Minister or his office contact the Auditor-General to ensure that these payments complied with the requirements of the Auditor-General's Department?

The Hon. K.T. GRIFFIN: I understand the Auditor-General's Report to be drawing attention to some difficulties

in the process. The Minister gave directions, which he is entitled to do under the Act, and the matters were not formally dealt with by the board or the processes put in place by the board before they were complied with. That is a matter of process. I will seek a response from the Minister in another place in respect of all those questions, and I will bring back replies.

BUS SERVICES

The Hon. G. WEATHERILL: I seek leave to make an explanation before asking the Minister for Transport a question on the subject of contracts.

Leave granted.

The Hon. G. WEATHERILL: It is now only three months before contractors are due to take over the northern and southern bus routes. Will the Minister announce the successful contractor for these routes? In view of the Auditor-General's comments concerning the accountability of the contractors, will she make public all details of the contract?

The Hon. DIANA LAIDLAW: The honourable member may recall that the Passenger Transport Act, as passed by this place, makes specific provision in terms of the contracts, so that the Minister may not be involved in either the approval or rejection of any of those contracts. I have deliberately kept at longer than arm's length from the evaluation that has been undertaken by an independent group headed by the former Auditor-General (Mr Tom Sheridan) on behalf of the Passenger Transport Board. The board is meeting to discuss the recommendations of the evaluation panel and from a whole-of-government perspective, and decisions will be made shortly by the board, not by me, in respect of the tenders that are before the board.

VETLAB

The Hon. M.J. ELLIOTT: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about Vetlab.

Leave granted.

The Hon. M.J. ELLIOTT: The South Australian Veterinary Laboratory provides vital support for South Australia's primary industries. The laboratory is part of the South Australian Department of Primary Industries and it offers essential resources not available elsewhere in South Australia. Its role includes diagnosis, surveys and monitoring diseases in livestock in South Australia, which includes aquaculture as well as land-based stock. It is also involved in health certification, testing of local and exported livestock, testing products for human consumption and assisting in disease investigations and control programs. This work has included aiding the recent Garibaldi meat investigation and research into kangaroo blindness.

The Dairy Farmers Association of South Australia has raised concerns that the State Government has threatened to take $700 000 from Vetlab's budget, which it fears would decimate the service. The association's newsletter states that such a budget cut would mean that 12 out of 32 employees at Vetlab would be removed. The newsletter states:

> We have established that all sections of the laboratory are interdependent upon one another and, so, remove any one section and the complete diagnostic service is fragmented and weakened. With the emphasis on food safety and market protection, we have to do our utmost to give them as much support as we can.

The dairy industry is only one of many vital South Australian industries that would be affected by those budget cuts. To fulfil its role, the laboratory must have sufficient resources, staff and skills in the fields of pathology, bacteriology, virology, parasitology and biochemistry to carry out the required tasks and to competently cope with increasingly complex test demands.

Because diagnostic services are charged to the owner, the costs are borne mainly by the farmer. However, the resources required to implement the disease information system, to investigate disease outbreaks and to develop new tests are the State's responsibility. The economic risks of a reduction in funding are enormous, and I list the problems to human health through food contamination, the risk to our export markets and the loss of professional expertise in this area, just to name a few. My question is: what plans does the Government have to cut funds to Vetlab?

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

MARINO LAND

The Hon. P. HOLLOWAY: I seek leave to make an explanation before asking the Minister for Transport a question about the sale of TransAdelaide land at Marino.

Leave granted.

The Hon. P. HOLLOWAY: TransAdelaide proposes to sell a surplus parcel of land next to the Marino Railway Station and Newland Avenue at Marino. TransAdelaide has offered to sell this land for $300 000, but Marion council is prepared to offer only $150 000, based on its proposed use as a reserve. The land has considerable importance as Newland Avenue is the major access route to Marino Rocks and Hallett Cove. There are also two S-bends in Newland Avenue at each end of the TransAdelaide land and the sale of this land to housing developers would remove any chance of straightening the road and solving other traffic problems in the future.

Marino residents are concerned about the safety implications should this land be sold for housing, and over 700 residents have signed a petition requesting that the land be purchased as a reserve. The local member for the area (Mr Wayne Matthew) supported residents in opposing the land sale when it was first considered by the former State Transport Authority in 1990, but residents are now disappointed that they no longer appear to have the honourable member's support. My questions are:

1. What guarantees can the Minister provide that TransAdelaide's decision to sell the surplus land at Marino for housing will not exacerbate traffic congestion or restrict future traffic options along Newland Avenue?

2. Will the Minister ask her department to renegotiate the price of this land with Marion council to a more reasonable figure so that the concerns of local residents can be addressed?

The Hon. DIANA LAIDLAW: The local member is no happier about the negotiations in relation to Newland Avenue than he was in 1990, so I am certainly able to reassure the honourable member and his constituents that the member for Bright has been to see me with a delegation of residents on this matter. He has also made representations on behalf of the council on this matter and I have responded by speaking with TransAdelaide. We are working under rules which were set by the former Government in 1986, I think, and which require agencies such as TransAdelaide to seek the full commercial

price for land. If an exception is made in one instance, it incurs extraordinary problems across the whole system, whether it be the Department of Transport or TransAdelaide. I can assure the honourable member that, almost on a daily basis, I get requests from councils that railway land be returned to the community at no cost to them. Such land is a State asset and it would be irresponsible of me to return land at no cost to any council in the metropolitan area or in the country, because it would mean no return to the State.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: They were the rules that were set by your Government and they have been maintained by this Government, so there has been consistency. We support those rules. I have spoken with TransAdelaide and it has received a further valuation in respect of the land. The initial negotiating price, I understand, was $400 000. Another valuation of the land has meant that TransAdelaide has been able to offer the land to the local council at $300 000. So, it is $100 000 down on the first offer. We now have an offer provided by the local council of $150 000. So, we are well apart in terms of the respective bids. In the meantime, the honourable member should be aware that the Marion council did accept the planning approval application and it has been aware for some five years that the land can be subdivided for housing. The residents would like it taken over for parkland use. Certainly, there will have to be further discussions, but I am working within guidelines that the Government has endorsed and guidelines that have long been the basis for such negotiations. I will take a further—

The Hon. T.G. Roberts: We were about to review them when we went out of government.

The Hon. DIANA LAIDLAW: I did not know that inside information, but I appreciate that advice and I will now have a look through the files to find evidence of that to see if that helps me.

The Hon. T.G. Roberts: Only in the Party room.

The Hon. DIANA LAIDLAW: In the Party room. No minutes?

The Hon. T.G. Roberts: No.

The Hon. DIANA LAIDLAW: So, I will look—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: I am answering a question. I was just about to sit down and I was given—

The Hon. Anne Levy: You are taking a long time over it.

The Hon. DIANA LAIDLAW: No, but I was given information which I am not sure anyone else has ever had access to and it is very helpful. At the request of the honourable member I will look at this matter again with the local member, residents, councils and TransAdelaide and see if we can reach some accommodation. Because the issue has been outstanding for some time, it would be good to see if we can reach a positive outcome.

MATTERS OF INTEREST

WINE INDUSTRY

The Hon. L.H. DAVIS: When I was young I—

Members interjecting:

The Hon. L.H. DAVIS: Isn't it nice to see them finally liven up? We have slept through the last hour with the weak questions from the Opposition.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: I grew up in Hyland Terrace, Rosslyn Park, adjacent to Penfolds Winery. Although I was in a Methodist household, I quickly realised that the wine industry was very significant. There was the sign on the fence on Penfold Road, 'Penfolds 1844 to evermore'. Of course, the wine industry is very important to the South Australian economy. We produce about 50 per cent of the grapes crushed in Australia, and indeed about 50 per cent of the wine production. South Australia accounts for about 65 per cent of all wine exports out of Australia; some $250 million a year.

There has been a dramatic explosion in wine exports over the last decade, increasing from just $45 million in 1986-87 to $385 million in the year to May 1995. There has been an increase of over 100 per cent in the value of wine exported just in the last five years. The wine industry has set itself a target of $1 billion of wine exports by the year 2000. That may prove to be ambitious.

The industry in South Australia is centred around many well-known wine regions. The historic Barossa Valley, first settled by Germans in the late 1830s and early 1840s, is a very historic area and a popular tourist destination. The Coonawarra, developed only over the last 60 years by such pioneers as Tony Nelson, David Wynn and Owen Redman, is famous for its reds. The McLaren Vale also is highly regarded, particularly for its red wines. The Clare Valley is prized for its Rhine rieslings along with the Eden Valley. They are regarded as the two best Rhine riesling areas in Australia. But it is fascinating to see that only this year the Clare Valley became home to the Jimmy Watson Trophy, awarded to the best one year red in Australia for the first time.

The Riverland is often underestimated as a wine growing region. Certainly, it is known for the quantity of grapes grown, but the quality of the wine is often quite remarkable. Of course, there has been a recent development in the Adelaide Hills regions. There has been some magnificent varietal whites and pinots out of the Adelaide Hills. Brian Croser, one of the pre-eminent wine growers in Australia, has led the development in recent times in the Adelaide Hills.

The incentive for export growth has been a driving force in the expansion of the wine industry. In South Australia surveys have suggested that it is planned to plant a further 8 000 hectares of vines over the next two years. That is some 20 000 acres. There is extraordinary growth projected in exports over the next decade, and indeed it is hoped that by the year 2000 exports of wines will account for 40 per cent of total wine sales. The United Kingdom is Australia's largest export market with about 48 million litres in 1993-94. The American market is also very significant, particularly California. They account for about a quarter of the United Kingdom market. There are notable successes in the export market, including Jacobs Creek, which has 1.7 million cases exported and they are hoping to lift that to a massive 5 million cases early in the next decade.

SA WATER

The Hon. M.S. FELEPPA: My brief grievance today concerns the sale of South Australia's water. The sale of South Australia's water system is widely condemned, as is

the disposal of other public assets that should always be owned and managed by the public sector through the State Government. Now the World Bank backs the Government's plan to sell the assets. Apparently, the World Bank is willing to make loans for development, but those loans have, in the past, been tied to increasing exports for world consumption or major capital works. The loans do not benefit the grassroots economy therefore.

The increased supply on the world market depresses the prices and the result is a negative effect and no real benefit to the borrowing country. Major capital works have only a remote benefit at the grassroots level. The backing of the World Bank in the sale of SA Water is aimed at using South Australia for experimental purposes. The result of these experiments will be used to guide the World Bank in investing in the Asian region. The World Bank's backing will not benefit South Australia and when there has been sufficient experimenting, perhaps the contractors will allow the contracts to lapse and the Government of the day will be left to bail itself out.

To justify the sale the Minister, Mr Olsen, tried to juggle the terms used. He tossed up the word 'privatisation' and it comes down as 'corporatisation'. These terms make no difference: something is being sold off and that is what counts. Our water supply remains the main issue. There is no way that a private company can successfully operate our water supply, and for a profit, mind you, better than the operation can be managed by our own public enterprise.

The Government cannot see beyond the short-term monetary gain—or I suspect it does not want to. To take comfort in the support given by the World Bank is to place one's trust in a python that will eventually strangle us as it has entangled in debt and strangled many of the small countries around the world. Minister Olsen should be warned and take long reflection before it is too late and nothing can be done.

TURNER, MR B.A.C.

The Hon. R.D. LAWSON: I wish to pay a brief tribute to the late Commissioner Brian Allan Charles Turner. Commissioner Turner was a Commissioner of the Environment, Resources and Development Court. Tragically he and his wife died in a road accident on 26 April 1995. There was a special sitting of the Environment, Resources and Development Court earlier this year to commemorate the life of Commissioner Turner. However, the good influence of his life was felt way beyond the confines of the court, and I think it is only fitting that there be some record in this Parliament of his outstanding public service and contribution to the South Australian community.

Brian Turner became an Associate of the Commonwealth Institute of Valuers in 1958, and in the following year commenced work as a valuer with the South Australian Land Tax Department. He remained there for about three years and worked in local and Federal governments as a valuer. In the late 1960s town planning was developing in South Australia, and Brian Turner developed an interest in the subject. He undertook studies at the South Australian Institute of Technology and in 1969 obtained a Diploma in Town Planning.

He gained experience as a planner with the Corporation of the City of Adelaide before becoming a member of the real estate firm of Richard Ellis & Co, and in 1977 he went into practice on his own account as a town planner. As a town planner he was highly regarded for his professional competence and integrity. He was widely sought after by local government authorities, developers and citizens both as an adviser on planning matters and other related issues. He was a consultant to the Monarto Development Commission.

As a legal practitioner I had a number of dealings with Brian Turner. He was an exemplary planner, hard working and conscientious. He was open-minded, objective, careful and did not succumb to the temptation of being merely a barracker for his client's interests. His advice was, as I have mentioned, sought very widely in the community. He was one of the early planners in private practice in this State, and he helped to set high standards for that discipline. Over the years he was heavily involved in the South Australian Division of the Royal Australian Planning Institute. He held office as Treasurer and President of that division and he was also a member of the council of the Federal body.

In 1984 he was appointed a commissioner of the then Planning Appeal Tribunal. He served as commissioner of that tribunal until 1994, when he became one of the first commissioners of the Environment, Resources and Development Court. All the qualities which he demonstrated before his appointment were seen in full measure in the discharge of his duties as a commissioner in both those bodies where he worked. He also had the quality, which is particularly valued in any person exercising judicial functions, of being a good listener. His death was a sad loss to the South Australian community and in particular to the planning fraternity. The State has lost a notable person who contributed greatly to the welfare of the community.

FARMING

The Hon. T. CROTHERS: I rise to take this brief opportunity in the grievance debate to pay specific tribute to our South Australian farming community and then to pay a more generalised tribute to the Australian farming community as a whole. It is fair to say that any person who is on the land is very much not the master or mistress of their own destiny. I notice the shadow Minister for manure (as I call it), the Hon. Ron Robert, making faces and grimacing. Anyway, I will not bear on the amount of knowledge he has about farming, suffice to say that you could probably get it on the head of a pin. However, having dealt peremptorily with that I want to get to the nub of the matter.

The Australian farming community suffered a body blow, of course, when Britain determined that she was going to join the EEC. This meant that the traditional crops and other farm produce that had been bought virtually entirely by Great Britain had to have other markets found for them. I specifically refer to crops such as wheat, barley, grapes, wine, the meat products of our diary and cattle herds, the horticultural industries, the meat products of our sheep industry and our wool products—all have had to have, over the past 25 years, alternative markets found for them, or indeed the Australian farming community had to diversify in respect of the types of crops that they grew and the produce that they created on farms in order to ensure that they could still earn enough dollars and cents to maintain a living on the farm.

It has been particularly hard for the farming community over the past four or five years in certain parts of Australia. It has been hard all over but specifically has it been hardest up in areas of Queensland, and certainly in northern New South Wales. It has certainly been hard there relative to the drought that they have just undergone through the ravages of

the El Nino weather system that has been operative in the Pacific. There is a fair degree of optimism now that that El Nino system has completed its cycle, has gone and as such it would appear that at long last our farming community can look forward to some more bountiful years than has been the case over the past four years.

I think last year was the first time on record for many years since the days of the first and second fleets that Australia has had to import wheat and was not in a position to supply its own wheat requirements from its own produce. The diary industry has been outstanding with respect to the fact that after having been kicked to pieces by Britain's EEC decision it has now picked itself up with its own energy, from its own boot straps, and now exports in excess of $1.2 billion of product per year. The wine industry again it yet another industry where some two-thirds of its produce, up to 1948, was exported to the UK and that declined right down to about 5 per cent of the entirety of its produce up to about 10 years ago when John Hardy started to make export forages into Europe, America and other areas in respect to the placement of our domestically produced wine, to such an extent that, as my colleague the Hon. Legh Davis said, the exports now are in excess of $325 million per year and are tipped to grow at an even greater rate.

It is fair to say that, whilst not so much of the nation's economic health depends on farming as used to be the case, it is still the cream on our economic health cake. It is not entirely coincidental that Australia's balance of payments, for amongst other reasons, has suffered a decline, and that in part—

An honourable member interjecting:

The Hon. T. CROTHERS: I would ask the ignorant amongst us to be quiet—has been due considerably to the drought that has affected our farming communities in Australia. Too often we hear people talking about the whingeing cocky, but truly they have much to whinge about. I pay tribute to our own farmers in particular, and certainly to the Australian farming community in general. Long may they continue to survive in what is a very harsh farming climate here in Australia.

DOMESTIC VIOLENCE

The Hon. J.C. IRWIN: I will cut into my precious time by thanking the Hon. Trevor Crothers for his wise words about the farming community. I will say a little more about that in my Address in Reply contribution. I wish to put my foot somewhat tentatively, with some trepidation, into the domestic violence debate. Five minutes does not allow much time for that but, as a mere male, I am amazed at what I read. According to the Office of the Status of Women, as quoted in the *Cosmopolitan* magazine in April 1995:

> [Domestic violence is] behaviour by the man, adopted to control his victim which results in physical, sexual and/or psychological damage for social isolation or economic deprivation or behaviour which leaves a woman living in fear.

I follow with this 1980 quote from the 'Behind Closed Doors' article by Straus, Gelles and Steinmetz, US social researchers:

> It is interesting to note that mothers are at least as likely as fathers to use even more serious forms of violence such as kicks, bites, punches and beatings. This is important because family violence is probably the only situation where women are as or more violent than men. . . If men have a genetic disposition to be violent, one would expect them to be more violent at home than their wives. Yet, an examination of violence between couples and violence by parents towards children reveals that women are as violent or more violent than are men. . . . While fathers who beat up their children do so on an average of once a year, mothers who beat up their children do it more than once every other month.

Internal Australian Bureau of Statistics (ABS) documents in Australia reveal great concern about a proposed survey initiated by the Federal Government's Office of the Status of Women. It appears that the survey, originally titled the 'Violence Against Women Survey' owes its origins to *The Deadly Hurt*, a documentary by Melbourne-based producer Don Praham, shown on SBS late last year. Praham questioned various tenets of faith promulgated by OSW, one of which was that 30 per cent of married women in Australia are at risk of domestic violence. This claim featured on an OSW poster a number of years ago. Although the office claims that it no longer uses the figure, it still appears. For example, in a 1994 edition of *Injury Issue*, a medical journal put out by the New South Wales Department of Health, those who saw *The Deadly Hurt* on SBS late last year will remember Senator Crowley's embarrassment when asked to give the source of that figure. Her response included this remarkable quote:

> Why are you so worried about a little bit of wrong analysis?

That was stated in 1994 by the hapless Minister for shopping plans, Senator Crowley. OSW is, in fact, still defending the figure of 'one in three women at risk of domestic violence'. In a reply to a letter to the Prime Minister, the head of the OSW, Kathleen Townsend, said that the figure was the best data available in 1987 when the poster was first published and 'was specific to a campaign about domestic violence'. She further stated that it came from a 1980 study done in the United States by Straus, Gelles and Steinmetz, entitled, 'Behind Closed Doors.'

There are two problems with this defence. One is how a figure can be specific to a given campaign. Surely it is either true or not true. The second is that nowhere in 'Behind Closed Doors' does it say that 30 per cent of women are victims of domestic violence. What it does say several times is that women are as likely to be perpetrators of spouse bashing as they are to be the victims. For example, on page 36 it states that in the given year 12.6 per cent of women will be victims of family violence (very broadly defined), but so will 11.6 per cent of men.

When violence against children is taken into account, women are more likely to be the perpetrators of domestic violence than are men. In short, the 30 per cent figure is a lie and one which the OSW refuses to withdraw. I sincerely hope that, when the analysis of domestic violence is carried out in South Australia, as I believe it will be under the Hon. David Wotton's department, it will include both male and female as potential perpetrators of violence, that it will be fair and that it will be objective.

FARMING

The Hon. R.R. ROBERTS: I would like to talk also on farming. It is a very appropriate week that leads me to this subject today. This week sees the celebration of two significant events in South Australia, and one could probably speak for 40 minutes on this subject alone. In this respect, I refer to the 40 years of the operation of Cooperative Bulk Handling in South Australia, and 25 years of service as a Director of CBH by Mr Geoff Cliff of Ardrossan.

I had the pleasure to speak on Monday night at the celebrations, and I was reminded that some 40 years ago, at the time of bagged wheat and with the problems of shipping and dispersal of the product in South Australia, the South

Australian Farmers Federation (or its equivalent) had discussions with the Government of the day under Sir Thomas Playford and it was determined to set up a cooperative. This was a venture not normally contemplated in those conservative days by farmers and people living in country areas. Cooperatives were the stuff of the socialist movement.

However, some very sensible decisions were taken at that time, and I pay a tribute to the directors of Cooperative Bulk Handling throughout the years and those participants in the industry. I also pay a tribute to the involvement of the Australian Workers Union, which has operated throughout CBH during that whole period. Together they have created an industry and a system that works extremely well and provides very good benefits for growers in South Australia.

The technology over that period has changed dramatically. We have gone from bagged wheat to the modern loading and storage methods. The size of the crop has increased dramatically over that period of time, and innovative methods have always been used to overcome that. I am confident that, with the cooperation of the participants in that organisation, that industry will prosper and grow.

However, the CBH dinner was somewhat marred by the sudden death of Mr Allan Glover, with whom I have had dealings for the past two or three years and who was Chairman of the Grains Council of Australia's Course Grains Committee. He also served with distinction on the South Australian Farmers Federation's Grain Section as Chairman since 1992. He was also, as you, Mr President, would realise, Chairman of the Deep Sea Ports Committee, which is the next arm of what is to happen in CBH and grain handling in deep sea ports.

I have been involved with Allan Glover for a couple of years now, and I remember a particularly messy debate over barley. It was on Mr Glover's election as the grains section Chairman of the South Australian Farmers Federation and his intervention and wise counsel that things started to come together in that area. I also had an experience with Mr Allan Glover whereby he made an unfortunate statement about the port of Port Pirie. Indeed, when it was pointed out to him, to his enormous credit he was in Port Pirie within 24 hours, acknowledged the error of his ways and immediately sought to solve the problems.

Mr Glover was a fine, upstanding member of the South Australian farming community. He has great credits to his name, and his sudden death as a result of a heart attack while driving a truck is a blow to South Australia and especially to those on the West Coast. His contribution will be sorely missed, but I am confident that other people in the grain industry in South Australia will gravitate towards making a valiant attempt to fill the place left sadly vacant by the demise of Mr Allan Glover. On behalf of Her Majesty's loyal Opposition, I extend our condolences to Allan's wife, Rhonda, their four children, Peter, Merilyn, Stephen and Lisa and their families. We hope that this sad loss quickly heals, that the memories will not be forgotten and that kind thoughts will emanate from all his colleagues and everybody in the grain industry in South Australia.

Honourable members: Hear, hear!

The Hon. CAROLINE SCHAEFER: I add my condolences to the Glover family via the medium of this Council and concur in the comments of the Hon. Ron Roberts. Allan Glover lived and worked in our area and was something of an extraordinary farmer and extraordinary man. In times when many people struggled to survive and suffered from a large debt burden, Allan and his family managed to farm not only well but also extremely successfully. He was a character somewhat larger than life, and his acquisition of farms and his knowledge of farming generally fitted into that category. He worked tirelessly in the cause of grain growing in South Australia and indeed was a representative for South Australia on the Australian Grains Council. He will missed by his industry and by his family, and particularly by the people of Yeelanna and his community. While Allan himself was extremely successful both as a farmer and financially, he always bore in mind those less fortunate than he and was a very vocal supporter of the farming community in hard times, as well as his agri-political function. So, I add my sympathy and, I am sure, that of the entire Council to the Glover family and indeed to the South Australian Farmers Federation, which I am sure is reeling from the loss of one of its most prominent members.

I also wish to mention my recent visit to Western Australia, where I took the time to look at the Primary Industries Department and its management in that State. I was very impressed what I learnt that, of the 1.6 million people who live in Western Australia, 1.1 million live in the city of Perth, but that agriculture is the second largest exporter from that State other than mining. With this in mind, the department has taken a deliberate decision to involve urban dwellers and to highlight the interdependence of the two groups of people. One of the methods it has used to do this is to develop the Avon ascent in which people, particularly schoolchildren, travel from the city along a scenic route which is signposted and which points out various matters of interest, including grain growing areas as well as areas of erosion and salinity. Also signposted are areas which have been reclaimed, so that people can look at both sides of the industry.

People eventually reach the Avon research farm, which is a working research farm. There they can visit a farm machinery museum and see a very in-depth audio visual display, which again shows areas of soil erosion plus the land care that is required to reclaim them. For example, it points out wheat types and what type of flour is made from those wheat types, and whether they are used in the production of pasta as opposed to bread. Schoolchildren can actually see the difference in the various grains used. The grains are there for them to handle, as are the products which are produced from then on.

Senior secondary students can then visit the actual research farm, which is conducting research into legumes and grain, as well as into cross breeding Awasi sheep, which are the favoured fat tailed sheep that those in the Middle East like to eat. People are then asked to involve themselves in tree planting—not just monoculture trees but also understorey—and the benefits from that are pointed out to them. I believe that in South Australia we have probably an ideal situation at Roseworthy where we could copy that. We have a similar spread of population, and I certainly intend to take up the issue with the department.

STANDING ORDERS SUSPENSION

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

That, for this Session, Standing Order 14 be suspended.

This procedure has been adopted in recent times to allow consideration of other business before the Address in Reply has been adopted.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: PROSTITUTION

The Hon. BERNICE PFITZNER: I move:

That the interim report of the Social Development Committee on an inquiry into prostitution be noted.

In restoring the interim report to this Parliament, it is my contention that this report was not concluded properly, due to other agendas and lack of time in the last Parliament. However, before presenting my concluding remarks I would like to give other members a chance to contribute if they so wish. I therefore now acknowledge the contribution of the Hon. Sandra Kanck and the Hon. Carolyn Pickles and will conclude after sufficient time is given for other members to debate and comment on the report, should they so desire.

The Hon. R.D. LAWSON: I wish to make some brief remarks in relation to the interim report of the Social Development Committee on its inquiry into prostitution, which report the Hon. Bernice Pfitzner has today restored to the Notice Paper. This issue of prostitution law reform is important. I must say that the list of witnesses appearing in the schedule to the interim report indicates that the Social Development Committee has been casting its net wide for information concerning prostitution in this State and, one would hope, for solutions to the unsatisfactory state of the present law.

I must confess, however, that the interim report, albeit only an interim report, does not reflect much substance in the way of information that one might have expected to obtain from the impressive array of witnesses. With all deference to the members who produced it, the report is, I must say, rather superficial and elementary and has not raised the level of knowledge on this issue in this Parliament. However, I hope—and I imagine that a number of other members do hope—that the final report of this committee will provide hard evidence and practical solutions to a major problem.

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

FISHING, NET

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

That the regulations under the Fisheries Act 1982 concerning ban on net fishing, made on 31 August 1995 and laid on the table of this Council on 26 September 1995, be disallowed.

This matter came about after a long, sometimes heated and sometimes irrational discussion about the future of recreational net fishing. Whilst this regulation refers to the Fisheries Act 1982, which concerns all the regulations put in place on 31 August 1995 and laid on the table of this Council on 26 September, the Opposition's concern in respect of this matter relates to those regulations concerning recreational net fishing. One could go into a long discourse on this subject; however, I was advised by a constituent in the last couple of days that he received a letter from the Premier of South Australia dated 22 September 1995 whereby the Premier notified my constituent that the Government intends to examine further evidence before final decisions will be made in respect of recreational net fishing in South Australia. Given that that is the case the main reason for introducing this disallowance motion today was to try to stimulate discussion, and as discussion is under way it is my intention to seek to conclude my remarks on Wednesday 11 October.

Leave granted; debate adjourned.

STATUTES AMENDMENT (RACIAL VILIFICATION) BILL

The Hon. M.S. FELEPPA obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935 and the Equal Opportunity Act 1984. Read a first time.

The Hon. M.S. FELEPPA: I move:

That this Bill be now read a second time.

It is with a heavy heart that I speak to this legislation. It is an indictment of a small minority of our society that we have reached a stage in our history where citizens of our State on a regular basis are victims of vile, racially motivated attacks. It is to our credit that the overwhelming majority in our State—and I am sure every member of this Council—simply cannot condone or accept racially motivated attacks. Nevertheless, I have been shocked and horrified at the increase in the number and severity of incidents involving racial violence and hatred in our State in the past two years. In particular, I cannot forget the violent acts committed at Glenelg and the recent desecration of graves at the West Terrace Cemetery.

This legislation mirrors closely legislation which has been in force in New South Wales since 1989 and which was introduced by the former Liberal Government with bipartisan support. This legislation, like the New South Wales legislation, provides for heavy fines and a prison sentence for people convicted of severe racial vilification which involves physical harm or threat of physical harm. However, most importantly, the Bill places a great emphasis on the conciliation of complaints of racial discrimination which are of a less serious nature and provides for compensation to be awarded to victims. This process of conciliation is essential if we are to see a change for the better in our society. The legislation is particularly designed to bring about attitude change, and that can come about only if victims of racial vilification have an accessible and affordable means of address and if, where appropriate, the perpetrators are involved in a conciliation process.

The question of whether the racial vilification laws in New South Wales have been successful was an important one in determining whether to proceed with the racial vilification legislation. A recent report by Hennessy and Smith of the New South Wales Anti-Discrimination Board staff and Columbia University respectively suggests that the New South Wales legislation has been successful. Further, the report states:

The legislation provided a focal point for the Anti-Discrimination Board to carry out education strategies designed to alert the media and others to the existence of the law and its rationale. These education strategies would not be nearly as effective without a civil and criminal sanction of the racial vilification provisions to back them up.

Perhaps the most common objection to legislation of this kind is that it inhibits free speech or freedom of expression, which are tenets of all truly democratic societies. But those freedoms are not an absolute right. They also carry a heavy responsibility and this right must be balanced against other

rights which can be in conflict. For example, a fundamental right is that of all people, both as individuals and as a member of a group, to live in complete freedom from incitement to racial hatred.

Another objection that is sometimes made is that legislation like this merely provides a platform for bigots and extremists. I agree that could be a danger except for the process of conciliation which, except in the most extreme cases, can be put into effect. Experience has shown that this process removes effectively the platform for the perpetrators.

Where does this leave the media? The legislation is quite clear in its intent to allow fair reporting and fair comment. Section 86a(2)(a) exempts fair reports of public acts and section 86a(2)(c) allows for public acts, done reasonably and in good faith, for academic, artistic, scientific or research purposes or for other purposes in the public interest, including discussion and debate about expositions of any act or matter.

This legislation tries to improve the New South Wales legislation in two areas in particular. First, it allows the Commissioner for Equal Opportunity to investigate a situation of alleged racial vilification without a formal complaint being made. Secondly, it places the criminal provisions within the Criminal Law Consolidation Act, which further highlights the offence of serious racial vilification and places it on a similar footing to other criminal offences.

I am not suggesting that this legislation provides a perfect solution. Indeed, I have sent a draft of the legislation to a wide range of interested groups and individuals and have invited their responses, which, because of my retirement from this Parliament, other members may consider before this Bill reaches the Committee stage. Quite sincerely, I invite members of the Government to make constructive suggestions on how this legislation can be improved. I am hopeful that the broad thrust of this legislation, like the New South Wales legislation, will receive bipartisan support, and therefore send a clear message that we as a Parliament and as a community generally will not tolerate racism.

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

Leave granted.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause sets out the short title of the proposed Act.

Clause 2: Interpretation

This clause is the standard interpretation provision for Statutes Amendment Acts.

PART 2

AMENDMENT OF CRIMINAL LAW CONSOLIDATION ACT 1935

Clause 3: Insertion of Part 7 Division 9

This clause inserts a new provision in Part 7 of the principal Act (OFFENCES OF A PUBLIC NATURE) to make public acts of serious racial vilification an offence.

DIVISION 9—SERIOUS RACIAL VILIFICATION

259. Serious racial vilification

Proposed section 259 makes it an offence for a person, in the course of a public act, to incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race of the person or members of the group by—

- threatening physical harm towards, or towards any property of, the person or group of persons; or
- inciting others to threaten physical harm towards, or towards any property of, the person or group of persons.

If the offender is a body corporate the maximum penalty is a $10 000 fine. If the offender is a natural person the maximum penalty is a $5 000 fine or imprisonment for 6 months, or both.

'Public act' is defined to mean:

(a) any form of communication to the public, including speaking, writing, printing, displaying notices, visual representation, broadcasting, telecasting, screening and playing of tapes or other recorded material; and

(b) any other conduct observable by the public, including speech audible by the public, actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia; and

(c) the distribution or dissemination of any matter to the public.

'Race' (*see clause 4 below*).

PART 3

AMENDMENT OF EQUAL OPPORTUNITY ACT 1984

Clause 4: Amendment of s. 5—Interpretation

This clause amends section 5 of the principal Act to—

- define 'offence of serious racial vilification' as an offence against s. 259(1) of the *Criminal Law Consolidation Act 1935* (*see clause 3 above*);
- redefine 'race' so that it includes ethnic origin;
- define 'racial' (for the purposes of s. 57);
- define 'representative body'.

Clause 5: Amendment of s. 57—Discrimination by associations on ground of race

This clause makes an amendment that is consequential on the inclusion of a definition of 'racial'.

Clause 6: Insertion of s. 86a

This clause inserts a new provision in the principal Act to make public acts of racial vilification unlawful.

86a. Racial vilification

Proposed section 86a makes it unlawful for a person, in the course of a public act, to incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race of the person or members of the group.

'Public act' is defined in the same terms as for the proposed criminal offence (*see clause 3 above*).

Exemptions are included for:

- a fair report of an unlawful public act;
- a communication, or the distribution or dissemination of any matter comprising a publication, that is subject to a defence of absolute privilege in defamation proceedings;
- a public act, done reasonably and in good faith, for academic, artistic, scientific or research purposes or for other purposes in the public interest, including a discussion and debate about and expositions of any act or matter.

Clause 7: Amendment of s. 93—The making of complaints

This clause amends section 93 of the principal Act to allow a representative body to make a complaint of racial vilification on behalf of one or more named persons of the group of people represented by the body. Such a complaint can only be made if each named person consents to the making of the complaint and the representative body satisfies the Commissioner that acts of the kind alleged in the complaint adversely affect or have the potential to adversely affect the interests or welfare of the group of people it represents.

Clause 8: Amendment of s. 94—Investigations

This clause amends section 94 of the principal Act to—

- empower the Commissioner to investigate alleged racial vilification of his or her own motion; and
- require the Commissioner to investigate a formal complaint of racial vilification.

Clause 9: Insertion of s. 94a

94a. Referral of serious racial vilification to DPP

This proposed section requires the Commissioner to consider whether an offence of serious racial vilification has been committed before attempting conciliation of a complaint of racial vilification.

If the Commissioner considers that such an offence has been committed, the Commissioner must, within 28 days after receipt of the complaint, refer the matter to the Director of Public Prosecutions and must not take further action.

The Commissioner must notify the complainant of the referral and advise them of their right to require the Commissioner to refer the matter to the Equal Opportunity Tribunal. If proceedings for an offence are commenced, the Tribunal may stay proceedings before it until the conclusion of the criminal proceedings.

Clause 10: Manner in which Commissioner may deal with alleged contraventions

This clause amends section 95 of the principal Act to—

- allow the Commissioner to require a representative body that has made a complaint to nominate a person to appear for the

representative body in conciliation proceedings concerning the complaint; and

- require the Commissioner to refer a complaint of racial vilification to the Tribunal where the complaint has been referred to the DPP and the complainant, within 21 days of having been notified of that referral, requires the Commissioner to refer the matter to the Tribunal.

Clause 11: Amendment of s. 96—Power of Tribunal to make certain orders

This clause amends section 96 of the principal Act to alter the powers of the Tribunal in a case of racial vilification so that—

- the amount of compensation that can be awarded to a person is limited to $40 000;

Notes: Where two or more complaints are made in respect of the same public act of the respondent, the Tribunal cannot make an order that would require the respondent to pay more than $40 000 in the aggregate in respect of that public act.

Where a complaint is made by a representative body, compensation can only be awarded to the persons on whose behalf the complaint was made, and not to the body itself.

- the Tribunal can order the publication of a retraction or apology, or both.

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

SOUTH AUSTRALIAN COUNTRY ARTS TRUST (REVIEW) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for the Arts) obtained leave and introduced a Bill for an Act to amend the South Australian Country Arts Trust Act 1992. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill to amend the South Australian Country Arts Trust Act 1992 addresses the number of Country Arts Boards, the number of members of those boards and the membership of the South Australian Country Arts Trust ('the trust').

The trust was established in January 1993 with a broad mandate to develop, promote and present the arts in country South Australia. The principal responsibilities of the trust are to:

manage and operate the State-owned Arts Centres situated in Whyalla, Port Pirie, Renmark and Mount Gambier;

develop and manage performing arts touring programs for the theatres and for other regional centres;

develop and manage visual arts touring programs; and

manage a number of arts and community development funding programs.

Five Country Arts Boards, each of which has a membership of eight, have responsibility for a specified area of country South Australia. The boards operate with a delegated responsibility from the trust. They assist with local touring and programming by assessing applications for funding under the arts program guidelines developed by the trust and within approved funding allocations.

The five Country Arts Boards as presently constituted are as follows:

Eyre Peninsula—covers the Eyre Peninsula, south of a line which can be drawn between Ceduna, Wudinna and Whyalla.

Northern—covers the far north and the mid-north of the State.

Central—covers the lower north, Barossa Valley, Adelaide Hills, Murraylands and the Southern Fleurieu Peninsula.

Riverland/Mallee—covers the Riverland and Mallee regions of the State.

South-East—covers the South-East region including Bordertown, Keith and Coonalpyn.

Since the establishment of the trust, economic issues and drought in country South Australia have adversely affected the trust's ability to earn income from its theatres, maximise box office receipts from its touring programs and generate sponsorships.

To ensure the trust's longer term financial viability, all of its administrative arrangements, arts programming, staffing and decision-making structures have been reassessed. As a consequence of these deliberations, the trust has implemented a package of savings initiatives, which maximises arts development funding and minimises administrative costs.

These measures include some workforce adjustments; greatly improved internal budget management; improved financial analysis and removal of duplication of functions; the better use of office space and greater cooperation with local government in this area. Further administrative savings to enable the maintenance of program funding can be achieved by reducing the number of Country Arts Boards, the number of members on the boards and the number of board meetings.

The Bill proposes that the number of Country Arts Boards be reduced to four as follows:

Western—to encompass the Eyre Peninsula region, the City of Port Augusta and the far north of South Australia (north and west of a line drawn approximately between Peterborough and Broken Hill).

Central—to encompass the mid north region (including the City of Port Pirie), the lower north, Barossa Valley, Murraylands, Adelaide Hills, Southern Fleurieu Peninsula and Kangaroo Island.

Riverland/Mallee—to encompass the Riverland/Mallee region and a small area in the north east of the State.

South-East—to encompass the South-East region of the State (its existing boundaries).

At present each Country Arts Board consists of eight members, being a Chair, a nominee of the relevant Local Government Association(s) and six persons appointed from a public nomination process.

To enable greater flexibility, given the differences between the regions (for example, distance and major population centres) it is proposed that each Country Arts Board consist of up to eight members with a minimum of five members.

This will yield additional savings (committee fees and travelling expenses, for example) without reducing effective local representation on the Country Arts Board. I would add that, in addition to this issue of savings there are arts development advantages arising from a smaller number of boards because boundaries do not become an artificial barrier for initiatives being undertaken in this area.

The Act at present provides that the Country Arts Boards can delegate, in certain circumstances, their responsibilities. As the only responsibilities of the Country Arts Boards are those which are delegated by the trust, it is appropriate that any further delegation be approved by the trust prior to the delegation being made by the board. Membership of the South Australian Country Arts Trust is currently 10, being the Chair, a nominee of the Local Government Association of South Australia, a representative from each of the five Country Arts Boards (nominated by the respective Country Arts Boards) and three other persons who provide business, entrepreneurial and arts skills.

In reducing the number of Country Arts Boards from five to four it is appropriate also to reduce the number of trustees from 10 to nine. It is also appropriate for the Chair of each of the Country Arts Boards be appointed to the trust. I commend the Bill to honourable members in the knowledge that the administrative reforms outlined will enable additional savings to be directed to arts development initiatives across country South Australia. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will come into operation by proclamation.

Clause 3: Amendment of s. 5—Membership of Trust

It is intended to reconstitute the *South Australian Country Arts Trust.* The trust currently consists of 10 members, including a member of each of the Country Arts Boards. It is proposed that the presiding members of the Country Arts Boards will, *ex officio*, become members of the trust. As it is proposed to reduce the number of boards from five to four, the membership of the trust is to be reduced from 10 to nine persons.

Clause 4: Amendment of s. 6—Terms and conditions of office

These amendments are consequential on the proposal that the presiding members of the Country Arts Boards be *ex officio* members of the trust.

Clause 5: Amendment of s. 7—Procedures of Trust

This is a consequential amendment.

Clause 6: Amendment of s. 20—Establishment of Country Arts Boards

It is proposed to reduce the number of Country Arts Board from five to four. The four new boards will be as follows:

Central Country Arts Board
Riverland/Mallee Country Arts Board
South East Country Arts Board
Western Country Arts Board.

Each Country Arts Board will be established in relation to a part of the State defined by proclamation.

Clause 7: Amendment of s. 21—Membership of Country Arts Boards

It is proposed that a Country Arts Board be constituted of between five and eight members (according to the number of members to be nominated by local residents and other persons of a prescribed class).

Clause 8: Amendment of s. 27—Delegation

This amendment will require that a Country Arts Board obtain the approval of the trust before it delegates a power or function under the Act.

Clause 9: Penalties

This clause provides for a revision of the penalties under the Act.

Clause 10: Transitional provisions

Various transitional provisions are required on account of the enactment of this measure. For example, members will need to be appointed to the new boards. In order to facilitate the transition to four new boards, the Minister will be able to reappoint members of the former boards who were nominated under section 21(1)*(c)* of the Act without further nomination. In addition, the Governor will be able to vest the assets, rights and liabilities of the former boards in the new boards that are to be constituted by this measure. The Governor will be able to make other provisions of a saving or transitional nature.

Schedule

The penalties under the Act are to be updated and will no longer be expressed as divisional penalties.

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

WAR TERMS REGULATION ACT REPEAL BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to repeal the War Terms Regulation Act 1920. Read a first time.

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

That this Bill be now read a second time.

The purpose of this Bill is to repeal the War Terms Regulation Act 1920. The War Terms Regulation Act 1920 (SA) was enacted to protect certain words synonymous with Australian fighting forces, namely, the words 'Anzac', 'Aussie', 'returned soldier', 'returned sailor', 'repatriation', 'Australian Imperial Force' and 'A.I.F.' or any word or expression associated with World War I. The Act prohibits the use of these words in the name of a trade, business, profession, private residence, boat, vehicle or any charitable institution unless the person first obtains the authority of the Attorney-General. Tasmania was the only other State to enact similar legislation, the War Terms Act 1921 (Tas), and this was repealed in 1987.

The Returned Soldiers League of Australia and the South Australian Branch of the League were consulted in relation to the proposed repeal of the South Australian Act. The League maintains the view that the only word for which it wishes to retain protection is the word 'Anzac'. This term is protected by the Protection of Word 'Anzac' Regulations 1921 (Commonwealth) made under the War Precautions Act Repeal Act 1920 (Commonwealth). The League confirms that the protection afforded by these regulations is sufficient.

The word 'Aussie' is the subject of numerous applications for authority to use in relation to a trade or business. Currently there are 124 business names registered with the State Business and Corporate Affairs Office. I commend the Bill to the House.

Clause 1: Short title

This clause is formal.

Clause 2: Repeal

This clause repeals the War Terms Regulation Act 1920.

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

CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1936 and to repeal the Mental Health (Supplementary Provisions) Act 1935. Read a first time.

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

That this Bill be now read a second time.

The special provisions of the criminal law dealing with major issues which arise when a person suffering from a mental illness comes before the courts of this State are to be found almost entirely in the common law. In general terms, the two major issues are the law concerning what is known as 'fitness to plead' and the law dealing with what is generally known as the 'defence of insanity'. The rules about 'fitness to plead' are rules which deal with the situation where a person, accused of a crime, cannot give full answer and defence, or instruct counsel to do so. This is generally linked to a capacity to understand legal proceedings, but not invariably so. It is usually the case that the reason why the accused cannot give full answer or defence and hence is not fit to plead is due to a mental illness of some kind. But, again, that is not invariably so. A person with a severe intellectual disability may also be in that position. Recently, a court in South Australia ruled a person unfit to plead due to severe physical illness. Moreover, there are cases on record where an accused has been found unfit to plead due to a combination of strong language and cultural differences.

The rules about when a person is or is not 'fit to plead' have not caused great difficulty and are preserved in this Bill. The same, however, cannot be said of the consequences of being found unfit to plead. The 'defence of insanity' deals not with an existing mental illness or impairment suffered by the accused at the time of trial, but an existing mental illness or impairment suffered by the accused at the time at which the accused is alleged to have committed the offence. The rules dealing with the question of criminal responsibility are still taken from an English judgment of 1843, referred to as the McNaughten Rules. In addition, in this State, there are some legislative provisions concerning detention contained in the Mental Health (Supplementary Provisions) Act 1935 which were derived from the English Criminal Lunatics Act 1800.

The test for legal 'insanity' and criminal responsibility, the court procedures by which this matter is dealt with and the outcome of a successful defence have all occasioned increasing disquiet and dissatisfaction in recent times. So far as the test is concerned, it has remained unchanged in form since 1843. Varying interpretations by the courts since that time have held that a severe anti-social personality disorder is not, or may not be, a mental illness, while, on the other hand, psychomotor epilepsy has been held to be a mental illness. In the code States of Queensland and Western Australia, a mental illness leading to a complete inability to control behaviour may lead to a defence of insanity, but not in the common law States.

The fact that the defence of insanity must be put to the jury as a part of the general issue of guilt or innocence has occasioned judicial criticism of the procedures by which the issue is tried. The procedure is confusing for juries. In addition, the common law is that if a person is found unfit to plead, or is found to be not guilty by reason of insanity, the only possible outcome is detention at the pleasure of Her Majesty—that is, indeterminate detention.

As a consequence, it is only those charged with the gravest of crimes who elect to invoke these legal procedures. Who would want to risk being labelled as criminally insane and confined for an indefinite period when the alleged crime is one of, say, common assault, carrying a maximum penalty of two years imprisonment?

There has been general agreement for many years that the law on these subjects is unsatisfactory. The Commonwealth enacted substantial legislation in 1989 and New South Wales made major amendments to its law in 1990. The Victorian Law Reform Commission recommended substantial change to the common law in that State in 1990 and in England reforms of a similar kind were enacted in 1991.

The defects of the common law may be summarised as follows:

(1) The current law operates badly—

- accused people avoid the defence of insanity except where the offence is very serious indeed, because the result of a 'successful' defence is indefinite detention;
- the legislation is archaic and offensively worded and is, in many respects, ignored in practice;
- those detained as mentally ill under the criminal law have few effective rights.

The result of all of this is that the role of mental impairment and intellectual disability in the criminal justice system is massively understated with consequent personal and systemic injustice.

(2) Other jurisdictions in this country have acted to reform their laws on the subject. While the results cannot be described as uniform, there are common themes. Most importantly, the Commonwealth enacted substantial reforms in 1989 and, unless South Australia acts to achieve some kind of consistency, it will result in drastically different treatment for State and Federal detainees. The Government is not urging complete uniformity but some degree of fair consistency is highly desirable.

(3) It is highly likely that the current law in this State is contrary to the International Covenant on Civil and Political Rights. In addition, the current state of the law does not conform to the UN Draft Guidelines and Principles for the Protection of the Mentally Ill. These matters have been detailed with considerable force by the Burdekin Report.

In this State, the first major statutory reform to the system was by the Criminal Law Consolidation (Detention of Insane Offenders) Amendment Act 1992. This Act was introduced as a private member's Bill by the Hon. R.J. Ritson. In general terms, it did three things—

(1) it removed decisions about the release on licence of detainees from the Governor in Council and gave the decision to the relevant court;

(2) it provided for the notification and consultation of next of kin and victims in decisions about release on licence; and

(3) it required the formulation of 'treatment plans' for detainees.

The Bill was passed by Parliament with the support of all Parties and stands as a testament to the interest and tenacity of Dr Ritson.

In the meantime, the whole set of issues had been taken up by the Standing Committee of Attorneys-General and referred to a subcommittee of officers, known then as the Criminal Law Officers Committee. That committee produced a report to the Standing Committee in December 1992 that contained recommendations generally consistent with the trend of reform, both in this country and overseas. This Bill has been drafted in order to take up those recommendations.

In general terms, the Bill is intended to achieve the following reforms:

(1) It defines 'mental illness' using the words chosen for the purpose by the High Court.

(2) It defines the roles of judge and jury;

(3) It isolates the question of the defendant's fitness to plead or the question of whether the defendant was, at the time of the alleged offence, suffering from mental impairment from other questions that may be at issue in the case. This enables judge and jury to concentrate on the issues affecting those fundamental questions.

(4) It ensures that if the question of fitness to plead or mental impairment is raised, the court must first be satisfied that there is sufficient evidence available to show that the accused actually committed the acts in question.

(5) It empowers a court that finds that the accused is unfit to plead, or was not criminally responsible (due to mental impairment), to make the most appropriate disposition with respect to each accused (including detention or community based treatment programs).

(6) It requires a court to set a limit to the exposure of the accused to any supervision order made—the limit being fixed in relation to the penalty that

would have been applicable had the accused been found guilty of the offence with which he or she was charged.

(7) It retains the 1992 reforms sponsored by the Hon. Dr Ritson, with some tidying up and clarification of the roles and responsibilities of those participating in the system who have legal responsibilities in relation to such people.

These reforms have been the subject of extensive consultation both within Government and in the general community. They have been overwhelmingly supported. The Government hopes that, as with the reforms of 1992, these long overdue reforms will attract the support of all Parties.

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

Leave granted.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Insertion of Part 8A

PART 8A
MENTAL IMPAIRMENT
DIVISION 1—PRELIMINARY

269A. Interpretation

This provides for definitions of words and phrases used in the Bill. In particular, mental illness and mental impairment are defined. Mental impairment is defined to include mental illness, an intellectual disability or a disorder or impairment of the mind as a result of senility. For the purposes of new Part 8A—

- the question whether a person was mentally competent to commit an offence is a question of fact;
- the question whether a person is mentally unfit to stand trial on a charge of an offence is a question of fact.

269B. Distribution of judicial functions between judge and jury

An investigation by a court into—

- a defendant's mental competence to commit an offence or a defendant's mental fitness to stand trial; or
- whether elements of the offence have been established,

is (unless the defendant has elected to have the matter dealt with by a judge sitting alone) to be conducted before a jury. Except where the trial judge thinks there are special reasons to have separate juries, the same jury may deal with issues arising about a defendant's mental competence to commit an offence, or fitness to stand trial, and the issues on which the defendant is to be tried. Any other powers or functions conferred on a court by new Part 8A are to be exercised by the court constituted of a judge sitting alone.

DIVISION 2—MENTAL COMPETENCE TO COMMIT OFFENCES

269C. Mental competence

A person is mentally incompetent to commit an offence if, at the time of the alleged offence, the person was suffering from a mental impairment and, as a result—

- did not know the nature or quality of the conduct; or
- did not know that the conduct was wrong; or
- was unable to control the conduct.

269D. Presumption of mental competence

It will be presumed that, unless a person is found on investigation under this new Division, to have been mentally incompetent to commit a particular offence, the person was mentally competent to have committed the offence.

269E. Reservation of question of mental competence

This sets out the procedure to be followed if, during a trial, the question of mental competence is raised as a defence or if the court decides that the defendant's mental competence should be investigated. The question of the defendant's mental competence to commit the offence must be separated from the remainder of the trial and the trial judge has a discretion to proceed first—

- with the trial of the objective elements of the offence; or
- with the trial of the mental competence of the defendant.

269F. What happens if trial judge decides to proceed first with trial of defendant's mental competence to commit offence

If the court is not satisfied on the balance of probabilities (the civil burden of proof) that the defendant was, at the time of the alleged offence, mentally incompetent to have committed it, the defendant will proceed to trial on the offence in the usual way.

If, however, the court is satisfied that the defendant was not mentally competent to have committed the alleged offence, the court must record such a finding and then proceed to hear evidence and argument relevant to the question of whether the objective elements of the alleged offence can be established.

The court must record whether the objective elements of the alleged offence are established beyond reasonable doubt (the burden of proof required in criminal matters). If they are, the court must declare the defendant not guilty but liable to supervision under this new Part. If the objective elements are not established, the defendant must be found not guilty and be discharged.

269G. What happens if trial judge decides to proceed first with trial of objective elements of offence

If the court is satisfied beyond reasonable doubt on evidence and argument put before it, that the defendant physically committed the act in question, the court must record a finding that the objective elements of the offence are established. If the court is not so satisfied, the court must record a finding that the defendant is not guilty of the offence. In that case, the defendant is free to go.

If the court is satisfied beyond reasonable doubt that the defendant physically committed the act in question, the court must then proceed to hear evidence and argument by both sides on the question of the defendant's mental competence to commit the offence. If the court is satisfied on the balance of probabilities that the defendant was not, at the time of the alleged offence, mentally competent to have committed it, the court must record a finding that the defendant is not guilty. The defendant will then be liable to supervision under this new Part (*see, in particular, Division 4, ss. 269O—269V*).

If the court is not so satisfied that the defendant was, at the relevant time, mentally incompetent to have committed the alleged offence, the defendant will proceed to trial on the offence in the usual way.

If there is agreement between the parties, the court may dispense with an investigation into a defendant's mental competence and declare the defendant mentally incompetent and liable to supervision under this new Part.

DIVISION 3—MENTAL UNFITNESS TO STAND TRIAL

269H. Mental unfitness to stand trial

A person is mentally unfit to stand trial on a charge of an offence if the person's mental processes are so disordered or impaired that the person is unable—

- to understand the charge, or to respond rationally to, the charge or allegations made against him or her; or
- to exercise, or give rational instructions about the exercise of, his or her procedural rights; or
- to understand the nature of the proceedings or to follow the evidence or the course of the proceedings.

269I. Presumption of mental fitness to stand trial

It will be presumed that a person is mentally fit to stand trial unless it is established that the person is not.

269J. Order for investigation of mental fitness to stand trial

If there are reasonable grounds to suppose that a person is mentally unfit to stand trial, the court may order an investigation under this new Division into the matter.

If a court of trial decides that the question of the defendant's mental fitness to stand trial should be investigated after the trial has begun, the court may adjourn or discontinue the trial and proceed with such an investigation.

If the question of a defendant's mental fitness to stand trial arises at the preliminary examination of a charge of an indictable offence, the question must be reserved for determination by the court of trial.

269K. Preliminary prognosis of defendant's condition

Before commencing a formal investigation under this new Division, the court may require the production of any expert reports that may exist in respect of the defendant's mental condition or, in its discretion, require that a report be made.

The court may adjourn such an investigation for up to 12 months if it appears from a report that, while the defendant is currently unfit to stand trial, he or she has a reasonable prospect of becoming fit some time within the next 12 months.

If after such an adjournment, the court reaches the opinion that there is no longer a need to proceed with an investigation under this new Division, the court may revoke the order and proceed to try the defendant in the usual way.

269L. Trial judge's discretion about course of trial

If the court orders an investigation into a defendant's mental fitness to stand trial, the trial judge has a discretion to try the question of the defendant's mental fitness to stand trial separately—

- before any other issue that is to be tried; or
- after a trial of the objective elements of the alleged offence.

269M. What happens if trial judge decides to proceed first with trial of defendant's mental fitness to stand trial

The court must hear evidence and argument put to it on the question of the defendant's mental fitness to stand trial and may require the defendant to undergo an expert examination and require the results of the examination to be reported to the court.

If the court is not satisfied on the balance of probabilities that the defendant is mentally unfit to stand trial, the court must proceed with the trial of the offence in the usual way.

If the court is satisfied on the balance of probabilities that the defendant is mentally unfit to stand trial, the court must record a finding to that effect.

If the parties agree, the court may dispense with or terminate an investigation under this new Division and record a finding that the defendant is mentally unfit to stand trial. If the court makes such a recording, the court must hear evidence and argument put to the court by the parties relevant to the question whether a finding should be recorded that the objective elements of the offence are established.

If the court is satisfied that the objective elements of the offence are established beyond reasonable doubt and there is no defence to the charge that could be established on the assumption that the defendant's mental faculties were not impaired at the time of the alleged offence, the court must record a finding that the objective elements of the offence are established and declare the defendant to be liable to supervision under this Part. Otherwise the court must find the defendant not guilty and discharge the defendant.

269N. What happens if trial judge decides to proceed first with trial of objective elements of offence

The court must first hear evidence and argument by the parties relevant to the question whether the court should find that the objective elements of the offence are established.

If the court is satisfied that the objective elements of the offence are established beyond reasonable doubt and there is no defence to the charge that could be established on the assumption that the defendant's mental faculties were not impaired at the time of the alleged offence, the court must record such a finding. Otherwise the court must find the defendant not guilty and discharge the defendant.

If the court finds that the objective elements of the offence are established, it must then hear evidence and argument on the question of the defendant's mental fitness to stand trial. It may also require the defendant to undergo an examination by an appropriate expert with the results being reported to the court. If the court is satisfied that the defendant is mentally unfit to stand trial, the court must record that and declare the defendant to be liable to supervision under this new Part.

If the court is not satisfied that the defendant is mentally unfit to stand trial, the court must proceed with the trial of the remaining issues (or may, at its discretion, re-start the trial).

The court may, if the parties agree, dispense with or terminate an investigation under this new Division, declare that the defendant is mentally unfit to stand trial and that he or she is liable to supervision under this new Part.

DIVISION 4—DISPOSITION OF PERSONS DECLARED TO BE LIABLE TO SUPERVISION UNDER THIS PART

269O. Supervision orders

The court by which a defendant is declared to be liable to supervision may—

- release the defendant unconditionally; or
- make a supervision order committing the defendant to detention under this new Part or releasing the defendant on licence on conditions.

If a court makes a supervision order, the court must fix a limiting term equivalent to the period of imprisonment or supervision that would have been appropriate if the defendant had been convicted of the offence of which the objective elements have been established.

At the end of the limiting term, a supervision order in force against the defendant lapses.

269P. Variation or revocation of supervision order

The court may, at any time during the limiting term, on the application of the Crown, the defendant, Parole Board, the Public Advocate or another person with a proper interest in the matter, vary or revoke a supervision order. An application by or on behalf of a defendant for variation or revocation of a supervision order cannot be made, except at the discretion of the court, within six months after the court has refused any such application.

269Q. Report on mental condition of the defendant

The Minister for Health must, within 30 days after the date of a declaration that a defendant is liable to supervision under this new Part, submit to the court a report on the mental condition of the defendant containing a diagnosis and prognosis and a suggested treatment plan prepared by an expert such as a psychiatrist.

For the duration of a supervision order, the Minister for Health must arrange to have submitted to the court (at intervals of not more than 12 months during the limiting term) a report containing a statement of any treatment that the defendant has undergone since the last report and any changes to the prognosis of the defendant's condition and the treatment plan for managing the condition.

269R. Report on attitudes of victims, next of kin, etc.

To assist the court in determining proceedings under this new Division, the Crown must provide the court with a report setting out the views of the next of kin of the defendant and the victims of the defendant's conduct. However, a report is not required if the purpose of the proceeding is to determine whether a defendant released on licence should be detained or subjected to a more rigorous form of supervision or to vary, in minor respects, the conditions on which a defendant is released on licence.

269S. Principle on which court is to act

The court must apply the principle that restrictions on the defendant's freedom and personal autonomy should be kept to the minimum consistent with the safety of the community when deciding whether to release a defendant under this new Division, or deciding the conditions of licence.

269T. Matters to which court is to have regard

The court should have regard to—

- the nature of the defendant's mental impairment; and
- whether the defendant is, or would if released be, likely to endanger another person, or other persons generally; and
- whether there are adequate resources available for the treatment and support of the defendant in the community; and
- whether the defendant is likely to comply with the conditions of a licence; and
- other matters that the court thinks relevant.

The court cannot release a defendant under this new Division, or significantly reduce the degree of supervision to which a defendant is subject, unless the court—

- has obtained and considered the reports of at least three experts on the mental condition of the defendant and the possible effects of the proposed action on the behaviour of the defendant; and
- has considered the report most recently submitted to the court by the Minister for Health; and
- has considered the report on the attitudes of victims and next of kin; and
- is satisfied that the defendant's next of kin and the victims of the offence with which the defendant was charged have been given reasonable notice of the proceedings (where possible).

269U. Cancellation of release on licence

A court that released a defendant on licence under this new Division may, on application by the Crown, cancel the release if satisfied that the defendant has contravened, or is likely to contravene, a condition of the licence. If a defendant who has been released on licence commits an offence while subject to the licence, and is sentenced to imprisonment for the offence, the release on licence is, by virtue of this new subsection, cancelled and the detention order is suspended while the defendant serves the term of imprisonment.

269V. Custody, supervision and care

A defendant who is committed to detention under this new Part is in the custody of the Minister for Health who may give appropriate directions for the custody, supervision and care of the defendant.

Supervisory responsibilities arising from conditions on which a person is released on licence are to be divided between the Parole Board and the Minister for Health in the following way:

- the supervisory responsibilities are to be exercised by the Minister for Health insofar as they relate to treating or monitoring the mental condition of the person;
- the supervisory responsibilities are in all other respects to be exercised by the Parole Board.

DIVISION 5—MISCELLANEOUS

269W. Counsel to have independent discretion

Counsel may act in what he or she genuinely believes to be the defendant's best interests if the defendant is unable to instruct counsel on questions relevant to an investigation under new Part 8A.

269X. Power of court to deal with defendant before proceedings completed

If a question of a defendant's mental competence, or mental fitness to stand trial, is reserved for investigation under new Part 8A, the court may release the defendant on bail or commit the defendant to some appropriate form of custody until the conclusion of the investigation. Prison is to be used for custody only where the court is satisfied that there is no practicable alternative.

If a court declares a defendant to be liable to supervision under new Part 8A but unresolved questions remain about how the court is to deal with the defendant, the court may release the defendant on bail or commit the defendant to some appropriate form of custody until some subsequent date when the defendant is to be brought again before the court. Again, prison is to be avoided except where the court is satisfied that there is no practicable alternative.

269Y. Appeals

An appeal lies to the appropriate appellate court against—

- a declaration that a defendant is liable to supervision under new Part 8A in the same way as an appeal against a conviction;
- a supervision order in the same way as an appeal against sentence.

However, an appeal lies only by leave of the court of trial or the appropriate appellate court against an order or decision made under new Part 8A before the court declares the defendant to be liable to supervision or decides that the trial of the defendant should proceed in the usual way.

269Z. Counselling of next of kin and victims

If an application is made under Division 4 of new Part 8A that might result in a defendant being released from detention, the Minister for Health must ensure that the defendant's next of kin and any victims of the offence are provided with counselling services in respect of the application. A person does not, in disclosing information about the defendant during the course of providing counselling under this proposed section, breach any code or rule of professional ethics.

269ZA. Exclusion of evidence

This clause is declaratory and makes it clear that a finding made on an investigation into a defendant's fitness to stand trial is a finding for that time and for that purpose only. In any proceedings taken against a defendant, whether civil or criminal, subsequent to such an investigation but arising from the same set of circumstances, evidence of a finding made during that investigation is not admissible.

269ZB. Arrest of person who escapes from detention, etc.

A person who is committed to detention under this new Part who escapes from detention, or who is absent without proper authority from the place of detention, may be arrested without warrant and returned to the place of detention by a member of the police force or an authorised person.

A Judge or other proper officer of a court may, if satisfied that there are proper grounds to suspect that a person released under a new Part 8A licence may have contravened or failed to comply with a condition of the licence, issue a warrant to have the person arrested and brought before the court.

SCHEDULE—Repeal and Transitional Provisions

The schedule contains repeal and transitional provisions.

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

SUMMARY OFFENCES (INDECENT OR OFFENSIVE MATERIAL) AMENDMENT BILL

The Hon. K.T. GRIFFIN obtained leave and introduced a Bill for an Act to amend the Summary Offences Act 1953. Read a first time.

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

That this Bill be now read a second time.

South Australian law dealing with offences of child pornography is largely contained in section 33 of the Summary Offences Act 1953. In particular, section 33 distinguishes between indecent or offensive material generally on the one hand and child pornography on the other, in the penalty structure applicable to the offences and in the creation of an offence of possession of child pornography. Section 58A of the Criminal Law Consolidation Act contains an offence, in general terms, of dealing with children with a view to gratifying prurient interest.

In *Phillips v SA Police*, the appellant was convicted by a magistrate of two counts of being in possession of child pornography contrary to section 33(3) of the Summary Offences Act. A member of the public informed police that the appellant had been seen inside a toilet block at Brighton taking videotapes of boys urinating. Police took possession of the appellant's video recorder and the tape inside it, and seized six more tapes from his house. The tapes were all taken in public toilets or changing sheds and showed many hours of men and boys dressing, undressing and urinating. He appealed against the convictions.

The Court of Criminal Appeal (Mohr, Debelle and Nyland JJ) unanimously allowed the appeal and quashed the convictions. The court gave a great deal of consideration to the meanings of the words used in the statute, but, in the end, the question was reduced to whether the videotapes in question were 'indecent'. The court held that the word 'indecent' meant offending recognised standards of propriety or good taste according to the contemporary standards of ordinary, decent-minded, but not unduly sensitive, members of the Australian community. The court held that the videotapes did not breach that standard.

The court reached its decision by holding that there was nothing inherently 'indecent' about the tapes. The court abhorred the invasion of privacy involved and the prurient interest in which the tapes were made, but pointed out that 'A young boy urinating is the subject of a well-known manikin displayed in public streets in at least two Western European cities, pieces of statuary which cause amusement, not offence, to reasonable decent-minded citizens.' What was offensive was the conduct of the accused and not his videotapes.

The statement of law contained in section 33(4) was a major factor in the steps to this conclusion. That subsection states:

> In proceedings for an offence against this section, the circumstances of the production, sale, exhibition, delivery or possession of material to which the charge relates will be regarded as irrelevant to the question of whether or not the material is indecent or offensive material.

The court decided that this required them to determine whether the material was inherently 'indecent' and that they could not take into account the fact that it was made for prurient interests and that it was made by surreptitiously filming unwitting members of the public in public places.

Section 33(4) was inserted by the Statutes Amendment (Criminal Law Consolidation and Police Offences) Act, No. 114 of 1983. That Act replaced the previous provisions of the then Police Offences Act with a whole new legislative scheme dealing with indecent and offensive material. There was no equivalent to section 33(4) in the old scheme and no record exists as to its precise purpose in the legislative scheme.

The decision that effectively acquitted the accused in this case has offended many in the community. The question is whether an offence of possession of child pornography should be limited to cases in which the material possessed is inherently indecent or offensive; that is, indecent or offensive without regard to context or any other matter. The Government is of the opinion that it should not be so limited and that the law should be changed.

The amendments to the definitions of 'indecent material' and 'offensive material' have been made with a view to removing words which may be held to carry the inference of inherent indecency or offensiveness. The proposed amendment to section 33(4) gives the court a general discretion to take surrounding circumstances into account.

The current definition of 'child pornography' refers to 'likely to cause offence to reasonable adult members of the community'. The current definition of 'offensive material' refers to 'cause serious and general offence amongst reasonable adult members of the community'. The amendments make these tests consistent. Some thought was given to incorporating the test used by Debelle J, which refers to 'cause serious offence to ordinary decent-minded (but not unduly sensitive) adult members of the community', but, on balance, it was thought that the existing formula was preferable.

I should emphasise that the Bill does not create a new criminal offence nor does it deem anything to be offensive or indecent. As anyone who has studied the history of the criminal law of what might, in general terms, be called 'obscenity' over the years will realise, hard and fast rules are not possible and much depends on the views of the court in relation to the material in question and how it relates, if at all, to prevailing social views and acceptability. What this amendment is designed to do, in brief, is to empower the court to look at the whole picture in making that individualised judgment, rather than being artificially restricted in the matters to which it can have regard.

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

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Substitution of heading

This clause replaces the current heading to section 33 and related sections of the principal Act. The new heading reflects the fact that the provisions deal with offensive material (material depicting or concerned with violence, cruelty, drugs, crime, etc.) rather than just indecent material.

Clause 3: Amendment of s. 33—Indecent or offensive material

This clause makes several related amendments to section 33 of the principal Act.

The clause makes the wording of the definition of "child pornography" in section 33(1) match up more closely with the wording in paragraph *(b)* of the definition of "offensive material".

Section 33(1) includes a definition of "indecent material" which defines such material by reference to the indecent, immoral or obscene nature of its subject matter. By referring to the subject matter of the material the definition tends to suggest that the section is concerned only with material that is inherently indecent. That is, the current wording suggests that surrounding circumstances are not relevant to whether material is indecent material. The clause amends the definition so that it refers only to material that is in whole or in part of an indecent, immoral or obscene nature.

The definition of "offensive material" in section 33(1) similarly emphasises the inherent nature of material by including as an element of the definition that material be such as would, if generally disseminated, cause serious and general offence amongst reasonable adult members of the community. The clause removes this reference to the general dissemination of the material.

Section 33(4) currently provides as follows:

(4) In proceedings for an offence against this section, the circumstances of the production, sale, exhibition, delivery or possession of material to which the charge relates will be regarded as irrelevant to the question of whether or not the material is indecent or offensive material.

The clause replaces this subsection with a provision intended to make it clear that the circumstances of the production, sale, exhibition, delivery or possession of material or its use or intended use may be taken into account in deciding whether the material was indecent or offensive material, but that if the material was inherently indecent or offensive material, such circumstances or its use or intended use cannot be taken to have deprived it of that character.

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

CLASSIFICATIONS (PUBLICATIONS, FILMS AND COMPUTER GAMES) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the establishment and enforcement of schemes for the classification of publications, films and computer games; to repeal the Classification of Films for Public Exhibition Act 1971 and the Classification of Publications Act 1974; to amend the Classification of Theatrical Performances Act 1978; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

This Bill provides for the adoption by South Australia of a uniform national scheme for classification of publications, films, videos and computer games. The Bill was introduced on 26 July 1995 and has been circulated widely for comment since that time. The Bill was circulated to a number of interested groups and individuals, including children and youth interest groups, industry representatives and individuals with an interest (and experience) in the classification area.

Currently, the distribution of films, videos and publications in all Australian jurisdictions is regulated by many Federal, State and Territory laws. The Commonwealth Film Censorship Board (the board) operates under more than eight pieces of legislation and the resulting lack of uniformity has led to administrative difficulties for the Board and the film and print industries.

THE AUSTRALIAN LAW REFORM COMMISSION REPORT 'CENSORSHIP PROCEDURE'

The Australian Law Reform Commission (ALRC) was requested by the Federal Attorney-General to report as to how the Commonwealth, State and Territory laws relating to the censorship and classification of imported and locally produced film and printed matter for public exhibition, sale or hire could be simplified and made more uniform and efficient, while still giving effect to policy agreed between the Commonwealth, the States and the Northern Territory.

The report of the ALRC was tabled in the Federal Parliament in September 1991. In summary, the major

recommendations of the report 'Censorship Procedure' were as follows;

- the rationalisation of existing Commonwealth, State and Territory legislation into a national scheme;
- the upgrading of the Commonwealth's existing 'voluntary' scheme for the classification of literature to a 'partially compulsory' scheme which focuses primarily on adult material;
- implementation of a compulsory classification scheme for computer games;
- the revision of the censorship fee sharing arrangements;
- widening the right to appeal against classification decisions to include members of the public, but not 'mere meddlers'. (This recommendation did not have majority support).

THE COMMONWEALTH CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ACT, 1995 ('the Commonwealth Act')

The Standing Committee of Attorneys-General agreed on a draft Commonwealth Bill and on the 24 January 1994 Federal Cabinet approved the adoption in principle of a uniform national scheme of classification as recommended by the ALRC and approved the release of draft legislation (the Classification (Publications, Films and Computer Games) Act, 1995) for the purposes of public consultation.

The Senate Select Committee on the Community Standards Relevant to the Supply of Services Utilising Electronic Technologies held a hearing on the Commonwealth Act and tabled its report on 29 November 1994. The committee's first recommendation indicates that it supports the Commonwealth Act.

Reflecting the cooperative nature of Australia's censorship laws, the Commonwealth Act is for a Federal Act for the Australian Capital Territory under section 122 of the Constitution. The ACT self-government legislation reserved to the Commonwealth the power to classify material for censorship purposes. This was to ensure that a national censorship scheme was preserved.

The Commonwealth Act passed through Federal Parliament on 7 March 1995 and was given the Royal Assent on 16 March 1995. The Commonwealth Act will not be able to be brought into force until complementary State and Territory legislation is enacted. Ministers responsible for censorship are currently aiming for 1 January 1996 as the implementation date for operation of complementary State and Territory legislation.

Under the new scheme, it is proposed the State and Territory legislation will adopt, in enforcement laws, the classification decisions made under the Commonwealth Act. It is the State and Territory legislation that will, in effect, govern the submission of films, publications and computer games to the Classification Board (the board) for classification. It will also deal with the consequences, in the respective jurisdictions, of the different classifications given by the board to films, publications and computer games.

1. The Classification Code and the Guidelines

The Commonwealth Act establishes the Classification Board and the Classification Review Board and provides that classification decisions for publications, films and computer games are to be made in accordance with the National Classification Code and the guidelines. Both the code and the guidelines have been agreed between the Commonwealth, States and Territories and any amendments to either must be similarly agreed. It is intended that tabling of any amendments to the code and guidelines will occur in each of the Commonwealth, State and Territory Parliaments. I will at the appropriate time make available to members the code and guidelines for the information of those members.

2. Films and Videos

Pursuant to the Commonwealth Act, the compulsory classification of all films and videos will continue except for films for business, accounting, professional, scientific or educational purposes. This exemption will not apply if the film contains a visual image that would be likely to cause it to be classified MA, R, X or RC.

3. Publications

The current voluntary scheme in relation to publications is to be replaced by a partially compulsory scheme. Publications that straddle the category 1 restricted classification, which is the lowest classification for restricted publications, and the upper end of the unrestricted category will be required to be submitted for classification. The Commonwealth Act enables the Director (described as the Chief Censor) to 'call-in' such publications, called 'submittable publications', for classification.

4. Computer Games

The new scheme will provide for compulsory classification of computer games except for business, accounting, professional, scientific or educational computer software. This exemption will not apply if the software contains images that would be classified MA(15+) or RC.

5. Bulletin Boards and other On-Line Services

An amendment to delete the exclusion of computer bulletin boards from the definition of 'film' and 'computer game' was made in the House of Representatives. Although there has been no decision to date on the regulation of bulletin boards, the removal of this exclusion will allow the Classification Board to classify material on bulletin boards should there be a future requirement. At present, a consultation paper on the regulation of on-line services has been posted on the Internet and circulated in hard copy form for comment. The paper discusses a proposed system of self-regulation for the computer industry and includes an outline of possible offences relating to the use of an on-line information service for consideration and comment. This issue may be addressed when the Bill is further discussed.

6. Classification Fees

Present fees for classification are levied under State and Territory legislation, collected by the Commonwealth and shared equally between the Commonwealth, States and Northern Territory. The Commonwealth Act provides for the Commonwealth to levy classification fees in the future. In return for the States and Territories forgoing their fee powers and in recognition of their enforcement costs, it is proposed that they each receive the average of their share over the last five years, a total of $600 000 in 1994-95. This amount will be adjusted in future years by the change in the Consumer Price Index.

The Commonwealth Act will also enable the Commonwealth to increase, over several years, charges for classification services so that there is substantial cost recovery. This will be done by introducing charges for new initiatives and increasing costs to reflect the cost of the service provided. If there is an excess in fees levied, it is agreed that that excess will be paid to all participating parties in equal parts.

I now refer to the Classification (Publications, Films and Computer Games) Bill (which I will describe as 'the State Bill'). A model State/Territory Classification Enforcement Bill was prepared for consideration by the States and Territories. Ministers responsible agreed that uniformity of offences

and penalties was desirable in this area, but not compulsory. A table of indicative penalties was prepared for Ministers' consideration.

At present, there are three separate pieces of State legislation dealing with censorship. These are the Classification of Films for Public Exhibition Act 1971, the Classification of Publications Act 1974 and the Classification of Theatrical Performances Act 1978.

The Classification (Publications, Films and Computer Games) Bill ('the State Bill') has been prepared, based on the national uniform model Enforcement Bill but tailored to take into account the existing classification system in South Australia.

The State Bill contains the following provisions:

- existing legislation dealing with classification matters (as outlined above) has been repealed and these matters (plus computer games) are now all contained in the State Bill. (Classification of theatrical performances will continue to be dealt with in a separate piece of legislation, the Classification of Theatrical Performances Act 1978, because that is not part of the cooperative scheme);

  Having these classification matters dealt with in the one piece of legislation, that is, publications, films, videos and computer games will ensure that the processes are easily accessed and understood by the industry and members of the community.
- establishment of a State body (renamed the South Australian Classification Council to avoid confusion with the Classification Board established under the Commonwealth Act) which may examine, for classification purposes, a publication, film or computer game.

  The Minister may request the Council to examine a publication, film or computer game for classification purposes or may require the Council to provide advice to assist the Minister to decide on a classification. If the Minister classifies, the Council may not proceed to classify a publication, film or computer game.

  The classification decisions made by the board will be adopted by South Australia but may be reviewed under the State Bill.

  The council or the Minister may classify a publication, film or computer game despite the fact that it is classified under the Commonwealth Act. A classification decided by the Council or the Minister has effect to the exclusion of any classification under the Commonwealth Act.
- The classification criteria in the State Bill are identical to the criteria applied by the Commonwealth Board to ensure that classification decisions are made on the same basis at both a State and Commonwealth level. Despite this, there may be a difference between the two bodies as to the standards generally accepted by reasonable adults which leads to a different classification decision.
- reclassification of a publication, film or computer game after two years in line with the same powers in the Commonwealth Act. The State Bill also makes provision for approval and 'calling-in' of advertisements. A decision to approve or refuse an advertisement by the Council has effect to the exclusion of any decision to approve or refuse to approve the same advertisement under the Commonwealth Act.
- the offence provisions are in line with the model Enforcement Bill as agreed by Ministers responsible for censorship. The existing penalties were examined alongside the indicative penalty levels and the higher penalty adopted in the State Bill.
- the State contains exemption provisions in Part 9 to exempt a film, publication, computer game or advertisement from the classification process. This will be used only in certain instances, for example, a film festival. The State Bill also allows for the imposition of conditions as to the admission of persons to the screening of films.

As noted earlier, this Bill was introduced on 26 July 1995 to enable a period of consultation with interested parties. Copies of the draft Bill were sent to a number of interested groups and individuals, both in the industry and community, for comment. The Government has received a number of messages of support for the Bill, the general feeling being that the cooperative approach taken by the Commonwealth, States and Territories is welcome and will result in less confusion in the area of classification.

As a result of the consultation process, a few minor amendments have been made to the Bill to reflect concerns raised. Several groups, including the Australian Council for Children's Film and Television and the Australian Federation of University Women, have expressed concern about provisions in the Bill, in particular clause 34(2), which allows a parent or guardian to exhibit restricted material to a child.

Concern has also been expressed about the defence under clause 34(4) that the defendant believed on reasonable grounds that the parent or guardian of the minor had consented to the exhibition of the film. The Government has considered these provisions and agrees that clause 34(4) is problematic in so far as it may be difficult to establish whether the parent or guardian of the minor had provided consent, and as a result this provision has been left out.

With regard to the broader notion of parental permission, the Government is of the view that this should remain, as under the current legislation, that is, the Classification of Publications Act 1974 (section 14a), this defence is provided in relation to exhibiting restricted material to a minor. The rationale for this defence is that parents should not be deprived of the right to determine what their children can and cannot see.

Given that the parental defence is in the existing legislation relating to classification matters, the Government is of the view that it should be preserved in the new Bill.

The provisions of clause 31, which make it an offence to exhibit, so that it can be seen from a public place, an 'R' or 'MA' film, have also been reconsidered.

Currently, the Minister is granted a discretion in section 116 of the Classification of Films for Public Exhibition Act 1971 to prohibit the exhibition of restricted films in drive-in theatres or any specified theatre where it is possible to view the film from outside the theatre.

Given that there are very few complaints about material exhibited in a drive-in theatre, and the responsible attitude of managers in this area, the view has been taken that the position under the existing legislation should be maintained in the new Bill. This will allow the Minister a discretion to prohibit viewing only if necessary. There are similar provisions in clause 58 relating to computer games. The Government's view is that these provisions should remain and that 'MA' computer games should not be exhibited so that they can be seen from outside due to concerns about the effect on children of viewing material considered unsuitable.

Lastly, the Bill has been amended to require that, of the six members of the Council, one shall be a legal practitioner, one shall be a person with expertise in the psychological development of young children and adolescents and one shall be a person with wide experience in education. This is consistent with the existing provisions of the Classification of Publications Act 1974. I commend this Bill to members. I seek leave to have the detailed explanation of clauses included in *Hansard* without my reading it.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

Under this clause the measure is to be brought into operation by proclamation.

Clause 3: Objects

The objects of this measure are—

(a) to establish a scheme complementary to the scheme for the classification of publications, films and computer games set out in the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth; and

(b) to make provision for South Australian classification authorities that may, when satisfied that it is appropriate to do so in particular cases, make classification decisions with respect to publications, films or computer games (that will prevail in South Australia over any inconsistent decisions made under the Commonwealth Act); and

(c) to make provision for the enforcement of classification decisions applying in South Australia; and

(d) to prohibit the publication of certain publications, films and computer games; and

(e) to provide protection against prosecution under laws relating to obscenity, indecency, offensive materials or blasphemy when classified publications, films or computer games are published in accordance with this measure.

Clause 4: Interpretation

This clause sets out the definitions of terms used in the measure. A number of terms are defined by reference to their meanings under the Commonwealth Act. As a result—

'computer game' will mean a computer program and associated data capable of generating a display on a computer monitor, television screen, liquid crystal display or similar medium that allows the playing of an interactive game, but will not include—

(a) an advertisement;

(b) business, accounting, professional, scientific or educational computer software unless the software contains a computer game that would be likely to be classified MA (15+) or RC;

'film' will include a cinematograph film, a slide, video tape and video disc and any other form of recording from which a visual image, including a computer generated image, can be produced, but will not include—

(a) a computer game; or

(b) an advertisement for a publication, a film or a computer game; or

(c) a recording for business, accounting, professional, scientific or educational purposes unless it contains a visual image that would be likely to cause the recording to be classified MA, R, X or RC;

'interactive game' will mean a game in which the way the game proceeds and the result achieved at various stages of the game is determined in response to the decisions, inputs and direct involvement of the player;

'publication' will mean any written or pictorial matter, but not include—

(a) a film; or

(b) a computer game; or

(c) an advertisement for a publication, a film or a computer game;

'publish' will include sell, offer for sale, let on hire, exhibit, display, distribute and demonstrate;

'submittable publication' will mean an unclassified publication that, having regard to the Code and the classification guidelines to the extent that they relate to publications, contains depictions or descriptions of sexual matters, drugs, nudity or violence that are likely to cause offence to a reasonable adult to the extent that the publication should not be sold as an unrestricted publication;

'work' will mean a cinematic composition that—

(a) appears to be self-contained; and

(b) is produced for viewings as a discrete entity,

but not include an advertisement.

Clause 5: Exhibition of film

The measure contains various offences and provisions relating to the exhibition of a film. This clause provides that a person exhibits a film if the person—

(a) arranges or conducts the exhibition of the film in the public place; or

(b) has the superintendence or management of the public place in which the film is exhibited.

Clause 6: Application

This clause makes it clear that the measure does not apply to broadcasting services to which Commonwealth broadcasting legislation applies.

PART 2

SOUTH AUSTRALIAN CLASSIFICATION COUNCIL

Clause 7: South Australian Classification Council

This clause establishes the South Australian Classification Council.

Clause 8: Membership

This clause provides that the Council will have a membership of six appointed by the Governor and deals with their appointment and removal from office.

Clause 9: Remuneration

This clause allows for payment to Council members of allowances and expenses determined by the Governor.

Clause 10: Vacancies or defects in appointment of members

Under this clause an act or proceeding of the Council will not be invalid because of a vacancy in its membership or a defect in the appointment of a member.

Clause 11: Immunity from personal liability

A member of the Council is protected from personal liability for an honest act or omission of the Council or the member in the performance or exercise, or purported performance or exercise, of functions or powers under this Act. Any such liability will instead lie against the Crown.

Clause 12: Proceedings

This clause regulates proceedings of the Council.

Clause 13: Registrar of Council

This clause provides for a Registrar of the Council who is to be an employee in the public service.

Clause 14: Powers

This clause sets out necessary powers that the Council will require in order to inform itself in relation to classification matters such as power to summon witnesses, require the production of publications, films, computer games and other material and so on.

PART 3

CLASSIFICATION BY SOUTH AUSTRALIAN AUTHORITIES

DIVISION 1—TYPES OF CLASSIFICATIONS

Clause 15: Types of classifications

This clause sets out the various types of classification as currently provided under the Commonwealth Act. They are as follows:

For publications in ascending order—

Unrestricted
Category 1 restricted
Category 2 restricted
RC (Refused Classification).

For films in ascending order—

G (General)
PG (Parental Guidance)
M (Mature)
MA (Mature Accompanied)
R (Restricted)
X (Restricted)
RC (Refused Classification).

For computer games in ascending order—

G (General)
G (8+) (Mature)
M (15+) (Mature)
MA (15+) (Mature Restricted)
RC (Refused Classification).

DIVISION 2—CLASSIFICATION PROCESS

Clause 16: Classification by Council or Minister

This clause provides that the Council may, of its own initiative, and must, if so required by the Minister, examine a publication, film or

computer game for classification purposes and authorises the Council to classify a publication, film or computer game.

However, under the clause, the Minister may require the Council to provide advice as to the classification of a publication, film or computer game. In that case, the Council is to provide such advice and may not, unless the Minister otherwise determines, proceed itself to classify the publication, film or game. Instead the Minister may himself or herself classify the publication, film or game after considering the Council's advice.

Notice of a classification determined by the Council or the Minister must be published in the *South Australian Government Gazette* and the classification will take effect on a date specified in the notice or, if no date is so specified, the date of publication of the notice.

Clause 17: Relationship with classification under Commonwealth Act

This clause makes it clear that the Council or the Minister may classify a publication, film or computer game despite the fact that it is classified under the Commonwealth Act.

A classification decided by the Council or the Minister is to have effect to the exclusion of any classification of the same publication, film or computer game under the Commonwealth Act.

Clause 18: Classification of publications, films and games in accordance with national code and guidelines

This clause provides that publications, films and computer games are to be classified by the Council or the Minister according to the same criteria as apply under the Commonwealth Act, that is, in accordance with the National Classification Code and the national classification guidelines.

Clause 19: Matters to be considered in classification

This clause sets out the matters to be taken into account by the Council or the Minister in making a decision on the classification of a publication, film or computer game. Again these matters are the same as under the Commonwealth Act. As under the Commonwealth Act they include—

(a) the standards of morality, decency and propriety generally accepted by reasonable adults; and

(b) the literary, artistic or educational merit (if any) of the publication, film or game; and

(c) the general character of the publication, film or game, including whether it is of a medical, legal or scientific character; and

(d) the persons or class of persons to or amongst whom it is published or is intended or likely to be published.

Clause 20: Considered form of film or computer game to be final

Also, as under the Commonwealth Act, the Council or the Minister must assume, in classifying a film or computer game, that the film or game will be published only in the form in which it is considered for classification.

A classification decided by the Council or the Minister for a film is taken to be the classification for each work comprised in the film.

Clause 21: Consumer advice for films and computer games

Under this clause, the Council or the Minister may, when classifying a film or computer game, determine consumer advice giving information about the content of the film or game.

A determination of consumer advice under this clause will have effect to the exclusion of any determination of consumer advice for the same film or computer game under the Commonwealth Act.

Notice of such a determination must be published in the *South Australian Government Gazette*.

Clause 22: Classification of films or computer games containing advertisements

This clause prevents the classification of a film or computer game if it contains an advertisement for an unclassified film or computer game or a film or computer game that has a higher classification.

Clause 23: Declassification of classified films or computer games

This clause makes it clear that if a classified film or computer game is modified, it becomes unclassified. This does not prevent inclusion of an advertisement.

Clause 24: Reclassification

As under the Commonwealth Act, a publication, film or computer game that is classified under this Part may not be reclassified unless two years have elapsed since the date on which its current classification took effect.

DIVISION 3—APPROVAL OF ADVERTISEMENTS

Clause 25: Application of Division

This Division applies only to a publication, film or computer game classified by the Council or the Minister.

Clause 26: Approval of advertisements

The Council may approve or refuse to approve an advertisement for a publication, film or computer game either on an application for approval or on its own initiative.

An approval of an advertisement may be subject to conditions.

The matters to be taken into account in deciding whether to approve an advertisement for a publication, film or computer game are the same as those to be taken into account when deciding the classification of publications, films or computer games respectively.

As under the Commonwealth Act, the Council must refuse to approve an advertisement if, in the opinion of the Council, the advertisement—

(a) describes, depicts or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that it offends against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that it should not be approved; or

(b) describes or depicts, in a way that is likely to cause offence to a reasonable adult, a minor (whether engaged in sexual activity or not) who is, or who appears to be, under 16; or

(c) promotes crime or violence, or incites or instructs in matters of crime or violence; or

(d) is used, or is likely to be used, in a way that is offensive to a reasonable adult.

The Council must refuse to approve an advertisement for a publication, film or computer game classified RC.

A decision of the Council to approve or refuse to approve an advertisement for a publication, film or computer game will have effect to the exclusion of any corresponding decision relating to the same advertisement under the Commonwealth Act.

Clause 27: Calling in advertisements

Under this clause, the Council may require a publisher to submit to the Council a copy of every advertisement used or intended to be used in connection with the publishing of the publication, film or game.

An advertisement called in by the Council will, if not submitted to or approved by the Council, be taken to have been refused approval.

PART 4

FILMS—EXHIBITION, SALE, ETC.

DIVISION 1—EXHIBITION OF FILMS

Clause 28: Exhibition of film in public place

This clause makes it an offence for a person to exhibit a film in a public place unless the film—

(a) is classified; and

(b) is exhibited with the same title as that under which it is classified; and

(c) is exhibited in the form, without alteration or addition, in which it is classified.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 29: Display of notice about classifications

This clause makes it an offence for a person to exhibit a film in a public place unless the person keeps a notice in the approved form about classifications for films on display in a prominent place in that public place so that the notice is clearly visible to the public.

The clause fixes a maximum penalty of a division 8 fine ($1 000) for this offence.

Clause 30: Exhibition of RC and X films

This clause makes it an offence for a person to exhibit in a public place or so that it can be seen from a public place—

(a) an unclassified film that would, if classified, be classified RC or X; or

(b) a film classified RC or X.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

Clause 31: Prohibition of exhibition of R and MA films in certain places

This clause empowers the Minister to prohibit the exhibition of R or MA films in drive-ins or any other public place where a film that is being exhibited may be seen from an ordinary vantage point outside the place.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for contravention of a Ministerial notice imposing such a prohibition.

Clause 32: Attendance of minor at certain films—offence by parents, etc.

This clause makes it an offence for a person who—

(a) is a parent or guardian of a minor; and

(b) knows that a film classified RC, X or R or an unclassified film that would, if classified, be classified RC, X or R is to be exhibited in a public place,

to permit the minor to attend the exhibition of the film.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Clause 33: Attendance of minor at certain films—offence by minor

This clause makes it an offence for a person who is 15 or older to attend the exhibition in a public place of a film classified RC, X or R, knowing that the film is so classified.

The clause fixes a maximum penalty of a division 9 fine ($500) for this offence.

Clause 34: Private exhibition of certain films in presence of a minor

Under this clause it will be an offence for a person to exhibit in a place, other than a public place, in the presence of a minor—

(a) an unclassified film that would, if classified, be classified RC or X; or

(b) a film classified RC or X.

The clause fixes a maximum penalty of a division 4 fine ($15 000) for this offence.

The clause also makes it an offence for a person to exhibit in a place, other than a public place, in the presence of a minor, a film classified R unless the person is a parent or guardian of the minor.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

It will be a defence to a prosecution for either of these offences to prove that the defendant believed on reasonable grounds that the minor was an adult.

Clause 35: Attendance of minor at R film—offence by exhibitor

This clause makes it an offence for a person to exhibit in a public place a film classified R if a minor is present during any part of the exhibition.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

It will be a defence to a prosecution for such an offence to prove that—

(a) the minor produced to the defendant or the defendant's employee or agent acceptable proof of age before the minor was admitted to the public place; or

(b) the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was an adult.

Clause 36: Attendance of minor at MA film—offence by exhibitor

Under this clause it will be an offence for a person to exhibit in a public place a film classified MA if—

(a) a minor under 15 is present during any part of the exhibition; and

(b) the minor is not accompanied by his or her parent or guardian.

The clause fixes a maximum penalty of a division 8 fine ($1 000) for this offence.

It will be a defence to a prosecution for such an offence to prove that—

(a) the defendant or the defendant's employee or agent took all reasonable steps to ensure that a minor was not present during the exhibition of the film; or

(b) the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was 15 or older; or

(c) the defendant or the defendant's employee or agent believed on reasonable grounds that the person accompanying the minor was the minor's parent or guardian.

DIVISION 2—SALE OF FILMS

Clause 37: Sale of films

Under this clause it will be an offence for a person to sell a film unless the film—

(a) is classified; and

(b) is sold under the same title as that under which it is classified; and

(c) is sold in the form, without alteration or addition, in which it is classified.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 38: Sale of RC and X films

This clause makes it an offence for a person to sell an unclassified film that would, if classified, be classified RC or X or a film classified RC or X.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

Clause 39: Display of notice about classifications

Under this clause it will be an offence for a person to sell films on any premises unless the person keeps a notice in the approved form about classifications for films on display in a prominent place on the premises so that the notice is clearly visible to the public.

The clause fixes a maximum penalty of a division 8 fine ($1 000) for this offence.

Clause 40: Films to bear determined markings and consumer advice

This clause makes it an offence for a person to sell a film unless the determined markings relevant to the classification of the film and relevant consumer advice, if any, are displayed on the container, wrapping or casing of the film.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Similarly, a person must not sell an unclassified film with markings indicating or suggesting that the film has been classified or sell a classified film with markings that indicates or suggests that the film is unclassified or has a different classification.

Clause 41: Keeping unclassified or RC films with other films

Under this clause it will be an offence for a person to keep or possess an unclassified film or a film classified RC or X on any premises where classified films are sold.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 42: Sale or delivery of certain films to minors

This clause makes it an offence for a person to sell or deliver to a minor an unclassified film that would, if classified, be classified RC or X or a film classified RC or X.

The clause fixes a maximum penalty of a division 4 fine ($15 000) for this offence.

The clause also makes it an offence for a person to sell or deliver to a minor a film classified R unless the person is a parent or guardian of the minor.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

It will be a defence to a prosecution for this second offence to prove that—

(a) the minor produced to the defendant or the defendant's employee or agent acceptable proof of age before the defendant sold or delivered the film to the minor and the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was an adult; or

(b) the minor was employed by the defendant or the defendant's employer and the delivery took place in the course of that employment.

The clause creates further offences where a minor who is 15 or older buys a film classified RC, X or R, knowing that it is so classified or a person sells or delivers to a minor under 15 a film classified MA unless the person is a parent or guardian of the minor.

It will be a defence to a prosecution for an offence of selling or delivering an MA film to a minor under 15 to prove that the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was 15 or older or that the parent or guardian of the minor had consented to the sale or delivery.

DIVISION 3—MISCELLANEOUS

Clause 43: Power to demand particulars and expel minors

This clause authorises persons exhibiting, selling or delivering films and members of the police force to demand the names, ages and addresses of persons attending the exhibition of films or seeking to purchase or take delivery of films.

Further, the exhibitor or an employee or agent of the exhibitor or a member of the police force may expel a person if there are reasonable grounds to suspect that the person's presence during the exhibition of a film is, or would be, in contravention of this Part.

Clause 44: Leaving films in certain places

This clause makes it an offence for a person to leave in a public place or, without the occupier's permission, on private premises an unclassified film that would, if classified, be classified RC or X or a film classified RC or X.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause creates a similar offence for an R or MA film or an unclassified film that would, if classified, be classified R or MA with a maximum penalty of a division 8 fine ($1 000).

Clause 45: Possession or copying of film for purpose of sale or exhibition

Under this clause it will be an offence for a person to possess or copy an unclassified film that would, if classified, be classified RC or X

or a film classified RC or X with the intention of exhibiting or selling the film or copy.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

PART 5

PUBLICATIONS—SALE, DELIVERY, ETC.

Clause 46: Sale of unclassified or RC publications

This clause makes it an offence for a person to sell or deliver (other than for the purpose of classification or law enforcement) a publication classified RC, knowing that it is such a publication.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause creates a similar offence for a submittable publication with a maximum penalty of a division 6 fine ($4 000). It will be a defence to a prosecution for such an offence to prove that since the offence was alleged to have been committed the publication has been classified Unrestricted.

Clause 47: Category 1 restricted publications

Under this clause it will be an offence for a person to sell or deliver a publication classified Category 1 restricted unless—

(a) it is contained in a sealed package made of opaque material; and

(b) both the publication and the package bear the determined markings.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 48: Category 2 restricted publications

Under this clause a publication that is classified Category 2 restricted must not be—

(a) sold, displayed or delivered except in a restricted publications area; or

(b) delivered to a person who has not made a direct request for the publication; or

(c) delivered to a person unless it is contained in a package made of opaque material; or

(d) published unless it bears the determined markings.

Breach of this provision will be an offence with a maximum penalty of a division 5 fine ($8 000).

Clause 49: Publications classified unrestricted

This clause makes it an offence for a person to sell, deliver or publish a publication classified Unrestricted unless it bears the determined markings.

The maximum penalty for this offence is a division 9 fine ($500).

Clause 50: Misleading or deceptive markings

Under this clause a person must not publish an unclassified publication with a marking, or in packaging with a marking, that indicates or suggests that the publication has been classified.

The maximum penalty for this offence is a division 7 fine ($2 000).

Further, a person must not publish a classified publication with a marking, or in packaging with a marking, that indicates or suggests that the publication is unclassified or has a different classification.

The maximum penalty for this offence is a division 7 fine ($2 000).

Clause 51: Sale of certain publications to minors

This clause makes it an offence for a person to sell or deliver to a minor a publication classified RC or Category 2 restricted.

The clause fixes a maximum penalty of a division 4 fine ($15 000) for this offence.

The clause also makes it an offence for a person to sell or deliver to a minor a publication classified Category 1 restricted unless the person is a parent or guardian of the minor.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

It will be a defence to a prosecution for either of these offences to prove that the minor produced to the defendant acceptable proof of age before the defendant sold or delivered the publication to the minor and the defendant believed on reasonable grounds that the minor was an adult.

Clause 52: Leaving or displaying publications in certain places

Under this clause it will be an offence for a person to leave in a public place or, without the occupier's permission, on private premises, or display in such a manner as to be visible to persons in a public place, a publication classified RC or Category 2 restricted, knowing that it is such a publication.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

It is a defence to a prosecution for such an offence to prove, in a case where a publication classified Category 2 restricted was left or displayed in a public place, that the defendant believed on reasonable grounds that the public place was a restricted publications area.

The clause creates a similar offence for a submittable publication or a Category 1 restricted publication with a maximum penalty of a division 6 fine ($4 000).

It will be a defence to a prosecution for such an offence to prove—

(a) that since the offence was alleged to have been committed the publication has been classified Unrestricted;

(b) in a case where a publication classified Category 1 restricted was left or displayed in a public place, that the public place was a shop or stall and the requirements under this Part for packaging and markings were complied with in relation to the publication.

Clause 53: Possession or copying of publication for the purpose of publishing

Under this clause it will be an offence for a person to possess or copy a publication classified RC, with the intention of selling the publication or the copy.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause creates a similar offence for a submittable publication or a Category 1 restricted publication with a maximum penalty of a division 6 fine ($4 000).

It will be a defence to a prosecution for the second of these offences to prove that since the offence was alleged to have been committed the publication has been classified Unrestricted, Category 1 restricted or Category 2 restricted.

PART 6

COMPUTER GAMES—SALE, DEMONSTRATION, ETC.

Clause 54: Sale or demonstration of computer game in public place

This clause makes it an offence for a person to sell a computer game, or demonstrate a computer game in a public place, unless the game—

(a) is classified; and

(b) is sold or distributed with the same title as that under which it is classified; and

(c) is sold or distributed in the form, without alteration or addition, in which it is classified.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 55: Display of notice about classification

This clause requires a person who sells or demonstrates a computer game in a public place to keep a notice in the approved form about classifications for computer games on display in a prominent place in that public place so that the notice is clearly visible to the public.

Clause 56: Unclassified and RC computer games

Under this clause it will be an offence for a person to sell or demonstrate in a public place a computer game classified RC or an unclassified computer game that would, if classified, be classified RC.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause also makes it an offence for a minor who is 15 or older to buy a computer game classified RC, knowing that it is so classified.

Clause 57: MA (15+) computer games

This clause makes it an offence for a person to demonstrate a computer game classified MA(15+) in a public place unless—

(a) the determined markings are exhibited before the game can be played; and

(b) entry to the place is restricted to adults or minors who are in the care of a parent or guardian while in the public place.

The clause fixes a maximum penalty of a division 8 fine ($1 000) for this offence.

Clause 58: Demonstration of unclassified, RC and MA (15+) computer games

Under this clause it will be an offence for a person to demonstrate so that it can be seen from a public place an unclassified computer game that would, if classified, be classified RC or a computer game classified RC.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause creates a similar offence for an MA (15+) computer game with a maximum penalty of a division 8 fine ($1 000).

Clause 59: Private demonstration of RC computer games in presence of a minor

This clause makes it an offence for a person to demonstrate in a place, other than a public place, in the presence of a minor an unclassified computer game that would, if classified, be classified RC or a computer game classified RC.

The clause fixes a maximum penalty of a division 4 fine ($15 000) for this offence.

It will be a defence to a prosecution for such an offence to prove that the defendant believed on reasonable grounds that the minor was an adult.

Clause 60: Computer games to bear determined markings and consumer advice

This clause makes it an offence for a person to sell a computer game unless the determined markings relevant to the classification of the computer game and relevant consumer advice, if any, are displayed on the container, wrapping or casing of the computer game.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Similarly, a person must not sell an unclassified computer game with markings indicating or suggesting that the game has been classified or sell a classified game with markings that indicates or suggests that the game is unclassified or has a different classification.

Clause 61: Keeping unclassified or RC computer games with other computer games

Under this clause it will be an offence for a person to keep or possess an unclassified computer game or a computer game classified RC on any premises where classified computer games are sold or demonstrated.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 62: Sale or delivery of certain computer games to minors

This clause makes it an offence for a person to sell or deliver to a minor an unclassified computer game that would, if classified, be classified RC or a computer game classified RC.

The clause fixes a maximum penalty of a division 4 fine ($15 000) for this offence.

Further, a person must not sell or deliver to a minor who is under 15 a computer game classified MA (15+) unless the person is a parent or guardian of the minor. The penalty for such an offence is a maximum of a division 8 fine ($1 000).

It will be a defence to a prosecution for the second of these offences to prove that the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was 15 or older or that the parent or guardian of the minor had consented to the sale or delivery.

Clause 63: Power to demand particulars and expel unaccompanied minors under 15

This clause authorises persons demonstrating, selling or delivering computer games and members of the police force to demand the names, ages and addresses of persons present during the demonstration of games or seeking to purchase or take delivery of games.

Further, the demonstrator or an employee or agent of the demonstrator or a member of the police force may expel a person if there are reasonable grounds to suspect that the person's presence during the demonstration of a game is, or would be, in contravention of this Part.

Clause 64: Leaving computer games in certain places

Under this clause it will be an offence for a person to leave in a public place or, without the occupier's permission, on private premises an unclassified computer game that would, if classified, be classified RC or a computer game classified RC, knowing that the game would be, or is, so classified.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause creates a similar offence for an MA (15+) computer game with a maximum penalty of a division 8 fine ($1 000).

Clause 65: Possession or copying of computer game for the purpose of sale or demonstration

Under this clause it will be an offence for a person to possess or copy an unclassified computer game that would, if classified, be classified RC or computer game classified RC, with the intention of demonstrating the game or copy in contravention of this Part or selling the game or copy.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

PART 7

CONTROL OF ADVERTISING

Clause 66: Certain advertisements not to be published

This clause prohibits the publication of an advertisement for a film, publication or computer game—

(a) if the advertisement has not been submitted for approval under this measure or the Commonwealth Act and, if submitted, would be refused approval; or

(b) if the advertisement has been refused approval under this measure or the Commonwealth Act; or

(c) if the advertisement is approved under this measure or the Commonwealth Act, in an altered form to the form in which it is approved; or

(d) if the advertisement is approved under this measure or the Commonwealth Act subject to conditions, except in accordance with those conditions.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 67: Certain films, publications and computer games not to be advertised

This clause prohibits the publication of an advertisement for—

(a) an unclassified film, other than a film in relation to which a certificate of exemption has been granted under Part 3 of the Commonwealth Act; or

(b) a film classified RC or X; or

(c) a submittable publication; or

(d) a publication classified RC; or

(e) an unclassified computer game; or

(f) a computer game classified RC.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

For the purposes of this provision, if a person publishes an advertisement for an unclassified film or an unclassified computer game at the request of another person, that other person alone must be taken to have published it.

Clause 68: Screening of advertisements with feature films

This clause makes it an offence for a person to screen in a public place an advertisement for a film during a program for the exhibition of another film unless the advertised film's classification is the same as or less than the other film's classification.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Clause 69: Liability of occupier for certain advertisements

Under this clause it will be an offence for an occupier of a public place to screen in the public place an advertisement for a film classified R or MA.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

It will be a defence to a prosecution for such an offence to prove that—

(a) if the advertised film is classified MA, the advertisement was screened during a program for the exhibition of a film classified R or MA; or

(b) if the advertised film is classified R, the advertisement was screened during a program for the exhibition of a film classified R; or

(c) the place in which the advertisement was screened was a restricted publications area.

Clause 70: Sale of feature films with advertisements

This clause makes it an offence for a person to sell a film ('the feature film') that is accompanied by an advertisement for another film unless the feature film has a classification that is the same as or higher than the classification of the advertised film.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Clause 71: Advertisements with computer games

This clause creates an offence relating to computer games that corresponds the offence relating to films under the preceding clause and fixes the same penalty for such an offence.

Clause 72: Advertisement to contain determined markings and consumer advice

Under this clause it will be an offence for a person to publish an advertisement for a classified film, classified publication or classified computer game unless—

(a) the advertisement contains the determined markings relevant to the classification of the film, publication or game and relevant consumer advice, if any; and

(b) the determined markings and consumer advice are displayed—

(i) in the manner determined by the Director under section 8 of the Commonwealth Act; and

(ii) so as to be clearly visible, having regard to the size and nature of the advertisement.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Clause 73: Misleading or deceptive advertisements

This clause makes it an offence for a person to publish an advertisement for an unclassified film, unclassified publication or unclassified computer game with a marking that indicates or suggests that the film, publication or game is classified.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Similarly, a person must not publish an advertisement for a classified film, publication or computer game with markings indicating or suggesting that the film, publication or game is unclassified or has a different classification.

Clause 74: Advertisements for Category 2 restricted publications

This clause makes it an offence for a person to publish an advertisement for a publication classified Category 2 restricted otherwise than—

(a) in a publication classified Category 2 restricted; or

(b) in a restricted publications area; or

(c) by way of printed by written material delivered to a person at the written request of the person.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

If an advertisement for a publication classified Category 2 restricted is published in a place other than a restricted publications area, the occupier of the place will be guilty of an offence.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 75: Classification symbols, etc., to be published with advertisements

This clause requires that a publication containing an advertisement for—

(a) a film; or

(b) a publication classified Category 1 restricted or Category 2 restricted; or

(c) a computer game,

must contain a list of the classification symbols and determined markings for films or publications or computer games respectively.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

PART 8

EXEMPTIONS

Clause 76: Exemption of film, publication, computer game or advertisement

This clause authorises the Minister or the National Director to direct that this measure does not apply, to the extent and subject to any condition specified in the direction, to or in relation to a film, publication, computer game or advertisement.

Clause 77: Exemption of approved organisation

Similarly, the Minister or the National Director may direct that this measure does not apply, or any of the provisions of this measure do not apply, to an organisation approved under this Part in relation to the exhibition of a specified film at a specified event.

Clause 78: Ministerial directions or guidelines

This clause authorises the Minister to issue binding directions and guidelines as to the exercise of exemption powers under the two preceding clauses.

Clause 79: Organisation may be approved

Under this clause the Minister or the National Director may approve an organisation for the purposes of this Part having regard to—

(a) the purpose for which the organisation was formed; and

(b) the extent to which the organisation carries on activities of a medical, scientific, educational, cultural or artistic nature; and

(c) the reputation of the organisation in relation to the screening of films; and

(d) the conditions as to admission of persons to the screening of films by the organisation.

An approval may be revoked by the person who gave the approval if, because of a change in any matter referred to above, he or she considers that it is no longer appropriate that the organisation be approved.

PART 9

MISCELLANEOUS

Clause 80: Powers of entry, seizure and forfeiture

This clause empowers a member of the police force, or a person authorised in writing by the Minister, to enter, without charge, a public place at which the member or person believes on reasonable grounds that a film is being, or is about to be, exhibited.

A member of the police force is also authorised to enter a place that the member believes on reasonable grounds is being used for or in connection with the sale or publication of publications, films or computer games and may seize any publication, film, computer game or other thing that the member believes on reasonable grounds affords evidence of, or has been, is being or is about to be, used in the commission of an offence against this measure or an offence relating to obscenity, indecency or offensive material.

A court convicting a person of such an offence may order that anything so seized is forfeited to the Crown.

The clause makes it clear that these powers are in addition to police powers under the *Summary Offences Act 1953.*

Clause 81: Restricted publications area—construction and management

This clause requires that—

(a) a restricted publications area must be so constructed that no part of its interior is visible to persons outside;

(b) each entrance is fitted with a gate or door capable of excluding persons from the area and must be closed by means of that gate or door when the area is not open to the public;

(c) the area must be managed by an adult who is present at all times when the area is open to the public;

(d) a warning sign is displayed in a prominent place on or near each entrance so that it is clearly visible from outside the area.

Clause 82: Restricted publications area—offences

This clause requires that the manager of a restricted publications area must not permit a minor to enter that area.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

It will be a defence to a prosecution for such an offence to prove that the defendant believed on reasonable grounds that the minor was an adult.

Clause 83: Evidence

This clause provides for the issuing of certificates relating to classification matters for evidentiary purposes.

Clause 84: Protection for classified publications, etc., against prosecutions under indecency, etc., laws

This clause protects a person from being guilty of an offence relating to obscenity, indecency, offensive materials or blasphemy by reason of having produced or taken part in the production of, published, distributed, sold, exhibited, displayed, delivered or otherwise dealt with or been associated with a publication, film or computer game that is classified (whether at the time of the alleged offence or subsequently).

This protection does not apply to—

(a) a film classified RC or X at the time of the alleged offence or subsequently;

(b) a publication classified RC at the time of the alleged offence or subsequently;

(c) a computer game classified RC at the time of the alleged offence.

Clause 85: Commencement of prosecution for offence

Under this clause a prosecution for an offence against this measure in relation to an unclassified film, publication or computer game must not be commenced until the film, publication or game has been classified and may be commenced not later than 12 months after the date on which the film, publication or computer game was classified.

Apart from the above situation, a prosecution for an offence against this measure may be commenced within two years after the date on which the offence is alleged to have been committed.

Clause 86: Proceeding against body corporate

Under this clause the state of mind of a body corporate in relation to particular conduct may be established by proof that the conduct was engaged in by a director, employee or agent of the body corporate acting within the scope of his or her actual or apparent authority and that the director, employee or agent had that state of mind.

A body corporate will be criminally liable for the conduct of a director, employee or agent of the body acting within the scope of his or her actual or apparent authority unless the body establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

Finally, the clause raises the maximum penalty for bodies corporate to a level twice the maximum amount otherwise fixed for each offence under the measure.

Clause 87: Employees and agents

This clause provides that state of mind of a person other than a body corporate in relation to particular conduct may be established by proof that the conduct was engaged in by an employee or agent of

the person acting within the scope of his or her actual or apparent authority and that the employee or agent had that state of mind.

A natural person will be criminally liable for the conduct of an employee or agent of the person acting within the scope of his or her actual or apparent authority unless the person establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

Clause 88: Publication to prescribed person or body

This clause allows any of the following:

(a) a film or computer game classified RC, X, R or MA; or

(b) a publication classified Category 1 restricted, Category 2 restricted or RC;

(c) a submittable publication,

to be published to a person or body prescribed by regulation, or to a person or body of a class or description prescribed by regulation.

Clause 89: Service

This clause provides for service of notices or documents.

Clause 90: Annual report

This clause requires that the Council submit an annual report to the Minister on its operations and that the report be tabled in Parliament.

Clause 91: Regulations

This clause allows for the making of regulations.

SCHEDULE 1

This schedule empowers the National Director to call in submittable publications, computer games and advertisements for classification or approval.

SCHEDULE 2

This schedule provides for the repeal of—

(a) the *Classification of Films for Public Exhibition Act 1971*;

(b) the *Classification of Publications Act 1974*.

The schedule contains transitional and saving provisions to continue current classifications and approvals in effect.

The schedule makes an amendment to the *Classification of Theatrical Performances Act 1978* consequential on the replacement of the Classification of Publications Board with the new South Australian Classification Council established under this measure. The members of the new Council (rather than the former Board) will constitute the Classification of Theatrical Performances Board for the purposes of the classification of theatrical performances.

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

ADDRESS IN REPLY

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

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

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

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

The Hon. BERNICE PFITZNER: I move:

That the Address in Reply as read be adopted.

In her Excellency's speech the section on 'services for quality of life' is closest to my past experience. I would like to make some comments on education, health, families and Aboriginal communities. With regard to education, it is pleasing to note that we are introducing more evaluation methods and standards into the education of our children. The basic skills test for year three and year five students is one of these evaluations, and a further support of this strategy is the intended creation of a chair of early childhood research. School discipline is also an important area to pursue, and I am a little disappointed that not much has been discussed regarding education in the rural area. However, I know that there are programs for rural children in place such as the country areas program (CAP) and the disadvantaged schools programs (DSP) and that the Department for Education and Children's Services is monitoring the eligibility criteria of these programs. Education, especially in the early childhood area, is a fundamental requirement for building a clever Australia.

The area of health is one in which I am most familiar having worked previously in child health. However, with the high debt that we still have to service, the health arena has been subjected to some severe cuts. It is understood that the cuts, although stringent, will not affect health services substantially but we will have to monitor the situation carefully. We note that mental health is one of our priorities. Since the last Labor Government decimated the mental services at Hillcrest in a policy of de-institutionalisation, the mentally disabled have been tossed into the general community without any infrastructure being put in place to cope with their sometimes acute needs. Therefore, the announcement of the mental health teams and the psychiatric services in general hospitals will address these infrastructure deficiencies to some extent. Although we recognise the emphasis on integration of the mentally disabled into the general community, thereby dispelling the stigma of that illness, there are some mentally disabled people who are best catered for in institutions.

In the area of families I am most concerned with regard to gambling machines or pokies. We note that millions are being reaped by clubs and pubs and that the welfare agencies are now feeling the impact of this new form of gambling. The Social Development Committee will look at gambling in general and pokies in particular. I still cannot forget that fateful day—or was it night—when the pokies came into being on a majority of one vote. The Hon. Mr Feleppa must feel most uncomfortable with that decision now that the pokies are taking their toll on society. However, perhaps we can address that situation by providing the welfare agencies with more funding from the profits of the machines—a most ironic situation. It is depressing and sad to know that the fabric of our community has been put under such stress.

The last quality of life area relates to the Aboriginal community. I note with great hope that the Health Commission has established an Aboriginal health division which will have priority of implementing an Aboriginal health strategy for South Australia. We must put in more effort to address Aboriginal health, especially in the childhood area.

I now turn to the initial part of Her Excellency's speech which relates to economics and finance. Although this is not an area in which I have great interest or experience, I recognise that we need funds to implement a better quality of life. I therefore note that there will be further sale of our Government assets. Such assets include the timber processing operation of Forwood Products, the bulk loading of Ports Corporation, SGIC, Austrust and the South Australian Meat Corporation. We must do this to cut our losses and help pay for the debts incurred by the State Bank debacle.

Can we ever forgive the Labor Government's mismanagement of the State Bank which plunged the State into an almost untenable position, a position which our present Liberal Government is trying its hardest to rectify. The Government will claw back South Australia into the wonderful State it once was and will be again. In discussing the importance of economics and finance I note some of the excellent discussion which took place at a national business summit this year entitled 'Workplace 2010'. The theme of the conference was the reforms which have to be made to return

Australia to the top 10 in per capita income terms in world ranking by the year 2010.

In 1970 Australia ranked tenth but is now ranked nineteenth. In the absence of reform or changes in policy we will further deteriorate to twenty-third. There is a pressing need for us to focus on and understand the integrated global economy in which Australia must compete for a living. Let us look at our present Australian society. Since the 1970s the proportion of income units reliant on personal benefits from Government for their main source of income has doubled to over 26 per cent, and the proportion of household disposable incomes which is derived from personal benefit payments has nearly doubled to 18 per cent. The marked increase in assistance provided by the Commonwealth Government is an incredible 10 per cent of GDP, more than double the level in the 1970s. Therefore, over 3 million people, or 23 per cent of the working age population, compared to 12 per cent in 1973, now receive assistance from the Commonwealth Government.

This increase in social security beneficiaries of almost 2 million people occurred while the total population increased by only 4.4 million during the time span of the 1970s to the 1990s. This disturbing trend has the resulting impact of loss of self-esteem and human dignity. If we want our children and our children's children to have a healthy future we must reverse this trend and improve Australia's economic performance. We must greatly reduce the need for excessive welfare payments. We must improve our economic performance so that our social aims will be achieved: those of a higher standard of living and well being for all Australians.

The National Business Summit proposed six national objectives for us all:

1. Being included in the top ten countries as defined by the national income per head, which means raising economic performance by an additional 1 per cent per annum over 15 years.

2. Achieving the lowest possible rate of unemployment—no higher than 5 per cent.

3. Containing net foreign debt at about 50 per cent of GDP.

4. Achieving a strong and sustainable level of private investment to provide high economic growth.

5. Maintaining an independent democrat and cohesive society.

6. Maintaining maximum capacity to defend our territorial integrity.

Microeconomic reform must take place in the areas of employee relations, education and training. We note that our Government is pushing infrastructure for South Australia: extension of the Adelaide Airport main runway, construction of the Crafers highway and the Southern Expressway, and the sealing of the South Coast Road on Kangaroo Island.

Macroeconomic reforms must also take place, especially in the area of national savings. We must stimulate domestic savings. For example, how are we to take on the opportunities presented by growth in the Asia-Pacific region if we do not have Australian savings to finance investment opportunities in the region? We are now encouraging Singaporean investment in Australia (for example, the sale of the Myer building to a Singapore group). Coming from Singapore myself, my Asian friends and I find it such a turnaround that, of our two societies, Australia is seeking Singaporean financing of our development, rather than providing Australian finance for Singapore's development.

Moving into the Asia-Pacific region, we must try to understand the business networks there and try to link up with these countries. A book published earlier this year entitled *Overseas Chinese Business Networks in Asia* is a most comprehensive study of the culture of business activities in east Asia. It notes that 50 million ethnic Chinese are resident in east Asia outside China and they generate an estimated GDP equivalent of about $US450 billion, which is on a par with China's GDP of $US500 billion.

The book talks about the groups that left China, mainly from the southern coastal provinces such as Guangdong, Fujian and Hainan. My grandfather came from Fujian and he started a successful business in the car industry in Singapore. The book also emphasises the importance of dialects in business, a closeness felt by Chinese just on the basis of speaking the same dialect and therefore coming from the same place in China many long years ago.

The study suggests that Australia should link up with the networks and select the right business partner according to market, country of origin and current residents. The book talks about using Australian Chinese as partners and perhaps linking up with an Asian partner to go into a third country market that is not quite as developed. For example, Australia could link with Singapore and move into China, Indonesia, India or Vietnam. An interesting section in the book identifies some of the points in the traditional ways that the Chinese do business, as follows:

> If one had to generalise about the ethnic Chinese approach to business it could be said that:
> - they favour owning and operating their own businesses
> - they are pragmatic and not overly legalistic
> - they are willing to take risks
> - they normally are not constrained by a rigid adherence to religious dogma
> - they highly value education
> - they are quick decision makers
> - they do not like organisation charts
> - they are very family orientated, and relatives may be located in a number of countries in the region
> - they probably understand cash flows better than profit and loss
> - they generally eschew direct involvement in politics but try to maintain good relations with parties in power and politicians.

I note the very successful Singapore Economic Development Board, and I will read an excerpt from the book, which describes the EDB as follows:

> The Government's main mechanism to encourage the development of Singapore's external wing is the Economic Development Board (EDB). The EDB was created in 1961 and its primary role was to attract foreign capital to Singapore. This role now has shifted significantly to promoting Singaporean investment abroad [such as Australia]. To this end, it now has 16 offices around the world. The EDB does not advise Singaporean companies where to invest but assists in negotiating with foreign Governments and Government authorities. If Singaporean companies intend investing in China, for example, the EDB can assist with negotiations with the relevant provincial Government or with the Government in Beijing, but dealings with local governments are left to the companies themselves. Advice on where to invest is left to private consultants. The EDB will only provide assistance of this nature if it is convinced that positive benefits will flow to other Singaporean firms.
>
> Another important role of the EDB is to act as a catalyst for consortia. Singapore-based companies are able to approach the EDB for assistance in locating suitable partners for projects. The EDB then attempts to locate such partners, either from within Singapore or from overseas. Occasionally, the EDB identifies opportunities and then alerts suitable companies to exploit them, but this is very much a secondary function. The EDB does not charge for its services. It believes charges might lead to a loss of independence and encourage it to attempt to maximise revenue rather than pursue those tasks which would lead to the greatest benefit for Singaporean companies.

Will our EDA emulate this very successful model? It is a difficult task, but I hope we will get there.

In closing, I suggest that South Australia is on the threshold of improving its economic performance and taking advantage of the opportunities that are present in the east Asian area. The Premier has worked in this area and he has played a significant part in linking Australia with trade in east Asia. If we are to pull ourselves into the top 10 again, we must reform. Governments, both State and Federal, must be major facilitators in this process. Only by increasing our financial status can we afford services for a better quality of life, and, as a speaker at the national business summit said:

> We have the capacity to achieve it. We only need the desire to do so and the leadership to accomplish it.

The ingredients are all there in this State and we must achieve our status again. I commend Her Excellency's speech to the Council.

The Hon. J.C. IRWIN: I have pleasure in supporting the motion to send an Address in Reply to Her Excellency on the occasion of her opening the third session of the Forty-Eighth Parliament. I reaffirm my loyalty to Her Majesty the Queen of Australia and to her representative in South Australia, Her Excellency Dame Roma Mitchell. I do not make that reaffirmation flippantly and, in the rough and tumble of the constitutional debate leading up to the centenary of the Australian Constitution in 2001, and given the moves by some to replace the monarch as Head of State, I will not compromise the pledge that I and, indeed, every member in this Parliament made when we were sworn in.

It is very pleasing to be able to contemplate this year's grain harvest now in late September. We can all make educated and sometimes different predictions about rural incomes. It appears to me that there will be an above-average grain harvest in South Australia. The South-East has not had late rain yet, but I believe that it will receive that before too long.

Most other major rural commodities are holding well. Wool is about the same as last year and not expected to rise much until at least the new year. I had the pleasure of visiting Michell's woollen operation at Salisbury this morning and so that information is really straight from the mouths of those people who deal in wool every day, and great quantities of it, and with great pride as a good South Australian family company. They do not expect a great lift in wool prices before next year. As I read the commentaries, lamb is well up and beef is holding firm. In relation to Marino sheep prices, wether lambs, young ewes and export wethers are returning very well this year. The rural picture is improving, and that has nothing to do with governments, thank goodness, it is to do with the season. However, I reiterate what I said some months ago, that this State will receive an enormous boost from any rural prosperity, pumping up to $1.5 billion dollars from grain alone into this economy. Recently, we have seen some figures where these prices have been improving in the commodity areas. This is very pleasing for the people trying to carve out a living with their families on the land.

I note from Her Excellency's address that legislation will be placed before us early in this session to achieve major reform of local government. This will facilitate council amalgamations based on the assessment of the current operational performance of councils and the achievement of rate reductions. The Government has indicated a wide ranging reform of its own operations and believes that this must be complemented by the local government sector to enhance the standard and contain the costs of services on which the community and the economy rely.

Whilst I agree there is always room for change and efficiency audits of local councils, I remain firmly committed to the integrity of councils and councillors and, most importantly, the ratepayers, who partly fund councils. I acknowledge that ratepayers and electors are not the only people who fund council operations. Approximately half of the funding comes from grants and cost of services that are provided by local government. It is not only the ratepayers, but the community in general. I await with interest the first batch of legislation flowing from the MAG report. This has already been flagged. As I have quoted from Her Excellency's speech, that is expected in the next few weeks. I do not hold the MAG report in very high regard, but I will not go into that now. There will be other times to discuss that when the legislation is before us.

I have already congratulated this Government on the debt reduction strategies and performance and I do so again. As all the Ministers tell us, the pain is not over yet and there is still much to be done but, in my view, matters are moving in the right direction. Her Excellency mentioned the aquaculture industry as another new industry with high growth and export potential. A study commissioned by the Government has estimated that annual production will increase from the present $87 million to almost $280 million within five years. Considerable resources have been committed to encourage this expansion through the preparation of coastal management plans and the provision of management advice and assistance to ensure orderly growth. I commend the Government for that. We have some of the best conditions in the world for aquaculture. We have clean, pollution free waters which are climatically ideal and we must build on the good work that has been done already by some of the pioneers who have risked capital and gone out and done it.

The extension of the West Beach runway is still a high priority to get this type of fresh product out of the State to the rest of the world. I am pleased to note Her Excellency also mentioned agreement has been reached with the Commonwealth on the extension of Adelaide Airport's main runway. The preparation of an environmental impact assessment will start soon. The extension is due for completion in the second half of 1998. It is probably still a few years away yet. I realise that it takes time for these things to be built and to go through the processes, but the sooner it arrives the better.

A little time ago I had the pleasure of seeing the oyster farms, the tuna farms and the other aquaculture ventures on the Eyre Peninsula. As is the case with most members, I am aware of the barramundi farms, the yabby farms and marron farms that exist on Kangaroo Island and in some parts of the South-East. These are all exciting industries. It is correct for the Government to be encouraging their growth and one hopes that, once the growth and the income is there, the Commonwealth Government in particular and then the State Government will not try to tax too much out of them. This does happen in the wine industry with its fluctuating fortunes, and actually putting it to the wall when there is a downturn.

This Council is well aware of the matters that have been mentioned by the Hon. Mr Dunn, the Hon. Caroline Schaefer, myself, and others with rural experience. The agricultural industry is one of highs and lows on world markets and weather patterns. The less interference from governments and taxation the better. As members have often heard me say, I do not have any problem with wealth. If farmers are tempo-

rarily wealthy, then members can be sure that in two or three years time, when that economic downturn happens as it inevitably does—we can see it through history—they will need that wealth to get themselves out of trouble, without government assistance. That is all they want. There are people who cannot see that and they believe, if there is a bit of wealth in one year then that is too much. It is more than someone else has got, therefore we will tax the hell out of it and distribute it to other people who then do not use it properly. Consequently, that advantage is lost to the very people who are a very productive sector of the community.

Her Excellency mentioned that an important objective of the Government's involvement in developing community infrastructure is environmental protection and improvement. Work has been planned through the newly established Catchment Management Boards to clean up the Patawalonga and Torrens River. MFP Australia is scheduled to complete in 1996 the Barker Inlet Wetlands which will capture about 30 per cent of inner metropolitan stormwater run-off. Another major MFP project will upgrade the Bolivar Waste Water Treatment Plant and pipe treated waste water to the Virginia-Two Wells area. This water currently flows into St. Vincent's Gulf, as we know, degrading the seagrasses. Instead, it will irrigate extended horticultural crops, replacing an environmental problem with an economic opportunity.

I am assuming it will not only be horticultural crops; it may well be tree plantations. One can laterally think of a number of areas in relation to which the right climate and the right water are conducive to the very successful growth of crops which can be cut down and, as in the case of trees, grow again. The new catchment authorities will have start-up hiccups. They can always be expected: there always have been and there always will be. There are always those people who are negative about doing anything in this regard but, despite those hiccups, the Government is again to be congratulated on what it has already achieved in just two years of government, after decades of neglect.

Past history will show that there are not very many votes in these sorts of clean-up campaigns. Members can cast their minds back to the Greiner Government in New South Wales. The Greiner Government, a new government regime, was nearly thrown out after its initial four year term, again, having taken over from a long Labor regime. After that first term it in fact only survived by one or two votes in the House and it had to rely pretty heavily on Independents. As I recall, it did an enormous amount of work cleaning up the disgraceful pollution problem in one of the world's greatest harbors, Sydney Harbor. The outflows into that harbor were disgraceful and the damage being done to the harbor, which is such a beautiful place, was also disgraceful. There are not a lot of votes in cleaning up areas such as the Torrens River or the Patawalonga, but I again commend the Government for having the fortitude to do it and to include local government, albeit with a tax on households within the catchment areas, to partly fund the cleaning up. But then one could say those who knowingly or unknowingly are part of the pollution problem by living in a house in the catchment area should pay something. So that is what has happened with the levy.

What has always puzzled me is that the loudest critics of the clean-up campaigns, whether that be the present clean-up of the Patawalonga or the Torrens, are the very people—the prime environmental lobby—who, for years, have been calling for the clean-ups, but as soon as the clean-ups get under way there is no acknowledgment of the lack of activity over the preceding 100 years or congratulations for eventually doing something. All they do is try to find holes in it and be negative. Perhaps I can be a little more concise and say that, hopefully, when the clean-up has been completed there will be no soapbox, that there will be nothing for anyone to complain about. Let us hope that we can get it cleaned up so that there will be no soapbox to allow those people to be negative.

In the area of education, I have already supported the Minister and the Government on the program, which began this year and which will be further developed, to support early intervention with regard to literacy and numeracy problems. I am pleased to read in Her Excellency's address that the basic skills test for year three and year five students will be refined in cooperation with the New South Wales Department for School Education. After the first year of implementation in South Australia community input will continue to be invited on improvements to the test materials and the process.

I was pleased to hear the Premier announce recently that all schools must fly the Australian flag and that all children must know the national anthem before they leave primary school. This has nothing whatsoever to do with the argument about changing the flag or our symbols, often described by the Prime Minister as our symbols that need to be changed by the year 2001 or 2000 for the Olympic Games. It has nothing to do with that argument or with siding with one side or the other in relation to that argument, but it has everything to do with national pride. National pride is sorely at a low ebb in Australia at the moment, and anything we can do to improve it will be good. I commend the Premier for making that statement, which backs up the Minister's direction, through his department, to all schools in South Australia that they must fly the flag.

Some of us would like it to go further and for there to be a ceremony every day, or at least once a week, when schools put up the flag. I am delighted that young people will be required to recite or sing the national anthem before they leave primary school. At ceremonies I am amazed to see the number of people—and I am included in this—who are not good at reciting the national anthem. This is obvious when major sporting events, finals or whatever are televised—and we are seeing a rash of such events now in Rugby League, Rugby Union and Australian Rules—and when we see that most of the players do not have any idea of the words to the anthem.

This is not my experience when I see events in overseas countries depicted in a similar way. One only has to look at New Zealand (and other countries come to mind) and see that people there have no problem belting out their national anthem with pride. That is what we are trying to get here in a small way in South Australia, and I hope that that can flow on to the rest of Australia. I support the motion and look forward to a productive 12 months for all South Australians. I commend the Governor on her address and the Government on its plans set out for South Australia for this year.

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

SESSIONAL COMMITTEES

The House of Assembly notified its appointment of sessional committees.

ADJOURNMENT

At 5.42 p.m. the Council adjourned until Thursday 28 September at 2.15 p.m.