LEGISLATIVE COUNCIL

Wednesday 29 November 1995

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

SENATE VACANCY

The PRESIDENT laid on the table the minutes of the proceedings of the joint sitting of the two Houses held this date to choose a person to hold the place in the Senate of the Commonwealth rendered vacant by the resignation of Senator John Richard Coulter whereat Ms Natasha Jessica Stott Despoja was the person so chosen.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the minutes of the proceedings be printed.

Motion carried.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 1994-95—
Department for Industrial Affairs
Country Fire Service
South Australian Metropolitan Fire Service
The Advisory Board of Agriculture
Industrial Proceedings Rules 1995—Rules

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

HomeStart Finance Ltd—Report, 1994-95.

LEGISLATIVE REVIEW COMMITTEE

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

The PRESIDENT: I interrupt the proceedings to ask members please to be respectful of our Clerk today. She is half way to getting a Queen's message; hence the flowers. It is a little bit out of tune, but I think it is very suitable.

JOINT COMMITTEE ON LIVING RESOURCES

The Hon. CAROLINE SCHAEFER: I bring up the second interim report of the committee.

SOCIAL DEVELOPMENT COMMITTEE

The Hon. BERNICE PFITZNER: I bring up the final report of the committee on rural poverty in South Australia and move:

That the report be printed.

Motion carried.

KENNAN, Mr R.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement made today by the Minister for Industry, Manufacturing, Small Business and Regional Development in another place headed 'MFP Chief Executive Resigns'.

Leave granted.

MALAYSIA AIRLINES

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement relating to Malaysia Airlines passenger and freighter flights.

Leave granted.

The Hon. DIANA LAIDLAW: I am pleased to be able to advise honourable members that the Premier and I today announced the introduction of two new Malaysia Airlines services between Kuala Lumpur and Adelaide, beginning in early 1996. A freighter service will start in early January, providing flights between Adelaide and Kuala Lumpur via Melbourne, while a passenger service will start in early April to Kuala Lumpur via Darwin. As I indicated last week, I recall in answer to a question from the Hon. Bernice Pfitzner, both the Minister for Tourism and I have been working with officers at the State and Federal level and with the Federal Minister for Transport (Hon. Laurie Brereton) to encourage the Federal Government to negotiate more passenger and freight flights to Adelaide from a number of countries.

The new flights to Malaysia have been achieved as a result of additional rights being granted by the Commonwealth Government to operate the flights from Adelaide. I take this opportunity to thank the Hon. Mr Brereton for the time and effort that he has devoted to this exercise.

The Malaysia Airlines freighter flight will be the first ever scheduled year round freighter program to Adelaide by any airline. So, that gives some understanding of the significance of this initiative. Malaysia Airlines has indicated that it will make its first freighter flight in early January using the MD-11 aircraft, which is capable of carrying up to 80 tonnes of freight. We are guaranteed a minimum 40 tonnes of freight each flight. The A330 passenger service, which will carry up to 300 passengers, is expected to begin on Tuesday 2 April 1996, increasing Adelaide's passenger link with Kuala Lumpur to three flights a week. This will provide a significant boost in international visitor access to South Australia from a wide range of cities around the world served by Malaysia Airlines.

These flights will provide an enormous boost to the South Australian economy. Potential export earnings for South Australia have been estimated at $10 million a year from the freighter service alone. About $200 000 in exports could be carried on each freighter flight based on the expected export product mix of fruits, vegetables, meat, lobster, tuna and mixed manufactures such as optical lenses. On-carriage negotiated with Malaysia Airlines will provide major freight capacity to Malaysia, Singapore, India, Korea, Taiwan, Dubai, Germany and the Netherlands. Some capacity will also be available to Japan, Hong Kong, China, Indonesia and the UK. These direct links with South-East Asia will be extremely valuable to all of South Australia's exporters and tourism operators who I am sure will use this opportunity to forge new business partnerships around the world.

DOUBLE ROAD TRAINS

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement on the double road train trial from Port Augusta to Lochiel.

Leave granted.

The Hon. DIANA LAIDLAW: In August 1994, I approved a 12-month trial for double road trains to operate through Port Augusta south to Lochiel. The trial commenced on 1 December 1994 and required that certain conditions be

met to reinforce road safety and minimise any possible negative impact on the Port Augusta community. A public education campaign was conducted to alert road users to the operation of the trial and to advise on safe driving procedures when interacting with road trains. For the duration of the trial there have been no reported accidents involving road trains either in Port Augusta or along the designated route between Port Augusta and Lochiel.

There appears to have been good observance of the 40 km/h speed limit for road trains travelling through Port Augusta. One operator has been issued a formal warning. Road train driver behaviour has generally been good on this route, with only a small number of incidents being reported. Few instances of speeds over 90 km/h have been detected. The greatest number of offences relate to road trains operating on this section of road without permits.

The lack of any reported accidents suggests that road safety has not been compromised through the operation of the double road train trial. In fact, the road safety record for this stretch of road has been better than normal for the last 12 months. This can probably be attributed to increased policing and transport industry pressure for drivers to comply with requirements. It is important that enforcement and driver attitudes do not relax.

The working party evaluating the trial estimate that the $3.5 million saving in direct road freight costs for operations so far to Lochiel has been achieved. Other areas where savings have been generated but not quantified are a reduced number of heavy vehicle movements, with 50 fewer heavy vehicle movements in Port Augusta alone; reduced fuel consumption; reduced air pollution; reduced road damage due to reduced pavement wear; opportunity revenue from use of spare prime movers; better utilisation of prime movers with fewer empty movements occurring between marshalling stations at Quorn, Jamestown, Wilmington, Burra, Port Augusta and Lochiel; and spin-off benefits to the community (for example, red-light cameras in Port Augusta monitor all traffic, not just road trains). These savings in transport costs make South Australian industry and the primary industry sector more competitive. I am pleased to announce today that following the success of the first trial the road train trial will continue until 1 July 1996.

To address the concerns of some road users regarding the difficulty in overtaking road trains travelling at 90 km/h on this stretch of highway, the use of road trains will continue on trial until the three overtaking lanes south of Lochiel and the seven overtaking lanes north of Lochiel are completed. Tenders have already been called for this work, which is being undertaken with Federal Government funding. Construction will begin early in the new year, and the work will be completed by July 1996.

The Department of Transport will undertake a comprehensive study of the broader transport system relating to the social and economic implications of wider road train use in South Australia. When these roadworks and the further studies are complete, the Government will re-evaluate the use of road trains in South Australia.

I would like to thank the South Australian Road Transport Association, the members of the road transport industry, the Port Augusta council and the community at large for their efforts, which have ensured the success of this important trial.

QUESTION TIME

SCHOOLS' REVIEW

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

Leave granted.

The Hon. CAROLYN PICKLES: As we approach the end of the school year there is still no decision on the future of the Gilles Street, Sturt Street and Parkside Primary Schools. The Minister is treating these schools, including all the kids, the parents, the teachers and the school councils, who all have to plan for 1996, with absolute contempt. This matter has been dragging on since August 1994 when a deputation from the Gilles Street Primary School asked the Minister for a guarantee about the future of the school. Instead of giving a guarantee, the Minister initiated a review that would proceed 'expeditiously'. That was 15 months ago. Then the Minister told us in September that the 'buck stops on my desk'. That is where the report is; that is where it has been for about eight weeks; and that is where the review committee's recommendations are—on the Minister's desk.

My question is: is the Minister withholding his decision about the future of these schools until the end of the term to minimise public action against the decision, and, if not, can he now give the schools the guarantee that they need for 1996?

The Hon. R.I. LUCAS: No decision will be taken in relation to any possible amalgamation or closure that would affect one of those schools for 1996. Obviously it is too late for planning for 1996. With respect to the final decision in relation to the recommendations of the review, as the honourable member indicated, some time earlier this year I received the recommendations of the review committee. Obviously the department received them a little earlier. I have asked a series of detailed questions, which are now back with the department. Some of them relate to issues affecting Gilles Street, Sturt Street and Parkside, particularly the future location of the curriculum units of the Department for Education and Children's Services, which currently occupy significant sections of the Gilles Street campus, and what options exist for the new arrivals program, which is currently located at Sturt Street and which, as the honourable member may or may not be aware, comprises 75 per cent of the population of Sturt Street. Without the new arrivals program, going from memory I think only 60 students attend Sturt Street. As Minister, I have put a whole series of questions to the department.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I have to wait for the answers to come back. As regards planning, there will be no decision to close any of the three schools for the 1996 school year. Obviously, it is too late in terms of sensible planning, and the schools are aware that decisions cannot be made this late in the year to close a school for the start of 1996.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I have just advised you and I understand that the schools are aware of that. I will check for the honourable member, but the final decision will be made as soon as I have received satisfactory answers to the questions that I have raised. I, as Minister, will not be rushed into this decision for the Leader of the Opposition—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: No, I have only had it for a part of this school term. The review was delayed, as the honourable member knows, because a number of people representing various interests at varying stages lengthened the procedures of consultation that the review committee was trying to institute more quickly. In the early stages, one school refused to be involved. Therefore, the consultation period had to be put on hold until that school was prepared to be involved in the discussions. Those sorts of delays had nothing to do with the Minister; those sorts of delays were caused by decisions that individual schools took at the time for their own reasons, which they obviously thought to be valid. I have only had the report for a part of this term; I have asked some questions and, until I have received satisfactory answers, I do not intend to announce a decision.

MURRAY RIVER CATCHMENT BOARD

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for the Environment and Natural Resources, a question about the Murray River catchment area.

Leave granted.

The Hon. R.R. ROBERTS: Water is a very topical subject in this State and nothing is more important to the people of South Australia than the Murray River catchment area. It was with this in mind that a Murray River Catchment Board and local government steering committee was set up some 12 months ago to undertake consultation with people in the area. I understand that there has been wide-ranging consultation. Numerous meetings have been held and a great body of very important information has been gathered.

This is an eminent group of people. It comprises the Mayors of Waikerie, Loxton and Barmera; as one of its servicing representatives, the Chairman of the Ridley, Truro and Mannum councils; an elected member from Meningie council; the CEO of the Murray Bridge council; the CEO of Waikerie council; and the product manager and the regional land manager of SA Water. These people have worked extremely hard and it was their understanding that they would provide some recommendations and advice to the Minister on what actions are needed in the Murray River catchment area.

There are legislative changes, which I do not intend to go into because they are subject to debate in this House. Suffice to say, that the board feels that it has been absolutely dismissed and shown no respect by the Government for its hard work, time spent and information gathered. There is concern that the information may be lost to the people of South Australia. My questions are:

1. Will the Minister apologise to the members of the Murray River Catchment Board and local government steering committee for the complete disregard of its work over the past 12 months?

2. Will the Minister endeavour to repair the lack of confidence in the Government by the steering committee, and provide funds to allow the collation of the committee's findings and recommendations, for the benefit of all South Australians?

The Hon. DIANA LAIDLAW: I am not too sure whether the Minister can provide money for the collation of this work. I will ask whether he is prepared to consider that proposition, but it might be difficult to achieve. In the meantime, I will ask him for more advice on some of the opinion and explanation that the honourable member has incorporated in his question and bring back a reply.

Members interjecting:

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

HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about the Hindmarsh Island Bridge Royal Commission.

Leave granted.

The Hon. T.G. ROBERTS: There has been a lot of speculation in the media about the total cost of the royal commission. I am sure that the Attorney would like to comment about the figures that have been bandied about as to whether they have any validity. One of the areas that has come under discussion behind closed doors and in corridors but perhaps not so much in the media is the breakdown of the costs. My questions in that regard are:

1. Which witnesses have been subpoenaed to give evidence at the royal commission and, of those, who actually gave evidence and who did not?

2. In respect of each of the counsel appearing at the commission and paid for by the Government, on what dates were the agreements reached in respect of the rates to be paid and what was the basis for calculating their final bill; and have any of these fee arrangements been renegotiated since the date for finishing the commission was changed?

3. How much, effectively, has it cost the museum to have Philip Clarke and Philip Jones not only give evidence but also sit in on the royal commission, and has this cost been included in the overall cost of estimates of the commission?

The Hon. K.T. GRIFFIN: I do not have all the figures at my fingertips. That information will be collated, and I see no reason why it should not be made available when the royal commission concludes. I have provided an answer to the Hon. Anne Levy's question in relation to who was represented and basically what the rates were, but I am happy to see whether we can put together some more information for the honourable member. Witnesses were subpoenaed by the royal commission, but I will make inquiries to see whether I can get some information for the honourable member in that regard.

In terms of any renegotiation, one aspect that was renegotiated was the extension of the time frame within which legal representation was to be available. Obviously, the early negotiations related to an earlier date which, when it was extended, required an extension of time for representation of those who were witnesses whether in relation to the statements they should give and their cross-examination or the closing submissions. I think we have bent over backwards to be fair to everyone. If we wanted a predetermined outcome we could have declined to provide representation for a number of interests who were opposed to the view that there was fabrication of the beliefs upon which decisions were previously taken.

However, I think it will be found that when the final wash-up of the legal cost payments is made, putting aside counsel assisting the royal commission and the Crown Solicitor's Office in terms of seconded officers, the bulk of the funds were made available to those whose reputations were in issue—for example, anthropologists, those who espoused a point of view that there were secret beliefs, and those, for

example the men, who asserted that there was no fabrication, who gave evidence and were appropriately represented. In the balance, those interests would have received more by way of funding than those interests where fabrication was asserted. That is just my perception of it. I do not want to be quoted as saying that is the position, because I want to go back and check the actual figures. I will take on board the questions the honourable member has raised and bring back replies.

ROAD SAFETY

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport a question about road safety for cyclists and pedestrians.

Leave granted.

The Hon. SANDRA KANCK: This year to date 35 pedestrians and seven cyclists have been killed on South Australian roads, with the vast majority occurring on metropolitan roads. The Bicycle Institute of South Australia believes that traffic policy makers need to take the safety of all road users into consideration and not just the interests of vehicle users when formulating traffic policy. In a recent meeting I had with representatives of the institute, they suggested a number of specific measures. One such measure was the prevention of bullbars on suburban roads, because they can mean the difference between life and death for cyclists and pedestrians in collisions. Another measure related to traffic speed on city roads. The bulk of pedestrian fatalities occur on main roads where crowd volumes are high, for example, near shopping precincts and where the traffic speed is faster. Based on this information the institute believes that a reduction of urban speed limits would reduce the level of pedestrian fatalities. My questions to the Minister are:

1. What mechanism has the Minister in place to ensure adequate consultation with communities about speed limits on roads?

2. Can the Minister give examples where community consultation has occurred before road speed limits have been raised?

3. Of the pedestrian and cycling accidents which have been officially recorded this year, how many of the deaths and injuries were exacerbated by bullbars on cars?

4. What does the Minister consider to be the best method of reducing the risks associated with bullbars?

The Hon. DIANA LAIDLAW: I know there has been a lot of comment about bullbars over some time. There are varying points of view. Insurance companies do not like them much because, in the metropolitan area, where vehicles go forward into the back of another car the damage is more extensive if the car is equipped with a bullbar. At the same time, insurance companies like to see bullbars when they are used in the appropriate environment in the country because they have many safety features. There is a lot of discussion about these sorts of issues. I know some people have suggested to me that bullbars be dismantled from the front of vehicles once they get to Murray Bridge or Gepps Cross, but that would be almost impossible to achieve and probably quite ludicrous in reality. The debate will go on.

There is some discussion in road safety circles around Australia and there will be more next year in terms of urban speed limits because a 40 kilometre general speed limit will be one of a number of proposals in a draft road rule code that will be released next month. That same code will include a whole lot of initiatives such as banning the use of handheld phones in motor vehicles and riding bicycles on footpaths and a whole range of potentially controversial initiatives. There will be a lot of debate on all those things in December and into the new year. In the meantime, I am happy to confirm to honourable members that a lot is going on in South Australia to make our road system safer for pedestrians. Today, with the member for Unley and the Mayor of Unley, I opened the first of the new wombat pedestrian crossings in South Australia in Arthur Street, Unley, which is by the Unley Shopping Centre.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: As the honourable member says, this is a very busy precinct in terms of many of these other pedestrian deaths. This wombat crossing is a raised crossing at footpath level so that the vehicles are required to slow down and the pedestrians are more obvious, and all traffic must give way to pedestrians. There are flashing lights to highlight the crossing, and 100 metres before the crossing there is a 40 km/h speed limit.

That is one of a number of recommendations from a pedestrian facilities review, which I established last year and which reported in August. It is fantastic that in only four months since that report was issued the Unley council has got its act together and that two wombat crossings have been installed in the area.

I know that the Prospect council is keen to produce more such crossings and that the West Torrens council is keen to work in partnership with the Department of Transport to install emu crossings, which are a new flag form of crossing, near schools. Emu crossings will feature in the 'Back to School' campaign early next year, I believe in February.

In the meantime, as the honourable member would be aware if she had held discussions with the Bicycle Institute, a major cycling strategy has been conducted over the past few months, and I will receive the report in mid-December. This report will address the entire network of safe bicycle routes within Adelaide on arterial roads and/or adjacent streets for both commuter cycling and schoolchildren or student purposes, because there is a variety of cycling needs in the community, and we have to provide for that range of needs.

On many fronts, the Department of Transport is now working with a whole range of groups and initiatives in terms of safety. It is no longer looking at its responsibilities with regard to roads only and with regard to motorists and their use of the roads: it is looking at pedestrians, skaters, cyclists—the whole lot—and so it should.

The Hon. SANDRA KANCK: As a supplementary question, will the Minister provide me with information about the effect of bull bars on deaths and injuries for pedestrians and cyclists?

The Hon. DIANA LAIDLAW: That was one of the honourable member's questions: I will do so. I can also advise that Road Safety SA, a major road safety strategy, will be released by the Premier tomorrow

MEDICAL EQUIPMENT

The Hon. T. CROTHERS: I seek leave to make a statement before asking the Minister for Transport, representing the Minister for Health, questions about the reuse of medical equipment in some of our hospitals.

Leave granted.

The Hon. T. CROTHERS: A report recently released by the National Health and Medical Research Council was scathing in its condemnation of the reuse of certain medical equipment in order to contain the cost of hospital operations.

In particular, the council singled out the reuse of syringes that should, in the council's words, 'be used only once', instead of which it was found that they were being used up to as many as 40 times. Further, an even more common occurrence was the reuse of catheters used to diagnose and control abnormal heart rhythms. This reuse, the report found, occurred between 20 to 40 times per catheter, whereas the council's own modelling indicates that the catheter should not be used more than 10 times and even stated a preference for their reuse not more than five times.

Dr Brook of the council said that some of these practices left patients at risk of injury by damaged equipment and blood infection through contamination. This survey, I might add, was done by the council on 15 hospitals, both public and private, throughout Australia. The council found that rules were being defied on single use equipment in order to cut costs.

The council also stated in its report that all States and Territories have policies which clearly forbid the reuse of single use devices. The exception to this rule is the State of South Australia. The report also calls for new standards of reprocessing equipment to be in place by 1997, but urges interim measures, including random audits and watchdog committees. Such new standards, Dr Brook said, would allow some safe reuse while significantly cutting costs.

I realise that cost cutting in respect of the provisions of health care has of recent times exercised the minds of the various State Health Ministers. For example, Victoria has recently slashed its health budget by more than $200 million and Western Australia by more than $100 million, whereas in our own State, I am told, present health provisions made by the State Government have been slashed by some $65 million, whilst the Federal Government has lifted its health expenditure by some $700 million in real terms. My questions, therefore, in the light of the foregoing, are:

1. Will the Minister ensure that South Australia upgrades this State's legislation so as to ensure that no less standards operate here in respect of reprocessing as already operate in all other States and Territories of Australia both now and in the future?

2. What are the percentage infection rates applying both in State-run and private hospitals over the past four years to patients who have had some form of treatment in our State's hospitals?

3. If no figures are collected in South Australia in respect of infection by hospitals, will that matter be remedied so that some sort of monitoring procedure can be kept on the success rate of keeping down the rates of infections induced into patients who have had to undergo hospital treatment?

The Hon. DIANA LAIDLAW: I will obtain advice from the Minister and bring back a reply for the honourable member.

SCHOOL LIBRARIES

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about donations of books to school libraries.

Leave granted.

The Hon. ANNE LEVY: I have received a publication which mentions *inter alia* that the Right to Life Association is distributing books to school libraries and institutions in South Australia. The book is called *Abortion in Australia—Answers and Alternatives*, and so far the association has donated 150 copies thereof. I presume, and would welcome confirmation from the Minister, that school libraries have a responsibility to have a policy of balance with regard to the books on library shelves and that, if an anti-abortion book was donated to a school, the school should balance it with a different point of view being available on its shelves. My questions are:

1. Have any of these 150 copies gone to Government school libraries, as obviously the Minister has no responsibility for what private schools put on their shelves?

2. Will the Minister confirm that it is the responsibility of schools to ensure a balance of material on their shelves when it comes to controversial matters such as this?

3. If that is the policy, will the Minister ensure that schools are reminded that it is the policy and, if it is not, will he undertake to prepare a policy for school libraries on this matter?

The Hon. R.I. LUCAS: I am not aware of the publication in question, but I will make some inquiries and bring back a detailed reply. Certainly, it would be my understanding that the broad guidelines that apply to controversial issues would ensure that appropriate balanced views were provided on issues that might attract strongly different views from within the community and perhaps within the school community as well.

Having said that, certainly in relation to secondary schools, I would also say that, if a publication of that particular view was being circulated, I would be surprised if there were not balancing points of view existing within school libraries already. It may well be that this group is seeking to do what the honourable member is referring to, that is, provide balanced comment in relation to the issues.

As I have not seen the publication, I therefore cannot comment specifically in relation to it other than talk in terms of the general nature, as I have done. I will undertake to consider the question and bring back a response as soon as I can.

TREASURY BUILDING

In reply to **Hon. P. NOCELLA** (26 October).

The Hon. K.T. GRIFFIN:

1. The Treasury Building was vacated by the Department for the Environment and Natural Resources in early 1995 as it was unsuitable for office accommodation and in poor condition.

Expressions of interest for alternative use were advertised nationally in 1994 and have now been evaluated. In the meantime, restoration of the fabric of the building and proposals to minimise future maintenance costs have begun.

2. There were several bids, the best bid was from a consortium lead by Harmony Corporation who have recently completed a more detailed proposal with initial costing for consideration. This is currently being considered for further action.

In the interim however, salt damp, loose render and painting is being addressed whilst the building is mainly vacant. This needs to be done regardless of any use and is to preserve the integrity of this historic asset.

3. It is expected the first phase (now in progress) of the restoration will be completed by Christmas 1995. It is also expected that final details of the proposal for alternate use will be completed in this financial year.

4. The final tenderer is expected to receive some incentive, however this will depend on the final proposal and scope of works. As no final concept has been approved, the issue of incentive or assistance has yet to be discussed.

COTTON FARMING

In reply to **Hon. M.J. ELLIOTT** (10 October).

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information:

1. Development proposals in Queensland do not fall within the legal jurisdiction of the South Australian Government. However, it is a policy of this Government to seek the active cooperation of the other States and the Northern Territory in total catchment management of the Lake Eyre Basin.

2. The Minister for the Environment and Natural Resources is considering a proposal to make a contribution, with Queensland and industry stakeholders, to fund a full time project officer for catchment management of the Lake Eyre Basin.

3. The Minister for the Environment and Natural Resources approached the Queensland Minister for the Environment and Heritage in early October 1995 to re-affirm South Australia's commitment to total catchment management of the Lake Eyre Basin, which includes the Cooper Creek catchment. The proposed cotton development on the upper Cooper system at Currareva was cited as a point of concern.

As a result of representations made by the Minister and officers of the South Australian Department of Environment and Natural Resources, the department has been included as a 'referral agency'. This allows the department to provide comment on the impact assessment statement being prepared by the proponents for the Queensland Government. I am advised that the Queensland Government may require the preparation of an environmental impact statement, if the impact assessment statement does not resolve satisfactorily the range of issues associated with this development proposal.

NATIVE VEGETATION

In reply to **Hon. M.J. ELLIOTT** (19 October).

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information:

In March 1994 the Native Vegetation Council assessed 20 clearance applications. Of these: 5 were withdrawn for more discussion between the assessing officers and the landholder (25%); 10 were granted approval (50%)—3 applications involved less than 1 hectare each; 5 were granted partial approval (25%); a further 3 delegated authority decisions were made on behalf of the council; 2 were granted approval and 1 was granted partial approval.

In April 1994 the Native Vegetation Council assessed 14 clearance applications. Of these: 3 were withdrawn for more discussion between the assessing officers and the landholder (21%); 6 were granted approval (43%)—2 of the applications involved less than 1 hectare each; 4 were granted partial approval (29%); 1 was refused (7%); a further 1 delegated authority decision was made and granted approval.

In May 1994 the Native Vegetation Council assessed 15 clearance applications. Of these: 6 were withdrawn for more discussion between the assessing officers and the landholder (40%); 8 were granted approval (53%)—4 of the applications involved less than 1 hectare each; 1 was granted partial approval (7%); a further 9 delegated authority decisions were made on behalf of the council. All were approved. 8 were for trees or clearance of less than 1 hectare and the other for an area less than 2 hectares.

In June 1994 the Native Vegetation Council assessed 17 clearance applications. Of these: 3 were withdrawn for more discussion between the assessing officers and the landholder (18%); 11 were granted approval (64%)—3 of the applications involved less than 1 hectare each; 1 was granted partial approval (6%); 2 were refused (12%); a further delegated authority decision was made on behalf of the council and granted approval.

From the statistics there does not appear to be a consistent trend in any direction relating to clearance approvals between March and June in 1994.

There have been no changes to the Native Vegetation Act and no changes to the criteria against which native vegetation is assessed. The number of applications concerned with scattered trees has risen from 24% of total applications in 1991-92 to 45% of applications in 1994-95.

The isolated plant provision of the Native Vegetation Act requires the Native Vegetation Council to take into account the expense to the landholder of retaining that plant or plants. Therefore the council is required to weigh up the ecological and economic value of a clearance proposal and make a balanced decision. The council has received more clearance proposals under the isolated plant provision that relate to vineyard or centre pivot irrigation proposals where the provisions of the Act favour the applicant due to the identifiable loss in production caused by retaining the trees on these high capital investments.

However, this increase in scattered tree applications is paralleled by a reduction in applications received for broadacre clearance since the 1980s which underlines the effectiveness of the Native Vegetation legislation in changing community attitudes.

An important aspect of the 1991 legislation, section 29 (11), is to ensure that where clearance of isolated plants occurs, there needs to be establishment of native vegetation on land specified by the council. In 1994-95, as part of these conditions for clearance, 963 hectares were placed under Heritage Agreement, 649 hectares were set aside for natural regeneration, 716 hectares planted with 24 000 native plants and 114 hectares were direct seeded.

South Australia is the only State that has this reinforced message of long term conservation and the Government has allocated resources to assess compliance with the conditions of clearance.

FOOD LABELLING

The Hon. P. NOCELLA: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about an amendment to the labelling requirements.

Leave granted.

The Hon. P. NOCELLA: Earlier this month the National Food Authority circulated draft proposals which would make it compulsory for manufacturers of uncooked, fermented, comminuted meat products to bear the following warning statement:

> Do not feed to infants and young children unless cooked.

For those members who are not familiar with this industry jargon, 'comminuted' means chopped or diced meat products. The industry as a whole, as well as individual producers and manufacturers of smallgoods in this State, is up in arms, as this would be the first time in Australia, and probably worldwide, where a set of food products has been singled out for the foregoing warning statement. The industry feels that it would face irreparable damage if this requirement was made into a compulsory regulation. It appears that it was brought up at the instigation of the South Australian Minister for Health perhaps as a knee-jerk reaction or an over-reaction. Certainly, it is something that the industry nation-wide and in this State is dead against.

The industry says that the introduction of such a warning statement would unjustly be prejudicial against a range of meat products which pose no greater risk than other popular foods such as cheese, salads, marine products and poultry. Marine products and poultry, in particular, appear to be those that cause the most food poisoning. Of course, consequential to that, such a warning statement on a product that is exported would result in a permanent loss of overseas trade in that product. Will the Minister confirm that in fact this suggestion through the national food authority came from South Australia and, if so, would the Minister reconsider such a suggestion in view of the industry representation?

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

WORKCOVER

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Industrial Affairs, a question about WorkCover.

Leave granted.

The Hon. R.D. LAWSON: The eighth annual report of the WorkCover Corporation for 1994-95 was tabled in this

Council on 23 November. The corporation is to be congratulated on producing a very helpful and detailed report. There are three aspects of the report upon which I wish to direct questions. The first relates to the subject of funding of the scheme. The report refers in key indicator No. 6 to the fact that the corporation has a target of achieving between 90 per cent and 100 per cent of full funding. The percentage of full funding in 1989-90 was 72.1 per cent. In the following three years it increased in each year. In 1992-93 it achieved 100.7 per cent. The percentage fell in the following year and, regrettably, it has fallen again this year and now stands at 70.7 per cent, which is less than that which was achieved five years ago. My first question will relate to that issue of funding.

The second question relates to the question of unfunded liability. WorkCover's interim report for the previous year showed that as at December 1994 the unfunded liability was $187 million. In this annual report that figure went up by independent actuarial assessment to $276 million, almost a $100 million rise. The third aspect of the report to which I direct attention concerns outstanding claims liability. Note 6 to the financial statements indicates that the accounts include:

> . . . a provision for an actuarial estimation of future liability for outstanding claims. This provision provides for unsettled claims, whether reported or not, which have occurred since 30 September 1987 and for which a liability extends over future years (potentially in excess of 40 years in some cases).

The report goes on to say that the corporation has obtained independent actuarial valuation for outstanding claims, and in 1995 that liability stands at $909 million. The figure in 1994 was $806 million; in other words, the liability has increased by more than $100 million in only one year. In relation to declining funding, unfunded liability and the rise in outstanding claims liability, are these figures a matter for concern and, if so, what measures can be taken to redress the situation?

The Hon. K.T. GRIFFIN: I will refer those questions to the Minister for Industrial Affairs and bring back a reply.

CHILDREN, LEARNING DISABILITIES

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about negotiated curriculum plans.

Leave granted.

The Hon. P. HOLLOWAY: My question relates to the preparation of negotiated curriculum plans to manage assistance to children with learning disabilities and whether there is a backlog of children requiring assistance. I have been informed that resources are not keeping pace with requirements and that the process is driven by budget constraints rather than the identified needs of children. My questions are:

1. How many children have been identified as qualifying for assistance under negotiated curriculum plans?
2. How many children are actually receiving assistance?
3. What is the budget for this program for 1995 and how are funds allocated?

The Hon. R.I. LUCAS: There has been no budget reduction in this area providing special education assistance to students with disabilities. The Government has done so because it believes that in this area students with disabilities and learning difficulties ought to be the No. 1 priority for any Government. We currently provide 406 special education salaries to students with disabilities who may well have negotiated curriculum plans to assist them. If we were to stick to the actual formula agreed with the Institute of Teachers, I think it would generate only 383 salaries. So, the Government is actually providing approximately 20 more salaries than the actual formula requirement agreed with the Institute of Teachers in relation to special education to assist students with disabilities. Therefore, it is an indication of the Government's priority in this area. Certainly, no-one can suggest that the Government has reduced assistance in this important area.

In relation to the proposed reductions for school support staff, the formula that generates school support staff assistance for students with disabilities was deliberately quarantined from the school support staff reductions. Again, because of the priority the Government gives students with disabilities, we believed that we could not justify reduction in this important area of providing assistance to students with disabilities. So, there has been no reduction. In fact, we have an increased allocation over what we are required to produce. Nevertheless, there will never be enough resource to meet all the demand in this area. So, we do struggle to allocate our 406 salaries and our additional school support staff assistance amongst those families and students who require assistance.

The growth area in recent years has been in the classification of students identified with language and communication disorders. The most recent figures that I saw indicated that we have about 8 000 students who have been identified under the policy as requiring additional assistance. The significant growth in the last two years has been in the language and communication disorder category. There is currently a review of that category, because there is a view from some principals, teachers and parents that the policy is not being uniformly implemented across the State. So, in some areas students with a particular problem are being categorised as qualifying for additional support, whereas in another area students with very much the same disability or difficulty are not being classified by departmental personnel as qualifying for additional support. So, that area of the policy is being reviewed.

TOTALIZATOR AGENCY BOARD

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Housing, Urban Development and Local Government Relations, a question about media reports on the TAB.

Leave granted.

The Hon. M.J. ELLIOTT: The *Sunday Mail* has shown a special interest in issues surrounding the TAB. There has almost been a story a week—

The Hon. T.G. Roberts: All in the public interest.

The Hon. M.J. ELLIOTT: True—in relation to the TAB, including allegations about its management, its profitability, etc. As I understand the situation, the TAB set a budget for 1995-96 of $210 million. That is a budget of turnover. I understand that at mid-November it was about $1.5 million (just under .7 per cent) below budget.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Just let me finish. I also understand that profit is running at about $125 000 above budget, and in percentage terms it is considerably more. The stories that have been appearing in the media consistently talk about what is happening to turnover. I understand the TAB's strategy was to get out of poor profit areas and to concentrate

on areas which were returning genuine profit. I further understand that not only because of gaming machines, but for other reasons, while it was getting out of essentially loss making areas the turnover might go down but profit would go up. I understand that that, indeed, is happening. In the circumstances I ask:

1. Does the Minister believe that reports are giving the full picture in relation to the TAB?

2. Importantly, is the Minister placing a gag on the TAB board and employees so that they cannot respond to make sure that the full picture is available to the public?

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

PARROTS

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to directing some questions to the Minister for Transport, representing the Minister for the Environment and Natural Resources, about rare parrots in South Australia.

Leave granted.

Members interjecting:

The Hon. T. CROTHERS: The ministerial bench is getting its feathers ruffled here. Recently the *Advertiser* carried a report from bird expert, Mr John Kenny, on the potential for the extinction of some subspecies of South Australian parrots. This, Mr Kenny said, could be brought about by the unchecked cross-breeding of rare birds. He went on to say that South Australia's wildlife permit system encouraged cross breeding by failing to separate subspecies.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: There is the Hon. Mr Redford, perched as he is on the Government back bench, squawking and carrying on as per normal and getting his feathers ruffled.

An honourable member interjecting:

The Hon. T. CROTHERS: There's another percher. Mr Kenny also said that the system had led to the hybridisation of the Australian eclectus parrot with Papua New Guinea and Solomon Island varieties of the same species. These varieties were much smaller birds. Further, he said that the genetic pool of the Australian eclectus has been so badly polluted by other varieties that it could soon become extinct in captivity.

Members interjecting:

The PRESIDENT: Order! I cannot hear the question. There are far too many side conversations. The Hon. Trevor Crothers.

The Hon. T. CROTHERS: There's a lot of squawking going on. Mr Kenny said that in the event that the parrot became extinct in the wild, there would be no stock of pure Australian eclectus from which to launch a reintroduction effort. He concluded his remarks by saying that we have to keep these gene pools pure. The report also pointed out that officers of the Department of Environment and Natural Resources have argued that it was too difficult to separate subspecies under the present permit scheme. With these facts in mind, I direct the following questions to the Minister:

1. Will he ensure that his department removes exotic subspecies from the permit system, thus making it illegal for Australian and overseas eclectus parrots to be cross bred? Incidentally, it is said that these birds are worth between $2 000 and $12 000 per pair.

2. Will he ensure that officers of his department do not continue to abrogate their responsibilities in regard to this matter, and, if the present system is difficult, that this deficiency is corrected as soon as possible to ensure that this threatened subspecies of parrot's future is assured?

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

PEARSON, Mr C.

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

Leave granted.

The Hon. ANNE LEVY: There has been a fair bit of controversy recently whether the appointment of Christopher Pearson, Editor of the *Adelaide Review*, as a speech writer to John Howard, is a conflict of interest and, if so, whether anything should be done about it.

The Hon. A.J. Redford interjecting:

The Hon. ANNE LEVY: I am not expressing any opinion, quite deliberately.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I am not expressing any opinion in this argument, but I note that the *Advertiser* has run editorials condemning Mr Pearson and raising analogies with elephants and mice and other such combinations which occur in ancient stories. I hope it is a matter of concern to the Minister for the Arts that Christopher Pearson is denigrating the Adelaide Festival and the Artistic Director for the 1998 and year 2000 Adelaide Festivals. I quote from him—

The Hon. A.J. Redford: You want him gagged, do you?

The Hon. ANNE LEVY: If you will listen to the question instead of interrupting all the time you might find out what I want. It is reported that Christopher Pearson is 'appalled by Archer's appointment to run the Adelaide Festival in 1998 and 2000'. The report states:

> 'It's nothing short of a catastrophe,' he says. 'The Adelaide Festival doesn't need Marxist agitprop and the sunlit simplicities of Archer's view of the world. For her to be given two festivals is the death knell of the festival.'

It is of great concern that these views of Mr Pearson may be conveyed to Mr Howard and that Mr Howard may have such views expressed in a speech prepared for him by Christopher Pearson. I am sure this would concern the Minister as denigrating and affecting the Adelaide Festival. I ask the Minister—

Members interjecting:

The PRESIDENT: Order! I ask members to come to order. There is a member on her feet asking a question. If members do not want to listen, they can go outside.

The Hon. ANNE LEVY: Will the Minister ensure that Mr Howard is informed of the derogatory views held by Christopher Pearson relating to future Adelaide Festivals and warn him about this matter so that he does not inadvertently, perhaps, criticise and affect the future success of extremely important Adelaide Festivals?

The PRESIDENT: Before calling the Minister, I remind the honourable member that that was again punctuated with a lot of opinion and debate. The Minister for Transport.

The Hon. DIANA LAIDLAW: I am fascinated to see the priority that the Hon. Anne Levy places on any words that Mr Howard would make. It is suggestive of comments made

last night by former Senator Graham Richardson following a speech given by Mr Howard, that from his Labor perspective Mr Howard is odds on to win the next election. It is quite apparent that the Hon. Anne Levy must think the same, to be so interested in this matter. I can assure the honourable member that Mr Howard is well informed of my opinion in respect of the importance of the Festival for Adelaide and for the arts Australia-wide. He is also aware of the Premier's regard for the importance of the Festival. I would suspect that Mr Howard—as would shadow Minister for Health Senator Alston—would have a higher regard for my opinion and the Premier's in these matters than Mr Pearson's.

I would also say, in respect of Mr Pearson's views, that Robyn Archer's appointment has been praised by me and by every commentator across Australia—except for Mr Pearson, which would suggest Mr Pearson may be a little out of step, possibly even prejudiced in his regard. It certainly is not the death knell—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —of the Festival; in fact, I think that Robyn Archer will add a new element, and a very exciting one in terms of her ability as an actor and the contacts that she has. I think she is an absolutely brilliant appointment for the Festival up to and including the year 2000.

JOINT COMMITTEE ON LIVING RESOURCES

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

That the second interim report of the committee be noted.

I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

MATTERS OF INTEREST

WHYALLA COMMUNITY PROJECT

The Hon. J.F. STEFANI: Today I wish briefly to speak about a community project which was undertaken by eight young people, aged between 16 and 20, who live in Whyalla. The project was delivered through the funding support of DETAFE and the Landcare and Environment Action Program, with the participation of CES and through the accredited program which was provided by the Spencer Institute of TAFE Whyalla campus.

My connection with the city of Whyalla and its people began in 1964 when I became the manager of a large South Australian plumbing company which had a branch at Whyalla. It was my responsibility to travel to Whyalla, both by road and air on a regular basis and, therefore, I came into contact with many members of the local community. I was pleased, therefore, to receive a copy of the book entitled *Towards a New Life*, a book which captures the personal thoughts and experiences of some of the European migrants who settled in Whyalla.

The eight young people involved in the program embarked on this wonderful project to research and record the stories of Mrs Silvani Franca, Mrs Irene Karavas, Mr Tom Perkovic, Mrs Cecylia Prusek, Mrs Charlotte Glowinski, Mr Andreas Mors, Mr Horst Paulke and Mrs Irena Wrzeszczynski, all of whom migrated from Europe to Whyalla in South Australia during the 1940s and 1950s. The purpose of the project was to preserve and promote Whyalla's rich multicultural heritage. The book is a testament to the hard work which was brilliantly undertaken to produce a lasting wealth of previously little known information.

I am confident that this will assist Whyalla's residents—past, present and future—to better understand an important part of their city's history. I am aware that the researchers' task included the investigation of relevant archive materials. Eight in-depth interviews with Whyalla's early European migrant residents were undertaken to record their personal thoughts and experiences. The researchers have successfully completed their task of collating all information and publishing a very interesting book. In addition, they are organising and establishing an exhibition for permanent display at the Mount Laura Homestead Museum.

I wish to pay a tribute and extend my congratulations to each of the young researchers—Linzi Haberle, Angela Harrison, Selina Phillis, Peter Richardson Brenda Hanisch, Tanya Paterson, David Ramsay and Cherie Sampson; their project supervisor, Patsy Thomas; the project editor, Virgil Goncalves; and the project assistant, David Poyner—most of all for their brilliant and significant contribution in recording and publishing the moving stories of the pioneers of early European migration to South Australia and, in particular, Whyalla.

YOUTH EMPLOYMENT

The Hon. T. CROTHERS: I rise to take the opportunity, so graciously extended to us, to speak on matters of interest and, in my view, matters of considerable importance. The subject that I want to address fairly briefly—because there would not be enough hours in the day to address it, if one was to try to grapple with it—is unemployment, particularly youth employment. Various different political parties say—and we can see it in Federal Parliament where the Government and the present Opposition are saying that they will fix up things—'Elect us, instead of the present Government, and we will fix up unemployment.' That is humbug of the highest possible calibre on the part of both the major political parties. I do not believe for one moment that the Government of Australia, or indeed of any other single nation, can grapple with the unemployment that currently exists and with the reason it has existed at record high levels—even worse than the Depression of the 1930s—for the past 12 years or more throughout our western industrialised world.

I said it was humbug and, of course, the present State Government said that if it was elected instead of the current Opposition at the 10 December 1993 poll it would fix this State's unemployment or perish in the attempt. I think it has perished in the attempt, because it has not honestly dealt with the rationale that underpins the reasons for high levels of unemployment throughout Australia—not only in South Australia but, in fact, throughout the world. What particularly upsets me is the very high level of youth unemployment, both in Australia and in South Australia, currently running in excess of 40 per cent or more of school leavers who, as yet, have failed to get a job in the free marketplace.

It is not possible under the present system of private entrepreneurship and the pace at which technology is being impacted in society for the current levels of unemployment ever to be addressed by whichever political Party irrespective of what it promises unless political Parties recognise the

truth, that is, that the high levels of unemployment that we are currently witnessing are being brought about by the speed, pace and rate at which technology is being introduced into society and that this is being done even more obscenely in the interests of so-called economic rationalisation and the interests of multi-corporations in particular and other companies as well to maximise their profitability.

It is no wonder that our youth, the cream of the future generations of our society, are so disenchanted with the way in which society and its political leaders (all of us) have performed on their behalf. We have not addressed the problem of the rationale that underpins all levels of unemployment, because we are all too busy playing political games saying that we can fix it better than the other mob and *vice versa*. The facts are that we must recognise the need to change the WASP type employment syndrome that existed in our societies when things were going well before technology was being changed the day before yesterday at a time when the rate of change was much more adaptable to the framework of society than is currently the case—and not at a national level, because this matter must be grappled with on a global basis, otherwise there will be no future for our youth and all that that portends for the future existence of society anywhere in its present state of tranquillity. I have often spoken in this Council on this matter, and I will continue to do so in the hope that someone sooner or later will hear and understand the message that I am trying to put across.

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

CRAIG v THE STATE OF SOUTH AUSTRALIA

The Hon. R.D. LAWSON: I wish to mention some implications arising from the recent decision of the High Court of Australia in *Craig v The State of South Australia*. This unanimous decision of the court was handed down on 24 October. It concerned a Mr Craig who was charged in the District Court with three offences, namely, larceny of a motor car, receiving of a motor car knowing it to be stolen, and damaging a motor car by fire. The maximum penalties in the event of conviction were: imprisonment for five years for the larceny, eight years for the receiving and five years for destroying the vehicle by fire. Mr Craig applied to a judge of the District Court (Judge Russell) for an order that the proceedings against him should be stayed until such time as he could be provided with representation by counsel at public expense.

That application was heard by Judge Russell and ultimately granted by him. The judge made a number of findings about the appellant, his lack of means, and his inability to obtain legal representation for his pending trial, etc. In the light of those findings, he concluded that the appellant 'could not receive a fair trial unless he is properly represented by counsel'. That decision was based upon the decision of the High Court in *Deitrich v The Queen* (decided in 1992), which established that, in a criminal case where an unrepresented accused is facing trial for serious offences, a trial judge has the power to make an order staying the proceedings if, in the circumstances of the case, it appears that the accused would otherwise not receive a fair trial.

During the course of the judgement in *Deitrich v The Queen*, the majority judges said that the test related to 'an indigent accused charged with a serious offence who, through no fault on his or her part, is unable to obtain legal representation.' In this particular case, Mr Craig originally was granted legal assistance. He had that legal assistance for the committal hearing, but after that he received an inheritance of $20 000. He failed to advise the Legal Services Commission of that inheritance and he broke bail. As a result, assets and his household goods were taken. He purchased a Volvo car, he went to New South Wales, and he lost that car. The judge took the view that notwithstanding that fact Mr Craig was not at fault and entitled to a stay.

The State of South Australia sought an order in the nature of *certiorari* quashing the order which stayed the proceedings, and the State was successful in the Full Court of this State. As you would well know, Mr President, *certiorari* is one of the prerogative writs by which the Supreme Court has the power to quash areas of inferior courts or tribunals where those courts or tribunals make some jurisdictional error, where they fail to observe procedural regularity, or where they contain what is described as an error on the face of the record. Craig then appealed to the High Court and that appeal was successful because the judges of the High Court took the view that the error, if there was an error, made by Judge Russell, was not one that was reviewable, because it was not an error on the face of the record. Their Honours referred to the ancient history of *certiorari* going back at least to the fourteenth century.

The High Court is frequently criticised for expanding the powers of the courts but, with the greatest of respect, in this case it appears to me that the court appears to have taken a very narrow view. We have overcome part of the problem with amendments introduced to section 352 of the Criminal Law Consolidation Act, which were introduced before the decision of the High Court, but it appears that legislative intervention may be necessary to reverse the retrograde approach of the High Court, which appears to limit the availability in this State of the writ of *certiorari*.

SPARK, Ms T.

The Hon. R.R. ROBERTS: Today, I want to acknowledge the work of Trish Spark who, for the past few months, has been assigned to my office under the Parliamentary Internship Scheme. At my request, Trish has researched and written a paper on non-farm rural poverty in three regional areas of South Australia. I would like to acknowledge Trish's hard work and pay a tribute to her for her initiative and enthusiasm for the project. Trish spent considerable time going through the available literature on the topic, including reports such as the parliamentary Social Development Committee's material on rural poverty, and she also took the initiative to visit the areas that she was researching (Karoonda, Peterborough and Crystal Brook) to discuss the issues with local people. This gave her a first-hand idea of the problems that are facing people who live in these communities.

In the short time available to me today, I wish to quote directly from the recommendations that Trish provides in her report. She states:

> This report shows that there is a need for social equity issues to be addressed in future government policy. This must happen in all areas, especially education and health. It is recommended that counsellors be assigned to rural areas where poverty problems are urgent. These counsellors must be independent of all Government departments. If they are not then the people will not use them or trust them with their personal problems. They can be arbitrators for the poor in rural communities just as rural counsellors are for the farming communities.

In the area of health, she recommends that urgent action be taken in the area of mental health. She states:

> There must be an increase in the number of mental health workers in rural communities, and facilities to care for patients with mental health problems need to be put in place. The aged in rural areas also need extra facilities. The major resource lacking in rural communities, however, is local doctors.

Declan Donleavy, from Peterborough hospital, suggests that a system of provider numbers could be used to secure doctors in rural areas. The idea is that a certain number of provider numbers are allocated to each city suburb and each country town. Without a provider number, a doctor would not be able to have his fees subsidised through the Medicare system. When these numbers are filled city area doctors would have to move to the country to be able to utilise the subsidy system. I understand that a system such as this is being used in Ireland. Whatever system is decided on, it is imperative that rural areas have access to doctors.

She has touched briefly on the area of education and suggests that rural schools must be able to provide facilities comparable to those in the city. This will not be possible if they do not receive extra funding. Small country schools should be staffed under a different system; otherwise, they will not be able to provide a range of subjects to their years 11 and 12 students.

Social equity and isolation issues must be addressed when rural schools receive funding. Students in rural areas are entitled to the same standard of education as received by those students in the metropolitan area. She suggests that local governments are having difficulty raising enough revenue to provide services to their communities. It is recommended that the Grants Commission take rural poverty issues into account when allocating funds. Regional development is also a major issue for rural communities. Governments could provide incentives for business to regionalise. The State Government urgently needs to reconsider its policy of downsizing and outsourcing within its departments. This policy is having a huge impact on rural communities in South Australia and numerous employment opportunities are being lost. It will be difficult to convince private enterprise to relocate to regional or rural areas when the Government has a policy in place to do the opposite with its own enterprises.

There are social equity issues to be addressed in this area. It is more important for Government enterprises to provide a service and employment opportunities than it is for them to make a profit. There is also a need for Government social services to be provided in rural areas. Rather than removing these services from rural areas they should be being upgraded. If rural poverty continues to expand, these services will be needed more than ever before.

That is not the full report and, as I said earlier, I commend Ms Spark for her work. I recommend her report to members of the Council and another place who have looked at rural poverty, and I am more than happy to make copies of the report available so that it may assist the mainstream committee inquiring into rural poverty.

RABBITS

The Hon. CAROLINE SCHAEFER: I will speak briefly today on the rabbit calicivirus. I note from a press release yesterday from the Minister for the Environment and Natural Resources that the coordination of the wider release of this virus throughout Australia will be based in South Australia, where most of the original research on this virus is centred. Despite the fact that the virus escaped some time prior to its planned release, recognition needs to be given to SARDI and the CSIRO, both of which were involved in exhaustively testing this virus under biological conditions. Of course, with any escape there are always rumours about how the virus escaped and whether it was accidental, and I guess no-one will ever know. Similarly, the myxomatosis virus escaped prior to its organised release. It was a great shame that this happened, because it has precluded scientists from being able to observe rationally how quickly the virus spreads and to where and to measure its effect. However, there is no doubt that there is great elation, particularly in the north and west but in all rural areas of South Australia, that the virus is out in the open and is killing rabbits. According to the State Minister for the Environment and Natural Resources, rabbits are estimated to cause $1 billion in damage to the environment each year. I suggest that that is a conservative estimate.

A report in this week's *Stock Journal* from a Flinders Ranges ranger estimates that 800 000 rabbits have died in that area alone since the virus reached the area, and there are reports of flora regenerating even now, prior to a great deal of rain falling. I imagine that we will see a great change to our flora, particularly in parks areas, in the next six months or two to three years. As with any biological control, it is most unlikely that it will wipe out all rabbits, because that rarely happens.

The virus originated in South America, and the South American rabbit species is immune to it. The amount of death that it can cause to rabbits showed up only when the virus reached Europe, where it was shown to kill rabbits. Even hares in South Australia are immune to the virus, which has been extensively tested on most species of native and introduced animals within Australia. The virus has been exhaustively tested and proven to affect only the European strain of rabbit.

As with any release, there is a down side. The down side would appear to be that the natural predators of rabbits such as foxes and cats, which are both introduced feral species, but also brown hawks and wedge-tailed eagles, suddenly will be deprived of their major source of food. It has been considered in South Australia that coordinated baiting of foxes and feral cats will be the most effective method of control, but I expect that for some of our smaller native species it will mean a hard time. Once their major source of food has been denied, native species in turn will die out. In the meantime, I expect that some difficulty will be experienced controlling feral cats and foxes.

CULTURAL RECONCILIATION

The Hon. T.G. ROBERTS: 'Reconciliation' is a word that means many things to many people. At present it is on many people's lips in relation to building up a new relationship with our indigenous people. A royal commission that is presently operating is causing quite a bit of heartache and certainly doing a lot of damage in relation to reconciliation. I would like to highlight the two sides of the argument, perhaps by referring to an article that has appeared in a publication issued by the Institute of Public Affairs, which traditionally takes a very conservative line. In the mid-1980s it took a conservative line on economics, and it is now doing so on rehabilitation of this planet and environmental questions generally.

Through the report in this publication *Tall Green Tales* the institute is trying to debunk the theory that indigenous people

do not live in harmony with nature and do not have a lot to teach Western cultures about living in harmony with the environment. I guess the question goes to the heart of the matter relating to the royal commission. I refer to a contribution by Ron Brunton. Although the article appears to be a well researched document with quotes from people whom he qualifies as having a point to make and it almost looks as if it could be used for students in putting together their own thesis on the issue, it only goes to show his ignorance as to how indigenous people have lived in harmony on this planet for a long time in many countries and, while their cultures have been overrun, so their relationship with the earth has been overrun. Mr Brunton puts together a dog's breakfast of reasons why he believes that indigenous people did not have that relationship. I will quote and then comment on the best illustration of his position. Mr Brunton said:

> Indigenous peoples appear not to have had the social institutions and traditions of rigorous critical questioning that would give them the kind of understanding of the world that can come from scientific inquiry.

He then cites his source, and continues as follows:

> Hence they lacked the capacity to develop rationally-based responses to environmental degradation when it occurred. As unpalatable as it may be to those who celebrate the wisdom of indigenous cultures, when it comes to environmental management indigenous people have immensely more to learn from western knowledge than westerners have to learn from them.

I think that a lot of people would dispute that claim. They would see it as a claim of no substance and base, but it is given in this publication a profile which is supposed to set the tone and standards for debate and discussion in modern day society.

The author of this article, Mr Ron Brunton, has put together a series of urban myths, if you like, in relation to sustaining his point. What is happening out there in the real world is that a lot of people are starting to look at how indigenous cultures lived in harmony with their surrounding geography, and they are trying to adopt solutions to problems that have occurred in the past 200 years in Australia and to get some of those problems corrected. A lot of people are now starting to work with Aboriginal people to try to get natural solutions or different ways of managing the solutions so that we do not have to spend a lot of money on engineering reclamation of the land.

This article and other people are starting to put together arguments saying that we really do not have to concern ourselves about Aboriginal or indigenous cultures providing the answers for the solutions to the problems that we have today, but that science can provide the answers. What it says here is that because the Aboriginal cultures did not have the back-up and support of science and technology they really could not come to terms with the problems that they had created. That does not rest well with me.

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

EDS CONTRACT

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

1. That a select committee be appointed to examine and report on contracting out of State Government information technology and, in particular, to examine the contract between the State Government and EDS;

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

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

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

Before the last election, one word which was used repeatedly by the present Government was 'accountability'. It was something that the Government accused the previous Government of not having—and I must say that I think that it was right: the previous Government had not been kept fully accountable, particularly in relation to the State Bank, which has proven to be a major impediment to the State's progress and to the maintenance of things that we value, such as the social justice, and so on, of this State.

However, since the new Government has been in office, only lip service has been paid to 'accountability'. This Government has involved itself in a series of highly significant contracts which involve significant sums of money and which will go for extended periods of time—in relation to EDS, nine years; in relation to the water contract, my recollection is 12 years. The Government has said, 'Trust us.' This Government is signing contracts with which the next two and three Governments will have to live, and giving us no real information about the substance of those contracts.

Over the past week or so it has been most enlightening to watch the twisting and turning of the Government in relation to the water outsourcing contract, which has not yet been finalised, although I am told that its signing is imminent. Despite the fact that the signing of the contract is imminent, it is clear that neither the Premier nor the Minister seem to have any full knowledge as to what is in the contract or the consequences of it. It has been most distressing to watch the Government, which is on the brink of signing a major contract, confess time and again that it really does not quite know what is going on, and sign contracts which will have significant ramifications for the future of South Australia.

The Government has already signed one very large contract in relation to information technology—the deal with EDS. I believe that the Government signed this contract under a level of duress, which the Government itself created. It made a pledge before the election that it was going to sign this major contract and was speculating that it was worth $1 billion. Now, almost two years later, we know that the contract is nearer to a little over $500 million in absolute size. The fact is that the Government, when it made its initial pledges, had no real idea about the consequences of this pledge on the contract or about how large the contract would be. It made very fundamental mistakes in terms of making assumptions about what work would and would not be outsourced, and what would or would not be within scope.

Even to reach the contract size of a little over $500 million, the Government struggled and brought into scope more and more parts of Government computing that originally was not in scope. One example is the TAB: originally it was not in scope but, as the Government struggled to make a contract of sufficient size to induce EDS to come in, it went scratching in every nook and cranny to try to build up the size of the contract. The Government had its credibility on the line in relation to whether it could deliver on its promise of a major contract.

I believe that is what would have created the duress; that is, having put its political credibility on the line, it had to sign a contract no matter what. We know that there were real difficulties at both ends in reaching an agreement in relation to that contract. EDS would have been driving a hard bargain. It certainly was not going to run at a loss: it was not here to give South Australia a gift. EDS also knew that the Government was desperate to obtain the contract. So, EDS was bargaining from a position of strength, the Government from a position of weakness. EDS did not need us: the Government needed it. That means that the bargain the Government made may not have been the best bargain. That is even assuming one agrees with the concept of outsourcing.

If we are to have accountability, then it is fair that the Parliament and the people of South Australia have an understanding of the ramifications of this contract. At this stage, the public are totally in the dark. All they have is the ministerial press releases which say that everything is fine, it is all under control and it is the best thing since sliced bread.

The Hon. R.R. Roberts: That is what it said about the water contract.

The Hon. M.J. ELLIOTT: That is exactly the point. That is precisely what it said about the water contract—not yet signed, sealed and delivered. The Government has again put itself into a corner and will look very stupid. Ministers have laid their careers on the line for the water contract. And yet, within weeks of signing the contract, it still does not know what the contract means. If this has happened in relation to the water contract, did it happen in relation to the EDS contract? At this stage the answer is—

The Hon. K.T. Griffin: The water contract has not been signed.

The Hon. M.J. ELLIOTT: The fact is that the public and the members of this Parliament simply do not know whether or not bungles of the kind that were going to be made with the water contract have been made within the EDS contract. We may have avoided some of the bungles with regard to the water contract because of a parliamentary committee. With hindsight, I regret that we did not establish a committee earlier to put the EDS contract under closer scrutiny. Hindsight can be a wonderful thing, but we should learn from what has happened previously. After what has happened with the water contract we should be quick learners. We have to look into the EDS contract very quickly and, if we start finding problems, then the Government will have to be kept under incredibly close scrutiny with every future contract.

The Hon. T.G. Cameron: If it is anything like the water contract you will have a field day.

The Hon. K.T. Griffin: A bunch of amateurs! You think you know all about it.

The Hon. M.J. ELLIOTT: I find it intriguing that the Minister should interject, 'A bunch of amateurs', when it is the Premier and the Minister responsible for the water contract who keep on saying, 'I do not really know. They did not tell me everything. They told me it was not important.' They are putting out press releases telling the public what this contract means is X, Y and Z. Then they say later, 'Well, it did not actually mean that, but it is not really important.' The fact is they did not know what was in the contract. In relation to the water contract, knowing some of the negotiators, I would not trust them to negotiate the price of a dozen eggs, let alone negotiate the water contract. I have had dealings with some of those people over the years and I had no respect for their abilities over those years. Some of those people were senior public servants under the previous Government as well. I had no confidence in them when I had to have dealings with them over legislation and various matters, and I still continue to have no confidence in them.

The Hon. L.H. Davis interjecting:

The Hon. M.J. ELLIOTT: The fact is it appears I knew as much about the water contract as the Premier and the Minister for Infrastructure because they knew nothing, so it really was not very difficult. A number of questions need to be addressed. We are signing a contract for nine years in relation to information technology. When members think back nine years ago and remember the hardware and software we were using, I do not think any of them would have contemplated the change that has happened in information technology during that time. I would like to know—and the public has a right to know—how this contract set about contemplating something which is almost unimaginable. How does one sign a contract which anticipates changes in technology and in software which are somewhere over the horizon at the time of signing the contract?

I want to know exactly where and how the savings are to be generated. There have been predictions of new jobs—by year one, two and three so many new jobs will be created. I received a phone call from a person in the industry who said that EDS found out only yesterday that it has to pay sales tax on its hardware. It thought that since it was to be supplying the Government it would be sales tax exempt—and this is 22 per cent. My informant said that the implications of that are that it will have to source its hardware from overseas so it can use transfer pricing arrangements to escape a number of the sales tax problems. At this stage that is only a claim, but indeed, if that was the case, if EDS has been set up for a sales tax that it was not aware of—and I must say that is its fault largely—

The Hon. R.R. Roberts: That means we have conned the Yanks and been bombed by the French.

The Hon. M.J. ELLIOTT: It is possible that we may have conned the Yanks, if the honourable member wants to put it that way, but the concern of my informant was that, in relation to local suppliers of hardware, it is an absolute disaster. There will not be more jobs, but fewer. At this stage that is only a piece of information that has come to me. The select committee will take the opportunity to look at those types of questions. I have had a number of people make approaches and say, 'If this committee goes ahead, we want a chance to get in. We have some stuff that needs to be looked at.' I have had those types of comments passed on to me from quite a few sources.

Questions of data security also arise. We have now put a private company—and it does not matter whether it is an Australian company or another—in charge of the data held by Government departments. The security of a significant amount of the data held by Government departments is most important. At this stage, again there is no clear information on the public record as to how questions of data security have been handled in the contract. Does the contract guarantee that any relevant benefits in research and development in the EDS organisation flow into the South Australian public sector? There are also questions relating to how service quality is measured. One often finds that with outsourcing, as one would expect with a private agency, they are profit oriented. Since it has only one client effectively—the South Australian Government—which has signed the contract and locked it up for nine years, how will service quality be measured? It will be seeking to cut corners as far as it can.

Information technology functions may be seen as being separate from agency main functions. At present, agencies have their own computer experts who understand the needs of that agency and can produce software specifically for that agency. Under this agreement, how will the company supply a service of anywhere near the same effectiveness and what are the long-term benefits or penalties for Government agencies as a consequence? Given that there is no specific legislation about reporting mechanisms, how will we measure the contract as it goes along? With Government departments we can get inside the workings of those organisations annually fairly easily through the budgetary process and Estimates Committees, etc., but with a private operator, presumably, we cannot do that. Therefore, there are no effective reporting procedures or any yardstick for measuring the performance of that contract.

It was not my intention to go on at great length today. The point that needs to be made is that we have a major contract, which, if it goes wrong, can have serious ramifications for South Australia. It is a contract which has been signed and in relation to the details of which the public and the Parliament have been kept ignorant. When a Government talks about accountability, then it should provide it. If it is not going to be accountable, then the Parliament will need to make it accountable. The unfortunate events of the past week, as exposed in the select committee looking into water outsourcing, make it imperative that we take a close look at this contract so that the public receives good and reliable information, and so that future Governments know where they are heading and not come upon some nasty surprises when they come into Government. I urge all members to support the motion.

The Hon. P. HOLLOWAY: The Opposition supports and, indeed, welcomes this measure. The Brown Government must surely be one of the most secretive Governments in this State's history. Within the not quite two years of the Brown Government's existence there have been at least five major contracts involving billions of dollars worth of public sector work, and this Parliament has been given very limited details about any of those contracts. As a consequence of those contracts, the Public Service has been reduced by many thousands, and a reduced number of its members will be working for the private contractors. So, work which was previously done by the Government and which was open to scrutiny by this Parliament, the Auditor-General and various other areas is no longer subject to that scrutiny. Recently, the Auditor-General's Report was handed down, and it is worth repeating what it contained in relation to this issue. In the Auditor-General's opinion, matters of financial accountability in the South Australian public sector are the most important issues facing the Parliament at this time. We would be derelict in our duty as a Parliament if we did not heed the words of the independent person appointed by the Parliament to protect the finances of this State. He is telling us that this is the most important issue we face; we should be heeding what he says. The Auditor-General made some quite detailed comments in relation to the procedures that need to be put in place to achieve this objective of greater accountability. He said:

> It is, in my opinion, clear that legislation with respect to [before the event examination of transactions] is now in need of review. . . 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. . . I have suggested that various precedents which already exist in legislation of this State be built upon to achieve improved accountability mechanisms in this respect—in particular, to ensure that all 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.

It is quite clear what the Auditor-General thinks about this matter. Unfortunately, in relation to EDS, we cannot do a 'before the event' review, because the contract has already been signed. But at least what we can do in looking at the contract is make the public and ourselves aware of it and learn the lessons from it. As the Hon. Mr Elliott mentioned, we have already discovered in relation to other contracts, particularly the SA Water contract, that we would be wrong to trust this Government. The honourable member has mentioned how in the last few days we have discovered that the Premier and the Minister for Infrastructure were unaware of what was going on.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Well, if the Hon. Mr Davis wishes to go back over those issues of the past he can. I intend to learn from what happened in the past and not to repeat the mistakes again. If the Hon. Mr Davis was satisfied with what was said about commercial incompetence and so on in relation to the State Bank then so be it. If the honourable member wants to repeat that indefinitely let him do so; but I do not intend to do that, because, as the Auditor-General has pointed out, we are really going through a completely new situation. The Auditor-General said:

> . . . Governments have always purchased goods and services by way of contracts with the private sector (e.g. for the supply of office consumables, for the lease of office space and for the construction of buildings and other public works); however, such contracts have normally be in standard and well known form and have been for 'once off' transactions, so that any errors are limited in scope and capable of being remedied within a reasonable time frame. As discussed elsewhere in this report, this situation has also changed dramatically, with quite new, non-standard and time-extended contracts being entered into or proposed to be entered into.

The situation we are facing now is quite different from that which we faced in the past. The Hon. Mr Elliott has gone through the background of the EDS deal. I will not spend too much time on that. Suffice to say that before the last election the Premier talked about doing a deal with IBM worth $1 million which was supposed to be all in the bag. That vanished within weeks of the election. We then had two preferred bidders: IBM and EDS. A contract was promised for the end of 1994 but it was then due by March and then April of this year. Of course, it never eventuated. As the Hon. Mr Elliott pointed out, the Premier compromised himself. The Premier placed himself under a great deal of pressure because he had so raised expectations that he would get this contract with EDS that he weakened his negotiating position. As the Hon. Mr Elliott said, he was negotiating from a position of weakness, not from a position of strength. Indeed, that is why we must have some doubts whether this deal with EDS is the best for this State.

What we do know of EDS is that it is the largest outsourcing provider of computer services within the United States. It is a huge company and it is by all accounts a very tough company in the way it does business. That is fair enough as it is operating in a very tough and competitive environment. But when we look at the recent events in respect of the State of Florida, which sued EDS because of some dispute involving $42 million worth of payments that

were made by EDS allegedly without authorisation, we can have some concern. The State of Florida, with 17 million people, is bigger than the whole of Australia. By comparison, South Australia is just a tiny part of, and a very small player in, EDS's world business. So, we are dealing with an extremely tough, hard-nosed company. When the Premier becomes so dependent on that deal for his own political credibility then we can, indeed, have some concerns about what may have been negotiated.

In relation to changes in computer technology, I remember that when I first went to university the most powerful computer in this country was at the University of Adelaide. That computer would not now have one millionth of the power of the average personal computer that sits on the desk of most people. There has been a massive change in technology. It does not surprise me that the Government talked about $1 billion of computing work which then became $800 million and which finally appears to have settled at $565 million. I noticed in one of the Department of Transport's reports that it decided that it could save a lot of money in computing by going away from its mainframe and mini-computers to personal computers, because these computers now have an incredibly enhanced capacity which is growing rapidly. There is still no sign of the exponential growth in the performance of computers tapering off; they just keep improving.

If we are going to write contracts for nine years into the future, who will say that improvements in computer technology will not mean that huge savings would have been made had we kept the system in the public sector. This is one of the great unknowns and one of the great risks of this contract. We simply do not know whether the Government has made any provision for changes in technology. That is the whole problem with this contract and, indeed, the other major outsourcing contracts negotiated by the Brown Government: we do not know any details at all about those contracts.

In places like the United States there is no such secrecy as these types of major contracts are all in the public domain. Why should there be secrecy in relation to this matter? It is not, for the benefit of Mr Davis, in a competitive environment such as that in which the State Bank operated, but here EDS will be given a monopoly over our computer networks for the next nine years. It will not have to worry about new computers coming in. Why is it that the details of that contract need to be kept so confidential? There are no competitors trying to take the contract away from the company: it has a monopoly for nine years.

The Hon. R.D. Lawson: It is not a monopoly; it is just a sole operatorship.

The Hon. P. HOLLOWAY: Perhaps the Hon. Mr Lawson might care to explain the subtlety of that difference to me at a later stage. I will not go into it now, because we have a large amount of business before the Parliament. It is most important that we set up a select committee to look into one of the most important contracts to be negotiated by the Government. It is in accord with the spirit of the Auditor-General's agreement: that the most important issue facing Parliament is the perusal and financial accountability of major Government contracts.

The Hon. T.G. Roberts interjecting:

The Hon. P. HOLLOWAY: The Auditor-General has pointed out that some of these contracts impose huge drains. I think we can bet that the Auditor-General will not be getting the additional resources that he will need to peruse these contracts properly. We also know that literally millions of dollars have been spent in legal fees in association with the drafting and perusal of these major outsourcing contracts. A huge amount of money has been and is being spent on them.

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: I am sure it is a worthy cause for many of the lawyers who took part in the negotiations. Whether it will turn out to be a productive exercise for the public of South Australia remains to be seen. I hope so, but, judging by what has happened in the State of Florida with EDS, we have every reason to be concerned. The Opposition supports the motion. We believe that the sooner we start looking at these contracts, learning lessons from them and providing the public with knowledge of them, the better it will be. If the Government is to go down the track of outsourcing, to which it seems totally committed, the least we can do is to ensure that this outsourcing activity is properly scrutinised.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

The ACTING PRESIDENT (Hon. T. Crothers): The adjourned debate be made an order for what day?

The Hon. M.J. ELLIOTT: The next day of sitting.

The ACTING PRESIDENT: Is that seconded?

An honourable member: Yes.

The Hon. K.T. GRIFFIN: I move, as an amendment:

That it be the next Wednesday of sitting.

The ACTING PRESIDENT: Is that seconded?

An honourable member: Yes.

The Council divided on the motion: That the adjourned debate be made an order of the day for the next day of sitting.

AYES (11)

Cameron, T. G.	Crothers, T.
Elliott, M. J. (teller)	Holloway, P.
Kanck, S. M.	Levy, J. A. W.
Nocella, P.	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Weatherill, G.	

NOES (10)

Davis, L. H.	Griffin, K. T. (teller)
Irwin, J. C.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Pfitzner, B. S. L.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.

Majority of 1 for the Ayes.

Motion thus carried.

SOCIAL DEVELOPMENT COMMITTEE: RURAL POVERTY

The Hon. BERNICE PFITZNER: I move:

That the report of the Social Development Committee on Rural Poverty in South Australia be noted.

Initially, I would like to thank the committee members from the House of Assembly (Mr Leggett, Mr Scalzi and Mr Atkinson) and from this House (the Hon. Mr Cameron and the Hon. Ms Kanck) for their contribution. I also thank the Hon. Ron Roberts for his small contribution on issues which the committee has already addressed. I especially thank the committee members who travelled some distances in the rural areas to take evidence *in situ*. More particularly, I would like to thank the small and dedicated staff: the committee Secretary, Ms Robyn Schutte, who organised us well, and the research assistant, Ms Anna McNicol, who

grasped the committee's ideas and put them into clear and concise words.

We are even more appreciative of our small staff when we compare them with a Senate committee which looked at similar terms of reference. We note that there were eight Senators on that Senate committee, compared to our six Legislative Councillors. But that is not a problem, as I am sure our intellectual capacity is more than adequate. The problem was with the support staff. The Senate reference committee had six support staff—the secretary to the committee, the principal research officer, two senior research officers, a research assistant and an executive assistant. Again, I thank our two staff members for their sterling effort.

On noting the rural poverty report, the gradual decline in the rural sector in South Australia, coupled with an unusually high number of recent adverse conditions for primary producers, resulted in the instigation of the committee's inquiry into rural poverty. At the time the matter was referred to the committee many people living in rural South Australia were experiencing hardship as a result of the effects of drought, mouse plagues, low commodity prices and high interest rates.

On 10 March 1994 the member for Ridley, representing one of the worst affected rural areas, moved a motion that set in place the current inquiry. The committee was directed to look at the effects of rural poverty on individuals and communities in rural South Australia. An interim report in response to the terms of reference was tabled on 4 May 1994. At that time, only a small portion of the total evidence submitted to the committee had been received. However, members were given an indication of the extent and severity of problems facing the rural sector. The committee finished hearing evidence for the inquiry in November 1994. Unfortunately, conflicting priorities meant that the committee had to complete two reports—on family leave provisions and unemployment—between November 1994 and March 1995 leaving little time to address the rural poverty reference. The departure of the committee's research officer in mid March resulted in a nine week delay while a replacement was appointed. By then the committee was deeply involved with hearing evidence for its inquiry into prostitution.

The rural poverty report was further delayed while the committee produced an interim report on prostitution which was tabled at the end of July 1995. Thus, a full evaluation of the evidence for the rural poverty reference only commenced in August 1995. Although, the committee regrets the delay in the production of the final report it is of great relevance. While the committee is heartened by forecasts for an above average season for most farmers, this is merely a reflection of the cyclical nature of farming. In addition, not all farmers will experience a good season at this time. The most recent crisis in the farming sector will certainly not be the last and members feel that it is important to put in place strategies to ensure that the impacts of future crises are ameliorated.

Many of the issues addressed in the report will remain unchanged by an increase in the fortune of farmers. A large proportion of South Australia's rural population are not farmers and, while many may benefit from a profitable season for farmers, there are others who will not. In addition, many services are not dependent on the wealth in the community. For example, increased wealth in the farming community is unlikely to attract more mental health workers to the rural area. However, I would like to emphasise strongly the need to continue to examine issues relative to the rural community. The committee believes that ongoing evaluation of the needs of the rural sector in good times, as well as in bad, will be of benefit to all South Australians.

During the course of the inquiry 123 people appeared as witnesses before the committee. In addition, the committee received written submissions from 62 organisations and 44 individuals. The committee visited two of the most severely affected rural regions to take evidence, with public meetings held at Karoonda in the Murray-Mallee region in late July 1994 and at Crystal Brook and Peterborough in November 1994. In addition, a video conferencing link was used to take evidence from the Eyre Peninsula in November 1994.

Evidence presented to the committee was diverse in nature. Private individuals wrote to and spoke with members about their personal experiences and offered many suggestions about how problems could be addressed. Representatives from both Government and non-government organisations provided information about a broad range of issues, including health and social services, education and primary production. Members spoke with academics, health professionals, rural counsellors, teachers and their students, ministers of religion, representatives from charitable organisations, farmers, social workers, Government department representatives and district council officials, to name but just a few. These people who took time to talk with members and prepare written submissions can be assured that their efforts were greatly appreciated and that the committee has taken all evidence into consideration in the preparation of this final report.

The terms of reference for the inquiry were broad, giving the committee some discretion in determining those matters most affected by and related to rural poverty and of greatest concern to members of the rural community. The amount and range of evidence presented to the committee was substantial. The committee, therefore, chose to focus on those issues that were mentioned frequently in evidence on the basis that these reflected the primary concerns of those people that the inquiry was designed to assist.

I wish to stress that the report does not provide a blueprint to combat poverty in rural South Australia. This was not the task set down by Parliament. The report identifies issues that are affected by rural hardship, and provides recommendations aimed at ensuring that these issues are addressed. There are, no doubt, issues that others would argue are important that have not been raised in the report. I ask you to bear in mind that the issues addressed were determined by the evidence received. These are the issues that were of greatest importance to the people living in rural South Australia at the time of the inquiry.

Most of the individual issues covered require much greater attention before successful solutions can be provided for the rural community. The committee found that in many cases a lack of precise information about the community needs made it difficult to determine how best to assist people living in the rural areas. The committee had hoped to obtain quantitative data about the extent, the severity and the impact of hardship on rural South Australia. However, although some individual groups were able to provide the committee with quantitative data concerning their activities, very little of the evidence was applicable on a broader scale.

The committee also attempted to place information provided in context with the entire South Australian population but found it difficult to do so either because of lack of comparative data or because issues were specific to the rural community. It is interesting to note that at the beginning of the inquiry the committee was advised by the Acting Dean

of the Faculty of Economics and Commerce at the University of Adelaide that it would be extremely difficult to obtain quantifiable information about the extent of poverty in rural South Australia. She suggested that the best approach for the committee would be to perform a sort of a case study that would provide a series of pictures and stories from which could be drawn an understanding of the rural situation. In the final analysis, effectively this is what has been done.

I turn now briefly to the problems of definition. The committee interpreted the term 'rural' to mean those areas of South Australia outside the metropolitan area. In addition, as there is a lack of consistency in the use of the terms 'country' and 'rural' in the evidence received, they are used interchangeably in the report.

The interim report discussed the difficulties associated with defining the term 'poverty'. I particularly dislike that term, as a more relevant term would be 'hardship' or 'disadvantaged'. However, we used that term because it was used in our terms of reference. Poverty is relative to a particular social context; thus it is not possible to construct a universally acceptable definition. Whether or not the Henderson poverty line, which uses income as a basis for determining poverty, should be used as a measuring instrument for the inquiry was also explored. The committee concluded that the use of such a device to assess the level of poverty in rural communities would not provide an accurate reflection of the rural sector. Members therefore determined that the inquiry would take into account broader issues and themes such as the availability of services and regional decline.

The committee has taken 'poverty' to mean that an individual or community is disadvantaged in some way or that they experience hardship in the Australian context and that they lack access to goods or services that are readily available to the wider population. In personal contact with members of the rural community, the term 'hardship' was used time and again to describe to me their difficulties. The committee was unable to obtain an accurate quantitative picture of South Australia's rural population. Such an exercise would require the expertise of a specialist demographer with the time and resources to collect and collate relevant information. In addition, it is unlikely that general information would be useful in addressing the problems facing our rural communities because of their diverse nature. However, much of the evidence submitted to the committee provided information about local area populations and changes that have occurred to them over time.

One general trend in smaller rural communities would appear to be a decrease in population numbers. Reduced enrolments at schools, amalgamations of sporting clubs, closures of small businesses and decreasing Government services were seen as indications that many communities have lost significant numbers of people. The continual decline in population numbers in smaller centres was often seen as the result of rationalisation and consequent movement of both private and public services to larger centres.

The changing nature of other rural centres was documented in evidence received by the committee. The reduction of industry and Government activities in some areas has resulted in inexpensive housing and has attracted people on low incomes. For example, the committee was told that many people now perceive Peterborough, once a thriving industrial railway community, as a welfare town due to the influx of social security recipients attracted by inexpensive housing.

The committee was told that the increase of Social Security recipients in many rural areas has created conflict and misunderstanding in traditional farming communities. However, members appreciated hearing from the Country Womens' Association that where education and intervention has occurred these problems appear to have been successfully addressed.

Changes have occurred within the farming population, with Australian census figures showing a 20 per cent reduction in the number of farmers in South Australia between 1986 and 1991. No doubt there has been a comparative drop since then. In addition, the average age of farmers at the time of the 1991 census was 46 years (an increase of two years since 1986). Comparison with the average age of people working in other occupations at 37 years highlights the relatively low number of young farmers, as well as the relatively high number of farmers who continue to work after 65 years of age.

I will not attempt to provide a comprehensive summary of the findings of the inquiry, as to do so would take considerable time. Instead, I will highlight some of the recommendations and leave the rest to those who are interested in reading them.

With regard to toll-free telephone numbers, one of the major issues identified to the committee which affects nearly all rural people was the high cost associated with telephoning Government agencies. As Government service providers primarily are located in major rural centres or Adelaide, and generally are open only during the day, callers from most rural areas must pay premium STD rates to telephone these agencies. The fact that it is not possible for many rural people to access Government services face to face is acknowledged as unavoidable, but to further disadvantage and compound rural people by requiring them to pay premium STD rates to access services that are freely available to metropolitan dwellers is not acceptable. While the committee acknowledges that some Government service providers have taken steps to address this problem by providing toll-free telephone numbers, many more have not yet done so. Consequently, in order to ensure that rural people are not deterred from or financially disadvantaged by accessing Government services, the committee recommends that all Government service providers have toll-free telephone numbers for callers outside the metropolitan region.

I turn now to the subject of education. Evidence received by the committee indicates that a primary concern for rural people is ensuring that their children have access to high quality education. It is apparent to the committee that education is of great importance to most rural people, and members appreciate the extent to which many rural families go to ensure that their children receive a good education.

Regarding assistance for isolated children, the lower population density in rural areas means that, unlike people who live in Adelaide, rural people have a restricted local schooling choice. Many secondary students in higher grades have limited access to face-to-face subject options. Some area schools are not even in a position to provide any face to face teaching for years 11 and 12, with students having to study all subjects through the Open Access College.

Members acknowledge the importance of ensuring that the majority of rural students are able to remain in their local communities to complete their secondary education if they so desire. This may mean that students are required to take some, if not all, of their subjects by distance education delivery methods. However, the committee feels that there is

an obligation to access face to face teaching where the level of teaching available in a local area does not provide what we call core subject choices on a face to face basis.

Currently, assistance for isolated children's funding is not available to students who wish to bypass a local school on the basis that selected subjects are not available by a distance education delivery method. This was of much concern to some witnesses, who indicated that it was unreasonable to expect students at years 11 and 12 to perform well if they had to study more than 50 per cent of subjects by distance education delivery methods. It was suggested to the committee that assistance for isolated children's funding should be provided to all students in years 11 and 12 who cannot access face to face teaching for more than 50 per cent of their subject choices.

Careful consideration was given by the committee to such a proposal. Members felt that it was important to consider subject choices available in metropolitan schools and then determine a group of core subjects for which it would be reasonable for all students to have face to face access. In order to provide equity of access for rural students to face to face teaching in the all important years 11 and 12, the committee has recommended that assistance for isolated children's funding be provided to students who select 50 per cent or more of these so-called core subjects and when more than 50 per cent of all subjects chosen are not available in a face to face manner.

As to further education and Austudy, rural dwellers in South Australia have even greater problems accessing further education than secondary education. Further education establishments are primarily located in Adelaide and in the larger rural centres, although most of these establishments offer limited studies by distance education. Evidence presented to the committee indicates that it is imperative to increase ease of access to further education by rural people. As more young people are having to leave rural areas in search of work, they must be able to access further education and training opportunities on an equal basis with their metropolitan counterparts.

The committee was told that the participation rate of rural students in further education and training is currently far lower than it is for metropolitan students. In addition, a significant concern is the reluctance of people raised in a metropolitan environment to move to rural areas to work. Therefore, it is far more likely that people raised in rural areas will return once their studies are completed. Thus, if rural communities are to maintain the presence of university trained professionals such as doctors and lawyers, etc., it is important to ensure that people raised in rural areas are encouraged to enter tertiary education. The committee therefore commends the recent announcement by the Minister for Employment, Training and Further Education of the UniTAFE initiative, which is designed to increase the accessibility of university courses for rural people. The provision of access to the first year of the University of South Australia accountancy degree at Berri and Nuriootpa TAFE campuses from March 1996 is seen by members to be the first step in a continuing process to expand further education options for people living in rural areas.

However, there will continue to be problems of access to further education for rural people. Many rural people who study at a further education establishment must move away from home at considerable cost to themselves and often their family. The financial cost of living away from home is such that individuals who are not eligible to receive Government assistance such as Austudy are often not able to continue their studies beyond secondary level. That is indeed a sad state.

The committee was particularly concerned that many students from struggling farming families were not able to access Austudy assistance because of family ownership of farm assets essential for the future profitability of the family farm. Many farming families have low or negative income, which means that, without Austudy assistance, they are unable to support their children who wish to move away to access further education.

While the committee is aware of the arguments against exempting family farms from the Austudy assets test, evidence received by the committee indicates that the continuing hardships faced by farmers are currently depriving children from farming families from accessing tertiary education. Farming families are in a unique position because the level of assets required to maintain a viable farm property are likely to be substantially more than for most small businesses in a similar location.

In addition, the committee believes that improved access to tertiary education for farming families will have benefits for the entire rural community. Therefore, the committee has recommended that the Minister for Employment, Training and Further Education urge the Federal Government to exclude family farms from the Austudy asset tests and, if the Federal Government is unwilling to accept this, the committee's next preferred position is that the current discount of 50 per cent on the value of assets of a family farm or business be increased substantially. We have no indication as to how much, but anecdotal evidence suggested 70 to 75 per cent.

As to social services, ease of access to relevant social services in times of need was also a concern for farming families.

As to the JobSearch allowance and the requirement to sell farm property, in times of difficulty farmers who are prepared to perform full-time off farm work may be able to access the JobSearch or NewStart allowance under special hardship provisions. However, one eligibility requirement is that farmers offer their family farm property for sale. This requirement effectively discriminates against farmers because it also entails the sale of their family home. Non farmers who wish to access the JobSearch allowance are not required to offer their family home for sale. Therefore, the committee has recommended that applicants for Social Security payments under the hardship provisions for JobSearch or NewStart allowances should no longer be required to offer their property for sale.

As to family payments and liquid assets, the committee heard evidence that in times of economic downturn family payment is often the primary source of income for farm families. Hardship provisions for family payment introduced specifically as a measure aimed at farming families bypass the assets test and provide assistance where liquid assets and income are low. The committee understands that there has been no increase in the level of allowable liquid assets for several years, and the level is currently $10 000 for a couple with children. In addition, the current definition of 'liquid assets' does not make provision for liquid assets essential for the continuing operation of farm businesses. Thus, farmers are not able to put aside cash for operating expenses such as shearing, seed costs and so on.

I recently spoke to my colleague, the Hon. Ms Schaefer, and asked her about the cost of 'super' and the cost of running a farm, and I understand that, for an average farm,

$15 000 is the average amount required for 'super' and another $15 000 approximately is required for fuel. As you can see, Mr President, $10 000 is a paltry sum. Members are concerned that hardship provisions are too stringent and deny families with real need access to assistance. Therefore, the committee recommends a significant increase in the liquid assets threshold which is used to determine eligibility for family payment under 'hardship provisions', and that the definition of 'liquid assets' be clarified with particular notice being given to the specification of the status of these liquid assets which are essential for the continuing operation of the farm business enterprise.

On the subject of pension eligibility, another area of concern identified to the committee by the farming community was access to the age pension. The transfer of a family farm from one generation to the next can result in an individual being disqualified from receiving the age pension for five years from the date of disposal of the farm business. While careful succession planning for farming families usually can overcome this problem, there are circumstances where this is not practical, for it is not reasonable to expect an individual to rearrange their farm assets. Hardship provisions allow some leeway at these times, but the committee believes that they may be too stringent and recommends that they be reviewed to ensure that farm families are not disadvantaged.

In addition, it would appear that there is a need for farmers to be fully informed of issues related to the inter-generational transfer of family farms. The committee has recommended that an integrated approach be investigated and developed to address the issues of retirement, managerial succession and assets transfer on farms. The committee is particularly concerned that not only farming families but also rural counsellors are unaware that information exists to assist in succession planning. Members feel that the better promotion of this material may alleviate the hardship experienced by some families at the time of inter-generational farm transfers. Therefore, the committee further recommends that rural counselling services be provided with funds to purchase and promote the existence of publications that assist in the succession planning process.

With regard to farm household support, the committee heard concerns from the farming community about the effectiveness of the farm household support scheme. Farm household support is available to farmers who are unable to access commercial assistance to meet day-to-day living expenses. It is provided in the form of a loan that attracts commercial interest rates with a maximum amount payable being the equivalent of job search allowance. Farmers accessing farm household support may either intend to remain in the industry or be in the process of leaving the industry. If the farm is sold within two years of the initial receipt of the farm household support, payments received during the first nine months are converted to a grant. In addition, if the farm is sold within nine months of the initial receipt of the farm household support, payments for the reminder of the nine month period can be cashed out as a lump sum payment. Where the farm is not sold within two years, all moneys received become a debt payable to the Federal Government. That is an odd set up, Mr President.

The committee was advised that as at 17 June 1994 only 59 farm households in South Australia were in receipt of farm household support. The committee does not consider this to be a high number of households and received evidence indicating that few farmers were willing to access this support. The major concern seems to be the reluctance of farmers to increase their debt. Further, the incentive seems to be for farmers to move off their farm—and, it seems to me, the quicker the better with regard to this farm household support, and what does that do for one's self-esteem. The committee believes the scheme is not succeeding in assisting farmers and understands that a review of the scheme is due to take place during the current financial year. The committee recommends that this review be conducted as a matter of urgency and particularly focus on creating clearer operating guidelines for the scheme, increased training for staff responsible for administering the scheme and better communication with farming families about the scheme.

The high rate of suicide in rural areas was of particular concern to the committee. Young people in rural areas in the process of establishing independent lives have been identified as being especially vulnerable. In addition, people in their early 50s who are perhaps finding it increasingly difficult to independently provide for their families also showed a relatively high rate of suicide. The problem of youth suicide is currently the focus of a national initiative, with special attention being paid to rural youth. A pilot project with the aim of facilitating the formation of local networks in rural areas to address this problem is due to start early next year. The committee understands that registration of interest from areas across Australia to be included in the pilot project closes in late 1995 or early 1996, and therefore the committee has recommended that the Minister for Health immediately commence activities to ensure that the South Australian rural community is included in the pilot project. While the committee commends the initiatives focused on addressing the problems of youth, there appears to be little direct activity aimed at reducing the level of adult suicide in rural areas. The committee believes that this matter requires urgent attention and has therefore further recommended that the Minister for Health look at addressing this as a separate issue.

I now turn to issues particularly relevant to the farming community. With regard to the rural adjustment scheme, farmers have received assistance in the form of rural adjustment measures for a number of years. The committee heard evidence that the current rural adjustment scheme (known as RAS92) was the source of some confusion to many farmers. I venture to add that it is a source of confusion to committee members. It was a very complicated issue. The objectives of the scheme, which are set out in the Rural Adjustment Act 1992, are to foster the development of a more profitable farm sector which is able to operate competitively in a deregulated financial and market environment and to improve the competitiveness of the farm sector in a sustainable manner. It is understood that assistance is provided to farmers who can demonstrate some form of recent success that would indicate prospects of long-term profitability.

These farmers may be eligible for interest rate subsidies of 50 per cent for interest payable on and associated costs of loans. In addition, grants of up to $3 000 are available to these farmers for the purpose of developing a property management plan. Farmers without future prospects of profitability are eligible for assistance to adjust out of farming. RAS92 also incorporates exceptional circumstances measures, with the Federal Minister for Primary Industries and Energy having the power to increase the level of assistance to farmers in specified areas.

Uncertainty about the objectives of RAS92 has meant that many farmers are not aware of current objectives of the scheme. The inclusion of exceptional circumstances measures

in the program has further added to the confusion. The committee therefore supports the Senate Rural and Regional Affairs and Transport References Committee in its recommendation that RAS92 be replaced by a new program with a different name, but retain similar objectives to RAS92. In addition, the committee supports the senate committee's recommendation that the exceptional circumstances measures be removed from such a scheme and be made the subject of a separate Commonwealth-State agreement.

The committee was greatly concerned by the findings of the rural debt audit commissioned by the Minister for Primary Industries in 1994. The audit separated South Australian farm business loans into three categories. It was found that 77 per cent of all farm businesses in South Australia were assigned to category A, which are those considered to be viable under all or most circumstances; and 18 per cent were assigned into category B, which are those experiencing varying degrees of debt servicing difficulty and debt deterioration under conditions at the time of the audit. The remaining 5 per cent were assigned to category C, which are those considered to be non-viable under any circumstances. I have been approached by a number of farmers who were very concerned about the criteria used to categorise these loans. While not casting any doubt on the legitimacy of the data collected, I feel perhaps it is unfortunate that there was no explanation offered as to how lending institutions assign loans to each of these three categories. Farmers to whom I have spoken have been quite distressed that all relevant factors may not have been taken into consideration.

The committee is particularly anxious about the fate of those farmers whose loans fell into category B, with no help for farmers in this area to continue their farming businesses. The committee was told of many farming families who are unable to access RAS assistance to remain on the farm, but who continued to remain and suffered great hardship as a result. The committee recognises the determination of these families not to leave their farms and is concerned that the lack of assistance for these farmers to remain on the land will result in farms being run down as well as contributing to family dysfunction.

The committee notes that category B farmers were identified as experiencing difficulties under the conditions at the time of the audit. One must therefore assume that, if conditions were to change, these farmers may be in a better position to achieve long-term profitability. Members believe it is important to identify the reasons why nearly a quarter of South Australian farmers are struggling under present conditions. This information can then be used to identify how struggling farmers can be assisted to become viable on a long-term basis. The committee is concerned that it may take some time for such an investigation to be completed. Therefore, in order to ensure struggling farmers do not have to wait for assistance, the committee recommends that until such an investigation is completed RAS funding, in the form of interest rate subsidies and property plan grants, be made available to farmers currently experiencing debt servicing difficulties and debt deterioration.

On a more positive note, the committee notes the initiatives by the Minister for Primary Industries in exploring export markets and developing products for these markets and recommends that the Minister consider funding non-government groups to assist in this process. In addition, the committee recommends that the Minister support farm business involved in pioneering production of commodities that have high export potential. Members also support the continued funding of value-adding initiatives that benefit entire industries, such as the almond processing plant opened at Renmark in June of this year. The committee was interested to read the first report of the Eyre Peninsula Strategic Task Force issued in June of this year. Members register strong support for the group as a mechanism by which local issues can be identified and recommends the creation of similar groups for specific areas—such a group could be the Murray-Mallee area—as requiring particular attention.

In closing, I know that there will be some people who will query why farmers ought to be so strongly supported and given extra privileged attention and why we should address their hardships with such diligence and concern, as there are other people in urban areas who also suffer hardship such as those people living in the Hindmarsh and Elizabeth areas. My response would be that these farmers are the primary producers of this land and, as such, they are irreplaceable as the food producers of the nation. Our Asian neighbours with their large populations, their increasing affluence and their resulting decreasing space for living and primary production will increasingly need the clean, fresh quality food that Australian farmers produce and will be prepared to pay premium prices for it. However, we may have to change the types of food that we traditionally produce to types of food more familiar to our Asian neighbours. In order to do this, we need to support our primary producers in making these changes.

I foresee, if we plan well, that from the year 2000 we will be established as the food basket (bread basket is not a relevant phrase—I suggest maybe a rice basket) for this Asian area. In the meantime, our farmers, descendants of those who pioneered and settled in Australia many years ago, who have produced the traditional wheat, barley, beef and lamb now need assistance to perhaps change some of their primary produce into value-added products such as aquaculture, etc. They will also need professional advice and the opportunity to enhance and upgrade their skills in financial management to meet the demands of the changing market. Primary producers also need to be assessed differently as they are—and the phrase is constantly put to us—asset rich and income poor. The farm assets are essential for the production of food and therefore the farmers should not be penalised because of their on-farm assets. It is a difficult period for farmers at this juncture but, if we want a sustainable rural community, then we ought to give out utmost support to the farmers who are the nucleus and the powerhouse of the rural community. Therefore, I commend this comprehensive report to the Council.

The Hon. SANDRA KANCK secured the adjournment of the debate.

SELECT COMMITTEE ON THE PROPOSED PRIVATISATION OF MODBURY HOSPITAL

The Hon. BERNICE PFITZNER: I move:

That the time for bringing up the committee's report be extended to Wednesday 27 March 1996.

Motion carried.

SELECT COMMITTEE ON OUTSOURCING FUNCTIONS UNDERTAKEN BY EWS DEPARTMENT

The Hon. L.H. DAVIS: I move:

That the time for bringing up the report of the committee be extended to Wednesday 27 March 1996.

Motion carried.

SELECT COMMITTEE ON TENDERING PROCESS AND CONTRACTUAL ARRANGEMENTS FOR THE OPERATION OF THE NEW MOUNT GAMBIER PRISON

The Hon. J.C. IRWIN: I move:

That the time for bringing up the report of the committee be extended to Wednesday 27 March 1996.

Motion carried.

REFERENDUM (WATER SUPPLY AND SEWERAGE SYSTEMS) BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 515.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I rise on behalf of Government members to again oppose the second reading of the Bill. Members will be delighted to know that I do not intend to go over the comprehensive, powerful, extensive—and all of the other wonderful adjectives that one can use—reasons for not supporting the second reading of this Bill. For those avid readers of *Hansard*, I refer them to a previous contribution made on 19 July this year (pages 2339 to 2342).

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: That is a very rude thing to suggest. Here I am trying to be friendly and nice while you are being barbed and malicious. Of course, that is the way of this Government: we try to be friendly and nice but are nevertheless attacked.

Members interjecting:

The Hon. R.I. LUCAS: I am delighted to hear that the Hon. Sandra Kanck's heart does bleed, and if it is bleeding for me I am delighted to hear it.

The Hon. R.R. Roberts: Yours won't; you haven't got one.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: There is another malicious comment, from the Hon. Mr Roberts. I do not intend to go through all the reasons again but I will summarise the conclusions that I made on the last occasion. The Government strongly opposes the notion of a referendum in relation to these significant issues. I am still not clear on when the Hon. Sandra Kanck and the Labor Party—if it is to be supported by the Labor Party as I suspect it intends to do, at least in this Chamber—see this referendum being held.

The Hon. Sandra Kanck: ASAP.

The Hon. R.I. LUCAS: Right, that answers that question. What the Hon. Sandra Kanck and the Labor Party are saying is that we need to cut $3 million from education and health somewhere to pay for the cost of a stand-alone referendum. What we will be saying to the schools and to the hospitals is that the Labor Party and the Australian Democrats want to delay approximately $10 million a year in savings by spending another $3 million on a referendum which will cut money out of schools, nurses, teachers and SSOs or instrumental music teachers. The Democrats and the Labor Party want that money taken from teaching and nursing areas, which will further reduce expenditure in those areas—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron will refrain from interjecting.

The Hon. R.I. LUCAS: —in order to find $3 million for a referendum to be held as soon as possible. So that is the policy that the Labor Party and the Democrats are saying that needs to be adopted and, as I said, at the same time delaying the much needed savings, which have already been factored into the budget, by the introduction of the new water supply—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Yes, we do; they have been factored into the contract. I am not sure how long a referendum will take to organise and to establish, but if it were to be delayed by another six months or so there would be another $5 million or so that would have to be cut from teachers and from nurses. Potentially, the Labor Party and the Democrats support the notion of a further $6 to $8 million being slashed from nurses, teachers, schools, hospitals, public transport, and wherever to support a referendum on a contract that will have been signed, sealed and delivered by the time the referendum is established. What are the Democrats and the Labor Party suggesting if, once the contract has been signed, sealed and delivered, a referendum were held and, hypothetically, the result is in favour of this contract? There would be a massive multi-million dollar damages pay out, if it was at all legally possible—

Members interjecting:

The Hon. R.I. LUCAS: Well, the contract is going to be signed; that is the bottom line. There is nothing that the Democrats or the Labor Party can do that will prevent the signing of this contract. So, what are the Labor Party and the Democrats suggesting with this referendum proposition in terms of what would be a multi-million dollar damages pay out if, in fact, it was legally possible—

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: The Hon. Diana Laidlaw makes a very pertinent point. As I am not a lawyer I cannot offer a legal opinion about whether it would be legally possible to unwind the contract, but what is it that the Democrats and the Labor Party are suggesting? Are they suggesting that we should pay the particular companies $50 million or $100 million in damages to stop the contract? In effect, what the Labor Party and the Democrats are suggesting is another reduction of some $50 million to $100 million, or whatever the sum might be, from schools, hospitals, education and health, because of this foolhardy notion that they seem intent on proceeding with—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: If I can offer the honourable member some words of advice, I think the honourable member is the getting the Attorney-General and the Auditor-General mixed up. I will leave the Hon. Mr Cameron to his own confusion: it rivals the Deputy Leader's cold 'collation' instead of 'collocation' that he offered during Question Time today.

Members interjecting:

The Hon. R.I. LUCAS: I will not seek to further embarrass the Hon. Mr Cameron.

Members interjecting:

The Hon. R.I. LUCAS: No, he did not have 'cold' in there: he just had a 'collation'—whatever that is. Mr President, that is the essence of the situation that confronts us. The contract will be signed. In effect, the cost of a referendum will mean reductions in public expenditure of a significant nature somewhere else. Again, if it means that the

Labor Party and the Democrats want this contract unravelled then the damages bill will have to come out of education, health and other areas of public expenditure.

The Hon. Mr Cameron and others are trumpeting that a majority of people (because of the fear campaign generated by the Labor Party and the Democrats), may oppose this contract. If the Government is reduced on every issue to doing only what a majority of people in a referendum say—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: No. If the Government is reduced to doing only what a majority of people say we must or must not do, then the Hon. Mr Cameron and everybody else will need to support issues like capital punishment.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Let us listen to what the Hon. Mr Cameron has to say about that. Here is an issue before the House—

An honourable member interjecting:

The Hon. R.I. LUCAS: Perhaps he supports capital punishment. I am not sure what his position is.

Members interjecting:

The Hon. R.I. LUCAS: I can think of some instances where the Hon. Mr Cameron might be tempted retrospectively with some of his colleagues—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: I will not talk about the Hon. Mr Cameron's views about some of his colleagues and his wishes that some of them might be subjected to capital punishment. If that is the sort of notion that the Labor Party and the Democrats are saying is, in effect, the fibre and substance of democratic government in the 1990s, namely, that every time people vote more than 50 per cent on a major issue that is what the Government and Parliament must do, they are arguing not just on this issue but on other significant issues—and there are no more life and death issues than capital punishment—that if the public votes 'Yes' on a referendum, the Parliament and the Government must follow it.

The absurdity of that logic should be apparent even to the Hon. Mr Cameron and the Hon. Ms Kanck. I can only suggest that if honourable members have not seen a wonderful film called *The Rise and Rise of Michael Rimmer*, where the absurd logic of what the Hon. Mr Cameron and the Hon. Ms Kanck are suggesting is taken to the nth degree and governments decide to let the people of the country vote on every issue by referendum and make the decisions in that way, the anarchy to which that situation would descend—

Members interjecting:

The Hon. R.I. LUCAS: If honourable members have not seen it, I shall be happy to organise a video filming of it so that they can inform themselves of a very clever film, which nevertheless makes an important point. Governments make decisions and at the end of four years they are judged. Governments are elected to make decisions and at the end of four years—

Members interjecting:

The Hon. R.I. LUCAS: The Hon. Terry Roberts has said that the Government will be in for 15 years. I know that he is a bit pessimistic, but I had not heard 15 years before. If he is offering the Government 15 years, we will accept it.

The Hon. T.G. Cameron: You were elected for four years and you are signing 15-year contracts.

The Hon. R.I. LUCAS: Governments are elected to make decisions and at the end of four years they will be judged. The people of South Australia can judge whether we have done a good or a bad job.

An honourable member interjecting:

The Hon. R.I. LUCAS: Governments make decisions. The Labor Government decided to give a $1 million package all up to Bruce Guerin to lock him away at Flinders and a variety of other places just before the election.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The Hon. Terry Cameron dissociates himself from that.

The Hon. T.G. Cameron: I wasn't here.

The Hon. R.I. LUCAS: They were all somewhere else. I will not go into the details. Governments take decisions on contracts which bind future Governments. For example, the former Minister for Education took decisions in a number of areas by way of contracts which bound the new Government. They are the facts of life.

Members interjecting:

The Hon. R.I. LUCAS: No, I am not happy to be bound by them. They are the facts of life and that is what government is about. Governments are elected to make decisions and to sign contracts and they are judged by the people at the end of four years. Should the Labor Party be foolish enough to support this motion for a referendum, it will not last more than 15 minutes in the House of Assembly, if it is lucky. It will be comprehensively defeated. For any reader of *Hansard* or anyone from the media who happens to be listening now or at some time in the future, I suggest that the prospect of any referendum being conducted on this issue is zilch. If it gets through this Chamber, it has no prospect of passage in the House of Assembly.

The PRESIDENT: The Hon. Terry Roberts.

The Hon. T.G. CAMERON: Different Terry. I keep being called Terry Roberts. I will take it as a compliment, but it is not me.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! The Hon. Terry Cameron.

The Hon. T.G. CAMERON: It is interesting that the Hon. Angus Redford should bring up the subject of factions. I am more than happy, if he wishes, to have a discussion with him about the latest factional ructions going on in the Liberal Party. Members have been lining up behind either John Olsen or Dean Brown, and others have been threatening to resign and form a new Liberal movement. I am glad he is hanging his head. Now, of course, he has looked up again. I have only 30 minutes, so I will devote my time to the Liberal Party's factional crisis later in the evening. Perhaps members opposite will be in a better frame of mind at that time. I welcome the motion put forward by the Democrats and indicate that the Australian Labor Party will support their call for a referendum.

Members interjecting:

The Hon. T.G. CAMERON: Whilst I take some note of the comments made by the Leader of the Government relating to referendums, he has failed to point out to the Parliament and people of South Australia that prior to the election there was no mention by the Liberal Party of its proposals not only to sell the management of our water system but to hand it over to the control of companies which are 100 per cent foreign owned. At no stage during the lead-up to the election did the Liberal Party advise South Australians that it intended to do this. Had it been honest about its intentions, I doubt whether it would have got the result that it did.

This matter of selling our water was proceeding smoothly for the Government and for the Minister for Infrastructure. I can understand why it was progressing fairly smoothly: because he had no idea whatsoever of what his negotiating team was doing. If he did know, he has misled the Parliament and the people of South Australia, and he never bothered to tell the Premier. We understand from comments made both in the House of Assembly and on the radio that both John Olsen and Dean Brown have only recently found out about the proposal to have a company which is 100 per cent foreign owned managing and operating SA Water. It is a fact that the Premier was kept in the dark on this matter; apparently he found out only in the last few weeks. It would appear that he found out only when somebody briefed him about what transpired at the select committee a couple of weeks ago.

In relation to what happened before the select committee, apparently I am unable to discuss it until the committee puts out an interim report or a final report. I guess everybody owes a debt of gratitude to Alex Kennedy, who normally prefers to talk about the factional fortunes and misfortunes of the major Parties in her columns but who on this occasion has written a couple of articles and, one could say, belled the cat in relation to what the Government was and was not up to.

If one looks at the article in the paper written by Alex Kennedy, one sees that she makes a number of observations. She talks not only about the evidence that was put before the committee but also about the financial structure that United Water was proposing to use when it signed the contract on 1 December. What a structure it is. It might be easier if I table a document in relation to the proposed structure.

The Hon. Diana Laidlaw: What document?

The Hon. T.G. CAMERON: Be patient and you will find out in due course. I seek leave to table this document.

Leave granted.

The Hon. T.G. CAMERON: I have also provided a copy for the Leader, Mr Lucas. I understand that he is not legally trained, nor financially trained, so I will take him through the document reasonably slowly so that he can appreciate what United Water, the negotiating team or the Minister was up to in relation to the deceptive and misleading statements that have been made in relation to this proposal.

If one looks at the document, one sees at the top 'SA Water', and another company, 'United Water International Pty Ltd', is below that, and it will have the head contract with SA Water. We are told that that company will have 60 per cent Australian shareholders, 20 per cent will be owned by Thames Water and 20 per cent by CGE. It becomes quite curious from there on, because it has been made quite clear that United Water International Pty Ltd will be bidding for new business, funding economic development initiatives and, in particular, chasing business in Asia and South-East Asia.

However, it would now appear that United Water International Pty Ltd will subcontract the management and operation of SA Water directly to United Water Services Pty Ltd. That company will be 50 per cent owned by Thames Water and 50 per cent owned by CGE. The directors of this company will be equally divided between Thames and CGE, and one can see that significant profits will be channelled from SA Water into United Water and through to United Water Services Pty Ltd, a 100 per cent foreign owned multinational company. One can only speculate where those profits will be directed to thereafter; I suspect that they will be channelled back to England and France through an effective international tax haven.

Members interjecting:

The Hon. T.G. CAMERON: I ask members to note that this is not evidence that was tabled at the select committee: most of this information is directly from Alex Kennedy's articles. I suggest that members read them. United Water International Pty Ltd will have a paid-up capital of $3 million. If one believes that Alex Kennedy heard it correctly when she made notes at the select committee—and I cannot comment on that—that $3 million capitalisation will have a local content of 5 per cent, which, I understand, is Kinhills. It will be throwing in $150 000.

The Hon. Sandra Kanck: Is that the Australian content—$150 000?

The Hon. T.G. CAMERON: Yes, $150 000 is the Australian content—5 per cent. The rest of the proposition is a wing and a prayer. We will come to that a little later. The rest of the money will be provided by Thames and CGE. The local South Australian company will be putting in $150 000 and the multinational corporations will be putting in $2.85 million.

The Hon. T. Crothers: Are they both foreign owned companies?

The Hon. T.G. CAMERON: Yes; one is an English company and the other is a French company.

Members interjecting:

The Hon. T.G. CAMERON: I guess that at the end of the day the select committee will get to the bottom of what is really happening. The proposition outlined in Alex Kennedy's article is that at some stage in the next 12 to 18 months United Water International Pty Ltd will sell down its shareholding from 95 per cent to 40 per cent, leaving it with the 20 per cent that is set out in the document. Some interesting questions need to be raised at this point about how that process will take place. The situation is that we will have a company that was 95 per cent owned by a foreign multinational which has a contract with SA Water, but either it cannot do the job or it is a hot potato so it will immediately handball it on to United Water Services Pty Ltd. How that process will take place—how it will be reduced from 95 per cent foreign ownership to 40 per cent—remains a complete mystery.

The Hon. T. Crothers interjecting:

The Hon. T.G. CAMERON: There is no doubt that will take place. The Hon. Mr Crothers suggests that any Australianisation of United Water International Pty Ltd will take place after all the business has been handballed on to United Water Services Pty Ltd. He is 100 per cent correct: that is exactly what they will do. One does not need to be too astute to work out what their plans are. No doubt those plans are—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: The Hon. Mr Lucas will get plenty of opportunity to look at all this, probably tomorrow. I understand that none of this has been before Cabinet.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: I said 'Cabinet', not 'select committee'—your hearing is going on you, too; get a haircut. If this matter has not gone to Cabinet, we have a $1.5 billion contract, being signed for a 15 year period, that has not even been deliberated on by Cabinet. We have a Premier who does not know what is going on. The Minister for Infrastructure does not know what is going on. The Premier wants to get rid of him. There is a backbench revolt, but it is said, 'No, we can't do that.' So, now we will have a ministerial reshuffle with the Premier refusing to endorse his Minister for Infrastructure's staying in that portfolio. I guess that only time will tell. The numbers will be counted, and I guess that

we will have a few more meetings at the Festival Hotel to sort out Minister Olsen's future.

The Hon. Sandra Kanck: You think the backbench is revolting, do you?

The Hon. T.G. CAMERON: I think the backbench thinks that this proposition is revolting. We had a mini-revolution last week, but wiser heads, such as Martin Cameron, Lindsay Thompson and Graham Ingerson, were able to prevail upon the Premier to calm down and start speaking again to his Infrastructure Minister, because he promised to keep him fully informed. We will wait and see whether Mr Olsen stays on as the Minister for Infrastructure and whether he is still in the Parliament at the end of next year—again, only time will tell.

I am being diverted from my main subject, and that is this financial structure. If we look at United Water International Pty Ltd, we see that, because it has a subcontract and will hand over the management of SA Water to United Water Services Pty Ltd, this company, United Water International Pty Ltd, will be floated off to the public and Australianised. However, perhaps I should not say that it will be floated off to the public, because I understand that the Chairman of Kinhill (Malcolm Kinnaird) reckons that that is all a beat-up.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: No. On the Keith Conlon show on 21 November 1995 he was asked whether he used the words that this issue had been beaten up before the committee, and he said quite clearly, 'No, I did not.' Well, it would appear not only that he got a few things wrong when he addressed the select committee but also that from my recollection he was wrong on that, too. My recollection is quite clearly stated in Alex Kennedy's article, and her shorthand is pretty accurate on these matters; and she is correct. So, we have the Chairman of Kinhill telling untruths about what he told the select committee only a matter of days after he appeared before that committee.

Some people might suggest that it is not a very important issue, but it is critical: it is all about whether the promises that have been made by the Premier and the Minister for Infrastructure about a share float and that mums and dads and institutions and the people of South Australia will have an opportunity to buy into this company are correct. We have some confusion here.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: Maybe it was a beat-up. Maybe he was referring to the fact that it was a beat-up by the Premier and Mr Olsen and that they are the ones who have misled the people of South Australia. It would appear that Mr Kinnaird might be the one who got it wrong, because both the Premier and the Minister for Infrastructure have come out and said that the company will be an Australian company. It is interesting. Time will not allow me to do so today during this contribution because I must wind up shortly, but I will return to this issue later tonight if I get the opportunity and talk in more detail about the conflicting statements that have been made by the Premier and John Olsen, how they are contradicting each other, Malcolm Kinnaird, Thames and CGE.

Just so that people do not misunderstand where I am coming from, I must say that I am not attacking United Water over this issue; nor am I attacking Thames Water or CGE. Let me say quite clearly that all the blame for the confusion and the deception lies at the feet of the negotiating committee, John Olsen and Premier Dean Brown.

The Hon. R.D. Lawson interjecting:

The Hon. T.G. CAMERON: If he wants to go on radio and mislead the people of South Australia about what he told a select committee, as a member of this institution I have every right to bring that to the attention of this institution, as I have done. If the Hon. Mr Lawson thinks I have done the wrong thing, perhaps he could say so. It would appear that this company, United Water International Pty Ltd, will make no profits whatsoever out of its head contract with SA Water. All those profits will be filtered down into United Water Services Pty Ltd. So, the company that will be floated off to the mums and dads of South Australia will not get any share of the proceeds of the contract with SA Water, but what they will get is all the high-risk entrepreneurial business associated with going into South-East Asia.

The Hon. SANDRA KANCK: I thank members for their contributions. I think the Hon. Terry Cameron has said much of what I wanted to say, anyhow, and I will not repeat that. I was interested in the comments of the Hon. Mr Lucas. In response to some of the things he said, there were interjections that answered his questions, but as they may not be on the *Hansard* record I will put them in for the record. He wanted to know when the referendum would be held, and I said, 'ASAP': it needs to be held as soon as possible, and the Government should hold off signing the contract so that it can be held, if it has any respect for democracy at all. He asked, 'Where will the money come from?' You only have to look at the way the Government allocates some of its money. It found money to refurbish the Festival Theatre foyer—

The Hon. Diana Laidlaw: That's absolute rubbish. Optus has fully paid for that.

The Hon. SANDRA KANCK: It has found $12 million this year to spend on the Southern Expressway, which has a budget all up of at least $112 million over the life of its construction, and it is not needed. It spent $2 million on the royal commission. When the Government wishes, it can find the money. The fact that the Hon. Mr Lucas has said that the contract is going to be signed, and he emphasised the word 'is', shows the arrogance of this Government when there is so much concern from the public. He raised the question of taking advice of electors at a referendum, yet this same Government has argued that the voting of a majority of electors at the State election gives it a mandate to get certain Bills through this Parliament. How is it that democracy works in one area and not in another?

It seems to me that members of the Government do not fully realise how important this matter is for most South Australians. I found it very interesting yesterday to hear Eva Cox delivering her second Boyer lecture entitled 'Raising social capital': she made the observation that when any of our utilities are sold off the public feels a loss of common property and, I would add, rightly so, because it is our property—not the Government's. The Government is elected by the people as the caretaker of that property. It is not its right to turn it over to someone else—

Members interjecting:

The Hon. SANDRA KANCK: But you are turning it over to someone else, and you have no right to be doing so if the public says 'No'. Eva Cox went on to say:

> I have a strong sense that we are unravelling and tearing the social fabric, replacing it with a safety net that catches some of the poor and leaves the rest of us to flounder. We are losing some of the sense of belonging, of the common wealth that is part of our public selves.

She compared the privatisation of our assets to selling off the family silver. Those members on the Government benches who possess family silver need to understand that there are many people in our society whose families have no silver, never have had and are unlikely to have any in the future. For these people, the only riches they have are in that realm referred to by Eva Cox, the common wealth. These people have paid their taxes; they have paid their electricity rates and their water rates, and they rightfully believe that they are the owners of our water utility. They are understandably angry when this possession, their family silver, is handed over for someone else to use as they will.

Some question has been raised whether or not the Government made a promise about this at the election, so I went back through all its election policies, which are about six or seven centimetres thick, and I found that in the environment and natural resources policy, under the heading 'Water management', one little dot point saying that a Liberal Government will 'put out to private tender some [I emphasise 'some'] of the current functions of the EWS Department'. Certainly, I recall no discussion about it prior to the election, and I wonder how many people were provided with full copies of that policy.

Even if large numbers of people got hold of it, I doubt that they would have asked questions about that single sentence, because the Liberals did not say they would corporatise the Engineering and Water Supply Department. They did not say they would change the name of the Engineering and Water Supply Department, and they did not tell the public they would turn over the entire management of our water supply to a private company. They did not tell us that a totally foreign company would be effectively managing our water supply. In effect, the electorate was lied to by omission. This Government cannot claim to have a mandate—

Members interjecting:

The Hon. SANDRA KANCK: Absolutely. This Government cannot claim to have a mandate to do what it is doing with our water supply, and it should be consulting the people of this State. It could have done it earlier with a discussion paper perhaps and invited feedback. It could have done it with a series of public meetings, as the previous Government did with *2020 Vision*, but it has done neither. By contrast, we have had a secretive process whereby information has been denied to the public on the ground of commercial confidentiality. A referendum is the only way left for the public to have their say. The question that would be asked if this Bill passes both Houses is: should the State Government cause management of all or a major part of the State's public water supply and sewerage systems to be contracted out to a private body?

In the period leading up to the referendum all the arguments could be canvassed in literature distributed to voters and in the media and, if the outcome for South Australians is really as good as the Government claims, the Government would have nothing to worry about in holding the referendum. This Government will be operating in a most cavalier fashion if it thumbs its nose at this Bill, as it appears it is going to do. Last week Channel 7 conducted a poll, inviting viewers to register a 'Yes/No' opinion on the question of whether a referendum should be held about the water contract. Of a total of 3 866 callers, 92 per cent wanted a referendum.

The Hon. T.G. Roberts: 92 per cent want a referendum?

The Hon. SANDRA KANCK: Yes, 92 per cent. I am told that for such a poll 1 000 people voluntarily responding is a reasonably good response, but almost 4 000 people felt strongly enough about the issue to register their opinion. Earlier this week on 5AN, Julia Lester's phone poll related to the question of support of outsourcing generally. Although most of the people who went to air spoke about the water contract, 92 per cent of 5AN callers were opposed to outsourcing. We know that the Government has done its own opinion poll on the subject, yet strangely it will not issue the results. Could it be—

The Hon. R.R. Roberts interjecting:

The Hon. SANDRA KANCK: We will try to get it, too. Obviously, if it is not prepared to release the results of that poll, I am betting that it got a similar result—around the 92 per cent mark. The Government has worn out its 'trust us' routine. For a number of months the Government was able to get away with it but the public got wise to it. The news from last week that neither the Premier nor the Minister for Infrastructure knew about the proposed dual-company structure of the prime contractor has provided proof to the public that simply trusting the Government to get it right could be a very dangerous way to go. Seeking the opinion of the people of this State and acting on it is the only legitimate way to go. This is the Bill that, more than any other in this Parliament, the public wants to see passed. The Government must stop riding roughshod over the people of South Australia.

The Council divided on the second reading:

AYES (8)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Holloway, P.
Kanck, S.M. (teller)	Levy, J. A. W.
Roberts, R. R.	Roberts, T. G.

NOES (7)

Griffin, K. T.	Irwin, J. C.
Lawson, R. D.	Laidlaw D. V.
Lucas, R. I. (teller)	Redford, A. J.
Schaefer, C. V.	

Majority of 1 for the Ayes.

Second reading thus carried.

Bill read a third time and passed.

[Sitting suspended from 6.12 to 7.45 p.m.]

MOTOR VEHICLES (TRADE PLATES) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport) obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act 1959 and to make consequential amendments to the Local Government Act 1934 and the Road Traffic Act 1961. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill seeks to introduce a simple single trade plate system to replace the current 'general' trader's plate and 'limited' trader's plate system.

The criteria for the issuing of trade plates and the conditions governing their use have, for a number of years, been the subject of criticism from various groups within the motor industry. The view generally expressed is that the present legislation no longer meets the needs of industry, and is open to abuse by some plate holders.

At the present time the issuing of trade plates is limited to persons who are engaged in the business of manufacturing, repairing or dealing in motor vehicles, or the manufacture of agricultural machinery. These criteria, which also require the person to have 'suitable premises', excludes, for example, the owner of a mobile workshop from obtaining a trade plate, even though the owner may be genuinely engaged in repairing vehicles. Accessory fitters, such as liquid petroleum gas tank fitters, are also excluded from obtaining a trade plate by the existing legislation.

The present criteria provide for a trade plate to be used 'for any purpose directly connected with a business carried on by the trader'. This is considered to be too general and has led, in some cases, to traders using the trade plate for their own transport to and from their residence and workplace, thereby avoiding the payment of registration, stamp duty and insurance charges.

The Bill provides for the regulations to prescribe the purposes for which a trade plate may be used and excludes all other uses. To assist in effectively controlling and policing the use of trade plates, restrictions on the use of a vehicle will be applied according to the category of vehicle on which the trade plate is to be affixed. These categories are:

- heavy commercial;
- motor car;
- motorcycle;
- trailer; and
- agricultural machinery.

An applicant for the issuing of a trade plate will be required to nominate the category or categories of vehicles for which the trade plate is required. The Bill will also allow for a heavy commercial vehicle, operated on a trade plate, to carry a load for demonstration purposes. This will enable the performance of the vehicle to be more adequately demonstrated to prospective purchasers than is currently the case.

A separate charge will be payable for each category, with the charge for each vehicle type tied to the equivalent registration charge for that class of vehicle. There will be no charge for a trade plate required for agricultural machinery. The Bill also provides for a trade plate to be issued for a period of up to three years. However, an administration fee of $20 will be payable on the issue of a trade plate, irrespective of the period for which the trade plate is issued.

The criteria for obtaining a trade plate will be that the applicant is genuinely engaged in a business in which trade plates are reasonably required. The Bill will enable the Registrar of Motor Vehicles to engage the services of the Motor Trade Association, the Royal Automobile Association, or other industry association, to assist in assessing applications for the issuing of a trade plate.

The Bill also provides an innovative approach to allow vehicles being loaded onto, or unloaded from, a transporter to be exempt from registration. This will enable vehicles to be driven to or from a transporter without the need to attach a trade plate to each vehicle.

A specific third party compulsory insurance premium class will be created for transporters, so that the increased risk associated with loading and unloading operations is reflected in the premium cost. Some improvement in the efficiency of the industry can be expected.

The opportunity is being taken to rename trader's plates to trade plates, which is the expression commonly used in the motor industry.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 10—Exemption of vehicles with trade plates

This clause removes references to 'trader's' and replaces them with 'trade'.

Clause 4: Insertion of s. 10a

10a. Exemption of vehicles being loaded or unloaded from transporter

This section allows a vehicle to be driven on a road without registration if it is driven for the purpose of loading onto, or unloading it from, a transporter and the vehicle is driven not more than 500 metres from the transporter.

Clause 5: Amendment of heading preceding s. 62

This clause replaces the reference to 'trader's' with a reference to 'trade'.

Clause 6: Amendment of s. 62—Issue of trade plates

This clause amends section 62 of the principal Act to—

- empower the Registrar of Motor Vehicles to issue trade plates to a person if the Registrar is satisfied that the person is engaged in a business in which trade plates are reasonably required for a purpose of a kind prescribed by the regulations and stated in the person's application;
- allow the Registrar, in determining whether an applicant satisfies the requirements for the issuing of trade plates—
- to seek and obtain the advice and assistance of a person or body that represents the interests of those engaged in a business of the kind in which the applicant is engaged; and
- to enter into arrangements with a person or body for the purpose of obtaining such advice and assistance;
- replace references to 'trader's' with references to 'trade'.

Clause 7: Amendment of s. 64—Specifications of plates

This clause replaces the references to 'trader's' with references to 'trade'.

Clause 8: Substitution of ss. 65 to 67

65. Duration

This section provides for a trade plate to be issued for 12 months, 2 years or 3 years at the option of the applicant, and to be reissued for any such period.

66. Use of vehicle to which trade plates are affixed

This section permits a motor vehicle to which trade plates are affixed in accordance with the regulations to be driven on a road for a purpose prescribed by the regulations and stated in the application for the issuing of the plates. If a vehicle to which plates are affixed is driven on a road other than for such a purpose, the driver of the vehicle and, where the driver is not the person to whom the plates were issued, the holder of the plates, are each guilty of an offence. The maximum penalty is a division 8 fine ($1 000).

Clause 9: Amendment of s. 70—Return of trade plates and refunds

This clause replaces reference to 'trader's' with references to 'trade' and provides for the regulations to prescribe, or set out the method for calculating, the amount of a refund payable on surrender of a trade plate.

Clause 10: Amendment of s. 71—Transfer of trade plates

Clause 11: Amendment of s.98n—Trade plates not to be used for the purpose of a towtruck in certain circumstances

Clause 12: Amendment of s. 99a—Insurance premium to be paid on applications for registration

Clause 13: Amendment of s. 136—Duty to notify change of address

Clause 14: Amendment of s. 137—Duty to answer certain questions

These clauses replace references to 'trader's' with references to 'trade'.

Clause 15: Amendment of s. 141—Evidence by certificate of Registrar

This clause—

- replaces references to 'trader's' with references to 'trade';
- inserts a new evidentiary provision to facilitate proof, by means of a certificate of the Registrar, of the purposes stated in an application for registration, renewal of registration, exemption from registration or a permit in respect of a specified motor vehicle or in an application for the issuing of specified trade plates.

Clause 16: Amendment of s. 147—Financial provision

Section 147 of the principal Act appropriates the General Revenue of the State for the payment of refunds of registration fees authorised by the Act. The clause widens that appropriation to cover the payment of refunds of other fees authorised by the Act.

Clause 17: Amendment of fourth schedule—Policy of Insurance

This clause amends the policy of insurance to cover the use of a motor vehicle to which trade plates are affixed.

Clause 18: Transitional provisions

This clause provides for trader's plates issued under the existing provisions of the principal Act to be taken to be trade plates for the purposes of the Act as in force after the commencement of this amending measure. It also ensures that the current restrictions on the use of trader's plates issued under the existing provisions will continue to apply after the commencement of this measure for the unexpired portion of the period for which the plates were issued.

Schedule: Consequential Amendments

The schedule amends the *Local Government Act 1934* and the *Road Traffic Act 1961* to replace references to 'trader's' with references to 'trade'.

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

EXPIATION OF OFFENCES BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the expiation of minor offences. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

In the early nineteenth century, most crimes were indictable and, therefore, serious and triable by jury. The only question was whether the crime was a felony or a misdemeanour. It had been so for centuries. But the industrial revolution demanded changes in the criminal justice system, and one of the more important changes was the need to enact new regulatory offences. These were not seen as serious, but were necessary to regulate the new urban industrial society. The technique used to this end was the creation of what we now call summary offences, triable by justices in a summary way. The regularisation of this new system of summary offences was only completed in 1848 in England, with the enactment of the *Summary Jurisdiction Act*, which was duly copied in this State by the Summary Jurisdiction Ordinance, No 6 of 1850, the ancestor of the *Justices Act* and, in turn, the *Summary Procedure Act.* Honourable Members may be interested to learn that the original Ordinance was made by the Governor, with the advice and consent of the Legislative Council.

This was a revolution in the criminal law. These were criminal offences with no right to jury trial. The justices could proceed to determine the charge in the absence of the defendant. The defendant might be ordered to pay costs. The summary Courts were not bound by the tortuous and complex rules of criminal law pleading that bedevilled the trial of indictable offences. On the other hand, the penalties were minor—the justices could not, for example, order imprisonment with hard labour—and there was a statutory right to discharge an offender on a bond.

This Bill recognises and confirms that a similar revolution has been taking place over the past decade. The needs of modern social and economic regulation have produced a new class of offence. These are called expiable offences. The revolution has been and is just as significant for the criminal justice system as was the organisation and recognition of summary offences in the last century. This Bill is designed to do the same thing for expiable offences as that 1850 Ordinance did for summary offences. In the years to come, the new classification of offence will be as recognised and accepted as summary offences and the criminal jurisdiction of magistrates are recognised and accepted now.

It may surprise Honourable Members to learn that South Australia was the first Australian jurisdiction to introduce expiable offences. They first appeared in the *Police Act Amendment Act, 1938*. The Act allowed the expiation of offences against local government regulations and bylaws. The Act regularised a situation in which it had become the practice of the Adelaide City Council—and then others—of inviting alleged offenders to make 'voluntary payments' to avoid prosecution for minor offences.

The system of expiation was then allowed to grow, first gradually and in the past 20 years, at an increasing pace. The great majority of issued expiation notices are, of course, Traffic Infringement Notices (TINS), which were introduced in 1981. That should not be allowed to obscure that fact that there is a very large range of expiable offences indeed, from the *Adelaide Festival Centre Trust Act, 1971* to the *West Terrace Cemetery Act 1976*.

The last time that the Parliament visited the issue in general was in the passage of the *Expiation of Offences Act, 1987*. This provided, to some degree, a common scheme for expiation, but, in general, left untouched the then existing statutory schemes which had been brought into existence in an ad hoc way over the years.

In practice, the criminal justice system, considered as a whole, does not concentrate on serious crime. The latest figures available show that in 1994-1995, there were some 264 614 expiation notices issued. This can be compared with the fact that, in the calendar year 1994, there were 207 392 non-expiable offences reported or becoming known to the police. The time has come to recognise that expiable offences form a significant part of the system of criminal justice and to codify the rules which deal with them. The time has come to recognise, as happened in the middle of the last century, that, piece by piece, a revolution has been happening, and to provide a rational and fair system for this class of offences. That is the general purpose of these Bills.

Much of the debate about expiable offences focuses on TINS, because they are, by far, the largest category of expiation notices issued, and this is, therefore, the likeliest place for the general public to come into contact with the system. There can be little doubt that there is a good deal of public cynicism about expiation notices. They are seen, generally speaking, as revenue raisers. Governments of all political persuasions have told the public that the principal purpose of the system is to enforce the law. A large section of the public simply do not believe that.

The fact is that some traffic offences are and are perceived to be really criminal. These range from the obvious serious offence of causing death by dangerous driving to driving over 0.08. In general terms, the public perceive these to be "real crimes" to be enforced as such. The same probably cannot be said about speeding, or going through a yellow/red traffic light. A significant section of the public sees these offences as an infringement, they ought not to do it, but its not a crime, and they feel outraged at being treated like criminals when they get caught at it. The time has come to recognise that there is a difference between "real crimes" and infringements, that "real crimes" should be prosecuted through the Courts in the usual way—and that infringements will be dealt with by a different system—the expiation notice system.

The essence of this system to date has been that, if the person issued a notice pays a fixed sum, which is less than the Court fine, then that person need not go to Court, and there will not be a conviction recorded. In other words,the system offers a premium to save trouble. But there are problems with that scheme. The first is that some people can't pay the fixed sum. The second problem is that people are beginning to see the expiation fee as the fine itself, and, therefore, are demanding that sentencing options (such as community service) apply to what is not a sentence at all.

Because it is a fee charged to avoid Court, the current system is that if a person cannot pay the fee, they must go to Court. That in turn means that a person who cannot afford to pay the fee for any reason is compelled to Court to plead guilty and attempt to access an alternative way of paying the debt to the State. But at that point the fine and charges are greater, sometimes much greater, than the expiation fee. This is generally seen as unfair.

The introduction of speed and red light cameras and laser speed devices has led to a larger number of expiable offences being detected, and hence a larger number of people in the system. High unemployment and the recession has combined with this and the result has been cost implications for Courts and corrections. For example, the use of community service as an option has increased 212% in the past two years.

The system seems to be producing unacceptably high levels of imprisonment for non-payment of fines. This is of particular significance in relation to rates of imprisonment of Aboriginal people.

There are a number of problems in the rules relating to the community service option. These include the inability to aggregate fines, the perception that different standards of entry are being applied, the lack of guidance on other options most importantly payment by instalments and the fact that the genuine hardship case cannot access the option at the expiation stage.

The legislative base of the system of fine enforcement is not in one place but is partly in the *Expiation of Offences Act*, partly in the *Summary Offences Act*, partly in the *Criminal Law (Sentencing) Act*, and may be in some other legislation as well.

It is plain that there are no easy solutions to many of these problems. For example, the problem of the imprisonment rate is not solely South Australian. New South Wales appears to have an even more intractable problem, despite (or because of) an avowed intention that no fine defaulter should be imprisoned. In general terms, it is plain that the agencies of government involved in fine enforcement (police, Courts, corrections, and motor registration) do not have any common statistical base from which a remotely accurate picture of the current situation and the reasons for it can be ascertained.

A Working Group, convened by the Department of Premier and Cabinet, consisting of representatives of all affected agencies was formed at the request of Cabinet in September 1993. The Working Group produced a Discussion Paper on the fines enforcement system in May 1994. That report was widely circulated. These Bills build on the recommendations of that Committee.

There is a lot of detail in the Bills, and no doubt the Parliament will explore that detail as they progress. In general terms, the legislative package is designed to achieve the following objects:

1. The Expiation of Offences Bill sets out a set of rules for the enforcement of expiation notices which is a common scheme for all expiation notices. There will, therefore, be a common set of rules which both enforcers and the public can access, and all are to be treated alike.
2. The scheme will permit those who are assessed as suffering hardship if they are compelled to pay their expiation notices to access either a payment by instalments scheme or a community service scheme in lieu of payment. Preference will be given to payment by instalments. Criteria for "hardship" will be formulated to guide the discretion of Court Registrars.
3. The scheme will permit the payment of expiation notices by credit card if the authority which issues the notice has that facility. The provision is facilitative and not mandatory. It does not compel any authority to supply the service although it would obviously be to their advantage to do so.
4. The Expiation Bill outlines a new scheme for community service which applies before the expiation matter goes to Court. This scheme has much in common with that which currently exists in the *Criminal Law (Sentencing) Act*, with the most important difference being that, under the Expiation scheme, the fee is worked off at $150 per day, and under the Sentencing scheme, a fine is worked off at $100 per day. In short, there is a strong financial incentive for those who would suffer hardship in payment to access the law as early as possible. Those who do nothing and do not try to deal with their lawful obligations will suffer by comparison.
5. The new scheme also allows for "electronic enforcement"—that is, automatic conversion of the expiation notice to a Court order (i.e., a conviction and fine) after the period for expiation has elapsed and a reminder notice has been sent. The current legislative scheme says that, if a notice is not expiated, the matter must be the subject of a summons and a Court hearing. This is largely a waste of time. Many simply do not answer the summons. Of those who do, over 90% plead guilty. The anecdotal evidence from those in the Courts is that they simply want to access an option to pay off the fee because of financial hardship. The new scheme allows those people to do that without the formal Court hearing. There is simply no point in having a formal Court hearing for those who simply will not turn up. For those who want to contest the case, the new scheme provides for an election at any time prior to enforcement for a Court hearing, and a right of review thereafter. But again, the system is designed so as to provide significant incentives to access the Court system as soon as possible.
6. Unlike the current scheme, the new scheme makes the giving of reminder notices mandatory after the expiry of the expiation period. The right to make a late payment at any time before an enforcement order is made is preserved.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the Act by proclamation.

Clause 3: Application of Act

This clause provides that the new Act only applies to expiation notices issued after the commencement of the Act (the *Expiation of Offences Act 1987* will continue to apply to notices issued under that Act).

Clause 4: Interpretation

This clause provides the necessary definitions. The definitions of "Court" and "Registrar" make it clear that enforcement proceedings relating to expiation notices given to persons under 18 at the time of the alleged offence will be taken in the Youth Court. In all other cases the Magistrates Court will be the forum. The definition of "issuing authority" provides that if an expiation notice is issued by a member of the police force, then the police will thereafter be responsible for all follow up action (e.g. the issue of a reminder notice or the sending of a certificate to trigger an enforcement order). In all other cases the issuing authority is the body on whose behalf the expiation notice is issued.

Clause 5: Certain offences may be expiated

This clause is the primary provision that allows for the giving of expiation notices in all cases where an Act, regulation or by-law fixes an expiation fee in respect of a particular offence. Subclause (3) continues the provision in the current Act that allows expiation fees to be fixed for offences against regulations or by-laws even though the particular Act does not specifically allow for this. (This provision is of a transitional nature as the intention is for each Act to make specific provision for expiation where appropriate). Regulatory offences involving violence cannot be made expiable under this provision.

Clause 6: Expiation notices

This clause sets out the rules with which expiation notices must comply. Where an expiation fee (or the total of a number of fees) under an expiation notice is $50 or less, the expiation period will be 30 days. In all other cases it will be 60 days. Subclause (1)*(k)* is of a particular note—all expiation notices must now be accompanied by a notice by which the alleged offender can elect to be prosecuted for any of the offences to which the expiation notices relates. (Expiation notices given for traffic or parking offences must also be accompanied by a so-called "dob in" notice by which the alleged offender can name some other person as the owner or driver of the vehicle). Any expiation notice may be given by the police. Other persons must be authorised in writing by the relevant Minister, statutory authority or council or must be authorised to do so by an Act. Subclause (4) provides that if council officers are permitted to act as inspectors under any particular Act, they are also authorised to issue expiation notices for offences against that Act and if they do so, the council becomes the issuing authority for the purposes of this Act. Subclause (5) repeats an existing provision.

Clause 7: Payment by credit card

This clause enables payment of expiation fees (and the Criminal Injuries Compensation levy) by credit card if credit card facilities are available at the place of payment.

Clause 8: Alleged offender may elect to be prosecuted

This clause enables an alleged offender to elect to be prosecuted for any of the offences specified in an expiation notice. However, an election cannot be made if the offender has applied for and been granted an order for relief (i.e. payment in instalments or community service) on the grounds of hardship. Otherwise an election can be made up to the time at which an enforcement order is made in respect of the offence.

Clause 9: Options in cases of hardship

This clause allows an alleged offender to apply to the Registrar of the relevant Court for an order for relief if the offender cannot pay an expiation fee. An order can be granted for payment in instalments or for community service. The outstanding fees under any number of expiation notices can be aggregated by the Registrar for the purposes of making such an order. If the amount due is less that $50, an order for payment in instalments cannot be made. If the amount is less than $150, an order for community service cannot be made. Subclause (10) preserves the operation of an order for relief despite the fact that the time for the commencement of a prosecution for the offence may have expired. Subclause (11) gives the Registrar the power to cancel an order for relief if the offender fails to comply with it. If this happens, the issuing authority will be notified. The issuing authority must also be notified if an order is fully complied with. Community service will work off the outstanding amount at the rate of $150 for each 8 hours of service.

Clause 10: Review of cancellation of order for relief

This clause gives an alleged offender the right to have a decision of the Registrar to cancel an order for relief reviewed by the relevant Court. The Court's decision on such a review is not appealable.

Clause 11: Expiation reminder notices

This clause requires the issuing authority to give the alleged offender a reminder notice if no action has been taken by the offender by the end of the expiation period. The reminder notice fee (which will be prescribed by regulation) is added to the unpaid expiation fee.

Clause 12: Late payment

This clause provides that an issuing authority may accept late payment of an expiation fee at any time before an enforcement order is made.

Clause 13: Enforcement procedures

This clause sets out the procedures whereby an unpaid expiation notice will be converted into a conviction for the unexpiated offence with a fine equivalent to the unpaid amount. If the issuing authority forwards to the relevant Court a certificate setting out the particulars of the expiation notice and the amount outstanding, the Registrar may issue an enforcement order if the time for prosecution has not expired. The Registrar may also issue an enforcement order where

he or she has cancelled an order for relief, and may do so even if the time for prosecution has expired, provided that the enforcement order is made within 30 days of cancellation. Costs will be included in an enforcement order.

Clause 14: Enforcement orders are not subject to appeal but may be reviewed

This clause provides that the offender may seek to have an enforcement order reviewed by the relevant Court. If the Court revokes an enforcement order on the ground that a particular notice was not received by the offender, the offender will for all purposes be deemed to have been given the relevant notice on the day on which the Court revoked the enforcement order. The Court's decision on such a review is not appealable.

Clause 15: Effect of expiation

This clause provides that if an offence is expiated the alleged offender is not liable to be prosecuted for the offence or any other expiable offence arising out of the same incident. However, if the offence is one arising out of the use of a motor vehicle, the offender (or another person) can still be prosecuted for unexpiated offences arising under certain sections of the *Motor Vehicles Act* even though they arose out of the same incident. This clause is virtually a repeat of the existing Act.

Clause 16: Expiation notice may be withdrawn

This clause provides for the withdrawal of expiation notices where the issuing authority believes that the notice should not have been given in the first place, or decides that the alleged offender should be prosecuted for the offence. A notice cannot be withdrawn on the latter ground if the offender has part performed a community service order or if the time for the commencement of a prosecution for the offence has expired.

Clause 17: Application of payments

This clause provides for the application of expiation fees in the same manner as in the existing Act. Expiation fees (and reminder notice fees) go into the Consolidated Account unless the expiation notice was issued on behalf of a statutory authority or council, in which case the relevant body keeps the fees. However, if the offence was reported by the police, the fees are divided equally between the relevant council (or statutory authority) and the Consolidated Account.

Clause 18: Non-derogation

This clause provides that the Act does not derogate from any other Act that may make provision for expiation of offences.

Clause 19: Regulations

This clause is the regulation making power.

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

STATUTES AMENDMENT AND REPEAL (COMMON EXPIATION SCHEME) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to repeal the Expiation of Offences Act 1987, and to amend various other Acts that make provision for the expiation of offences. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill contains the consequential amendments made necessary by the adoption of a common expiation scheme.

I commend this Bill to the House.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Repeal

This clause repeals the *Expiation of Offences Act 1987*.

Clause 4: Amendment of Acts

This clause indicates that the relevant amendments are set out in the schedule.

Clause 5: Transitional provision

This clause ensures that expiation notices issued before the commencement of this Act continue to be dealt with under the law as in force before that commencement.

SCHEDULE

The schedule contains amendments consequent on the *Expiation of Offences Bill*.

In general terms the amendments—

- repeal the various expiation schemes scattered throughout the Statute Book with a view to all expiation notices being issued under the *Expiation of Offences Act* (*e.g.* traffic infringement notices, fisheries notices and local government parking notices are all to be issued as expiation notices under the *Expiation of Offences Act*);
- retain or include power for expiation fees for offences against regulations or by-laws to be fixed by those regulations or by-laws;
- fix expiation fees for offences against Acts in the penalty provisions for the offences (except in the case of expiation fees for offences against the *Controlled Substances Act 1984*, the *Motor Vehicles Act 1959*, the *Road Traffic Act 1961*, the *Private Parking Areas Act 1986* and the *Workers Rehabilitation and Compensation Act 1986*, which continue to be fixed by regulation).

Other substantial amendments are as follows:

- Section 13(2) of the *Criminal Injuries Compensation Act 1978* is amended to ensure that a person cannot be required to pay more than one levy in respect of the same offence (*eg* where the levy is paid on an expiation notice that is subsequently withdrawn for the purposes of prosecuting the person for the offence).
- Section 789d of the *Local Government Act 1934* is substituted. The new section requires each expiation notice and each expiation reminder notice issued to the owner of a vehicle in respect of an offence against that Act to be accompanied by a "dob-in" notice (an invitation to specify the driver). Section 79B of the *Road Traffic Act 1961* is of similar effect in relation to offences against that Act detected by photographic detection devices.
- The demerit point scheme set out in the *Motor Vehicles Act 1959* is amended to provide that where an order for relief is made under the *Expiation of Offences Act* demerit points are incurred at the time the order is made, rather than at some later point in time when all instalments are paid, or community service served, in accordance with the order.

The schedule also contains an amendment consequent on the *Summary Procedure (Time for Making Complaint) Amendment Bill*.

Section 794c of the *Local Government Act 1934* which extends the period for commencement of prosecutions for expiable offences against that Act from 6 months to 12 months is repealed. The period for prosecution set out in the amendment to the *Summary Procedure Act 1921* is to apply—6 months plus the expiation period if an expiation notice is issued.

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

SUMMARY PROCEDURE (TIME FOR MAKING COMPLAINT) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Summary Procedure Act 1921. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

It is an important part of the proposed common expiation scheme that there be a distinction drawn between expiable offences and summary offences. The latter are more serious and attract tougher procedural provisions and stricter and more rigorous safeguards of civil liberty. Equally, however, there must be safeguards in the expiation system, and so there are. For example, as a general rule, the highest expiation fee is to be $315 unless the legislation creating the expiable offence explicitly says to the contrary. This part of the legislative package proposes a clear difference between expiable and summary offences in relation to the statute of limitations. The statute of limitations for summary offences has stood at six months since

1850—but the seriousness of summary offences, their complexity and the society within which they are to be enforced have greatly changed since then. That period is far more apt for expiable offences, which now perform the same function that the summary jurisdiction once did. So it is proposed that the offence must be prosecuted within six months after the expiation period runs out. It is proposed, by way of contrast, that the statute of limitations for non-expiable summary offences ought to be expanded to two years.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the Act by proclamation.

Clause 3: Substitution of s. 52

This clause re-enacts section 52 of the principal Act. Unless the Act by which an offence is created provides a different time limit (and quite a number do) the time limit for prosecuting a summary offence will be two years, unless the offence is expiable. If the offence is expiable, the time limit for commencing a prosecution is six months if an expiation notice has not been given to the alleged offender, but if an expiation notice has been given, the time limit is extended to six months from the end of the expiation period specified in the notice (*i.e.* 30 days or 60 days).

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

STATUTES AMENDMENT (ADMINISTRATIVE AND DISCIPLINARY DIVISION OF DISTRICT COURT) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act 1959, the Pastoral Land Management and Conservation Act 1989, the Soil Conservation and Land Care Act 1989, the South Australian Metropolitan Fire Service Act 1936 and the Tobacco Products (Licensing) Act 1986. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Consistent with this Government's policy to rationalise the multiplicity of courts and tribunals and the consequential costs of duplication, this Bill transfers the jurisdiction of certain administrative tribunals to the Administrative and Disciplinary Division of the District Court. Specifically:

- the statutory jurisdiction conferred on the Soil Conservation Appeal Tribunal by the *Soil Conservation and Land Care Act 1989*;
- the statutory jurisdiction conferred on the South Australian Metropolitan Fire Service Appeals Tribunal by the *South Australian Metropolitan Fire Service Act 1936;*
- the statutory jurisdiction conferred on the Tobacco Products (Licensing) Appeal Tribunal by the *Tobacco Products (Licensing) Act 1986*;
- the statutory jurisdiction conferred on the Towtruck Tribunal by the *Motor Vehicles Act 1959*;
- the statutory jurisdiction conferred on the Pastoral Land Appeal Tribunal by the *Pastoral Land Management and Conservation Act 1989*.

These Tribunals have been identified as being appropriate to transfer to the Administrative and Disciplinary Division of the District Court on one or more of the following grounds:

(1) The Tribunal is constituted of one or more District Court Judge;
(2) The Tribunal is exercising an appellate jurisdiction in relation to a disciplinary decision; and\or
(3) The Tribunal is exercising an appellate jurisdiction in relation to an administrative decision.

The Soil Conservation Tribunal is presently constituted of a District Court Judge and two other members nominated by the Minister. The Tribunal exercises an appellate jurisdiction in relation to administrative decisions of a soil conservation board or the Conservator affecting an owner of land.

The South Australian Metropolitan Fire Service Appeals Tribunal is presently constituted of a Chairman (being a District Court Judge) and three other nominees. The Tribunal exercises an appellate jurisdiction in relation to disciplinary decisions of the Metropolitan Fire Service Disciplinary Committee and Chief Officer.

The Tobacco Products (Licensing) Appeal Tribunal is presently constituted of any one of the District Court Judges. The Tribunal exercises an appellate jurisdiction in relation to an administrative decision of the Commissioner affecting an aggrieved person.

The Towtruck Tribunal is presently constituted of three members one of whom must be a District Court Judge. The Tribunal is empowered to inquire into a complaint made against a person and where proper cause exists take disciplinary action against the person. The Tribunal also exercises an appellate jurisdiction in relation to an administrative decision or order of the Registrar made under the accident towing roster scheme affecting an aggrieved person.

The *Pastoral Land Management and Conservation Act 1989* provides for the Pastoral Land Appeal Tribunal to be constituted of a District Court Judge and two experts chosen by the Judge. The Tribunal exercises an appellate jurisdiction in relation to an administrative decision of the Pastoral Board affecting a lessee.

The transfer of these statutory jurisdictions to the Administrative and Disciplinary Division of the District does not in any way derogate from a person's rights of appearance, representation or appeal. The status quo is maintained. Where a Tribunal is presently constituted of a District Court Judge and other prescribed persons, for example a nominee of a union or an employee—this representation has been maintained by providing for the appointment and selection of assessors pursuant to section 20(4) of the *District Court Act 1991*. Rights of appeal against a decision are also preserved by application of section 43(3) of the *District Court Act 1991*.

I commend this Bill to the House.

Explanation of Clauses

PART 1—PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause provides that a reference in this proposed Act to the principal Act is a reference to the Act referred to in the heading of the Part in which the reference occurs.

PART 2—AMENDMENT OF MOTOR VEHICLES ACT 1959

The amendments to the *Motor Vehicles Act* are designed to do away with the Towtruck Tribunal and to transfer that Tribunal's jurisdiction to the Administrative and Disciplinary Division of the District Court (District Court). The current Tribunal has jurisdiction to discipline towtruck operators and others holding certificates to operate towtrucks and also to review decisions of the Registrar in relation to the towtruck roster scheme. Its disciplinary jurisdiction is similar to the jurisdiction exercised by the District Court in respect of other occupational groups and amendments proposed to the principal Act will achieve a measure of conformity with other legislation. Other changes proposed are consequential on transferring functions from a tribunal to a court.

Clause 4: Amendment of s. 5—Interpretation

The definition of the Tribunal is removed.

Clause 5: Amendment of s. 98c—Interpretation

The definition of District Court meaning the Administrative and Disciplinary Division of the District Court is inserted.

Clause 6: Substitution of ss. 98pc to 98pg

98pc. Cause for disciplinary action

Disciplinary action may be taken against a person who holds or who has held a towtruck certificate or a temporary towtruck certificate if—

- the certificate of the person was improperly obtained;
- the person has contravened or failed to comply with a provision of the principal Act;
- the person has contravened or failed to comply with a condition of the certificate;
- the person has contravened, or failed to comply with, a provision of the *Radiocommunications Act 1992* of the Commonwealth, or an Act of the Commonwealth enacted in substitution for that Act;
- the person has been convicted, or found guilty, of an offence involving dishonest, threatening or violent behaviour or involving the use of a motor vehicle;

· the person has been guilty of another act or default of such a nature that, in the opinion of the District Court, disciplinary action should be taken against the person.

If a person has expiated an offence that attracts demerit points under the principal Act, the person will be taken, for the purposes of disciplinary proceedings, to have been convicted of the offence. It is proposed that this new section will apply in relation to conduct occurring before or after the commencement of this new section.

New section 98pc is the equivalent of current section 98pd(3) and (4).

98pd. Complaints

An inspector or any other person may lodge with the District Court a complaint setting out matters that are alleged to constitute grounds for disciplinary action under Part IIIC of the principal Act. This new section replaces current section 98pd(1).

98pe. Hearing by District Court

On the lodging of a complaint, the District Court may conduct a hearing for the purpose of determining whether the matters alleged in the complaint constitute grounds for disciplinary action.

98pf. Participation of assessors in disciplinary proceedings

In any proceedings under Part IIIC of the principal Act, the District Court will, if the judicial officer who is to preside at the proceedings so determines, sit with assessors selected in accordance with the fifth schedule. This allows for the District Court to utilise the expertise of persons in the motor trade industry and towtruck industry. This is instead of current section 98pc which provides for such persons to sit as members of the Tribunal.

98pg. Disciplinary action

If the District Court decides that there is proper cause for disciplinary action to be taken against a person, it may—

· reprimand the person;
· impose a fine not exceeding a division 9 fine;
· in the case of a person who holds a towtruck certificate or temporary towtruck certificate—suspend or cancel the certificate;
· disqualify the person from holding a towtruck certificate or temporary towtruck certificate under the principal Act.

The District Court may stipulate that—

· a disqualification is to apply permanently;
· a suspension or disqualification is to apply for a specified period, until the fulfilment of stipulated conditions or until further order;
· an order relating to a person is to have effect at a specified future time.

This section is equivalent to current section 98pd(1) and (2).

98pi. Appeals

A person may appeal to the District Court against a decision or order of the Registrar under the accident towing roster scheme. The District Court may, on the hearing of an appeal—

· affirm the decision or order appealed against or rescind the decision or order and substitute a decision or order that the Court thinks appropriate;
· make any other order that the case requires (including an order for costs).

This new section has substantially the same effect as current section 98pe.

Clause 7: Insertion of s. 139e

139e. Protection from civil liability

No civil liability is incurred by the Registrar, a member of the committee or any person engaged in the administration of the principal Act for an honest act or omission in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under this Act. A liability that would, but for proposed subsection (1), lie against the person lies instead against the Crown. This new section replaces current section 98pg.

Clause 8: Insertion of fifth schedule

FIFTH SCHEDULE—Appointment and Selection of Assessors for District Court Proceedings under Part IIIC

This schedule provides for the appointment and selection of assessors for the purposes of District Court proceedings under Part IIIC of the principal Act.

PART 3—AMENDMENT OF PASTORAL LAND MANAGEMENT AND CONSERVATION ACT 1989

Clause 9: Amendment of s. 3—Interpretation

This removes the definition of the Pastoral Land Appeal Tribunal and inserts a definition of the District Court.

Clause 10: Amendment of s. 32—Resumption of land

References to the Tribunal are replaced by references to the Administrative and Disciplinary Division of the District Court.

Clause 11: Repeal of Part VII Division I

This Division provides for the establishment of the Tribunal and its powers and procedures. As one of the purposes of this Bill is to transfer the jurisdiction of the Tribunal to the District Court, it is proposed to repeal this Division.

Clause 12: Amendment of heading of Part VII Division II

The reference to the Tribunal in the heading is replaced by a reference to the District Court.

Clause 13: Amendment of s. 54—Appeal against certain decisions

References to the Tribunal are replaced by references to the Administrative and Disciplinary Division of the District Court and provision is made for the District Court to sit with assessors selected in accordance with new schedule 2. This allows the District Court to utilise the expertise of persons with experience in the use and management of land used for pastoral purposes and persons with a wide knowledge of the conservation of pastoral land. This is instead of current section 50(2) which provides for persons with expertise in such fields as the Governor considers appropriate to sit as members of the Tribunal.

Clause 14: Amendment of s. 55—Operation of decisions pending appeal

The reference to the Tribunal is replaced by a reference to the Administrative and Disciplinary Division of the District Court.

Clause 15: Amendment of s. 68—Evidentiary provision

This clause makes a consequential amendment.

Clause 16: Insertion of schedule 2

This schedule provides for the appointment and selection of assessors for the purposes of District Court proceedings under Part VII of the principal Act.

PART 4—AMENDMENT OF SOIL CONSERVATION AND LAND CARE ACT 1989

Clause 17: Repeal of Part V Division I

In this Division, the Soil Conservation Appeal Tribunal is established and its powers and procedures provided for. As one of the purposes of this Bill is to transfer the jurisdiction of that Tribunal to the District Court, it is proposed to repeal this Division.

Clause 18: Repeal of heading to Part V Division II

As Division I of Part V has been repealed, the heading to Division II has become redundant and hence is to be repealed.

Clause 19: Amendment of s. 51—Appeals

Clause 20: Amendment of s. 52—Operation of decisions pending appeal

References to the Tribunal are replaced by references to the Administrative and Disciplinary Division of the District Court.

Clause 21: Insertion of s. 52A

52A. Participation of assessors in appeals

In any proceedings under Part V of the *Soil Conservation and Land Care Act*, the District Court will sit with assessors selected in accordance with new schedule 2. This allows the District Court to utilise the expertise of persons who are owners of land used for agricultural, pastoral, horticultural or other similar purposes and employees of the Department for Primary Industries. This is instead of current section 47(2) which provides for such persons to sit as members of the Tribunal.

Clause 22: Insertion of schedule 2

SCHEDULE 2—Appointment and Selection of Assessors for District Court Proceedings under Part V

This schedule provides for the appointment and selection of assessors for the purposes of District Court proceedings under Part V of the principal Act.

PART 5—AMENDMENT OF SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE ACT 1936

Clause 23: Amendment of s. 5—Interpretation

Obsolete definitions of Tribunal and Senior Judge have been deleted and the definition of District Court (*ie:* Administrative and Disciplinary Division of the District Court) inserted.

Clause 24: Substituting of heading to Part II

The headings to Part II and Division I of Part II are no longer appropriate. They are repealed and an appropriate heading to the Part is substituted.

Clause 25: Repeal of Part II Division II

This Division established the South Australian Metropolitan Fire Service Appeals Tribunal. This Bill proposes to transfer this Tribunal's jurisdiction to the District Court and so this Division is, as a consequence, to be repealed.

Clause 26: Amendment of s. 40a—Procedures in relation to appointments

References to the Tribunal are replaced by references to the Administrative and Disciplinary Division of the District Court.

Clause 27: Insertion of ss. 40B to 40D

40B. Representation of parties and costs

In any proceedings before the District Court on an appeal under Part V Division I of the principal Act (*ie:* dealing with appeals in relation to appointments to positions in the fire service)—

- an appellant will be entitled to appear personally or to be represented by a member of an industrial association to which the appellant belongs or by a legal practitioner;
- the Corporation will be entitled to be represented by the Chief Officer or by one of its other officers, or, if an appellant is represented by a legal practitioner, the Corporation may also be represented by a legal practitioner.

The District Court may, in proceedings before it under Part V Division I, award costs against the Corporation but may not award costs against an appellant.

This new section is the equivalent of current section 21(3), (4) and (5) and section 22.

40C. Self-incrimination

A person is not excused from answering any question or producing a book (which is defined in section 5 of the principal Act), if required to do so by the District Court in proceedings under Part V Division I, on the ground that the answer or book might tend to incriminate the person. Such an answer given or book produced by a person is not admissible against the person in any criminal proceedings (other than proceedings for perjury).

This new section has the same substantive effect as current section 20(6).

40D. Participation of assessors in appeals against nominations for appointments

In any proceedings under Part V Division I of the principal Act, the District Court will sit with assessors selected in accordance with the new schedule.

Clause 28: Amendment of s. 52d—Suspension pending hearing of complaint

Clause 29: Amendment of s. 52e—Appeals

References to the Tribunal are replaced by references to the Administrative and Disciplinary Division of the District Court.

Clause 30: Insertion of ss. 52F to 52H

52F. Representation of parties and costs

This new section is identical to new section 40B.

52G. Self-incrimination

This new section is identical to new section 40C.

52H. Participation of assessors in appeals

This new section is identical to new section 40D.

These 3 new sections are required to be repeated in respect of appeals against penalties imposed on officers or firefighters by the Chief Officer or Disciplinary Committee in relation to disciplinary matters.

Clause 31: Insertion of schedule

SCHEDULE—Appointment and Selection of Assessors for District Court Proceedings under Part V or VA

This new schedule provides that the Minister must establish 3 panels appointed—

- from persons nominated by the Chief Officer;
- from officers nominated by the Union;
- from firefighters nominated by the Union.

The judicial officer who is to preside at the proceedings must select—

- one member from the panel made up of persons nominated by the Chief Officer; and
- if the appellant is an officer—one member from the panel made up of officers nominated by the Union; or
- if the appellant is a firefighter—one member from the panel made up of firefighters nominated by the Union,

to sit with the Court in the proceedings. This is instead of current section 16 which provides for such persons to sit as members of the Tribunal in similar circumstances.

PART 6—AMENDMENT OF TOBACCO PRODUCTS (LICENSING) ACT 1986

Clause 32: Amendment of s. 21—Appeals

Subsections (1) to (4) of section 21 are struck out as these provide for the establishment of a tribunal for the purposes of the *Tobacco Products (Licensing) Act* and the existence of a Registrar of the tribunal. References to the tribunal in the remaining subsections are replaced by references to the Administrative and Disciplinary Division of the District Court.

A new subsection is inserted that provides that except as determined by the District Court, an appeal is to be conducted by way of a fresh hearing.

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

DE FACTO RELATIONSHIPS BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to facilitate the resolution of property disputes arising on the termination of *de facto* relationships; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill reforms the law relating to the resolution of property disputes on the breakdown of a de facto relationship.

Currently, on the breakdown of a de facto relationship, the parties must rely on the general principles of common law and equity. At common law the courts cannot vary the property rights. If property is held in the name of one of the partners to a de facto relationship, the common law would not recognise the claim of the other partner. The courts have modified the common law approach through the development of the law of trusts. A trust exists where one person holds property on behalf of another. A trust can arise from an express agreement or it can be implied from the words or actions of the parties.

A constructive trust is an equitable remedy imposed by the courts on the basis that refusal to recognise the existence of a person's interest in property would amount to unconscionable conduct. The trust is imposed as a means of circumventing the unconscionable conduct. The courts have used constructive trusts to adjust property interests on the breakdown of de facto relationships to take account of the contributions of both parties to the acquisition of property. This approach can lead to uncertainty. For example, courts have recognised the contribution of partners who have worked on building or renovating a house but in other cases have not recognised indirect contributions such as services as a homemaker or parent.

De facto spouses already have limited rights under certain legislation in South Australia. The concept of "putative spouse" is created by section 11 of the *Family Relationships Act*, 1975. A putative spouse is a person who, at the relevant time, cohabits with another as the husband or wife de facto of the other person and has cohabited continuously for a period of 5 years or has during the period of 6 years immediately preceding that date cohabited for a period of not less than 5 years. Alternatively, the relationship of putative spouse arises where a couple is cohabiting as husband and wife and they have had a child.

The *Family Relationships Act* does not confer any rights or obligations on putative spouses. However provision is made in some statutes to confer rights on putative spouses. For example the *Administration and Probate Act*, 1919 provides that a putative spouse is entitled to a share in the intestate estate of deceased spouse in the same manner as a de jure spouse. Under the *Inheritance (Family Provisions) Act* a putative spouse can claim in certain circumstances against the estate of the deceased person where the putative spouse has not been left with adequate provision for his or her proper maintenance, education or advancement in life.

In 1992 8.3% of couples in SA were de facto couples. The Government is concerned that de facto couples often face greater difficulty, higher costs and longer delays than married couples in resolving disputes on the breakdown of their relationships. Given the number of couples who do not marry, the Government considers that the law should provide a fair and equitable system to resolve property disputes that may arise when a defacto relationship ends. This is not a judgment about the morality of de facto relationships. It is a recognition that there are de facto relationships and that partners presently do not have easy access to the courts to resolve disputes about property.

New South Wales, Victoria, and the Northern Territory have provisions for the adjustment of property rights on the breakdown

of a de facto relationship while the Australian Capital Territory legislation covers domestic relationships including de facto relationships. Western Australia has also announced an intention to legislate in this area.

There are a number of common features in the legislation. Each Act requires that a de facto relationship last for a certain period before a court can make an order adjusting property rights. The Acts include exceptions to the time requirement for example where there is a child of the parties. The interstate legislation allows courts to make adjustments to property interests where it would be just and equitable to do so. In doing so courts can take into account a number of matters relating to direct and non-direct and financial and non-financial contributions to property, including parenting and homemaker contributions. Some jurisdictions also make provision for the recognition of agreements covering financial issues arising during, and on termination of, a de facto relationship.

This Bill will reform the law in this State relating to the resolution of property disputes on the breakdown of a de facto relationship. A de facto relationship is defined in Clause 3 of the Bill as "the relationship between a man and a woman, who although not legally married to each other, live together on a genuine domestic basis as husband and wife".

For the purposes of the Bill, "court" is defined to mean the Supreme Court, the District Court and, if an application relates to property valued at $60 000 or less, the Magistrates Court. It is expected that the Courts will deal with disputes in accordance with their normal jurisdictional limits. The Magistrates Court exercises different jurisdictional limits depending on the type of action. The Bill sets the jurisdictional limit for the Magistrates Court at $60 000 i.e. the same limit applicable to actions in that Court arising from motor vehicle accidents and actions to obtain or recover title to, or possession of real or personal property.

Clause 5 of the Bill provides for de facto partners to make cohabitation agreements about the division of property on the termination of a de facto relationship or about other matters related to a de facto relationship. Such an agreement must be in writing and signed by both partners. The legislation allows for the agreement to be endorsed with a certificate signed by a lawyer certifying that the agreement was signed in the lawyer's presence after the lawyer had explained the legal implications of the agreement. A court cannot set aside or vary an agreement where the agreement provides for the exclusion of the court's power and the agreement is endorsed with a lawyers certificate.

Clause 8 of the Bill provides for a de facto partner to apply to the court for a division of property. The Clause sets out the circumstances in which an application can be made namely, where:

- the applicant or respondent is resident in the State when the application is made.
- the de facto partners were resident in the State for the whole or a substantial part of the period of the relationship and
- the de facto relationship lasted for at least three years or there is a child of the de facto partners.

An application must be made within a year of the end of the de facto relationship.

Clause 9 provides that a court may make orders it considers necessary to divide the property of de facto partners in a just and equitable way. When making its decision the court can take into account the parenting and homemaker contributions made by a de facto partner. This enables an adjustment of property rights to reflect a fair and equitable distribution rather than strict definition of who brought the asset into a relationship. The Court must also have regard to the terms of any cohabitation agreement.

Clause 11 places a duty on the court to as far as practicable to resolve questions about the division of property between de facto partners.

This Bill is an important measure to allow equity and fairness on the breakdown of a de facto relationship. The Bill will lie on the Table over the Christmas recess so that consultation can occur before the matter is debated in February 1996.

I commend this Bill to Honourable Members

Explanation of Clauses

The provisions of the Bill are as follows:

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Definitions

This clause contains the definitions required for the purposes of the new Act.

Clause 4: Application of this Act

The new Act will not apply in relation to a de facto relationship that ended before the commencement of the new Act.

PART 2

COHABITATION AGREEMENTS

Clause 5: Cohabitation agreements

De facto partners are empowered by this clause to make an agreement about the division of property on termination of the relationship and other financial matters related to the relationship.

Clause 6: Cohabitation agreement enforceable under law of contract

A cohabitation agreement is subject to, and enforceable under, the law of contract.

Clause 7: Power to set aside or vary cohabitation agreement

If a court is satisfied that the enforcement of a cohabitation agreement would result in serious injustice, the court may set aside or vary the agreement. However, this power cannot be exercised if the court's jurisdiction is excluded under the terms of the agreement and the agreement is endorsed with a lawyer's certificate.

PART 3

ADJUSTMENT OF PROPERTY INTERESTS

Clause 8: Property adjustment order

After a de facto relationship ends, either of the de facto partners may apply to a court for the division of property. The preconditions for the exercise of this jurisdiction are that (a) the applicant or respondent must be resident in the State when the application is made; (b) the de facto partners were resident in the State for the whole or a substantial part of the period of the relationship; and (c) the de facto relationship continued for a least 3 years or there is a child of the de facto partners.

Clause 9: Power to make orders for division of property

This clause sets out the powers of the court on an application for the division of property.

Clause 10: Matters for consideration by the court

This clause sets out the matters that are to be taken into account by the court in deciding whether to make an order for the division of property and, if so, on what terms.

Clause 11: Duty of court to resolve all outstanding questions

This clause directs the court to resolve (as far as practicable) all outstanding questions between the partners about the division of property—thus avoiding further proceedings on these questions.

PART 4

MISCELLANEOUS

Clause 12: Transactions to defeat claims

If a court is satisfied that a transaction has been entered into to defeat an order, or an anticipated order, for the division of property, the court may set aside the transaction and give consequential orders and directions. The court may also grant injunctions to restrain anticipated transactions to defeat an order or an anticipated order for the division of property.

Clause 13: Protection of purchaser in good faith, for value and without notice of claim

This clause protects the interests of a person who acquires an interest in property in good faith and for value without notice that the property may be the subject of an application under the new Act.

Clause 14: Non-exclusivity of remedies

This clause provides that the new Act is not intended to operate to the exclusion of other possible remedies.

Clause 15: Regulations

This is a general regulation-making power.

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

LAW OF PROPERTY (PERPETUITIES AND ACCUMULATIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Law of Property Act 1936. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This bill, in abolishing the rules against perpetuities and accumulations, reforms an area of law that is notoriously complex, obscure, difficult to apply, capricious and unnecessary.

Our legal system, particularly in the area of property, is weighed down by the baggage of the past. The Law Reform Committee of South Australia in its Seventy-Third Report in 1983 recommended that the rules against perpetuities and accumulations should be consigned to the dust bin of history rather than papering over one layer of complexity with another as has been the case with reforms to the rules in the UK and in some other States in Australia. These reforms have resulted in practitioners and law students having to grapple with not only the old law but the new law as well. This will not be the case in South Australia when the measures in this bill are enacted.

The rule against perpetuities has the effect of limiting the period for which trusts creating a succession of interests in the same property can continue. The way in which it does so is to make a disposition void to the extent that it creates, or in some cases may create, an interest which may not be capable of vesting in its owner within the perpetuity period. The perpetuity period consists of any life or lives in being together with a further period of 21 years and a period of gestation.

The rule against excessive accumulations prevents the accumulation of income under a disposition for a period longer than permitted by section 60 of the Law of Property Act, 1936. These periods are:

- the life of the grantor or settler; or
- a term of 21 years from the death of the grantor, settler, or testator; or
- the duration of the minority or respective minorities of any person or persons living or *en ventre sa mere* at the death of the grantor, settler, or testator; or
- the duration of the minority or respective minorities only of any person or persons who under the limitations of the instrument directing the accumulations would, for the time being, if of full age, be entitled to the income directed to be accumulated.

These rules ensure that capital does not remain tied up in trusts or income accumulated for a period longer than about 80 to 100 years.

The fundamental justification for the rule against perpetuities is that it restricts the ability of a property owner to "reach out from beyond the grave" to control the actions of his or her successors in title, by preventing them from freely disposing of the property. Social conditions and economic needs change, and nobody can guarantee to foresee what will be appropriate in the future. Restricting the free alienability of property therefore serves to prevent dispositions on a limited basis stretching far into the future, which could prove to be against everyone's best interests. Further, in so far as economic growth is in the public interest, so it is in the public interest to seek to ensure that capital does not remain indefinitely tied up in trusts.

On the other hand the aim of ensuring that property is fully used in a beneficial manner is now facilitated or encouraged by other legislation: trustees can always dispose of land, there are statutory provisions for variation of trusts and fiscal legislation discourages the tying up of estates for generations. Further, charities and pension schemes are not constrained by the rule against perpetuities.

A further argument in favour of abolition of the rule against perpetuities is that its application is complex and problematic. The rule is applied by asking if, at the time the instrument creating a future interest took effect, is it then certain that the interest must vest, if at all, within the perpetuity period. It is a trap for the drafts-person that far-fetched possibilities or even physical impossibilities (for example, that a child may be born to a woman throughout her life) may be relevant to drafting a provision containing a contingent interest.

The rule against excessive accumulations can, on the one hand, be seen as preventing money being put to good use during the accumulation period. On the other hand, the money will be invested, and is not therefore lost to the general economy. Here again, tax legislation is likely to discourage any over-lengthy accumulations.

The rule against excessive accumulations is also complex and uncertain in its application. A particularly complex area of case law is that dealing with the fundamental question of what is an accumulation.

With the abolition of these rules there will be no time limit within which a disposition of property must be capable of vesting and no time limit on how long income can accumulate under a disposition.

New section 62, however, recognises that it may be desirable for the interest in property to vest and provides a mechanism by which a court may vary the terms of a disposition so that property which has not vested (or will not vest) within 80 years will do so. Similarly the court may vary a disposition which provides for the accumulation of income from property over a period that will (or may) terminate 80 years or more after the date of the disposition. Thus the time at which an interest in property vests is relevant for the purpose of section 62.

One of the requirements of the law of trusts for the vesting in interest of an interest is that the person, or class of persons, entitled to the interest is ascertained. The ascertainment of persons entitled to an interest is not assisted by the assumption that a female is always capable of bearing a child. New section 60 makes presumptions about the possibility of people having or adopting children so that the vesting of property does not have to await events which are impossible or highly unlikely. Advances in reproductive technology are also taken into account in subsection (e). Should the presumptions in section 60 turn out to be false, section 60A allows the court to take account of what has actually happened.

The new rules in section 60 will apply, not only for the purpose of section 62, but where any question arises in relation to the closing of a class, as to the time at which payments may be made from a trust, in relation to the termination of a trust or a period of accumulation or for any other like reason where it is relevant to determine the ability of a person to have a child at some future time.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 7—Interpretation

This clause inserts a definition of "interest" in property and a definition of "vest" (in relation to property) in the interpretation section of the principal Act. These terms are used in proposed new Part 6.

Clause 4: Substitution of Part 6

This clause repeals the current Part 6 of the principal Act and substitutes a new Part as follows:

PART 6
CLASS CLOSURE, PERPETUITIES AND ACCUMULATIONS

Division 1—Preliminary

59. Application of Part

Proposed new section 59 specifies that Part 6 applies to dispositions of property made before or after its commencement and rights and powers granted or conferred before or after its commencement. The Part does not, however, validate a disposition if property has already been distributed on the basis that the disposition is invalid.

The new section also specifies that Part 6 applies to land whether or not it has been brought under the *Real Property Act 1886*.

Division 2—Rules for class ascertainment

60. Class ascertainment

Proposed new section 60 provides a number of presumptions to assist in class closure.

60A. Court's power to reverse statutory limitation on class membership

Proposed new section 60A provides for the presumptions applied under proposed section 60 to be rebutted by actual events. The section empowers a court to expand the membership of a class to include any person who would, but for the presumptions, have been a member of the class. A member included under this section becomes entitled (subject to any conditions imposed by the court) to share in any future distributions.

Division 3—Perpetuities and accumulations

61. Abolition of rules against perpetuities and excessive accumulations

Proposed section 61 expressly abolishes the rule against perpetuities and the rule against excessive accumulations.

62. Court may order vesting of interests

Proposed new section 62 allows the court to order the immediate vesting of interests if, 80 years or more after the date of a disposition, there remain interests that have not vested. The court is also empowered to vary any disposition so that interests that cannot or are unlikely to, vest within 80 years will vest within that period.

In addition, if a disposition provides for accumulation of income over a period 80 years or more the court may vary the terms of the disposition so that both capital and income will vest within 80 years.

In varying any disposition the court must, as far as possible, give effect to the spirit of the original disposition. An application to the court may be made by the Attorney-General, a trustee, the deceased's next-of-kin, a person who has an actual or potential interest in the disposition or an ancestor of an unborn person who would have an actual or potential interest in the disposition.

Proposed subsection (6) specifies certain types of trusts that do not come within the section and proposed subsection (7) provides that a disposition by will is taken to have been made at the date of death of the testator or testatrix.

62A. Preservation of rule in Saunders v Vautier

Proposed new section 62A preserves the principle allowing a beneficiary who is *sui juris* to require distribution of his or her presumptive share of property that is subject to an accumulation.

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

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

Clause 6, page 4, after line 14—Insert—

(aa) if a person is tried on information and acquitted and the trial was by a judge sitting alone, the Director of Public Prosecutions may appeal against the acquittal on any ground with the leave of the Full Court;

Clause 7, page 5, lines 2 and 3—Leave out all words in these lines and substitute the following:

7. Section 353 of the principal Act is amended—

(a) by inserting after subsection (2) the following subsection:

(2a) On an appeal against acquittal brought by the Director of Public Prosecutions, the Full Court may exercise any one or more of the following powers:

(a) it may dismiss the appeal;

(b) it may allow the appeal and direct a new trial;

(c) it may make any consequential or ancillary orders that may be necessary or desirable in the circumstances.;

(b) by inserting after subsection (3) the following subsection:.

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

That the amendments be agreed to.

Both amendments relate to the same issue. They relate to the right of the Director of Public Prosecutions to appeal against an acquittal on any ground with the leave of the Full Court where a person is tried on information and acquitted and the trial was by a judge sitting alone. The DPP does not presently have that right of appeal. There are occasions where it would be in the interests of the public for the DPP to have that right. I drew attention at the second reading stage and in Committee when we were considering this that in magistrate's courts the decision to acquit is made by one person, that is, the magistrate, and in those circumstances the Crown has the right of appeal. When a person elects to be tried by judge alone, no matter how wrong the acquittal may be on the evidence, a decision by one person means that an accused goes free. To provide the Crown with the right of appeal against a decision by a judge to acquit an offender would provide an important check on the judge's decision.

I would suggest that it is not thought exceptional or to be contrary to public policy in Australia to allow an appeal from an acquittal by a magistrate. Reference has already been made in this Council to a rule suggesting that it is unfair and unjust that a person should be prosecuted twice for the same offence and that to allow an appeal against an acquittal of an accused on trial by judge alone would offend against this rule; and that is the rule known as double jeopardy. The High Court has made it clear in *Davern v. Messel* (1984) that there is no principle precluding an appeal from an acquittal in Australia. All that is involved is the common law principle which Parliament will, in the absence of unambiguous provision to the contrary, be presumed as a matter of statutory interpretation to have observed.

The Crown has had a right of appeal against acquittal under the Canadian Criminal Code on a question of law alone for almost a century. The appellate court has the power to dismiss the appeal, allow the appeal and order a new trial, or allow the appeal and convict the accused of the charge that the court thinks the accused ought to stand convicted. The Supreme Court of Canada in *R v. Morgentaler, Smoling and Scott* (1985) has said that these provisions do not offend the provision of the Canadian Charter of Rights dealing with double jeopardy protection, or any other provisions of the charter for that matter. Members will know that that Charter of Rights in Canada is a very wide-ranging charter against which many people have sought to measure rights right up to the Supreme Court of Canada. Similarly, the Canadian courts have held that an appeal on questions of fact do not violate the constitutional protection against double jeopardy. To give the Crown a right of appeal against an acquittal is not to give the Crown a licence to persecute an accused, if only, as Justices Mason and Brennan have pointed out in *Davern v. Messel*, because the accused would be protected by the courts against an appeal which was instituted *mala fides* or which amounted to an abuse of process.

Further, any new trial will have been ordered by the appeal court: it is not as though a prosecutor can, without an order of the court, commence fresh proceedings. So, there are adequate protections there for an accused person. Also there are important public policy considerations from a public perspective which would ensure that trials by judges alone are treated in a similar way to trials on serious charges by magistrates where there is a right for the DPP or the prosecution, as the case may be, to appeal against an acquittal.

The Hon. CAROLYN PICKLES: The Opposition opposes the motion. We have canvassed our views thoroughly in Committee. I understand that it is likely that this will go to a conference and we will pursue the matters further. It is interesting to note that one Liberal member of another place shared the views of the Opposition on this matter.

The Hon. M.J. ELLIOTT: There may have been others, but they did not cross the floor. I have not had a change of mind on this matter. I acknowledge that it is not a black and white issue and that there is merit on both sides of the argument. However, when the matter was with us previously I took a position and have not changed that position. Why we should go to a conference on a single issue that we have already vetoed twice defies logic, but it is the Minister's decision.

The Hon. K.T. Griffin: There is no logic in a lot of things you do.

Members interjecting:

The Hon. M.J. ELLIOTT: There will be heaps of publicity on this one. The *Advertiser* is taking it all down right now. The point is that I have not been persuaded, despite the valiant attempts by the Attorney-General. I accept that there are legitimate arguments on both sides, but I have not been persuaded on balance that this is the way to go.

Motion negatived.

The following reason for disagreement was adopted:

Because the Committee is not persuaded of the benefit of the amendments.

SUMMARY OFFENCES (OVERCROWDING AT PUBLIC VENUES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 535.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of the Bill. The Opposition appreciates that some amendment to the law is necessary given the recent repeal of the Places of Public Entertainment Act. The Bill provides the police with considerable powers that they have not previously had. Senior police officers will have the power to order people to leave premises and effectively close a venue if the opinion is formed that there is a serious risk of injury or damage due to overcrowding. Traditionally, the policing of overcrowding has been the responsibility of the Metropolitan Fire Service.

The definition of 'public venue' is interesting. The Attorney-General tells us that it is deliberately wide. It certainly goes well beyond the premises which previously would have been considered to be places of entertainment. For example, a very wide range of sporting events takes place outdoors at public venues. These will be covered. There may also be local concerts or barbecues organised by charity groups, community groups or local councils, which will be covered by this legislation. Presumably commonsense will prevail, and the opportunities for overcrowding must, in general terms, be less than for confined spaces, including indoor venues.

The Opposition queries why churches and places of public worship are excluded from the definition. One can appreciate that the police may be reluctant to interfere in a religious ceremony, but it must be remembered that the police would be able to take action only if a senior police officer considered that there was serious risk of injury or damage due to overcrowding. If attendance at a church or other place of worship was so overwhelming that people were packed in to the point of danger, would it be inappropriate for the police to intervene and ask some people to leave the building and perhaps listen to the religious observance from outside? In practice, it is perhaps never going to be a problem. I have heard complaints from the various religions about declining numbers in the churches, but that may change. However, the question is raised and perhaps the Attorney-General can answer it.

These additional police powers in relation to overcrowding must be seen in the perspective of existing police powers. These powers are considerable in relation to people loitering in public places, which is covered by section 18 of the Summary Offences Act, and in relation to public meetings generally, which are covered by section 18A of the Summary Offences Act.

In any case, the Opposition supports the second reading of the Bill. We do not wish to hold up its passage, but perhaps the Attorney-General can answer the question that I have posed.

The Hon. SANDRA KANCK: The Democrats will support this Bill. It is obviously here by demand. I have some concern about the definition of 'public venue'. I understand the Government's desire to keep the definition deliberately broad, but I wonder whether it is too broad. For instance, does the Attorney-General intend that this should apply to a cricket match, because the words in the definition are 'of any kind'? How does the Government envisage the police using this power at a cricket match if something went wrong? Apart from that one query, I am generally happy with the Bill and will be supporting it.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indication of support for this Bill. As I said when I introduced the Bill, this is designed to replace the powers that the police had under the old Places of Public Entertainment Act, which was repealed in April this year. The Hon. Carolyn Pickles raised the question of the exclusion of churches and places of worship. My recollection is that it really picks up one of the places that were excluded under the Places of Public Entertainment Act. I was trying desperately to find it under the old Act but I will try to provide an answer by letter in due course. When we looked at the definition of 'place of public entertainment', the feeling was that it would be unusual for police to have the power to clear a church building, and quite obviously it would bring church and State into direct conflict.

It was not easy to see that there were likely to be events that would require the police to clear a place of worship. One could probably speculate about dramatic events of religious significance within a church or place of public worship but, looking at the way in which churches and places of worship are generally operated, it would be unusual to find events occurring that would require them to be cleared. So, we preferred not to embark upon a course of bringing the churches and State into conflict.

In relation to cricket matches, it would be possible for the powers given in this Bill to extend to an oval, for example, but I should tell the honourable member that there is an Act that deals with places of recreation, and it presently permits places such as Football Park or the Adelaide Oval or the proprietors or owners of suburban ovals and basketball stadiums, I suppose, to pass by-laws that regulate the behaviour of patrons. That legislation is currently being reviewed to determine whether it is appropriate to repeal it and enact a new piece of legislation that deals comprehensively with recreational facilities and the power of the operators to make by-laws controlling conduct. The Government has not made any decision on that. If that were to occur, I would expect the interrelationship between this Bill and any new legislation to be a matter that would be taken into account in the drafting process.

If one thinks about it, even without the recreational grounds legislation and the by-laws that might apply to places such as the Adelaide Oval, it is not unknown for there to be riots within the Adelaide Oval, whether they are cricket fans who have consumed too much alcohol or football fans who get too excited. The powers would be helpful in enabling that sort of incident to be adequately controlled. I do have an amendment on file which, to some extent, will alleviate some concern that has been raised with me about a senior police officer delegating responsibility to take action under this Act to a junior officer. Members will see from that amendment when we get to it that I am seeking to provide that, where that power is delegated, that delegation is referred to in the Police Commissioner's annual report. So, it becomes a matter of public record. We will deal with that at that time, but that is an effort, at least, to ensure that it is the senior police officer who makes the decision or, if not, the fact that there was a delegation of power is actually identified on the public

record. I thank members for their indications of support for the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Overcrowding at public venues.'

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

Page 3, after line 6—Insert subclause as follows:

(9) The Commissioner must include in the Commissioner's annual report to the Minister to whom the administration of the Police Act 1952 is for the time being committed a record of the authorisations issued under subsection (7) during the period to which the report relates.

The amendment achieves the objective of putting on the public record, through the Police Commissioner's annual report tabled in Parliament and available publicly, those occasions where there is a delegation by a senior police officer to a junior police officer to exercise the powers granted by this Bill. As I said earlier, that means that it is open to public scrutiny.

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

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

RACING (AMALGAMATION OF POOLS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 631.)

The Hon. R.R. ROBERTS: The Opposition supports this Bill, which provides for a scheme to increase the pools that will operate in South Australia. As I understand it and as I have been advised by my colleague in another place, it is beneficial to South Australia and racing in general. The Opposition will therefore move no amendments and indicates support for the Bill.

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

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

DOG FENCE (SPECIAL RATE, ETC.) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 633.)

The Hon. R.R. ROBERTS: The Opposition supports the second reading of this Bill. As I understand it, this Bill seeks to do basically three things. First, it seeks to allow flexibility for dog fence boards in particular areas of the State to strike a differential rate than the one that is normally set, subject to ministerial approval. My understanding is that there has been widespread consultation and that this is generally agreed within the industry. That is supported by the fact that we have received no submissions in respect of these matters. Secondly, the Bill talks about ministerial nominees and the chairmanship of the board, which is a machinery matter, and the Opposition has no objection to that. Thirdly, the Bill allows for moneys owed to the dog fence board to be the first charge on any property, and the proposed amendments allow those debts to be registered on the title. It all seems perfectly proper, so the Opposition supports this Bill without amendment.

The Hon. K.T. GRIFFIN (Attorney-General): I thank the honourable member for his indication of support for this Bill.

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

SOUTH EASTERN WATER CONSERVATION AND DRAINAGE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 633.)

The Hon. R.R. ROBERTS: The Opposition will be supporting the second reading of this Bill. I do express some concern about a Bill of such complexity as this coming in at this late stage of the session. However, I am assured there has been enormous consultation in respect of these matters. There has been a long process of consultation between local government, farmers' representatives and conservation groups, and a long process of identification of particular areas in which these matters will operate.

I understand that the Bill also identifies four levels of levy on a per hectare basis and an appropriate way to collect the 25 per cent community cost to the program. I understand that this program will be funded from three different levels: 50 per cent of the cost of the scheme will be funded by the Federal Government, 25 per cent by the State Government, and 25 per cent will be a community cost. The 25 per cent community cost has been the subject of great debate in the South-East, but I am assured—and I have had no representations to the contrary—that a system has been worked out and the four levels have been agreed.

There has also been consultation on how the program will work, and again I am advised that, although it has not been unanimous—because in these cases you do not get unanimity—there has been overwhelming agreement for the propositions. There is also provision in this Bill to allow for a staggered appointment of members of the board. It also lays out clearly who will be represented on these particular boards and attempts to maintain some continuity of experience in the deliberations of the board from time to time, and we think that is a sensible provision. It also identifies, in respect of those people involved in partnerships and companies, within the confines of the arrangement who is entitled to vote.

Given the agreements and the briefing I received from the department, for which I am grateful, the Opposition indicates it will be supporting the Bill without amendment. I reiterate that I am a little concerned about its introduction at this late stage. It would have been far better for us to have a greater opportunity to talk to a number of these groups personally, but I am assured that consultation has taken place and agreement has been reached. On that basis, we will be moving no amendments and indicate our support.

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

LOCAL GOVERNMENT (BOUNDARY REFORM) AMENDMENT BILL

Bill recommitted.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. DIANA LAIDLAW: I move:

Page 1, line 16—Leave out '(a)' after the word 'amended'.

It will be difficult for observers and others to follow proceedings because my amendments relate to matters debated and accepted last night in the Committee for which there is not a clean Bill including those amendments. Although it will not be easy to follow, I am looking forward to the challenge. This amendment relates to the amendment moved last night by the Australian Democrats that sought to incorporate detailed reference to the ILAC scheme. At the time I argued that the ILAC scheme would be considered by the board in the Bill as proposed. Nevertheless, last night the majority of members in this place determined that they would support the Australian Democrat amendment, which provided in considerable detail the outline to the ILAC scheme.

As a result, considerable amendment was made to the Bill, bringing sections of clause 10 forward to clause 3 in relation to the definition of a structural reform process. I recognise that, in relation to this matter, the Opposition, in supporting the Australian Democrat amendment last night, gave conditional support and that it was seeking closer examination of that matter. I hope that, in the 24 hours since this provision was debated in the Legislative Council, closer consideration has been given to the matter. In the meantime, I repeat the undertaking I gave last night that the Government intends to examine closely the ILAC scheme in terms of a Bill to reform various local government provisions, and that it will be available for public comment and debate in this Parliament next year.

We believe that that general reform Bill relating to the conduct of local government is a far more appropriate Bill in which to explore in detail the merits of the ILAC scheme than is this Bill. This Bill does not exclude the board from looking at this issue if various councils put the issue before the board for deliberation.

The Hon. M.J. ELLIOTT: I believe that the reaction of the Government to this clause exposes the fraud that is held within this legislation. The Government tells us that this legislation is about efficiency in local government, and it claims that the major efficiency results from amalgamations producing larger units. The fact is that ILAC schemes are capable of producing exactly the same efficiencies of scale, if they indeed exist. The Government says that it is prepared to look at ILAC schemes later. Major structural reforms must be considered immediately, and not when the next Bill passes in the middle of next year or later.

ILAC schemes, whilst hypothetically possible under paragraph (d) as the Government wishes to reinstate it, in reality cannot proceed because sections of the Local Government Act simply do not allow ILAC to function in the way intended. I have taken legal advice on this. The Minister is aware of this. When I met with the Minister and his advisers their major concern was that this would happen instead of amalgamations. The baseline is that the Government has decided that amalgamations are the only way to go. That is the reality and it has nothing to do with efficiency: another agenda is running beneath this, and it is not an efficiency agenda.

The Government's response on this issue and to later amendments in relation to finance and management plans exposes the agenda that is actually being run. I would be disappointed if the Opposition—which also says (as has the Government) it has sympathy for ILAC schemes—allowed a piece of legislation to pass which will not allow ILAC to proceed because the Local Government Act in its current structures will not allow it: it provides other obstructions to ILAC proceeding. In theory, it will be possible under the clause as the Minister is now seeking to amend it, but in reality it will simply not be possible.

It is dishonest to suggest otherwise. Certainly, it is dishonest of anyone who has taken legal advice to suggest otherwise. Perhaps people who have not taken legal advice might get away with it because they are speaking from a position of ignorance as to how the Act actually works.

The Hon. P. HOLLOWAY: Since this Bill was discussed in some detail yesterday, the Opposition has reconsidered its position. During the second reading of this Bill, I made clear that we did not wish to complicate unnecessarily the administration of this legislation, because it would not be in anybody's interest for the operations of the Local Government Reform Board to be unduly complicated. The Opposition will support a number of the Government's amendments, but we are in fundamental dispute with the Government in some areas. I guess those matters will ultimately go to a conference of the Houses if they cannot be resolved. We had lengthy debate on these matters yesterday.

The Opposition supports ILAC schemes, but we will support the Minister's amendment. While we support ILAC schemes in principle, our advice is that ILAC schemes will be able to continue even if these amendments, which were originally moved by the Hon. Mike Elliott are removed from the legislation. It would not change the situation for the Local Government Boundary Reform Board when it comes to considering councils' proposals. Regardless of what happens with these amendments, the ILAC schemes will either stand or fall on their merits as far as the board is concerned. We are prepared to change our position in respect of ILAC schemes and support the Minister's amendment. We would be very disappointed if, as a result of our accepting the Minister's amendment, we were to find subsequently that the Government's promise in relation to ILAC-type schemes was not honoured.

I will not say much more about the Opposition's position on the amendments. The five areas of disagreement on which we will insist are: the rate setting powers, which involve section 174 of the Local Government Act and which are contained in clause 18; the objects of the Act, which were amended yesterday and which are under clause 10; and the reduction of the threshold at which a poll becomes binding—we had moved that that be reduced from 50 per cent to 40 per cent, and we will be maintaining our position on that amendment. We also believe that the plans to be drawn up should be financial management plans rather than financial and management plans. We will insist on our amendments to that. Finally, we will also maintain our position that a copy of the minutes should be available on request. With the exception of those five items, the Opposition is prepared to accept the other Government amendments to ensure that the Bill has a speedy passage. We can then get on with any conference that may be necessary to resolve the Bill in its final form.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 1, after line 19—Leave out new paragraphs (b), (c) and (d).

I explained the reasons for moving this amendment when outlining the reasons for moving the previous amendment.

The Hon. P. HOLLOWAY: The Opposition supports the amendment.

Amendment carried; clause as further amended passed.

Clauses 4 to 9 passed.

Clause 10—'Substitution of ss. 14 to 22.'

The Hon. DIANA LAIDLAW: I move:

Page 4, after line 20—Leave out new Division VIII A (ILAC schemes).

Essentially, the amendment is consequential on earlier amendments to clause 3 and it reinstates provisions from the earlier Bill.

The Hon. M.J. ELLIOTT: This is the key clause in relation to ILAC schemes, the removal of which makes it almost impossible for them to be carried out, even though the parties are now saying that they are not a bad idea. I believe that the removal of this provision will make it practically impossible and, as such, I indicate that I will divide on the amendment because the councils that have been seeking this need to be made fully aware of how the provision was removed from the legislation.

The Committee divided on the amendment:

AYES (14)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Griffin, K. T.
Holloway, P.	Laidlaw, D. V. (teller)
Lawson, R. D.	Levy, J. A. W.
Lucas, R. I.	Redford, A. J.
Roberts, R. R.	Roberts, T. G.
Schaefer, C. V.	Weatherill, G.

NOES (2)

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

Majority of 12 for the Ayes.

Amendment thus carried.

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

Page 5, line 2—Leave out '12 months' and insert 'five years'.

This amendment has come at the request of the Local Government Association. On further examination of the Bill it felt that a transitional period of 12 months may not be adequate in relation to the section. The initial concern was how broadly it could be read but, since it clearly relates to the transitional period, we are talking about powers that are relevant to a transitional period and there would be quite strict limitations on how those powers could be used.

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

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 5, lines 20 to 35—Insert new section as follows:

Interpretation

15(1) In this division—

'structural reform proposal' means a proposal to—

(a) constitute a council; or

(b) amalgamate two or more councils; or

(c) abolish a council and incorporate its area into the areas of two or more councils; or

(d) alter the boundaries of a council area; or

(e) establish a cooperative scheme for the integration or sharing of staff and resources within a federation of councils.

(2) If a proclamation under this part providing for the constitution, amalgamation or abolition of a council or councils, or providing for the alteration of the boundaries of a council area or areas, has been made, a proposal that relates to any related matter that may be the subject of a separate proclamation under this part will not be taken to be (or to form part of) a structural reform proposal for the purposes of this division.

This amendment returns the clause almost to the form of the original Bill. However, we retain a concept introduced last night by way of amendment from the ALP relating to altering the boundaries of a council area. The structural reform proposal which was initially in clause 10 (section 15) was removed last night to clause 3. We are returning it to clause 10 (section 15) but adding the matter introduced by the Labor Party last night in relation to a structural reform proposal meaning a proposal to alter the boundaries of a council area.

The Hon. P. HOLLOWAY: The Opposition supports the amendment.

The Hon. M.J. ELLIOTT: It seems to me that we now have a clause with internal contradictions. Under 15(1)(d), something which alters the boundaries of the council area is deemed to be a structural reform proposal; and subsection (2) provides:

If a proclamation under this Part providing for the constitution, amalgamation or abolition of a council or councils, or providing for the alteration of boundaries of a council area or areas, has been made, a proposal that relates to any related matter that may be the subject of a separate proclamation under this Part will not be taken to be a structural reform proposal. . .

This is being handled somewhat on the run. The Bill has not been before this place for very long and there have been a lot of amendments. I think, in fact, that concerns related matters; so the contradiction that I first thought might be there does not apply.

The Hon. DIANA LAIDLAW: The honourable member's second look at this matter is correct. Subsection (2) relates to subsidiary matters and not to the substantial matters which are referred to and which are now embraced in the interpretation of 'structural reform proposal' as incorporated in the ALP amendment from last night.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 6, line 11 (section 16A)—Leave out 'after consultation with the Local Government Association of South Australia'.

Last night the Australian Democrats moved amendments which indicated that all appointments to the board had to be made after consultation with the Local Government Association of South Australia. I argued against that provision last night. The Labor Party indicated that it would support it, wishing to reconsider the matter. By moving this amendment, I invite the ALP to reconsider that matter now.

The Hon. P. HOLLOWAY: The Opposition supports the amendment.

The Hon. M.J. ELLIOTT: We were simply asking for consultation with the Local Government Association and not actually giving it any power. It was not a particularly strong clause. But the idea of consultation is something which the Government hates. It has probably already chosen who will go on the board to do the job that it intends doing. I am not surprised.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 6, lines 15 to 17 (section 16A)—Leave out new subsection (2) and insert the following subsection:

(2) A person nominated under subsection (1)(a) should have such managerial, financial, local government or other qualifications, or such experience, as are, in the opinion of the Minister, necessary to assist the Board to carry out its functions.

This amendment reinstates the provisions that were in the original Bill. They relate to the establishment of the board

and the qualifications of the members of that board. The Government originally sought that a person nominated for the board should have managerial, financial, local government or other qualifications, or such experience, as are, in the opinion of the Minister, necessary to assist the board to contrary out its functions. That was defeated last night on the basis that the majority of members argued that a person nominated to the board should have at least two years experience as a member, officer or employee of a council. I vigorously argued that that was a very restricting imposition to place upon the Minister and, particularly, to place upon the board in terms of the experiences and qualifications required of a board of this nature, which is to deal with quite complex issues and should, in terms of the integrity of the board, be entitled to have the widest field of candidates from whom the Minister can select for representation.

You do not need to be a member, officer or employee of a council as the only basis for eligibility to this board when one considers that so many other people have daily and regular experience with local councils. They also have strong views that should be considered in this matter. It would be wrong for us in an area where there will be such focus of attention as the board's activities to not ensure that we have as a State the best basis on which to select the most qualified people to serve.

The Hon. P. HOLLOWAY: The Opposition accepts the Government's amendment to this clause and I will not proceed with my amendment. It is a matter of somewhat less significance than other matters before us today, so we will not press the point.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 8, after line 25 (section 16F)—Leave out new subsection (3b).

This amendment relates to the meetings of the board. Last night the Australian Democrats moved, and the Government agreed to, the first part of a two-part resolution in relation to the conduct of the board and public hearings. We agreed:

A meeting of the board should be open to the public unless the board is considering a matter that, in the opinion of the board, should be dealt with on a confidential basis.

We remain of that view. I think that it was the unanimous view of the Legislative Council. However, the Government continues to object to the second part of the amendment moved by the Democrats successfully last night. The ALP at the time indicated that it wanted to think again about this subclause, which provides:

If the board closes a meeting to the public, the board must, on request, provide written reasons for its decision.

That is an entirely paranoiac, over-bureaucratic response. If the Legislative Council entrusts to councils, as it has in the first part of the resolution, the capacity to decide to open or close meetings to the public, it should not require that decision to be put in writing.

People may be asked to leave a meeting immediately because a sensitive matter has been raised, but debate on the matter should not be stalled while all the officers prepare and circulate written notices and advice. It is an unusual practice. I understand it is not common in any local government or other committee proceedings that I have encountered whenever they have been debated in this place.

The Hon. P. HOLLOWAY: The Opposition will support this amendment. Yesterday, I expressed some reservations about this provision possibly being unduly bureaucratic. On that basis, we will accept the Minister's amendment to omit it.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 8, after line 26 (section 16F)—Leave out new subsections (4a) and (4b) and substitute new subsections as follows:

(4a) A person is entitled, on request, to inspect a copy of any board minutes that have been adopted by the board.

(4b) However, the board may, before it releases a copy of any minutes for inspection under subsection (4a), exclude from the minutes information about any matter considered on a confidential basis by the board.

This amendment relates to the minutes of meetings. We are seeking to clarify the status of minutes which are available for public perusal. Last night I argued—I think convincingly, but the Labor Party wanted to reconsider the matter—that there was some uncertainty about what the Hon. Mr Elliott was trying to achieve. As I recall, he conceded that this matter was pretty vague as he had presented it and that it could be agreed to by the board at a later stage. We are seeking to clarify that, on request, a person is entitled to inspect a copy of the minutes that have been adopted by the board.

One of the concerns that I raised last night was that it is not clear whether the board had to circulate the minutes that had just been typed up after the board meeting and had not been ratified or adopted by the board, and whether people could see those minutes. This clarifies the matter and it confirms also that a person is able to inspect a copy of those minutes.

A second part to the amendment indicates that, notwithstanding the foregoing, before it releases for inspection a copy of any minutes which have been adopted, the board may exclude from the minutes information about any matter considered on a confidential basis by the board. This also accommodates what the Hon. Mr Elliott canvassed last night, when he said that there would be two sets of minutes. That would be a pretty messy situation for the board and for those preparing the minutes to know what should be included in the set of minutes that are available for circulation and what should be included for the board. This amendment provides that the minutes that are available for inspection are those that have been adopted, but the board may determine that some matters from those minutes should be excluded because they are deemed to be confidential. This is a deliberate decision, not an *ad hoc* one, as the honourable member canvassed.

The Hon. M.J. ELLIOTT: Will the Minister consider a slight change to the amendment? It almost has the spirit of what I intended. Looking at subsection (4a), I ask whether the word 'inspect' is necessary. Why cannot a person simply receive a copy upon request? I would have no problems if a charge was attached. People might come in and hand write everything and then go away. One of the reasons that local government is keen to see this measure is that it is one way that the progress of the board is open and available generally to local government. If the word 'inspect' could be removed from subsection (4a) and if the words 'for inspection' were removed from subsection (4b), that would achieve the result of making the minutes available.

The Hon. DIANA LAIDLAW: I seek leave to amend my amendment as follows:

Leave out from subsection (4a) the word 'inspect' and insert in lieu thereof the word 'receive'.

Leave out from subsection (4b) the words 'for inspection'.

Leave granted; amendment amended.

The Hon. P. HOLLOWAY: The Opposition supports the amendment and the amendments thereto.

Amendment as amended carried.

The Hon. DIANA LAIDLAW: I refer to my proposed amendment to lines 1 to 3 on page 10. The Government believes resolutely in this very important issue, which relates to councils preparing plans that provide for a general rate reduction in the year 1997-98, and later in the Bill it provides that the limit on rates reduction be 10 per cent. I understand that the Labor Party has not been convinced overnight of this matter. I will not move the amendment at this stage, although I am hopeful that another 24 hours might see a change of heart. so I will not move that amendment. I move:

Page 10, lines 14 to 18 (section 17A)—Leave out all words in these lines after 'local government' in line 14 and substitute—

to provide services in an efficient, effective, fair and representative manner—

(a) a significant reduction in the number of councils in the State; and

(b) a significant reduction in the total costs of providing the services of local government authorities under this Act.

I recall that when we were debating this issue last night Labor members said that they were keen to keep it alive. The issue relates to the objectives of the board and matters that the board seeks to achieve. We argued last night that the Government's proposal was a clear outline to councils and to the board of what was sought in terms of the objectives of the board. We also argued that the amendment moved by the Democrats was waffly. We remain of that view and, therefore, seek to resubmit this clause to the Committee because we believe that Labor members have had time to reconsider it and should be given the opportunity to state their view on the matter, recognising that last night they wanted to keep the issue alive.

The Hon. P. HOLLOWAY: I indicated earlier that of the five parts on which we maintain our objection this was one of them. So, we do not support the Minister on this clause.

Amendment negatived.

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

Page 11, after line 9 (section 17B)—Insert—

(x) in certain circumstances a scheme that provides for the integration or sharing of staff and resources by two or more councils may offer a community or communities a viable and appropriate alternative to boundary reform options.

I note the very strong support that the Government indicates for this amendment and I welcome that unusual occurrence.

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

The Hon. P. HOLLOWAY: The Opposition supports the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 11, after line 18 (section 18)—Leave out new subsection (1b).

This is consequential on earlier amendments agreed in this place this evening about public access to information and written reasons for the board's excluding people from attending meetings.

The Hon. P. HOLLOWAY: I understand from what the Minister is saying that this is consequential to one of the other clauses which we have supported, so in that case the Opposition will support this amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 12, after line 18 (section 19)—Leave out paragraph (b) of new subsection (3a).

Last night an Australian Democrat amendment relating to the establishment and composition of committees provided that those committees be established and that members of the committee be appointed only after consultation with the Local Government Association. A further Opposition amendment related to the LGA having members on the committees, and in my enthusiasm I asked the Hon. Mr Holloway if he would agree on the run to incorporate a further amendment to provide that at least one be a man and one a woman. He did not agree that both should be women. So, I am now moving to delete paragraph (b) of new subsection (3a).

The Hon. M.J. ELLIOTT: I would be most concerned if the Opposition acceded to that request, because it is quite likely that the board will delegate a great deal of its work to various subcommittees, not just the metropolitan and country councils' reform committees but also other committees. If I have understood this amendment correctly, given the powers that can be delegated to those committees, I find most disturbing the suggestion that the LGA would not be consulted (and it is simply a consultation) in relation to the appointment of persons to those committees. I would be most concerned if the Opposition agreed to it.

The Hon. P. HOLLOWAY: The Opposition did move to insert a new clause to ensure that the LGA representative would be on the committees. After speaking to the shadow spokesman, I indicate that we believe that we should keep this provision, and I therefore oppose the Minister's amendment.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 12, after line 20 (section 19)—Leave out new subsection (4b).

This amendment is consequential on earlier amendments to which members have agreed this evening in terms of written reasons in relation to public access.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 17, lines 17 to 26 (section 22)—Leave out ', or providing for the establishment of an ILAC scheme,' from new subsection (5).

The Hon. P. HOLLOWAY: The Opposition supports the amendment.

Amendment carried; clause as further amended passed.

Clauses 11 to 17 passed.

Clause 17A—'Date of elections.'

The Hon. DIANA LAIDLAW: I oppose this clause. The clause, with respect to the Governor's suspending elections beyond May 1997, was passed last night by the Legislative Council. The Government objects to that measure. We would wish to encourage the board to complete its work by May 1997. We do not want councils to fool around with this issue. We believe that the agenda has been set. If we give the capacity to suspend elections, we reduce the urgency of the task that councils must confront in addressing this issue of boundary reform, structural efficiency and microeconomic reform matters that the Federal and State Governments are tackling with various degrees of enthusiasm. Councils must also do the same in terms of accountability to ratepayers and in terms of the services they provide. The degree of pressure must remain on councils. I understand that the amendment moved by the honourable member and passed last night has been passed in good faith. It does let off the pressure and the Government does not believe it is wise in the circumstances.

The Hon. M.J. ELLIOTT: To take out this clause is absolute foolishness. The suggestion that it will take off pressure does not have any substance at all. The board and the subcommittees established will have an enormous task and if, at the end of the day, they have a deadline pressing on them that causes them to make mistakes, the mistakes will be entrenched from that time onwards. If it took an extra month or two, in three years' time people will not care that it took an extra month or two. They would rather that it was got right. The powers here are in the hands of the Governor to put off the date of the election—nobody else. It is a proclamation by the Governor. It does not give a licence to councils to procrastinate or anything else of the sort.

For the Government not to simply have this sitting in the books in case some things are running late, despite all the best will in the world, and then to apply the pressure to make sure that the election date is met, is stupidity. As I said, a month or two here or there at the end of the day will not make any difference except that it might put at risk the quality of the process because of its being hurried at a time that it should not have been. I cannot believe that the Government could be so stupid.

The Hon. P. HOLLOWAY: When we supported this measure last night, we thought that the Government might find some value in the measure but, as the Government does not, we will not insist on its retention. Therefore, we support the Minister.

Clause negatived.

Remaining clauses (19 to 21) and title passed.

Bill read a third time and passed.

SELECT COMMITTEE ON ALTERING THE TIME ZONE FOR SOUTH AUSTRALIA

Adjourned debate on motion of Hon. Caroline Schaefer:

That the committee's report be noted.

(Continued from 22 November. Page 516.)

The Hon. SANDRA KANCK: As a member of the select committee I am pleased to be speaking in favour of the recommendations that the committee has made, especially that South Australia should move to a time based on the meridian of 135°, subject to agreement by the Northern Territory to do the same. In agreeing to that recommendation, I was not, as some people have intimated, swayed by the quantity of submissions from the Eyre Peninsula and the West Coast. Most of those dealt with the issue of daylight saving, which was not a term of reference of the committee. Of course, in making our decision about a half hour move either way, the impact of daylight saving was part of our considerations and we assessed that, for these people, daylight saving was a significant social justice issue.

The committee was not conducting a referendum and we did not assess the submissions in terms of numbers. We made our assessment on the strengths of the arguments presented. What was clear was the general disinterest in the topic of our time meridian by most people in the metropolitan area. The Employers' Chamber of Commerce and Industry, which has been the loudest advocate for a move to eastern States' time, failed to present a submission, despite the committee operating for almost a year and an individually targeted letter from the committee inviting them to do so. As is now known, in the dying stages of the committee, in fact in the very last half hour of the committee's existence, we were relayed a message that the chamber wanted to present a submission. We discussed the request seriously but decided that it was most inappropriate to reopen the proceedings simply because it was unable to get its act together.

The *Advertiser* on 21 November quoted Mr Ian Harrison of the Employers' Chamber as saying:

> We heard this committee was going on about eight or nine months ago but didn't think it would come to much. . .

It more than merely 'heard'. Unlike most people and organisations which responded to a newspaper advertisement, the chamber received special treatment with its own personalised invitation to present a submission. It received that special treatment for the reason that committee members were aware of how vocal the chamber had been in the past, and we were more than surprised after a couple of months that we had not heard from the chamber. There was no 'communication breakdown' as Mr Harrison described it, at least on the part of the committee.

The Hon. Caroline Schaefer interjecting:

The Hon. SANDRA KANCK: Absolutely no. The chamber made the assessment that the committee 'would not come to much'. Well, it was wrong, and the fact that it got it so wrong hardly gives credence to its continued calls for a move to eastern States' time. The arguments put to the committee to move to the time of the eastern States were of the variety that we need to be working on their time to facilitate contact between businesses. But evidence was given that with modern technology the time difference is of little consequence. In fact the reverse argument had more power to me, and that was that a move to eastern States' time would facilitate more companies having mere branch offices in South Australia.

Having a one hour difference will give South Australia its own identity independent of the eastern States. There was a small number of submissions which argued for the *status quo* and against a move to eastern States' time. In his submission the Managing Director of Sola Optical said:

> I cannot see how it is possible that we could sell more products to the eastern States—or any other commercial advantage from changing the time zone.

He went on to say:

> With regard to international communication, Adelaide is well placed for us to speak to all the Asian countries during the working day and we can speak to Europe and North America at the end of each working day.

As the Hon. Caroline Schaefer has stated, the recommendation is a consensus one. Some would have liked to see it go further and for some it went quite far enough, thank you. I am one of those who found it to be a conservative recommendation. As we have ultimately worded it, it will depend on the Northern Territory agreeing to such a move before South Australia would be willing to take the plunge, if indeed this Government has got the intestinal fortitude to do so. Personally, I would go one step further than the committee's recommendation, in that I think South Australia should make the move without waiting for the Northern Territory to agree. I am convinced that the Northern Territory would follow, as the 135° meridian is much more in line with where the bulk of Territorians live and this would be more socially just. It could even result in the Northern Territory being willing to adopt Daylight Saving Time, thus reducing some of the time confusion experienced in the summer months throughout Australia. A submission from the Northern Territory's Department of Industries and Development stated that it would not support a move to eastern States' time and it concluded its submission with these words:

Adoption of the international time zone for the area in which we are geographically located would be a positive step.

Within the body of their submission they listed the positive benefits of such a move as including an extra half hour of business time overlap with Perth, China, Indonesia and Japan—to choose just a few from their list. Although we are not responsible for the people of the Northern Territory, it is worthwhile recognising that the majority of Territorians live in Darwin, which is basically on the same meridian as those South Australians living on our West Coast. This means that a great many of their dealings, which are with Western Australia, are 1½ hours out of sync.

One submission from a Tasmanian resident, a Mr or Ms Madden, advocated that we move to true Central Standard Time. She or he said:

Whatever Adelaide business might feel could be lost should be cancelled by being the city that gives people around the world a point of reference as to what time it is in all Australian cities.

As has occurred in Europe, and as in the case of China, there will be inevitable pressure for Australia to adopt one common time zone. I am not arguing for that to happen, but just as surely as some have argued strongly that South Australia should be on the same time zone as the eastern States, the argument will arise that we should have one time zone for the whole of Australia. When that happens, South Australia might have set the way by basing its time on the 135° meridian, and this would become the obvious meridian for the whole of Australia to adopt. I would hope that we will not follow the chaotic example of China where all of the country officially works off Beijing's time zone. Provinces and towns in the west of the country have to work off the official time, but effectively all the locals ignore this. Such a situation would be confusing, to say the least, yet this is what could happen if South Australia were to succumb to the pressure of the Employers' Chamber and move to Eastern Standard Time. While the committee's role was not to look at the issue of daylight saving, one has to consider that if the Employers' Chamber scenario was successful and all of Australia was on Eastern Summer Time, the people of Perth would be operating on a meridian just off Lord Howe Island, and that is just plain stupid.

I want to acknowledge the tireless good humour and patience of the committee's Secretary, Paul Tierney, whose filing system for submissions was a joy to use, and our researcher, Ron Layton, whose professionalism was beyond reproach. The Hon. Caroline Schaefer, as the committee's Chair, declared her own biases on the issue at the outset but acted always in an unbiased manner. I reject any inferences that the committee's recommendations were always going to be predictable because of her association with the people of Eyre Peninsula and the West Coast. Although a consensus position, this report has the support of the three Parties which were represented on the committee.

The ball will now be in the State Government's court, but I do not know whether it will have the guts to take the recommended action. I honestly expect that the Government will wimp out and do what the Employers' Chamber wants rather than what is best. I concur in what the Hon. Caroline Schaefer said when she pointed out that farmers are employers, too. I wonder whether the Government will take that into account when it makes its considered response to the report. I am sorry that I do not know who it was that sent me a particular letter earlier this year, but I was so impressed with a sentence in it that I enlarged it and stuck it on my wall. The sentence states:

If Government cannot run the time sensibly it probably would not know how to run a bath, most likely have lost the plug or, if found, not know what it was for.

Although the Democrats have no fixed policy on the matter I support the committee's recommendation not just because I was a member of the committee but because I personally believe it would be a wise move.

The Hon. A.J. REDFORD secured the adjournment of the debate.

STATUTORY AUTHORITIES REVIEW COMMITTEE: LEIGH CREEK MINE

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

That the interim report of the Statutory Authorities Review Committee on a review of the Electricity Trust of South Australia (Occupational Health and Safety Issues at Leigh Creek Mine) be noted.

(Continued from 22 November. Page 519.)

Motion carried.

WORKERS REHABILITATION AND COMPENSATION (MENTAL INCAPACITY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 524.)

The Hon. M.J. ELLIOTT: This Bill is identical to one which came up during the last session of Parliament. I indicated my support for it then and do so again.

The Hon. K.T. GRIFFIN (Attorney-General): The Government opposes this Bill. As the Hon. Mr Elliott said, it is identical to the Bill introduced by the Hon. Ron Roberts in the Council on 7 September 1994. The Government opposed the Bill then, even though it was subsequently passed by the Legislative Council, and it was defeated in the House of Assembly in April this year.

The Bill, as introduced, would have the effect of amending the lump sum compensation schedule of the Act (schedule 3) by providing for lump sum non-economic loss payments for 'total and permanent loss of mental capacity' rather than the existing 'total and incurable loss of intellectual capacity resulting from damage to the brain'.

The Bill continues to be opposed by the Government on three primary grounds: first, it is an unjustified extension of the lump sum provisions of the Act into the area of stress claims; secondly, it is likely to compromise or prejudice early and effective rehabilitation of workers suffering stress claims; and, thirdly, it would add to the cost of a scheme which already provides the most generous benefit levels in Australia and compound the nationally uncompetitive levy rates for South Australian industry.

The Hon. Ron Roberts, in moving the Bill last year, argued that the Supreme Court's decision in the case of Hann ignored the alleged intention of Parliament. This is a misunderstanding of the court's role. The court was required to interpret the words of the legislation that Parliament endorsed. However, even if the court attempted to determine what Parliament intended, it would have concluded that it was an intentional decision of the previous Parliament (and Government) to remove stress claims from non-economic

loss lump sum entitlements, a decision which the present Government fully supports.

All the decisions of the judges of the Supreme Court in the case of Hann demonstrate quite clearly that Parliament had made a decision to reduce entitlements to people suffering 'stress' claims as opposed to people suffering damage to the brain. There is nothing to be gained by repeating the articulate and comprehensive statements by the judges in their opinions. They clearly and correctly interpreted Parliament's intention in making changes to the eligibility and entitlement of 'stress' claims.

In the parliamentary debates of late 1992, it was the clear intention of Parliament that compensation for stress claims was to be restricted in terms of both eligibility and compensation. These claims, with little physical demonstration of injury and the ability to allow individuals to abuse the system by manipulating employers as a result of some dispute at work or grievance at how they perceived their situation, had to be restricted to cases where employees had clearly suffered an injury as a result of an unreasonable action or incident.

The WorkCover scheme could not be required to support people who have an industrial dispute with their employer. However, it was also a clear view of Parliament that those people who received an entitlement to weekly income maintenance and medical rehabilitation support, as a result of an unreasonable act or incident at work, should be treated differently from those who incurred a physical injury such as loss of an arm or leg or eye, or who suffered an injury to their back or brain.

Parliament quite deliberately removed the word 'mental' from section 43, and so it should have. Section 43 concerns non-economic loss. This is a difficult concept to understand and most people confuse it with economic loss of income. It has nothing to do with this; it is all to do with pain and suffering, loss of amenity and impact on family and social life.

A stress claim can clearly result in non-economic loss to an individual, and this varies dramatically with the personality of the individual. The compulsive, obsessive personality—which is so often the basis of a stress claim—displays responses to stressful situations far in excess of what a normal person demonstrates. Why should that personality be entitled to a non-economic loss lump sum when a normal personality will attempt to minimise the symptoms and seek to return to normal activity?

There are a number of other matters to which I could refer in the context of the debate on this Bill. A number of matters which the Government regards as being of importance have already been referred to in the context of the debate on the last occasion that this Bill was before the Legislative Council. We clearly do not support it. We intend to vote strenuously against it and it will, quite obviously, be defeated in the House of Assembly.

The Hon. R.R. ROBERTS: I thank members for their contribution to the debate on this Bill. As I said before, this Bill has already passed this place. Indeed, the Attorney in his contribution has again made the same mistake he made when last we considered this Bill. He is talking about stress claims, but this Bill has nothing to do with stress claims. This is a Bill which relates to a situation where an injured person suffers a mental injury that is assessable and, indeed, measurable. In the past, when we have discussed this matter, there have been many contributions from members of the public, from psychologists and psychiatrists, from the legal fraternity—the Law Society and the plaintiff lawyers—and they all make the same, very clear definition.

This relates not to what is commonly known as stress but injury to the mind which these people have suffered and which has been caused by a traumatic situation. They suffer in two ways. First, they suffer the injury, but since this foul-up in the system in 1992 or 1993 (I am not certain of the date now), when the Peterson amendments were put into place, this matter has been overlooked in the considerations.

The Attorney-General has been misled. There was, indeed, a strong argument about stress on that occasion. I reiterate that we are not talking about what is commonly called stress. Rather, we are talking about psychiatric or psychological injury which results in a permanent disability to the psychological or physiological functions of the brain.

In his last contribution, the Attorney talked about the situation where someone had a physical injury to the brain which resulted in a percentage disability of the function of the brain which could be measured, and he indicated to the House that he felt it was fair and reasonable that that person be subject to compensation under this section of the Act. However, when a person suffers a post-traumatic stress disorder and has the same measurable injury to the function of the brain, for some curious reason the Attorney-General does not see fit for those types of people to be paid compensation.

I do not want to go on at this late hour or at this stage of the session of the Parliament on this subject, but it is a subject about which I have become quite passionate. Suffice to say that this matter passed this Council on another occasion, and what we are attempting to do now is to get this Bill back to the Lower House so that hopefully we can provide some relief for these people who have been suffering for the past couple of years and who want the opportunity to have their case assessed and the extent of their injury determined so that they can get on with the rest of their life. I thank members for their contribution, and I urge support for this small but very important Bill regarding the well-being of those injured workers in South Australia who fall into this category.

The Council divided on the second reading:

AYES (10)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Holloway, P.
Kanck, S. M.	Levy, J. A. W.
Nocella, P.	Roberts, R. R. (teller)
Roberts, T. G.	Weatherill, G.

NOES (9)

Davis, L. H.	Griffin, K. T. (teller)
Irwin, J. C.	Laidlaw, D. V.
Lucas, R. I.	Pfitzner, B. S. L.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

PAIRS

Pickles, C. A.	Lawson, R. D.

Majority of 1 for the Ayes.

Second reading thus carried.

Bill read a third time and passed.

SOUTH AUSTRALIAN WATER CORPORATION (PUBLIC INTEREST SAFEGUARDS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 October. Page 324.

The Hon. T.G. CAMERON: I reached the stage earlier of explaining the financial structure that had been set in place ready for the contract that United Water International Pty Ltd is negotiating with SA Water. I have a couple of observations about the structure that has been put forward. I notice that, on a number of occasions, the Minister, the Premier and SA Water in various correspondence have said that this company, United Water International Pty Ltd, will have six Australian resident directors, two from Thames and two from CGE. One can only interpret that statement as meaning that the two Thames directors will be overseas residents, the two CGE directors will be overseas residents, and the six Australian directors will be residents. That does not necessarily mean that they will be Australians or Australian citizens.

That brings me to the question of who will appoint these directors. We have been advised that, initially, United Water International Pty Ltd will be 95 per cent owned by the two foreign multinationals and only 5 per cent Australian. It is difficult to imagine what influence Kinhill, as the 5 per cent shareholder, will have in appointing these six Australian resident directors. Quite clearly, the six Australian resident directors will all be appointed by Thames and CGE, and why would they not? They control 95 per cent of United Water International Pty Ltd.

I want to go back to the setting up of United Water International Pty Ltd and the subsequent establishment of United Water Services Pty Ltd to trace that through and try to give the Council an understanding of some of the deceptive actions that have been undertaken by SA Water, the Minister and the Premier. United Water International Pty Ltd is a $2 shelf company. It was set up by Thomson Simmons, the registered office is Thomson Nominees Pty Ltd, and the two directors who hold a share in the company each are Mr D.H. Proudman and A.J. Saint. This company is limited by the shares that have been issued and the liability of the members is limited. As I said, it has a paid up capital of $2.

I notice that the documents for the subsequent company that was set up, United Water Services Pty Ltd, were lodged on 31 March 1995. Quite clearly, the intention was that the vehicle company for this bid was to be United Water Services Pty Ltd. It was the company that was first set up, and it has been set up in such a manner that the two existing directors could easily be removed and the share capital expanded. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

SECURITY AND INVESTIGATION AGENTS BILL

The House of Assembly intimated that it had agreed to the Legislative Council's consequential amendment.

STATUTES AMENDMENT (SUNDAY AUCTIONS AND INDEMNITY FUND) BILL

Returned from the House of Assembly without amendment.

CONSUMER TRANSACTIONS (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT (DRINK DRIVING) BILL

Returned from the House of Assembly without amendment.

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

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

Consideration in Committee.

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

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

Motion negatived.

A message was sent to the House of Assembly requesting a conference at which the Legislative Council would be represented by the Hons. M.J. Elliott, K.T. Griffin, R.D. Lawson, P. Nocella, and Carolyn Pickles and

LOCAL GOVERNMENT (BOUNDARY REFORM) AMENDMENT BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendments.

Consideration in Committee.

The Hon. DIANA LAIDLAW: I move:

That the Council do not insist on its amendments.

Motion negatived.

SOUTH AUSTRALIAN WATER CORPORATION (PUBLIC INTEREST SAFEGUARDS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 679.)

The Hon. T.G. CAMERON: Initially, United Water Services Pty Ltd was set up in March and it was not until some three months later that United Water International Pty Ltd was set up. This company was set up on 2 June 1995, and it is quite clear that both companies were set up as shelf companies so that they could be transformed into a different kind of company at some later date. There is nothing terribly unusual about that, and I am not imputing any sinister motives to the structure of the companies set up, but it is curious that one company was set up in March and three months later it was decided to set up another one. I put it to the Council that somewhere between the establishment of the first company in March and the second company in June the two companies associated with this consortium had concluded that they needed to maximise their control over the contract, to maximise and quarantine their profits and to ensure that the profit that was going to be generated from the contract with SA Water would not in any way be damaged by possible losses—in fact, potential major losses—incurred in the bidding for new business, funding economic development initiatives and trying to attract business in South-East Asia.

It seems reasonably clear that the companies concerned decided, somewhere between March and June, that the kind of structure they wanted was the kind of structure I have already put before the Council, yet we are being led to believe that at no stage did United Water International Pty Ltd, United Water Services Pty Ltd, Kinhill, Thames or CGE decide to inform the negotiating team, SA Water, the Cabinet subcommittee or the Minister of their plans. I find it very curious that companies bidding for contracts of this nature would not disclose their intentions to the negotiating team.

On 2 May 1995 the Minister for Infrastructure released a press statement setting out what he believed were the key requirements of the RFP: a responsibility to transform the industry into a fast-growing export orientated sector as a player in the Asia Pacific region; a commitment to customer service; a significant increase in water quality; the development of a 10-year business strategy to achieve the overall economic objectives; the use of a five-year business plan to identify short and medium-term actions; the development of a one-year business plan to establish immediate actions; the use of creative methods for industry development; financial incentives to achieve nominated quality and service targets; evaluation of bids on creativity, ambition and credibility of their business proposals; adherence to SA Government undertakings on employment and job training; a commitment to South Australia through the establishment of a permanent head office presence; and the Government to retain customer billing, revenue collection and meter reading functions.

No mention whatsoever is made of any of the key requirements involving any Australian ownership. It would appear that, somewhere between 2 May and 2 June, a few people realised that things were not going too well in relation to the prospect of a French company having a 50 per cent say in this water contract. The Government decided that what it needed was Australian ownership—'We will diffuse the French problem; a lot of angst is building up in the community over French nuclear testing in the Pacific, so we need to have majority Australian ownership.'

In subsequent statements made by both the Minister for Infrastructure and the Premier, suggestions were made that there be a public float and that share placements be offered to institutions. Various suggestions were put on the table, and time does not permit me to read all of those into *Hansard*, but what is quite clear is that the Australian ownership proposal came up at a later date. Australian ownership was not necessarily one of the key requirements for tenderers yet, when the announcement was made, one reason given as to why United Water won the contract was that the contract was with a company that had 60 per cent Australian ownership.

Quite clearly, those statements made by the Minister and the Premier have been shown to be a sham, because United Water International Pty Ltd will be the front company. It will not have 60 per cent Australian ownership, it will have 5 per cent ownership and, at some stage down the track, the proposal is that Australian ownership will be increased to 60 per cent.

We have not been told how that will happen. We do not know whether there will be a public float or whether a few mates will receive a telephone call and be offered shares in this company. No commitment has been given by the Minister for Infrastructure or the Premier that ordinary South Australians, that is the mums and dads, will have an opportunity to participate in this company. I am not so sure that they would want to now, especially when they find out that all the profits from the head contract with SA Water will be channelled immediately into another company completely owned by foreign overseas companies.

One wonders whether the other bidders, Lyonnaise and North-West Water, were advised of the critical nature of Australian ownership in this company. One wonders whether they were given a wink and a nod and told, 'Well, look, all you have to do is put forward a front company. That has to have an Australian ownership. We will sign a contract with that but, no worries, they will not be the ones that will be managing and running SA Water, it will be a company that sits quietly behind that called United Water Services Pty Ltd.' Of course, we are told—

The Hon. J.F. Stefani interjecting:

The Hon. T.G. CAMERON: I can recall members opposite standing up and saying that was all crook. Are members opposite prepared to stand up and say that this is crook? No, they are not.

The Hon. J.F. Stefani: You are criticising the facts after the event.

The Hon. T.G. CAMERON: The Hon. Mr Stefani says that I am criticising the facts after the event. I do not know the full details of the Remm site but, if that was wrong and this is wrong, two wrongs do not make a right. What is clear—and I would invite any comment from the honourable member on this—is that one company has been put forward to get the contract and then it will subcontract that out to United Water Services Pty Ltd. We already know from the Attorney-General from previous questions that he cannot guarantee that CGE, Thames Water and even United Water Services Pty Ltd will be able to be successfully sued. The Attorney says that is the Government's intention and that is what it wants to achieve, but he resiled from giving a guarantee that that is what the eventual situation will be.

If members believe Alex Kennedy's article—and I believe it—the company is telling us that it had no legal liability. If members believe Alex Kennedy's article the company is saying that even when it signed the contract—

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I can work that out and I am not as stupid as the honourable member suggests. Quite clearly, no-one has a legal liability until the contract is signed. Well, go to the top of the class Mr Redford! I am quite pleased that the honourable member was able to learn that from spending four years at a university studying for a law degree. But the companies present, according to Kennedy's article, went even further. They said there was no way they could give a guarantee that they could achieve 60 per cent Australian ownership. They even went on to suggest that no-one might want to buy the shares; that they might only be worth 1¢ each; and, if they were to receive 1¢ each for them, why would they sell them?

Quite clearly, we have a very clever ruse being put forward. It has me stumped. The Hon. Angus Redford being a lawyer of some distinction—and it is a pity that the Hon. Robert Lawson is not here because they are much better on these matters than I am—may be able to explain to me why this particular structure has been concocted. The honourable member may be able to provide the explanations why it has been necessary to deceive the people of South Australia and to keep all this secret from the Minister and from the negotiating committee.

That is if that is the truth. At this stage, we have only Mr Olsen to believe. He is suggesting that there has been a conspiracy at United Water to keep this information from him. We do not know whether they told the negotiating

committee, but we do know that this bid went in on 7 August. We do not know whether all the tenderers were required to achieve some level of Australian ownership. If they were, it strikes me as a bit strange, because I understand that one of the bidders did not have any Australian component in their bid. If it was such a key feature—and it is all right for John Olsen and the Premier to beat their drum and claim that they have been insisting all the way that there will be Australian ownership—it strikes me as being very odd that this was not in the Minister's statement on 2 May, and nor was it communicated to all the tenderers. I am pleased to be able to advise the Council that both the other tenderers have said that they are prepared to come before the committee. I have no doubt that the committee will have questions to put to them about that matter.

What happened when the proverbial hit the fan, when the Minister, as he claims, found out about this proposal on the Tuesday after the select committee meeting? I find it extraordinary that he did not find out until the Tuesday. I can appreciate that the Liberal members of the select committee would have said nothing to him. They are both honourable people. Perhaps they are not in Mr Olsen's faction and they saw no need to go and tell him.

The Hon. A.J. Redford: You're going to go against Standing Orders, are you?

The Hon. T.G. CAMERON: No, of course I'm not. I understand that one of Mr Olsen's staff members was sitting at the meeting and was present whilst all this unfolded. I find it quite extraordinary that he could have one of his staff members there but still not find out about this until the following Tuesday. I put it to the Council—

The ACTING PRESIDENT (Hon. T. Crothers): Order! Mr Cameron, you cannot discuss the select committee in this Council unless and until the matter is reported on to the collective of this Council. In the interests of better debate I ask the honourable member to refrain from breaking what has been not only a rule but a longstanding custom of the Council.

The Hon. T.G. CAMERON: Thank you, Mr Acting President, although I was not aware that I was talking about what transpired during the select committee. I was talking about one of Mr Olsen's staff being present at the time.

The Hon. L.H. Davis: You don't even know what you were talking about.

The ACTING PRESIDENT: Order!

The Hon. T.G. CAMERON: Well, I knew a bit more about what I was talking about than you did at the committee meeting, Mr Davis—I can assure you of that.

Members interjecting:

The Hon. T.G. CAMERON: No, I haven't mentioned anything about what transpired. It was just a very general comment. Anyway, I am running out of time. Nobody wants to stay here until after 12 o'clock, so I had better get a move on.

Members interjecting:

The ACTING PRESIDENT: Order! I ask that the speaker be heard in silence. If the interjectors want to acquaint themselves with what is being said, then I remind them—in relation to the interjections that were just made—that they, too, can read it in *Hansard* tomorrow. In the interests of equity and fair play I have just asked the Hon. Mr Cameron to stick within the rules and parameters of debate in this Council, and I call on the two interjectors on my right to do the same. The Hon. Mr Cameron has the floor.

The Hon. T.G. CAMERON: Thank you, Mr Acting President, for your impartiality on this matter. Before I was interrupted I was referring to Mr Olsen's statements which were made on the Friday of that week after a flurry within the Liberal Party: he had only just found out about this two-tier structure and nobody had told him. What was clear is that the Premier had no idea. He quickly set about cutting his Minister for Infrastructure adrift and, if it was not for some high level intervention by Martin Cameron, Lindsay Thompson, Graham Ingerson and a few others, it is distinctly possibly that the Minister for Infrastructure would now not be the Minister for Infrastructure. I understand that when the numbers were being counted it was 18 to 13 with five undecided in the Lower House. It was not as comfortable a margin for the Premier as I think he would have liked. I am pleased to say that, in the early hours of the morning after much to-ing and fro-ing, Dean Brown was finally hosed down and he agreed not to dump his Minister. Some curious events took place on that night. I will not waste my time going into any more detail because I want to make a few other points.

We have a situation where the Minister said that he became aware of the two-tier structure only on Tuesday of that week. Yet, the Minister went on the Keith Conlon show on 24 November and was asked the question, 'Are you happy with the two company structure?' to which he replied, 'The two company structure is a matter of negotiation and discussion and has been for some time.' The Minister either knew about it and he is lying or his negotiating team did not tell him. It is stretching the bounds of possibility. I find it a little difficult to believe that United Water—and I am not quite sure whether United Water International or United Water Services put the bid in—included the two-tier structure in its bid, that it was awarded the contract some months later but that, during that entire period, the Minister was not advised that there was a two company structure or that there would be a head contract and a subcontract, with the delivery of services to Adelaide being performed by a company that was 100 per cent owned by overseas interests, that is, United Water Services Pty Ltd. We know that people were confused, because there were conflicts between what Mr Olsen was saying and actions being taken by United Water. An example of that is the fact that he did not seem to know who was involved in the industrial agreement that was registered at the commission.

We, and the people of South Australia, are expected to believe that from 2 May, when the Minister announced what the criteria would be—and there was no mention of an Australian company, and United Water got its act together and went out and registered another company, so it obviously had this two-tier structure in mind at that stage—they did not communicate this to the negotiating team. Even if we do believe that, we are then being asked to believe another aspect regarding United Water, which put in a bid on 7 August, I understand, at which time the negotiating team must have become aware of the two-tier structure and the fancy financial footwork to get around some problems—and I am still not quite sure what they are, but it must be something to do with the legal liability and the enforceability of contracts. I would have thought that people might be able to look at these companies putting in a bond, but I understand that is already being looked at.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: The Minister has not been looking at anything very closely. He admitted only a week ago that he knew nothing at all about this, despite the fact that

it had been sitting with the negotiating team and SA Water since 7 August. He is either grossly incompetent and unfit to remain as a Minister for Infrastructure—although he will probably keep the industry portfolio—or he has told untruths to the people of South Australia. It is either one or the other: you cannot have your cake and eat it, too. He is either grossly incompetent or he has seriously misled the people of South Australia to such an extent that the only reasonable course of action for the Premier to take is the one which he wanted to but which he was stopped from doing by the factional manoeuvrings that were taking place between the Olsenites and the Brownites on that Wednesday night, when meetings were taking place in smoke-filled rooms all over the building. I am a bit sorry—

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: You're in the left right out faction: you would not know. You were not invited to any of the meetings, even though you would die in the ditch and vote for John Olsen to become Premier. So, I do not know what you had to do with it: not very much at all, I suspect. But we certainly know who the Hon. Angus Redford would have voted for. He would walk across a mile of cut glass to vote for Olsen. He would vote for Olsen if he could: I know that. The numbers were 18, 13 and five. I know that the Lower House is the only one that votes for the Premier, but I thought it might be interesting to identify a few of the factional allegiances. I am not sure—

The PRESIDENT: Order! I find very interesting these machinations of the Liberal Party, but I fail to see what they have to do with what we are discussing. I think the honourable member would be wise to get back to the subject in hand.

The Hon. T.G. CAMERON: Thank you very much for pointing me in the right direction, Mr President. I hope that in your impartiality you will point out to the Hon. Mr Lucas, the next time he starts running off at the mouth with factional drivel, that you will bring him back to the point, because his comments, as inane as they are at times, do waste the time of this Chamber. So, I apologise to the Chair for wasting the time of this Chamber in talking about factional matters within the Liberal Party, but I do hope that the Hon. Mr Lucas will extend us the same courtesy. He may have to wait for a while, because I still have a bit more that I would like to say about Liberal Party factionalism at some later date.

We are being asked to believe that the Minister for Infrastructure was so grossly incompetent that his negotiating team had so little confidence in him that, between 7 August and I think about 22 November, it failed to tell him that United Water had put up a tricky little proposal involving two contracts and that the company that would be delivering services to Adelaide, that is, managing the contract, would not be United Water International Pty Ltd, the company that 'one day', 'maybe', 'down the track', with a whole lot of 'ifs' and 'maybes'—that is, if at the end of the 12 months there is any shareholder equity left for anyone to invest in it. But if that is the case, that company might become a majority Australian company. Even if it does, it will not get any of the profits out of the contract; they will be channelled to United Water Services Pty Ltd. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

A message was received from the House of Assembly agreeing to a conference, to be held in the Legislative Council ground floor Interview Room at 12.30 p.m. on Thursday 30 November.

LOCAL GOVERNMENT (BOUNDARY REFORM) AMENDMENT BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council ground floor Interview Room at 12 midnight, at which it would be represented by the Hons M.J. Elliott, P. Holloway, Diana Laidlaw, Anne Levy, and A.J. Redford.

ADJOURNMENT

At 12.11 a.m. the Council adjourned until Thursday 30 November at 11 a.m.