LEGISLATIVE COUNCIL

Wednesday 20 March 1996

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

EYRE PENINSULA

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made by the Minister for Primary Industries in another place on the Eyre Peninsula regional strategy.

Leave granted.

UNIVERSITY GOVERNANCE

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement made by the Minister for Employment, Training and Further Education in another place on university governance.

Leave granted.

QUESTION TIME

PARKS HIGH SCHOOL

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 Parks High School closure.

Leave granted.

The Hon. CAROLYN PICKLES: As I indicated yesterday, last Friday the Minister made an unexpected announcement that The Parks High School will close at the end of this year. This followed a review of the school last year. The Minister's statement argued that the decision was made because of falling enrolments and the annual cost of renting the property. Governments, of course, must either fund the capital for a school building or pay rent—there are no free schools. Last year the Minister made a virtue of selling the Hallett Cove Primary School and renting it back. Now he is using the rent factor as an excuse to close The Parks. The Parks School Council released a media statement which in part states:

> We totally reject the decision as it disregards the recommendation of The Parks Review.

The media statement further stated:

> The council holds grave concerns for the educational future of the 500 plus students who use the school services and resources on a weekly basis.

My questions to the Minister are:

1. Will the Minister table the review report and recommendations, and say whether the review recommend closure?

2. Will the Minister describe what action he took to negotiate a lower rental for the property?

The Hon. R.I. LUCAS: I am happy to make available a copy of the review report.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I haven't got a copy with me, so I cannot. I also indicate that in the press statement I issued last Friday I pointed out that the local review committee had recommended that the school should stay open. So, there is no secret about what the review committee recommended. It is probably fair to say that not many local review committees would recommend that their own school should close. I do not think it is hugely surprising that a local review committee, comprised of representatives substantially from the local community, would recommend that its school should stay open.

As I have indicated on a number of occasions, the buck stops on the Minister's desk in relation to difficult decisions about school closures. We have indicated all along that we would take advice from the local community, but not that we would accept the views of local communities on all occasions. As we have indicated previously, the natural extension of the Labor Party's policy was that if, in the example I have used of a small country school, three people voted for the school to stay open and two voted for it to close, in effect, that school would remain open, even though only five students were left in it.

The Government's position has always been clear: an absolute commitment to consultation. However, in the end it is the Minister for Education and Children's Services who must take the difficult and painful decisions whether schools should remain open or should be closed.

In this case, the local families had chosen not to send their children to the local school. This year we had 32 students enrolled in year 8; last year we had 35 students enrolled in year 8. All the families chose to send their children to other schools in the local community such as Croydon, Woodville and Thebarton Secondary College in relation to adult re-entry colleges. The families were making the decisions for themselves not to send their children to the local Parks High School. It was a decision taken not by me as Minister but by those local families as to where their children should go. When the Leader of the Opposition looks at the report—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: If the Leader has had a look at the report, she does not need a copy.

The Hon. Carolyn Pickles: I want everybody to be able to see it.

The Hon. R.I. LUCAS: You can table your copy, then. When the Leader looks at the report she will see that the analysis shows that more than 100 students in local primary schools were moving out of year 7 into secondary education. I cannot remember the exact number, but it is between 100 and 150. Of those, only 32 local families chose to send their children to the local high school. For their own reasons, they had chosen to send the children to other high schools in the area.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The next suggestion, which is the same argument in relation to the Port Adelaide Girls' High School, was, 'You have been cutting back resources. If only they had more teachers and resources it would be more attractive to the local community.'

The Hon. T.G. Roberts: That's right.

The Hon. R.I. LUCAS: The Hon. Terry Roberts confirms that that is the Labor Party's argument. At the Parks High School this year there were 360 students and 37.6 full-time equivalent teachers, or one teacher for every 9.5 students at the school.

Members interjecting:

The Hon. R.I. LUCAS: Well, there are specific reasons; but the Hon. Terry Roberts on behalf of the Labor Party says that the reason for the closure is because we do not have

enough resources in there. How many teachers do you want us to put in The Parks Community High School on your argument? One teacher for every one student? Go and speak to any of the other 650 schools in South Australia and ask about the option of having one teacher for every 9½ students in their school. They would think it was Christmas. Even with that degree of resourcing, local families were choosing to send their children somewhere else. They did not want to go to that high school. It was their decision: not mine.

As I have indicated, I am happy to obtain a copy of the report and provide it to the Leader of the Opposition, to table it. As I indicated in the press statement last Friday, it recommended that the school stay open. It was my decision based on the information that I received from the Department for Education and Children's Services and my judgment ultimately in the end that the school ought to be closed.

The Hon. CAROLYN PICKLES: As a supplementary question, will the Minister answer my question: what action did he take to negotiate a lower rental for the property?

The Hon. R.I. LUCAS: As I indicated yesterday, the prospect that the Department for Education and Children's Services had for next year and the year after was not for a lower rental: it was actually for an increased rental for the Department of Education and Children's Services. In the discussions that were conducted with my Ministerial colleagues and with others at a whole of Government level, there was no prospect at all of a reduction in rental being paid by the Department for Education and Children's Services. But there was some prospect that the cost, which was some $800 000 a year, would in fact be increased as a result of other changes that were to occur at The Parks Community Centre.

PIPELINES AUTHORITY

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about asset disposal and success fees.

Leave granted.

The Hon. R.R. ROBERTS: As reported in this place some time ago, the Attorney-General is part of a group of people who oversee contracts for the disposal of State assets. It is reasonable to assume that the Attorney-General's department would have vetoed the contracts in preparation for the sale of the Pipelines Authority of South Australia and other public assets. Will the Attorney-General inform the Council whether any individual or company were paid success fees or commission to facilitate the sale of the Pipelines Authority of South Australia or other public assets and, if so, how much was paid and to whom?

The Hon. K.T. GRIFFIN: I will refer that question to the appropriate Minister in another place and bring back a reply.

The Hon. R.R. ROBERTS: As a supplementary question, will the Attorney-General release to the Parliament a copy of the contract between the Government and the head of the Asset Management Task Force, Dr Roger Sexton, including any guidelines which may have been established allowing Dr Sexton to continue to operate his private business concerns while heading the task force?

The Hon. K.T. GRIFFIN: It is not for me to make decisions about that. I am the legal adviser to the Government. I will refer the matter to the Treasurer, who has responsibility for the Asset Management Task Force, and I will bring back a reply.

COBBLER CREEK DAM

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

Leave granted.

The Hon. T.G. ROBERTS: In the latest issue of the Messenger press a headline states: '$6 million plan to end Cobbler Creek floods'. The article goes on to say:

> It is hoped the State Government's drainage subsidy scheme will meet half the cost of construction, but a levy on residents in the catchment to help pay for the other half has not been ruled out.

If the cost is $6 million, without forming an opinion, residents would have to pay $3 million. The article continues:

> Friends of Cobbler Creek say they do not object to an earth dam being built but want greater controls on the quality of stormwater entering the creek. A report to Tea Tree Gully council on the dam says plans are nearing completion, with the site earmarked at the western end of Cobbler Creek National Park, just east of the Grove Way near Bridge Road.
>
> The report said construction was expected to take about two years, and Government funding to the tune of $3 million was 'reasonably definite'. The remainder of the bill would be shared, with Salisbury paying 52.6 per cent and Tea Tree Gully contributing 47.4 per cent.
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> [The] Report author and Tea Tree Gully council engineer. . . said, given that residents in the River Torrens and Patawalonga catchments were paying water levies, 'it could be argued that this should be the process for funding for the Cobbler Creek dam'.

We brought in legislation to strike levies in particular places for clean-up of the Adelaide Plains rivers and the river systems in other areas of the State. When that legislation was debated, I indicated that there would be some difficulties if a myriad of levies was brought in and there were cross-over responsibilities in some geographical locations where people had to pay more than one levy and that the size and nature of the engineering program required for flood mitigation and/or rehabilitation of wetlands would be a major problem in those areas where there had to be a major clean-up. This appears to be one of those defined areas. A major engineering program is taking place, and it appears from the article that a large responsibility for the payment for that clean-up will be put on local residents. The local residents object to that or have raised concerns about it because of the uncertainty. My questions are:

1. What will be the final cost and the environmental impact of the dam?

2. Who will be responsible for the cost of the project and a breakdown of that cost?

3. Will a local levy be struck; and, if so, how much will that be?

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

KOALAS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister for the Environment and Natural Resources a question about Kangaroo Island koala relocation.

Leave granted.

The Hon. M.J. ELLIOTT: South Australian conservationists have raised concerns about the problems which would be created by Government attempts to relocate koalas from Kangaroo Island to areas where they do not naturally occur.

I am told that koalas are not native to the Adelaide Hills, so relocating them to places where they are not found naturally would only be exporting the present problems. In fact, that is why the Kangaroo Island problems have occurred: they have been introduced in an area where they do not belong—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: No—with no predators, and no disease. Fears have also been raised about moving the koalas to coastal New South Wales where, unlike the local populations of koalas, those introduced from other areas in the past—and this is not the first time it has been done—have not been resistant to bush tick and have died in great numbers. John Hunwick of the Threatened Species Foundation says that the introduction of more koalas to the Adelaide Hills would threaten many important local species which have already disappeared or are disappearing due to land clearance or the cat problem.

Native animals, such as ring-tailed possums and southern brown bandicoots, are declining in numbers significantly, while the brush-tailed phascogale, a small marsupial similar to a possum, has already disappeared with no authentic sightings for many years. They are all native to the Hills, and the impact of the introduction of koalas to this area would only serve to exacerbate the problem. Mr Hunwick says that we must safeguard animals native to the Adelaide Hills before giving any consideration to introducing any species not naturally occurring.

The plight of the koalas not native to Kangaroo Island also diverts attention away from these other animals, he says. If the over-population problem occurred on Kangaroo Island, it could also happen here. In fact, I have had some advice that there are some areas in the Hills where there is already an emerging problem. If moved to coastal New South Wales or East Gippsland, there may, first, be a need to immunise against bush tick, which I understand is not an easy process. The Minister should be careful that he not take the politically easy way out, which may not be the most responsible environmentally. I ask the Minister the following—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: I have not pussyfooted around like the Minister has. My questions to the Minister are:

1. If the Minister intends to relocate them to where does he intend to move them?

2. How will he manage the consequences of locating koalas to areas where they are not naturally occurring?

3. What impact will they have on off-species, including small native marsupials such as the phascogale?

4. Will the Minister assure the House that he will not take the politically easy but environmentally damaging way out and just seek to transfer the koalas to the Mt Lofty Ranges or other unsuitable areas?

5. Is the Government considering releasing the Kangaroo Island koalas into coastal New South Wales? If so, does he believe that the Kangaroo Island koalas are resistant to the bush tick?

6. Is the Minister aware that previous releases of koalas into coastal New South Wales and East Gippsland have resulted in high mortality rates because, unlike the local populations, introduced koalas were not resistant to the bush tick?

The Hon. DIANA LAIDLAW: The honourable member seems to be proposing that no efforts should be made in terms of relocation.

The Hon. M.J. Elliott: I did not say that.

The Hon. DIANA LAIDLAW: Certainly the strongest inference throughout your explanation and questions was that no effort should be made because there are no conservation grounds for relocation. There have been problems with relocation. The Minister is well aware of them. There have also been some successful initiatives. I assure honourable members generally that the Minister and the Government as a whole would not be seeking to handle this delicate situation, in terms of the fate of the koalas, with other than a lot of thought and plenty of consideration of all the options and consequences of those options. The Minister will handle the situation with sensitivity both as to the fate of the koalas and in terms of the political sensitivity, if that is what the honourable member is so concerned about. It is interesting, in the light of the honourable member's explanation and question, to find out exactly that he thinks should be done, since relocation is an option that he does not think should be explored.

The Hon. L.H. Davis: He does not know the answer.

The Hon. DIANA LAIDLAW: He does not know the answer, which is interesting because generally he is right on everything and on this occasion does not seem to have the response other than to highlight difficulties and to cut off options. We are not prepared to do either as the Minister for the Environment works through this issue. I am sure that the Minister would welcome constructive assistance from the honourable member by way of other options he believes should be explored, if he is advocating that relocation should not be pursued.

ADELAIDE AIRPORT

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Transport a question about Adelaide Airport.

Leave granted.

The Hon. P. HOLLOWAY: The Keating Government promised $40 million to extend the runway at Adelaide Airport and to improve basic facilities at the airport. This work was to be funded in 1996-97 out of the sale of Sydney Airport. Late last year the Liberal Opposition blocked the sale of the Sydney Airport and those plans were delayed. A recent article in the *Financial Review* revealed that the new Federal Government, the Howard Government, intends to lease Brisbane, Adelaide, Melbourne and Perth airports in the next financial year but Sydney Airport, the most lucrative lease, would not be made for up to three years. The *Financial Review* article states:

> Potential bidders disclosed yesterday that they would exert pressure on the Government to consider alternative approaches to the leasing program and the relaxation or removal of cross-ownership rules governing the sale.

Later it states:

> The groundswell of private sector concern over the Government's revamp of the airport sale agenda follows the revelations that BZW Australia, the adviser to the Government on the privatisation, told the previous Labor Government in mid-1995 that up to $200 million could be lopped off the total proceeds from the privatisation if the sale of Sydney Airport was deferred.

The new Government's fiscal statement and pledges of cuts to spending raises the prospect that money may not be available for the upgrade. Has the Minister sought or received a guarantee from the new Government that funding for aero bridges and runway extensions at Adelaide Airport will be provided by the new Federal Government in the next

financial year prior to the privatisation of the airport? How much has the new Federal Government committed to the new airport upgrade? Finally, has any of the $20.5 million promised by the State Government for the airport upgrade yet been spent and, if so, on what?

The Hon. DIANA LAIDLAW: Some money from the State Government's allocation of $20.5 million has certainly been spent, first, on the EIS which is under way and which is due for release next month. Further, I think $800 000 has been spent on preliminary work requested by the FAC, in expenditure on work on airport land in relation to developing an overlay of about six feet of earthworks on the area assigned for the extension of the runway. That has been considered an important investment and undertaking by all engineers and others who have a lot of knowledge of the process. It is important to undertake that process now so they can see what compacting and settling of soils generally will be involved. With that knowledge it will then be easier for those who must design and engineer the runway to proceed with more confidence and, therefore, when we seek tenders for the work our design specifications will be more accurate. This money is being invested for both of those purposes.

Contrary to what the honourable member suggested, the former Federal Government never promised money for any aero bridges. The former Government promised funds for runway extension work and it promised $43 million with a 20 per cent contingency up or down. It was confined simply to the airport extension and not any work on the terminal or work on aero bridges. The former Government argued that that was the responsibility of those who lease the terminal, and that would be Ansett or Qantas. In terms of the extension of the runway, as Opposition Leader and now Prime Minister, Mr Howard, has indicated that $28 million will be available next financial year as part of the Federal Government's contribution to this project. Certainly, there would be funding available in relation to the leasing of the airport as a whole and all the grounds, at some time to be determined, due to the fact that they are still negotiating the arrangements for the leasing of airports across Australia.

TAXATION

The Hon. T. CROTHERS: I seek leave to make a statement before asking the Minister for Education and Children's Services, representing the Treasurer, questions about Professor Cliff Walsh's plan for each State to levy income tax on taxpaying citizens.

Leave granted.

The Hon. T. CROTHERS: Professor Cliff Walsh, Executive Director of the economic think tank at the Centre for Economic Studies at Adelaide University, and also described in a report I read as a key economic adviser to the current State Government, proposes that each State levy a form of income tax as a means of raising income for the State.

The figure floated in the report for this State is 5 per cent which, by all accounts, will raise some $630 million per annum. As each member here will know, the various State Governments under the wartime emergency measures prevailing during the Second World War surrendered a collection of income taxes to the then Federal Government, purportedly for the duration of that war and, as it turned out, never reclaimed them—although Professor Walsh says that legally or constitutionally nothing would stand in the way of the States re-entering the income tax field.

The Walsh plan also envisages that the Commonwealth Government would cut its personal tax rates, thus allowing the States to re-enter the personal income tax field by levying a flat rate of tax to apply to individuals in each State. This latter piece of thinking by the learned professor, of course, must be set against a backdrop of the Federal budget deficit which, according to the *Advertiser*, stands at $7 billion. It must be said, of course, that the deficit figure floats fairly freely, contingent, I guess, on which newspaper one reads or which media outlet one listens to or views, although some expert commentators have warned that the final deficit figure will not be truly known until this year's budget has completed its full course.

The present Federal Government should also remember the role it played in the Federal Senate in bastardising, in no small way, the last two Federal budgets of Ralph Willis by voting against certain revenue-raising proposals. These proposals, had they passed the Senate, would have raised in excess of $2 billion per year. To be fair, our Premier has, when hearing of this, ruled out a State-based income tax or a broad-based consumption tax, and indeed has warned his Federal Liberal colleagues against taking its razor to the States. I might have more to say about that in the grievance debate. Of course, to be equally fair, the Opposition Leader, Mike Rann, warned last year that there would be new and increased taxes under a Federal Liberal Government. My questions to the Minister are:

1. Does he agree with me that if the Howard razor gang recommends funding cuts to South Australia State taxes and/or charges will have to be increased dramatically?

2. What, if any, figure has State Treasury got in respect of increases in Federal Government revenue this financial year due, first, to reduced unemployment, secondly, vastly improved exports of farm produce, as well as the very major breaking of the drought and the increased prices for some of our farm exports and, finally, the improved prices and demand for many of our mineral exports right across the range of those exports? In the interest of public accountability—of course, there are other matters too, such as a dropping off of our imports—if the Treasurer has those figures will he release them for public scrutiny, or will he hide them in order to try to shield his Federal Liberal colleagues to the detriment of all South Australians?

3. Does the Treasurer agree with me that, of all the mainland States of this nation, South Australia has the smallest base from which the State Government can raise revenue?

4. Will the proposed new by-pass on Mount Barker Road, in his view, go ahead in the light of the massive proposed budget cuts by Treasurer Costello?

5. What chance, if any, now exists for the completion of the Adelaide to Darwin rail link in the light of Treasurer Costello's remarks within the next decade; and, finally, but by no means exhaustively—

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: Thank you very much for that timely reminder.

The Hon. L.H. Davis: Is this is the penultimate finding?

The Hon. T. CROTHERS: It could be for you if you keep interjecting. My final question to the Minister is:

6. Does the State Treasurer agree with me that the massive cuts in Federal Government grants to this State will have disruptive and horrendous consequences for all South Australians?

The PRESIDENT: I remind the honourable member that we all appreciate very much the effort he has put into his question, but he did tend to debate the question beforehand, and that is probably not in accordance with the Standing Orders.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: Perhaps the honourable member will bear in mind that interjecting is against Standing Orders as well.

The Hon. Anne Levy: Only repeated interjecting is against the Standing Orders.

The Hon. R.I. LUCAS: Well, perhaps the honourable member will bear in mind that repeated interjecting is against the Standing Orders. The Government will always give the honourable member's questions the respect they deserve, and we will therefore, I am sure, through the Treasurer and other respective officers, bring back replies as soon as possible. I indicate that some of the honourable member's questions are predicated on the assumption that there will be massive cuts to funds or grants to the States from the Federal Government. We can only say that members should not always believe what they read in the newspapers until, when or if decisions are actually taken by Government.

We are not in a position to know how the Commonwealth Government will meet that proposed $8 billion reduction in Commonwealth expenditure until it makes those decisions. When that occurs we will then be in a position to know whether or not grants to the States will be affected. I will certainly refer the honourable member's questions to the Treasurer and bring back a reply as soon as possible.

PREGNANCY, TERMINATION

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health—who may also be interested in her role as Minister for the Status of Women—a question about an NHMRC report on the services for the termination of pregnancy.

Leave granted.

The Hon. ANNE LEVY: The NHMRC engaged an expert panel to prepare a document on services for the termination of pregnancy in Australia, a review which was issued last September, although not many copies were available until November. This is an excellent document, giving a review Australia wide of all possible aspects of termination of pregnancy, including the legal situation, the type and quality of services available, their effects on morbidity and mortality statistics, counselling services and all possible aspects.

This document was released and submissions on it were invited from any interested organisation or individual prior to publishing a final document, which will take into account any submissions received. The recommendations that the document makes are extensive and cover all possible areas. In fact, there are 26 different recommendations, of which six are directed to State health services and another three or four of which relate to Federal Government initiatives or measures to undertake. Other recommendations refer to the Royal Australian College of Obstetricians and Gynaecologists, the Royal Australian College of General Practitioners, university departments, etc. This is a most important document with obvious ramifications for such services throughout the country, and doubtless the Health Commission and the Minister for Health have received it. My questions are:

1. Did the South Australian Government make any submissions to the NHMRC relating to this draft document?

2. If so, will it release or make available to interested people its submissions to the NHMRC regarding the document?

3. Will it undertake to implement the recommendations, which clearly are the province of State health authorities?

4. Will it also lobby or attempt to influence the Federal Government so that recommendations relating to Federal Government decisions are undertaken as a result of this extremely important report?

I am sure that the Minister would be very interested in the report in her capacity as Minister for the Status of Women. If she has not yet seen the document, I would strongly recommend that she ask the Minister for Health for a copy and peruse it.

The Hon. DIANA LAIDLAW: I have not seen a copy of the document. As the honourable member suggests, I will seek a copy. In the meantime, I will refer her questions to the Minister and bring back a reply.

MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. P. NOCELLA: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Multicultural and Ethnic Affairs, a question regarding overseas trips.

Leave granted.

The Hon. P. NOCELLA: In December 1995 a delegation from South Australia travelled to Greece for the purpose of furthering the cause of the Hellenic Business Council. Some concerns have been raised with me regarding some aspects of this trip. It appears that the then acting Chairperson of the South Australian Multicultural and Ethnic Affairs Commission, who is also President of the Hellenic Chamber, travelled to Greece accompanied by two members of the Hellenic Chamber. It is somewhat perplexing to ascertain exactly in what capacity this took place, whether in one capacity or the other, whether the people who travelled were doing so at the cost of the public purse, as appears to be the case, or whether the arrangements for this trip were paid for by the Office of Multicultural and Ethnic Affairs.

It is perplexing to some people that conflicts of interest, or at least a perception thereof, could be seen to exist. Some people have expressed the view that in similar circumstances it would be better to resign from either position in order to avoid not only the possibility of a conflict of interest but also the perception of such a conflict. My questions to the Minister are:

1. Will the Minister inform the Council of the names and titles of all the people who travelled to Greece and whose costs were met totally or partially by the Office of Multicultural and Ethnic Affairs?

2. Will he provide full details of travel arrangements, including the class of travel, the travel agency used, itinerary side trips, accommodation and other land arrangements?

3. Will he provide the total cost to the Office of Multicultural and Ethnic Affairs, with a breakdown by participant?

4. Finally, will the Minister—

The Hon. Diana Laidlaw: Are you also asking about the benefits to come from the trip, or are you not interested in those?

The PRESIDENT: Order!

The Hon. P. NOCELLA: Finally, will the Minister review the arrangements with a view to removing not only any conflict of interest but also any perception thereof?

The Hon. R.I. LUCAS: Obviously I will refer the honourable member's questions to the Minister and bring back a reply. If he wants to get into an exploration of costs incurred by senior officials in that area in relation to that trip, it might open up a whole can of worms relating to costs incurred over previous years in a similar fashion. It is obviously within the province of the honourable member to seek that information and I will forward his questions to the appropriate Minister and seek his response. However, the honourable member must bear in mind that I am not in a position to have any particular knowledge of this area and that when one starts exploring this general area all sorts of things might pop out.

An honourable member interjecting:

The Hon. R.I. LUCAS: Comparisons, as one of my colleagues suggests, relativities or perhaps other trips.

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: All I am saying is that, not being in a position to know anything about these sorts of areas and not having a particular responsibility, I do not know what might pop out when these sorts of questions are asked.

The Hon. T.G. Roberts: Are you making recommendations?

The Hon. R.I. LUCAS: No, I am not making any recommendations. I will refer the honourable member's questions to the responsible Minister with that advisory note to the honourable member. I await with interest the response that might eventuate in due course.

PARLIAMENTARY SECRETARIES

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Premier, a question about parliamentary secretaries.

Leave granted.

The Hon. G. WEATHERILL: Recently we read that the Premier had anointed several backbenchers to parliamentary secretary positions.

Members interjecting:

The PRESIDENT: Order, order on my left! The honourable member has the call.

The Hon. G. WEATHERILL: My questions to the Minister are:

1. Are offices being provided for these parliamentary secretaries?
2. Will they be given extra staff or equipment?
3. Will they be provided with ministerial postage?
4. What are the duties of these ministerial appointments?

The Hon. R.I. LUCAS: I shall be pleased to refer the honourable member's questions to the Premier and bring back a reply in relation to the details. I thought it was an unusual choice of word for the honourable member to say that they were anointed. I know that some of them have taken on saintly qualities, but I do not know whether 'anointed' was perhaps the appropriate verb to use in relation to the appointments.

The Hon. R.R. Roberts: You have been trying to walk on water for years.

The Hon. R.I. LUCAS: Certainly, the honourable member has been gurgling under water for some time. In relation to a couple of the parliamentary secretaries, the answers are obvious. The parliamentary secretaries will not have additional staff appointed to them. In terms of offices, there will be office space provided—whether it be in one of the departments or in the Ministerial office. It will be provided but it will not be through the construction of additional offices or anything like that. As I understand in the case of the Hon. Mr Stefani, as he has indicated before, an appropriate desk has been provided in the appropriate department for him—

The Hon. J.F. Stefani interjecting:

The Hon. R.I. LUCAS: There is no desk? You have never used it. In relation to my parliamentary secretary, yes, I will be providing him with a desk and a chair obviously for occasional use when he is working with me in the Ministerial office. It will be a flexible arrangement in relation to the accommodation of the parliamentary secretaries but the expectation is that the parliamentary secretaries will spend the vast bulk of their time in their electorate offices, or in the case of Upper House members in their offices in Parliament House. In relation to the other specific questions I am happy to refer them to the Premier and bring back a reply.

MOUNT BARKER PASSENGER SERVICE

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Mount Barker passenger service.

Leave granted.

The Hon. SANDRA KANCK: Strong rumours abound that the Hills Transit service to Aldgate and Mount Barker is losing passengers because of the different ticketing machines used by the two partner organisations. This in turn affects the cost of travelling with some passengers driving their cars into work instead of using public transport from as far away as Mount Barker to Aldgate to catch a bus, according to bus customer survey results published in today's Mount Barker *Courier*. Under the old scheme, the price of a full fare from Mount Barker to Adelaide was $4.30 with a $2.15 concession fare. Under the new scheme, the fare is split with passengers having to pay once at Mount Barker (a cost of $2.10) and again at Aldgate where a passenger must change buses and then pay up to $2.60 to travel to the city. Last year, Mount Barker Bus Services was taken over by Hills Transit which is subcontracted by TransAdelaide to a private operator.

Despite this arrangement, two different types of ticketing machines operate on the route. This means that commuters travelling from Bridgewater and Hahndorf are treated unfairly in comparative terms. Employees from Hills Transit also feel that they are being treated unfairly in that they are not being allowed to apply to transfer to other areas of TransAdelaide's operations, even though they are paid the same wages as TransAdelaide employees, are covered by the same award conditions as other TransAdelaide employees, and Hills Transit often uses TransAdelaide facilities and is majority owned by TransAdelaide. The drivers have all the facilities they require at the Aldgate depot but not at the Mount Barker depot where there is not even a drivers' shed or lights to enable drivers to find their way around in the dark. This is despite promises made by Hills Transit management to provide basic facilities at Mount Barker by last December. My questions to the Minister are:

1. To what extent have passenger numbers diminished on the city to Mount Barker route since the Mount Barker passenger service was sold?

2. Does the Minister consider that using one ticketing machine instead of two for the whole route would be better for the service?

3. Will the Minister allow Hills Transit employees to apply for transfer to other areas of TransAdelaide's operations? If not, why not?

4. When does Hills Transit management intend to make goods on its commitment to build basic facilities at the Mount Barker centre? What power does the Government have under the contract to enforce that undertaking?

The Hon. DIANA LAIDLAW: I will seek further advice on questions three and four. In terms of the first question about the number of passengers diminishing, I will have to seek some clarification because the figures that I have from Hills Transit—and confirmed by the Passenger Transport Board—are that on the two most recent collections of figures there was an 11 per cent increase and a 17 per cent increase in patronage overall since Hills Transit took over from the earlier arrangement of Mount Barker and Aldgate depot. The support that Hills Transit has received from people living in the hills community has been phenomenal. I agree with the honourable member about the difficulties in terms of the two ticketing systems. Ultimately, a policy decision will have to be made. I am not in favour of having a flat fare for passengers all the way to Mount Barker.

As the honourable member knows, we have been forced to continue the flat fare which applies in Adelaide now for the next three years as part of the strategy. The flat fare means that if I go from Adelaide to Kensington or from Adelaide to Bowden I pay the same as if I travel from Adelaide to Gawler, Aldgate or Noarlunga. To go then from Port Adelaide or Outer Harbor to Mount Barker at the same flat fare as one can travel from Adelaide to Bowden imposes some considerable costs and other problems on the system. If we are able to look at another costing system within the current ticketing system I would be prepared to investigate that.

However, I did say at the time that it was so important that this initiative between the public and private sector in respect of Hills Transit—which, incidentally, is the first such partnership in Australia to win the right to operate public transport services in the metropolitan area—had the success that it has already enjoyed. I thought it was important that the initiative be taken and that these other issues be resolved over time. That is what has in fact occurred. I know that this issue of ticketing is unresolved. It may not even be possible to resolve it in the final count; but preliminary work has begun with feedback such as the honourable member has provided and feedback from Hills Transit on some of the implications of the current ticketing arrangements. They are not satisfactory; they will be addressed. We need to get experience of the system to address it properly.

GOLDEN GROVE RECYCLING DEPOT

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Housing, Urban Development and Local Government Relations, a question about the Golden Grove recycling depot.

Leave granted.

The Hon. T.G. ROBERTS: In the same Messenger press article as I quoted from earlier there is another article on the front page by Joanne Pegg that highlights a garbage sorting proposal being put forward for Golden Grove. The article states:

> Plans are under way to establish a waste processing station in the area known as the Golden Grove triangle—bordered by Golden Grove, One Tree Hill and Crouch Roads. Tea Tree Gully council, which owns the land, is holding discussions with Recycle 2000 and the Environment Protection Authority in the hope of gaining approval for the plan. . . Cr Douglas said there were 'tremendous advantages' to having a waste processing station within the city. He said aside from the environmental benefits of reducing the amount of rubbish going to landfill, the project would be a moneyspinner for the council. 'It would increase the return we get from recyclable material and, secondly, it would certainly be an ongoing source of compost and mulch.'

Obviously, he watches the process very closely. Again, there does not appear to have been much community consultation on this project because the developers (Delfin) made some very conservative comments to the effect that they had not been contacted. So, I assume that there was not broad consultation on the process. They are the questions that many residents in the area and I have. My questions are:

1. How far advanced is the garbage sorting program earmarked for Golden Grove?

2. What community consultation has taken place in the development of this project?

3. Have any community organisations been consulted?

4. In what discussions have the developers been involved?

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

MATTERS OF INTEREST

KOALAS

The Hon. J.C. IRWIN: I last had the opportunity to speak in this debate on 29 November last year, which is some time ago. As members know—

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: Have we? Much has happened since that time, including the momentous Coalition win at the election on 2 March, but I will refrain from commenting on that because of the little time I have. In the few minutes available to me, I will comment on a few points of interest that have rushed past in the months since I last spoke. I wonder how the New South Wales Premier, Mr Carr, and former Prime Minister Keating are squaring off after Mr Carr's totally inept leadership during the elections, with New South Wales being such a vital State for the Labor Party and its prospects. First, Mr Carr dropped his bombshell about the New South Wales Governor in late January, and there was the backlash and disgust in New South Wales that followed this action. There was no consultation with the people—it was never mentioned during the New South Wales election campaign—and it took the Republican cause right out of the Keating election agenda. Some commentators around Australia say that it probably is now off the agenda for at least a further 20 years.

Secondly, on the very last day of the election campaign Mr Carr put up the road toll charges by 50¢. The public were not warned. Can you imagine anything worse on the day

before a Federal election than hundreds of thousands of New South Wales motorists throwing their $2 coin into a toll-collecting machine and the boom not operating? Then they are told that they can go through if they put in another 50¢. That must have been pretty awful for many people, and that is indicated by the way they voted. Those with a long memory, back to 1979, would recollect that it was a bit like the case of what happened to Des Corcoran in that year.

I turn now to the media release by the Hon. David Wotton yesterday headed 'Minister rules out koala cull'. It is clear from this release that the Minister is confusing the word 'cull' with 'kill'. Mr Wotton stated in that release that:

> There had been no formal proposal put to him to cull Kangaroo Island's koala population, and that he had not considered any such proposal.

The press release states further:

> Mr Wotton said: 'There will be no cull of koalas while I am Minister.'

The Minister is clearly saying that 'cull' equals 'kill'. This sends a mixed message to anyone who reads this release or anything that emanates from it. 'Cull' obviously means 'kill' to some people, but it certainly does not mean that to me. Mr Wotton goes on to say that he will do exactly what I take 'cull' to mean. The release states:

> Alternative options to address Kangaroo Island's unsustainable koala population will be explored through a task force which has been set up by Mr Wotton. The issue of transporting koalas to the mainland is being investigated as a priority and will be subject to discussions between South Australia and interstate authorities, including the New South Wales National Parks and Wildlife Service. Mr Wotton said he was delighted by the amount of community support ranging from offers of help of expertise, manpower and transportation.

As you would know, Mr President, 'cull' is an everyday word used in farming and the animal breeding industry. As you, Sir, and the Hon. Caroline Schaefer would know, the verb 'to cull' means to fix upon one among alternatives as the one to be taken, accepted or adopted. There is no mention in my dictionary of elimination by killing. I often cull my sheep and cattle by separation: I separate out what I think are the bad ones and sell them to someone else. In almost all cases, the sheep and cattle culled are sold on and used for three or more years or longer in the industry. I am not a great example, as members would know, of finding the right words all the time, but I am offended when there is an example with all the emotion that goes with this issue and the hysteria over the word 'cull' which, in my opinion, is being used incorrectly. It is difficult to be precise in five minutes, but I have spoken on two issues and I hope I have made my point.

BIODIVERSITY

The Hon. T.G. ROBERTS: I would like to raise the issue of decreasing biodiversity in this State, and I hope that I get the terminology and the explanation right. I quote from an environmental analysis in *The OECD Observer*, as follows:

> The term 'biological diversity' or 'biodiversity' refers to the number, variety and variability of all living organisms in terrestrial, marine and other aquatic ecosystems, and to the ecological complexes of which they are part. In its widest sense it is synonymous with 'life on earth'. It is only recently that the relative 'smallness' of the planet, the extent to which human activity can cause the extinction of species, and the implications for the environment (including human society) have come to be recognised. The OECD has recently completed a two-year project that examined how policy can guide human action towards the conservation and sustainable use of biodiversity.

I raise that in my contribution because of the changing nature of decisions that have been made by the Native Vegetation Clearance Council and some of the decisions that have been made in giving the go ahead to broad hectare activities in agricultural and horticultural production.

I say from the outset that I am not opposed to any developments in the agricultural and horticultural areas, particularly in regional areas, because they offer employment. I certainly do not want to be seen as speaking against the wine industry, because it is one of the more successful industries. It is expanding, and it is certainly doing a lot, particularly in the lower and upper South-East, Clare, the Riverland, the Barossa Valley, and Southern Vales regions in providing employment opportunities. However, there are some down sides to any expansion programs, particularly in a State as dry as ours. Many of those are to do with not just the quality and quantity of underground water and competition by grape growers with other pursuits within the agricultural and horticultural regions, but also the potential for damage to be done to our environment in relation to the clearing of trees. In the South-East, we have seen examples of 200-year old gum trees being cleared for irrigation and broadacre grape growing. We now have large scale applications.

The Hon. Caroline Schaefer: What is the alternative?

The Hon. T.G. ROBERTS: You don't have to have wholesale clearance; you can leave the old gums intact and employ hand picking. You do not have to have mechanised harvesters going through in rows, although that is one of the more acceptable ways for some of the large grape growers. The highest prices are being paid for specialised grapes, in particular, the older varieties, and if the industry is to maintain its folksy image it is better off moving away from, or at least hiding, the intentions of the tank farm varieties of production and maintaining a folksy image around some of the smaller wineries. In some cases, you may be able to have family-owned wineries of a manageable size and keep ownership in this State and an image in line with tourism. Small wineries are attractive to tourists, and I think it would do the people in those sensitive areas of this State, such as the Adelaide Hills and other areas, well to look at the boutique style operations, with very small, folksy imagery, that serve up restaurant-style images with small production without going into export.

We can have other areas set aside for broad scale wineries that can have large scale production, mechanisation and volume as long as they have quality, but you would think that an overall policy should be developed in this State to maintain our ecology and biodiversity, particularly the old red gums that take 200 to 300 years to grow and mature, only to be cut down with one stroke. An overall plan needs to be developed by the tourism and recreation industries alongside of the wine industry to ensure that an integrated process protects the environment, that develops our wine industries in a way that we can compete internationally whilst maintaining our State's reputation for quality.

RANDOM BREATH TESTING

The Hon. L.H. DAVIS: Parliament is not often given the credit for positive legislation, and this afternoon I will address my remarks to the very helpful impact of random breath testing. During the early 1980s random breath testing became law in South Australia. It was first introduced in Australia in Victoria in 1976, with great success. I was

privileged to be a member of two select committees that made inquires into random breath testing. We visited Victoria and the Northern Territory where random breath testing had been introduced, in Darwin, at an early stage.

The impact of random breath testing legislation has been significant in not only reducing the number of fatalities on South Australian roads but also, most importantly, in reducing the percentage of fatalities in the under-25 year age bracket. I seek leave to insert in *Hansard* a table of a statistical nature which sets out the percentage of all road fatalities involving drivers with a blood alcohol content of greater than .05 per cent for the years 1986 through to 1995.

Leave granted.

Table 1
South Australian Road Fatalities

Year	Per cent of all road fatalities involving a driver with BAC >0.05
1986	40
1987	33
1988	40
1989	37
1990	32
1991	25
1992	33
1993	34
1994	26
1995	33

This table shows that in 1986 the percentage of all road fatalities involving drivers with greater than .05 blood alcohol content was 40 per cent. When the committee looked at the statistics in the early 1980s the figures showed that around 50 per cent—around half—of all road deaths were directly attributable to drink driving. Many of those road deaths involved innocent victims of drink drivers. The table shows that 40 per cent of road deaths were attributable back in 1986 to drivers with a blood alcohol content of greater than .05. That has gradually reduced and in 1994 that figure had fallen to 26 per cent; in 1995 it was 33 per cent.

Interestingly, the number of deaths has also fallen significantly and I seek leave to insert in *Hansard* another table of a statistical nature which sets out South Australian road fatalities in numbers and shows the number of deaths of people under 25 years of age as a result of drink driving.

Leave granted.

Table 2
South Australian Road Fatalities
Fatalities equal drivers, passengers, motor cyclists, bicyclists, pedestrians

Year	Number of Deaths	Number and Percentage deaths <25 years of age
1980	271	
1981	222	115 (51.8)
1982	270	112 (41.5)
1983	265	123 (46.4)
1984	232	114 (49.1)
1985	269	131 (48.7)
1986	288	119 (41.3)
1987	256	108 (42.2)
1988	223	93 (41.7)
1989	222	86 (38.7)
1990	225	81 (36.2)
1991	184	74 (40.2)
1992	165	53 (32.1)
1993	218	83 (38.1)
1994	163	53 (32.5)

This table shows a dramatic reduction in the number of deaths. In 1980 there were 271 road deaths in South Australia; in 1982 the figure was 270. By 1994 it had shrunk to 163. Importantly, the number of road deaths of people under 25 years had fallen from over 50 per cent of all road deaths in 1981 down to 32.5 per cent in 1994. That is a significant reduction, reflecting not only the introduction of random breath testing but also the subsequent introduction of zero blood alcohol levels for learner drivers. That has given young people an awareness and appreciation of the dangers of drink driving and has led to a new culture amongst not only young drivers but all drivers.

The random breath test committee upon visiting Victoria found that random testing was a clear deterrent of drink driving: if people went to a party on a Friday evening someone would nominate to drive home. It would often be the women who, generally speaking, would have less to drink. That has changed attitudes to drinking. It has also, importantly, changed attitudes to driving. I am pleased to report that these tables show the benefits of random breath testing in South Australia since it was first introduced some 15 years ago.

TRANSPORT DISPUTE

The Hon. R.R. ROBERTS: I rise to raise the matter of industrial relations in the transport industry. Members would be only too aware that today the public of South Australia is suffering from a transport stoppage. It is important to identify just why this is occurring. This year the unions involved in the transport industry have, for some months, been involved in discussions about the outsourcing and letting out of contracts. Against that background, the now Prime Minister of Australia was giving assurances and undertakings to workers in a campaign leading up to the last election that no worker would be disadvantaged in the workplace enterprise agreements. This is from a Government of the same colour of the people opposite. The Government in South Australia is of the same ilk. The unions have sought to undertake proper discussions with this Government to no avail. They are having no success with the Minister for Transport who does not have a grip on transport, let alone industrial relations. She has no grip on anything.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: On 14 March, in an attempt to maintain the public transport in this State, they decided to seek relief from the Premier, Mr Brown. You would have thought that they would have known that this Brown-Laidlaw team—the old bridge blockers from Hindmarsh Island—have been hindering the progress of people in South Australia for the past three or four years. The unions decided to go and see the Premier. This champion of industrial relations—the only Minister of Industrial Relations who had a bigger strike than Graham Ingerson, out the front—goes back and says, 'I will not talk to you'. You would have thought that a Leader of a Government would be only too happy to try to avert a transport strike in South Australia, but what does he say? He said, 'You go and speak to the Minister for Transport, the Hon. Diana Laidlaw.' The Hon. Diana Laidlaw last Monday decided that she would be just as tough and tell these trade union people that, whilst there was some threat of industrial action, she would not speak to them. She came to the Council yesterday and made an emotive ministerial statement saying, 'We will be tough.'

Members interjecting:

The PRESIDENT: Order! I ask that members on my right come to order.

The Hon. R.R. ROBERTS: But this morning we woke up to a transport strike in South Australia. The Minister was still wandering around being tough. What has happened today? We have now realised that the unions—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Let them go, Mr President—I love it. The unions in South Australia have said, 'This is not the end of it folks, she's on again tomorrow.' You should not let the Minister go near transport after the way she handled the blood testing kits in South Australia. This morning she found out, surprise, surprise, that there is to be a rolling strike tomorrow. Because of this arrogance—although no strike was planned but a genuine attempt to avert a strike was made by going to the Premier, who said 'No', and the Minister who said 'No'—now we have a strike. Now we find we have rolling strikes again tomorrow. What has happened? We have gone from tough to cream puff. Now at the eleventh hour the Minister for Transport wants trade unions to solve the problem.

Certainly, it is not acceptable to have these sorts of transport strikes in South Australia and we must identify today who is to blame. That is clear because this whole strike could have been averted with a bit of commonsense by the Minister for Transport and Premier Brown. They stand condemned. If they had sat down with the union there would have been no strike. Motions were put by unions prepared to be involved in the process, but they were not prepared to be part of a tendering process whereby the conditions and wages of their members will be slashed by $50 a week. Any other worker has a similar right. True, there is one clear answer to the problem. The blame lies opposite and with the Premier of South Australia. Both the Minister and the Premier stand condemned and both should resign.

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

Members interjecting:

The PRESIDENT: Order!

YOUTH SUICIDES

The Hon. BERNICE PFITZNER: The matter of importance that I wish to discuss is suicide, particularly youth suicide. A medical conference on 'Suicide Prediction and Prevention' was held in 1994 in Newcastle, New South Wales. The conference identified through Dr M. Dudley, a child psychiatrist, that in rural New South Wales there was an increase in the suicide rate in the 10-19 age group. The rate increased from 1.4 to 5.7 per 100 000 people. Dr Dudley cited the greater availability of firearms and the effect of alcohol as being significant factors. He also identified that a large number were unemployed and 'a lot' were psychiatrically disturbed. However, in a more recent study Professor Riaz Hassan of Flinders University argues that we have focused on suicide as being a disease and have ignored the social influence that might be the cause of people taking their lives. Only one in two suicides can be attributed to a psychiatric problem. In his book *Suicide Explained*, Professor Hassan states:

> Suicide is a malaise of the social environment and a product of social, psychological, economic and environmental factors.

His research shows a link with economic depression, occupation and time of the year and days of the week. Daily suicide rates peak on Mondays and decline gradually, picking up again over the weekend. They are more marked over long weekends, when on Tuesdays there is a 15 per cent increase on the Monday rate. A similar situation occurs according to the time of the year, with an increase in Spring, when there is greater social activity. The pattern of suicide rates has changed, as traditionally suicide was a problem of old age, with the rate rising with age. However, from the mid-1960s youth rates started to increase while rates amongst the 40-60 year age group fell.

For people aged 30 and below suicide highly correlates to inter personal problems, family problems, meaningful relationships and an inability to cope with life. In addition, parents are now better educated, expecting more from their children. There was a change of family structure and a change of focus from the nurturing role to a nourishing role as women entered the work force. Economic conditions also affected the suicide rate, with male suicides rising with the downturn in the economy. Existing suicide prevention programs need to increase their efforts. Regional and national approaches need to complement each other and they should include further research to determine the cause and extent of the problem and training and information for health professionals and young people about the problems of suicide. We must try harder to identify the risk factors and to incorporate them into prevention strategies.

FEDERAL GOVERNMENT PERFORMANCE

The Hon. T. CROTHERS: In the five minutes allowed to me today I wish to draw the Council's attention to the nine days' performance of the recently sworn in Federal Government. Like the reign of the nine day Queen back in the sixteenth century, Lady Jane Grey, its tenure and hold on its office may also be somewhat short. I am sure that the full ministry has found out that it is one thing to be in Opposition and it is yet another thing when one has to implement sometimes tough and unpopular decisions when one sits on the Treasury benches. But the stratagem and tactics that they utilised leading up to the Federal election were almost *deja vu* South Australia in the six months leading up to 10 December 1993. It was not entirely a coincidence that Alexander Downer and Robert Hill—both South Australians—were elevated to the leadership of the then Opposition in their respective Federal Houses.

I would not want it construed that I am a resentful member of the Labor Party expressing the size of our electoral defeat in absolute rancour by way of my verbal expression. I hope in my democratic way that I accept that we were soundly and roundly defeated by the Australian electorate. We have to accept that if we want the system that we have inherited to further progress. I draw the Council's attention to some of the situations that have subsequently occurred. Prime Minister Howard, as then Leader of the Opposition, made a number of significant and costly electoral promises which he has said he will fulfil. We do not know what their cost will be, but they have been calculated by some to be in excess of $3 billion and upwards.

When one looks at that position and then looks at the latest John the Baptist reports in the national dailies, evening papers and through television media outlets, one sees that apparently there is a sizeable Federal budget deficit inherited by the Howard Government from the Keating Administration, one should not be entirely surprised. The Council will remember the role that Prime Minister Howard and his surrogate Liberal colleagues in the Senate played in tearing apart cost saving and revenue raising measures contained in the last two or

three budgets presented by Mr Willis and the Federal Labor Government. I am told that that impacted to the extent of more than $3 billion to the financial woes of Australia, which has been beset by a balance of payments problem.

I want to highlight that balance of payments problem. Each year Australians import 44 000 four-wheel drive vehicles. Such vehicles are not manufactured here, even though we are a world centre of automobile manufacturing excellence judged by any standard. Still, we import 44 000 four-wheel drive vehicles at a cost of $50 000 each and one does not have to be Einstein to see that that adds about $2.2 billion to our balance of payments problems. We expend $17 million per year on the importation of overseas mineral water. The list is endless. It is the Australian public who, in the main, must be educated—a task which was undertaken by the Keating Government—that their excesses at times can adversely affect our balance of payments. We expend $17 million per year on the importation of overseas mineral water. The list is endless. It is the Australian public who, in the main, must be educated—a task which was undertaken by the Keating Government—that their excesses at times can adversely affect our balance of payments.

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

MEDIA FAMILIARISATION PROGRAM

The Hon. A.J. REDFORD: I rise to pay tribute to the media familiarisation program initiated by the South Australian Tourism Commission over the life of this Government. The media familiarisation program is designed to promote and enhance overseas coverage by overseas media outlets of various tourism opportunities that are available in South Australia. It is a small group, in fact, staffed entirely by women, and its success in achieving coverage in the media overseas has been absolutely fantastic. In particular, the South-East of South Australia—a place in which I spend some time—has also received considerable publicity in relation to some of the tourism opportunities and highlights that are available in that region.

The South Australian Tourism Commission recently put together a collection of media articles, which appeared in newspapers throughout Australia and overseas. These include the *Los Angeles Times*, the *Straits Times*, the *Daily Telegraph* and in Australia the *Sun Herald* and various travel and hospitality publications. Other coverage extended to television programs, including *Healthy, Wealthy and Wise*, *The Great Outdoors* and *Rex Hunt's Fishing Adventures*.

The Hon. L.H. Davis: Your sort of programs.

The Hon. A.J. REDFORD: Yes. The media and trade familiarisation program involved bringing media and trade representatives to this State and to specific areas to sample South Australian hospitality and tourist attractions. The commission works in cooperation with local tourist operators to ensure that the journalists and trade representatives experience the best possible service and hospitality while they are in a particular region, and itineraries are matched to the individual industry markets. Those representatives then take back to their various media or travel industry related jobs first-hand knowledge and experiences from which to promote the region's appeal.

I commend the commission and its Chief Executive, Michael Gleeson, for putting together that program. I believe the media exposure obtained from the widespread coverage will be invaluable to businesses in the region, and industry members should be assured that, even though their businesses may not be directly mentioned by name, benefits will flow to them by the attraction of more visitors to their areas.

In relation to the South-East, some of the articles include generous and extensive promotions of Robe, the sea-side resort at the gateway of the South-East; other coastal hideaways, such as Beachport; the rolling vineyards of Coonawarra, which in one article was described as the 'Napa Valley Down Under'. Only an American would appear to be able to do that. The articles also included the unique charm of Penola and Millicent, the caves around Mount Gambier as well as the splendid flora and fauna sanctuaries of the Coorong tourist attractions. Various accommodation facilities were amply explored and reported upon, together with details of prices and how to reach these destinations.

The Hon. Anne Levy: Was Mary MacKillop mentioned?

The Hon. A.J. REDFORD: Yes; in fact, Mary MacKillop has been an extraordinary boost to tourism in the South-East.

The Hon. L.H. Davis: Tell us about it.

The Hon. A.J. REDFORD: The honourable member interjects and says, 'Tell us about it.' Perhaps on another occasion, but I am sure that, following moves within the Vatican, we will all have an opportunity to congratulate the Penola district and the South-East in general on her future—

The Hon. Anne Levy: Sanctification.

The Hon. A.J. REDFORD: —sanctification. I am grateful to the honourable member.

Members interjecting:

The Hon. A.J. REDFORD: The honourable member interjects that Mary MacKillop has been beatified. In any event—

The Hon. L.H. Davis interjecting:

The Hon. A.J. REDFORD: I will sanctify the honourable member in a minute. I congratulate the initiative of the Tourism Commission. I believe the South-East will benefit extensively from that exposure. It has an excellent reputation for providing first-class service to tourists, and I am sure that the publicity generated by the program will enhance the region's position of one of South Australia's prime tourist destinations.

BAROSSA SIGNS

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

That District Council of Barossa by-law No. 8 concerning moveable signs on streets and roads, made on 3 October 1995 and laid on the table of this Council on 24 October 1995, be disallowed.

(Continued from 14 February. Page 881.)

The Hon. P. HOLLOWAY: On behalf of the Opposition, I indicate that we support the disallowance of this motion. It was a matter that came before the Legislative Review Committee. The Chair of the committee (Hon. Robert Lawson) outlined why the committee had decided to disallow this motion on 14 February (*Hansard*, page 881). Basically we considered that this by-law introduced a fee for moveable signs and that is not permitted, in our view, under the Local Government Act. The Hon. Robert Lawson made the point that if it was considered appropriate for councils, such as the District Council of Barossa, to introduce fees it would not be better for the Act to be amended.

The following three by-laws by the District Councils of Light, Angaston and Tanunda similarly seek to impose fees for moveable signs on streets and footpaths, and I indicate that the Opposition supports the disallowance of these particular council by-laws.

The Hon. R.D. LAWSON: I thank the honourable member for his indication of support for this and the following motions.

Motion carried.

LIGHT SIGNS

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

That District Council of Light by-law No.8 concerning moveable signs on streets and roads, made on 10 October 1995 and laid on the table of the Council on 24 October 1995, be disallowed.

(Continued from 14 February. Page 881.)

Motion carried.

ANGASTON SIGNS

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

That District Council of Angaston by-law No. 8 concerning moveable signs on streets and roads, made on 9 October 1995 and laid on the table of this Council on 15 November 1995, be disallowed.

(Continued from 14 February. Page 881.)

Motion carried.

TANUNDA SIGNS

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

That District Council of Tanunda by-law No. 8 concerning moveable signs on streets and roads, made on 9 October 1995 and laid on the table of this Council on 14 November 1995, be disallowed.

(Continued from 14 February. Page 881.)

Motion carried.

PARKLANDS

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

That recognising that the Adelaide Parklands and, in particular, Victoria Park are part of the natural heritage of this State and were secured by Governor Gawler on behalf of the Crown for the inhabitants of the City in 1839 to be maintained in their natural state for the enjoyment of future generations, this Council ensures that—

1. any legislation providing for Major Events does not allow any activity or event which threatens or damages the inherent character of the Adelaide Parklands and in particular, the Victoria Park precinct.
2. such a Bill does not provide for the circumvention of normal rights of citizens in relation to the enjoyment of the Parklands either by stipulation in the Bill itself or by granting of delegatory powers to the Executive.
3. no additional building occurs on the Adelaide Parklands and, in particular, the Victoria Park precinct, including, but not limited to, event lighting, fencing or other facilities.

(Continued from 14 February. Page 884.)

The Hon. ANNE LEVY: I move:

To strike out all words after 'That recognising that the Adelaide Parklands' and insert:

'including Victoria Park, were set aside to be enjoyed by all the citizens of South Australia as an open area, this Legislative Council is of the opinion that—

1. Any legislation providing for Major Events must not permit activities or events which damage or change the character of the Parklands on an ongoing basis.
2. Any such legislation must not permit the abrogation of the rights of citizens to the enjoyment of the Parklands, beyond those in the Australian Formula One Grand Prix Act where such rights are affected for a maximum of one period of five days per year.'

When I listened to the speech by the Hon. Michael Elliott when moving his motion I really felt the Hon. Mr Gilfillan was back in the Chamber. I strongly suspect that he had a considerable part in preparing the remarks which were made by the Hon. Mr Elliott, because it was the loud defence of the parklands and their inviolability with which Mr Gilfillan frequently regaled us.

Apart from the hyperbole that was included in the speech, there is a kernel of matter which is important and should be regarded as such by members of this Council. I should indicate that I have a personal interest in the parklands in the south-east corner of the city, which includes Victoria Park, as I reside about 100 metres from where the Grand Prix used to be conducted when South Australia had the pleasure of hosting the Grand Prix.

The motion stresses the importance of legislation and the feelings of this Council regarding any possible legislation which may be introduced. The Hon. Mr Elliott did not say so in his speech, but rumours are circulating, which I am sure he has heard, as have I, that the Government intends to amend the Australian Formula One Grand Prix Act in order to cover major events of all types, not just the Grand Prix. The Hon. Mr Elliott is fearful, as am I, that if this were done without reasonable safeguards there could be an infringement of the rights of people who live or work close to the parklands.

The Hon. Diana Laidlaw: Do you live close by?

The Hon. ANNE LEVY: I have already said that I do. The Australian Formula One Grand Prix Act, to summarise some of its important characteristics, makes provision for the proclamation of a declared area, which can be a public road or part of the parklands or both, and of a declared period which cannot exceed more than one period of five days per year. During a declared period the care, control, management and use of land in a declared area vests entirely in the Australian Formula One Grand Prix Board. The board will have unrestricted access to the area; the Noise Control Act does not apply to the declared area for the declared period; the Planning Act and the City of Adelaide Development Control Act do not apply to works or activities within the declared area; and no activity in the declared area for the declared period shall be capable of constituting a nuisance.

Those latter points can and, indeed, do infringe on the rights of citizens. No action can be taken under the Noise Control Act for that period; the normal planning and development control procedures, which are under the auspices of the Adelaide City Council, will not apply; and no action for nuisance can be taken for activities which occur in the declared area for the declared period.

I think it is important to stress again that the declared period can be one period only for a maximum of five days. It cannot be two periods, one of three days and another of two days: it is one period only for a maximum of five days. It is in relation to this aspect that I suggest the amendment which has been circulated.

My amendment recognises that the parklands were set aside to be enjoyed as an open area by all citizens of South Australia. In the light of that the Council should be of the view that if legislation relating to major events is brought into

the Parliament such legislation should not permit activities or events which damage or change the character of the parklands on an ongoing basis. There is obviously no wish to prevent activities which may temporarily change the character of the parklands. I quote as an example the fencing off of a section of Rymill Park throughout the Fringe Festival, which occurred recently and which provided extraordinarily successful family and children's activities in that section of the parklands, for which an entrance fee was charged, for which fencing was put up and for which lighting was put up, but on a temporary basis only.

I have not heard any complaints about that temporary alienation and changing of the character of the parklands which occurred for a three-week period. As part of the Fringe Festival it was very successful and greatly appreciated by the many people who attended the events which occurred there. Not even Mr Gilfillan has raised objections to that temporary change of the character of the parklands. Hence, my amendment, which provides that this Council would not approve of activities or events that damage or change the character of the parklands on an ongoing basis, which is quite different from a temporary alienation of part of the parklands which occurs without any public concern whatsoever and which is very much to the benefit of the citizens of South Australia.

There is not only the recent Fringe Festival: there are also occasions when there are circuses in Bonython Park and parking within the parklands associated with the Royal Show in September of each year. These major events temporarily change the character of a small part of the parklands, but no-one objects to them, and we would not wish to interfere with such beneficial use of the open area.

My amendment also suggests that any legislation which is brought in must not permit the abrogation of the rights of citizens to the enjoyment of the parklands beyond those in the Australian Formula One Grand Prix Act where such rights are affected for a maximum of one period of five days per year. I have indicated the abrogation of the rights of citizens which can occur in the Grand Prix legislation but, as I say, only for one period of five days per year. I would not want this Council to suggest that no abrogation of the rights of citizens could ever occur relating to major events in the parklands, because in doing so we would be denying the right of the Grand Prix to be in the parklands—if we were ever able to get the Grand Prix back to Adelaide after its iniquitous theft by that well-known Liberal, Jeff Kennett. I am sure that such a return would be welcomed most heartily by the majority of people in this State and that legislation as currently stands in the Australian Formula One Grand Prix Act would be heartily endorsed by this Council, by the Parliament and by the people of this State.

My amendment stresses that the rights of citizens should not be affected more than they are in the Australian Formula One Grand Prix Act, that is, there should be a limit of one period per year and that this period cannot extend beyond five days per year. This is preferable to the motion moved by the Hon. Mr Elliott where, in effect, he says that we do not want the Grand Prix back, that we would not accept it if it were available and that we want legislation which would prevent it ever coming back to South Australia. I am sure that the majority of the members of this Council would not support such an approach.

Furthermore, my amendment does not pick up the third point of the Hon. Mr Elliott's motion where he is opposed to ever having event lighting, fencing or other facilities anywhere in the parklands, in particular, the Victoria Park precinct. As I have indicated, temporary events such as the Fringe Festival, which involved fencing and lighting, do not cause inconvenience. I strongly uphold the use of the parklands for such temporary activities and I see no reason why temporary lighting and temporary fencing cannot be installed for the benefit of the many people who enjoy such an event. In consequence, I oppose the third part of his motion where he makes no distinction between temporary installation of such barriers and permanent installation of such facilities.

I commend my amendment to the Council. I feel that it is a more balanced approach to the parklands of Adelaide. They are an enormous benefit to the citizens. They are very much used by local residents and should be used even more. They should be available for all sorts of activities for many different people. I might say *inter alia* that, in listing the large number of activities which occur in the parklands, the Hon. Mr Elliott did not mention the game of petanque which is played at two different sites in the parklands on a regular basis. It is not played on a Saturday when most of the sporting facilities are used but on a Sunday, that being the traditional day on which petanque is played in its country of origin, France. I was sorry that he forgot one sporting activity which I can assure him is played with great enthusiasm and delight not only by people of French extraction but by many people who find it a very pleasant, enthralling and exciting game, which, as I say, they play with great delight at two locations within the parklands—and long may they continue to do so.

We should not be elitist about the parklands. They are there for the enjoyment of all citizens. There are many activities, including sporting activities of all types, which can and should take place within the parklands. Amongst the sporting activities I certainly include the racing which occurs on the race track. The sporting activities in the parklands need not interfere with non-sporting activities which occur there. Anyone who chooses to go into the parklands at 6 or 6.30 a.m. will find a very large number of people taking a walk, jogging—

The Hon. L.H. Davis interjecting:

The Hon. ANNE LEVY: And Robin Millhouse, I might add.

An honourable member: And Rob Lucas.

The Hon. ANNE LEVY: Yes, I see him there quite regularly. There is a great deal of recreational use of the parklands which is certainly not incompatible with the sporting use of the parklands that is undertaken by so many people and groups. We do not want legislation which will alienate the parklands or prevent their use by citizens for recreational and sporting activities other, as I say, than for one period a year of a maximum of five days. The adoption of my amendment will confirm that should the Grand Prix ever be able to return to Adelaide we would welcome it wholeheartedly and put no obstacles in its way. In general, the parklands should not be alienated from use by the ordinary citizens of this State. I trust that the Council will give careful consideration to my more measured and tempered amendment.

The Hon. L.H. DAVIS secured the adjournment of the debate.

NIGERIA

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

That this Council, taking into account the standards for fair trial to which Nigeria is committed by its Constitution and by international human rights treaties such as the United Nations International Covenant on Civil and Political rights and noting—

1. the executions of Ken Saro-Wiwa, Dr Barrinem Kiobel and seven other members of the Ogoni community on 10 November 1995 following an unfair and politically motivated trial; and
2. the continued detention of seventeen Ogoni community members on 'holding charges';

resolves to convey to the Government of Nigeria its deep concern and in particular to—

1. condemn the executions of the nine Ogoni community members, at least two of whom were regarded as prisoners of conscience detailed solely for the non-violent expression of their political views; and
2. calls on the Government of Nigeria to release the 17 Ogoni members detained under 'holding charges' or promptly and fairly try them before a properly constituted court; and

furthermore resolves to urge the Australian Federal Government to convey these concerns to the Nigerian Government through bilateral and multilateral diplomatic channels.

(Continued from 14 February. Page 898.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I rise on behalf of Liberal members in this Chamber to support the motion of the Hon. Terry Roberts regarding human rights abuses in Nigeria. In doing so, I note from his contribution in early February this year a somewhat pessimistic view about the state of the world during the past few years. In speaking to this motion about human rights abuses in Nigeria, which he deplores—and I am sure all members in this Chamber would share with him his abhorrence of what has occurred in Nigeria—he reflected upon some of the other major world concerns that have occurred over the past 30 years and wondered whether, in fact, we were making any progress at all. He states:

As a member of humanity, one feels that the evolutionary process of man's (and I use 'man' in a broader sense) conscience and ability to negotiate honourable and reasonable settlements around geographic, ethnic and cultural boundaries has not advanced too far.

Whilst I acknowledge some of the examples that the Hon. Terry Roberts mentions in his contribution about world wars and other conflicts in recent years, perhaps that is an indication of the pessimistic view of life that he has adopted recently. I think it is fair to say that, whilst there have been those issues and concerns to which he refers, in the past few years some world events have been quite momentous in terms of resolving ongoing conflicts or at least heading down the path toward resolving decade long conflicts. I refer to the changes that have occurred during the past five or 10 years in the USSR, Yugoslavia, the Middle East, Germany with its Berlin wall and, whilst admittedly it is going through another hiccup, at least there have been signs of some progress for a little while in relation to the non-conflict in Northern Ireland. There are some positive signs on the world horizon that mankind is starting to make some progress in trying to resolve some of these tumultuous conflicts that have existed for many decades.

I freely acknowledge that in many areas much more needs to be done. The example of Northern Ireland with the cease-fire and now the stopping of that cease-fire and the outbreak of bombing is not a heartening sign. Nevertheless, that limited progress is an indication that in many areas of the world there has been significant progress down the path towards peaceful settlement, and in other areas we have seen peaceful settlement of conflicts which have existed for many years.

I do not want to repeat the detail that the Hon. Terry Roberts and the Hon. Sandra Kanck gave in their contribution, although I must admit that I was a little intrigued, given that I think this motion should be supported by all members, that the Hon. Sandra Kanck spent a good part of her contribution on a not too thinly veiled attack on a multi-national oil company. While this motion criticises the excesses of a military Government, I do not think it is as simple as blaming the nasty multi-nationals as the Hon. Sandra Kanck sought to do in her contribution, but that was not something to which the Hon. Terry Roberts referred in his contribution.

In fairness to the Hon. Terry Roberts, I think what he was seeking to do was enable all members to feel comfortable about supporting this motion which condemns the human rights abuses that occurred under the military regime in Nigeria. He and other members in this Chamber may well have differing views as to the reasons why these things have occurred which may not be shared by all members.

Whilst we have had only a bit over a week of a new Coalition Government in Canberra, in the short time available to me my officers have made contact with the Foreign Minister's office regarding this issue. I have been provided with a brief summary of the Federal Government's position. I therefore presume that the position that the Foreign Minister will adopt is as follows:

Outright condemnation of the executions of the nine members of the Ogoni community with questioning of the extraordinary judicial process that prevailed; support for the actions and initiatives of the Commonwealth Heads of Government Meeting (CHOGM) which suspended Nigeria from talks at its recent meeting in New Zealand in December 1995; [and an indication that the Australian Government] would be eager to work with the international community to bring about some form of satisfactory resolution of the situation in Nigeria.

As the Hon. Terry Roberts indicates, this motion is within the province of the Federal Government; it is not something for which the State Government has any direct or indirect responsibility. Again, as the Hon. Terry Roberts has indicated, we in this Chamber on a couple of occasions in the past have expressed a unique view about world events. I am therefore happy on behalf of Liberal members in this Chamber to join with other members, both Labor and the Australian Democrats, in condemning all the excesses of the military regime and the abuses of human rights that are evident in the actions described in the motion. On behalf of Liberal members, I support the motion.

Motion carried.

SOUTH AUSTRALIAN WATER CORPORATION (PUBLIC INTEREST SAFEGUARDS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 November. Page 745.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I rise on behalf of Government members in this Chamber to oppose the second reading of this Bill. I do not think that that will surprise the Hon. Sandra Kanck, the mover of this Bill. I apologise to members as I have spoken so many times on this broad issue. I apologise to the honourable member for the delay in responding. I have spoken on another piece of legislation that someone moved in terms of a referendum on this issue and also on a select committee motion. It is therefore clear to the assiduous readers of *Hansard* that, whilst my contribution will not be

unduly lengthy on this occasion, that is not to indicate that the Government has not given due consideration to the legislation before it. However, I indicate to those readers that the Government's position is more fully outlined in those previous contributions on the referendum Bill and on the motion to establish a select committee of the Legislative Council to look at the whole process of this water contract.

Nevertheless, I have been through the offices of the Minister for Infrastructure, which provided me with some comments in relation to some of the technical details of the legislation before us which I have not previously put on the record. I will briefly put on the record some of the reasons why the Government, with the information supplied by the office of the Minister for Infrastructure, believes that this legislation in its drafting is ill-conceived in many respects.

With regard to proposed section 2—Retrospective application—I am advised that SA Water lets a number of contracts for the provision of water and wastewater services. For example, all main laying in new subdivisions is done by contract. Section 46 of the Sewerage Act and 109A of the Waterworks Act provide for this. The retrospective application of this Bill will affect all contracts entered into after 17 October 1995. Clearly, this is untenable. It is a recipe for chaos. The Bill is not just referring to what I presume the member was referring to, namely, the overall contract, but in effect will have a retrospective application to a large number of other contracts. Whilst I do not have direct advice, I am not sure what sort of difficulties that might entail for a large number of small South Australian based companies which might have entered into contracts with the South Australian Government in this area.

To have the position being moved by the Deputy Leader of the Australian Democrats may well place some South Australian based companies with contracts that they believe to be valid in an untenable position in terms of their own livelihood and employment of their staff. I can only hope that the Australian Labor Party will clearly not be attracted to supporting this motion if it is to be the retrospective effect of the Bill where it may affect potentially a whole series of other contracts and companies and the livelihood and employment of many South Australian workers, their families and children, all dependant on these contracts with SA Water.

With regard to section 3—Objects of the Act, I am advised that Executive Government in any system of responsible government is bound to operate to the benefit of the people it represents. This is a fundamental tenet that applies to all the endeavours of Government and not just to isolated instances. In this respect my advice is that section 3(b) is unnecessary therefore in terms of drafting. As to section 8A(2)(d)—Price setting—I am advised that the control of price setting is already established in the Waterworks Act and the Sewerage Act and should not be established under this piece of legislation.

As to section 8A(2)(e)—Environmental standards—I am advised that such standards are currently set statutorily by the Environmental Protection Authority. The Deputy Leader of the Australian Democrats supports the Environmental Protection Authority and the legislation and the standards are set by that authority. My advice is that there is no need, therefore, for the corporation to be establishing those environmental standards. As to section 8A(2)(g) and (h)—Export and employment targets—I am advised that SA Water lets and has been letting a number of contracts for the provision of services. The advice provided to me is that it is unreasonable to expect all contracts to specify export and employment targets. It may be that we have a number of small contracts and SA Water is obviously of the view that specifying export and employment targets for a number of small contracts is an unreasonable provision.

The Minister's view is that the Bill addresses a level of administrative detail that is properly the role of Executive Government, that it negates the credibility and objectives of the Public Corporations Act and stifles the ability of SA Water to execute properly its functions and exercise its powers under the South Australian Water Corporation Act. Further, it would appear that in drafting this Bill the major outsourcing contract has predominated the thinking of the Deputy Leader of the Australian Democrats and a raft of conditions that may be desirable for that contract—and I am advised that many are already present in that contract—has been put up for general application to all contracts for the provision, management and operation of water and wastewater services.

In particular the honourable member has referred to the definition of 'outsourcing contract' to see that it is a much wider provision than we have been led to believe by the Deputy Leader of the Australian Democrats in this Chamber in relation to the legislation. For those reasons the Minister for Infrastructure is of the strong view that the legislation is not only unworkable but is entirely unreasonable. I will not go on in any greater detail indicating the Government's opposition. I have indicated that on previous occasions. However, I say again to the Australian Labor Party, or any other Party, that it would indeed be a foolish alternative Government that would sign the blank cheque that is being asked to be signed with this piece of legislation. I assure members of the Australian Labor Party that the Minister and others who represent him will be wanting to indicate to all those small South Australian based companies, should the Australian Labor Party support this legislation, that it is retrospective cancellation and changing of contracts entered into many months ago in relation to their particular contracts.

I am advised that would be a position that the Party that purports to be an alternative Government might be supporting if it was to sign up for the blank cheque being offered by the Deputy Leader of the Australian Democrats in relation to this legislation. I can only hope that there are some smarter people than normal in the Australian Labor Party in relation to their handling of the legislation. The Hon. Terry Roberts shakes his head and it looks like the Hon. Terry Roberts is telling me that there are not any smarter people than normal handling this Bill and that, sadly, the Labor Party is going to support the retrospective provisions in the legislation. All we can be thankful for is that, should we see the unfortunate circumstance of the Labor Party and the Democrats passing the legislation in this Chamber, we can be grateful for the fact that it will not pass the House of Assembly and will then not become law.

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

LEGISLATIVE REVIEW COMMITTEE: NATIONAL SCHEME LEGISLATION

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

That discussion paper No. 1 on the scrutiny of national scheme legislation and the desirability of uniform scrutiny principles be noted.

(Continued from 14 February. Page 903.)

The Hon. K.T. GRIFFIN (Attorney-General): I welcome discussion paper No. 1 on the scrutiny of national scheme legislation which will raise awareness of the issues to be faced by Governments and the Parliament when considering the need for, and means of implementation of, national legislative schemes. I commend the Legislative Review Committee for raising this issue. In recent years proposals for uniform laws regulating various aspects of Australian society have been proposed or put in place. Arguments in support of uniformity stress the advantages for people conducting business across State boundaries and the difficulties and increased costs experienced when people have to grapple with different rules in different States.

These are valid reasons why national uniformity of laws can be desirable or necessary in respect of some subjects. For many subjects however, the need for, or the advantages of, national uniformity is often exaggerated and where some national consistency in law has a real commercial or practical justification it will often be found that a general similarity of laws will be sufficient to meet commercial and practical needs. In cases of this type uniformity (rather than similarity) is not essential. The method of implementation of a uniform scheme of legislation has implications for the division of powers within the Australian Federal system and the autonomy of the Parliaments of the States and Territories. I would like to draw to the attention of members the disadvantages of two methods of implementation and their implications for the Parliament.

Under the so-called template model a law enacted as the law of one State or Territory is adopted as the law by the Parliaments of all other States and Territories (sometimes with a Commonwealth supplementary). The Territory law may be a law enacted by the Commonwealth Parliament for a Territory or the law of the Legislature of the Territory itself. The usual arrangement is for amendments to the originally enacted law to apply automatically in each other State and Territory. This model has several disadvantages as far as the State is concerned. The template model does not permit the full parliamentary process to operate on State legislation. The substantive legislation is not before Parliament. Once the initial application law is passed by the State Parliament amendments are enacted by the Legislature which passed the initial legislation without any reference to the State Parliament.

Amendments to the legislation may be agreed to by a ministerial council and an intergovernmental agreement may provide that the approval of a ministerial council is required before amendments can be made. The Parliament must accept the ministerial council's decision or consider withdrawing from the scheme. Subordinate legislation is also only tabled in the Parliament which enacted the initial legislation and, therefore, is not subject to parliamentary scrutiny in each jurisdiction. The adoption by State legislation of Commonwealth law enacted for a Territory is incompatible with the maintenance of a strong and viable Federal system whereby State legislation in and of itself provides the substantive basis for laws. This use of Commonwealth legislation does not recognise and use the Federal division of legislative powers established by the Commonwealth Constitution.

A template scheme may provide that the South Australian law is to be interpreted according to the law of another jurisdiction, that another jurisdiction's administrative law regime is to apply to the scheme and for appeals to the courts of another jurisdiction. This derogates from the autonomy of the State and its institutions. Under the template method the State is free to withdraw from the scheme at any time. Under a reference of power from the State to the Commonwealth using section 51(37) of the Commonwealth Constitution, the Commonwealth Parliament enacts a law which overrides inconsistent State laws. Amendments to the legislation can only be enacted by the Commonwealth Parliament subject to the referred power being wide enough to support the amendment.

While the reference of power is in force the State Parliament is powerless to vary the Commonwealth law, all existing State law which is inconsistent with the Commonwealth law is inoperative and the State cannot enact new legislation inconsistent with the Commonwealth law. There are arguments to the effect that the State cannot legally withdraw a reference of power. In April 1994 Cabinet adopted principles to be used in assessing proposals to implement national schemes. The principles adopted by Cabinet were as follows:

1. There must be real commercial or practical considerations which require national uniformity.

2. Factors to be taken into account in assessing the method of implementing uniform laws include: the extent to which divergence from uniformity can be tolerated; the cost of implementing the scheme; the effect on the division of powers in Australia's Federal system; the effect on the autonomy of the Parliament; the effect on the jurisdiction of the State's courts; and the administrative law regime under which the uniform scheme will operate.

Any scheme for greater scrutiny by the Parliament of national uniform legislation must be timely and not involve undue delay in the process of reform. The challenge is to find the way in which this can be done and this discussion paper is a useful contribution to the process. It need only be said that this State is conscious of the restrictions which can be imposed upon the power and responsibilities of the Parliament as well as the Government when moving to a uniform system of laws across Australia and the extent to which that does reduce the powers and effectiveness of the State Parliament and the Executive Government of this State. So, we are conscious of the issues and have taken a very proactive role in ensuring, as much as it is possible to ensure, that the framework which we have put in place in this State is sufficient to ensure that we do have adequate powers both as a Government and as a Parliament.

The Hon. R.D. LAWSON: I thank members for their contributions to the debate on this important topic. Not only is it an important topic but it is a topical one, having regard to the fact that we have on the Notice Paper reference to a Bill to amend the Financial Institutions (Application of Laws) Act 1982. The passage of that measure was referred to in some detail in the paper referred to in the motion.

As members have said, national scheme legislation poses a serious challenge to the independence and effectiveness of this and other Parliaments, particularly State Parliaments in Australia. Finding a solution to the problem presents a serious challenge, not only for us in this State but also for scrutiny of legislation committees and legislative review committees in all Parliaments. The process of finding a solution to the problems is an ongoing one which will be the subject of discussion at national conferences later this year. I again thank members for their interest and contributions on this matter.

Motion carried.

EDUCATION (BASIC SKILLS TESTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 October. Page 119.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The basic skills test has been a contentious issue. Many within the education community remain sceptical that the basic skills testing will achieve what the Minister says it will achieve. Educators have spoken out with real doubts about the effectiveness of the testing in terms of assessing the true capabilities of students and the effectiveness of the test results in terms of communicating appropriate information to parents of the children. However, we are dealing in this Bill not with the issue of whether or not we approve of the basic skills test but rather the mechanism to deal with the issue of privacy.

In the face of the reality that the Government has introduced basic skills testing, the Opposition supports the second reading of this Bill. Essentially, the Bill is based on the regulations of the former New South Wales Liberal Government's education format of 1990.

The purpose of this Bill is essentially to prevent disclosure of the results of basic skills testing to anyone other than the Minister, the Education Department, the parents of the child and the staff of the school where the tests were carried out. The Bill also prohibits basic skills testing results being published so as to identify a particular child or group of children, for example, a particular class of students or a particular school.

The aim is therefore to prevent any possibility of public comparison between different children, different classes or different schools. The Opposition understands the importance of preventing basic skills testing results from being used improperly, for example, comparing performances between one school and another, while ignoring the socioeconomic factors contributing to student performance.

The Government says that basic skills testing was never meant to be a measuring stick for comparing teachers or school performances—we want to make sure of that. If we must have basic skills testing, as the Government has decreed we must, the Opposition cannot stand in the way of these safeguards being introduced.

There is one difficulty, however: the Minister has already allocated resources to some schools on the basis of basic skills testing results. It seems reasonable therefore that there be some kind of public scrutiny available of the Minister's decision. For example, the Hon. Mr Elliott, any other member, for that matter, or I might have legitimate concerns about why schools are or are not receiving extra funding based on basic skills test results.

Perhaps the appropriate means of ensuring that the Minister's allocation of resources in these circumstances is reasonable will be to require the Minister to report to Parliament each year on which schools have received extra funding or resources as a result of test results and justification as to why it was considered advisable to allocate resources in that way and the criteria used to make the allocation. I feel it is an issue that needs to be considered, and perhaps the Hon. Mr Elliott might consider this when responding to my remarks.

Apart from this concern, we believe that if the Government persists with the basic skills testing at least we should have the safeguards in South Australia that they have in New South Wales and which this Bill will provide.

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

ROAD TRAFFIC (EXEMPTION OF TRAFFIC LAW ENFORCEMENT VEHICLES) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act 1961. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

The purpose of this Bill is to provide exemptions to Police Security Services Division vehicles from compliance with certain parking requirements while carrying out duties associated with road traffic law enforcement.

As part of the restructuring of the South Australian Police Force, responsibility for operating camera activated speed detection equipment is to be transferred to the Police Security Services Division. This is in keeping with this Government's policy to return police officers to duties more in keeping with their training and community expectations. Members of the division are not members of the Police Force.

On occasion, it is necessary for the vehicles used on this duty to be parked in areas or in a way which would normally constitute an offence. This will usually occur when the nature of the terrain would mean that parking the vehicle on the road in accordance with the usual rules would create an unacceptable traffic hazard or place the operator or road users at risk. It also arises when the vehicle must be parked for periods in excess of designated time limits or facing oncoming traffic to photograph the front of approaching vehicles.

Section 40*(c)* of the Road Traffic Act 1961 provides exemptions to vehicles used by members of the Police Force from compliance with various provisions of the Road Traffic Act (including those relating to parking) where those members are acting in the execution of their duties. Vehicles used by members of the Police Security Services Division will not be covered by the current exemption provisions and the power to exempt these vehicles is sought.

Exemption is only necessary from compliance with the provisions of the Road Traffic Act relating to parking as the duties of the Police Security Services Division will not involve its members in the on-road activities that require the broader range of exemptions currently granted to police. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 40—Exemption of certain vehicles from compliance with certain provisions

This clause amends section 40 of the principal Act. Section 40 currently exempts certain categories of vehicles from the application of certain provisions of the Act. For example, it exempts fire brigade vehicles, motor ambulances, etc., from the application of those provisions of the Act relating to speed limits, stopping at stop signs or traffic lights, giving way, etc., where those vehicles are being driven in connection with a relevant emergency. It also exempts vehicles of a specified class from the application of those provisions of the Act relating to driving or standing on any side or part of the road, the manner of passing other vehicles, etc., where those vehicles are being used for road making or road maintenance.

This amendment adds a further exemption to the list. It exempts vehicles of a class prescribed by regulation from the application of those provisions of the Act relating to driving or standing on any part

of a road where those vehicles are driven or used for the purpose of taking action in connection with enforcement of the road traffic laws of this State. It also makes consequential amendments to subsections (2)(d) and 3(d) to avoid any ambiguity in the application of the corresponding exemptions in those subsections.

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

MOTOR VEHICLES (MISCELLANEOUS NO. 2) 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 Stamp Duties Act 1923. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill deals with a range of matters including provision allowing the introduction of a simplified registration charging structure for light vehicles and the adoption of nationally agreed business rules to achieve greater uniformity in registration and licensing practices.

The Bill is complementary to the Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act which introduced national uniform registration charges for buses, trucks, prime movers and trailers, with a gross vehicle mass or gross combination mass greater than 4.5 tonnes. This Bill deals with those vehicles under 4.5 tonnes and extends many of the initiatives in Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act, such as conditional and quarterly registrations, to the light vehicle fleet.

The structure of registration charges allowed for under this Bill has been developed following a review by the Department of Transport to identify the principles on which charges and fees relating to vehicle registration and driver licensing should be set.

A simplified charging structure based on the existing cylinder based structure, with a restructure of light commercial vehicle charges so that they are compatible with the charges prescribed for heavy vehicles in the Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act has been developed. The Bill also allows for the introduction of a three level administrative fee structure based on recovering the actual cost of providing registration and licensing services. Administrative fees are already included in the charges for registration and licences, but are not declared as such. The proposed charging structure under the regulations will therefore show the administrative fee as a separate item for transparency. In future, CPI will be applied to charges and fees, with administrative fees set at a level to cover the cost of providing the registration and licensing service.

The effect of the proposed charging structure is that the registration charges based on the number of cylinders will remain at essentially the same level. For example, the total annual cost for the renewal of registration of a four cylinder vehicle will increase from $66 to $69, which comprises a registration charge of $64 and an administrative fee of $5. The annual cost for the renewal of a six or eight cylinder vehicle will increase from $127 to $134 and from $184 to $193 respectively. These increases range from between 4.5 per cent and 5.5 per cent. However, increases for motorists overall will be held in line with the projected CPI rate.

In the case of light commercial vehicles, the restructuring of the charges will result in reduced charges applying to the owners of many vehicles. A reduction in the charge is necessary in order to produce a proper relationship with the minimum charge of $300 prescribed for heavy vehicles under the Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act. At the present time, the registration charge applying to some light commercial vehicles exceeds the minimum charge for heavy vehicles.

As well as addressing this issue, the proposed fee structure for light commercial vehicles is to be simplified. Light commercial vehicles with an unladen mass of 1 tonne or less will now be charged according to the number of cylinders, with the annual cost reducing from $98 to $69 ($64 charge and $5 administrative fee) for a four cylinder vehicle. A flat charge of $147 is to apply to all commercial vehicles between 1 and 1.5 tonnes unladen mass and a charge of $245 for commercial vehicles above 1.5 tonnes, up to the point where the national heavy vehicle charges apply.

Light buses that do not attract the national heavy vehicle charges will also be charged according to the number of cylinders. The majority of these buses will be subject to lower charges, with four cylinder buses reducing from $189 to $69 and six cylinder buses from $189 to $134.

The proposed three level administrative fee structure is based on recovering the actual cost of providing registration and licensing services, such as the cost of processing an application for the renewal of a registration or a driver's licence. Although the cost of some services will increase, there will bey some cases where the fee will be reduced. For example, the fee for processing an application for transfer of registration will increase from $17 to $20, but the fee for a replacement registration label will be reduced from $17 to $10.

The Bill provides for the retention of existing light vehicle concessions applying to totally and permanently incapacitated ex-servicemen (66 per cent reduction), consular corps (100 per cent reduction), incapacitated persons, pensioners, primary producers and outer area residents (all 50 per cent reduction). However, in order to maintain relativity to the national heavy vehicle charges, it is proposed to withdraw all other concessions for light vehicle owners. This is consistent with concessions approved for heavy vehicles.

This means that those vehicles currently eligible for free registration under the Motor Vehicles Act and regulations, other than consular corps vehicles, may now be required to pay the prescribed registration charges. However, the majority of these vehicles, such as ambulances, civil defence and emergency vehicles, will be eligible for registration at no registration charge under the conditional registration provisions of the Bill.

The Bill provides for the conditional registration provisions contained in the Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act to be extended to light vehicles. This will allow the Registrar of Motor Vehicles to conditionally register certain light vehicles that only require limited access to the road network. This includes farm tractors and self propelled farm implements, which are either currently exempt from registration or operated on restricted long term permits. It will also allow special purpose vehicles, such as ambulances, to be conditionally registered.

The Bill provides for vehicles that are conditionally registered to be issued with number plates and covered by compulsory third party insurance. Where access to the road network will be limited, no registration charge or stamp duty will be payable. Owners of conditionally registered vehicles will be able to register for periods of up to three years. The Bill will allow the introduction of an administrative fee of

$20 to cover the costs associated with the issue of the registration. As the same administrative fee will apply irrespective of whether the owner registers the vehicle for one, two or three years, owners will make greater savings by taking longer periods.

The Bill also extends the quarterly registration provisions of the Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act to the light vehicle fleet.

The introduction of quarterly registrations will provide light vehicle owners with the option of registering their vehicles for either three, six, nine or 12 months. This will no doubt benefit those owners who only operate their vehicles on a seasonal basis and those owners who may have difficulty in paying the minimum six month charge currently prescribed in the Motor Vehicles Act. The introduction of quarterly registrations is in keeping with the Liberal Party policy election platform on transport.

Following the passage of the Bill, it is proposed that a surcharge of 75 per cent, 50 per cent and 25 per cent of the one year SAFA Government borrowing rate (currently 7.5 per cent per annum) will be incorporated in the pro-rata registration charge for registration periods of three, six and nine months respectively. This approach is necessary to recover the forgone interest resulting from the introduction of quarterly registration periods.

The existing 7.5 per cent surcharge which is charged on six month registrations includes an allowance for the cost of processing the transaction, which is now to be separately recovered by the administrative fee.

It is also proposed to introduce a late payment penalty to replace the current registration establishment fee and licence re-establishment fee. Vehicle owners and licence holders will be given the option of paying the late payment penalty or accepting a lessor registration or licence period that commences from the previous expiry date.

A registration establishment fee was previously payable where a registration was not paid within 30 days, but this period will be extended to 90 days to increase the flexibility of the provision and to be consistent with the 90 day period prescribed for heavy vehicles in the Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act and the three month period currently prescribed for drivers' licences.

The Registrar of Motor Vehicles will also have a discretion to waive the new late payment penalty, for example, where a vehicle is only registered for seasonal use.

The Bill also provides for a driver's licence to be issued for a period of up to 10 years. Although licence holders will be invited to renew their driver's licence for 10 year periods, they will have the option to select a lesser period.

The Bill provides for the adoption of a number of nationally agreed business rules that seek to achieve greater uniformity in registration and licensing practices. These include the introduction of the responsible operator concept, uniform national licence classes and conditions, provisional licences and the surrender of number plates.

The Bill proposes the introduction of the National Road Transport Commission responsible operator concept. The introduction of the responsible operator concept will not affect the current arrangements whereby a vehicle may have joint or multiple registered owners.

The responsible operator concept provides for persons in a joint registered ownership to nominate a single person for the service of notices. In the case of a single registered owner, the responsible operator is the registered owner.

The collection of the information relating to responsible operator will effectively position South Australia to introduce the responsible operator provisions on adopting the template legislation for a national vehicle registration scheme.

The introduction of national common licence classes and core conditions is considered necessary to facilitate effective enforcement on a national level, particularly in the operation of heavy vehicles. Adoption of the nationally agreed common licence classes will not disadvantage any existing licence holder in South Australia and will complement the driver accreditation scheme administered by the Passenger Transport Board.

As the term provisional licence is currently used by the majority of licensing authorities to describe the first licence issued to a driver, the introduction of the term 'provisional' will bring South Australia into line with other States and Territories and contribute to a more uniform approach to driver licensing on a national level.

The requirement for number plates to be surrendered on the cancellation of a registration, or where a registration has expired for more than three months, will also make the South Australian practice consistent with that of other registration authorities. As unassigned number plates are sometimes used to disguise stolen vehicles, the requirement to surrender these number plates may be an effective vehicle theft countermeasure. The requirement will not apply to seasonally registered vehicles, or to number plates such as custom or historic plates, where a person has purchased the rights to those plates. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure is to be brought into operation by proclamation.

A number of the amendments contained in the Bill relate to provisions or text inserted or amended by the *Motor Vehicles (Heavy Vehicles Registration Charges) Act 1995.* As a result, the commencement of this measure will have to follow the commencement of that Act.

Clause 3: Interpretation

This clause inserts several new definitions and amends other definitions.

A definition of 'farm implement' is inserted for the purposes of the exemption provided by proposed new section 12 (see clause 4). The term is defined as follows:

> 'farm implement' means a wheeled implement or machine wholly or mainly constructed for operations forming part of a primary producer's business, but does not include a vehicle or trailer wholly or mainly constructed for the carriage of persons or goods on roads.

The amendment to section 20 of the principal Act contained in clause 7 would require an applicant for registration of a motor vehicle to state to the Registrar the proposed garage address of the vehicle. 'Garage address' is defined as the address of the place of residence or business at which the vehicle is ordinarily kept when not in use or the principal depot or base of operation of the vehicle.

Definitions of 'provisional licence' and 'provisional licence conditions' are inserted to replace the definitions of 'probationary licence' and 'probationary conditions'. This reflects a change of terminology that is to be made to the principal Act wherever these expressions appear.

Clause 4: Substitution of ss. 11 and 12

Sections 11 and 12 of the principal Act are repealed and new sections substituted. Current section 11 provides an exemption from registration in respect of fire fighting vehicles. It allows an unregistered vehicle to be used while carrying persons or fire fighting equipment to or from any place for the purpose of preventing, controlling or extinguishing a fire or in the course of training members of a fire fighting organisation, or for transporting such members to or from such training. The new section 11 also provides an exemption for fire fighting vehicles but is limited to vehicles used

on roads for the purpose of taking measures for extinguishing or controlling a fire that is causing or threatening to cause loss of life or injury or damage to persons, animals or property.

Current section 12 contains detailed provisions governing the use of unregistered tractors and farm implements on roads. Instead the proposed new section 12 would allow—

- an unregistered trailer or farm implement to be towed on roads by a tractor or farm implement conditionally registered under section 25
- an unregistered farm implement to be towed on roads by a motor vehicle registered in the name of a primary producer.

Subclause (3) extends the compulsory third party insurance coverage for the towing vehicle to the vehicle being so towed.

Clause 5: Repeal of s. 13

This clause provides for the repeal of section 13 of the principal Act which exempts from registration vehicles constructed or adapted for making fire breaks or for the destruction of dangerous or noxious weeds or vermin on roads.

Clause 6: Amendment of s. 16—Permits to drive vehicles without registration

This clause makes an amendment of a drafting nature to ensure that references to fees are to the full amount of the fee in respect of registration, that is, the amount specified by regulation as being the registration fee for a vehicle and, in addition, any administration fee. (See also the amendment to section 5 of the principal Act providing for a new definition of 'prescribed registration fee').

Clause 7: Amendment of s. 20—Application for registration

Section 20 of the principal Act is the general provision dealing with applications for registration of motor vehicles. The clause amends this section so that an applicant is required—

- to state the garage address for the vehicle (see the new definition to be inserted by *clause 3*); and
- if there is more than one owner of the vehicle, to nominate one of them as the responsible operator of the vehicle.

The clause also makes a drafting amendment to remove the reference to payment of a registration fee or administration fee and replace it with a requirement for payment of the fee prescribed by regulation.

Clause 8: Amendment of s. 21—Power of Registrar to return application

This clause makes an amendment designed to make it clear that, on the return of an application for registration that cannot be granted because it is not in order or for some other specified reason, the Registrar but is to refund the prescribed registration fee and any insurance premium paid in respect of the application (and hence may retain any administration fee).

Clause 9: Amendment of s. 24—Duty to grant registration

This clause amends section 24 of the principal Act by allowing vehicle registration for a 12 month period or for one, two or three quarters at the option of the applicant. Under the section in its current form (as amended by the *Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act 1995*), such an option is only available for heavy vehicles while other vehicles are limited to a 12 month or 6 month registration period.

Clause 10: Amendment of s. 25—Conditional registration of certain classes of vehicles

This clause amends section 25 of the principal Act which provides for conditional registration of certain vehicles. The amendment simplifies the provision by relating conditional registration to vehicles of a class prescribed by regulation. The clause also removes provisions relating to refunds and breach of licence conditions—matters now to be dealt with in later sections of the Act.

Clause 11: Amendment of s. 31—Registration without fee

Section 31 of principal Act currently contains a list of miscellaneous exemptions from the requirement to pay a fee for registration. The clause reduces the list so that it provides exemptions for—

- motor vehicles owned by accredited diplomatic or consular officers who are nationals of the countries they represent
- motor vehicles of a kind specified in the regulations.

Clause 12: Amendment of s. 32—Vehicles owned by the Crown

Section 32 of the principal Act makes it clear that full fees are payable for registration of vehicles owned by the Crown in the same way as for other vehicles. The clause removes a subsection under which any dispute as to the fee for registration of a government vehicle is to be determined by the Treasurer.

Clause 13: Amendment of s. 34—Registration fees for primary producers' commercial vehicles

Section 34 of the principal Act provides for a 50 per cent reduction in the prescribed registration fee for a commercial vehicle or tractor owned by a primary producer. The clause excludes tractors from the application of the section which are now to be conditionally registered under section 25.

The clause also changes the reduction in fee from a 50 per cent reduction to a reduction of an amount prescribed by regulation.

Clause 14: Repeal of ss. 34a, 35 and 36

This clause provides for the repeal of—

- section 34a—a section inserted by the *Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act 1995* and to be replaced by proposed new section 37a (see *clause 16*)
- section 35—a further special reduction in fee for registration of primary producers' tractors
- section 36—a reduction in registration fee for prospectors' commercial vehicles.

Clause 15: Amendment of s. 37—Registration fees for vehicles in outer areas

Section 37 of the principal Act (as amended by the *Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act 1995*, provides for a reduced registration fee for vehicles used wholly or mainly in outer areas of the State. The reduction varies according to whether it is a heavy vehicle or not. The amendment leaves the amount of the reduction to the regulations.

Clause 16: Insertion of s. 37A

This clause inserts a new section 37a which provides that sections 38 to 38b do not apply in relation to a heavy vehicle. These sections provide for reduced registration fees for incapacitated ex-servicemen, certain concession card holders and certain incapacitated persons.

Clause 17: Repeal of s. 39

This clause provides for the repeal of section 39 which provides for a reduced registration fee for certain historic vehicles. Such vehicles are now to be conditionally registered under section 25.

Clause 18: Amendment of s. 41—Misuse of vehicles registered at reduced fees or without fees

Section 41 of the principal Act creates an offence of using a vehicle contrary to the terms of a statement or undertaking made in connection with the application for its registration or transfer of registration. Subsection (3) empowers a court convicting a person of an offence against the section to order the convicted person to pay to the Registrar the fee or balance of the fee that would have been payable if the person had not qualified for restricted registration. The clause amends this section by inserting an offence of breaching a condition of registration under section 25. As a result, subsection (3) would also operate in relation to such an offence.

Clause 19: Amendment of s. 43—Short payment, etc.

This clause makes an amendment consequential to the proposed new section 52 (see *clause 23*).

Clause 20: Amendment of s. 43a—Temporary configuration certificate for heavy vehicle

This clause amends section 43a (inserted by the *Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act 1995*). The clause amends the section so that a temporary configuration certificate for a heavy vehicle must be carried in the vehicle and be produced for inspection by a member of the police force or inspector when required by the member or inspector.

Clause 21: Amendment of s. 47—Duty to carry number plates

This clause makes an amendment that is consequential to the amendment made by *clause 22*. The provision allowing for the number allotted to a vehicle to be marked on the vehicle will now be contained in the regulations.

Clause 22: Insertion of s. 47c

This clause adds a new section 47c providing for the return or recovery of number plates issued for a registered vehicle in the event that the registration is cancelled or expires and is not renewed or becomes void or is found to have been void. Certain number plates (such as those subject to an agreement under section 47a(4)) may, however, be retained by the owner.

Clause 23: Substitution of s. 52

This clause makes a similar general provision in relation to the return or destruction of registration labels.

Clause 24: Substitution of s. 54

This clause replaces section 54 of the principal Act and deals with the cancellation of registration and payment of a refund on application by the registered owner of a vehicle. The new section reflects the inclusion of the new general provision relating to the return or destruction of registration labels (see *clause 23*) and makes a new provision leaving the question of entitlement to a refund and the amount of any such refund to the regulations.

Clause 25: Repeal of s. 55

This clause repeals section 55 which provides for the calculation of the amount of a refund. As stated above in relation to *clause 24*, this matter is now to be dealt with in the regulations.

Clause 26: Amendment of s. 55a—Cancellation of registration where application information incorrect

This clause amends section 55a which deals with the cancellation of a vehicle's registration where the applicant provided incorrect information to the Registrar and for the payment of a refund. The amendment makes the question of whether there should be a refund in these circumstances and the amount of any such refund a matter for the discretion of the Registrar.

Clause 27: Amendment of s. 56—Duty of transferor on transfer of vehicle

This clause makes an amendment consequential on the new section 52 relating to the return or destruction of registration labels.

Clause 28: Amendment of s. 60—Cancellation of registration where failure to transfer after change of ownership

This clause makes an amendment leaving the amount of the refund on cancellation of registration under section 60 to the regulations.

Clauses 29 and 30

These clauses make amendments reflecting the change in terminology from 'probationary licence' to 'provisional licence'.

Clause 31: Amendment of s. 78—Graduated licences

This clause amends section 78 of the principal Act by removing the provision allowing the issuing of a licence to a person under 16 years and 6 months for the operation of a self-propelled wheelchair. Instead, the general rules (16 years or older for a learner's permit; 16 years and 6 months or older for a driver's licence) will apply without any exceptions.

Clauses 32 to 36

These clauses all make amendments to give effect to the change in terminology from 'probationary licence' and 'probationary conditions' to 'provisional licence' and 'provisional licence conditions'.

Clause 34: Amendment of s. 84—Term of licence

This clause also amends section 84 of the principal Act so as to extend the maximum term of a driver's licence from 5 to 10 years.

Clause 37: Amendment of s. 99—Interpretation

This clause adds to section 99 a further interpretative provision providing that, for the purposes of Part IV and the fourth schedule (both relating to compulsory third party insurance), death or bodily injury will be regarded as being caused by or as arising out of the use of a motor vehicle conditionally registered under section 25 that is a tractor or farm implement only if it is caused by or arises out of the use of the vehicle on a road.

Clause 38: Amendment of s. 102—Duty to insure against third party risks

This clause makes amendments consequential on the proposal to have tractors conditionally registered under section 25 and on the amendments as they affect sections 12 and 13. The clause also substitutes a reference to a trailer that is a heavy vehicle (as defined by the definition inserted by the *Motor Vehicles (Heavy Vehicles Registration Charges) Amendment Act 1995*) for a reference to a trailer for the carriage of goods that has an unladen mass of more than 2.5 tonne.

Clause 39: Amendment of s. 136—Duty to notify change of address

This clause adds a new requirement to notify the registrar of a change in the garage address of a registered vehicle.

Clause 40: Amendment of s. 141—Evidence by certificate of Registrar

This clause also makes an amendment consequential on the registration of the garage addresses of registered vehicles.

Clause 41: Transitional provision

This clause makes transitional provisions relating to the change in terminology from 'probationary licences' and 'probationary conditions' to 'provisional licences' and 'provisional licence conditions'.

Clause 42: Amendment of Stamp Duties Act 1923

This clause makes amendments to the *Stamp Duties Act* relating to the duty payable in respect of applications to register motor vehicles. The amendments are consequential on amendments made by the Bill to the *Motor Vehicles Act*.

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

WILLS (EFFECT OF TERMINATION OF MARRIAGE) AMENDMENT BILL

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

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

That this Bill be now read a second time.

Section 22 of the Wills Act 1936 currently provides that a will may only be revoked in one of four ways: by marriage, by another will or codicil, by express revocation in a subsequent testamentary instrument or by destruction. Numerous law reform bodies, both in Australia and overseas, have reviewed the effect of divorce upon wills. The general consensus is that in the majority of cases testators would not wish to benefit their ex-spouses as generously once they are divorced as would be the case if the marriage were still subsisting. This was the finding of the Ontario Law Reform Commission in 1977, the Law Reform Committee of South Australia in 1977 and was affirmed by the New South Wales Law Reform Commission in 1985. This Bill amends section 22 of the Wills Act 1936 to provide that upon the date of the termination of a marriage (whether by divorce, annulment or declaration that the marriage is void)—

(a) any beneficial gift in favour of the former spouse is revoked;

(b) any power of appointment conferred on a former spouse is revoked;

(c) any appointment under the will of the former spouse is revoked,

unless a contrary intention appears from the terms of the will or a subsequent will or codicil confirms the testator's original intention. Instead, any property is to pass as if the former spouse had predeceased the testator. New South Wales, Victoria and Queensland have all enacted similar provisions to the amending provisions of this Bill. Tasmania is the only State to enact legislation which provides for the revocation of the entire will upon dissolution of the marriage. Revocation of the entire will is not considered to be an appropriate option because:

· it would substitute the rules of intestate succession for all of the testamentary provisions contained in the will;

· most gifts in favour of the members of the divorced spouses' family will be intended (generally being to children of the testator);

· gifts to deserving friends and charities will generally remain intended;

· it would strike down a new will made after separation and before divorce, even where no provision was made to the former spouse.

The revocation of all dispositions, powers of appointment and appointments to the former spouse will not affect any rights of the former spouse under the Inheritance (Family Provision) Act 1972, nor any debt or liability payable to the former spouse by the testator. I commend this Bill to the Council and seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure is to be brought into operation by proclamation.

Clause 3: Insertion of s. 20A

Proposed new section 20A deals with the effect of termination of marriage on a will.

Subclause (1) provides that if, after making a will, the testator's marriage is terminated—

- a disposition of a beneficial interest in property by the will in favour of the testator's former spouse is revoked
- an appointment by the will of the testator's former spouse as executor, trustee or guardian is revoked
- a grant by the will of a power of appointment exercisable by or in favour of the testator's former spouse is revoked
- the will is to have effect with respect of the revocation of such a disposition, appointment or grant of a power as if the former spouse had died on the date of termination of the marriage.

A disposition or grant of a power will not be revoked if made in accordance with a contract between the testator and the former spouse under which the testator is or was bound to dispose of property by will in a particular way.

A disposition, appointment or grant of a power will not be revoked if the testator intended that the disposition, grant or power would have effect despite the termination of the marriage. Under the clause, such an intention would be required to be expressed in the will.

A disposition, appointment or grant of a power will not be revoked if the will is re-executed, or a codicil is made to the will, after termination of the marriage and the will or codicil shows no intention of the testator to revoke the disposition, appointment or grant.

The clause makes it clear that nothing contained in the clause will affect the right of a former spouse to make a claim under the *Inheritance (Family Provision) Act 1972*.

Termination of marriage will include, for the purposes of this provision, a decree of nullity in respect of a purported marriage and a divorce or annulment under a foreign law that is recognised in Australia under the *Family Law Act 1975* of the Commonwealth.

Clause 4: Amendment of s. 22—In what cases wills may be revoked

This clause makes a consequential amendment only.

Clause 5: Application

Under this clause, the amendments contained in the Bill will apply to a will of a person dying after the passage and commencement of the provisions whether the will was made or the marriage terminated before or after the commencement.

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

STATUTES AMENDMENT (COMMUNITY TITLES) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Strata Titles Act 1988 and other Acts as a consequence of the enactment of the Community Titles Act 1996. Read a first time.

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

That this Bill be now read a second time.

This Bill results from a comprehensive review of all statutes of the State to accommodate the concept of community titles provided for in the Community Titles Bill. It has been necessary, in each Act of Parliament which currently refers to the Strata Titles Act, to assess what provision should be made for the Community Titles legislation. While the Bill is largely technical in nature, three matters dealt with in the Bill are of a more substantive nature and merit specific detailed attention.

The first issue concerns those Acts which deal with rating and taxing matters. These Acts are the Land Tax Act, the Local Government Act and the Sewerage Act. In each of these Acts specific provision is made for the Valuer-General to determine whether the common property of a community scheme should be separately rated. This provision is necessary as it will be possible in community schemes for the common property to be used in a variety of ways, for example, the common property may be productive farm land, may contain a cottage industry or small factory, or in one scheme currently being considered may contain a school. In these situations it would not be appropriate for the value of the common property to be considered as part of the value of a lot (as is the case with strata titles now) as it is more appropriate that the common property be able to be separately rated. Giving the discretion across the range of rating and taxing Acts to the Valuer-General, will ensure that like schemes are treated in like manner across the whole of the State.

The second issue concerns the amendments to the Local Government Act. The amendments to the Local Government Act rating provisions are of an interim nature only. A comprehensive review of the Local Government Act has commenced and is expected to take about 18 months. The current aim is for new legislation to be in place by mid 1997. The review process will involve wide consultation with local government, interested parties and the general community. The practical application of the community titles legislation for local government rating will be reviewed as part of the overall review of the Local Government Act, taking into account experience from the commencement of this measure. Consideration will be given to the need for any changes to the initial provisions relating to rating of community schemes in order to improve and clarify their application and operation if necessary.

The third issue concerns the amendments which are made to the Strata Titles Act. The Strata Titles Act was enacted in 1988 following considerable community and industry consultation. Following two years of operation, the Act was subject to review in 1990, and some tidying up amendments were made in 1990. It had been the initial view of the Government that the whole of the current Strata Titles Act could be incorporated into the Community Titles Bill, and the first draft of the Bill released for public consultation in March 1995 reflected this approach. The comments received on that draft of the Community Titles Bill from the owners of existing strata title units were clearly to the effect that they wished the current Strata Titles Act to remain and to continue to govern their strata corporations. Taking heed of this view, the subsequent versions of the Community Titles Bill left the Strata Titles Act intact and provided for the optional adoption of the community titles provisions.

In view of the comments received, very little change is proposed to the Strata Titles Act. The main area where change is effected by this Bill is the requirement that a person who holds money on behalf of a strata corporation must deposit that money in a trust account. The provisions in this regard are the same as in the Community Titles Bill. It was considered an appropriate protection for strata corporations which deal with managing agents to have their money dealt with in a proper manner. Importantly for the existing unit holders, this requirement is not a new onus on them: it is a new onus on the strata managers, many of whom already maintain proper trust accounts without the legislative imperative. I commend the Bill to members and seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

These clauses are formal.

Clause 4: Amendment of s. 97—Certain land transfers by companies not to constitute reduction of share capital

Clause 4 makes consequential amendments to the *Corporations (South Australia) Act 1990*.

Clause 5: Amendment of s. 4—Definitions

Clause 5 amends the definition of 'allotment' in the *Development Act 1993*. This amendment is consequential on a later amendment in the Bill to the definition of 'allotment' in Part 19AB of the *Real Property Act*.

Clause 6: Amendment of s. 33—Matters against which a development must be assessed

Clause 6 makes consequential amendments to section 33 of the *Development Act 1993*. Paragraph *(c)* inserts new subparagraph (iva) in section 33(1)*(c)*. This provision reflects existing section 33(1)*(d)*(iii). Paragraph *(g)* inserts subparagraph (vii) which corresponds to existing section 33(1)*(c)*(iv) and will enable the Water Corporation amongst other things to insist that individual water meters are fitted to all future strata and community lots.

Clause 7: Amendment of s. 50—Open space contribution system

Clause 7 makes consequential amendments to section 50 of the *Development Act 1993*.

Clause 8: Amendment of s. 3—Interpretation

Clause 8 makes consequential amendments to the *Land and Business (Sale and Conveyancing) Act 1994*.

Clause 9: Insertion of s. 10B

Clause 9 inserts a new section in the *Land Tax Act 1936* which sets out the way land tax is imposed in relation to community schemes.

Clause 10: Amendment of s. 66—Land tax to be a first charge on land

Clause 10 provides that land tax assessed against common property is not secured against the common property (which can't be sold) but against the individual lots.

Clause 11: Amendment of s. 21—Entitlement to practise

Clause 11 makes a consequential amendment to the *Legal Practitioners Act 1981*.

Clause 12: Amendment of s. 5—Interpretation

Clause 12 makes consequential amendments to the *Local Government Act 1934*.

Clause 13: Amendment of s. 168—Ratability of land

Clause 14: Amendment of s. 182—Rates are charges against land

Clauses 13 and 14 makes amendments to the rating provisions of the *Local Government Act 1934* similar to the amendments made by clauses 9 and 10.

Clause 15: Amendment of s. 319—Cost of constructing public street

Clause 16: Amendment of s. 328—Power to pave footways

Clause 17: Amendment of s. 342—Construction and repair of private streets in the City of Adelaide

Clause 18: Amendment of s. 343—Powers of other councils to make private streets and road

Clause 19: Amendment of s. 344A—Construction and repair of private roads

Clause 20: Amendment of s. 345—Power of council to order land adjoining street to be fenced

Clause 21: Amendment of s. 348—Duty to construct retaining walls in certain cases

Clauses 15 to 21 make consequential amendments to the *Local Government Act 1934*.

Clause 22: Amendment of s. 22—Powers of the Board

Clause 23: Amendment of schedule 2

Clauses 22 and 23 make consequential amendments to the *Passenger Transport Act 1994*.

Clause 24: Amendment of s. 223la—Interpretation

Clause 24 amends section 223la of the *Real Property Act*. The definition of 'allotment' is amended to exclude land in a community scheme or strata scheme. This is because Part 19AB of the *Real Property Act 1886* does not provide for division of land in these schemes. The other amendments made by this section are consequential.

Clause 25: Amendment of s. 223lb—Unlawful division of land

Clause 25 amends section 223lb of the *Real Property Act 1886*. This section prohibits the dealing with part of an allotment. It is important that this section extends to land in a community or strata scheme.

Clause 26: Amendment of s. 223lg—Service easements

Clause 26 makes changes to section 223lg of the *Real Property Act 1886* consequential on the establishment of the South Australian Water Corporation.

Clause 27: Amendment of s. 223lla—Interpretation

Clause 28: Amendment of s. 223llb—Amalgamation in exchange for division

Clauses 27 and 28 make consequential amendments.

Clause 29: Amendment of s. 223llc—Creation of amalgamation units

Clause 29 corrects a cross reference error in section 223llc of the *Real Property Act 1886*.

Clause 30: Amendment of s. 242—Diagrams of land in certificates of title

Clause 30 makes a consequential change to section 242 of the *Real Property Act 1886*.

Clause 31: Amendment of s. 3—Interpretation

Clause 32: Amendment of s. 62—Special provision for strata and community shopping centres

Clauses 31 and 32 makes consequential changes to the *Retail Shop Leases Act 1995*.

Clause 33: Amendment of s. 3—Interpretation

Clause 34: Amendment of s. 9—Contractual rights of residents

Clause 35: Amendment of s. 10—Meetings of residents

Clauses 33, 34 and 35 makes consequential changes to the *Retirement Villages Act 1987*.

Clause 36: Amendment of s. 47—Capital contribution where capacity of undertaking increased

Clause 37: Amendment of s. 78—Liability for rates

Clauses 36 and 37 makes consequential amendments to the *Sewerage Act 1929*.

Clause 38: Insertion of s. 78AAA

Clause 39: Amendment of s. 93—Amounts due to Corporation a charge on land

Clauses 38 and 39 make amendments to the rating provisions of the *Sewerage Act 1929* similar to amendments made by clauses 9 and 10 and 13 and 14.

Clause 40: Amendment of s. 60—Interpretation

Clause 40 makes a consequential change to section 60 of the *Stamp Duties Act 1923*.

Clause 41: Amendment of s. 8—Deposit of strata plan

Clause 41 amends section 8 of the *Strata Titles Act 1988* to prevent division under that Act after the commencement of the *Community Titles Act*. The *Strata Titles Act 1988* will remain in force for the purpose of administering existing strata schemes.

Clause 42: Amendment of s. 12—Application for amendment

Clause 42 inserts a provision into the *Strata Titles Act 1988* that enables one application to be made where land is being added to or removed from the land in a strata scheme. Without this section an application would be required under section 12 of the *Strata Titles Act 1988* and a separate application under Part 19AB of the *Real Property Act 1886*. A similar provision is included in Part 7 Division 1 of the *Community Titles Bill.*

Clause 43: Amendment of s. 17—Cancellation

Clause 44: Insertion of Part 2 Division 7A

Clause 45: Insertion of Part 3 Division 6A

Clauses 43, 44 and 45 insert provisions that are in the *Community Titles Bill* into the *Strata Titles Act 1988* to maintain uniformity between the two Acts.

Clause 46: Amendment of s. 55—Interpretation

Clause 47: Insertion of s. 16A

Clauses 46 and 47 make consequential changes to the *Valuation of Land Act 1971*.

Clause 48: Amendment of s. 86A—Liability for rates in strata schemes

Clause 48 amends section 86A of the *Waterworks Act 1932*. The amendment extends the ambit of the section to strata lots under the *Community Titles Act*.

Clause 49: Insertion of s. 86AA

Clause 49 makes amendments to the *Waterworks Act 1932* similar to amendments made by clauses 9, 13 and 38. In this case however the amendments only relate to the supply charge for commercial land because this is the only component of water rates that depends on the value of land. Subclause (4) provides for the sake of convenience that the community corporation is liable for rates levied separately against the common property.

Clause 50: Amendment of s. 86B—Sharing water consumption rate in certain circumstances

Clause 50 makes a consequential amendment to section 86B of the *Waterworks Act 1932*.

Clause 51: Amendment of s. 93—Recovery of amounts due to Corporation

Clause 51 inserts a subsection that provides that amounts due to the South Australian Water Corporation in respect of common property are not a charge on the common property but are a charge on the individual lots or units.

Clause 52: Amendment of s. 109B—Capital contribution where capacity of waterworks increased
Clause 52 makes a consequential amendment to section 109B of the *Waterworks Act 1932*.

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

FINANCIAL INSTITUTIONS (APPLICATION OF LAWS) (COURT JURISDICTION) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Financial Institutions (Application of Laws) Act 1992. Read a first time.

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

That this Bill be now read a second time.

It provides for the repeal of section 13 of the Financial Institutions (Application of Laws) Act 1992, which I refer to in this second reading explanation as 'the Act'. The Financial Institutions (Application of Laws) Act 1992 was enacted to apply:

(a) the Queensland Financial Institutions (Queensland) Act 1992 and regulations made thereunder; and

(b) the Queensland Australian Financial Institutions Commission Act 1992 and regulations made thereunder;

as law in South Australia. These laws are referred to as the Financial Institutions (South Australia) Code (the Code) and the Australian Financial Institutions Commission (South Australia) Code (the AFIC Code) respectively. All jurisdictions, other than the Commonwealth, have similar legislation. Both codes operate to administer and regulate the operation of building societies and credit unions (financial institutions) in a uniform manner throughout Australia. The Australian Financial Institutions Commission (AFIC) is the responsible regulator.

The Bill repeals section 13 of the Act and is consistent with the amendment in 1994 to the AFIC Code. As a result of these 1994 amendments, State Supreme Courts are now able to hear appeals from decisions of the Australian Financial Institutions Appeals Tribunal (the tribunal).

However, as presently drafted, the Act confers jurisdiction solely on the Queensland Supreme Court to hear all appeals under the Code and the AFIC Code. Whilst the provisions of the Jurisdiction of Courts (Cross-Vesting) Act 1987 may enable appeals from decisions of the tribunal on matters under the South Australian Code to be transferred to the South Australian Supreme Court, such a decision is solely within the prerogative of the Queensland Supreme Court.

The fact that the AFIC Code has been amended so as to enable appeals from decisions of the tribunal on matters under the South Australian Code to be heard by the South Australian Supreme Court does not override the provisions of the Act. Therefore, in order to give effect to the amendments to the AFIC Code, the Bill will repeal section 13 of the Act, thereby enabling the 1994 amendments to the AFIC Code to have full force and effect.

Similar legislation has been enacted in Tasmania and Western Australia, and all other jurisdictions (except Queensland) are following suit. I commend this Bill to the House.

Clause 1: Short title

Clause 2: Commencement
These clauses are formal.

Clause 3: Repeal of s. 13
This clause repeals section 13 of the principal Act.

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

WITNESS PROTECTION BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill seeks to formalise existing procedures by South Australian police in relation to the protection of Crown witnesses who may be under threat or in danger of physical harm from some other criminal party.

Organised crime, violence and official corruption frequently taint the peacefulness of today's society. In these cases, the evidence of informants can often be vital to successful investigations and prosecutions of those involved. These witnesses, as a direct result of their cooperation with law enforcement agencies, frequently place themselves and their families at risk of injury or even death. Their safety is essential to the effective administration of the criminal justice system with law enforcement agencies having a duty to provide any necessary protection.

The increasing incidence of 'organised crime' has also added a new dimension to the problem. It is clear that persons involved in activities of this nature are quite prepared to resort to violence and intimidation to prevent criminal enterprises being exposed. In extreme cases, it may be necessary for witnesses to be relocated outside of South Australia and provided with new identities, involving a change of passport, tax file number, Medicare number, etc.

The witness protection program currently operated by South Australian police attempts to address this situation by demonstrating to the community that those who are prepared to assist in the enforcement of the law may confidently expect to be protected by it.

While the South Australian program has been operating effectively for several years, it has done so without any formal legislative endorsement. The need for formalisation is not apparent and has been somewhat hastened by the recent federally enacted *Witness Protection Act 1994*. This Act established a program for the protection and assistance of certain witnesses and other persons involved in proceedings within the Commonwealth jurisdiction.

Section 24(1) of the Commonwealth legislation now puts all States and Territories on notice by stating:

> Commonwealth identity documents must not, after the end of 12 months after the commencement of this Act, be issued for a person who is on a witness protection program being conducted by a State or Territory unless:
>
> *(a)* an arrangement is in force between the Minister and the relevant State or Territory Minister relating to the issue of Commonwealth identity documents for the purpose of that program; and
>
> *(b)* a complementary witness protection law is in force in the State or Territory.

Given that the *Witness Protection Act 1994* commenced on 18 April 1995, South Australia has until 18 April 1996 to enact complementary legislation and comply with section 24 of the Act if it wishes to continue utilising the change of identity arrangements.

There are several aspects of this Bill which deserve particular mention.

- The Commissioner of Police will be authorised to establish a State witness protection program.
- Prior to inclusion in the program, witnesses will be required to disclose certain personal information such as outstanding legal obligations, debts, criminal history, bankruptcy, business dealings, etc.
- A memorandum of understanding must be signed by the witness. Some of its provisions include agreement to undergo drug or alcohol counselling or treatment, allow fingerprints to be taken, comply with reasonable directions in relation to the protection and assistance provided, etc.

- If a new identity is to be established, authority in the form of an order must first be obtained from the Supreme Court.
- Among other things, this will require certain State authorities such as the Registrar of Births, Deaths and Marriages, and the Registrar of Motor Vehicles to make the necessary record entries to facilitate changes of identities.
- Various offences have been included to penalise unauthorised disclosure of information relating to witnesses or the program.

I commend the Bill to the House.

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause defines various terms used in the measure and contains other interpretative provisions. Witness is defined widely to mean—

- a person who has given, or who has agreed to give, evidence on behalf of the Crown in right of this State, the Commonwealth, another State or a Territory in proceedings for an offence or in hearings or proceedings before a declared authority; or
- a person who has given, or who has agreed to give, evidence otherwise than as mentioned above in relation to the commission or possible commission of an offence against a law of this State, the Commonwealth, another State or a Territory; or
- a person who has made a statement to the Commissioner, another member of the police force or an approved authority in relation to an offence against a law of this State, the Commonwealth, another State or a Territory; or
- a person who, for any other reason, may require protection or other assistance under the program; or
- a person who, because of their relationship to, or association with, such a person may require protection or other assistance under the program.

Clause 4: Establishment of State Witness Protection Program

This clause requires the Commissioner to maintain the *State Witness Protection Program* under which the Commissioner and members of the police force who hold or occupy designated positions, arrange or provide protection and other assistance for witnesses, including things done as a result of powers and functions conferred on the Commissioner under a complementary witness protection law.

Clause 5: Inclusion in program not to be reward for giving evidence, etc.

This clause prohibits the inclusion of a witness in the program as a reward or as a means of persuading or encouraging the witness to give evidence or make a statement.

Clause 6: Arrangements with approved authorities

This clause empowers the Commissioner to enter into an arrangement with an approved authority about any matter in connection with the administration of a complementary witness protection law.

Clause 7: Authorisation of approved authorities

This clause empowers the Minister to authorise an approved authority to perform functions or exercise powers conferred on the Commissioner under this measure for the purposes of any arrangement entered into between the Commissioner and the approved authority.

Clause 8: Witness to disclose certain matters before inclusion in program

This clause provides that the Commissioner must not include a witness in the program unless the Commissioner is satisfied that the witness has provided all information necessary for the Commissioner to decide whether the witness should be included.

The clause sets out the information that a witness must disclose, which includes details of the witness's legal and financial obligations and liabilities, courts orders to which the witness is subject, the witness's bankruptcy status, immigration status, medical condition, criminal history and financial situation.

The Commissioner may require the witness to undergo medical tests or examinations and psychological or psychiatric examinations and make the results available to the Commissioner. The Commissioner is also empowered to make such other inquiries and investigations as the Commissioner considers necessary for the purposes of assessing whether the witness should be included in the program.

Clause 9: Selection for inclusion in program

This clause imposes on the Commissioner sole responsibility for deciding whether a witness should be included in the program, including cases where an approved authority has requested that a witness be included. A witness can only be included in the program if the Commissioner has decided that the witness be included and the witness agrees and signs a memorandum of understanding.

The matters that the Commissioner must have regard to when deciding whether to include a witness in the program include—

- whether the witness has a criminal record, particularly crimes of violence (and the risk to the public of including the witness in the program); and
- psychological or psychiatric examination or evaluation of the witness's suitability for inclusion in the program; and
- the seriousness of the offence to which any relevant evidence or statement relates; and
- the nature and importance of any relevant evidence or statement; and
- whether there are viable alternative methods of protecting the witness; and
- the nature of the perceived danger to the witness; and
- the nature of the witness's relationship to other witnesses being assessed for inclusion in the program.

Clause 10: Memorandum of understanding

This clause provides that a memorandum of understanding must set out—

- the basis on which a participant is included in the program; and
- details of the protection and assistance to be provided; and
- a provision to the effect that protection and assistance under the program may be terminated if the participant breaches the memorandum of understanding.

The Commissioner can vary a memorandum of understanding, but not so as to remove the above matters from it. A memorandum of understanding may also include—

- the terms and conditions on which protection and assistance is to be provided (including withdrawal of protection and assistance if the participant commits an offence, engages in specified conduct or compromises the integrity of the program); and
- an agreement by the participant not to compromise the security of, or any other aspect of, protection or assistance being provided; and
- an agreement by the participant to comply with all reasonable directions of the Commissioner in relation to protection and assistance being provided; and
- an agreement by the participant, if required by the Commissioner—
  - to undergo medical, psychological or psychiatric tests or examinations; and
- to undergo drug or alcohol counselling or treatment; and
- to allow his or her fingerprints to be taken; and
- allow photographs of himself or herself to be taken; and
- a list of the witness's obligations and an agreement as to how those obligations are to be met; and
- a financial support agreement; and
- an agreement by the participant to disclose to the Commissioner details of any criminal charges and civil and bankruptcy proceedings against the participant.

The memorandum of understanding is also required to include a statement that advises the witness of their right to complain to the Police Complaints Authority about the conduct of the Commissioner or another member of the police force in relation to the matters dealt with in the memorandum.

A witness becomes included in the program when the Commissioner signs the memorandum of understanding.

Clause 11: Register of participants

This clause requires the Commissioner to maintain a register of participants, in conjunction with which the Commissioner must keep the original of each memorandum of understanding, copies of each new birth certificate issued under the program and certain other documents.

Clause 12: Access to register

This clause restricts access to the register of participants, and documents kept in conjunction with the register, to the Commissioner, members of the police force who hold or occupy designated positions and are authorised by the Commissioner, participants, the Police Complaints Authority and persons allowed access by the Commissioner (if the Commissioner is of the opinion that it is in the interests of the administration of justice).

Clause 13: Action where witness included in program

This clause requires the Commissioner to take such action as the Commissioner considers necessary and reasonable to protect the safety and welfare of a witness included in the program or being

assessed for inclusion (while also protecting the safety of members of the police force). The Commissioner may—

- apply for documents to allow the witness to establish a new identity or otherwise to protect the witness; and
- permit members of the police force to use assumed names in carrying out their duties in relation to the program; and
- relocate the witness; and
- provide accommodation for the witness; and
- provide transportation for the witness's property; and
- provide payments for the reasonable living expenses of the witness (and family) and other financial assistance; and
- provide payments to meet costs associated with relocating the witness; and
- provide assistance to the witness to obtain employment or access to education; and
- provide other assistance for ensuring that the witness becomes self-sustaining; and
- do other things that the Commissioner considers necessary to protect the witness.

The Commissioner cannot obtain documentation that represents the witness to have qualifications that the witness does not have, or to be entitled to benefits that the witness would not be entitled to apart from the program.

Clause 14: Dealing with rights and obligations of participant

This clause requires the Commissioner to take such steps as are reasonably practicable to ensure that any outstanding rights or obligations of a participant are dealt with according to law, and that any restrictions to which the participant is subject are complied with. The Commissioner may—

- provide protection for a participant while he or she is attending court; and
- notify a party or possible party to legal proceedings that the Commissioner will accept process issued by a court or tribunal on behalf of the participant.

If the Commissioner is satisfied that a participant is using a new identity provided under the program to avoid obligations incurred, or restrictions imposed, before the new identity was established, the Commissioner must notify the participant that unless the participant satisfies the Commissioner that the obligations will be dealt with according to law or the restrictions complied with, the Commissioner will take such action as he or she considers necessary to ensure that they are so dealt with or complied with.

Clause 15: Cessation of protection and assistance

This clause requires protection and assistance to a participant under the program to be terminated at the participant's request. The Commissioner may terminate protection and assistance to a participant if—

- the participant deliberately breaches a term of the memorandum of understanding; or
- the Commissioner discovers the participant to have knowingly given information that is false or misleading in a material particular; or
- the participant's conduct or threatened conduct is in the opinion of the Commissioner likely to compromise the program; or
- the circumstances giving rise to the need for protection and assistance for the participant cease to exist; or
- the participant deliberately breaches an undertaking given in relation to a matter relevant to the program; or
- the participant fails or refuses to sign a new memorandum of understanding when required to do so; or
- in the opinion of the Commissioner there is no reasonable justification for the participant to remain in the program,

and the Commissioner is of the opinion that, in the circumstances of the case, protection and assistance should be terminated.

Clause 16: Restoration of former identity

This clause empowers the Commissioner to take such action as is necessary to restore the former identity of a participant who has been provided with a new identity under the program if protection and assistance to the participant is terminated. The Commissioner may require the former participant to return all documents relating to the new identity. If the person refuses to do so without a reasonable excuse, he or she commits an offence (maximum penalty—$1 000 fine).

Clause 17: Authorisation for establishment of new identity or restoration of former identity

This clause empowers the Supreme Court, on application by the Commissioner, to make orders for the purpose of—

- establishing a new identity for a witness; or
- restoring the former identity of a witness provided with a new identity.

An order may require a prescribed authority (the Principal Registrar of Births, Deaths and Marriages, the Registrar of Motor Vehicles or a person or body declared by regulation to be a prescribed authority)—

- to make entries in a prescribed register; or
- to issue new documentation, including certificate, licences, permits or other authorities.

An order cannot authorise the issue of documentation for a person that represents the person to have qualifications that the person does not have, or to be entitled to benefits that the person would not be entitled to if the witness were not included in the program.

The Court may only make an order to establish a new identity if satisfied that—

- the making of the order is necessary and reasonable to protect the safety and welfare of the witness; and
- the witness and the Commissioner have entered into a memorandum of understanding; and
- the witness is likely to comply with the memorandum of understanding.

The Court may only make an order to restore a previous identity if satisfied that protection and assistance to the witness under the program has been terminated.

Proceedings for orders under this provision must be conducted in private and unless authorised by the Court, records of proceedings are not open to inspection.

Clause 18: Non-disclosure of former identity of participant

This clause authorises a person who is provided with a new identity under a witness protection program to refuse to disclose their former identity if the Commissioner or an approved authority has given them permission to do so. It also makes it lawful for the person to claim in legal proceedings that the new identity is their only identity.

Clause 19: Special commercial arrangements by Commissioner

This clause empowers the Commissioner to make commercial arrangements with a person under which a participant is able to obtain benefits under a contract or arrangement without revealing their former identity.

Clause 20: Offences

This clause makes it an offence for a person, without lawful authority, to disclose information about the identity or location of a present or former participant in a witness protection program, or information that compromises the security of such a person (maximum penalty—imprisonment for 10 years).

The clause also makes it an offence for a prospective, present or former participant in a witness protection program to disclose—

- the fact that he or she is such a participant; or
- information about the operation of the program; or
- information about a member of the police force involved, presently or in the past, in the program or any person who is assisting or has assisted in the program; or
- the fact that he or she has signed a memorandum of understanding; or
- details of a memorandum of understanding signed by the person.

(Maximum penalty—imprisonment for 5 years). However, the Commissioner or relevant approved authority may authorise a disclosure. A disclosure may also be made if it is necessary to comply with an order of the Supreme Court or for the purposes of an investigation by the Police Complaints Authority.

The clause makes it an offence for a person to make a record of, or disclose or communicate to another person, any information relating to action under clause 17 to establish a new identity for a person or to restore a person's former identity, unless it is necessary for the purposes of this measure, to comply with an order of the Supreme Court or for the purposes of an investigation by the Police Complaints Authority (maximum penalty—imprisonment for 10 years).

The clause does not prevent a disclosure that is necessary for the purpose of action under clause 17 to establish a new identity for a person or restore a person's former identity.

Clause 21: Provision of information to approved authorities

This clause authorises the Commissioner to provide an approved authority with certain information about a participant and the program if the participant is under investigation for, or is arrested or charged with, an offence.

Clause 22: Commissioner and members not to be required to disclose information

This clause provides that the Commissioner, a member of the police force, the Police Complaints Authority or a prescribed authority cannot be required to disclose certain information or produce certain documents to a court, tribunal, Royal Commission or approved authority except where it is necessary to do so to carry the provisions of this measure into effect.

The location and circumstances of a participant in a witness protection program can only be disclosed to a judicial officer in chambers (but not if other persons are present). The judicial officer is required to keep that information secret.

Information about a financial support arrangement for a present or former participant in a witness protection program can be disclosed if it is provided in such a way that it cannot identify their location, or prejudice their safety.

Clause 23: Requirement where participant becomes a witness in criminal proceedings

This clause requires a person who is provided with a new identity under the program, who retains that identity and who has a criminal record under their former identity, to notify the Commissioner if the person is to be a witness in criminal proceedings under that new identity maximum penalty—$1 000).

After the Commissioner receives such notice the Commissioner may take such action as he or she considers necessary, including disclosing the person's criminal record to the court, prosecutor and the accused person or their legal representative.

Clause 24: Identity of participant not to be disclosed in court proceedings etc.

This clause provides that if the identity of a participant in a witness protection program is in issue or may be disclosed in proceedings, the court, tribunal or Royal Commission must hold the part of the proceedings relating to the participant's identity in private and order the suppression of evidence to ensure that the participant's identity is not disclosed.

Clause 25: Immunity from personal liability

This clause gives the Commissioner, a member of the police force, a prescribed authority or any other person involved in the administration of the measure, immunity from personal liability for an honest act or omission in the exercise or discharge, or purported exercise or discharge, of a power or duty under the measure. Liability lies instead against the Crown.

Clause 26: Delegation

This clause limits the delegation of the Commissioner's powers under this measure to a member of the police force who holds or occupies a designated position. The delegate cannot sub-delegate the power.

Clause 27: Annual report

This clause requires the Commissioner to keep the Minister informed of the general operations, performance and effectiveness of the program. It also requires the Minister, in consultation with the Commissioner, to prepare an annual report (in a manner that does not prejudice the effectiveness or security of the program) and table it in both Houses of Parliament within 6 sitting days of its completion.

Clause 28: Regulations

This clause empowers the Governor to make regulations.

SCHEDULE

Transitional Provision

Clause 1: Transitional provision

This clause provides for those persons who, immediately before the commencement of this measure, are included in the witness protection program operated by the South Australian police force, to automatically become participants in the program established by this measure.

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. As members would realise, this Bill emanated from another Chamber. Everyone will agree that in these modern times it is necessary for witnesses against criminals to be provided with protection by the State in those extreme cases where there is a real risk of violent retribution against witnesses and their families from criminals. Up to this point, the South Australian witness protection program has been run by the police without extensive statutory backing. Obviously, it has been undertaken under the discretion of the Commissioner of Police.

The Federal Government enacted the Witness Protection Act 1994 which commenced on 18 April 1995. The Federal Act virtually forces us in South Australia to enact complementary legislation, because the Commonwealth law provides that the Commonwealth will not permit identity documents to be issued pursuant to a State witness protection program after 18 April 1996. The Government must therefore formalise the State witness protection program. Understandably, there are rigorous criteria which must be met before witnesses can be included in the program. It is also reasonable for participating witnesses to sign a memorandum of understanding—something like a contract—in relation to the conditions, rights and obligations of the witness protection to be offered to that particular person.

The obligations which the Commissioner of Police can place on a participating witness can be fairly onerous, in the sense that the commissioner can ask the witness to undergo medical or psychiatric examinations, to lay on the table the financial affairs of that witness and to undergo drug or alcohol treatment.

However, witness protection in our society is a privilege, not a right and, in many cases, the witness and the police will come to a mutually agreeable arrangement because of the interest that the police have in extricating incriminating information from that witness. I note that my colleague, the shadow Attorney-General, Mr Michael Atkinson, in another place, has posed a serious question for the Government and the police to deal with. The question focuses on the implementation and practice of clause 5 of the Bill. Clause 5 provides:

> The inclusion of a witness in the program must not be done as a reward, or as a means of persuading or encouraging the witness to give evidence or make a statement.

The Opposition discerns that there may be some tension between that provision and the requests made by potential witnesses. For example, one can easily imagine a witness saying, 'I will give you the information you want if you provide me with X, Y and Z under the witness protection program.'

We would like our concerns satisfied on this issue. I understand the Attorney has several amendments which are not yet on file, but we will scrutinise these amendments and deal with them in the Committee stages of the Bill. We support the second reading.

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

PASTORAL LAND MANAGEMENT AND CONSERVATION (BOARD MEMBERSHIP) AMENDMENT BILL

Second reading.

The Hon. K.T. GRIFFIN (Attorney-General): On behalf of 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.

The Pastoral Board of South Australia, which has key advisory and regulatory responsibilities in the State's extensive rangelands, has operated quite successfully since 1990, when the Pastoral Land Management and Conservation Act, which establishes the current Board, came into force.

A key component to the breadth of expertise it brought to its considerations was the membership of two pastoralists—one from the ephemeral cattle country north of the Dog Fence and one from the sheep country inside the fence. This membership was enabled by the provisions of the Transitional Clauses of the 1989 Act which established a six person Board to include two pastoralists until the sixth anniversary of the commencement of the Act. This anniversary occurred on March 6 1996 when the then Board's three year term expired.

On that date section 12 of the Act came into operation which caused the Board to revert from the six member configuration to a five member Board including only one pastoralist.

It is Government policy that the Pastoral Board, which has been a six member Board since the operation of the 1989 Act, should continue to include two pastoralist members from the sheep and cattle industries, and be expanded later to include representatives of Aboriginal and recreational interests.

Over the last six years the Board has operated in a very satisfactory manner. The issues facing the ephemeral cattle country north of the State's Dog Fence vary considerably from those within the sheep areas, and it would be extremely difficult, if not impossible, for one pastoralist to adequately input on all issues. This on-ground input is a critical component of the expertise provided by the Board, which also comprises membership from the areas of conservation, soil conservation, administration and arid land ecology.

This brief Bill therefore amends the Act to restore the Board to a six member body and to provide for the appointment of a second pastoralist member. The opportunity is taken to amend various out-of-date references in the membership provision.

Further consideration is being given to wider legislative amendments to the current Act that will address the issues of an enlarged Board membership to more adequately reflect the multiple use of pastoral land, a more secure form of tenure for those uses and simplified rental assessment processes. These amendments have been deferred pending clarification of native title issues and Aboriginal access rights as they apply to land currently held under pastoral lease.

I commend these interim amendments to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 12—Establishment of the Pastoral Board

This clause provides that the Board membership will increase from five to six members, two of whom will be pastoralists selected from lists of names submitted to the Minister by the South Australian Farmers Federation. The rest of the membership remains the same. The titles of the relevant nominating Ministers are brought up-to-date.

The Hon. T.G. ROBERTS: The Opposition generally agrees with the amendments to the Bill that are before us. The changes to the composition of the committee have general agreement, but there are concerns about the extension of the timeframe to three years, as has been indicated by the Government. The conservation groups would like the Government to consider a shorter timeframe, but they do not insist on that.

In the recommendations that the Government has made in relation to the change to the composition of the committee and the inclusion at a later date of those people who would be interested in ecotourism, recreational tourism and perhaps Aboriginal interests in relation to the Bill, there is general agreement that they could be included. The Government has indicated that it is prepared to look at having representatives of Aboriginal interests and recreational interests at a later date, and I think that can be a test of the Government's will, if you like, to make those inclusions or, at least, to try to negotiate those inclusions at some future time. The Opposition supports the recommendations that have been made in the legislation.

It is not a major Bill: it is an extension of a provision that was put into the original Bill by the previous Government. The only thing that it does is extend the lead time for the changes but, as I said, it is a test of the Government's will to negotiate with all those bodies that are included in making recommendations back to the Government. You, Mr President, would be aware that, of the representatives that are now on the committee, one comes from north of the dog fence (representing cattle interests) and the other comes from south of the dog fence (representing basically those people in the sheep industries). At a later date, those interests may be represented by recreation tourism, ecotourism and Aboriginal interests; that is, the ability of Aboriginal groups and people to make input and provisions into recommendations so that, hopefully, we can make better legislation at a later date.

Again, it is an initiative in which the Opposition supports the Government. It will be a test of the Government's goodwill in relation to the time frames I have indicated, and we indicate that there will be a watching brief on the way in which those various interest groups will be consulted and contacted. I guess that the proof of the pudding will be in the eating, and the quality of the people nominated to go on that committee will be another part of the testing program. So, the Opposition supports the initiatives.

Three Bills are before the Council today relating to conservation issues. The first Bill was the Pastoral Land Management and Conservation (Board Membership) Amendment Bill, which dealt with pastoral land management and conservation. It was a prescriptive Bill which made recommendations for changes to the advisory committee and which intended to make provisions for changes to the transitional clauses, which established a six person board to include two pastoralists. That was to remain in place until the sixth anniversary of the Act, which is now, and in 1996 the board was to return to five members.

The Government has decided to maintain the size of that committee and extend the establishment of the transitional period to 1999. The Opposition has no problems with that, other than those promises that had been made—and I referred to them in my contribution—to the community in relation to the extension of contributions being made by community groups and organisations, in particular, recreational organisations and Aboriginal groups. It was said that those matters would be taken into consideration by the Government and that would be in addition to the makeup of the committee.

The Government's position is to maintain the size of the committee as it is and to maintain the membership of the committee by two; that is, one member representing the interests of people north of the dog fence and another member representing the interests of people south of the dog fence. The conservationists would prefer to have a shorter period, but, as I said in my earlier contribution, the Opposition's position is to allow the Government the goodwill to continue with the makeup of the committee as it stands and to test the *bona fides* of the Government by seeing what comes from the Pastoral Land Management and Conservation Board with its new membership. In summary, we supported that position.

The second Bill to come before us this evening related to the potential changes to the Environment, Resources and Development Court, to which we put forward some amendments to maintain a balance in relation to some of the changes that were being recommended by the Government.

The Government has put together three Bills relating to the environment. Even though the Opposition supports some of the changes being recommended, there is a reluctance to allow the Government's position to be carried without amendment.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

[Sitting suspended from 6.2 to 7.45 p.m.]

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

Adjourned debate on second reading.
(Continued from 7 February. Page 825.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their support of the second reading of the Bill. I am disappointed that the Hon. Carolyn Pickles has decided that she will move some amendments to deal with two of the tribunals which we seek to rationalise in consequence of this Bill. I reiterate that the transfer of the jurisdictions of the Soil Conservation Appeals Tribunal and the Pastoral Land Appeal Tribunal to the Administrative and Disciplinary Division of the District Court maintains the *status quo* in relation to these jurisdictions. The tribunals are presently constituted of a District Court judge and two other members. The tribunals exercise an appellant jurisdiction in relation to administrative decisions of a soil conservation board or the conservator or the pastoral board affecting an owner of land or lessee respectively. I suggest that the judges of the District Court, because of the fact that we are proposing to put these into the administrative and disciplinary division, are well qualified to deal with those sorts of issues.

It has to be recognised, as I indicated in the second reading explanation, that the Environment, Resources and Development Court does have expertise in planning and development matters. I know it is described as the Environment, Resources and Development Court. It has not in fact, though, exercised jurisdiction in relation to matters affecting pastoral lands and leases in the past, and the Government does not intend to confer extensive jurisdiction upon that court.

The Hon. Carolyn Pickles asked a question about the estimates of cost savings in changes initiated by the Bill. Certainly, there will be some savings in respect of the streamlining of the administration but we have made no calculations of any cost savings, because I am told that the Soil Conservation Appeals Tribunal and the Pastoral Land Appeals Tribunal have in fact heard no appeals for the past five years. In respect of matters raised by the Hon. Robert Lawson, he does question whether paragraph 98pc(e) is too broad in including offences involving the use of a motor vehicle. New section 98pc(e) provides:

> . . . there is proper cause for disciplinary action against a person who holds or has held a towtruck certificate or a temporary towtruck certificate if—
>
> (e) 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 honourable member suggests that the latter is unnecessarily broad and that an offence involving the use of a motor vehicle may be trivial in nature.

I would respond by saying that paragraph (e) is not unnecessarily broad. It is true that offences involving the use of a motor vehicle may be trivial, but it must be borne in mind that we are dealing with a profession (as I suppose one might describe it) which involves the driving of a motor vehicle or towing another vehicle. Even speeding offences may be considered serious in these circumstances. Equally, paragraph (e) includes within it a simple dishonesty offence. Again, this reflects on the nature of the occupation where people are injured and are unable to protect their property at the scene of an accident. Paragraph (e) has not been amended in any way from its precursor under the principal Act.

In respect of the appropriate burden of proof and whether it should be on the balance of probabilities or beyond reasonable doubt, the burden of proof on the balance of probabilities is entirely consistent with disciplinary proceedings. I believe that without exception all disciplinary proceedings are decided on the balance of probabilities. We are not dealing with proof of a criminal offence. Obviously, if we were, we would then be dealing with the burden of proof as being a matter proved beyond reasonable doubt.

I could refer to other matters, but I come back to the point I made earlier that this Government is seeking to continue the rationalisation of tribunals which the previous Government, particularly the previous Attorney-General, started through the 1980s and early 1990s. We have sought not to make substantive changes to the previous jurisdiction in which these tribunals might be exercised but merely to translate them to the District Court which presently exercises jurisdiction. I repeat that we do not intend that the ERD Court will assume additional responsibilities under the law, for a variety of reasons, not the least of which is that it is constituted of two judges. We certainly do not intend to appoint any more judges to that jurisdiction. They are pretty much up to date with the workload in both the planning and development areas and there is no justification for further judicial resources.

Whilst these two bodies in respect of which the honourable member has amendments on file have not heard any appeals in the past five years, the fact is that as a matter of principle the Government does not believe it is appropriate to vest the jurisdiction in the ERD Court. After all, the Administrative and Disciplinary Division, which was previously the Administrative Appeals Division of the District Court established by the previous Government, is a body which has developed expertise in relation to a wide range of administrative and disciplinary matters.

Bill read a second time.

DE FACTO RELATIONSHIPS BILL

Adjourned debate on second reading.
(Continued from 19 March. Page 970.)

The Hon. R.D. LAWSON: I support the second reading of the Bill. Upon the breakdown of a marriage, either party is entitled to apply to the Family Court for orders relating to the disposition of the property of either or both parties. That court has a very wide jurisdiction. However, in South Australia, upon the breakdown of a *de facto* relationship, partners seeking to assert a claim to property must have recourse to the ordinary equitable jurisdiction of the courts, usually in the District Court or the Supreme Court. The position is different in New South Wales, Victoria, the Australian Capital Territory and the Northern Territory where there is legislation. Law reform commissions in Western Australia and Queensland have recommended changes in those States.

At the national family law conference held in Adelaide in October 1994, the then Federal Attorney-General presented a paper entitled 'Amendments to the Family Law Act—Will breaking up be easier to do?' In that paper Mr Lavarch spoke of 'reforms relating to the matrimonial property', which he

said would be introduced in the Federal Parliament by the end of that year. He said that those reforms were designed to produce more predictable and equitable outcomes. He said:

> There is a significant group of people who will not benefit from these reforms. . . couples who choose to live in a *de facto* relationship. Unless other States and Territories follow the recent lead of Queensland in referring jurisdiction to the Family Court, none of the reform benefits. . . will benefit these couples. . . The Commonwealth has accepted the recommendations of the joint select committee that it seek a reference of power from the States in relation to *de facto* property disputes. . . and that jurisdiction in respect of such disputes be vested in the Family Court. . . Couples who choose not to enter into a legal marriage will have to make do with a sometimes archaic, expensive and second-best process. . . In some States. . . there is specific legislation to deal with this problem. In others, such as South Australia, it is left to cumbersome general common law principles of contract and equity, such as the law of constructive trusts. . .

Our procedures in this field can, in my view, be correctly characterised as cumbersome and expensive. A recently reported case in Volume 61 of the South Australian State Reports concerned the claim of a woman to an interest in a property at Norwood. The property was registered in the sole name of her former *de facto* partner. The value of the interest she was claiming in those proceedings was $80 000. The case occupied six hearing days in the Supreme Court. Judgment was reserved for four months. The judge's reasons occupied 20 pages of the law reports. The judge, Justice Perry, substantially dismissed the claim of the woman. He applied the principles relating to constructive trusts. Although the man was substantially successful, he was ordered to pay the costs of the woman.

The whole exercise was extremely expensive and time-consuming, not to mention the emotional trauma of a case such as this on all parties. The expense to the State was also high. The courts administration claims that it costs the State $10 000 a day to conduct a Supreme Court trial. This case is typical. Any claim based on a constructive trust is legally and factually complex. The doctrine of constructive trusts was revived by the High Court only as recently as 1985 in a case called *Muschinski v Dodds*, and the precise application of this newly emerging doctrine to individual circumstances is still being worked out by the courts. This leads to uncertainty in the results of cases and it also makes it difficult to settle cases out of court when one cannot satisfactorily predict the likely outcome.

A leading commentator in this field, Professor Rebecca Bailey-Harris, who was foundation Dean of the Flinders University Law School and is now a Professor of Law in England, wrote in the December 1993 issue of the periodical, *Reform*, as follows:

> The general law [in this area] is complex and unclear. A multiplicity of equitable doctrines and remedies co-exist, including resulting and constructive trusts, *quantum meruit* and proprietary estoppel.

She went on to say:

> In conclusion, the law relating to *de facto* relationships in Australia is ripe for reform. . . No longer can couples' rights be determined by a system of rules which even to professional lawyers presents itself as a formidable legal jigsaw puzzle. Let us hope that political considerations will not bar the way to a just solution.

It is not only lawyers and academic commentators who have criticised the existing rules. Ordinary members of the community are obviously most affected by them. A letter published in the *Sunday Mail* on 25 December 1994 is typical of the complaints one receives in this area. The writer of that letter, who resided in suburban Adelaide complained as follows:

> Are you living in a *de facto* relationship? Do you think, if you separate, you will be entitled to half of everything you have? Well think again, especially if you live in South Australia.
>
> My *de facto* and I have been living together for the majority of our six years as a couple. We have had three children. . . made eight moves and have always lived and acted like a married couple with children. I was forced into going back to work part-time because money was scarce and my *de facto* was on WorkCover.

The letter continues:

> When my *de facto* went back to work he met up with a man willing to go into partnership with him and form a company. The business became extremely successful, so much so, the amount of turnover was beyond comprehension for a business in its early years.

Further:

> My *de facto* has since left me and our children and has asked me to resign [as a director] which I have done. I could not believe it when I was told there was no *de facto* law in South Australia, which means my children and I are not entitled to any share of the company.

The letter continues:

> After the blow of losing him and the financial security we had, he is now refusing to pay maintenance.
>
> But how can he refuse? I mean, it's not like he can't afford it.
>
> He recently started leasing a $72 000 vehicle, owns a $30 000 vehicle, is in the market for a new ski boat, paid for Grand Prix tickets for himself, his new girlfriend and a number of employees and is preparing to build himself a holiday home. I certainly don't call this taking responsibility for his children.

The concluding remarks state:

> There is a desperate need for *de facto* laws in the States that do not carry them. Why, after a separation or tragic loss, are we no longer classed as married couples?

The Hon. Anne Levy interjecting:

The Hon. R.D. LAWSON: I am not sure that all the claims made by the correspondent on that occasion were correct, especially in relation to maintenance. It was interesting that that letter prompted a reply, which was also published in the paper. The letter said that the South Australian law does protect *de facto* spouses. This correspondent, Mr Rod Kisa of Whyalla, said:

> Basically, South Australia grants legal recognition by the Family Relationships Act 1975 where it defines a putative spouse.

However, the Family Relationships Act, whilst it is a useful measure in relation to certain provisions, does not allow parties to make claims for domestic property and certainly where both parties are still alive. It does enable, together with other provisions of the law, a *de facto* spouse—called a putative spouse—to receive benefits on an intestacy.

The incidence of *de facto* relationships in Australia is reasonably significant. According to the 1991 census—and I understand the census figures in this respect are somewhat understated—almost 8 per cent of couples in this State lived in *de facto* relationships compared with 5.5 per cent in 1986. That is a substantial increase. According to those census figures, over 40 per cent of *de facto* couples had dependent children.

The popularity of *de facto* relationships is a fair commentary on present lifestyles. Helen Glezer, in an article published in the Australian Institute of Family Studies in December 1991, describes the changing pattern of marital and marital-like cohabitation. She said:

> In the past those living in consensual unions tended to be the poor, those unable to divorce estranged spouses and the *avant-garde*. In recent years there has been a trend towards young people leaving home and being independent for a period before marrying. In many instances this involves being sexually active and setting up house in marriage-like relationships. This means that marriage is less likely to be a young person's first experience of living with someone else

in a committed sexual relationship. Increasingly, young people are postponing marriage in favour of living together until their mid to late 20s. Not only has the rate of cohabitation before marriage escalated; the increase in the divorce rate has also resulted in a high incidence of cohabitation after marriage breakdown. In line with those demographic trends, cohabitation now appears to be widely accepted and tolerated by the law and the general population.

That commentator went on to review the literature on the subject in a number of learned articles and concluded as follows:

Cohabitation is regarded as a state in courtship, a trial marriage, a prelude to marriage and not a substitute or as an alternative to marriage, according to many other commentators. Some suggest that it should be viewed as part of a dating process and therefore more related to pre-marital dating relationships than marriages.

Helen Glezer went on to analyse data from the Australian Institute of Family Studies' Australian family formation project of 1991. Interesting figures were derived from that study. Amongst them were these:

Among those in an existing *de facto* relationship, 11 per cent had been together for more than 10 years; 26 per cent for five to 10 years; 27 per cent three to four years; and, 36 per cent up to two years.

Those figures do indicate that a great number of *de facto* relationships are of long standing. The figures also showed that about 30 per cent of those who had been living together for more than five years choose not to legalise their relationships. These figures all indicate that *de facto* relationships are an established feature of the Australian scene. So, it is necessary for this Government to bring forward a measure of law reform and the Attorney is to be congratulated for introducing the current measure.

The Hon. Anne Levy interjecting:

The Hon. R.D. LAWSON: The honourable member interjects that these things should be sent to the Family Law Court. I do not agree with that proposition. That was certainly the view of the former Federal Attorney-General. It is certainly not my view nor the view of my Party that there is much to be gained by giving to the Family Law Court a further jurisdiction. Frankly, the procedures of the Family Law Court need to be substantially changed before it is a jurisdiction to which we should commit further State disputes. The essential features of this Bill are found in Part 2 dealing with cohabitation agreements and Part 3 dealing with the adjustment of property interests.

The Bill defines a *de facto* partner as one who lives in a *de facto* relationship and includes someone who is about to enter into a *de facto* relationship, that definition being necessary in order to make effective cohabitation agreements, or a large number of cohabitation agreements, and it also includes those who have in the past lived in a *de facto* relationship. *De facto* relationship means a 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. I had some reservations about the adoption of the expression 'genuine domestic basis' because our own Family Relationships Act had given rise to a number of decisions in the courts in which the appropriate tests for the courts in determining whether or not parties were living in a *de facto* relationship for the purpose of that Act had been developed.

The Hon. Anne Levy interjecting:

The Hon. R.D. LAWSON: The honourable member's interjection about getting in bed sniffers is hardly an appropriate contribution to this debate. Nobody suggests that, in this jurisdiction, courts today are interested in bed sniffing. The concept of a genuine domestic basis is one that must be fairly well understood, and one does not imagine that it will give rise to any great problems of definition.

The introduction and legitimisation of cohabitation agreements is timely. As any lawyer in practice will tell members, there is a demand for cohabitation agreements. The demand has been built out of an expectation from developments in the United States that such agreements not only are reasonable but are appropriate. I must say that in my experience in practice most requirements for cohabitation agreements come from men who are either wealthy or contemplate that they might be wealthy in the near future and are keen to protect their wealth from claims by rapacious *de facto* spouses. That is the demand that one commonly finds in practice, and it is not the sort of demand for which one can have much sympathy.

The Hon. Anne Levy: They could be regarded as rapacious themselves.

The Hon. R.D. LAWSON: Indeed. However, it is not always a party in a position of some wealth who requires a cohabitation agreement. We will find in the future that, because they are readily available, both parties to *de facto* relationships or both parties about to enter into *de facto* relationships will take advantage of their availability.

Part 3 of the Bill deals with the property adjustment orders, which can be made after a *de facto* relationship ends. The advantage of these provisions is that they are simple to apply. The jurisdiction will be an easy one to excite by simple application. One does not imagine that applications under this provision in the Bill will give rise to the sort of case I mentioned earlier in this speech relating to the property at Norwood. One would imagine that these cases will be resolved in a shorter time, but more importantly it will be possible for legal advisers to advise clients on their rights on the likely outcome so as to facilitate rapid settlement and resolution of these issues, which is something to be commended.

Clause 8 (2) provides that the jurisdiction is available only to those whose *de facto* relationship existed for at least three years or in circumstances where there is a child of the *de facto* partners. Some States have adopted two years and others three years, and basically it is a matter of choice. I would have had no objection to a shorter period than three years, but there can hardly be any complaint given the figures I cited earlier relating to the duration of most *de facto* relationships which is substantially more than three years in the majority of cases.

The Bill also provides that an application must be made within one year of the end of the *de facto* relationship unless the court is satisfied that an extension of this period of limitation is necessary to avoid serious injustice. One year is a fairly short period, it must be said, because often *de facto* relationships, just as with marriages, do not end in some cataclysmic event and it is not always easy to determine precisely when the relationship ends. Often people leave for trial separations; there are reconciliations and, in many instances, more than one reconciliation. So, the time at which the *de facto* relationship ceases is not always easy to determine. At the time, whatever the parties' intentions may be, it is not easy to say whether or not the relationship is entirely over. So, one year is a relatively short time within which to make an application, but the court does have power to extend the time and I would imagine that there will be many cases in which applications are made out of time and an extension will be necessary.

The criteria for the granting of extensions are not entirely spelt out, although there is a requirement that the extension be granted to avoid not merely injustice but serious injustice. Again, the courts will have to work out what is the difference between serious injustice, injustice and the like. They are problems commonly encountered within the courts. The court will have wide discretion to make such orders as it considers necessary, and that is contained in clause 9. No criteria are specified: the matter will be at large and the court will have to make its order in accordance with what it considers to be just and equitable. However, there is a substantial body of law on the meaning of 'just and equitable', and there is also a fairly substantial body of jurisprudence dealing with appropriate forms of division.

Clause 10 sets out matters to be considered by the court. These are matters that the court is required to consider, including matters which the courts are accustomed to handling, for example, financial and non-financial contributions, whether directly or indirectly, leading to the acquisition and improvement of property and the like. The court must consider contributions including home making or parenting contributions made by either of the *de facto* partners.

The court is required, as one would expect, having regard to Part 2 of the Act, to bear in mind the terms of any relevant cohabitation agreements. It is a duty imposed upon the court, as far as practicable, finally to resolve questions about the division of property between *de facto* partners to avoid further proceedings between them. This measure has been warmly greeted by the legal profession, and especially by those practitioners who specialise in this area, because there have been an increasing number of claims and disputes which—

The Hon. Anne Levy interjecting:

The Hon. R.D. LAWSON: The honourable member says that the lawyers might not make as much money. As a matter of fact, most lawyers will tell you that they favour simple and predictable procedures, not because they make any more money at all but because matters are disposed of not only more expeditiously but also to the satisfaction of their clients, and long complex matters, where the result is difficult to predict, are not ultimately in their own interests.

Contrary to the imputation in the honourable member's interjection, most lawyers are interested in serving their clients and in achieving appropriate and just results for them. Lawyers are not greatly interested, in my experience, in the financial results of individual matters. They, like anybody else, wish to have a reasonably comfortable remuneration for their efforts. They are not, however, driven solely by financial considerations. They welcome any measure to improve our procedural and substantive laws.

One of the matters that is not addressed in this Bill (and I make this comment in no way in criticism of the Attorney-General for introducing the measure in this particular form) arises from the fact that many small disputes arising in *de facto* relationships do not involve substantial property. Many small disputes, according to the Legal Services Commission, involve matters such as television sets, motor cars of little value and other items of personal property which may have been purchased or acquired during relatively short relationships. These are items of importance to the individuals concerned. However, their value does not warrant invoking the processes of the courts.

The Legal Services Commission finds that much time is spent in mediating and arbitrating disputes of this kind without any firm legal foundation or legal rules which can be applied and which can be, as it were, imposed upon parties who are being unreasonable in relation to such matters. We must leave for another day the solution to this difficult problem.

I favour the introduction of this measure to bring us into line with most other enlightened States in the Federation. However, I hope that in the future an appropriate proposal will be developed that will solve those smaller disputes. I commend the second reading.

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

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

In Committee.

(Continued from page 1027.)

Clause 1—'Short title.'

The Hon. CAROLYN PICKLES: I move:

Page 1, lines 15 and 16—Leave out 'Administrative and Disciplinary Division of District Court' and insert 'Abolition of Tribunals'.

Although I have placed a number of amendments on file, only one simple question of policy is to be addressed. I give an indication now that the Opposition will address all its remarks to this clause because the other clauses will be consequential upon the success or failure of this clause. If this clause fails we will not proceed with the rest of our amendments. This is a test piece.

The issue is what is the most appropriate forum for appeals arising under section 54 of the Pastoral Land Management and Conservation Act and section 51 of the Soil Conservation and Land Care Act. Generally speaking, these matters mostly relate to the use of land and the conditions upon which land can be used. Sometimes technical questions of an environmental and scientific nature might be involved, for example, in relation to the reasons why a soil conservation order ought to be varied or not varied. In these areas we are clearly within the province of the Environment, Resources and Development Court. The issues dealt with by the ERD Court pursuant to its Development Act and the Environmental Protection Act will, in many cases, be similar to the issues that would arise under these two other Acts to which I have referred.

The ERD Court simply has a jurisdiction given to it by other Acts. There are no hard and fast rules about what should or should not be an ERD Court matter. It is recognised, however, that the judges of the ERD Court are steadily increasing their experience and expertise in a range of planning, development and environmental matters. Undoubtedly there is value in our judges' developing a familiarity with the key planning and environmental issues that occur again and again in the matters brought before that court.

So, the policy question is simple. The Opposition says that the ERD Court is the most appropriate forum for the pastoral land management and soil conservation issues that the Government would otherwise have sent off to the Administrative and Disciplinary Division of the District Court.

I am going into some of the detail of our argument at this stage, as I have indicated, because we believe that this is the test case. If our amendments are successful, the Bill is really about abolishing various tribunals and transferring the jurisdiction of those tribunals to two different recipients: the

Administrative and Disciplinary Division of the District Court on the one hand, and the ERD Court on the other hand. If the Australian Democrats are with us on this amendment, I hope they will be with us on the remainder of the amendments, although I will be surprised if they do not support these amendments. If that is the case, the Democrats might as well indicate their opposition in the vote on this clause, and, in order to save the time of the Council, I will not bother, as I indicated, with the rest of the amendments.

I turn to the statutory provisions which give rise to the jurisdictions and which the Government would have transferred to the Administrative and Disciplinary Division of the District Court. Section 54 of the Pastoral Land Management and Conservation Act provides:

> A lessee who is dissatisfied with—
> (a) a decision to vary the conditions of a pastoral lease;
> (b) a decision not to extend the term of a pastoral lease;
> (c) a decision under section 41 (property plans);
> (d) a decision under section 45 (establishment of access routes);
> (e) a refusal of consent to a transfer, assignment, mortgage, subletting or other dealing with a pastoral lease;
> or
> (f) a decision to cancel a pastoral lease or impose a fine on a lessee for breach of lease conditions,
> may appeal to the tribunal against the decision.

The reference to section 41 creates a right of appeal in respect of property plans. A property plan is a submission to be prepared by the lessee when required to do so by the Pastoral Board. Lessees are required to prepare property plans if the board is of the opinion that the pastoral land has been damaged or is likely to suffer damage or deteriorate. The property plan must then address the problem on the land and specify how the land will be better managed in future. Where an existing plan is not working in terms of rehabilitating the land or minimising deterioration of the land, the board may require a pastoral lessee to submit to the board a revised property plan. In these cases, although the Pastoral Board is not the author of the property plan, the board has extensive powers to require modification of the plan. If the board ultimately fails to receive a property plan in a case where a property plan is required, the lessee can be held to have breached the lease with the ultimate consequence that the pastoral lease may essentially be forfeited.

The point to be made here for present purposes is that these property plans will often have details about foliage, erosion, land clearing and grazing. The Opposition is strongly of the view that these matters fall naturally into the province of the ERD Court.

A similar argument applies in relation to section 45 of the Pastoral Land Management and Conservation Act. Section 45 refers to the creation, variation or revocation of public access routes for the purpose of moving stock. Stock routes obviously have consequences for the land owners or pastoral lessees over whose land the stock is taken. There are also acute implications for the natural habitat along the stock route, particularly in respect of foliage degradation and soil erosion.

Again, it can readily be seen that environmental issues can arise and be debated in respect of these matters. We say that where a pastoral lessee is dissatisfied with a decision by the board to establish or vary an access route across his or her property, it will be more appropriate for the appeal to go to the ERD Court than the administrative and disciplinary division of the District Court. If we are to have an ERD Court—and it is clearly Labor Party policy that we should—these are the sorts of matters which ought to be dealt with by that court.

I now turn to the Soil Conservation and Land Care Act. Section 51 of that Act gives a right of appeal to an owner of land who is dissatisfied with a decision of a board or the conservator (a) to revoke an approved property plan, (b) to make or vary a soil conservation order against the land owner, or (c) cause work to be carried out on land pursuant to section 42.

The board in this case refers to a soil conservation board. The conservator is the public servant charged with the responsibility for implementing the Act in parts of the State which are not covered by a soil conservation board. Most of the soil conservation orders and property plan approvals are given by soil conservation boards in the non-metropolitan parts of the State. The property plans are similar to the plans under the Pastoral Land Management and Conservation Act. They are plans for land management with a particular focus on the prevention of erosion and degradation. They may be voluntary, in which case the board may approve the plan, or they may be compulsory pursuant to a soil conservation order made by the board.

Soil conservation orders may deal with a variety of topics, such as the preservation of native vegetation, ordering specified vegetation to be planted, changing land management practices, taking steps to rectify damaged land, stock control in respect of particular areas of land, and so on. Again, these are clearly matters which could well be dealt with by the ERD Court.

I mentioned that section 51 of the Soil Conservation and Land Care Act gives rights of appeal in respect of approved property plans and soil conservation orders. There is also a reference to section 42. That section gives power to the board to carry out work on land if it is satisfied that a person has contravened or failed to comply with a soil conservation order.

It can be seen that the various provisions which give rise to a right of appeal under the Soil Conservation and Land Care Act all involve the same range of possible issues. Having looked closely at the Pastoral Land Management and Conservation Act and the Soil Conservation and Land Care Act, the reasons for the Opposition preferring the ERD Court to have jurisdiction on the matters dealt with by those Acts should be readily apparent. The only complication—and it is a slight complication—is the matter of equipping the ERD Court with commissioners who would fulfil exactly the same function as the members of the tribunals set up under the two Acts which I have been discussing.

The Pastoral Land Appeal Tribunal is presently constituted of a District Court judge and two experts chosen by the judge from a panel of experts established under the Act. The Soil Conservation Appeal Tribunal is presently constituted of a District Court judge and two other Government appointed members, one of whom is a landowner and one of whom must be an employee of the Department of Agriculture, now the Department for Primary Industries.

We have grafted these tribunal arrangements onto the existing ERD Court structure so that appeals will be heard by a judge and two commissioners. I ask honourable members to note that the amendments placed on file in my name in February refer to the court being constituted of a judge and no fewer than two commissioners. Upon reconsidering those amendments, we have subsequently placed on file amendments which stipulate that it will be a judge and two commissioners. This would be more in keeping with the past

practices of the relevant tribunals and would also be in line with the assessor's situation in the District Court.

In relation to the constitution of the ERD Court, when hearing appeals in soil conservation and pastoral land matters, section 15(13) of the ERD Court Act will apply. Section 15(13) provides:

> Where other provisions of this Act or the provisions of a relevant Act deal with the manner in which the court is to be constituted for the purposes of proceedings or any other business under a relevant Act, this section applies subject to those provisions.

This provision in the ERD Court Act ensures that there is no difficulty in having a judge sit with two commissioners in these types of appeals. Honourable members will also note that the qualifications of the existing commissioners have been considered in our amendments.

In respect of the Pastoral Land Management and Conservation Act, we have specified that one commissioner should have practical knowledge of and experience in the use and management of land used for pastoral purposes. The other commissioner is to have practical knowledge of and experience in the conservation of pastoral land. We have aimed to preserve the balance that existed on the Pastoral Land Appeal Tribunal.

In respect of the Soil Conservation and Land Care Act, we say that one of the commissioners should have practical knowledge of and experience in land care or management. The other commissioner is to have practical knowledge of and experience in environmental protection and conservation or agricultural development. Again, we are striving to retain the balance that existed on the Soil Conservation Appeal Tribunal. Our approach here does differ from the Soil Conservation Appeal Tribunal and the approach taken by the Government in its Bill.

Each assessor chosen for the District Court pursuant to clause 22 of the Government Bill must be a landowner, on the one hand, and an employee of the Department for Primary Industries on the other hand. In our view the real aim here is to have commissioners of sufficient expertise to deal with the problems that arise, and this is not necessarily achieved by insisting that a landowner and public servant make decisions in the District Court. There is a range of people, very often including landowners and farmers, who could fulfil the requirements.

At the end of the day we have kept pretty well in line with the structure of the relevant tribunals, but we have improved matters as we have transferred the jurisdiction to the ERD Court by insisting on relevant and balanced experience represented in the commissioners to be chosen to deal with these matters. As I indicated earlier, the Opposition has taken this approach of speaking comprehensively to the first amendment on file because there is essentially one question here: whether or not the pastoral land and soil conservation matters that I have discussed should be dealt with by the ERD Court or the administrative and disciplinary division of the District Court. I believe that we have sought to transfer those matters to what we see as clearly a more appropriate forum. As I have indicated earlier, should we fail with this amendment we will not be proceeding with the rest of them.

The Hon. K.T. GRIFFIN: The amendments are not acceptable to the Government and will be opposed. I have already made some observations at the second reading reply stage, but I think there are some additional matters that ought to be referred to. To some extent I suppose the issue is presently theoretical because, as I indicated earlier, the listing coordinator of the Courts Administration Authority has advised that those two tribunals (the Pastoral Land Appeal Tribunal and the Soil Conservation Appeal Tribunal) have not heard any matters in the past five years. Notwithstanding that, the Government does believe that it is important as a matter of principle to resolve the issues in the way in which the Bill seeks to do.

What we had in mind was that we would merely reflect to a very significant extent the provisions in the separate Acts, but on the basis that if there were appeals in these and the other matters the resources of the District Court would be employed in a proper and rational way to deal with these through the administrative and disciplinary division of the District Court rather than their being put into the Environment, Resources and Development Court, which is a recently established court (in 1993). The two principal Acts relating to the Pastoral Land Appeal Tribunal and the Soil Conservation Appeal Tribunal were in fact enacted in 1989—fairly comprehensive pieces of legislation that did recognise the value of the District Court. But I acknowledge that the Environment, Resources and Development Court was not then established, although it came a mere 3½ years later. Up until now, in all the jurisdictions that are exercised by a district judge, conferred by various pieces of legislation in the establishment of tribunals, there has not proved to be any particular difficulty, in particular in the environmental area.

There are a few issues that do need to be considered. The District Court has historically exercised a civil jurisdiction in relation to the management, conservation and rehabilitation of pastoral lands. The District Court exercises a civil enforcement jurisdiction in relation to illegal clearance of native vegetation and heritage agreements under the Native Vegetation Act. The Native Vegetation Council, the statutory authority established under the Act, is required to consult with the Soil Conservation Board and the Pastoral Board where an application for consent to clear pastoral land is being considered by the council. The District Court also exercises an appellate jurisdiction in relation to the decisions of the council pursuant to section 29(15) of the Native Vegetation Act of 1991.

There are a number of cases in which civil enforcement proceedings for illegal clearance of native vegetation have been dealt with by the District Court. I can identify those if members wish to have them, but they are quite numerous. The ERD Court is recognised, as I said at the second reading reply stage, as a specialised appellate jurisdiction in relation very largely to planning and development matters. One has only to look at the nature of appeals that go before the ERD Court to see that that is so. The vast majority of cases that go to the ERD Court relate to building applications, and whether approvals should be given to construct a garage, erect a sign or build a two-storey apartment.

I suggest that that jurisdiction is not akin to the jurisdiction under conservation legislation and that relating to management of pastoral lands. There is a quite extensive list of matters which have been dealt with in the Environment, Resources and Development Court. All of the decisions have related to the erection of one or more buildings, either residential or commercial in character. The only exceptions being two applications dealing with advertising signs, an application for road widening, two notices to ameliorate the unsightly condition of land by placing objects behind a fence or displayed within a building, a notice of cooking smells from pet food and supply shop, parking of a truck in a residential one zone, use of land for church car park, retrospective application for approval of an excavation and an

application for approval to erect a structure to receive television signals via satellite.

The court also exercises water resources jurisdiction. There have been only three decisions in that jurisdiction—all in 1996. There were two applications for an increase in water quota from a well and one application for approval to consolidate two licences. There has been within the environment industry some criticism of the District Court in relation to fisheries matters, for example, which I suppose one could say are akin to resource or environmental matters. In those sorts of cases both the Magistrates Court and the District Court have been exercising a discretion to confiscate quite substantial assets involved in the commission of offences and also to impose very hefty fines and, in some instances, gaol sentences.

So, whilst I note the concerns of the honourable member and the policy position which she takes, the Government is of the view that the arguments which she puts are not persuasive and that the Environment, Resources and Development Court ought not to be given expanded jurisdiction. As I said earlier, we do not intend as a Government to add to the judicial resources of that court. There are already difficulties in the exercise of the criminal jurisdiction which it has. It has been quite clear on the public record that we are giving consideration to the issue relating to criminal jurisdiction and the resources which that requires as opposed to the resources which are available, particularly in the Magistrates Court. It is not our intention to confuse the issue of appeals to what were previously tribunals by agreeing to confer the jurisdiction of the Pastoral Land Appeal Tribunal and the Soil Conservation Appeal Tribunal upon the Environment, Resources and Development Court. I very vigorously and strenuously oppose the amendments for those reasons.

The Hon. M.J. ELLIOTT: I indicate that the Democrats support the amendments. I see a great deal of value in specialist courts and, frankly, I disagree with the Attorney's position. There are other matters that should also find themselves before the ERD Court. As a member of the Environment, Resources and Development Committee of the Parliament I believe that planning matters and environment, resource and development matters all belong together. They are part of the same suite and I see no conflict in that before the committee I am involved with. In fact, I think that they belong together and that they belong together in the same court and within a specialist court. We supported the establishment of the Environment, Resources and Development Court at the outset. We have had no reason to re-evaluate that position and we see value in other matters such as those which are being pursued by way of amendment here tonight as also being worthy of placement before that court.

The Hon. CAROLINE SCHAEFER: At this late stage, I would support the Attorney-General and say that I am concerned about the implications of the Leader of the Opposition's remarks regarding her amendments. Although no-one ever seems to spell it out in this place, the implication is always that pastoralists are some sort of rapists of the land and that we must get experts in from outside to make decisions about how they can best keep the land on which they have lived for generations. This is another example of that. It is another example of people who live in glasshouses bringing down judgments regarding areas and people about which they have no knowledge. Surely, an appeal is just that: an appeal is something you take to a neutral body, preferably an expert in the law, to make a neutral, unbiased decision. Yet, we are now seeing people who want to nominate who shall sit on these boards. They are to be specialist boards; they are not therefore to be neutral and make an assessment of the law as it stands. They are to pass judgment on the people who make their livelihoods there, and the implication is that they do not have conservation or environmental qualifications in their own right. I find some of these amendments quite offensive, and I want that comment on the record.

The Hon. K.T. GRIFFIN: I know that the Hon. Mr Elliott takes the view that there should be specialist courts. The very real danger of specialist courts is that they lose contact with the real world. I am not suggesting that the judges of the ERD Court have lost contact with the real world; they are two very capable judges. But, if you spend all of your time in a particular jurisdiction without being exposed to other experiences—other areas of the law—there is a very real risk that you will become somewhat insular in your approach to the issues raised in a so-called specialist context. That was one of the reasons why in, I think, 1981 the then Liberal Government brought legislation before the Parliament to bring the Planning Appeal Tribunal firmly within the structure of the mainstream courts. We had a body of five judges who were not even sitting in the same location as the rest of the judges and there was no opportunity for cross-fertilisation of ideas or seeking to be or being in a position where they could be exposed to other ideas and other areas of the law.

Whilst there may be some criticism of a generalist approach by the District Court to the range of jurisdictions which it has, the fact is that it does have wide experience and it is competent. There may be differing levels of competence but, if people do not like a decision, whether it is in the criminal or some other civil area, they can always take the matter on appeal to the Supreme Court. The whole object of the Administrative and Disciplinary Division of the District Court—a division which was established under a different name by the previous Government—is to bring together all those jurisdictions—a very diverse range of jurisdictions—which are essentially of a judicial nature but which have previously been exercised by a multiplicity of different tribunals. It was the in thing in the 1980s to say that the courts cannot deal with this or that and let us have a tribunal. The previous Attorney-General and the previous Government began to move to rationalise those tribunals and to say that this was nonsense.

It might be of some interest to persons who practise in a particular area of the law to have a tribunal to deal with something on a specialist basis, but it really did not always ensure that there was a basis for good decision-making. That is really the rationale which has prompted this Government to bring this Bill before the Council—to reflect what is in the principal pieces of legislation but also to bring all the appellate work under the umbrella of the Administrative and Disciplinary Division of the District Court.

It also makes sense from a perspective of rationalisation of resources, because you can better manage the resources in one location with, for example, one listing coordinator, and you can also build up a body of expertise about principles which previously were in the hands of a different range of personnel as much as about the particular issue.

So, I do not agree with the Hon. Mike Elliott or the Hon. Carolyn Pickles. I am sure that we will continue to have significant differences of opinion on this matter as I do with some practitioners in the field who strongly support the isolation of criminal jurisdiction in this ERD Court from the

mainstream criminal jurisdiction where there is no experience and focus upon the day-to-day principles which apply to those citizens who are charged with a criminal offence. We will have an opportunity to debate that issue at some time in the future. I commend to the attention of the Hon. Carolyn Pickles and her Party and the Hon. Mike Elliott and his Party some consideration of the principles which apply in relation to the criminal jurisdiction of this particular court, because it is an issue that we will seek to revisit at some time in the future.

The Hon. M.J. ELLIOTT: There is no debate about the rationalisation of resources and, perhaps, the more efficient use of them but, as the Attorney-General well knows and I think has acknowledged, I take the view that there is a role for specialist courts. I do not believe that practising in an area which has no relevance to a particular case that you are doing enables you to view that case any better, or I suppose any worse, in isolation, but I do think that you do have a great deal to gain from working in an area and coming across the same sorts of things on a more frequent basis where the same sorts of issues are being explored. I think there is a better development of understanding. Some judges are quite famous: they get certain types of cases before them and they simply do not cope with them. Some cases they see infrequently. I support the notion of a specialist court in this area just as I support a family court which handles special cases or a children's court and the sorts of cases that it has to handle. I think the quality of decision-making will be enhanced.

I know that the comments made about the Hon. Carolyn Pickles were not directed at me, but I will put on the record that I do not believe that pastoralists should be removed from the pastoral lands. I believe they have an important—

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: Yes, but the comments were directed to you.

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: Okay. I hope that, when the Hon. Caroline Schaefer referred to the Hon. Carolyn Pickles, she was not inferring that I had such a view, because I certainly do not. The Farmers Federation is quite aware of that. I had a meeting with the Farmers Federation only a few weeks ago to discuss issues related to pastoral lands, and I put on the record then that I do not take the view that pastoralists should be removed. I want to make sure that is clearly on the record.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: Don't be ridiculous. In relation to the composition of the court, it seems to me that regarding pastoral matters it would be a good thing if a person with expertise relating to pastoralism and another person with expertise relating directly to conservation matters assisted the judge. It simply provides balance of advice within that structure. I do not see any bias coming out of that at all.

The Hon. CAROLYN PICKLES: I thank the Australian Democrats for their support. I will correct the misinterpretation of my remarks by the Hon. Caroline Schaefer. In fact, I was calling for a balance in this. As the Australian Democrats have indicated, we do not share the views that the honourable member has attributed to us. In relation to the Soil Conservation and Landcare Act, we say that one of the commissioners should have practical knowledge of and experience in landcare or management. The other commissioner should have practical knowledge of and experience in environmental protection, conservation or agricultural development. We went on to say and I quote from the remarks I made earlier:

> In our view, the real aim here is to have commissioners of sufficient expertise to deal with problems that arise. This is not necessarily achieved by insisting on a land owner and a public servant making decisions in the District Court. There are a range of people, very often including land owners and farmers, who could fulfil the requirements.

Contrary to what the Hon. Caroline Schaefer tried to attribute to me, I did not make those remarks and perhaps she should read it in *Hansard* tomorrow. I thank the Australian Democrats for their support.

The Committee divided on the amendment:

AYES (8)

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

NOES (7)

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

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 2 to 8 passed.

Clause 9—'Interpretation.'

The Hon. CAROLYN PICKLES: I move:

Page 5, lines 27 to 29—Leave out these lines.

This amendment takes out the definition of 'District Court', which the Bill would have inserted into the Pastoral Land and Management Act.

The Hon. K.T. GRIFFIN: I oppose all of these amendments, but I recognise that they are largely consequential upon the division that I have lost. I indicate that the amendment is not acceptable to the Government. There will be further opportunities to discuss the issue as we take the Bill through the processes of the Parliament.

Amendment carried; clause as amended passed.

Clause 10—'Resumption of land.'

The Hon. CAROLYN PICKLES: I move:

Page 5, line 33—Leave out 'District' and insert 'Environment, Resources and Development'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 11 passed.

Clause 12—'Amendment of heading.'

The Hon. CAROLYN PICKLES: I move:

Page 6, line 3—Leave out 'DISTRICT' and insert 'ENVIRONMENT, RESOURCES AND DEVELOPMENT'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 13—'Appeal against certain decisions.'

The Hon. CAROLYN PICKLES: I move:

Page 6—

Line 6—Leave out 'District' and insert 'Environment, Resources and Development'.

Lines 8 and 9—Leave out these lines and insert—

> (2a) In any proceedings on an appeal, the Environment, Resources and Development Court will be constituted of a Judge and two commissioners (one with practical knowledge of, and experience in, the use and management of land used for pastoral purposes and the other with practical knowledge of, and experience in, the conservation of pastoral land).

Line 10—Leave out 'District' and insert 'Environment, Resources and Development'.

Line 14—Leave out 'District' and insert 'Environment, Resources and Development'.

I have moved all these amendments as a batch because they are consequential on the first amendment, which was carried.

Amendments carried; clause as amended passed.

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

The Hon. CAROLYN PICKLES: I move:

Page 6, line 17—Leave out 'District' and insert 'Environment, Resources and Development'.

This is consequential.

Amendment carried; clause as amended passed.

Clause 15 passed.

Clause 16 negatived.

Clauses 17 and 18 passed.

Clause 19—'Appeals.'

The Hon. CAROLYN PICKLES: I move:

Page 7—

Lines 16 and 17—Leave out 'Administrative and Disciplinary Division of the District Court (the "District Court")' and insert 'Environment, Resources and Development Court'.

Line 18—Leave out 'District'.

They are consequential.

Amendments carried; clause as amended passed.

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

The Hon. CAROLYN PICKLES: I move:

Page 7, line 21—Leave out 'District' and insert 'Environment, Resources and Development'.

It is consequential.

Amendment carried; clause as amended passed.

Clause 21—'Insertion of s. 52A.'

The Hon. CAROLYN PICKLES: I move:

Page 7, lines 24 to 26—Leave out these lines and insert:

Constitution of Court

52A. In any proceedings under this Part, the Environment, Resources and Development Court will be constituted of a Judge and two commissioners (one with practical knowledge of, and experience in, land care or management and the other with practical knowledge of, and experience in, environmental protection or conservation, or agricultural development).

This amendment, which is consequential, constitutes the ERD Court as a judge and two commissioners with relevant experience when hearing appeals under the Soil Conservation and Land Care Act.

Amendment carried; clause as amended passed.

Clause 22—'Insertion of schedule 2.'

The Hon. CAROLYN PICKLES: I oppose the clause.

Clause negatived.

Remaining clauses (23 to 32) and title passed.

Bill read a third time and passed.

RACIAL VILIFICATION BILL

Adjourned debate on second reading.

(Continued from 19 March. Page 977.)

The Hon. J.F. STEFANI: I support the legislation which was introduced into Parliament on Wednesday 29 November 1995 by the Hon. Dean Brown, Premier and Minister for Multicultural and Ethnic Affairs. The Bill makes certain provisions in relation to racial vilification by amending the Wrongs Act 1936 and providing redress for victims of racial vilification through criminal and civil sanctions. The Bill also addresses the wider concerns highlighted by the findings of the National Inquiry into Racist Violence and the Royal Commission into Aboriginal Deaths in Custody. The legislation has been developed with the input of my colleagues the Attorney-General (Hon. Trevor Griffin), the Hon. Robert Lawson, the Hon. Angus Redford and the member for Norwood (Mr John Cummins), together with the invaluable contributions of senior officers and advisers from the Attorney-General's office.

The Bill will close a gap in the legal protection available to the victims of extreme racist behaviour. The legislation is also intended to strengthen and support the significant degree of social cohesion demonstrated by the Australian community at large. The Bill is based on the principle that no person in South Australia need live in fear because of his or her race, colour or national or ethnic origin.

The High Court has recently established an implied guarantee of free speech inherent in the democratic process enshrined in the Australian Constitution. However, the High Court has also made clear that there are limits to this guarantee. There are no unrestricted rights to say or publish anything regardless of the harm that it can cause. A whole range of laws protect people's rights by prohibiting some form of publication or comment, such as child pornography or censorship laws, criminal laws about counselling others to commit a crime, and trade practices prohibitions on misleading and false advertising or representations, while it is highly valued that a right to free speech must therefore be balanced against other rights and interests.

The Bill is not intended to limit public debate about issues that are in the public interest. It is not intended to prohibit people from having and expressing ideas about a point of view. The legislation as introduced in this Parliament will assist to maintain a balance between the right to free speech and the protection of individuals and groups from harassment and fear of their race, colour or national or ethnic origin. The Bill is intended to prevent people from seriously undermining tolerance within our society by inciting racial hatred or threatening violence against individuals or groups because of their race, colour or national or ethnic origin.

Criminal sanctions and penalties are set out in clause 4, which addresses offences committed against a person or members of a group through threats of physical harm or through inciting others to threaten physical harm to a person, to a group of persons or to property. Under the legislation, an offence to threaten physical harm to a person or to property carries a maximum fine of $25 000 against a body corporate, and a fine of $5 000 or imprisonment for three years or both against an offender who is an individual person.

Under clause 6 of the Bill, civil sanctions have been provided whereby a court may award damages to a maximum sum of $40 000, including punitive damages against a person who is convicted of an offence under this legislation. This Racial Vilification Bill is an important extension of our human rights provision dealing with racial discrimination. While our standards remain high, we must not ignore evidence that Australians have been and continue to be subjected to racially based violence and the incitement of racial hatred leading to violence.

In 1992, the report of the National Inquiry into Racist Violence documented 60 incidents of racial violence. The Australian Law Reform Commission report into Multiculturalism and the Law and the Royal Commission into Aboriginal Deaths in Custody deal extensively with examples of extreme racist behaviour. Since then, there have been a number of public rallies by extreme right groups which have resulted in harassment and intimidation of individuals. Public gatherings

of ethnic communities have also been disrupted, sometimes violently, and most recently there has been a pattern of attacks on property owned by the Jewish community.

This legislation will protect Australian values by rejecting the behaviour which undermines our fundamentally tolerant society, and reaffirms the general community's views by rejecting racism, therefore providing a sense of support for victims of racist violence and behaviour. I support the Bill.

The Hon. A.J. REDFORD: I support the second reading of this Bill and, in particular, the insertion of clause 7, which creates a tort, or a right of civil action on the part of a person or group of persons who are the subject of an act of racial victimisation. However, I oppose the insertion of those clauses which impose criminal sanctions. I do so on a number of grounds, which can be put into three categories. The first is the clear fact—which I will demonstrate later in my speech—that existing criminal laws impose sanctions and penalties and, in some cases, more severe penalties for racial violence and damage than do the provisions contained within this Bill.

Secondly, the crime enumerated in this legislation will be much harder to prove than the existing offences on the statute books. Thirdly, there is a real risk that legislation of this type will either have no effect at all or alternatively will cause racial division within the community, and by that I mean ethnic groups versus ethnic groups.

I am a great believer in not making laws for the sake of it. I am a believer that we ought, in this place in particular and in Parliaments in general, to think calmly and dispassionately about the sort of laws we pass and the extent and number of those laws. We have a solemn duty when we come into this place to pass laws which the public will acknowledge and respect and, by that acknowledgment and respect, therefore essentially respect the aims and general objectives of our community. Unlike members opposite I, as a Liberal member of Parliament, have the right not to toe the Party line. Indeed, in my view—

The Hon. R.R. Roberts interjecting:

The Hon. A.J. REDFORD: The honourable member opposite makes a banal objection, and I do not believe that what I am doing today is in any way, shape or form courageous, as I will explain to the honourable member in a moment. In my view, it is not a right not to toe the Party line but a duty that each of us, as members of this Parliament, has to the community, and I will explain shortly why the ALP has abrogated that duty.

The duty of members of Parliament was well stated in a High Court decision of his Honour Justice Isaacs in the case of *Horne v. Barber*, 27 Commonwealth Law Reports, page 495, in which he stated:

> When a man becomes a member of Parliament he undertakes high public duties. Those duties are inseparable from the position. He cannot retain the honour and divest himself of the duties. One of the duties is that of watching, on behalf of the general community, the conduct of the Executive, of criticising it and, if necessary, of calling to account in the constitutional way, by censure from this place in Parliament, censure which, if sufficiently supported, means removal from office. That is the whole essence of responsible government, which is the keystone of our political system and is the main constitutional safeguard the community possesses. The effective discharge of that duty is necessarily left to the member's conscience and a judgment of his electors, but the law will not sanction or support the creation of any position of a member of Parliament where his own personal interests may lead him to answer prejudicially to the public interest.

I draw on that judgment in coming to a conclusion that I, as a member of Parliament, do not necessarily have to follow strictly what my Party says should be the case.

The Hon. R.R. Roberts interjecting:

The Hon. A.J. REDFORD: The honourable member interjects, and one waits for something intelligent to spew forth from his mouth, because—

The Hon. R.R. Roberts: I won't learn from you.

The Hon. A.J. REDFORD: Unlike members opposite—

The Hon. R.R. Roberts interjecting:

The ACTING PRESIDENT (Hon. T. Crothers): Order! I draw honourable members' attention to the fact that they must not reflect on each other's character.

The Hon. R.R. Roberts interjecting:

The ACTING PRESIDENT: Order! That applies also to the Hon. Ron Roberts.

The Hon. A.J. REDFORD: I am grateful for your protection, Mr Acting President. Unlike the Australian Labor Party, whose members have signed a pledge essentially pledging greater loyalty to their Party than to their constituents, conscience and, indeed, the community at large, as a Liberal member I have that right and, as a member of this Parliament, I have that duty.

It is interesting to note that a similar piece of legislation to this was introduced simultaneously in this place and in the other place by members of the Opposition. It was designed to pander to political constituencies and that great god—political correctness. It is interesting to observe the sorts of contributions that were made in another place. We have a contribution from Mr Atkinson—I suppose this might be a general statement about how the ALP operates and, to a lesser extent, how the other place operates—in which he said:

> In conclusion, I make one completely different point, namely, that it is a shame that the dictates of political correctness within the two major Parties, particularly the Government, have resulted in a very narrow and inadequate debate on this Bill. I would like to hear a member of Parliament make a speech against this Bill.

The difference between my position and that confronted by Mr Atkinson is that I belong to a political Party which puts community before Party.

We can go one step further and look at the one who might aspire to the position of Deputy Leader of the Opposition, the member for Playford, who, in his contribution to the debate, said:

> My principal reason for voting for this Bill is that it is Party policy.

He then proceeded to slate the Bill and then, bound and gagged by Party discipline, voted for it.

The Hon. Frank Blevins was a little more blunt. However, despite the fact that he is due to go out of Parliament at the next election, he still felt constrained by his Party discipline. He said:

> The member for Playford stated that he would vote for this Bill because it is Party policy, and I will vote for it for the same reason. I think that this Bill and Bills like it are an insult to the Australian people. No political Party has had the courage to stand up to a few groups in society and say that, because they have a certain view that people should not be allowed to call them names, all of us as Australians ought to restrict our freedom.

Before I embark upon some of the problems that I have with the legislation, I have to say that I stand here proudly as a Liberal member of Parliament fulfilling my duty as I see it—

The Hon. R.R. Roberts: Are you opposing the Bill?

The Hon. A.J. REDFORD: —of putting my point of view and the view of a significant number of Australians, if

the Hon. Ron Roberts would care to listen, on the imposition of criminal sanctions, including those in this legislation.

The Hon. R.R. Roberts: So, you oppose the Bill.

The Hon. A.J. REDFORD: The Hon. Ron Roberts interjects and states that I am opposing the Bill.

The Hon. R.R. Roberts: Are you opposing it or not?

The Hon. A.J. REDFORD: I would have to say that one continues to wait for an intelligent interjection from the honourable member. As I said at the commencement of my contribution, I support the second reading of the Bill, and I support the civil sanctions.

The Hon. R.R. Roberts: You can't make a decision. Are you for it or against it?

The ACTING PRESIDENT: Order! I remind honourable members that at this time of night, particularly after dinner, if interjections are flying backwards and forwards across the Chamber they are apt to lead to much more heated debate than is normally the case. I ask members to refrain from interjecting, and I would ask the Hon. Mr Redford to refrain from responding to interjections.

The Hon. A.J. REDFORD: Thank you for your protection, Mr Acting President. First, I should justify and support the statement that I have made that the criminal sanctions contained within the Bill already exist in other legislation in this State. The most relevant clause in the Bill is clause 4, which provides:

> A person must not, by public act, incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of their race by—
>
> (a) threatening physical harm to the person, or members of the group, or to property of the person or members of the group; or
>
> (b) inciting others to threaten physical harm to the person, or members of the group, or to property of the person or members of the group.
>
> Maximum penalty—
>
> If the offender is a body corporate—$25 000.
>
> If the offender is a natural person—$5 000, or imprisonment for three years, or both.

It is important to note that a prosecution under the legislation cannot be commenced without the written consent of the Director of Public Prosecutions. If we must have this legislation, I would have to say that that does obviate some of my criticisms. I draw the attention of honourable members to a number of other offences which apply under the existing legislation. First, section 19 of the Criminal Law Consolidation Act provides:

> Where—
>
> (a) a person, without lawful excuse, threatens to kill or endanger the life of another; and
>
> (b) the person making the threat intends to arouse a fear that the threat will be, or is likely to be, carried out, or is recklessly indifferent as to whether such a fear is aroused,
>
> that person shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 10 years or, where the person whose life was threatened was at the time of the commission of the offence under the age of 12 years, for a term not exceeding 12 years.

When someone threatens to cause harm to another person, to kill or endanger the life of another person, they are liable to a term of imprisonment for a period of 10 years. This Bill gives us the ludicrous situation where—

The Hon. R.D. Lawson interjecting:

The Hon. A.J. REDFORD: I will go through the statute book line by line if the honourable member would like, and I will come to threatening harm and other penalties in other sections of the legislation, but perhaps he would care to await the completion of my contribution. We have a situation where, if I threaten another person's life, I am liable to a penalty of imprisonment for a term not exceeding 10 years.

But if there is an element of racial hatred in it and I am charged under the proposed Bill, the maximum penalty is three years. The second area of the law relates to threatening another person with a firearm, which is section 47A of the Criminal Law Consolidation Act. Again, that is a serious offence and, again, if there is a racial element in it and if someone should seek to prosecute under clause 4 of the Racial Vilification Bill, the maximum penalty is only three years, with an element of racial hatred involved in it. We then have other offences relating to assault; other offences contained within the Criminal Law Consolidation Act which relate to threatening harm; other offences in relation to the damaging of property; and offences in relation to recklessly endangering property. All those offences are subject in the criminal law to other offences such as attempt, and that is both at common law and contained within the provisions of the Criminal Law Consolidation Act. If a person is charged with an attempt, then they are subject to the same penalties as they would be for promulgating the principal offence.

We also have at common law the general charge of inciting someone to commit an offence. That is actually contained within the Commonwealth Crimes Act and is also part of South Australia's common law. So, at the end of the day (and I hope that I have answered the Hon. Robert Lawson's interjection) there is nothing contained within this legislation that is not already available at common law and within the current criminal law. Indeed, when the Commonwealth dealt with the criminal sanctions contained within its Racial Hatred Bill introduced by the previous Government, the matter was referred to a select committee.

As a consequence of that committee, the Racial Hatred Bill was promulgated but the Coalition Opposition in the Senate produced a report that severely questioned the appropriateness of criminal sanctions in this area. In fact, the minority report stated that it was its view that the creation of separate criminal offences for racially motivated crime had two major drawbacks. The first major drawback that it pointed to was that a racist, particularly some of those with whom we have been confronted in this State, would wish for nothing more than to be sentenced because of beliefs held. Indeed, we have seen on many occasions in history extremists of various persuasions preferring gaol to martyrise themselves, if I can use that term, to the aggrandisement of their supporters.

We see that there are many occasions on which racists use such a forum to push their own point of view. In the book *When Freedoms Collide: The Case For Our Civil Liberties*, by Mr A.A. Borovoy, he said at page 50:

> Remarkably, pre-Hitler Germany had laws very much like the Canadian anti-hate law'.

I must say that the Canadian anti-hate law is similar to the legislation we have before us, except that it does not require a threat of physical or property harm. He went on to say:

> Moreover, those laws were enforced with some vigour. During the 15 years before Hitler came to power there were more than 200 prosecutions based on anti-Semitic speech. And in the opinion of the leading Jewish organisation of that era, no more than 10 per cent of the cases were mishandled by the authorities. As subsequent history so painfully testifies, this type of legislation proved ineffectual on the one occasion when there was a real argument for it. Indeed, there is some indication that the Nazis of pre-Hitler Germany shrewdly exploited the criminal trials in order to increase the size of their constituency. They used the trials as platforms to propagate their message.

The committee noted that some 60 years on with the aid of mass communication the platforms provided by such trials to

propagate racist messages would be all the greater. I believe that Mr Brander is looking forward quite excitedly to the propagation of this legislation.

The Hon. T.G. Roberts: He might be a victim of it.

The Hon. A.J. REDFORD: He might be in your and my eyes but he may not be in the eyes of himself and his supporters. He and people like him may well seek to use this sort of legislation to walk out of court and say, 'I was put in gaol because of my views,' when you and I and ordinary thinking members of the public know full well that he was put in gaol (if that should happen) for committing crimes which are already in the statute books, which should be applied equally irrespective of anyone's rights and which indeed attract greater penalties than this legislation does in so far as criminal sanctions are concerned.

The Hon. T.G. Roberts: He would already argue that he was victimised.

The Hon. A.J. REDFORD: I accept that, but at the end of the day I do not believe this legislation does anything more in the criminal context than give him a platform in which to continue to push that stupid message and we run a real risk of making him into a martyr. There need to be only a couple of mistakes in the implementation of the law for that impression to be made. It is interesting to note that a Ms Wallace from the Victorian Council of Civil Liberties gave evidence to that committee. She said:

> I would like to put the debate in a social context of what the community does about violence at large, because I think that reveals a great deal about our problem. Some 30 years ago we had chronic domestic violence. We still do, but we have decided in the interim that defining domestic violence as violence and prosecute the people who perpetrate the violence on members of their family [*sic*]. That has made the difference—not treating them as having a particular kind of violence, but treating them as ordinary perpetrators.

In other words, it is my view that, if people embark upon the sort of conduct contained within clause 4 of the Racial Vilification Bill, they are common criminals. They should never be given the opportunity or the platform to say that there was a racial element in their common criminality. Ms Wallace went on to say:

> And if there are levels of racial ignorance, you have a fertile ground for the growth of racism. We must address community ignorance about race and about victims, and we must do it with a budget and with the knowledge that the budget has to be commensurate with the difficulty of the task in front of us.

There is a real risk that we as legislators and many of the people who are pushing this legislation forward will think that, once this legislation is passed, the task is finished. In fact, it has not even begun. We have not really done anything. It is interesting to note an exchange that took place between a Mr Pearce, who is also from the Victorian Council for Civil Liberties, and Senator O'Chee. Senator O'Chee is a man of Chinese race and is a National Party Senator from Queensland. He said:

> . . . I put to you the proposition that we could come up with an alternative solution which says that where somebody commits an offence, and one of the motivations of that offence is racism, and if the person is convicted of the simple criminal offence, the racist's motivation for that offence should be considered an aggravating factor and taken into consideration at sentencing. How would you feel about that approach?

That is a point of view that I have held for some considerable time on that topic. We can deal with this whole problem simply by making an amendment to the Criminal Law Sentencing Act by making it an aggravating factor if someone commits a criminal offence and is motivated by some form of racial desire. There is then no need to prove the racial hatred or the racial desire on the criminal standard of proof, that is, beyond reasonable doubt, given that in taking facts into account in sentencing a judge has a much lower standard of proof. It would be much simpler and easier and would not provide the sort of platform that the Michael Branders of this world so eagerly seek. That proposition put by Senator O'Chee was agreed to by Mr Pearce of the Victorian Council of Civil Liberties when he responded to Senator O'Chee. He said:

> I was about to put that very proposal. In relation to the existing law—the discretion open to a judge or a magistrate on sentencing, or he caters for that, and there is nothing to stop prosecutors making that submission—those are the sorts of submissions that our council would wholeheartedly support.

It is interesting to note the exchange that took place between Senator Abetz and Mrs Jackson, who is the Commonwealth Deputy Government Counsel and, one would assume, someone who understands and knows her criminal law. I quote the exchange:

> Senator Abetz: Do you accept that all the types of behaviour irrespective of motivation are already covered by criminal law in every single State and Territory of the Commonwealth?
>
> Mrs Jackson: Yes, that's true.

Further, the following exchange took place between Mrs Jackson and Senator Ellison:

> Senator Ellison: . . . What Senator Abetz is saying is that all of this is covered by the law at the moment and it is much easier to prove. . . so why not just forget the race bit and hit them with a threat to cause harm, damage or whatever? Is that not a much easier path for prosecution?
>
> Mrs Jackson: That is certainly true. A number of examples that you have given do postulate actual damage or actual violence, and it is not envisaged that these provisions would encompass that.
>
> Senator Ellison: Let us deal with threats only.
>
> Mrs Jackson: In the case of threats, it is certainly true that in the general run of cases it is more difficult to prove. We can see that the bulk of prosecutors would shy away from that difficulty. . .

However, the practical situation is that the behaviour that will create an offence under this legislation will always come within the province of State and Territory and Commonwealth legislation. Mrs Jackson from the Attorney-General's Department said in her evidence, 'As a matter of practical reality I think the situation you postulate is probably right', in response to a question to that effect. One wonders why we proceed down this path when there is a very simple and correct solution to the problem. Mr Neave, the Deputy Secretary of the Attorney-General's Department, was asked a number of questions about how he would see the prosecution of this sort of legislation. He said:

> It is envisaged that this legislation will deal with some of the more obvious high profile cases which, judging by the reports from various royal commissions, law reform commissions and others, in the past have not been dealt with.

What a sad indictment of our prosecuting authorities that they have not seen fit in the past to use the existing criminal law to prosecute the perpetrators of this sort of conduct. How disappointing it is to see that they need a high profile case, to quote Mr Neave, to apply the ordinary criminal laws that already exist in the State and the Commonwealth.

It has been suggested to me that there is a precedent for this sort of legislation. It has been said that, notwithstanding the fact that there is existing legislation that covers the field, there are precedents, and that it is appropriate from time to time to introduce specific legislation to cover a specific sort of conduct.

The example that has been suggested is that this Parliament—and I agree with what this Parliament did—passed

legislation in relation to death by dangerous driving when people are killed as the result of a motor vehicle accident. The argument goes as follows: in most cases of death by dangerous driving, perpetrators of that sort of an offence would be the subject of a charge of manslaughter. Notwithstanding the fact that the law covered the field, at that time Parliament decided that it would bring in a specific offence of death by dangerous driving with specific penalties.

I must say, though, in response to that argument that, at that time, death by dangerous driving posed a specific problem to law enforcers, prosecutors and legislators. In relation to death by dangerous driving, a number of prosecutions for manslaughter involving the death of other people where the perpetrator was in charge of a motor vehicle had simply failed. The fact of the matter was that juries were simply refusing to convict people for manslaughter where the death arose out of a motor vehicle accident. When that legislation was debated in this place, many examples were given of failed prosecutions—by that I mean where juries had come down with a verdict of not guilty on a charge of manslaughter—and it was felt that, in those circumstances, there was real justification for bringing in an offence which perhaps was part of an already existing offence.

That case has not been made out in relation to this piece of legislation. The Mr Branders of this world and all his thugs have, to my knowledge, never been prosecuted for the sorts of offences that are sought to be covered by the Racial Vilification Act. These thugs, in my recollection, have never been prosecuted in this State under the existing criminal law for incitement, for attempt, or indeed for any of the sort of activities that we have so graphically seen on our television sets. It is the authorities in failing to look at the existing criminal law that ought to stand condemned, not the juries, not the law and not, in my view, the legislators. Indeed, what we have witnessed in relation to this debate is 'mine is better than yours'. It is the sort of playground game that we used to play when we were children. We had that awful tragedy where those two drunken, intoxicated and drug affected youths went down to the West Terrace Cemetery and caused a significant amount of damage to the Jewish section of the cemetery. The crime that they committed was deplorable under any circumstances and from whatever perspective it was looked at. Indeed, both gentlemen who were involved in that awful conduct were dealt with by the courts.

But how did the politicians react? Did they act coolly and calmly? Did they await all the information and all the advice that was associated with this piece of conduct? No, they did not. Is it any wonder that some segments of the community laugh at us as politicians and say that we are stupid? In this case we had the Leader of the Opposition—and, in some circles, one might call him the Leader of Opportunism—stand up and say, 'I will introduce racial vilification legislation and that will stop what happened down at West Terrace Cemetery and, if we had that legislation that would not have happened.' When the facts came out regarding exactly what had happened in that case, it had absolutely nothing to do with racial vilification and the Leader of the Opposition was caught short. The disappointing thing, I would have to say, is that the Government got sucked in. When it heard the Leader of the Opposition come up with his ill-conceived notion of how this ought to be dealt with in a criminal context, it came out and, on the run, said, 'We will have racial vilification and ours will be better than theirs.' That is the sort of debate we had leading up to this Bill.

The Hon. R.D. Lawson interjecting:

The Hon. A.J. REDFORD: The Hon. Robert Lawson interjects, but I have to say that I did not see any such piece of information or any such discussion take place within the Liberal Party prior to that announcement being made, and I would invite him to draw it to my attention if such a discussion did take place before such an announcement was made.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says, 'There was discussion in New South Wales.'

The Hon. R.D. Lawson interjecting:

The Hon. A.J. REDFORD: The Hon. Robert Lawson interjects and says, 'There was legislation.' I was about to say that, yes, there was legislation, and I will deal with that legislation in a minute. At the time we had this debate about political correctness and what should be done with racial vilification in the Federal context. At the end of the day, the debate federally got down to what would happen in relation to equal opportunity legislation and human rights legislation and, as a consequence of the conduct in the Senate and the way numbers panned out, the criminal sanctions were dropped. I do not propose to go down that path.

At the end of the day there was that debate, but in the South Australian context the position was simply a matter of political chauvinism and decisions being made on the run. At the end of the day—and we have heard it so far in the other place and, unfortunately, in this place—the arguments were that 'our legislation is better than yours', without any real discussion. I agree with the member for Spence that there has been no real debate about whether this is the best way to approach it because everyone was locked into a position so early in pandering to particular groups without seriously and dispassionately thinking about the best way to approach this legislation.

It is my view that this problem can be simply dealt with, without covering legislation that is already in existence, by a simple amendment to the Sentencing Act. It is my view that this legislation will probably go the way that legislation went in New South Wales. I have made inquires in relation to the legislation in New South Wales, which legislation is very similar to this legislation, and have found that there has not been one prosecution under that legislation. We all waddle in here and stand up in our own sanctimonious way, sit here and say that we will have racial vilification legislation.

I am sure that if this legislation gets through, we will all sit down and pat ourselves on the back and say how wonderfully politically correct we are and how we hate racial vilification and do not stand racism; we will all go away and sleep nicely in our beds and out there in the real community absolutely nothing will have changed. If anybody comes in here and thinks that things will change because of this they really are fooling themselves. If anyone should think that I am way out on my own—and I probably am in the context of this Parliament—one would only have to look at some of the comments—

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: The Leader of the Opposition interjects that I am out of step with my own Party, but I am not out of step with the former Deputy Leader of her Party or out of step with a potential Deputy Leader of her Party. So, I am not completely out of step.

I quote from an article in the *Australian*, the author of which is Sir Maurice Byers, QC, a prominent constitutional lawyer. On Monday 21 November 1994 he stated in that newspaper:

If the threats of physical harm or damage to property are made in Australia the proposed crimes—

and he is referring to the Commonwealth legislation—

will be committed even if the persons or groups threatened or the property about which the threat is made are not. If this is the intended meaning of the provisions, a member of the Palestine Liberation Organisation or a Palestinian who here threatened Israelis or property in Israel could be convicted. Such a meaning would remove large areas of political discussion from the arena of free speech and would I think be invalid.

He further states:

It is probable the amendments would be read as related only to groups and property in Australia, and thus as provisions designed to prevent disorder, and would be valid so far as freedom of speech is concerned. The difficulty with the proposed crime of inciting racial hatred is the width of the expression 'racial hatred'. Hatred covers feelings as diverse as ill-will, detestation, enmity and malevolence. Freedom of speech is the central value of the Constitution of the Commonwealth. That value will be seriously diminished in its context should this provision become law.

Again I remind members that he is referring to the former Federal Government's proposals. He continues:

It can outlaw what society regards as undesirable, for example, anti-Semitism, by a law confined to anti-Semitism or to language derogatory of Aborigines. The present measure covers language about every race, every colour, every nationality and every ethnic group, whether or not they may ever have had any relation with this country.

The Hon. Carolyn Pickles: What about the comments made about Annie Sprinkle? Don't you abhor those comments?

The Hon. A.J. REDFORD: The honourable member's interjection is an appropriate one. I absolutely abhor some of the comments that were made by certain members of the public, but at the end of the day I respect their right to make them. Only in a free society where the light is shone on that sort of statement and conduct will that sort of conduct disappear. At the end of the day, Australia has survived largely without racial vilification legislation. We are exceedingly lucky in this country with the degree of tolerance that we have had. Indeed, one has only to compare this country with a host of other countries to see that we are far more racially tolerant than other countries. The United Kingdom has quite strong anti-vilification laws but tragically, over the past 15 to 20 years, it has become a racially divided country in certain parts, particularly some parts of London.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and I agree, for a country that has 15 million people. So, we pass a law which reduces penalties and covers the field already dealt with under existing law. We pass a law that runs a real risk of making the Michael Branders of this world martyrs. The fact is that, with their conduct, they are ordinary, common criminals. All this legislation does is give them a platform, a profile and the ability to make themselves into martyrs. At the end of the day, as legislators, we should be a little calmer and a little more dispassionate in dealing with some of the serious problems that our communities face.

The Hon. SANDRA KANCK: This is the second Bill to come before us this session that attempts to deal with racism in our society. We must recognise that racism is nothing new. It was only last week when I was reading a manuscript that a woman had given to me about her experiences in the Depression that I became aware that in Kalgoorlie at that time there were race riots, not just protests, the target of which were Italian immigrants. One must observe that, currently, groups such as National Action at least are allowed the right to put their views on display, and that is a much more controlled and civilised way to allow an outlet for some of these feelings. It is also interesting to observe that, with institutionalised unemployment, the people who are left on the scrap heap start looking for scapegoats.

I am not sure whether I appreciated or enjoyed the Hon. Angus Redford's contribution, but it was certainly a very challenging one. This is not an easy issue to deal with and, when I spoke on the first piece of legislation last year, I indicated that I had to do a lot of examination to come to the position of supporting that measure. I do not support the legislation in principle from the point of view of political correctness: I have come at it from an examination of the issues. I repeat what I said at that time that to me the debate centres on the freedom of some people to say what they like, to whom they like, when they like, versus the freedom to live a life without fear.

Generally, from what I have heard in the debate from members so far, I think there is general agreement that action is required to deal with those people who violate the rights of other people. Also, there appears to be a general agreement that severe penalties are required for severe cases of racial vilification or violence.

We now have to look at what is the most appropriate process and jurisdiction to follow up instances of racial vilification. We support the setting up of a legal framework for cases to deal with severe racial vilification or violence, but we also support alternative processes for less serious offences. I do not think the legislation in this form really deals with that. As already stated by the Hon. Mr Nocella, the courts are not always the best authority for dealing with less severe cases.

While the court process may well be appropriate and possibly effective for serious cases of racial vilification—and I emphasise 'possibly'—the costs alone for employing a lawyer and taking a matter to court are likely to be prohibitive for average Australians. Therefore, it is likely that only serious issues will be dealt with at best and the less serious issues will fall by the wayside. Leaving aside for now the argument about the costs of court procedures, it is also important to look at the limitations of courts. It is worth considering alternative means to deal with racial vilification, particularly the more minor cases.

The Attorney-General would be aware that in the last 12 to 18 months when we have dealt with consumer legislation I have at all times resisted efforts to try to take things straight to court. I have preferred less legalistic and more user friendly and less costly alternatives such as user tribunals, and I hold that view for this legislation as well. Alternative mechanisms must be found to deal with the minor offences that need to be followed up.

I remember reading in *Time Magazine* about 20 years ago an article about a State in the US. I do not remember which State, because 20 years ago I certainly did not envisage myself standing here talking about it, but the article talked about a trial sentencing procedure that allowed a judge to meet with the victim of the offence and to come up with some form of punishment suited to the offence. One example given was racism. In that example the negro person (as they were then called) decided the punishment he wanted for the white person who had taunted him was that the white person had to attend Sunday church services regularly at the negro church that the victim attended, as well as doing community work in rebuilding church facilities.

At the time I thought what a wonderful form of punishment it was because it was bringing that white person, who had been so racist, face to face with the people he was obviously so scared of and it was causing him to face up to the fears that caused his racism in the first place. I do not believe that the legislation as the Government has it will do anything more than cause people who hold racist views to hold them more strongly. The recent Federal legislation passed will provide some sort of flexibility in dealing with different cases, and it is interesting that the Federal Act defers to any State legislation, which means that we have to get our process right in South Australia.

I said that I would prefer some sort of specialist tribunal. As well as the less legalistic approach and the fact that we can bring in education and conciliation, there are other advantages for supporting a tribunal. One is that we can bring together good statistical information that can be collated for the policy makers about the incidence and levels of racial violence. A court system alone would not offer that sort of information gathering because only the more serious cases would be heard. Secondly, a tribunal could be given power to investigate reported acts, be they private cases or those reported in the media, or referrals from the Equal Opportunity Commission.

To support the case for the courts, the Hon. Dr Pfitzner in her second reading speech asked what can be done with these complaints which have been raised at the State's Equal Opportunity Commission. To me, it is obvious, provided that we have the education and conciliation aspects in this Bill, that most of the cases which the Equal Opportunity Commission investigates regarding racism, where it finds that there is proven racism, could be referred via this legislation to this tribunal. The court system could be used for the more serious racial violence, but it would be short-sighted and narrow-minded if one did not accept that a tribunal would be able satisfactorily to deal with incidents of racial hatred such as simple taunts of the type, 'Why don't you go back where you came from?'

The Hon. T. Crothers: They say that to me all the time!

The Hon. SANDRA KANCK: I will not comment on that; I might say something rude. We need good policy and certainly we need sufficient funds to deal with this issue. We all agree that racism is not desirable in a mature society, but the Government has to ensure that funds are provided so that incidents of racial vilification are lessened, and that will not happen unless we get education. We will not cover all situations if we restrict ourselves to the court system. Courts are not always the appropriate mechanism: nor is it socially equitable because of the relatively high costs. A lot of people from other nationalities, particularly those for whom English is a second language, will have difficulty in accessing the court system at the best of times.

I think we should consider some of the people who in recent times here in South Australia have been expressing racist attitudes. Some of the things that they have said would not qualify as serious enough to proceed into the court system, but intervention in some form of conciliation and education just might make the difference. I am personally very wary of the courts being used as the only solution. If we look at some of these people—and Michael Brander is one person who has been mentioned tonight as an example—and imagine that Michael Brander and others were to face court under this legislation, and he was found to be guilty and the judge handed down a prison sentence, where would that lead us? What we have then is a person who is avowedly racist and who is now bitter because the court has decided that he should serve a prison sentence. He gets sent to prison, where he has a captive audience of other embittered people who feel that society has done them wrong and who are looking for a scapegoat, and we have very fertile ground for a whole lot of people within the prison system to learn how to become more racist.

If we accept the Government's Bill in its current form, that is the sort of situation we are creating. We will be adding to the problem, not detracting from it. For me, unless we have the reconciliation and education aspects in this Bill, it will be useless having the Bill. The example that the Hon. Mr Redford gave about similar legislation having existed in the years leading up to Hitler and the Second World War does give cause for concern about over the top responses to racism. Again, for me, it is a strong argument for conciliation and educational aspects.

The Multicultural Communities Council of South Australia is strongly committed to a tribunal that has conciliatory and educative functions, and extracts from a letter to the Premier have already been read to this Council by the Hon. Mr Nocella. I find it surprising that the Government has chosen to ignore its concerns about the limitations of the court system. Who better to listen to and to communicate with than those people who face various levels of racial vilification offences on a daily basis?

I note what the Hon. Angus Redford said about existing laws and, when I spoke on the private member's Bill on 30 November last year, I acknowledged that laws already exist that can be used in relation to threat to life, unlawful stalking, common assault, aggravated assault, damage to property and offensive behaviour. I observed then, and I observe again now, that it is very strange that we have laws that have not been used to date, but could have been used, to rein in some of the racist behaviour that has occurred in our society. I find it very strange that it has not been observed, yet suddenly we have two pieces of legislation in such a short space of time. It makes me wonder whether this legislation, in whatever form it finally is achieved, will be for appearances only, and it makes me query whether it is just a cynical attempt by the Liberals to gain the ethnic vote.

In summary, I would say that the Democrats support the Government's wish to establish a criminal code to cover the more serious offences of racial vilification, but conciliation and education would produce much better results for the bulk of less severe cases. I support the second reading.

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

NATIONAL PARKS AND WILDLIFE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 February. Page 840.)

The Hon. T.G. ROBERTS: I indicate that the Opposition supports the principles by which the transfer of the recommendations from the review into the management of the National Parks and Wildlife Act is transferred into legislation. We support some of the measures taken by the Government, but I indicate that we have amendments to the Bill that take into account the concerns that we have in providing protections for fauna, flora and the parks and reserve systems in relation to the direction that the Government is taking. I have

had a number of meetings with the Conservation Council and organisations that have an interest in the outcomes associated with the Bill. I have had a briefing from officers associated with the Minister's office and, consequently, we framed some amendments which we will discuss at a later date.

The background to the legislation emanates from a review that was set up by the previous Government under the then Minister, the Hon. Kym Mayes. A committee of review was put together. It called for submissions from the public so that an overall assessment could be taken of a number of problems that were starting to emerge in the management of our national parks and with programs of imbalance in our wildlife, which was starting to show after droughts and declarations of reserves and national park systems. It was a well-timed review and it was to make an assessment of how the biodiversity of this State was to be managed.

There are occasions when that balance gets out of kilter and there are abnormal build-ups of particular species in certain areas due to abnormal weather conditions or the breeding cycles of various species. There was general agreement that some of our protected animals were starting to cause problems in some of the national parks and reserves. The competition for food and the balance between the needs and requirements of those animals that were grazing on pastoral areas and those of protected species and flora, grasslands and arid zones and the excesses of natural occurrences had to be managed. A community review was set up comprising: Mr David Moyle, Mr Lynn Brake, Ms Anne Buchecker, Mr Neil Collins, Ms Louise Ewins, Mr Phillip Hollow, Mr Bruce Leaver, Mr Nicholas Newland, Mr Mark Parnell, Mr John Riggs and Mr Brent Williams.

That committee of review then called for submissions and put together a fairly weighty document that formed the basis for the framing of the legislation. The terms of reference were wide and varied, namely:

1. describe the nature and extent of the reserve system, including the appropriateness or otherwise of the reserve classification as described in Part III of the National Parks and Wildlife Act 1972 (the Act);

2. report on the relationship between the Government's other natural resources conservation programs and the management of the reserve system, in particular, native vegetation management programs, pastoral management, coastal management, marine conservation and the operation of wilderness protection legislation;

3. investigate and report on compliance with Act statutory requirements relating to:

· obligatory park management requirements (section 37), and

· park management plans and their implementation (sections 38 to 40);

4. describe the following policies for reserves (including their application in relation to nature conservation):

4.1 mineral and petroleum exploration and production

4.2 recreation, including the management of high tourist profile parks and the nature of supporting facilities in those parks, including the suitability of parks for significant tourism development

4.3 Aboriginal heritage and participation of Aboriginal people in park management

4.4 bushfire management

4.5 pest plants and feral animals

4.6 community participation in management, including the operation of consultative committees and the use of volunteers

4.7 hunting

4.8 grazing of stock;

5. investigate and report on the role of the parks system, existing and future, in the State economy in relation to tourism and rural employment;

6. investigate and report on the suitability, skills and training needs of park management staff;

7. describe the operation of reserve and wildlife management in the context of national programs, including the national biodiversity strategy, and report on any identified need for change;

8. describe current programs for both endangered wildlife conservation and general wildlife research, and report on any recommended changes;

9. describe the extent of funding and staffing levels from all funding sources each year for the financial years between 1982-83 to 1992-93 inclusive, including reporting on the reasons for annual variations. Make recommendations on reasonable levels of staffing and funding resources to undertake programs and for the management of the reserves system.

10. Report on any creative opportunities that may be available for funding and resourcing to expand park management programs.

Provide recommendations in relation to desired changes in policies and practices. In providing recommendations on the matters described above, the review shall suggest draft amendments to the Act as is considered necessary.

They were the basic terms of reference that the committee of review had as its operating brief.

As can be seen, the terms of reference cover a wide range of issues, and the task of reporting back to the Minister was completed when the report was finally handed to the present Minister (Hon. David Wotton). The Bill contains provisions for changes to the Act that relate to some of the 27 recommendations that were made.

It was reported to me that the first round of negotiations with conservation groups and people who had a vested interest in the outcomes was sluggish, and there was concern that the transfer of the recommendations into legislation was being rushed. Towards the end of the negotiating process the fear, whether it was real or imagined, held by conservation groups was that there was an unnecessary haste to introduce the Bill into Parliament prior to Christmas. Since then, the Government has been fair in its time frames and in the Bill's introduction. It allowed the Bill to remain on the table over the Christmas break, and further negotiations and discussions took place.

The Government has continued to make alterations to its original position, and I must say that I shared the concerns of many people in the conservation movement who thought that the Bill did not have conservation as its central plank with respect to the recommendations that were transferred into the legislation, but that a business-like strategy appeared to be involved in relation to the management of national parks and wildlife. Since then, the focus has shifted back somewhat to having conservation values as the central platform for the principles that have been introduced. However, as I said, our amendments will move the intentions of the legislation towards conservation and away from the principles of pecuniary interest around harvest.

That is not to say that the State, individuals and organisations cannot turn our national parks and wildlife programs into job creation programs. Our view, which is mentioned in the review, is that there is no problem with tourism, recreation and the farming of wildlife for profit as long as protective mechanisms are put in place so that our wildlife is protected, the gene pool is protected and the biodiversity of the State is not threatened by excess culling or harvesting, either inside or outside national parks. Many of the negotiations took place on that point. There was some confusion about the definitions of culling, harvesting and farming, but some of those have been cleared up. There is still some confusion in people's minds about what harvesting outside national parks means and, to some extent, harvesting inside national parks creates confusion in some people's minds as well.

The Government did not have an easy job, because a lot of vested interests were monitoring the progress of this Bill, and that is one lesson that Ministers and Governments learn—that the more transparent a well intentioned policy is, that is, the more negotiation and consultation there is, the less likely there is to be strong opposition and misunderstandings that tend to emanate from vested interests in these issues.

The general view that most people take on issues connected with environmental protection is that, if we start off with the best scientific advice in relation to the issue, and if the environment becomes paramount in terms of protection in regard to the legislation, we should be able to reach agreement with those vested interests with an interest in the outcome based on that best scientific advice. There will be differences of opinion among scientists as to what the original ground rules and information may lead to, but that is where we can have our differences of opinion and arguments. But if the scientific evidence points to particular areas of threat in terms of biodiversity or problems, whether they are naturally occurring in the animal kingdom or whether they are drought conditions over which we have no control, if they change or vary the landscape or balance at all, it is incumbent on all members of Parliament to work together to make sure that the best scientific evidence is collected and that there is agreement on what the application of that scientific evidence means to the vested interests analysing the information so that we can have negotiated outcomes with which we can agree.

The other area for possible conflict in putting forward such a proposal is that there may be a different emphasis by different groups in relation to competitive land use or protection depending on the extent to which groups, organisations and individuals see their own position and how they analyse the scientific evidence placed before them. If we do not have the database to start with as to how we analyse what is actually existing, then all arguments are subjective. If we do not have a good starting point, we can have a wide range or variation of views and opinions and we will never come away with a settled decision that satisfies anyone. It is important to get a database or starting point from which people can place their arguments. That then leads to an environmental stocktake that needs to be done to set the ground rules for protecting the biodiversity that is required of legislators.

That is a long and drawn-out process in many cases in getting the information collected and put into a database for analysis. The previous Government started with a general approach, putting together a review process that did that stocktake and started the ball rolling by getting all those people with various skills and expertise onto a committee of review so that the ground rules could be determined and recommendations made for legislation.

The review committee produced an interim report in December 1993 and extracted and discussed key recommendations from its discussion papers and the terms of reference of the review. These key recommendations are included below, and for those people who do read *Hansard*, I think it would be incumbent to get a flow for those people, so I will read the recommendations with an explanation.

As to the general funding program, term of reference 9 in the key recommendations, it was recommended that the Government announce a commitment to provide a significantly improved level of resources for the reserve system and related programs such as wilderness protection. State budget allocation for reserve management should be increased to reflect more realistically both the costs of managing reserves and the benefits that accrue to the community and to the State economy from a well managed reserve system.

One of the key criticisms that had been levelled at previous Governments over a decade was that those Governments had announced an increase in the area of reserves and wilderness, but there was very little money in the Government's programs to protect those areas from the ravages of weeds and feral pests. There were not enough park rangers or wildlife officers on the ground to put in place those policies and programs that were needed to protect the declared areas. As a result of that discussion throughout the community over a period of time, those recommendations have been made.

As to the role of reserves in the State economy, terms of reference 4.2 and 5, they relate to some of the benefits that may accrue from ecotourism, and if ever a State needs a boost to its economy through ecotourism it is South Australia. We do not have a wilderness area, as do Queensland, New South Wales, Victoria or Tasmania. We have a very dry State. We have lots of arid lands that do not make the glossy pages of the travel magazines, either internationally or interstate. However, for those of us who are South Australians most of us grow to like or love the arid north and its saltbush and the Mallee, which is certainly not Daintree. It is not rain forest. It certainly does not have an image that is built around flush hotels, reserves and swimming pools, but there is certainly a wilderness feel about those arid areas that we all grow to love.

Selling it to other people is more difficult because of the Eastern States' ability to market and manufacture the tourism programs around their areas. Consequently, we must work much harder to put together programs to attract people who, I guess, have a declared love for isolation and in some cases deprivation. That is much harder to sell than sitting around Cairns with all the beauties and benefits that that has. They have maritime trips out to the Barrier Reef. You can go to the Daintree rainforest. You can go rafting on the Tully white water river. You have all sorts of attractions on the plains, all within an hour or an hour and a half's drive from Cairns.

If one goes farther down the coast, one can see all sorts of areas that are certainly attractive to overseas tourists. South Australia has its little gems. It has, within easy reach of the metropolitan area, many areas which have been turned over to ecotourism and marketed successfully. We must try to broaden those areas; we must try to encourage tourists and ecotourists away from the metropolitan area and farther into the regional areas of our State to improve the regional areas of our economy. The South-East has many areas of natural beauty, as pointed out by the Hon. Angus Redford in his speech today.

Certainly, areas such as the Barossa Valley, the Adelaide Hills, the Southern Vales, the Mid North, areas around Port Augusta, the Flinders Ranges, the Port Lincoln area and farther west sell themselves in terms of ecotourism. Some interesting one and two day trips close to those points of interest are available. South Australia does not have the population levels nor the overseas visitations to be able to set up facilities to get the returns that are required through ecotourism.

Secure and constant visitation guarantees good returns to the State. So, we must work much harder and market ourselves much better and, hopefully, the recommendations and the legislation all work towards doing that.

Having said that we need to try harder to attract people into our State through ecotourism, we must ensure that we do

not spoil the very things that people come to see or the reasons why they come to see them. We do not want to get into competition with the glossy presentations produced by the Eastern States. We do not want to get into a position of trying to up the market on the Gold Coast or the Sunshine Coast, which have huge high-rise buildings—with lots of people either permanently or temporarily residing in them—that, to some extent, spoil the view and the very things that should be protected to attract more people.

It is a matter of managing what we have in the best possible way. Kangaroo Island is probably a good example of that. Once people discover Kangaroo Island they want to return to stay longer or to see more of it. The koalas need protection but they also need management. It is probably a good example of the potential tourism opportunities to advertise the presence of koalas but, when the koalas become a problem for landholders and for the ecology balance in that area, it is then up to us to make sure that that ecology is properly managed. We certainly do not want to be seen to be cruel to those koalas and have a solution that is final but not acceptable.

It is up to the Government to try to find a balance between the abnormal and natural build-up of koalas in that area and the pressures they are placing on trees, farmers and graziers in that region. It is probably a good example of Governments having to find a balance, and the best way to do that is to work cooperatively with conservation groups and the Opposition. If it is the Government's wont to do that, we will make ourselves available to make recommendations.

I will read in the recommendations for the role of reserves in the State economy. The recommendations are:

3. the Government should prepare and implement, as a high priority, strategic infrastructure investment plans, that include a five-year infrastructure capital works program, for key reserve areas identified in the Arthur D. Little report as important for tourism;
4. strategic capital works infrastructure commitments should be made for other reserves, assessed as playing an important role in the economic development of the State, to aid in the development of a nature-based tourism industry and to protect natural and cultural resources;
5. all infrastructure investment planning and implementation of capital works programs should be subordinated to the reserve management planning process so that the natural and cultural values of the reserves are protected and/or rehabilitated.

I did not mention the rehabilitation of some of the reserves which may be required to bring them up to standard so that their protection is incorporated.

The Government and the Opposition agree that there are opportunities to be made from ecotourism, and the key recommendations certainly make that clear. Term of reference 10 states:

> The strongest theme in the public submissions in the review committee concern the inadequate funding for reserves and wildlife conservation in South Australia.

That is one of the problems I referred to earlier. It continues:

> While the committee has concluded that there is a clear need to increase the base level of Government funding for this work, it also examined creative opportunities for finding additional resources to expand reserve acquisitions and management programs. Apart from the continuation of existing user pays and entry fee initiatives, there may be opportunities for the greater use of concessions to provide quality visitor facilities and services. Other suggestions include a consumer levy to support an endangered species and limited sale of reserve land of low conservation value under specific circumstances.

In that case, if the recommendations are taken up, there could be negotiations to move some of the land now in reserves to give it another status and put other land being considered for conservation value into reserve status or wilderness status. It suggests that options are available for discussion concerning the trading of some lands. That is something that would have to involve broad-based consultation and agreement amongst all groups and organisations that have a vested interest. It would take broad-based negotiations to achieve general consensus concerning any moves that may make that occur. The Government's position would be to try to trade those areas that may have mineralisation or potential for mineralisation against other areas that may have low conservation value: there may be some room to do that.

I am now speaking about the administration of the reserves system in relation to the National Parks and Wildlife Bill. Recommendation 8 reads:

> The management of the reserves is most efficiently and usefully undertaken as a key part of the functions of the core Government agency responsible for general nature conservation and environmental management rather than as a separate agency with sole responsibility for reserve and wildlife management.

Recommendation 9 is as follows:

> The familiar public image of reserve management be retained in some form of the Sturt pea logo and through the retention of the uniform for agency staff who come into regular contact with the public.

These are minor recommended changes. Perhaps I should go back to recommendations 6 and 7. Recommendation 6 reads:

> Through strict criteria developed in the park audit, reserve areas with minimal biological, cultural and recreational value could be identified and sold.

I think I referred to that before dinner. These are some of the changes which have been put forward in the key recommendations within the National Parks and Wildlife Act reserves on which the legislation has been based. Key recommendation 10 states:

> A structured land acquisition program be developed, taking into consideration the outcomes of the Biological Survey of South Australia and the representation of environmental associations in existing reserves.

There has been a budget allocation of $1 million for that. There has been a reference to wildlife research and conservation. Recommendation 11 states:

> Scientific officers be assigned to management regions of the agency to provide scientific advice and support for environmental management (including introduced plant control) and to be responsible for seeking scientific research funds under national programs.

Recommendation 12 states:

> An additional $250 000 per annum should be committed to the Biological Survey of South Australia to enable a baseline of the State to be completed by the year 2010.

Recommendation 13 states:

> The Government support the State Wildlife Conservation Fund to ensure that the level of funding is maintained at $100 000 per annum in 1990 expenditure terms.

I did make reference to the biological survey that needed to be done and suggested that benchmarks should be set to ensure that standards are maintained after those benchmarks are set. The collection of scientific evidence should be the basis for the benchmark. All matters environmental should be a matter of discussion, based on logic and balancing of principal interests, when trying to decide outcomes. That is something that we have not found, or have been unable to find, in some of the contributions on many other matters that have come before this House.

In relation to introduced plants and animals, recommendation 14 states:

Introduced plants and animals in reserves should be acknowledged as a legacy of past and present land uses and community activities, and their control and eradication are responsibilities shared by levels of government, and the community and the private sector. Accordingly, a long-term financial commitment to introduced plant and animal control programs in reserves should be made.

Recommendation 15 states:

The Government should provide sufficient funding and support for research into effective control methods; in particular, biological control methods for introduced plants and animals, and for long-term strategic planning programs. Further, this commitment should include a sufficient level of resources for South Australia to contribute effectively to national biological control research and implementation programs with an emphasis on rabbit diseases, fertility control of introduced mammals; in particular, rabbits, cats and foxes.

In relation to mining in reserves, recommendation 16 states:

In the reservation of areas for nature conservation purposes, the land use decisions should be based on identified conservation values and not automatically assume that access for exploration or mining will be accommodated in the decision making.

Recommendation 17 states:

The Government allocates a percentage of mining royalties collected from any reserve, including the Innamincka Regional Reserve, for the management of that reserve.

Recommendation 18 states:

The setting of fees for mining tenements over reserves should include a contribution for the required level of supervision and input from reserve managers or an equivalent amount separately made available to the Department of Environment and Natural Resources, earmarked for tenement supervision.

Recommendation 19 states:

There should be no initiatives relating to the granting or operating of new mining tenements in reserves until there is an adopted plan of management.

The next heading is 'Bushfire Management'. Recommendation 20 states:

The Government give immediate attention to the findings of the House of Assembly Parliamentary Select Committee on Bushfire Protection and Suppression Measures, and agency policies should be amended in accordance with agency submissions to, and the recommendations of, the select committee as appropriate.

Recommendation 21 states:

The Government implement, as a high priority, a program to identify fire management needs, in particular to detail adequate equipment and staffing requirements, and the minimal level of guaranteed capital works and recurrent funding levels needed to acquit statutory fire protection and suppression obligations.

The next heading is 'Public Participation in Reserve Management'. This is where the National Parks and Wildlife Advisory Committee has recommended that the membership be expanded to seven expert members. A number of other voluntary bodies are formally constituted to assist and participate in conservation management, and these include committees such as Friends of the Parks, camp ground hosts, etc. Recommendation 22 states:

The Reserves Advisory Committee should be reconstituted as the Parks and Wildlife Advisory Committee. This new committee should have seven members and be expert based rather than representative of any particular interest group.

23. Community consultation coordinators should be appointed to regional offices of the agency to assist reserve managers in the management and support of community groups, and to provide a system-wide perspective on reserve management.

24. The 'seed money' program providing financial resources to community programs in reserves should be expanded to $30 000 per year and maintained according to movements in the Consumer Price Index.

Under the heading 'Aboriginal involvement in reserve management', the review supports the development of joint management arrangements including the establishment of boards of management with a majority representation of traditional owners. Recommendation 25 provides:

The concept of joint management of reserves should be supported and the Government should provide adequate funding and agency staff to ensure the maintenance of effective liaison with, and support for, the Aboriginal people involved.

Under the heading 'Areas of national and international natural heritage significance' recommendation 26 provides:

Investigations should be undertaken to identify areas of outstanding national and international significance in the State, and that such investigations should recommend conservation designation(s) commensurate with the values identified.

Under the heading 'Staff needs', recommendation 27 provides:

The staffing needs of regions should be determined, having regard to the changing role and qualifications of rangers and the pressing need for the development of an adequate and appropriately structured park worker force.

So, one can see that the recommendations emanating from the review of management are coming through amendments to a number of Bills, and the recommendations that we have before us in two of those Bills are linked. If the Hon. Mr Lucas wants to listen, they are connected but are appearing separately in two different Bills. The Government supports the general direction and flow of the recommendations that are being put but, as I said, we are introducing amendments to some of the principles that have been outlined in the National Parks and Wildlife Bill. And although I have read out 27 recommendations that have come out of the National Parks and Wildlife Act Reserves Review, there is also the standing committee that has looked at a number of issues associated with the management of wildlife in national parks and harvesting and farming of our national or wild species.

During the Committee stage I will go through the identification of the changes that we will be putting. The amendments have been circulated and I will give the explanations during the tabling of those amendments. I will make a further contribution during that time.

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

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 868.)

The Hon. SANDRA KANCK: This Bill attempts to deal with a mishmash of prison issues. Some issues, such as widening the definition of 'residence' to include tribal lands, are quite acceptable to me. Other issues such as the opening of all prisoners' mail leaves me feeling very uncomfortable. There are still other issues such as the power being given to correctional services officers to body search that set me wondering about the purpose of sending people to prison in the first place and leaves me quite unhappy.

The Democrat's view is that the purpose of sending people to prison is as a punishment for a crime, and the punishment is deprivation of the person's liberty. When we add things like opening up their mail and depriving them of the rights that we take for granted, it is a further wearing away of the respect for privacy and desire for intimacy that human beings

have. It is another of the little things that lead to an increased sense of resentment towards society which many prisoners have and which makes it just that little bit harder for prisoners to take their place back in society when they are released.

The justification for this, according to the Minister, is the detection of drugs and illegal activity. Recently, in Tasmania, an international conference was held on Reduction of Drug-Related Harm. There was discussion about random urinalysis in prisons. What came up in that discussion was that this is causing a switch from the more accessible and cheap drugs, such as marijuana, which, by the way, might have a more calming affect on prisoners, to the more exotic and expensive drugs such as heroin, because heroin passes out of the body much more quickly and is therefore less likely to be detected by urinalysis. If that is the case, this one method to increase detection of the presence of drugs in prisons is likely to encourage the use of injectable drugs and therefore the transmission of diseases such as Hepatitis C and the AIDS virus.

The smuggling in of marijuana is very easy to detect in terms of both odour and the size of package and we will, by making it more difficult to obtain drugs, encourage the smuggling in of smaller pills that do not have the odour that makes them easy to detect. My office spoke to Dr Alex Wodak from the National Drug and Alcohol Research Centre in Sydney, and he expressed the view that it was impossible to prevent drugs entering prisons due to the large volume of people entering and exiting prisons. There are so many routes. If you crack down upon one route, another one springs up. We have had examples of tennis balls with drugs contained in them being thrown over fences in Adelaide. However, drugs can be brought in by cleaners, visitors, prison guards—you name it, there are ways to do it.

Underlying the concern about drugs getting into our prisons—at least, the concern that this Government expresses—is a generally conservative view that drug taking is bad, yet in the past we as a society have heavily promoted the use of tobacco as a recreational use drug and we continue heavily to promote another recreational use drug in the form of alcohol. I for one find it an inexplicable contradiction, and I am sure that many of the prisoners in our prisons feel that same contradiction. Perhaps some of them do not necessarily have the words to express it.

I come back to the point that I made earlier, that the punishment for a prisoner is the deprivation of liberty. We know that in our prisons there is a 70 per cent recidivism rate. Perhaps prison should be a place for teaching people how to use recreational drugs appropriately. The thought of providing prisoners with a glass of wine at dinner would horrify some people with the very reactionary view that some of them hold towards prison and criminals. Yet, it would be a very successful way of treating these people as human so that they can adjust back into society.

Both the opening of mail and the desire of Government to give correctional services officers the right to body search visitors are covered in this Bill on the basis of a need for an increased interception of drugs. From the Minister's speech it is unclear how widespread is the smuggling of drugs and how often the department would need to use that power. If it could be provided, I would be very interested to hear some statistical information as to how widespread the Government believes the problem to be. I am not particularly interested in anecdotal information at this stage.

I have been informed by the Opposition that the amendment it moved in the other place about the body search powers remaining with police and not correctional services officers will also be moved in this place in Committee. The argument given by the Minister for giving correctional services officers this power is that the police cannot get there in time and the person who is suspected of trying to smuggle in drugs will simply get up and leave while they wait for the police to arrive. But allowing correctional services officers that power seems to me to be opening up a can of worms and will probably exacerbate the us-and-them attitude that already exists between prisoners and prison officers. I suspect that we might be using a sledgehammer to crack a nut.

The issue of all prescribed drugs (and I stress the word 'all') being carried by a visitor into a prison having to be approved by the prison manager is interesting. I was quite fascinated to discover from the Minister's speech that, on the four occasions I have visited a correctional institution in this State, I have broken the law by always carrying a doctor prescribed drug, Zantac, with me in my bag. When I visited the Remand Centre and Northfield Women's Prison in 1994 and the Cadell Training Institute and Mount Gambier Prison in 1995, on each occasion I broke the law, because I was carrying my bag, which inevitably held my supply of Zantac.

Some simple precautions which are in place at our airports could be put in place at the entrances to our prisons, such as metal detectors and sniffer dogs. Although these provisions might not pick up the doctor prescribed drugs and those that are in foil packages, for instance, they would go some way to addressing the perceived problems which this Bill attempts to address.

I am not convinced, no matter what is put in place, that they will stop prisoners from finding ways of obtaining drugs or whatever is required to make their own drugs. I think that most people are aware that, in the past, prisoners have made alcoholic drinks from vegemite. Anyone who has made home made ginger beer knows that you can make an alcoholic drink from lemons. It seems to me that that is part of the game of life in prison.

Prisoners put a lot of effort into showing prison officers that they are capable of beating the system. They stand up to prison officers, smuggle in drugs and so on to demonstrate that they have the capacity to survive, that they cannot be beaten by the system. I accept that there are prisoners who do not want to be part of the drug culture or who have been and want to be free from it. I have gone on the public record in the past and said that that opportunity should be granted by designating one of our correctional services institutions as a drug free prison into which prisoners could opt with certain conditions attached. But even if I support everything that the Government wants in this Bill, it would not improve things in our prisons. It would not make these people more able to fit back into society when they are released and it would not reduce the recidivism rate. I therefore flag a lot of concerns about this Bill, but I support the second reading so that some of these issues can be teased out a little more in the Committee stage and some of the less draconian measures in the Bill can be passed.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

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

FISHERIES (GULF ST VINCENT PRAWN FISHERY RATIONALIZATION) (LICENCE TRANSFER) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

BIOLOGICAL CONTROL (MISCELLANEOUS) AMENDMENT BILL

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

SOUTH AUSTRALIAN TIMBER CORPORATION (SALE OF ASSETS) BILL

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

RAIL SAFETY BILL

Adjourned debate on second reading.

(Continued from 14 February. Page 910.)

The Hon. SANDRA KANCK: Basically, this Bill is a ratification of decisions that have already been made between State and Federal Governments. I must say that I was surprised with the figure of $100 million per annum for the social costs of rail accidents which the Minister mentioned in her speech. I really do not understand what that means. I would like some explanation from the Minister because, to me, rail travel is so inherently safe and it is one of the reasons that the Democrats advocate it. Members only have to look at the tourist bus accidents that occur in the Eastern States and compare that with the record for rail and rail seems to come out hands down. My belief is that in South Australia there has only been one death as a result of a rail accident for the past 20 years. Members have to compare that with road accidents in this State during the same period.

I was very mystified by that statement. It was stuck out there on its own and it did not seem to relate to anything. Perhaps the Minister can tell me what the Bureau of Transport and Communications Economics who, apparently, she was quoting mean by 'social costs'. I note with interest that these new laws will apply to private operators of rail lines, which brings me to the issue of the Mount Gambier-Wolseley-Millicent line. These laws will be useless with regard to that section of the line if no-one is using the line. Again, as the Minister knows, there is a private consortium ready to use the line. I know the Minister will tell us that she is powerless because the Federal Government has not advised that it is closing the line so, technically, there is no dispute, but she and I both know that that is a technicality. We have a new Federal Government, so what will the Minister do about instigating some discussion with the new Federal Government on this issue?

Primary producers have been forced to transfer their goods by road and opportunities for rail transport are being lost to road every day in the South-East because of this. It almost looks like it is a conspiracy to make it happen. It is no good saying that this Bill will apply to private operators when the private operators cannot even get access to an unused section of rail. I also welcome the provisions for independent investigators for railway accidents. I suspect that where accidents do occur it is more often than not because of maintenance problems caused by Government funding cutbacks and an independent investigator would be much more up front about saying something like this than if the rail authorities are left to investigate them themselves. For the most part, I doubt that this Bill will have great impact on South Australia and the Democrats will be supporting it.

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

ADJOURNMENT

At 11.14 p.m. the Council adjourned until Thursday 21 March at 11 a.m.