LEGISLATIVE COUNCIL

Thursday 11 April 1996

The PRESIDENT (Hon. Peter Dunn) took the Chair at 11 a.m. and read prayers.

SELECT COMMITTEE ON CONTRACTING OUT OF STATE GOVERNMENT INFORMATION TECHNOLOGY

Adjourned debate on motion of Hon. Anne Levy:

That the Special Report of the Select Committee on Contracting Out of State Government Information Technology be noted and that the Legislative Council endorse its request.

To which the Hon. M.J. Elliott has moved to amend by inserting after the words 'its request' the words 'and convey it to EDS and the Premier'.

(Continued from 3 April. Page 1244.)

The Hon. K.T. GRIFFIN (Attorney-General): The Government recognises the importance of the issues raised by this motion. Notwithstanding the importance of those issues, it has determined that, for the present, it will oppose this motion. One needs to look at some of the issues of principle as well as some of the practical issues which arise in consequence of the establishment of select committees relating to certain outsourcing contracts and the broader policy issues which members of this Chamber will have to address.

There is certainly no doubt that both Houses of Parliament are supreme and sovereign within the context of the State Constitution Act. That, of course, is the position in every other Legislature around Australia. The fact is that Executive Government is just that: it has the responsibility for administering the affairs of the State and to do that in the way which it believes best meets the goals of both the Government and the interests of the public. There will be, undoubtedly from time to time, tension between the Executive arm of Government and a House of Parliament, or both Houses of Parliament for that matter, on issues where the House or Houses of Parliament believe that they have sovereign power and need to exercise that sovereign power on the one hand, and the Executive Government believes that it is not in the public interest that certain matters, for example, not be publicly disclosed. That is a tension which has existed for many years, and it is a tension which has been resolved from time to time in different ways.

We saw only last year the Foreign Investment Review Board public officials before one of the Senate committees in Canberra refusing to disclose information which, on their advice, was commercially sensitive and confidential and would, if disclosed, be damaging to Australia's interests. That was a matter of judgment. That was certainly the point which they asserted. Then the Labor Treasurer or Minister for Finance—I cannot remember which—gave a direction to those public officials that they should not disclose that information before the select committee and there was in those circumstances a stand off. Finally, it was not resolved. My understanding is the Senate committee did not pursue the matter further and the ultimate confrontation was avoided.

But, if the ultimate confrontation was established, then obviously the Senate could have called before the Bar of the Senate, rather than just before the committee of the Senate, those officers, ordered them to disclose information which the Executive arm of Government had indicated to them they should not disclose, and threatened them with a sanction. It is quite well known that each House of Parliament is in a sense a Supreme Court in that there are no technical or constitutional constraints upon the way in which they can deal with persons who refuse to do their bidding or in other respects breach the privileges of the particular House. Ultimately, the sanction is imprisonment, and the Council does have that power. No-one resiles from that. It also has the power to confiscate assets, to impose penalties of other descriptions, but has not, as far as I am aware, ever done that, at least in this State.

There is a general reluctance throughout the western world for those sorts of sanctions to be the ultimate resort of a Legislature because, quite obviously, that raises problems for the Legislature as to the way in which it deals with those issues. Issues of natural justice, which are well recognised in the courts, should be recognised within the Legislature, but there is nothing which says they have to abide by any rules of natural justice which have been developed within the legal system. So, ultimately, the sanction is imprisonment, and any Legislature, whether it is the South Australian Legislative Council or any other Legislature across Australia, will have to think very carefully about the messages that sends, both to the community within its boundaries and the wider community, whether of a business, governmental or other nature. In those circumstances, I could expect that ultimately, if that confrontation occurred in this State in relation to contracts, and the tension between the Executive and the Legislature could not be resolved, it would make South Australia look to be a mickey mouse State around the world.

People might wish to dispute that that would be the perception which was created, but you can be assured that no business would be prepared to come to South Australia in the interests of the people of this State and do business with the Government of the State if the ultimate sanction which it knew would be enforced and which would be imposed by a Legislature was imprisonment. It would give South Australia a very wide berth.

I am not suggesting that that will be the outcome of this tension in relation to the matter before us or in the other outsourcing contracts or in relation to the standing committees, for example, under the Parliamentary Committees Act. However, we must recognise that that is the ultimate conclusion if the issues cannot be resolved. Some members might make the statement, 'Well, it is a question of who blinks first.' In that my view, that is not an appropriate way to deal with this issue. Who blinks first is a rather facetious way of dealing with a very important issue.

I do not resile from the fact that Governments have to be accountable; it is a question of how you achieve that accountability. I can remember that, when the Liberal Party was in Opposition throughout the 1980s, we raised a number of issues in Parliament about the ASER contract. We did not get access to it, even though we called for it. On those occasions we could not get the support of the Australian Democrats to require the production of the contracts. We had the Electricity Trust financing deals, where we asserted in Opposition that the Government of the day had sold off the power stations to Japanese financial interests, and we could not get access to the contracts. On those—

Members interjecting:

The Hon. K.T. GRIFFIN: We did try. The fact is that these tensions have existed between the Executive and the Legislature for a very significant period of time. In relation

to the contract which is the subject of the motion, there are issues of commercial confidentiality. In moving this motion the Hon. Anne Levy recognised that there are issues of commercial confidentiality. It is not a broad, superficial claim of commercial confidentiality but a genuine approach to issues such as intellectual property processes which might be peculiar to this contract and which if disclosed publicly would create a disincentive for EDS, for example, to continue to do business in other areas around Australia or at least be able to do it without prejudice to its negotiating position because of what might be disclosed as a result of the release of that commercially sensitive information.

There may be issues of process which might have been developed by this company and which when put into operation result in a competitive advantage, both for the State but more particularly for the company that is performing the services. One has to recognise that, in this rather complex commercial environment across Australia and internationally, disclosure of that sort of information can be prejudicial: it can be prejudicial to a corporation and to a Government.

For example, in relation to the Government, if one negotiated a contract in a particular area of Government endeavour but it was only a part of a broad range of Government endeavour within health, education or some other area of Government responsibility, it may be that disclosure of the deal in precise terms might prejudice the bargaining position of the State in relation to other proposals or tenders dealing with a similar area of Government responsibility.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: I am dealing with the issues in principle. We can deal with the specifics later. You have spoken, so you cannot deal with it any more. It is important for these issues to be on the public record. We have had a lot of hype in the community and the public media about confrontations between the Executive and public officials in select committees. We have had statements made and questions raised, and it is important to try to put all this into a context, because the public have a right to know what the context is. All I want to do is try quite rationally to put before the Council and the public some of those issues and to identify what the tensions are and how we might be able to deal with them. That is the fact of the matter.

It is all very well for some members to believe that they know better than Government what should or should not be done. We all have that view from time to time: that we know better than others what should or should not be done. The fact of the matter is that we have—

Members interjecting:

The Hon. K.T. GRIFFIN: I listened to everybody else without interjecting.

The Hon. Sandra Kanck: Why do you know better than we?

The Hon. K.T. GRIFFIN: I have not said that I know better than anybody else: I have said that some claim to do that. If you listen to the argument you might understand it. I am saying that we have public statements being made by some who say that they know better than others what should or should not be done. That is the very nature of politics: it is the very nature of political interest, because the Labor Party believes that it is able to deal with something better than the Liberal Party; the Liberal Party believes that it can do things better than the Labor Party; and we both believe that we can do things better than the Australian Democrats.

The fact of the matter is that we all have different points of view about particular issues, and it is the nature of the political process; it is a reflection of the fact that there are within the community these diverse ranges of interests and views about particular issues; and we have to try to find a way of resolving them. As I said earlier, I do not resile from the fact that Governments have to be accountable; it is a question of how you make Governments accountable without compromising the public interest.

The EDS select committee believes that it should have access to the full contract. The Government does not believe that is appropriate. The issues which that select committee has raised, the issues which the water outsourcing select committee has raised and the issues which the Modbury Hospital select committee has raised have prompted the Government to endeavour to develop in consultation a protocol which will not compromise the power of the Legislature but will seek to enable us to deal with these issues in a rational and responsible way without compromising ultimately the power of a House of the Parliament.

Let me just deal with those issues: they are still the subject of consultation and no-one is locked into them. For example, what the Government has proposed—and I do not expect this to be a matter of debate now, but I think it is important that it be put on the public record—is a protocol which will, for example, identify right from the start the guidelines and principles for dealing with outsourcing. They are in the public arena already, and they may need some refining in the light of experience. It is within that broad framework that the public will know that issues of outsourcing are being addressed.

We then are proposing that for each particular outsourcing proposal, before it gets to the Cabinet approval stage for requests for tender or requests for proposal, the process within which that will be dealt with will be considered by the Industries Development Committee. It may require some amendment to the Act to enable that to be done and to give the Industries Development Committee the opportunity to deal, on a confidential basis, with issues of process.

Having resolved those issues, the request for tender or the request for proposal (as the case may be) would be dealt with, the processes would be followed and, at the point that a contract is actually signed, a summary of that contract would be prepared and made publicly available with commercially sensitive information which is agreed between the parties not disclosed.

That information would be fully available to the Auditor-General, who is a statutory officer responsible to Parliament, and the Auditor-General would look at the claim for commercial sensitivity and commercial confidentiality and the reasons, and give a certificate after consultation as to whether or not there is validity in that claim.

The assurance that the Parliament would have is that Auditor-General has statutory responsibilities. The Auditor-General has access to all the documentation, including those issues which are regarded as commercially sensitive, so Parliament can be assured that those matters have been properly addressed.

It may be that the draft protocol, which has been proposed for consultation, will not be agreed. There may be changes to it. There may be issues about confidentiality and being locked into the consideration of issues on a confidential basis of which members of Parliament do not wish to be part. Once one has material on a confidential basis, one is bound as a matter of honour not to disclose that confidential information. If one is in the political arena, that compromises what one can or cannot do. That is fair enough.

I can remember occasions in Opposition when the then Government sought to give confidential briefings, and they were declined on the basis that it would compromise what the then Opposition could do. That is a fact of political life, and we have to balance that against the desire to know. That is the basis upon which we have proposed matters for consideration.

My expectation is that, although that deals with the future, if something can be agreed that will enable that tension between the Executive and the Legislature to be minimised without compromising the power of the Legislature to say on occasion that it will not comply with the protocol, that is a matter for the parties to it. If we can agree a reasonable and rational basis for dealing with some of these important issues, that will be in the interests of Parliament, the State and the Government. I hope that it will give us a lead as to how we might deal with the current issues of the information technology outsourcing, the water outsourcing and the Modbury Hospital outsourcing. It might be that it will not, but at least that is my expectation.

I turn now to the specific issues relating to the EDS contract and the request from the committee. The report of the committee states that it has requested a copy of the full contract between the Government and EDS from both parties and given a guarantee of maintaining complete confidentiality, pending further discussions with both parties.

The Hon. Anne Levy acknowledged that, within the committee, certain matters had been further committed by the committee in relation to confidentiality. On 3 April, she said:

> The report makes quite clear what had been decided in the select committee, that is, that while requesting the contract, we realise that it does contain matters of commercial confidentiality but that the committee is guaranteeing that the confidentiality will be maintained, that the committee will receive the contract *in camera*, that it will not form part of the evidence received by the select committee which will be tabled in the Parliament when the select committee reports, and that the committee will treat this with utmost confidence. There will be no copies made of the contract. It will be kept under lock and key by the Secretary to the committee.

I interjected on that occasion to say, 'That is not in the report, though.' The Hon. Anne Levy acknowledged that it is not in the report. They are matters that appear to be dealt with by the committee but they are certainly not part of the substance of the report. If one looks at the report (and as a Council we are being asked to endorse the committee's request), one sees that it states that, 'It maintains complete confidentiality, pending further discussions with both parties.' That leaves the matter up in the air. The difficulty from both the Government's and the other party's point of view is that it leaves it very much in the hands of the committee. It does not allow for any certainty in the process. What might be claimed to be commercially sensitive, and what might be recognised to be commercially sensitive, is not in fact ultimately given the benefit of complete confidentiality.

The Standing Orders are somewhat obscure in relation to the issues of confidentiality. Certainly, the Standing Orders allow that evidence may be given in camera, but even that evidence given in camera ultimately will have to be tabled in the Parliament and will not be disclosed if the Legislative Council decides that the matters should be kept *in camera* and therefore in confidence. But it is then a matter for the Council: it is not a matter for the committee, which can make a recommendation. It is a matter ultimately for the Council. There is no guarantee that that issue of confidentiality will be recognised by the Council. One might presume that it will be, but there is no guarantee that it will be.

There is also the problem of what happens once the committee has reported. If the committee reports, and even if the material is kept *in camera*, there is nothing in the future to suggest that a Legislative Council in the future will not vary those provisions. It might be appropriate at the end of the contract for that to be done, but there is no guarantee of that confidentiality. The Hon. Anne Levy goes on to say:

> To not provide a copy of the report, under the conditions of complete confidentiality, is, I suggest, impugning the integrity of the members of the select committee who have unanimously decided to give a guarantee of complete confidentiality.

That may be the imputation which some members seek to draw from the Government's position. I regret that that would be the imputation which might be drawn. It is, of course, difficult to deal with that issue specifically without that suggestion being drawn by members of the Council. If one looks at it in a broader context, and looks at the issue of principle, one sees that basically it comes down to the fact that the select committee and the majority in this Council do not trust the Government. That is an understandable reaction in some respects because that has been the position of Oppositions dealing with Governments from time immemorial—although we personally deal with each other on occasions on matters of confidence and those confidences are maintained. But here you have a formal structure within the Parliament.

On the other side, even if inadvertent or accidental, even though the guarantee of confidentiality has been given, there is no guarantee that the material will not be inadvertently released. There is also the issue of staff—whether they be clerks, secretaries to the committee, research officers, *Hansard* or others. Having had access to the commercial material within the contract, what is to be the nature of the questioning on that particular material? The dilemma for Government and for EDS in this particular instance, and also for other parties from time to time, is that in the nature of the matters raised in the report the ultimate question of complete confidentiality is a matter for the committee and is not by agreement with the parties resolved up-front rather than later.

There are probably a number of other issues that one could address. I sought to deal with this on the broader issues of principle, focusing upon that tension between the Executive and the Parliament, particularly this Legislative Council. I would certainly like to see whether there is a way in which we can resolve the impasse that has developed. Neither the Government nor EDS wishes to have the ultimate confrontation. It is my hope, as I said earlier, that the discussions relating to a draft protocol for dealing with these sorts of issues might, in fact, lead us to a resolution of this problem which ultimately will be to the satisfaction of the committee, of the Council and of the Government, and which will meet the requirements of the public interest. Therefore, I indicate again that neither I nor the Government supports the motion.

The Hon. SANDRA KANCK: It has been apparent to the Government—or at least I hope it has been—that we have been on this collision course for six months. We have had four different committees set up to look at contracts that the Government has entered into in that time: Modbury Hospital, Mount Gambier prison, the water contract and EDS; so, the Government has known that this has been coming, and its response to it has not been impressive. It came out with a ministerial statement at the beginning of February about developing a protocol on future contracts. If and when that is developed satisfactorily, it will still be only about future

contracts; it does not deal with the issue of the four contracts that we currently have before select committees.

I am not impressed with the way that the Government has conducted even that process on the future contracts. As far as discussion with the Democrats is concerned, only one meeting has been held and, unless I have my facts incorrect, I believe that only one meeting has been held with the Opposition. So, it seems to me that the Government—

The Hon. M.J. Elliott: They're in a real hurry.

The Hon. SANDRA KANCK: Yes, they're in a real hurry, with six months' notice to get their act together. It seems to me that the Government is not taking this seriously.

The Hon. M.J. Elliott: Fudging.

The Hon. SANDRA KANCK: I think they may be fudging, yes. I noted that the Attorney-General referred to the Auditor-General. I refer him in turn to the comments that the Auditor-General has on public record. As I am a member of the Modbury Hospital committee I cannot actually refer to the deliberations of the committee but I can refer to what I heard and read in the media coverage on it, and that coverage reported that the Auditor-General told that committee that it would be derelict in its duty if it did not get hold of the contract. So, I wonder how we can come to any conclusions about the protocol to be used on future contracts if the people concerned cannot get hold of the present contracts. We do not know what format these contracts are in; we truly have no idea. We have only the sniff of an oily rag to go on.

Another of the things that concerned me about what the Attorney-General was saying is that he was talking about political facts. The political fact is that the Government is saying that it knows better than the Parliament and, in turn, the Parliament is saying that perhaps it might know better if it got hold of the contract. The committee has said, as the Hon. Ms Levy reported, that it guarantees confidentiality. I believe that the integrity of members of Parliament is really being impugned in the process of debating this issue.

The Attorney-General said that the question of confidentiality would be up to the Parliament; it was not up to the committee. I am sure that he is aware that, for instance, in the inquiry on prostitution that occurred about 15 years or so ago (I am not sure exactly when), the evidence was put under wraps and Parliament has continued to maintain that position of confidentiality. If that has been done on that issue for 15 years or more, the record shows that Parliament keeps its word. One speaker—it was not the Attorney-General—said that, if the information in the contract was given to the committee looking at the EDS contract, members could be sure it would leak. Again, that really impugns the integrity and motives of many of the MPs and it is impugning the motives of people in this Chamber. I believe that we are certainly on a collision course.

The Hon. M.J. Elliott interjecting:

The Hon. SANDRA KANCK: I think we are seeing a very bloody-minded approach to this. As someone who is on three of the other committees looking at contracts, I indicate that I certainly will be supporting the motion. It is very important that Parliament maintains its control over these issues.

The Hon. ANNE LEVY: In closing the debate on this motion I thank members for their contributions; in particular I thank the Attorney-General for the consideration he has given to this matter and I am glad to see he does not treat it as a trivial matter not to be taken seriously. However, I am sure he will not be surprised when I suggest that he has missed many of the main issues; he has set up a straw man in order to knock him down. I agree with him that there is often tension between the Executive and the Parliament and the Executive does not wish things revealed in the public interest. Having been a Minister, I am well aware of the responsibilities and difficulties of being a member of the Executive and I certainly agree there are matters which in the public interest should not be disclosed publicly. I agree wholeheartedly with that contention.

However, what we have before us is not a question of making the contract public. That is not what the committee has requested: it is not what it is asking this Council to endorse. This Parliament gave the committee a job to do and one of the jobs given to it by this Parliament was to examine the contract between the State Government and EDS. That was a job that this Council gave to the committee. The committee cannot fulfil its duty unless it sees that contract, but all members of the committee are aware that there are likely to be matters of commercial confidentiality in the contract. There are matters that should not be made public and it would not be in the public interest for all matters to be made public. We cannot at this stage say what these matters that should remain confidential may or may not be because we have not seen the contract. Until we see it that cannot be determined.

However, all members of the committee are aware that there are probably matters in the contract that should not be made public and we have given a guarantee. The guarantee is that the entire contract will remain confidential pending discussions with the parties. I for one certainly would concede that there are likely to be matters in that contract that should not be made public, and it would not be my intention to ever make them public if it would be against the interests of South Australia. I concede that quite readily, but until we see the contract we cannot determine those particular matters.

The Attorney spoke of the ultimate confrontation that can arise between the Executive and the Parliament and the powers of the Parliament in this State. I agree with him that the Parliament has the right to imprison people but has never done so in its entire history. It certainly has the right to call people before the Bar of the House and has done so within living memory. I think the last occasion on which it occurred was in 1973 when a witness at a select committee impugned the integrity of the Chair of that committee, who was so incensed that the witness was then called to the Bar of the House. Subsequently, there have been far worse things said about Chairs of committee without people being called to the Bar of the House.

The committee is not being provocative: it is not trying to cause confrontation. We are certainly not looking for drastic penalties to arise as a result of our deliberations. I for one have no wish whatsoever to impose ultimate sanctions, but we need to see that contract to be able to fulfil the job that the Parliament has given us and, as emphasised in the report, confidentiality will be maintained. We are not people who wish to damage the interests of the State.

To suggest that by letting the members of the committee see the contract in some way will be against the public interest, when there are many people who have seen the contract already and are obviously able to maintain confidentiality in the public interest, is contradictory. Of the five members of the committee two have probably seen the contract already. One is a Minister, who certainly should have seen the contract in Cabinet, and another is a parliamentary secretary dealing with information technology—and I

imagine that he also has seen the contract. That leaves three members of the select committee who have not seen the contract and who are unable to do the job that this Council has given them unless they are able to see the contract.

There is no question of treating the contract irresponsibly or damaging the interests of South Australia by releasing confidential sections of the contract. That has never been suggested and I cannot imagine that the three other members of the committee would ever contemplate doing anything that could damage this State. We are all loyal South Australians and certainly have the interests of the State at heart. To suggest that by letting these three people see the contract on top of the many others who have also seen the contract will, in some way, endanger South Australia is insulting and ridiculous.

The Attorney spoke of evidence being given *in camera* and that, ultimately, it has to be tabled. Mr President, as I am sure you are aware, there are many select committees where evidence is given off the record, *Hansard* is not present and there is no written record of the evidence so it can never be tabled in the Parliament, put in the vaults or put anywhere else. That is quite possible under our Standing Orders and has occurred on numerous occasions on the many select committees in which I have been involved.

I cannot imagine that the Attorney-General is serious when he suggests, even if the committee wished not to table the contract, that the Council would insist on it. I cannot imagine that he is treating that as a serious proposition. I can assure him that members of the Labor Party would be guided by the Labor Party members on the select committee and would accept their view that it should not be tabled in the public interest. I imagine that Government members would do likewise, and I imagine the Democrat members likewise. I cannot believe that the Attorney is serious when he suggests that the Council might insist on its tabling. That is a flight of fantasy to which we should pay no heed whatsoever.

The Attorney spoke of the protocol which is being developed. As the Hon. Sandra Kanck has restated, that protocol, if it should come about, will certainly not be retrospective, so it cannot apply to the contract under discussion here. Certainly, as the Attorney suggested, if processes are to be discussed with the Industries Development Committee prior to any outsourcing being undertaken, that certainly cannot apply in this case because the outsourcing has been undertaken and the process was not discussed with the Industries Development Committee.

However, I stress that the suggested protocol from the Attorney is a proposition only at this stage. It has not been agreed with other parties, who may have different ideas as to how these matters should be dealt with in the future. It can apply to future contracts only and is irrelevant to the matter before us, which is a contract that has been signed; a process has been gone through; and the Parliament has asked the select committee to examine that contract.

I suggest, as I indicated earlier, that Parliament must be supreme. Parliament is a body which gets its authority from the fact that it is elected by all the adult citizens of this State. That gives it the authority to be supreme and, in consequence, any final decision must rest with this Council as it is the supreme body. In asking the Council to endorse the report from the select committee, we are asking it to endorse the fact that Parliament is supreme and endorsing the committee's receiving the full contract immediately.

To vote against this motion I suggest is not only impugning the integrity of the members of the select committee but is also denying the supremacy of Parliament and the fundamental pillar on which our whole parliamentary democracy is based. I ask everyone to support the motion.

Amendment carried.

The Council divided on the motion as amended:

AYES (11)

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

NOES (10)

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

Majority of 1 for the Ayes.

Motion as amended thus 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.

which the Hon. Anne Levy has moved to amend by leaving out all words after 'That recognising that the Adelaide Parklands' and inserting the following:

'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.'

(Continued from 20 March. Page 1011.)

The Hon. DIANA LAIDLAW (Minister for Transport): It is tempting to speak at some length on this motion moved by the Hon. Michael Elliott. I note that he did so and that the Hon. Anne Levy made quite a substantial contribution when proposing an amendment to the motion. I respect, however, that we are dealing with private members' business on hopefully the last day of this session, so my remarks will necessarily be brief.

I want to state at the outset that the Government regards the Adelaide parklands, as does every honourable member in this place, as a very special feature of Adelaide. We also respect the responsibility that we bear for future generations to maintain the parklands as a very special feature of

Adelaide. It is for this reason that any proposed change to the nature of the parklands which members have outlined and which they would fear would have to come before this Parliament.

We argue that this motion and the amendment pre-empt discussion on a very important report that has been prepared by both the Australian Major Events Board and the Adelaide City Council to determine particular future uses for the Victoria Park area, now used as a racecourse.

It is important in this context to recognise that the Grand Prix Act does not provide for any events, other than the Grand Prix, to be staged. If other events required facilities of the nature of the Grand Prix, again, that would have to come before this Parliament.

The Government intends to amend the Grand Prix Act in the next session of Parliament, and apparently those amendments will address issues that are no longer deemed to be relevant parts of the Act, including provisions dealing with exemptions from the noise legislation. So, any issue for the community to consider in terms of future use of the parklands for any major event activity will have to come before this place. The Government would argue that it is at that time that we should be considering the issues that members have outlined in moving this motion and proposing an amendment.

It is also important to consider that, as I mentioned, a major report has been undertaken by the Australian Major Events and the Adelaide City Council on the Victoria Park area. I understand that that report—

The Hon. Anne Levy: Will it release it?

The Hon. DIANA LAIDLAW: I am sure it will be released, because public consultation on that report is planned. I understand that the Minister has just received the report, but its public release is to be considered by the Adelaide City Council very shortly. That is what I would argue in relation to this motion: that it not only pre-empts any legislation that would have to come before this place if any event is proposed but it also pre-empts the public discussion on these issues. I have no doubt that this feasibility study undertaken on the Victoria Park racecourse will present a variety of options to consider, including the *status quo*.

As with any such feasibility study, there will probably be proposals for mild change and for dramatic change, but we would see it as important that those matters be discussed within the community, with the benefit of all the work that has been undertaken by those responsible for preparing the Hassell report. Members of the Legislative Council should not pre-empt consideration by the AME board and cut off its options to consider events that—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Well, the direction you are proposing would cut off all options, so what direction is that? You may as well say that the AME should not consider at any time any use of the parklands for any purpose. We would not consider that that is reasonable or sensible, as the Hon. Julian Stefani argues. It is very interesting that, whenever an honourable member disagrees mildly or to a considerable degree with the Hon. Michael Elliott, we are said to be missing the point. I would argue that the Government has not missed the point. Prior to the release of this report and its consideration by the AME or the Adelaide City Council, and prior to any public consultation on that report, the honourable member is seeking to require this Legislative Council to limit that debate and predetermine the outcome. The Government will not accept that.

Therefore, it is an expression of interest and that is pre-empting the debate, especially as all members know that any proposed change of use would have to come before this place. So, the honourable member would be pre-empting public discussion and consideration by the Adelaide City Council, the AME and the Government of the nature of the legislation, if any legislation is even to be considered or advanced.

It is important also for us to recognise that at this time the SAJC leases the area of the Victoria Park racecourse, and I understand that that lease extends until the year 2004, so its considerations must be taken into account. The AME has considered a variety of events for this site, and members would be aware that proposals such as a festival park and others have been explored. I think former councillor Geoff Nairne came up with what some would call hair raising, and some would probably—

The Hon. T.G. Cameron: What do you say?

The Hon. M.J. Elliott: Harebrained?

The Hon. DIANA LAIDLAW: Yes; I thought they were pretty wild and unacceptable, but I did not seek to impose my view and run into this Chamber and say, 'Hey, stop or pre-empt community debate on these issues.' I believe that we have a responsibility to debate the issues, but not prior to listening to those who have commissioned the study or to the community in general. I would not put myself on such a pedestal.

Also, it is important to recognise that, in addition to the SAJC leasing this site, Australian Major Events itself has considered a range of options. I understand that the only one that it would be prepared to endorse is the Adelaide International Horse Trials, and that money has been committed for this purpose. I suspect that there would be some infrastructure, such as jumps, and so on, and that they would be temporary structures, as have been the structures other than the road for the Adelaide Grand Prix.

I also understand that the Adelaide City Council has endorsed the Adelaide International Horse Trials as being an event for that site. So, I indicate at this stage that the Government had considered moving a further amendment but determined in the end that it did not want to prejudge or pre-empt consideration of these issues. Therefore, while appreciating many of the sentiments expressed in the motion, I indicate that we will oppose both the motion and the amendment.

The Hon. M.J. ELLIOTT: The point needs to be made to the Minister that we are not passing legislation in this place. This is a motion which—

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: You always protest that, don't you?

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I thought that that was what you accused me of. I think it is very responsible of this Council to have this debate, regardless of what we finally decide and regardless of what motion is carried, because it would be appalling if an enormous amount of effort and money was spent on something which the Council philosophically found to be way off beam. I think that it is a very positive thing for this Council, which may later be asked to debate legislation, to give a general philosophical direction as to what it is likely to find acceptable. That should make it easier for people who are working on major events, rather than spending an inordinate amount of time, energy and money chasing something which may not get support.

The Hon. T.G. Cameron: Helping the Government.

The Hon. M.J. ELLIOTT: That's right, it is actually helping the Government. Perhaps we should be passing motions of this type more often, to give some clear understanding early on as to what sorts of things will and will not be acceptable.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: Sometimes I think there is a case for a change in Standing Orders such that the Minister should be sent out for a smoke at least every 15 minutes so that she can be more relaxed in this place.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: If it calms you down I might even re-evaluate my position on such things.

The PRESIDENT: I would ask the Hon. Mr Elliott to keep his remarks to the debate.

The Hon. M.J. ELLIOTT: In commenting about the motion, I was not just speaking in support of the motion as I moved it but I was saying that, in general terms, I think it is a useful and constructive thing that some sort of indication be given as to what the Council is likely to find acceptable. That is not being know-all: I thought that was being sensible, that it was actually being of assistance. I think the Minister checked the wrong script when she interjected, and that that should be used on other occasions.

I want to respond briefly to the amendment of the Hon. Anne Levy. I have circulated it to a number of groups who have shown a long-term interest in the parklands and I want to relay to this place the comments that have been made. As they see it, the effect of the amendment is to virtually sabotage the intention of the original motion, which was to protect the parklands from any further devastation such as was inflicted on the parklands by the Grand Prix. The scope of an Act such as the Grand Prix Act being made flexible to embrace other major events would mean that there could be no long-term development of that area as genuine parklands, that it would have to be maintained in a state of readiness for whatever whiz-bang function was the flavour of that particular year.

Another very significant aspect of the amendment is that, although this proposed event should go no longer than five days, the peripheral preparation and effect of that preparation, as happened with the Grand Prix, has a significant impact on the parklands over a period of about four months. The Hassell report, which was commissioned by the council and the SAJC, has specifically advised against major events at Victoria Park. Although we will have imposed in that area the Australian International Horse Trial, it is imperative that any disruption to the normal traffic and ambience of the area must be avoided.

The Hon. Diana Laidlaw: Who signed that?

The Hon. M.J. ELLIOTT: That came from the Adelaide Parklands Preservation Group. In summary, what needs to be said is that the Adelaide parklands have been subjected, over their history, to a one-way street. There has been a gradual process of attrition of alienation. We are fortunate thus far, I think, that that process has not been rapid. The point needs to be made in relation to open space, and not just in relation to the parklands but in terms of the second generation parklands of Adelaide, that open space is a valuable asset—and I do not mean just in dollar terms. It is a valuable asset which you simply cannot recover once it is lost. That is the reason why, in this place, we have objected to the sale of open space, be it the Blackwood Forest Reserve and in some cases school ovals or whatever else, because, as urban consolidation continues, which it will, and as our population becomes increasingly dense, open space becomes increasingly important as an area of recreation which is accessible to all people.

I think that at some point we have to draw a line and say that we are not prepared to alienate further. If somebody wants to carry out a commercial operation, why should they not do what everybody else does with a commercial operation and buy their land, lease the premises or whatever else? How far are we prepared to alienate public space for what is, at the end of the day, commercial benefit. This motion is asking, 'Are we willing to draw a line or are we going to say that, no, we are prepared for a bit more attrition?' and 'How much more attrition are we prepared to tolerate; a bit more this year, and a couple of years later a little bit more?'

We know that it is extraordinarily difficult to recover land once it is lost, and we are still seeing that in relation to the area around the tram barn—and the future of that still seems to be hanging in the air. However, that has been the exception rather than the rule in relation to urban and open space not only in the parklands but throughout Adelaide. I think that future generations will be most grateful if they see that we have drawn the line and have said that we are prepared to protect it. It is not just for our self-interest of the present; it is for the interest of future generations. I think that in this place we do have a responsibility to look at the longer term ramifications as well.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I am not prejudging. What I am trying to do is indicate what sorts of things would cause concern and what sorts of things would not. I do not think that is unreasonable. It is far better to do it now than wait until the legislation comes into this place and then get up and say—

The Hon. Diana Laidlaw: You haven't even seen the report.

The Hon. M.J. ELLIOTT: I am not going to speak further. I urge all members to support the motion.

Amendment carried; motion as amended carried.

WORKERS REHABILITATION AND COMPENSATION (DISPUTE RESOLUTION) AMENDMENT BILL 1996

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 make four further amendments to the legislative reforms which this Parliament agreed to last year concerning the WorkCover dispute resolution system. These reforms concern technical matters raised by the President of the Workers Compensation Appeal Tribunal and are designed to assist the effective and efficient implementation of the principal amendments.

Reform of the WorkCover dispute resolution system commenced in April 1995 when other key reforms to the WorkCover legislation were being considered by this Parliament.

At that time agreement was reached to form a Working Party where representatives of the two key stakeholder groups, the employers and the unions, could sit down with Members of Parliament from the Government, the Opposition and the Australian Democrats to develop consensus proposals for a new dispute resolution system.

As a result of the efforts of the Working Party, legislation was introduced into this Parliament in October 1995. The Workers

Rehabilitation and Compensation (Dispute Resolution) Amendment Act 1995 was passed with minimal debate and assented on 9 November 1995.

All Members of the Working Party recognised that a substantial amount of work was required following the passing of this reform and before its commencement, particularly in relation to development of Tribunal Rules and procedures.

The Government is pleased that the co-operative approach adopted by the Working Party has continued since November 1995 and extensive consultation has occurred in relation to these transitional matters. Draft Rules are now being finalised in preparation for commencement of the new system at the end of May 1996.

In consulting with the Working Party and other interested persons the President of the Workers Compensation Appeal Tribunal has identified four areas where it is considered that further minor amendments would enhance the new system. This Bill reflects those recommendations which have already been considered and supported in principle by the Working Party.

The four issues addressed by this Bill concern the transitional provisions affecting the demarcation between matters under the old and new systems, the recording of settlements by the Tribunal, the management and control of the Review process and the delegation of administrative powers. A consequential amendment is also made to the recoveries provision of the principal Act.

The Dispute Resolution Amendment Act as passed last year proposed that review cases lodged but not 'substantially commenced' at the time of commencement of the new provisions, would be dealt with under the new system.

It has now been estimated that this would mean approximately 2 000 cases transferring to the new system on day one. With new applications arising at a rapid rate, the backlog of 2 000 cases would place the new system in an immediate position of difficulty and be unlikely to be able to immediately achieve its objectives of faster dispute resolution. Further, the phrase 'substantially commenced' is, in the context of this jurisdiction, likely to lead to unnecessary and costly legal debate, and divert the real focus of the parties away from the objective of resolving expeditiously the core issues in dispute.

It has therefore been decided to propose an amendment to the transitional provisions such that all review applications lodged prior to commencement of the new process are dealt with under the legislation applicable at the time of lodgement and only new applications lodged after commencement of the new process be dealt with under that new system.

In preparing the Rules, an area has been identified where the Tribunal can assist in minimising disputes and streamline the process in relation to the recording of settlements. It is proposed that a provision be inserted to allow the Tribunal, upon the application by a party to a dispute and with the consent of the other parties to that dispute, to hear and determine any other dispute concerning the worker's entitlement to compensation pursuant to the Act.

This is a commonsense provision which will avoid unnecessary technicality in making full and final settlements between the parties on all issues relating to rehabilitation and compensation entitlements.

Under the Dispute Resolution Amendment Act, the President of the Tribunal is unable to manage the existing Review process which will continue to deal with disputes that remain to be heard under the current Review system. This shortcoming needs to be addressed in order to implement a co-ordinated management program designed to achieve the objectives of these reforms.

The proposed amendment to the transitional provisions will ensure that those cases remaining to be resolved under the existing system are formally brought under the central administrative management and control of the President of the Tribunal.

Consequential amendments are required to provide that a person who continues as a Review Officer shall be subject to the administrative direction and control of the President of the Tribunal, and that the President shall have the power to make rules regulating the conduct of proceedings continuing pursuant to the transitional provisions.

The task of administering the new regime will be substantial. The Dispute Resolution Amendment Act in its present form contemplates the President of the Tribunal to ultimately be responsible for its administration with powers of delegation to either a Deputy President or to a Registrar. Given the enormity of the task and the volume of work that a Deputy President or Registrar would independently be required to perform, it is proposed that the Act be amended to allow the President to delegate administrative powers and responsibilities to a person other than a Deputy President or Registrar.

Section 16 of the Dispute Resolution Amendment Act amends the First Schedule of the Principal Act, Clause 2(8)(a), to delete the 'Industrial Court' and substitute the 'Tribunal' as the jurisdiction to deal with disputes over recovery matters covered by the First Schedule.

However, Clauses 2(9) and 2(10) also refer to the Industrial Court. A consequential amendment to these clauses to refer to the Tribunal rather than the Industrial Court is proposed.

I commend this Bill to Members.

Clauses 1 and *2*

These provisions are formal.

Clause 3: Amendment of s. 80—The President

This amendment allows the President to delegate administrative powers and responsibilities to any person. At present, delegations of administrative powers can only be made to a Deputy President of the Tribunal.

Clause 4: Substitution of s 82A

The effect of this amendment is to remove the current section 82A(1) of the principal Act. This provision currently provides that the Registrar is the principal administrative officer of the Tribunal.

Clause 5: Insertion of s. 88DA

The proposed new section 88DA provides that the Tribunal may, with the consent of all parties to proceedings, enlarge the scope of the proceedings to include questions that are not presently at issue in the proceedings. This thus provides an expeditious means of avoiding multiplicity of proceedings.

Clause 6: Amendment of Workers Rehabilitation and Compensation (Dispute Resolution) Amendment Act 1995

These amendments—

(a) provide for minor drafting amendments to Schedule 1 of the principal Act;

(b) provide for the continuation of existing review proceedings before review officers;

(c) gives the President power to make rules and give directions about practice, procedure and evidence in review proceedings that continue before review officers under the transitional provisions;

(d) provides that review officers who continue in office under the transitional provisions are subject to administrative control and direction by the President.

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

STATUTES AMENDMENT (COMMUNITY TITLES) BILL

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

New Clause 9, page 4, after line 5—Insert—

PART 5

AMENDMENT OF LAND TAX ACT 1936

Insertion of s. 10B

9. The following section is inserted after section 10A of the principal Act:

Assessment of tax against land divided by a community or strata plan

10B. (1) Where land is divided by a primary, secondary or tertiary plan of community division under the Community Titles Act 1996—

(a) in the case of the division of land by a primary plan—land tax will be assessed against the primary lots that are not divided by a secondary plan and against a development lot or lots (if any);

(b) in the case of the division of land by a secondary plan—land tax will be assessed against the secondary lots that are not divided by a tertiary plan and against the development lot or lots (if any);

(c) in the case of the division of land by a tertiary plan—land tax will be assessed against the tertiary lots and a development lot or lots (if any).

(2) Where land is divided by a primary, secondary or tertiary plan of community division under the Community Titles Act 1996—

(a) in the case of the division of land by a primary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the primary lots, land tax will

not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, that attaches to each primary lot will be regarded for the purposes of valuation as part of the lot;

(b) in the case of the division of land by a secondary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the secondary lots, land tax will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary scheme referred to in paragraph (a) (if any)) that attaches to each secondary lot will be regarded for the purposes of valuation as part of the lot;

(c) in the case of the division of land by a tertiary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the tertiary lots, land tax will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary and secondary schemes referred to in paragraphs (a) and (b) (if any)) that attaches to each tertiary lot will be regarded for the purposes of valuation as part of the lot.

(3) Where land is divided by a primary, secondary or tertiary plan of community division under the Community Titles Act 1996 and the use of the common property or any part of it is not, in the opinion of the Valuer-General reasonably incidental to the use of any of the community lots, land tax will be levied against the common property or that part of it and the relevant community corporation is liable for the tax as though it were the owner of the common property.

(4) Where land is divided by a strata plan under the Strata Titles Act 1988, land tax will be assessed against the strata units but not against the common property.

New Clause 10, page 5, after line 16—Insert—

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

10. Section 66 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) Where land tax is levied against the common property, or part of the common property, of a community scheme under the Community Titles Act 1996, the tax is not a charge on the common property but is, instead, a first charge on each of the community lots of the community scheme.

New Clause 13, page 6, line 1—Insert—

Amendment of s. 168—Ratability of land

13. Section 168 of the principal Act is amended—

(a) by inserting after 'strata plan' in subsection (4) 'under the *Strata Titles Act 1988*';

(b) by inserting after subsection (4) the following subsections:

(4a) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996*—

(a) in the case of the division of land by a primary plan—rates will be assessed against the primary lots that are not divided by a secondary plan and against a development lot or lots (if any);

(b) in the case of the division of land by a secondary plan—rates will be assessed against the secondary lots that are not divided by a tertiary plan and against the development lot or lots (if any);

(c) in the case of the division of land by a tertiary plan—rates will be assessed against the tertiary lots and a development lot or lots (if any).

(4b) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996*—

(a) in the case of the division of land by a primary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General, reasonably incidental to the use of one or more of the primary lots, rates will not be assessed against the common property, or that part of it, but the interest in the common property, or that part of it, that attaches to each primary lot will be regarded for the purposes of valuation as part of the lot;

(b) in the case of the division of land by a secondary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General, reasonably incidental to the use of one or more of the secondary lots, rates will not be assessed against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary scheme referred to in paragraph *(a)* (if any)) that attaches to each secondary lot will be regarded for the purposes of valuation as part of the lot;

(c) in the case of the division of land by a tertiary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the tertiary lots, rates will not be assessed against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary and secondary schemes referred to in paragraphs *(a)* and *(b)* (if any)) that attaches to each tertiary lot will be regarded for the purposes of valuation as part of the lot.

(4c) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996* and the use of common property or any part of it is not, in the opinion of the Valuer-General reasonably incidental to the use of any of the community lots, rates will be assessed against the common property or that part of it and the relevant community corporation is liable for those rates as though it were the owner of the common property.

(4d) Despite paragraph *(b)* of subsection (4) and subsection (4b) the interest in that part of the common property of a strata scheme under the *Strata Titles Act 1988* or the *Community Titles Act 1996* that comprises the building divided into units or lots by the scheme will not be taken into account if rates are based on site value.

New Clause 14, page 7, after line 10—Insert—

Amendment of s. 182—Rates are charges against land

14. Section 182 of the principal Act is amended—

(a) by striking out 'Rates' and substituting 'Subject to subsection (2), rates';

(b) by inserting after its present contents as amended by paragraph *(a)* (now to be designated as subsection (1)) the following subsection:

(2) Where rates are assessed against the common property, or part of the common property, of a community scheme under the *Community Titles Act 1996*, the rates are not a charge on the common property but are, instead, a charge on each of the community lots of the community scheme.

New Clause 36, page 13, line 1—Insert—

PART 12

AMENDMENT OF SEWERAGE ACT 1929

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

36. Section 47 of the principal Act is amended by striking out 'or by strata plan' from the definition of 'division' in subsection (4) and substituting 'or by community plan under the *Community Titles Act 1996* or by strata plan under the *Strata Titles Act 1988*'.

New Clause 37, page 13, after line 6—Insert—

Amendment of s. 78—Liability for rates

37. Section 78 of the principal Act is amended by striking out 'sewerage rates shall be payable' from subsection (2) and substituting 'sewerage rates are, subject to section 78AAA, payable'.

New Clause 38, page 13, after line 10—Insert—

Insertion of s. 78AAA

38. The following section is inserted after section 78 of the principal Act:

Liability for rates where land divided by community or strata plan

78AAA. (1) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996*—

(a) in the case of the division of land by a primary plan—sewerage rates will be assessed against the primary lots that are not divided by a secondary plan and against a development lot or lots (if any);

(b) in the case of the division of land by a secondary plan—sewerage rates will be assessed against the secondary lots that are not divided by a tertiary plan and against the development lot or lots (if any);

(c) in the case of the division of land by a tertiary plan—sewerage rates will be assessed against the tertiary lots and a development lot or lots (if any).

(2) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996*—

(a) in the case of the division of land by a primary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the primary lots, sewerage rates will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, that attaches to each primary lot will be regarded for the purposes of valuation as part of the lot;

(b) in the case of the division of land by a secondary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the secondary lots, sewerage rates will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary scheme referred to in paragraph *(a)* (if any)) that attaches to each secondary lot will be regarded for the purposes of valuation as part of the lot;

(c) in the case of the division of land by a tertiary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General, reasonably incidental to the use of one or more of the tertiary lots, sewerage rates will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary and secondary schemes referred to in paragraphs *(a)* and *(b)* (if any)) that attaches to each tertiary lot will be regarded for the purposes of valuation as part of the lot.

(3) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996* and the use of the common property or any part of it is not, in the opinion of the Valuer-General, reasonably incidental to the use of any of the community lots, sewerage rates will be levied against the common property or that part of it and the relevant community corporation is liable for those rates as though it were the owner of the common property.

(4) Where land is divided by a strata plan under the *Strata Titles Act 1988*—

(a) sewerage rates will be assessed against the units and not against the common property; but

(b) the equitable interest in the common property that attaches to each unit will be regarded, for the purposes of valuation, as part of the unit.

New Clause 39, page 14, after line 19—Insert—

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

39 Section 93 of the principal Act is amended—

(a) by striking out from subsection (1) 'The amount of all sewerage rates' and substituting 'Subject to subsection (4), the amount of all sewerage rates';

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

(4) Where sewerage rates are levied against the common property, or part of the common property, of a community scheme under the *Community Titles Act 1996*, the rates are not a charge on the common property but are, instead, a first charge on each of the community lots of the community scheme.

New Clause 40, page 14, after line 28—Insert—

PART 13

AMENDMENT OF STAMP DUTIES ACT 1923

Amendment of s. 60—Interpretation

40. Section 60 of the principal Act is amended by inserting after '*Real Property Act 1886*' in paragraph *(a)* of the definition of 'conveyance' 'or the *Community Titles Act 1996*'.

New Clause 48, page 21, after line 14—Insert—

PART 16

AMENDMENT OF WATERWORKS ACT 1932

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

48. Section 86A of the principal Act is amended—

(a) by striking out subsections (1) to (4) and substituting the following subsections:

(1) Subject to subsection (3), where land is divided by a strata plan under the *Community Titles Act 1996* or the *Strata Titles Act 1988*—

(a) the owner of each lot or unit is liable for payment of the supply charge in respect of the lot or unit; and

(b) the community or strata corporation is liable for payment of the supply charge (if any) in respect of the common property or a part of the common property; and

(c) the community or strata corporation is liable for payment of the water consumption rate in respect of the strata scheme.

(2) A community or strata corporation may advise the Corporation by written notice that the corporation has decided that the water consumption rate will be shared between the lots or units equally or in some other proportion specified in the notice.

(3) Where a notice under subsection (2) is in operation in respect of a financial year, the owner of a lot or unit (and not the community or strata corporation) is liable for the payment of a proportion of the water consumption rate for that year in accordance with the notice.

(4) A community or strata corporation may revoke a notice under subsection (2) by written notice given to the Corporation.;

(b) by striking out subsection (6) and substituting the following subsection:

(6) A notice given to the Corporation under this section must have been authorised by a special resolution of the community or strata corporation but if it was not so authorised—

(a) the owners of the lots or units or the community or strata corporation are nevertheless liable to the Corporation for payment of the water consumption rate as though the notice has been so authorised;

(b) the owner of a lot or unit or a community or strata corporation that is liable to pay to the Corporation a greater share of the water consumption rate than he, she or it would have been liable for if the notice had not been given to the Corporation is entitled to contribution from the lot or unit holders or the community or strata corporation (whichever is applicable) on the basis of what their respective liabilities would have been if the notice had not been given to the Corporation.;

(c) by striking out subsection (9) and substituting the following subsection:

(9) In this section—

'owner' in relation to a lot or unit includes subsequent owners of the lot or unit.

New Clause 49, page 22, after line 17—Insert—

Insertion of s. 86AA

49. The following section is inserted after section 86A of the principal Act:

Liability for rates where land divided by community plan

86AA. (1) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996*—

(a) in the case of the division of land by a primary plan—water rates are payable in respect of the primary lots that are not divided by a secondary plan and in respect of a development lot or lots (if any);

(b) in the case of the division of land by a secondary plan—water rates are payable in respect of the secondary lots that are not divided by a tertiary plan and in respect of the development lot or lots (if any);

(c) in the case of the division of land by a tertiary plan—water rates are payable in respect of the tertiary lots and a development lot or lots (if any).

(2) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996* and the lots created by the plan comprise commercial land—

(a) in the case of the division of land by a primary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the primary lots, a supply charge will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, that attaches to each primary lot will be regarded for the purposes of valuation as part of the lot;

(b) in the case of the division of land by a secondary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the secondary lots, a supply charge will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary scheme referred to in paragraph *(a)* (if any)) that attaches to each secondary lot will be regarded for the purposes of valuation as part of the lot;

(c) in the case of the division of land by a tertiary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General, reasonably incidental to the use of one or more of the tertiary lots, a supply charge will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary and secondary schemes referred to in paragraphs *(a)* and *(b)* (if any)) that attaches to each tertiary lot will be regarded for the purposes of valuation as part of the lot.

(3) Where—

(a) land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996*; and

(b) the lots created by the plan comprise commercial land; and

(c) the use of the common property or any part of it is not, in the opinion of the Valuer-General, reasonably incidental to the use of any of the community lots,

a supply charge may be levied against the common property or that part of it and the relevant community corporation is liable for the supply charge as though it were the owner of the common property.

(4) Subject to this Act, where land is divided by a plan of community division and water rates are levied separately against the common property, or part of the common property, the community corporation is liable for those rates as though it were the owner of the common property.

(5) In this section—

'commercial land' has the same meaning as in Division 1.

New Clause 50, page 23, after line 32—Insert—

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

50. Section 86B of the principal Act is amended by striking out 'strata plan' from subsection (4) and substituting 'strata plan under the *Community Titles Act 1996* or the *Strata Titles Act 1988*'.

New Clause 51, page 23, after line 36—Insert—

Amendment of s. 93—Recovery of amounts due to Corporation

51. Section 93 of the principal Act is amended—

(a) by striking out from subsection (1) 'Any amount' and substituting 'Subject to subsection (1a), any amount';

(b) by inserting after subsection (1) the following subsection:

(1a) An amount due to the Corporation under this Act or under an agreement to defer payment of an amount due under this Act that is payable in respect to land, or to a meter or fitting on land, that comprises the whole or part of the common property of a scheme under the *Community Titles Act 1996* or the *Strata Titles Act 1988* is not a charge on the common property but is, instead, a first charge on each of the lots or units of the community or strata scheme.

New Clause 52, page 24, after line 7—Insert—

Amendment of s. 109B—Capital contribution where capacity of waterworks increased

52. Section 109B of the principal Act is amended by striking out 'or by strata plan' from the definition of 'division' in subsection (4) and substituting 'or by community plan under the *Community Titles Act 1996* or by strata plan under the *Community Titles Act 1996* or the *Strata Titles Act 1988*'.

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

That the House of Assembly's amendments be agreed to.

Members will recall that when the Bill was before us a number of provisions were in erased type, being money clauses. They sought to amend legislation such as the Land Tax Act, the Stamp Duties Act, the Waterworks Act, the Sewerage Act and other legislation in respect of the basis upon which valuations would be made of community lots. Previously these Acts included reference to strata titles and, quite obviously, amendments had to be made to address the change to community lots while still recognising that strata titles will remain in existence although no more will be created after the package of legislation comes into operation. The issues are relatively straightforward and merely endorse the amendments which now come as a result of the House of Assembly's deliberations.

The Hon. ANNE LEVY: I support the amendments. From a quick look at them, I can see that they are exactly the same as what was before us in erased type, and which we felt were necessary for the purposes of this Bill. We should now thank the House of Assembly for having taken our advice and put these clauses into the Bill.

Motion carried.

RACIAL VILIFICATION BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. P. NOCELLA: I move:

Page 1, line 22—After 'associates;' insert 'and "racial" has a corresponding meaning'.

We have heard a number of opinions during the past few days and I have taken good note of the contributions that many members have made. I have been generally comforted by the almost unanimous views that speak in favour of introducing appropriate legislation to deal with racial vilification. Not in all cases were the views expressed concurrent. The Hon. Mr Redford expressed the view that he would have preferred to leave the matter of racial motivation to the sentencing process. In this particular case the Opposition agrees with the Government when it agrees to disagree with the views advanced by the Hon. Angus Redford. In the relation to the Hon. Julian Stefani, I have to say that some people have been disappointed because his contribution to this important debate has been, at best, bland.

It is worth mentioning that this Government followed up a process initiated by the previous Government in encouraging two pre-existing ethnic umbrella organisations, namely the United Ethnic Communities and the Ethnic Communities Council, to amalgamate into one strong peak body capable of speaking with one strong voice on behalf of all ethnic communities in this State. That amalgamation having been achieved, it is disappointing that the views and advice of the newly appointed Multicultural Communities Council, the body that now speaks with one strong voice on behalf of all ethnic communities in this State, has been totally ignored.

While it congratulates the Government on taking a strong stand against racial vilification in the form of criminal penalties, it also feels that the combination of the two Bills—including the Bill introduced by the Opposition last year and passed by this Council at the end of November—with appropriate criminal elements for the most extreme offences, as well as conciliation for the other serious incidents of racial vilification, appears to provide the best solution for combating the evils of racial vilification.

On 15 March 1996, the Multicultural Communities Council wrote to the Premier and the Leaders of the Australian Labor Party and Australian Democrats. The letter states:

> Another just as important objective is the prevention of such action—

that is, forms of racial victimisation—

> through education, arbitration and conciliation that can be settled through the Commissioner of Equal Opportunity by way of public apologies and negotiated remedies rather than severe gaol sentences or harsh financial penalties.

The Multicultural Communities Council urges the Government to consider the inclusion of such amendments in the Bill. This has been totally ignored—not even acknowledged. It seems to me that it is a very sad reflection on a situation which has a newly established body performing the function which it has been encouraged to perform by the present and previous Governments.

We also heard the views of the Government on a number of points that have been raised in opposition to the amendments proposed by the Opposition. One matter concerns the Commonwealth legislation, the Commonwealth Hatred Bill which now exists and which can be accessed for the purpose of achieving conciliation and mediation. The Hon. Robert Lawson, in his contribution, on the matter of Federal legislation said:

> 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.

He also said:

> This is the nature of our Federal system. It is perhaps unfortunate that the Federal Government has sought to establish a Federal bureaucracy and a Federal judicial arm to deal with these issues which can be more appropriately dealt with by State tribunals.

That is exactly what the Opposition is suggesting; it is suggesting that a State tribunal should deal with all cases that arise: in other words, the whole spectrum from very serious cases, which appropriately should be dealt with by the harsh penalties provided for in the Government Bill—and which we support—to the not so serious cases which will inevitably occur, as has been the experience in other States, and which probably constitute the bulk of the cases of racial vilification or racial victimisation.

It is appropriate that, in order to deal with the whole spectrum of circumstances, the State legislation in the various forms should cover these eventualities, rather than hopping from State to Federal legislation. I also understand that the Federal legislation provides a safety net for those States that do not have State legislation and therefore an avenue for recourse and redress. But we now have an opportunity in this Council to fashion State legislation that can cover the whole range of eventualities.

The matter of the cost involved in accessing the courts in order to obtain redress is dealt with by the Equal Opportunity Tribunal. The fact that another avenue exists in the small claim procedure for claims up to $5 000 does not alter the fact that the experience, the knowledge and the understanding amassed by the Equal Opportunity Commission over many years of providing mediation services when dealing with cases of conflict is unrivalled in this State. There is no organisation better situated, more experienced and more prepared to deal with these cases than the Equal Opportunity Commission.

We also note the point that has been raised about the $10 million, two-year campaign that the Coalition had in its platform for the recent election. It would be nice if that were the case. The point is that what we hear at the moment is that cuts in various areas may well prevent the Federal Government from fully implementing this undertaking. Therefore, there are many who are not at all convinced that this will happen to the same extent with the same timelines. If it does, that would be a benefit, because it would mean that this State will not have to invest so much in educating and providing resources for the educative process, which is so important.

Another point that has been raised is the requirement of confidentiality that the Equal Opportunity Commission normally adopts in its deals, and it is suggested that the proceedings should be all out in the open. It very much depends: it may well be that in a number of cases the complainant may not want the proceedings to be all out in the open, so I do not think that is a black and white situation where total confidentiality is an advantage or total openness is a disadvantage; it depends on the case. Finally, the point raised about compulsion, that the Commissioner for Equal Opportunity must conduct an investigation and must then refer serious cases to the DPP, is a matter that can again be argued. It is obvious that, upon receiving an allegation of racial vilification, the Commissioner will need to conduct some sort of research in order to ascertain the facts surrounding the allegation.

It is inevitable that there is a compulsion to follow up all cases and to find out, at least in a preliminary way, the facts surrounding the matter, to establish the veracity of the allegation. That cannot be avoided, so the compulsion is there in any case. Overall, it seems to me that we may be wasting a splendid opportunity for producing legislation capable of building upon what the Government is suggesting. The proposals that the Government has included in its Bill are supported, even if they are harsher than those originally proposed by the Opposition in its own Bill, but they are supported nonetheless.

What is then proposed is that the Bill introduced by the Government be completed by way of bringing in the skills, the expertise, the knowledge and the experience of an organisation such as the Equal Opportunity Commission that has enormous and appropriate experience in mediation, especially mediation that involves members of our community from a non-English speaking background, Aborigines or other groups. Basically, that is our position, which simply seeks to build upon what has already been suggested by the Government Bill in introducing this important amendment.

The Hon. R.I. LUCAS: I was going to suggest to members that the Government is happy with this amendment but that we would see the substantial debate about the equal opportunity remedy and that whole package of clauses best conducted under the first substantive amendment that the Hon. Mr Nocella will move to clause 6. From the Government's viewpoint, we are prepared to accept this amendment. We do not see it as being part of the overall package of amendments to which the Government has indicated its objection, and I therefore reserve my general comments to what will be in broad terms a test debate about the first amendment under clause 6.

The Hon. R.D. LAWSON: It is my view that the insertion of provisions into the Equal Opportunity Act as proposed by the Hon. Paolo Nocella is inappropriate. No doubt, other grounds will be given by the responsible Minister in due course, but the essential thrust of the Equal Opportunity Act is that it is an Act to prohibit discrimination on various grounds. It prohibits discrimination on the grounds of sex, sexuality, marital status or pregnancy in relation to employment, education, the sale of land, goods and services

and the provision of accommodation. It prohibits such sexual discrimination in relation to superannuation and the like. It also prohibits discrimination on the grounds of race in employment, education, accommodation, superannuation and the like.

It prohibits discrimination—and I emphasise once again discrimination—on the ground of impairment in employment, education, accommodation and superannuation subject to certain general exemptions. It also prohibits discrimination on the ground of age in relation to employment, education, accommodation and the like. The whole thrust of the Equal Opportunity Act is to prohibit discrimination. The amendments proposed by the Hon. Paolo Nocella will seek to introduce into the Act an entirely different notion, namely that of vilification on the ground of race. It is my view that it is more appropriate to have provisions prohibiting vilification in the criminal law and also in the civil law to give appropriate redress in a criminal sense and in a civil sense to those harmed by acts of racial vilification.

Of course, the criminal sanctions are limited to acts of racial vilification that are accompanied by threats of physical violence and violence to property. The Commonwealth Act, quite appropriately, provides redress in relation to certain acts of vilification that are not accompanied by threats of physical violence or of violence to property. That redress is available. The Human Rights and Equal Opportunity Commission has offices and staff in all States and Territories of the Commonwealth. Any citizen of South Australia who is adversely affected by racial vilification within the meaning of those provisions has an opportunity to make a complaint with that body, and the complaint will be appropriately dealt with.

In my view, there is no need for a duplication of that service already provided. One of the things we are constantly being criticised for in this country is duplication of services and provisions between State and Federal authorities. There is no need for further duplication: we would be guilty of squandering public funds by making dual remedies available.

It is best that one remedy, and not a choice of remedies, available so that people can, as it were, forum shop: that is, go to one body or the other, play one off against the other, have empire building or duplication of services. We should do without that and leave the provisions relating to racial vilification *per se* with the Federal legislation; otherwise it will have no work to do in this State at all.

Amendment carried; clause as amended passed.

Clauses 4 and 5 passed.

Clause 6—'Damages.'

The Hon. P. NOCELLA: I move:

Page 2, line 24—Leave out 'for the tort of racial victimisation' and insert 'for racial vilification[1] or the tort of racial victimisation[2]'.

As already mentioned, this major amendment creates the offence of racial vilification under the Equal Opportunity Act. It is basically the centre piece of the Opposition's amendment. The offence, in essence, is identical to the tort of racial victimisation and with similar quantum of damages able to be awarded. However, the method of dealing with the complaint is quite different. Persons or groups wishing to take civil action will need to choose between the remedies under the Wrongs Act and the Equal Opportunity Act in a similar way to which the Whistleblowers Protection Act provides.

The amendments refer to an offence of racial vilification which will exist under the Racial Vilification Act and requires the Commissioner, if following an investigation he or she believes that such an offence has been committed, to refer the matter to the DPP.

The Hon. R.I. LUCAS: As I indicated earlier, I thought it would be appropriate, if members agreed, to treat this provision as perhaps a test debate about the whole package of amendments that the Hon. Mr Nocella is moving and, therefore, the debate about the other amendments can be specific to the individual clauses. Therefore, for the benefit of members, I place on the record during the Committee stage the Government's position in relation to the package of amendments that the Hon. Mr Nocella intends to move.

As I indicated in my detailed reply to the second reading debate late last evening, the Government is opposed to the inclusion of an equal opportunity remedy in the legislation. I gave at length four reasons last night, but I will recount briefly those reasons why the Government opposes the inclusion of the equal opportunity remedy in the legislation.

First, the equal opportunity remedy already exists via the Commonwealth legislation, to which the Hon. Mr Lawson just referred. The Government has no objection to remedying any deficiencies in that if they can be highlighted, but sees no point in doing so because of the possibility for confusion and duplication of remedies. Neither the Democrats nor the Opposition have yet pointed to any such defects; instead they are proposing another overlapping remedy, which now makes four in total.

Certainly in the context of all the recent discussions with the new Government in Canberra and with the Prime Minister, I understand that a key aspect of decisions to be announced over the coming months in the lead-up to the their first budget some time in August will be an intention by the Commonwealth Government to reduce existing levels of duplication that exist between the Commonwealth and State arenas across all portfolio areas. Certainly, the intention of the new Commonwealth Government—endorsed with a massive mandate and majority at the most recent Federal election by the people of Australia—has been to reduce that level of duplication that already exists within portfolio areas.

That is certainly consistent with the attitude of the Commonwealth Government—and that attitude, I might say, is supported strongly by the State Government in South Australia. It seems pointless for two levels of Government, Commonwealth and State, to be wasting money on duplicating administration when that money might be better spent in the delivery of services at the service delivery end of portfolios or helping (in the context of the Commonwealth budget) to try to balance the Commonwealth budget deficit that faces the Government and the people of Australia at the moment.

To add another level of duplication in this area certainly would be counter to the prevailing trend nationally in the Commonwealth jurisdiction, the State jurisdiction in South Australia, and in other State jurisdictions such as Victoria and all the other States where Liberal Governments or conservative led Governments are in office. There has been, and will continue to be, an intention to reduce the levels of duplication. What we see in this package of amendments is something which flies in the face of that national direction at the moment.

Secondly, and as I argued at greater length last night on behalf of the Government, the Government's view is that conciliation and education will not be successful remedies for combating the types of extremist groups that have been indicated to be the targets of this legislation, for example, the Mr Branders of this world who have been highlighted in

some of the second reading contributions. It is the Government's firm view that the last thing that will change the attitude of the Mr Branders of this world will be an educative process or a conciliation process involving Mr Brander.

If the Hon. Mr Nocella or the Hon. Sandra Kanck have a contrary view that, in some way, conciliation or education will change the attitude of the extremist groups to which this legislation largely has been directed—and a number of members have referred to the public position of the Mr Branders of this world—then I would like to hear from both those members, on behalf of the Australian Democrats and the Australian Labor Party, how they would see this remedy resolving the blatantly, overtly and publicly racist attitudes being expressed by the Mr Branders of this world.

An honourable member interjecting:

The Hon. R.I. LUCAS: My colleague is offering inflammatory and provocative comments, but I will not respond to them at this stage.

An honourable member interjecting:

The Hon. R.I. LUCAS: I could respond to the Hon. Mr Roberts's inflammatory and provocative comments. Indeed, I am disappointed to hear such comments from the Hon. Terry Roberts on such an important issue! However, I will not be diverted. This is an important issue because this legislation is before us not as a result of what I might term 'petty neighbourhood disputes' and a range of other issues such as that—which are important; I do not seek to downplay the importance of neighbourhood disputes, and so on—but because of the outbreak of racial utterances by the Mr Branders of this world not just in South Australia but nationally as well. It is important for the mover of the motion but, clearly, that honourable member is locked into a position.

At this stage the Hon. Sandra Kanck has indicated that she has not declared a position on these issues and is therefore, I presume, given her public position on other occasions, still open to persuasion on these issues and has not locked herself into a fixed view prior to hearing the debate from both sides in this Chamber. Before the honourable member forms a final view, she might share with members of the Committee the reasons why she believes this legislation will change the public position of the Mr Branders of this world, in terms of their racial utterances, the provocative statements that they make and the inflammatory statements which they have made and might continue to make.

That is important, and members of the Committee will be interested to hear that because it is a critical test as to the possible effectiveness or not of the package of amendments that is being moved. As I said, as a member of the Government, I would invite a response from the Hon. Sandra Kanck to those questions before she locks herself into a fixed view or position on this important issue.

With respect to the other two areas, as I indicated last night, the Government believes that public acts of this kind should be challenged and answered in public and not in the confidentiality of the equal opportunity conciliation process. I will add some more comment to that in a moment. Fourthly, the Government believes that its legislation empowers complainants, whereas at significant points in the process the amendments proposed by the Opposition take control of the process away from the complainant.

In his contributions the Hon. Mr Nocella has placed a lot of faith in educational vilifiers by persuasion and conciliation, and has pointed to the alleged success of the New South Wales legislation in this regard. I will refer in a moment to the recent New South Wales record. In a recent article defending the educative conciliation approach, Mr McNamara, a lecturer in law at the University of Wollongong, has indicated as follows:

> One consequence of the emphasis on conciliation in the handling of racial vilification complaints which has had particular implications for the policy debate over racial hatred laws is that the nature of proceedings is such that little information is currently available about the way Australia's most active racial vilification laws are working. The absence of conventional hard legal data in the form of judicial or quasi-judicial decisions helps explain, but does not justify, the superficial and abstract debate on racial hatred laws which has taken place in recent times.

Further, in acknowledging the strength of the argument, Mr McNamara quotes Margaret Thornton's conclusion that the private and confidential nature of the process treats violations as private peccadilloes and not public transgressions, as follows:

> The secrecy surrounding conciliation precludes group empowerment to a marked degree. The outcome of conciliation is invisible and is perceived to be of relevance to the parties only. It cannot be used as a model for others or as a means of developing a collective lobby to change policy if policy changes have not resulted as a condition of settlement.

Mr McNamara does not agree with this or at least is inclined to discount it. But the Government's point is that the supposed virtues of education, conciliation and persuasion are just that: supposed and not yet proven. This country already has one such system with which to experiment.

The Government is obliged to the Hon. Mr Nocella for providing it with a report on the experience of the New South Wales board between 1989 and 1994. Between 1 October 1989 and 31 July 1994 there were 442 written complaints. The majority were against the media and the next most common were neighbourhood disputes. There were 94 complaints finalised in the 1993-94 financial year. Of these, 14 were outside the jurisdiction of the board, 17 were declined, 48 were not proceeded with—clearly a significant proportion—14 were conciliated, and one was referred to the tribunal for a hearing. There are all sorts of explanations for these figures, but the one thing that can be said is that they, so far anyway, have not presented a resounding record of success.

The Hon. Mr Nocella makes another point to which the Government wants to respond. He says it is not desirable that people have to deal with State and Federal bodies when dealing with a particular issue. It is far better, according to Mr Nocella, that one level of government deals with the problem. That is exactly what the Government is arguing. The statements made by the Hon. Mr Nocella, that it is better to deal with one level of government, is the position that the Government is arguing. However, the effect of the amendments he is proposing is completely the opposite to the statements and comments that he made in his contribution to this Bill. As I said, it adds another jurisdiction to the debate.

The Hon. Sandra Kanck has also stated a preference for an approach based on a specialist tribunal, but again her stated preference is for education reconciliation without regard for any record of effectiveness and on an assumption that such a system does not already exist. The honourable member thinks that a specialist tribunal will 'bring together good statistical information that can be collated for the policy makers about the incidence and levels of racial violence'. The Government's view is that it has made abundantly clear that the system embodied in the proposed amendments moved by the Opposition will not do that. On the contrary, less information will be provided than will be available through the publicly available court system.

The Hon. Sandra Kanck also takes the view that the court system offers a deficient remedy in the area for a number of reasons. Principally, she is concerned about costs, and rightly so, but the Government's position is that, over the past few years, Governments of both sides have taken and supported steps to make courts more accessible. As the Government has pointed out, the kinds of small claims with which a tribunal system is designed to deal can be dealt with cheaply and expeditiously through the small claims jurisdiction. It might not be as user friendly as a tribunal system might have been, but it is a matter of balance and, if the honourable member has any ideas which might make the small claims jurisdiction, or indeed any court, more accessible to those seeking justice, I am sure the Attorney-General would be delighted to hear of them.

In summary, therefore, in outlining the Government's position to this whole package of amendments, the Government respects and understands the views being put by the Opposition in relation to an alternative system of dispute resolution via the Equal Opportunity Commissioner, but the Government is not persuaded by them. The Government will oppose not only this amendment but also the consequential amendments.

Progress reported; Committee to sit again.

[Sitting suspended from 1.2 to 2.15 p.m.]

PAPER TABLED

The following paper was laid on the table:

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

Australian Formula One Grand Prix Act 1984—Audited Statutory Accounts for year ended 31 December 1995.

QUESTION TIME

SCHOOL CLOSURES

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

Leave granted.

The Hon. CAROLYN PICKLES: After hanging the Sturt Street Primary School community out to dry for almost two years, the Minister has finally announced his decision to close the school—almost two years of work and consultation by the school community for nothing. The school community is very angry and shocked. The Minister has announced the closure of Sturt Street Primary School, South Road Primary School and Marion High School, with all three schools to close at the end of the school year. My questions to the Minister are:

1. Why did he bother to consult with the community, including the Lord Mayor and the Federal member for Adelaide, and then ignore their contributions and recommendations before closing Sturt Street?

2. How much money has he allocated in the budget for the capital works necessary for the new school structure in the Marion corridor?

The Hon. R.I. LUCAS: I gave a commitment that the Government would announce its decisions in relation to both reviews by the end of term 1, and the Government has met that commitment through the decisions I have announced today. The answer to the honourable member's second question is that it is currently estimated that about—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I will come to that; I will answer the questions in the order that I want. It is currently estimated that about $5 million might be generated through the land sales of the three schools to be closed in the Marion corridor. I remind members that this has been recommended to me by local school chairpersons and local school principals—that there be three school closures—however, the decision as to which particular schools should be closed was left to me. The $5 million will be returned to schools in the broader south-western area, with the vast majority of the $5 million being spent in—

The Hon. L.H. Davis: Adelaide is a Liberal seat. She can't even get that right.

The Hon. R.I. LUCAS: It is a bit strange. The Leader of the Opposition was being critical of the Government because The Parks School was closed, it was in the Labor area and we were not prepared to close down schools in Liberal areas. I said unequivocally that the political complexion of the seat did not come into it. Since then I have taken two decisions to close schools in the electorate of Goyder, and I have now taken four decisions to close schools, all of which reside in Liberal held seats. The political complexion of the seats is not an issue to this Government or to me as Minister. This Government has taken the decision to close schools for the educational—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The Leader of the Opposition is entirely inconsistent, because these decisions have been taken in the seats of Liberal members. That has not been a factor in the decisions, as I said when I took the decision in relation to The Parks. I return to the questions rather than the interjections from the Leader of the Opposition. The $5 million substantially will be poured back into the four Marion corridor schools in terms of redevelopment; a significant high technology upgrade for the four schools, which will mean all the infrastructure—the cabling—required to link them to the education network; and also a contribution towards the purchase of computers for the students of those schools. In the press statement that I issued today, the Government has given a clear and unequivocal assurance that all the money from the sale of the land sites down there will be channelled back into schools in the broader south-west, with the vast majority going into the four schools that participated in the Marion corridor project.

In relation to the first question, I have said on a number of occasions that this Government gave a commitment that we would consult; we would allow local communities and everybody else, including the Lord Mayor, to put a point of view to the Government. However, in the end, the buck stops on my desk as Minister and it is the responsibility of the Minister to take the decision. The Government does not and will not accept the proposition of the Leader of the Opposition that, for example, in the case of Port Victoria Primary School, if 11 students are left at the school and if the local school review committee says that it must stay open, therefore it will stay open. The Government rejects that sort of decision making process in relation to educational planning as being nonsensical. It is as simple as that. In relation to Sturt Street Primary School—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —20 children from the City of Adelaide attend that primary school. In relation to Gilles Street—

The Hon. Carolyn Pickles: It's a city school.

The Hon. R.I. LUCAS: The Leader of the Opposition says it is a city school. Twenty local students from the City of Adelaide attend Sturt Street and 40 local students attend Gilles Street Primary School. In the three schools, 120 students are at Parkside, 120 at Gilles Street, 60 mainstream students are at Sturt Street and there are 100 new arrivals program students at that school. As I said, of the total number, 20 come from the local area. The decision the Government has taken is that we can cater for all the local students—all the children of city workers who want to bring their children into the city past their local schools, and we can also move the important new arrivals program students to the Gilles Street campus—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: That is not true—and cater for all those students at the Gilles Street campus.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The Leader of the Opposition is so busy interjecting that she does not listen to the answers. I just said that the important new arrivals program is assured and will continue at the Gilles Street site. I just said that, so I am not sure about the interjection from the Leader of the Opposition. They are the reasons why the Government has, in one case, not agreed to the recommendations of the local review committee and, in the other case, has very substantially agreed with the recommendations of the local principals and the local school council chairpersons.

PETROL PRICES

The Hon. T.G. CAMERON: My question is to the Minister for Consumer Affairs and concerns petrol pricing.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. Griffin: Regarding what?

The Hon. T.G. CAMERON: If your backbenchers would shut up you might be able to hear me.

The PRESIDENT: Order! The Hon. Terry Cameron.

The Hon. T.G. CAMERON: My question is about petrol pricing.

The PRESIDENT: Order! I suggest that the Hon. Terry Cameron address his remarks through the Chair.

The Hon. T.G. CAMERON: Provided that everyone can hear me, Mr President.

The PRESIDENT: Did the honourable member seek leave?

The Hon. T.G. CAMERON: Yes, I sought leave to make a brief explanation.

Leave granted.

The Hon. T.G. CAMERON: Last week the Treasurer said that he was aware of the unusual price movements for petrol at Easter and Christmas and undertook to find out whether the Commissioner for Consumer Affairs would examine this matter and whether the Commissioner would be involved in the Federal inquiry into petrol pricing. I have been provided with a computer network message from BP Australia to a retailer, which is dated the day before the Easter holiday period began, advising the service station to raise its pump price for unleaded petrol by 5¢ per litre. The oil company's share of the increased profit was 4.5¢ per litre, with the retailer receiving an extra .5¢ per litre.

In the absence of advice that the State Government is actively pursuing this issue, the Leader of the Opposition has written to the Chairman of the Australian Competition and Consumer Commission, Professor Alan Fels, and has provided him with a copy of the oil company's computer network message to assist with his investigation. I will quote briefly from that letter:

> The party's interpretation of this document—

that is the document that was provided to us—

> was that the pump price for unleaded motor spirit would be made up of the notional price of 71.6¢ and the trader margin of 3.3¢, giving a total of 74.9¢ per litre compared with the price of 67.1¢ and a trader margin of 2.8¢, giving a pump price of 69.9¢ on the previous day. After providing a rebate to the retailer on the wholesale price, the oil company's share of the increase would be 4.5¢ and the retailer's .5¢ per litre. I hope this information may be useful in issuing your investigation.

My questions are:

1. Has the Minister been consulted by the Treasurer concerning his investigation of the use of the State Consumer Affairs' powers to investigate the practice of oil companies increasing petrol prices over holiday periods? Can the Minister say whether any investigation will be carried out?

2. What involvement will the Commissioner have in the Federal inquiry into petrol pricing?

The Hon. K.T. GRIFFIN: The answer to the first part of the first question is 'Yes.' The answer to the second part of the question is that there has not been an investigation by the State Office of Consumer and Business Affairs because the whole issue is being handled at the level of the Australian Competition and Consumer Commission. This is an issue that has been on the agenda of the ACCC since at least last year when it indicated—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: No, I am not happy about it, but it is not something you can deal with on a State by State basis. You can make some token sort of sortie into the field but it ought to be recognised for what it is: it is a token presentation for political purposes only. What we prefer to deal with is the substantive issue, and we have been very supportive of the ACCC undertaking investigations into the petrol industry, petrol pricing and multisite franchising. The honourable member has to recognise that, when the Labor Party was in office here the Hon. Barbara Wiese as Minister for Consumer Affairs, the Hon. Anne Levy as Minister for Consumer Affairs and others were constantly confronted with this periodic issue of petrol prices, and they took the same view that I and this Government have taken that you cannot deal with it solely on a State by State basis, that it has to be dealt with nationally particularly through what was the old Trade Practices Commission and is now the ACCC. That is where you get action if you get any action at all.

You have to remember also that for the past 13 years we have had a Labor Government in Canberra, and it has had the responsibility for the administration of the Trade Practices Act and the Prices Surveillance Authority, which had the responsibility for dealing with petrol pricing. It was only belatedly at the end of last year that Senator Schacht, the Minister for Small Business, who had responsibility for the issue of petrol pricing, decided to refer the issue of petrol pricing to the then Trade Practices Commission. When he was confronted by issues about multisite—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: If anyone was in the oil companies' pocket it was the former Labor Government in Canberra, because for 13 years the Labor Government in Canberra did nothing. It did not enforce the divorcement

legislation in relation to petrol companies and the ownership of petrol retailing outlets.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: They didn't do anything about petrol prices. Belatedly, when it was facing an election, when it had had a lot of pressure about multisite franchising and petrol pricing and there were complaints from Queensland, South Australia, Victoria and New South Wales, it finally did something. Senator Schacht referred the matter to the ACCC (previously the Trade Practices Commission). The former Federal Government was sitting on its hands for nearly 13 years and it finally recognised that if it was to go to an election it had to have something which could indicate that it was trying to do something about the disparity in petrol prices, particularly in rural Australia. The fact is that we are very dependent upon the ACCC taking action, and that is where the appropriate responsibility lies.

The Hon. T.G. CAMERON: As a supplementary question, in my question I asked the Minister for Consumer Affairs whether the Prices Commissioner here would have any involvement with the Federal inquiry into petrol pricing. I wonder whether he could answer that?

The Hon. K.T. GRIFFIN: The involvement will be consultation with the ACCC.

NATIVE TITLE

The Hon. R.R. ROBERTS: My question is to the Attorney-General and concerns native title. Given the continuing uncertainty about the impact of South Australian pastoral leases on native title, what advices or representations are being made by the—

The Hon. J.F. STEFANI: On a point of order, Mr President, the honourable member has not sought leave.

The Hon. R.R. ROBERTS: I am not giving an explanation either, Mr President. Perhaps you could explain that to him.

The PRESIDENT: I think the honourable member is attempting to put his question direct: I hope he is.

The Hon. R.R. ROBERTS: I am, and I am being rudely interrupted by someone who is unaware of Standing Orders, Mr President.

The PRESIDENT: Order! The honourable member will ask his question.

The Hon. R.R. ROBERTS: I will start again, Mr President. My question is to the Attorney-General. Given the continuing uncertainty about the impact of South Australian pastoral leases on native title, what advices or representations are being made by the Department of the Attorney-General and the Department of Mines and Energy to tenement claimants in relation to pastoral lease land over which there may be claims under the native title rights legislation?

The Hon. K.T. GRIFFIN: I thought I had answered that earlier in this part of the session when I was asked a question about native title, I think by the Leader of the Opposition, but I will go over it again for the honourable member's benefit. The fact of the matter—

An honourable member interjecting:

The Hon. K.T. GRIFFIN: I am always happy to oblige and provide information to the Council.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: That is unfair. My colleagues on this side are only too pleased to be able to provide information when they are invited by questions or otherwise to provide that information.

Members interjecting:

The PRESIDENT: Order! The Attorney-General.

The Hon. K.T. GRIFFIN: Members may recall that our own Native Title Act contains a declaration that native title was extinguished in South Australia by a valid grant of pastoral lease. We have taken the view that, in addition to that, pastoral leases did extinguish native title. The former Federal Government certainly took that view, as well, that native title was extinguished by pastoral lease.

The Hon. M.J. Elliott: What about renewal of the lease?

The Hon. K.T. GRIFFIN: Even on renewal. Once a pastoral lease has been validly issued, the Government's view is and the previous Federal Government's view was that it extinguished native title once and for all. Once extinguished, native title cannot revive, and it does not matter whether there are renewals every 42 years, as the Pastoral Land Management Act requires, or some other period. The valid issue of the lease extinguished native title.

One of the difficulties was that the previous Federal Government was not prepared to legislate to put that issue beyond doubt because, subsequent to the enactment of the native title legislation at the end of 1993, it became clear that there was some confusion, at least in the minds of claimants and also the national Native Title Tribunal, as to whether or not native title was extinguished by the grant of a valid pastoral lease. Some of the cases that have gone to the Federal Court for decision, for example, the Waanyi case and the Wik people's case, suggest that at least some members of the Federal Court believed that native title was not extinguished by pastoral leases, even though there might not have been a reservation.

The Waanyi people's case went to the High Court, but only on a procedural issue rather than the substantive issue, and South Australia intervened in that High Court application, arguing that the High Court ought to be prepared to resolve the issue and that the statements made by some of the judges in the Federal Court ought to be restricted, that is, they ought to be given a clear message that it is not for them to determine the issue of whether or not pastoral leases extinguish native title. The High Court did not do that and, at some stage in the future, that will have to go to the High Court if it cannot be resolved.

In so far as the issue of mining tenements is concerned, in South Australia we have taken the view that native title has been extinguished by the grant of a valid pastoral lease. We give no undertakings in relation to the tenement holder that that is the position, so that whilst the lease has been issued the tenement holder is obliged to make its own inquiries and take its own advice in relation to native title. The honourable member will know that a number of claims have been lodged, and some accepted, in relation to land that was or still is pastoral leasehold land, and one was identified today or yesterday in the Upper Spencer Gulf region, some of which is Crown land, some of which is pastoral land and some of which is freehold.

All that creates a large measure of uncertainty. There have been some discussions with all interest groups—the mining industry, the Farmers Federation, Aboriginal people and others—about how that can be resolved in this State, but at this stage the issue has not been finally resolved. There is the question of the reservation, which is provided in pastoral

leases under section 47 of the Pastoral Land Management Act, and, again, the Government's position in this State is that that is a statutory right. It is not the residue of any native title rights which might have remained after the issue of a pastoral lease. That matter will also be the subject of litigation if it cannot be resolved in any other way.

COLLEX WASTE MANAGEMENT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Housing, Urban Development and Local Government Relations, a question in relation to Collex Waste.

Leave granted.

The Hon. M.J. ELLIOTT: My question relates to the State Government's announcement of a proposed development plan amendment to rezone land for the establishment of a liquid waste treatment plant at Kilburn. In a ministerial statement on this issue, the Minister for Housing, Urban Development and Local Government Relations said that the Department for Manufacturing, Industry, Small Business and Regional Development has estimated an economic benefit to the State from the development. In the view of some, the department's assessment should be made publicly available to ensure that the wider community can judge the benefits.

It is important to note that, although opposed to the current site planned for the plant, the Enfield council has offered and is prepared to purchase an alternate location for the proposal. The community remains concerned that no action should go ahead on the site until a Supreme Court judgment is handed down. My questions are:

1. Will the Minister ensure that the assessment of economic significance for the proposal is made publicly available?

2. Will the Minister assure the community that any development of the site and any movement on the development plan amendment will not proceed until the Supreme Court judgment is handed down?

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

CRIME

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about crime statistics and sex offences.

Leave granted.

The Hon. A.J. REDFORD: The crime statistics in relation to sentencing for sexual offences was recently released by the Office of Crime Statistics and received some publicity. I have since received correspondence stating the following:

> A person convicted of having unlawful sexual intercourse with a child under 12 years of age is liable to a maximum sentence of life imprisonment. In 1991 the average non-parole period imposed was 2.9 years, in 1992 it was 2.5 years and in 1993 it was 2.6 years. Convicted rapists were sentenced (on average) to non-parole periods of 3.1 years (1991), 3.7 years (1992), 4.1 years (1993) and 4 years (1994).

The 1994 statistics reveal that, of 21 persons reported to have been convicted of rape, five received suspended sentences and 16 were imprisoned. The media highlighted the fact that some five people, three of whom were convicted of raping a male and two of whom were convicted of raping a female, received suspended sentences. We all know that the courts will impose suspended sentences based on circumstances of the offence and the antecedents or background of the perpetrator.

Indeed, I have had drawn to my attention an article by Mr William Carter QC in the Journal for Justice Professionals, *Themis*, where he indicates that imprisonment for serious offences increased by 67 per cent from 1989 to 1993 in Queensland. He goes on to say:

> In short, police numbers have increased, sentences for imprisonment are more frequent, the number of prisoners in Queensland prisons has increased to the point where $56 million is currently being spent on a new prison at Woodford. Yet crime continues to escalate. This disturbing equation should prompt the policy makers, particularly those with political influence, to question the validity of the proposition that crime will diminish if the penalties imposed by the courts are seen to be harsher and more draconian.

In view of this and in view of the publicity, my questions are as follows:

1. Will the Attorney-General make inquiries and inform this place of the circumstances that existed in relation to each of the persons who received a suspended sentence following the conviction of rape?

2. Will the Attorney-General advise whether or not the Director of Public Prosecutions appealed the penalties in those cases and, if not, why not?

3. Does the Attorney have any comment about the statements made by William Carter in his article referred to in my explanation?

The Hon. K.T. GRIFFIN: The statements, as I recollect them by Mr William Carter QC really reflect some of the things which are occurring in other countries as well as possibly in Australia. It is interesting to note that in relation to the United States where they have for years been ramping up penalties, increasing the number of people in prison, building new prisons and putting more police on the beat it has still not stopped the escalation in crime and they are turning more and more to alternative methods to prevent crime, rather than dealing with the crimes themselves after they have occurred. I think as a matter of policy that is a good thing.

The previous Attorney-General was committed to crime prevention and, as I have said in this Council on a number of occasions, whilst there were some aspects of that strategy with which the Liberal Opposition at that time did not agree, it nevertheless gave support to the general thrust of trying to identify the causes of crime and dealing with those thus preventing crime, rather than dealing with the criminal act once it has occurred. It is much better for the community if a crime can be prevented, rather than have to deal with the aftermath of it in the justice system.

That is the trend in the United States. In Canada, the United Kingdom and in other countries, as well as in Australia, they are now turning to alternatives to prevent crime and I believe that is a good strategy in the long-term interests of the community. As I say, it really does no good to keep ramping up penalties and putting more people in gaol for longer periods if you can find alternative ways of dealing with the causes of crime.

In terms of the questions, the honourable member has asked whether I can inform the Council of the circumstances of the various offences to which he referred in his statistical references. I doubt whether it is possible to identify each and every case that is referred to statistically because the statistics are generally collected through the Justice Information

System for statistical purposes and not for the purpose of identifying each offender and the circumstances of each offence. I do not think that the circumstances of each offence are kept on the JIS, but I will have inquiries made about that.

In terms of whether or not the Director of Public Prosecutions has appealed any of the penalties, it might be difficult to identify each and every case referred to statistically to be able to gain access to that information, but again I will refer that question to the DPP to see what information might be available.

There are a couple of comments I want to make on the statistics to which the honourable member has referred. As I recollect it, the figures presented regarding the average non-parole periods for the major charge of unlawful sexual intercourse with a child under the age of 12 are correct for 1991 and 1992, but they are slightly different for 1993. In 1991 the figure cited was 2.9 years, and from the Crime and Justice Report that was correct; in 1992, it was 2.5 years and the figure in the Crime and Justice Report was the same; in 1993, the figure cited was 2.6 years but in fact was 2.7 years; the figure for 1994, and that was not cited, was 3.6 years which is quite a significant increase.

It is also important to recognise that these represent the major penalty imposed for the major charge. The figures do not represent all penalties imposed per case. Thus, if a defendant was found guilty of several charges, such as rape and indecent assault, and the rape charge attracted a more serious penalty it would be designated as the major charge. In the figures to which I have referred, only the outcome for this charge would be recorded while any penalty imposed for the other charge of assault would not be counted. That counting issue is not acknowledged in the figures which were given by the honourable member.

I now turn briefly to the non-parole periods for convicted rapists. The figures which the honourable member cited are wrong. In the Crime and Justice Annual Reports, average non-parole periods are calculated separately for those cases involving female victims and those cases involving male victims. To calculate an overall average it is not valid to simply add the two averages and divide by two which is what the questioner seems to have done. Instead the calculation has to take account of the number of cases per average non-parole period.

I can give an illustration. In 1992 there were 26 cases involving a female victim with an average non-parole period of 54.5 months; there was one case involving a male victim with an average non-parole period of 36 months; the overall average was 53.8 months. The correct figure for 1991 is 3.3 years; 1992, 4.5 years; 1993, 4.1 years; and 1994, four years. It needs to be put on the record that these are the major penalties imposed on the major charge only rather than all penalties imposed in any given case. The figures cited for 1994 are correct in terms of the numbers who received a suspended sentence for rape. The file numbers of these five cases have been provided to the courts to enable them to check the details of each case.

HEYSEN TRAIL

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 Heysen Trail.

Leave granted.

The Hon. T.G. ROBERTS: Constituents who have approached me and who are concerned about the state of the Heysen Trail at various stages would like to obtain some guarantees from the Government that the integrity of the trail will be protected and that the Government sees it as a priority to ensure that the Heysen Trail is maintained and improved to enable all South Australians and international visitors to enjoy the benefits of a great natural asset.

The Heysen Trail was set up under the previous Government. It has had good bipartisan support, good community organisational support, and local government has played a role in protecting and supporting it. The trail itself has become an asset to those local government areas that have protected and fostered it. It is widely used; there are spin-offs for small business in the particular areas of the Heysen Trail where people obtain provisions for the walks. Many of the walkers take leisurely strolls for up to a week and in some cases longer. In other cases more arduous points of the trail need to be negotiated, perhaps by younger, stronger, fitter legs—but even older, fitter legs will negotiate it. People are concerned that the trail is not getting the protection it deserves. Will the Government guarantee that it will provide adequate funding to protect and improve the Heysen Trail and its surrounds for all South Australians and visitors to enjoy?

The Hon. DIANA LAIDLAW: I will refer that question to the Minister and bring back a reply.

MUSIC EDUCATION

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

Leave granted.

The Hon. P. HOLLOWAY: On 16 November last year I asked the Minister a question about cuts to music education. The Minister confirmed that he had set up a working party to look at the impacts of those cuts on music students. On 13 February, in answer to a question from the Leader of the Opposition, the Minister confirmed that his department would conduct a statewide music education review in the wake of his decision to cut 23 music teachers this year as a cost saving measure.

Also earlier this year, the Australian Society for Music Education wrote to the Opposition expressing surprise that another review was to be conducted on top of the music review conducted in 1994, particularly as no-one had heard the results of the 1994 review. In view of all these facts, my questions are:

1. What was the outcome of the music review conducted in late 1994, for which responses were due in May 1995, and will the Minister make this review public?

2. What was the outcome of the working party review to which he referred in 1995, and will he make this public?

3. When will the Minister provide the Council with a copy of the terms of reference of the latest review as he promised to do on 13 February, and will he give an undertaking that the outcome of this review will be made public?

The Hon. R.I. LUCAS: The working party has not reported and, if I have not provided a copy of the terms of reference, I offer my apologies for that; I certainly undertake to do so. I would need to look at the 1994 review and refresh my memory as to the specific recommendations thereof. I will do so and bring back a reply as soon as I can.

DRIVERS' LICENCES

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief statement before asking the Minister for Transport a question about drivers' licences.

Leave granted.

The Hon. CAROLINE SCHAEFER: I was recently visited by a constituent who is a member of the Ulysses Motor Cycle Club and who had a number of concerns regarding fatalities and accidents.

The Hon. A.J. Redford: That's your natural constituency, is it?

The Hon. CAROLINE SCHAEFER: Yes, my natural constituency, as my colleague says.

Members interjecting:

The Hon. CAROLINE SCHAEFER: There is some interjection as to why a member of the Ulysses Motor Cycle Club should visit me. I make the point that, as members well know, I do a lot of work within Whyalla and that I do my best to serve the public of the whole of South Australia. As such, I will see any constituent who wishes to visit me.

He raised a number of concerns with regard to fatalities amongst motor bike riders and brought forward the statistics that 29 per cent of riders involved in fatal crashes are unlicensed, with a further 3 per cent disqualified from riding a motor cycle. He further raised the point that 32 per cent of fatal accidents involving motor cycles have unlicensed or disqualified riders. He raised concerns that, in the area where he lives, a number of people are driving courier vans and/or motor cars without a licence—not, as I had assumed, because their licence had been cancelled but simply because they had never bothered to sit for the test and obtain a licence.

My constituent noted that the fine for unlicensed driving or riding of a motor cycle is $173, compared to the fine of $1 000 for driving with an insecure load. Will the Minister comment on these alarming statistics and the apparent lack of parity in infringement fines?

The Hon. DIANA LAIDLAW: The honourable member kindly referred this matter to me earlier today and, like she, I was surprised to read of the high level of motor cycle riders who are involved in fatal crashes and who are unlicensed. I was keen to check the figures that were provided to the honourable member, but I regret to confirm that they are accurate, according to the Office of Road Safety and the Department of Transport. I have been advised further that the problem of unlicensed motor cycle riders has been an issue for some time, and it was estimated in the mid 1980s, through random checks, that up to 20 per cent of motor cycle riders were unlicensed.

However, detection is difficult because mandatory carriage of licence does not apply in South Australia, and that is a matter that the honourable member may wish to address in the future, although I know that many people in country areas deplore any notion of the mandatory carriage of licences.

It is interesting also to reflect on a report on fatal motor cycle accidents between 1985 and 1991, which report analysed 232 fatal motor cycle crashes and found, as the honourable member noted, that 67 (or 28.9 per cent) were unlicensed and a further seven (3 per cent) had been disqualified from riding. The average age of motor cyclists killed in that period was 26.53 years.

What is also of considerable interest, when one looks at the background to this issue, is that the introduction of Rider Safe, the compulsory rider training program, at the end of the 1980s may have contributed to this problem. It was found over the period of that study (1985 to 1991) that in the last two years (1989 to 1991), when almost all new drivers should have been trained under the program, a large number of unlicensed riders had not undergone any training, and they represented 36 per cent of fatalities. So, it is much more dramatic than the figures that the honourable member has provided.

Police are conscious of the problem, and these figures that I have given have alerted the police to take a much greater interest in this area. We would argue that the statistics are not as bad today as they were from 1985 to 1991. The police are now conducting regular, large scale licence and registration checks and, so far this year alone, four such major campaigns have been undertaken. In addition, the police have recently adopted a 'cautionary' policy, whereby any driver or rider stopped by police has his licence status checked. Previously, the word of the driver or rider was taken as evidence of licence holding and, when followed up, what the police were told was not proven to be the case. This new 'cautionary' policy applies also to speed camera offences and to the new laser guns. The policy change has already resulted in an increased number of riders' and drivers' licences being checked.

The issue of appropriateness of a particular level of fine is also difficult. In discussion with offenders under the driver intervention program and in market research amongst drivers and riders, the deterrent of licence loss or fine was not large, especially among younger drivers. For example, a recent survey on speeding asked 800 respondents to give two or three good reasons for not speeding. Only 5.1 per cent indicated loss of licence as a good reason not to speed; even fewer nominated fear of a fine as a reason.

However, in another survey targeting drink driving, and where fines are considerably higher, approximately 19 per cent of respondents cited fear of a fine. I indicated that this issue was difficult because the fine is very high for a person driving or riding a vehicle who is unlicensed. This fine is set under section 74 of the Motor Vehicles Act. It is a division 8 fine and it is up to $1 000. However, notwithstanding that fact, there has been pressure from the police to use a discretionary allowance enabling them to issue a traffic infringement notice rather than exercising the powers under the Motor Vehicles Act.

The traffic infringement notice is $173 under the Summary Offences Act regulations. That is where that fine of $173—to which the honourable member referred—is an issue of importance because it is the TIN (traffic infringement notice) rather than the fine that is applied under the Motor Vehicles Act. The fine for an insecure load is also $1 000. These fines are set by the Attorney-General. I would argue that, while the fines are probably high enough in terms of maximum fines, they are not being applied at the present time because the police are exercising their discretion to fine people with a TIN. I assure the honourable member and her constituent that I will be pursuing with considerable enthusiasm the matters that they have raised because, clearly, we have a big problem in the community in terms of the lack of people who are riding motorbikes who are licensed to do so.

LANGUAGES OTHER THAN ENGLISH

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 Multicul-

tural and Ethnic Affairs, a question about languages other than English in the Public Service.

Leave granted.

The Hon. P. NOCELLA: The matter of languages other than English in the Public Service was reflected in some of the promises and undertakings that the current Government took to the last State election, and many people consider that commitment very commendable because it helps in making the Public Service more accessible to people who may not be fluent in English. Amongst the commitments was one to continue to encourage the employment of bilingual staff in Government agencies. Again, for the very reason that I mentioned previously, public servants, especially those assigned to counters where they meet and have face-to-face contact with the very diverse public that we have in our community, would be assisted if they had adequate fluency of languages other than English.

Another recommendation suggests that senior public servants—and that is understood to be Chief Executive Officers or executive level officers—particularly those in areas of economic development, would be expected to become proficient in a second language. It appears that not much has happened or, if it has happened, it does not show. Therefore, my questions to the Minister are:

1. How many additional officers fluent in languages other than English have been identified or recruited in the Public Service in the past two years, that is, the 1994 and 1995 calendar years?

2. How many Chief Executive Officers or EL officers have learnt a second language in the past two years as a result of specific new programs aimed at achieving this objective?

The Hon. R.I. LUCAS: Clearly, I will refer those questions to the Minister and bring back a reply, but my colleague, the Minister for Transport, indicates that significant progress has been made in her portfolio areas. I am advised by the Minister that some of the staff, who are able to speak another language, are now wearing—

The Hon. Diana Laidlaw: Bus drivers.

The Hon. R.I. LUCAS: —lapel badges which indicate their ability to speak a language other than English. That is exactly the sort of initiative about which the present Premier was talking. My colleague the Minister for Transport has given a perfect example of how the new Government is endeavouring to carry that through. Clearly, in my own area, the Department for Education and Children's Services, we have employed increased numbers of language teachers other than English teachers within our schools. I know that is a different concept from the one that the honourable member is exploring. The Minister responsible will be able to bring back a number of examples in his considered reply to indicate that some progress has been made towards these objectives. I will refer the detail of the question to the Minister and bring back a reply as soon as I can.

TUNA FARM NETS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about tuna farm nets.

Leave granted.

The Hon. ANNE LEVY: I have asked a series of questions, the first of which was in March last year, regarding the nets used in tuna farms. As members may realise, surveys have shown that a large number of dolphins and seals are being entrapped in the nets used in tuna farms and drowning because they are unable to free themselves. Results from only one tuna lease showed that 21 sea mammals were trapped and died in an 18 month period.

An article in yesterday's paper indicated that the curator of mammals is very concerned that any such reporting has stopped and that no independent monitoring is occurring of possible mammalian and dolphin deaths in the tuna farm nets.

A meeting was held in November of last year which included the senior curator on mammals from the Museum and which indicated that all features of the tuna farming operations were consistent with international best practice, with the possible exception of the actual mesh size and type. It was resolved that a research project should be set up aimed at comparing existing nets, with particular reference to mesh size and type of net, and that this research program would necessarily have a monitoring component. That was last November. As I say, Dr Kemper is concerned that monitoring of dolphin deaths has ceased and that an independent body is needed to monitor the deaths rather than leave it to the industry. My questions are:

1. Has the research project been established and, if so, what is it expected to cost?

2. When will the results of the research project be available?

3. Will the Minister ensure that there is an independent body to monitor deaths of dolphins and other sea mammals in tuna farm nets?

4. When will the Government move to prevent these deaths by establishing controls over the mesh size, type of net and tension on the nets which would prevent these regrettable deaths occurring?

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

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

In Committee.

(Continued from 21 March. Page 1075.)

Clauses 1 to 5 passed.

Clause 6—Offences by persons other than prisoners.'

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

Page 2—

Lines 27 to 32—Leave out all words in these lines and insert as follows:

Maximum penalty: Imprisonment for 6 months.

After line 32—Insert new paragraph as follows:

(c) by inserting after its present contents (now to be designated subsection (1)) the following subsection:

(2) It is a defence to a charge of an offence of introducing into a correctional institution without the permission of the manager an item prohibited by the regulations if the defendant proves that he or she had reasonable grounds for being in possession of the item and at no time had any intention of parting with possession of it while within the institution.

It is appropriate to move the two amendments together as they relate to the same issue. Section 51 of the principal Act deals with offences by prisoners. The provisions in clause 6 of the Bill seek to create a new offence, and for a defendant, found guilty of an offence of introducing a prohibited item

into a correctional institution without the permission of the manager, who proves that he or she at no time had any intention of parting with possession of the item while within the institution there is a penalty of $1 250, and, in other circumstances, imprisonment for six months. The Government has taken the view that that is too harsh and that there ought to be recognition of a particular problem. For example, a prison is likely to include also the prison car park, outside the perimeter fencing. In those circumstances, if a person coming to visit a prisoner leaves their car in the car park and has in the boot a tyre lever, a can of hair spray or even a can of spray paint, being prohibited articles, an offence is committed. We have taken the view that that is unfair and unreasonable because it may be that the person did it inadvertently or, even if it was deliberate, that there was no intention of bringing that into the prison.

In those circumstances, the Government has taken the view that we ought to modify the provision in the form of the amendment. So, it will be a defence to a charge of an offence of introducing into a correctional institution without the permission of the manager an item prohibited by the regulations if the defendant proves that he or she had reasonable grounds for being in possession of the item and at no time had any intention of parting with possession of it whilst within the institution. That does reverse an onus in some respects, but it does provide a defence which is not presently there. We have taken the view that that is fair and reasonable. There may be some concern that administration might be that much more difficult with a defence, but on the basis of the rights of a citizen to be dealt with fairly, the proposals in this amendment are fair and reasonable.

The Hon. T.G. ROBERTS: The Opposition will be supporting these amendments. It appears that they are administrative amendments, taking into account the definition of prisons. I do not think car parks had been included in the definition, but they now are. This is an administrative correction by amendment that recognises that fact.

Amendments carried; clause as amended passed.

Clause 7 passed.

Clause 8—'Substitution of s. 85B.'

The Hon. T.G. ROBERTS: The Opposition is not proceeding with its amendment to leave out proposed section 85B, on the basis that negotiations have continued with the Government about the powers of prison officers, which was the original proposition, to strip search visitors. It was the Opposition's view that, as visitors had not committed any offence nor had been shown to commit any offence, it would not be in the interests of their rights to have strip searches conducted by prison officers. We did make the balanced judgment that, if prison officers had reasonable concerns that visitors were carrying contraband or goods that may have been to the detriment of prison harmony or carrying something that had been banned, then there should be a provision for those people to be isolated and searched by police officers.

The Opposition's position is that, if there are people who are suspected of carrying contraband, they ought to be provided with a facility whereby that search can take place. Police officers can be called and, if the person has children and those children need to be taken care of, or if their public transport needs are not met, those matters need to be taken care of. These are considerations that the prison administrative stream should be able to look at and take care of. We felt that prison officers were not the appropriate people to do those searches and that police officers were more appropriate, and that there would not be undue delay in contacting those police officers to attend. We would hope that that administrative detail is adhered to. It is on those grounds that we looked at the amendment provided by the Government after consultation, and we will be supporting the Government's amendment and not moving our own.

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

Page 3—

Line 26—After 'the person' insert 'cannot be required to remove his or her clothing but'.

Line 28—Leave out subparagraph (ii) and insert the following subparagraphs:

(ii) to adopt certain postures; or

(iia) to submit to being frisked; or.

Page 4—

Lines 3 and 4—Leave out paragraph (e).

Line 15—After 'the person or driver to be' insert 'further'.

After line 19—Insert new subsections as follows:

(6) If no item prohibited by the regulations is found on a person as a result of a search carried out under this section but the officer who carried out the search suspects on reasonable grounds that such an item may be concealed on or in the person's body, the manager may cause the person to be further detained and handed over into the custody of a member of the police force as soon as reasonably practicable.

(7) If a person is detained pursuant to subsection (5) or (6), the manager must forthwith cause a member of the police force to be notified of that fact.

(8) The annual report to be submitted under this Act by the Chief Executive Officer in respect of each financial year must include the following information:

(a) the number of persons detained under subsection (5) in consequence of searches carried out under this section during the relevant year; and

(b) the number of persons detained under subsection (6) in consequence of such a search; and

(c) the duration of all detentions effected under those subsections.

These are all part of a series of amendments and it is appropriate that they be dealt with together. As the Hon. Terry Roberts has indicated, there were some discussions in relation to strip searching. Those discussions occurred between the Opposition and the Government and were designed to try to find a satisfactory solution to that provision in the Bill which related to strip searching and allowed that to be undertaken by correctional services officers, and Opposition concern about that being undertaken by such officers.

The outcome of the discussions is reflected in these amendments. The amendments all deal with this issue. I think the outcome is that correctional officers will not be able to strip search at all. If they want to have a person strip searched they must detain that person and hand them over to the police, who can use whatever powers of search they may have in relation to that person in that institution. So, that avoids the problem which the Opposition was concerned about, of correctional services officers doing the strip searching, which can be intrusive, and allows the police to exercise whatever powers they may have to undertake that function if they are called in by the correctional services officers to deal with a particular problem.

There is a requirement to place a report in relation to the exercise of this power in the annual report. The annual report has to identify the number of persons detained in consequence of searches carried out during the relevant year, the number of persons detained in consequence of a search, and the duration of all detentions effected under those subsections. One might question the need for a reporting process in relation to this, because it does not happen in the normal course of the administration of justice and law enforcement

by police officers, but the Government raises no objection to that and is prepared to adopt that approach. So, this provides some added benefits to a citizen who might be in a position of being searched, and I think therefore it ought to be accepted.

The Hon. SANDRA KANCK: I indicate that from the Democrats' point of view what we have is an improvement on the Bill in its current form. I was a bit disturbed, however, to see that the proposal to ensure that the people who are doing the searching be of the same sex has now been dropped. I assume that that is because the person is not actually going to be strip searched. Is that the reason?

The Hon. K.T. GRIFFIN: Yes.

The Hon. SANDRA KANCK: What is envisaged by the words 'to adopt certain postures' in that process?

The Hon. K.T. GRIFFIN: For example, it may be that a person is required to stand against a wall or in a position which enables them to be frisked, as happens from time to time. They may be required to lift their arm to enable whatever is in the sleeve to fall to the ground. There are all those sorts of variables, I suspect. This proposal is just a mechanism to ensure that, if someone is asked to sit, stand or allow themselves to be frisked or patted down, they are not entitled to refuse that sort of request.

The Hon. SANDRA KANCK: I have some concerns then that, whatever term is used, whether it be 'frisking' or whatever, it ought to be someone of the same sex rather than it being open to someone of the opposite sex, because I know of women who for instance have been apprehended by police at some stage and who have been so-called 'frisked' and have found that the male police officer has used it as a way to sexually intimidate and perhaps, to a lesser extent, violate those women. I recognise that the Opposition has indicated its support for all the amendments, but I want to put on record my concern that we are removing that clause that provides that the person doing that frisking be of the same sex. I think it is open to abuse.

The Hon. K.T. GRIFFIN: With respect, I do not think that is the case, but I would suggest that it be the subject of monitoring. I am not aware that, for example, when police frisk, one is required to be of the same sex as the person being frisked to enable that to occur. I suppose one can envisage certain circumstances in which people might be intimidated by that. However, I would have thought that that would be a matter of complaint rather than a matter of legislative requirement. I note the point made by the honourable member. I will ensure that that is brought to the attention of the Minister so that in the administration of this legislation that matter can be properly addressed. It may be that it is addressed through practice directions or something equivalent to the general orders that apply in the police area.

Amendments carried; clause as amended passed.

Clause 9 and title passed.

Bill read a third time and passed.

RACIAL VILIFICATION BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 1339.)

The Hon. SANDRA KANCK: The Hon. Mr Lucas has invited me to answer a number of questions or accept a number of challenges about this amendment, and I am delighted to know that he is interested in my view. I think he knows that, to the frustration of the Government, I do listen very carefully during the Committee stages of debate and often have not made up my mind until I hear all the arguments teased out during Committee. I do treat the Committee stages of debate very seriously.

The question that Mr Lucas threw at me was, 'How are we going to deal with the Michael Branders of this world?', suggesting that education would not change his views. Under the current legislation, what would happen with the Michael Branders of this world is that they would be imprisoned. I have no evidence from anywhere in the world to suggest that imprisonment changes people's minds unless they are actually tortured in the process, in which case it is psychological damage that causes the change of view, and I do not think we are talking about torture on top of imprisonment with this legislation. So, quite clearly, incarceration will not cause a change in the views of such people.

Mr Lucas suggested that education was not likely to work, but if we have a choice between incarceration or education I think education is much more likely to work. In the comments that Mr Lucas made last night in replying to the second reading debate, he also threw out a general challenge to show where the Commonwealth legislation is lacking. I do not believe that it is lacking. Obviously, if the Federal racial hatred legislation does get properly off the ground there could be some duplication by having both a State and Federal body involved in the conflict resolution aspects.

I do not know what will happen with the Federal legislation and the role that the Human Rights and Equal Opportunity Commission is setting up, because it has not yet got itself under way. In fact, during the course of researching for this Bill my assistant rang the person who is involved in setting up this aspect within the Human Rights and Equal Opportunity Commission and the woman concerned told us that the phone call from my office was the first query it had had since the Federal legislation had been passed. So it is really not up and running yet. One of the concerns I have is that the current Federal Government, when in Opposition—and we are talking only six months ago—was diabolically opposed to this legislation.

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: That causes me a lot of concern, because I do not know whether or not the Federal legislation will continue to exist in its current form with the new Government. I find it interesting to have interjections occurring at the moment from Mr Redford.

The Hon. R.I. Lucas: It is l-a-w, law.

The Hon. SANDRA KANCK: But laws can be amended and repealed, can't they?

The Hon. R.I. Lucas: Are you saying that the Democrats have changed their position in the Senate?

The Hon. SANDRA KANCK: No, definitely not.

The Hon. R.I. Lucas: We can't change it: the Coalition can't change it by itself.

The Hon. SANDRA KANCK: That is absolutely true. As I was saying, I found it very interesting that I was getting interjections from the Hon. Mr Redford because I was going to refer to comments that he made during his second reading speech in relation to the publicity that was achieved by the Nazis in Germany using racial vilification legislation, and how they used the court cases that were launched against them to get themselves free publicity. Although it is not in the racial vilification area, one only has to look at the Federal election and the millions of dollars of free publicity that Albert Langer got at that time by his imprisonment.

I received a letter just today from someone who opposed the Federal legislation. He has given me a copy of the submission that he wrote to the Democrats at that time in opposing that legislation. This man is a Jew and has been subject to a lot of racial vilification in his time. He was opposed to that legislation. A number of the things that he said rang true to me. For example, he said that 'vilification is merely a symptom and not a cause of racism'. He also said that 'vilification does not lead to racism but the existence of racist feelings in an individual can cause an individual to vilify'. The point that he made about the Federal legislation applies equally to the State legislation, that we are getting the symptoms and the root cause mixed up within this legislation. He said, 'The proposed legislation gives the illusion of opposing racism without doing anything that will affect the basic problem.' He mentioned the freedom to say what is popular, and I refer to the speech that I made last week in the Matters of Interest debate about the comments that were made by a Lower House member, Joe Rossi. I consider that his views were ill-informed and based on urban myths.

The Hon. T.G. Roberts: He is a bit of myth himself.

The Hon. SANDRA KANCK: I would have to agree with that. Again, his comments were based on what are popularly held views, and he cannot be blamed for those views. However, he can be blamed for not making sure that he has got hold of facts, but there are quite a number of examples, and Mr Rossi is one, where people trot out a racist myth, repeating what they believe to be true and not necessarily trying to be racist.

Again I refer to the letter that I received today. The writer talks about the treatment of Aboriginal people over 200 years in Australia, and he suggests that it is not reasonable to assume that vilification legislation would have prevented those acts, and that is true. Again, it applies to this legislation. He refers also to a film titled *Who Killed Malcolm Smith?*. Malcolm Smith was one of the 99 people whose deaths were examined by the Royal Commission into Aboriginal Deaths in Custody. The film's director is an Aboriginal person, and he went into a room of police recruits and asked them to write down three things that they knew about Aboriginal people. He said to them that, as an Aboriginal person, he is pretty thick-skinned and that he could take the truth. He said that it would not matter if it were racist because he just wanted to know the things that they knew.

The police recruits wrote their information down, and they said things such as, 'They live off the Government. They are heavy drinkers and dance around fires. They use skin colour to attract attention to issues.' It is reasonable to think that police recruits are a cross-section of our society, and it is part of this whole problem of people working on urban myths, that there is no intention to be racist, but, if we lock up people for expressing views like that, we will not be any further ahead. We would do better to ensure that there is some form of conciliation or mediation, conflict resolution or education rather than to put these people into prison. As I said in my second reading speech, if we put the Michael Branders of this world in gaol, we will cause more harm than good because, if they remain in prison for any length of time with other people who are already alienated from society, there is a captive audience for them to further inculcate their views. I believe that prison is the last resort into which we should put these people.

The Hon. R.D. LAWSON: In response to some comments just made by the Hon. Sandra Kanck, it must be said that she is really debating an issue that is not in the legislation presently before the Committee. The South Australian legislation overcomes the objections to other legislation which, it was said, would make martyrs of racial vilifiers, people such as Michael Brander and others. The debate has been going on for a long time as to whether racial vilification legislation would make martyrs of them. The South Australian Government has adopted a model in which the only crime for which one could be charged, convicted and possibly imprisoned was threatening violence to person or property—actual threat of violence. The South Australian legislation does not envisage that any person can possibly be imprisoned for expressing racial hatred or doing the sort of things that many of those who go around stirring up racial trouble do, namely, paint slogans on walls, plaster the streets, etc. This legislation avoided the trap of making martyrs of those people. It does not provide for any prison sentences for pure vilification.

The Hon. Sandra Kanck: In that case, we don't need this legislation.

The Hon. R.D. LAWSON: We do need the legislation to imprison those who threaten others with—

The Hon. Sandra Kanck: That can be accomplished under current legislation.

The Hon. R.D. LAWSON: No, it cannot. There is no specific offence dealing with racially based threats of violence and hatred. That is the first element of this legislation: the criminal sanction. The second element is that compensation will be provided to those who suffer actual detriment in consequence of racial vilification. There is both a civil and a criminal sanction.

The Hon. Sandra Kanck suggested that the Federal Coalition might be less than committed to enforcement of the current racial hatred Act. The position is that Coalition members, together with the Democrats, are the authors of the form of the current racial hatred Act. The Federal Labor Government introduced a Bill that provided both criminal and civil sanctions. There was strong opposition to the imposition of any Federal criminal sanctions in respect of pure vilification. The Federal Coalition said that it would support criminal sanctions, provided they were for acts that were accompanied by threats of violence. The Australian Labor Party would not support that approach. Ultimately, the Democrats and the Coalition Parties combined to amend the Federal Bill by excluding the criminal sanctions.

The Hon. A.J. Redford interjecting:

The Hon. R.D. LAWSON: The Greens had a somewhat idiosyncratic approach to this, and they may well have supported it, but I am not sure of their ultimate position. The Federal Coalition supported the legislation in its current form, so it is an Act that removes all criminal sanctions on the basis that it is more appropriate for State jurisdictions to impose criminal sanctions, and that was really no part—

The Hon. A.J. Redford interjecting:

The Hon. R.D. LAWSON: There are different views. The view that it was a State responsibility was peculiarly that of Senator Nick Minchin, I remember, in a contribution that he made in the Senate. That view also attracted some other views. The Federal Coalition was committed to a Racial Hatred Act in its current form which does not create any Federal criminal offences but which does give the Human Rights and Equal Opportunity Commission a jurisdiction to accept complaints and to adjudicate them in that way.

The first element of the commitment of the Federal Coalition is the fact that it did support the measure and secure its passage through the Senate and, ultimately, the Federal

Government in the House of Representatives accepted the amendments and the Racial Hatred Act came into being in its present form.

The second element of the Coalition's commitment to that legislation is evidenced by its policy of $10 million on an education program in relation to racial vilification. A Federal law is in existence. It is not a law that can be ignored. The fact that the honourable member's staff member made one telephone call to the Human Rights and Equal Opportunity Commission and received a not very encouraging response does not mean that that commission will not seriously accept its responsibility.

The Hon. Sandra Kanck interjecting:

The Hon. R.D. LAWSON: There is nothing at all to suggest that the Human Rights and Equal Opportunity Commission will not discharge diligently its obligation under the Federal legislation. The honourable member also read from a letter she has received from someone who adopts a position—a perfectly reasonable position—that they are opposed to all forms of racial vilification legislation. That argument has been put widely: that any form of legislation of this kind is an undue restriction on freedom of expression.

In South Australia we have sought to fashion legislation which is not an undue restriction on the freedom of speech. We have adopted what I consider to be a responsible attitude in having criminal sanctions limited to the particular area of threats and also to create civil sanctions and civil remedies for persons who actually suffer detriment—not persons who wish to make some political statement but individuals who can show and demonstrate that, in consequence of actions against them, they have suffered some detriment. They will be compensated accordingly.

I was most surprised to hear the honourable member read the letter from the person who is said to be a Jewish opponent of racial hatred legislation; that is a position which is contrary to that which her Party has been putting here and elsewhere and the position that she herself is putting in relation to support of this measure. Consistent with that approach, the honourable member would be opposing the Bill in its entirety and would not be considering the amendments now before the Chair.

This is practicable, workable legislation which imposes a mark of the community's opposition to racial vilification and which allows for the stigma of community opprobrium to fall upon those who engage in racial vilification by making threats and also by causing harm and detriment to others.

The Hon. J.F. STEFANI: I endorse the comments made by my colleague the Hon. Robert Lawson. In so doing, I want briefly to mention two or three of the matters that have been involved in this debate. I appreciate the eloquence with which the honourable member has put the points of law. However, there are other considerations. The people on the committee involved in formulating this legislation have been drafting legislation that is workable in the courts for some considerable time. In the past, Parliaments have enacted legislation that judges and courts have found to be totally impractical and it has come back to this forum for amendment.

The committee, with its best possible legal brains—and I say that with great respect—had the clear intention to collate legislation which would have the full support of the community, because the community was not interested in pussyfooting around when a person had been injured or threatened by violence through racial vilification. The committee had the clear intention of providing a mechanism through which victims who have been affected by violence, threats and injury would be able to come before a forum, before the courts, and receive some recompense or retribution.

I am sympathetic to the cause of education. As my colleague the Hon. Robert Lawson has already mentioned, this is provided very clearly in Federal legislation. This mechanism is provided for people who are aggrieved other than through the injuries or criminal sanctions that we in State Parliament will provide. When I have explained this, the community has been very supportive.

A suggestion was made that the community was not consulted. In fact, a number of my colleagues, including the Hon. Bernice Pfitzner, and indeed other members of Parliament have had close contact with many of the community groups that we serve and represent, and they support some of the very strong measures to deal with the very serious injuries or criminal sanctions, as well as the threat of violence that exists through extreme actions taken by extreme people.

I exhort my colleague, the Hon. Sandra Kanck, in the light of the explanations that have been submitted in this forum, to reconsider the very important responsibility that we have to give the courts workable legislation to ensure that we are not accused at some later stage of providing a mechanism that is unworkable.

The Hon. P. NOCELLA: Having listened to the contributions of members, it seems to me that there is almost a misunderstanding in the sense that some people have been talking about either harsh penalties, sentences and gaol, or conciliation, mediation and education. That is simply not the case. It would be the case if we were confined to the Bill as it was introduced by the Government because it basically provides for harsh penalties and gaol up to three years. The Opposition has sought to build upon what is contained in the Government Bill.

The Hon. A.J. Redford: What is wrong with the Commonwealth legislation?

The Hon. P. NOCELLA: The Commonwealth legislation is neither here nor there. We have the opportunity and the possibility to do something similar to that which was done in New South Wales and which still remains the best model in this country.

I have had the opportunity of meeting with the administrator of that legislation, and I heard evidence of dozens, perhaps hundreds, of cases which had been heard and which had very successful outcomes where the perpetrators of offensive, racially motivated acts were brought around a table face to face with the victims, victims who were not normally part of the offensive act because it was an act committed at night or very often not in the presence of the victims, and they were made to understand that their actions had caused embarrassment, humiliation, fear and anxiety in their victims; and many positive outcomes followed these conferences. The fact that they had not yet had a conviction does not necessarily mean that it was a failure. In fact, it could be a great success.

I came out of that meeting with the clear understanding that that was a model worth following. We have simply sought to improve the Government Bill by adding a very streamlined, simple process through the experts in the field, such as the Equal Opportunity Commission, who are capable of organising mediation conferences very successfully, especially with people of non-English speaking backgrounds and Aborigines. This is not a complicated situation. It is a very simple one that I thought would attract the support of all Parties, because all Parties in the main have expressed the desire to introduce appropriate legislation to deal with racial

vilification. For the Opposition's part, we have accepted the Government Bill in its entirety with these provisions, and I would have thought and hoped that the Government could accept our suggestion and contribute to bring about model legislation.

Like the Hon. Sandra Kanck, I am concerned that putting people in gaol *per se* does not necessarily produce good results. In fact, it may even cause more harm than good. But mediation and the adjudication of sentences that are appropriate—even if not penal sentences, but sentences that are commensurate with the crime—can achieve much more. For all those reasons, and also because we will believe when we see them the promises from the Federal Government to spend $10 million or to reduce duplication, I suggest that the Government have another look at our amendments with a view to accepting them.

The Hon. A.J. REDFORD: First, I would like to make some general comments (as this is the first occasion I have had a chance to contribute in the Committee stage about some of the comments made in second reading speeches) and then deal specifically with this question of conferences and mediation, particularly in the context of a criminal charge and the context of clause 94A. At the outset, I must say that I understand and accept the genuineness of some of my colleagues in this place in relation to their view that what they are seeking to do is the best way to eliminate racial vilification or, in a broader sense, racial misconduct from our community. I accept the genuineness of the comments made by the Hon. Mr Nocella, the Hon. Sandra Kanck, the Hon. Robert Lawson and my colleague the Hon. Julian Stefani.

I said during the second reading debate that I do not believe that criminal sanctions will achieve anything, and I went through in some detail why I said that, and it came down to three things: first, that existing criminal sanctions in most cases impose more severe penalties for racial violence etc; secondly, the crime defined in this legislation will be harder to prove than that which already exists; and, thirdly, there is a real risk that this legislation will create martyrs and also create division within the community, by which I mean ethnic group versus ethnic group.

I was not in the Chamber at the time, but what a disappointment it is when the Hon. Ron Roberts walks into this place and then seeks to discredit the argument by simply not addressing it. He never at any stage addressed the issues I raised or sought to acknowledge or understand the points that had been made, and I think that his only comment was that he would like to call 'Divide' and see those who are not supporting this very worthwhile piece of legislation. Later, he went on and reflected that those who do not support this legislation are perhaps in some way racist.

I note that the honourable member did not grace us with his presence when it actually came to voting on that specific issue. He did not call 'Divide'. and we did not see me sitting on one side of the Chamber with everyone on the other side. If necessary, I would quite happily have done so.

But it is disappointing that a Deputy Leader of a major Party wants to play personalities and politics on such an important issue as this. It does the Australian Labor Party's and, more particularly, the Hon. Ron Roberts's reputation no good. I totally reject the comments made by the Hon. Ron Roberts when he said:

> It seems to me that the sounds of those intolerant views still echo between the walls of this Chamber, negating 30 years of community development and dramatic change in attitudes, and that now brings us to the realisation that what the community considers intolerable can safely be enshrined in legislation.

I reject that anyone who necessarily opposes this sort of legislation is a person who is intolerant, and the Hon. Ron Roberts could do better with his time by dealing directly with the arguments and the positions that people take rather than in personalities and in seeking to make some short-term, cheap political point.

Turning to the specific issue, I agree with the Hon. Robert Lawson and the Hon. Julian Stefani, in particular on the question of counselling and conferencing. When we seek to impose a criminal sanction on someone for his or her conduct, the facility of conferences and mediation is severely diminished. In fact, it is my view that, if we must go down the criminal path (which this Parliament seems destined to do, my voice being the only one being expressed in opposition to that), then we must understand that any conciliation or mediation process that we seek to introduce will be undermined by a criminal process.

To a large extent they are mutually exclusive. I do not know why we do not seem to learn the lessons, but we see that on so many occasions. We have seen it quite recently, when we as a community and as a Parliament (and the previous Government) chose to have a royal commission into the State Bank.

The net effect of royal commissions, if anyone examines that process, is to muddy the waters to such an extent that a criminal prosecution is nigh on impossible. Members only need to look at what happened with the Fitzgerald royal commission. It seems to me the same principle will apply that, if you want to go down a mediation or a conciliation process, you will muddy the waters to such an extent that you will not successfully be able to proceed to a prosecution. Alternatively, you will find parties who believe they may possibly be the subject of a criminal prosecution who will refuse to cooperate with any mediation or conciliation process. If anyone understands mediation or conciliation, you have to understand that, if conciliation or mediation is to have the remotest possibility of success, then you have to have some goodwill, some degree of cooperation on the part of all parties. The fact is that you will not get that where you have the prospect of a criminal prosecution of a show trial, or whatever you want to call it, intervening in the process.

The Hon. T.G. Roberts: Will not a good lawyer advise the client to cooperate?

The Hon. A.J. REDFORD: No, because he may make an admission. The immediate reaction of any lawyer giving advice in a criminal context is 'Say nothing, do nothing and keep away from them,' because in most criminal prosecutions evidence that leads to conviction is usually that which comes from the mouth of the accused. The natural inclination of any lawyer advising a client in that context is to tell his client to keep his mouth shut. Once you get that sort of advice intervening on any conciliation or mediation process, then you have great difficulty. Contrary to my view, the fact is that this Parliament is going down the path of saying, 'We want a criminal sanction.' Fine, if that is where this Parliament wants to go, then so be it—and I will be the voice in the wilderness—but you cannot then seek to have any conciliation or mediation process which will have any effect whatsoever.

We are paying lip service. We are sitting there and saying to these people, 'Look, we have this wonderful conciliation and mediation process,' when we all know that those who are

involved in the practice of the criminal law, or those who have had any exposure to it, know that conciliation and mediation will not work. You will not be able to say to your client, 'Look, go down and see whether you can deal with this racial problem because, if it goes wrong, they might put you in gaol.' Those sorts of processes simply do not work. I would have less objection, quite frankly, from a personal point of view, if we got rid of the criminal sanctions and said, 'All right, let us put it into a process of conciliation and mediation.' Quite frankly, we have more scope of changing community attitudes by going down that path than by imposing criminal sanctions. But again, I am so far out of step with everyone in this place it is not funny and I do not expect anyone to take up what I say.

With reference to proposed new section 94a, a person who is the subject of an investigation—and is the subject of perhaps being, if I can use this term, mediated or conciliated—is likely to cooperate in that process knowing full well that there is a risk of him being prosecuted at the end of that process, he is not likely to cooperate in any way, shape or form. That is a reality of the matter. Those who would seek to impose this sort of process in this legislation simply do not understand how the criminal process works, nor how people react when they are likely to be subjected to criminal prosecution.

If there was no likelihood of criminal prosecution, then, in some cases, there is some likelihood that conciliation and mediation would provide a positive and constructive way of dealing with these problems. I am putting the Michael Branders to one side because I think they are beyond hope. Although, I am certainly not putting them to one side completely because it is my view that Michael Brander could easily be prosecuted under existing criminal laws provided the authorities had the will and the persistence to proceed down that path. They do not appear to have had that to date, unfortunately. At the end of the day I would urge the Hon. Mr Nocella to seriously consider whether or not he can possibly have the sorts of mediation and conciliation that he is talking about in his amendments at the same time as there are these criminal sanctions. That is another issue.

I do not resile in any way, shape or form from the fact that the Commonwealth has an appropriate means to do this as well. I might say—and I throw this in belatedly—the fact that we bring in criminal sanctions may well impinge upon the success of some of the Commonwealth initiatives in terms of conciliation and arbitration as well. Time will tell. If it does, then I am sure that those members in this place, those members whom I respect in this area, including the Hon. Mr Nocella and the Hon. Sandra Kanck, will bring this back to this place—and the Hon. Terry Roberts puts his hand in the air—and we will consider it again. Unlike some people in this place, I am sure we will not get it right the first time every time. I would urge everyone to keep their eye on that aspect down the track because with criminal sanctions you do run the risk of muddying the mediation and conciliation process.

The Hon. SANDRA KANCK: The Hon. Mr Redford's contribution and his statement that he was the only one in this place who seemed to be opposed to criminal sanctions to stop racism has caused me to speak once more. They are not exactly his words; I am paraphrasing it. I am supporting this legislation because I expect that as with, say, our small-wheeled vehicles legislation that went through last year it will not make any difference in the longer term because it takes some commitment somewhere along the line to ensure that these laws are enforced, anyhow. I am supporting it because I do think that racial vilification is something that we should aspire to not have in our society. I believe that by passing legislation such as this we give a message to society that society at large and the law makers in our society do not approve of it, but I do not think criminal sanctions or imprisonment will stop racism. I think if this law is eventually used its ultimate success—and I use the word 'success' advisedly—would be to drive racism underground and to further develop in those people who already are racist a greater sense of missionary zeal for their cause.

Once it has gone underground it makes it harder and harder to deal with. I am supporting the Opposition's amendments because of my concern that the legislation could drive racism underground. I accept the Hon. Mr Redford's legal experience that, if the law is used, then possibly the mediation type preliminaries may not have the desired effect; but it is my hope that, if the law is used by accepting these amendments, that will be the first course of action and some better result might be achieved. If, as the Hon. Mr Redford is predicting, it will not achieve that, then I would certainly be very happy to look at it somewhere further down the track.

The Hon. P. NOCELLA: I have listened attentively to the comments that have been made, including the ones made by the Hon. Angus Redford, who mentioned the fact that the two processes, in other words, the mediation and conciliation processes are mutually exclusive. In a sense, that is the case in more ways than one. I refer to some of our proposed new clauses. For example, under proposed clause 6A we see that a person or group wishing to take civil action will need to choose between the remedies under the Wrongs Act and the Equal Opportunity Act, in a similar way to that which the Whistleblowers Protection Act provides. In other words, they have the option but once they have made their choice, they are locked in, and they stay with that option they have selected. I think the Whistleblowers Protection Act is possibly the closest comparison we can make. I have not heard any comments to suggest that it does not work. That is why we have presented it in that way.

The Committee divided on the amendment:

AYES (10)

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

NOES (9)

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

Majority of 1 for the Ayes.

Amendment thus carried.

The Hon. P. NOCELLA: I move:

Page 2, line 26—Leave out the footnote and substitute the following footnotes:

[1] See section 86a of the Equal Opportunity Act 1984.

[2] See section 37 of the Wrongs Act 1936.

This clause merely ensures that there is an appropriate footnote referring to the relevant section of both the Equal Opportunity Act and the Wrongs Act rather than just the Wrongs Act. Section 86a of the Equal Opportunity Act is the new section creating the offence of racial vilification, which will be the next amendment considered.

Amendment carried; clause as amended passed.

New clause 6A—'Amendment of Equal Opportunity Act 1984.'

The Hon. P. NOCELLA: I move:

Page 3—Insert new clause 6A as follows:

6A. The Equal Opportunity Act 1984 is amended—

(a) by inserting after the definition of 'near relative' in section 5(1) the following definition:

'offence of serious racial vilification'—see section 4 of the Racial Vilification Act 1996;;

(b) by striking out the definition of 'race' in section 5(1) and substituting the following definitions:

'race' of a person means the nationality, country of origin, colour or ethnic origin of the person or of another person with whom the person resides or associates; and

'racial' has a corresponding meaning;

'racial vilification'—see section 86a;;

(c) by inserting after the definition of 'the Registrar' in section 5(1) the following definition:

'representative body' means a body (whether or not incorporated) that—

(a) represents members of a particular racial group; and

(b) has as its primary object the promotion of the interests and welfare of the group;;

(d) by inserting after the definition of 'spouse' in section 5(1) the following definition:

'tort of racial victimisation'—see section 37 of the Wrongs Act 1936;;

(e) by striking out from section 57(2) 'or ethnic';

(f) by inserting the following section after section 86:

Racial vilification

86a. (1) A person who, by a public act, incites hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the around of their race commits racial vilification

(2) It is unlawful to commit racial vilification.

(3) However, this does not make unlawful—

(a) publication of a fair report of the act of another person; or

(b) publication of material in circumstances in which the publication would be subject to a defence of absolute privilege in proceedings for defamation; or

(c) a reasonable act, done in good faith, for academic, artistic, scientific or research purposes or for other purposes in the public interest (including reasonable public discussion, debate or expositions).

(4) In this section—

'public act' means—

(a) any form of communication with the public; or

(b) conduct in a public place.;

(g) by inserting after paragraph B of section 93(1) the following paragraph:

(ba) in the case of a complaint of racial vilification—by a representative body on behalf of a named member or members of the group of people represented by the body;;

(h) by inserting after section 93(1a) the following subsections:

(1ab) A complaint of racial vilification cannot be made if civil proceedings for the tort of racial victimisation have been commenced for the same act or series of acts.

(1ac) A representative body cannot make a complaint under subsection (1)(ba) unless—

(a) each named person on whose behalf the complaint is made consents in writing to the making of the complaint; and

(b) the representative body satisfies the Commissioner that acts of the kind alleged in the complaint affect adversely or have the potential to affect adversely the interests or welfare of the group it represents.;

(i) by inserting after section 94(1) the following subsection:

(1a) If racial vilification is alleged, the Commissioner must conduct an investigation.;

(j) by inserting the following section after section 94:

Referral of serious racial vilification to DPP

94a. (1) If, in the course of investigating a complaint of racial vilification, the Commissioner forms the opinion that an offence of serious racial vilification has been committed, the Commissioner must refer the matter to the Director of Public Prosecutions and must not proceed further to attempt to resolve the matter by conciliation.

(2) If possible, the Commissioner must make a decision on whether a complaint of racial vilification should be referred to the Director of Public Prosecutions within 28 days after receiving the complaint.

(3) On making the referral, the Commissioner must, by notice in writing addressed to the complainant, advise the complainant of—

(a) the making of the referral; and

(b) the right of the complainant to require the Commissioner to refer the complaint to the Tribunal

(4) If proceedings for an offence of serious racial vilification are commenced, the Tribunal may stay proceedings under this Part until the conclusion of the proceedings for the offence.;

(k) by inserting after section 95(6) the following subsection:

(6a) The Commissioner may require a representative body that has made a complaint to nominate a person to appear for the representative body in conciliation proceedings concerning the complaint.;

(l) by striking out section 95(8) and substituting the following subsection:

(8) Where the Commissioner—

(a) is of the opinion that a matter cannot be resolved by conciliation; or

(b) has attempted to resolve the matter by conciliation but has not been successful in that attempt; or

(c) has declined to recognise a complaint as one upon which action should be taken under this section and the complainant has, within three months of being notified of the Commissioner's decision, by notice in writing, required the Commissioner to refer the complaint to the Tribunal; or

(d) is asked by a complainant complaining of racial vilification to refer the complaint to the Tribunal even though the matter has been referred to the Director of Public Prosecutions.

the Commissioner must refer the matter to the Tribunal for hearing and determination.:

(m) by inserting after paragraph (c) of section 96(1) the following paragraph:

(d) in the case of racial vilification—an order requiring the respondent to publish an apology or retraction, or both, in respect of the matter the subject of the complaint and for that purpose, giving directions concerning the time, form, extent and manner of publication.;

(n) by inserting after section 96(1) the following subsections:

(1a) The total amount of the damages that may be awarded for the same act or series of acts of racial vilification cannot exceed $40 000.

(1b) In applying the limit fixed by subsection (1a), the Tribunal must take into account damages awarded by a court—

(a) in criminal proceedings on convicting the respondent in respect of the same act or series of acts; or

(b) in civil proceedings for the tort of racial victimisation in respect of the same act or series of acts.;

(o) by inserting after section 96(3) the following subsection:

(3a) If the complainant is a representative body, compensation may be awarded to the person or persons on whose behalf the complaint is lodged but not to the representative body.

I have referred to this clause earlier but I will reiterate that this is the major amendment. It creates the offence of racial vilification under the Equal Opportunity Act. As such, it is the centrepiece of the Opposition's amendments. The amendments refer to an offence of racial vilification which will exist under the Racial Vilification Act and, following an investigation, if the Commissioner believes that such an offence has been committed, requires the Commissioner to refer the matter to the DPP.

The Hon. R.I. LUCAS: Even if the Parliament eventually was to agree to the proposition that the Hon. Mr Nocella is putting, on my advice there are a number of issues that we believe would need to be amended, and we need time to sit down and work through the practical detail of what has been recommended. Given the position that has now been established by the majority in this place, and also given the fact that we are, hopefully, on the last day of this session, I do not intend to proceed to argue the individual detail of where we see some drafting weaknesses in particular clauses.

That is assuming that this principle will remain in the legislation; of course, the Government does not assume that, and will obviously continue to oppose that position in the Parliament. But, should the will of the majority in this Chamber prevail, the Government's advice is that there are some drafting problems, some of which, when the mover of the amendments has the opportunity to take a considered look at it, he would probably agree to pick up. The Government will continue to oppose this strenuously, and we may well be establishing a conference of managers to determine whether it is possible to save the legislation at all and whether the Government proceeds with this. That is not a decision for me to take; it is a decision for the Minister responsible and the Government as a whole, but the issue would probably be better explored during a conference of managers, should the Legislative Council insist on its position.

I advise members that, if we end up in a conference of managers, we would like to explore a number of drafting problems and issues in detail with the Hon. Sandra Kanck. We see some practical, realistic problems with the structure of what is being set up, with State and Federal jurisdictions overlapping and duplicating each other. We have had our initial debate here. I accept the fact that at this stage we have been unable to convince the Hon. Sandra Kanck of some of the problems, and I therefore indicate that from the Government's point of view I do not intend to go through the intimate detail of each of the separate clauses. I have accepted the test clause as an indication as the will of this Chamber at this stage, and at another stage we would like to take up those issues with members, in particular the mover and the Hon. Sandra Kanck, in relation to some of the problems we see with the drafting and the practical implications of the scheme of arrangement that is being proposed by the mover and those who support him.

New clause inserted.

Clause 7—'Amendment of the Wrongs Act 1936.'

The Hon. P. NOCELLA::

Page 3, after line 28—Insert the following subsection:

(2A) Proceedings for the tort of racial victimisation cannot be commenced if a complaint of racial vilification has been lodged under the Equal Opportunity Act 1984 for the same act or series of acts.

This amendment prevents a person from seeking two forms of remedy under both the Wrongs Act and the Equal Opportunity Act. A similar choice also needs to be made under the legislation to which I alluded, the Whistleblowers Protection Act.

Amendment carried.

The Hon. P. NOCELLA: I move:

Page 4, lines 1 to 5—Leave out subsection (5) and the footnote below it and substitute the following subsection and footnotes:

(5) In applying the limit fixed by subsection (4), the court must take into account damages awarded—

(a) by a court in criminal proceedings on convicting the respondent in respect of the same act or series of acts;[1] or

(b) by the Equal Opportunity Tribunal in proceedings for racial vilification.[2]

[1] See section 6 of the Racial Vilification Act 1996.

[2] See section 86a of the Equal Opportunity Act 1984.

This clause complements clause 6(4) of the Bill. This amendment extends the provisions in the Bill by ensuring that the criminal court takes into account damages awarded by the Equal Opportunity Tribunal as well as by another court for the same act or series of acts.

Amendment carried; clause as amended passed

Title.

The Hon. P. NOCELLA: I move:

Page 1, line 7—Insert 'the Equal Opportunity Act 1984 and' after 'amend'.

This amendment is required to give recognition to the fact that the Equal Opportunity Act that will also be amended if the proposed amendments to the Bill are passed.

Amendment carried; title as amended passed.

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

That this Bill be now read a third time.

The Hon. P. NOCELLA: During the course of the day, a number of views have been expressed and I for one have formed the view that more information is needed in order to bring to the attention of the Government the plight of those who will benefit from the amendments that the Opposition has moved. I refer in particular to the possibility of the Legislative Review Committee having a good look at what has been suggested and, by research and listening to those who are mostly concerned with this legislation and who are mostly affected by racial vilification, producing a brief that can be presented in its completeness for the information of members. Therefore, I move:

Leave out all words after 'that' and insert the following:

'the Bill be withdrawn and referred to the Legislative Review Committee for its report and recommendations.'

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

PUBLIC AND ENVIRONMENTAL HEALTH (NOTIFICATION OF DISEASES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 April. Page 1227.)

The Hon. P. HOLLOWAY: The Opposition will support this Bill, although I will be asking a few questions when we get to the Committee stage. This Bill gives effect to one of the recommendations of the Coroner's findings as expressed in his report into the death of Nikki Robinson. The tragic events which led to the death of Nikki Robinson following the outbreak of the HUS epidemic in early 1995 have been the subject of considerable debate in this Parliament. In spite of some of the abuse that was hurled at the Opposition at the time for raising various matters in relation to this outbreak and the way it was handled by the Government, I believe that the Coroner's report made a very important contribution: it indicated that the Health Commission's procedures should be improved and I think vindicated the stance of the Opposition in raising questions about this matter at the time.

The Coroner made 12 recommendations, and I think it should be pointed out that these are a package of measures which need to be put into effect together if the full benefits of those recommendations are to be achieved. In particular, this Bill gives effect to recommendation No. 9 of the Coroner which is:

> The Minister of Health consider amendments to section 30 of the Public and Environmental Health Act—
>
> 1. to make notification mandatory when a medical practitioner believes a person may be suffering from a notifiable disease—

and the present situation is that it had to be confirmed that the person was suffering from the notifiable disease—

> 2. to review the five day limit for notification—

and under these amendments that will be reduced to three days—

> 3. to make HUS and TTP notifiable diseases.

All of us would wish to expedite any measure which would reduce the likelihood of a repeat of the tragic outcome of the Garibaldi HUS epidemic. By itself, the measures contained in this Bill which deal with the first two parts of the Coroner's recommendation No. 9 will not, by themselves, achieve a great deal because, in relation to HUS, at present it is not a notifiable disease.

The report on this Bill which has been put forward by the Minister informs us that that is to be subject to further discussion. I will ask the Minister later whether she can give some indication about when that process is likely to be completed. In the Minister's report it was pointed out that the matter is being considered by the Communicable Diseases Network of Australia and New Zealand. It states:

> Since it is obviously desirable that there be national uniformity of terminology and case definition. . .

I understand and support that, but I think it would be useful if we had some indication about when that action will be taken because, clearly, it is one thing to tighten up the procedures but, in relation to HUS, if it is not made a notifiable disease these procedures will have no effect.

Another question the Opposition wishes answered—and I believe that the Minister has some answers—is what action the Government has taken on the other 11 recommendations of the Coroner. Some of the recommendations were particularly important. Most of them refer to action, calling on the Health Commission to review its procedures in relation to various matters. Although the recommendations do not require legislation, clearly we would be interested in knowing what action the Government has taken. I repeat the point that, to be effective in reducing the likelihood of disastrous consequences from the outbreak of epidemics, the Coroner's 12 recommendations need to be put into effect as a whole.

I repeat that, when these questions were raised in the House of Assembly, the Deputy Premier did give an undertaking that he would provide answers to the recommendations. I refer to one of the other 12 recommendations, that is recommendation No. 10 of the Coroner. It states:

> That the South Australian Health Commission reconsider its policies and procedures in relation to voluntary recalls. While it was not necessary for them to have taken over the recall completely, officers of the Health Commission should have satisfied themselves at the outset, on 23 January 1995, that it was wide enough to ensure public safety and should have exercised much greater supervision over Garibaldi during the recall process. If Garibaldi had failed to cooperate, reconsideration should have been given as to whether the process remained voluntary.

I think that that is a fairly strong criticism of the Health Commission and procedures, and that was raised by the Opposition at the time. I think that we would all like an undertaking from the Government that it is addressing this particular concern of the Coroner and the community generally.

The other questions that were raised during the debate in the House of Assembly (and if the Minister does not have answers to these now I hope that they can be provided later) were in relation to the resources that were to be provided to the Health Commission to deal with the additional responsibilities that will come as a result of the Coroner's recommendations. Certainly, the Deputy Leader in the other House did provide information to the effect that five additional positions would be provided, but what the Deputy Leader of the Opposition asked in the other House was, 'What is the current staff of the section?', that is, the section that deals with the information that is provided under this Act, and, 'Will there be a need for more epidemiologists?' As I said, I would be prepared to accept an answer on notice to those questions.

The other question that was raised during the debate (which I do not think was adequately answered by the Deputy Premier, who handled this Bill in the absence of the Minister for Health) referred to part of section 30 of the Act which provides that, as soon as a notification is made, local government has to be informed. Since the Act has now been changed so that just a suspicion is now necessary for notification—a suspicion rather than a confirmed case—and if local government is notified on just suspicion, then the Opposition did have a concern that, if this notification goes straight from the Health Commission to local council, it may cause some problems. We would all see the need for the Health Commission's being notified at the slightest suspicion of any outbreak of one of these notifiable diseases, but at what point the local councils should be informed is perhaps another matter. I would be interested to hear the Minister's comments on that.

The final comments I wish to make in relation to the Bill relate to consultation on this Bill with the Australian Medical Association. It is my understanding that the AMA now supports this legislation. My colleague in another place, the shadow Minister (Lea Stevens), did contact the President of the AMA when this Bill was coming through, and I understand that the AMA President had not seen the Bill in the form in which it was presented to this Parliament. However,

it transpired that somebody in the AMA had been consulted in more general terms about the recommendations of the Coroner. Unfortunately, there was some misunderstanding which the Deputy Premier referred to in another place, and I would like to put it on record that it was no fault of the shadow Minister.

I know that we have had some difficulty in consulting the AMA on this: however, the latest word we have is that, although it did have some concerns about the implications of these measures on the workload, it now is happy with the amendments that are proposed to be presented by the Minister later.

In that sense, we are happy for these matters to proceed. With those few comments, the Opposition supports the passage of this Bill. I will ask some other questions in Committee, when the Minister moves her amendments.

The Hon. DIANA LAIDLAW (Minister for Transport): I take this opportunity to provide members with the advice that I received from the Minister for Health in relation to the status of work being undertaken on the recommendations made by the Coroner. I am also advised that the Minister for Health is writing in some detail to the Opposition following the same matters being raised in the other place. I should add also that the Minister for Health has responded on a number of occasions to Opposition questions in relation to the status of these recommendations.

Members will be aware of a ministerial statement made on 28 September 1995, when the Coroner's findings were handed down. That statement indicated that a number of recommendations had already been acted upon or were in train. I understand that an answer to a question on notice in another place related particularly to recommendation 12. That answer was provided in some detail. More recently a letter has been sent to the shadow Minister for Health enclosing a copy of a preliminary discussion paper which the Health Commission has provided to the Local Government Association on this matter. Notwithstanding that background, I am pleased to provide members with the following information in relation to the Coroner's recommendations:

1. A dual system of notifying doctors has been in place since June 1995 and it consists of:

(i) facsimile to Divisions of General Practice and

(ii) distribution by major pathology laboratory couriers of a specially designed 'public health alert'.

This development came from collaboration between the AMA, Divisions of General Practice, laboratories and the Public and Environmental Health Service. The Coroner's recommendation implies an electronic mailing system of some kind which doctors would have to 'subscribe to' before they could be registered to practise.

The views of the Medical Board were sought by the Minister for Health and, in turn, it has indicated that it would not be possible to insist that doctors be part of an on-line electronic mailing system and, in relation to that advice, I should like to read the following letter, dated 23 January. Signed by D.H. Wilde, the Registrar of the Medical Board of South Australia, and addressed to Dr K. Kirke, Executive Director, Public and Environmental Health Service, South Australian Health Commission, it reads:

I refer to your letter of 2 January 1996, which was considered by the board at its meeting on 18 January. As a result of those considerations, I am instructed to inform you as follows. It is not within the power of the board or the provisions of the Medical Practitioners Act 1983 for the board to require practising doctors to be part of an on-line electronic mailing system as a prerequisite for obtaining registration. The board believes that the Health Commission is uniquely and appropriately qualified to assess matters requiring a 'public health alert' and to take appropriate steps through both the print and electronic media to notify the public and the profession. I trust this information is of assistance.

The advice of the Minister for Health continues as follows:

2. The Food Act places responsibility on local councils for monitoring the hygienic standards of food manufacture, handling and sale. Local councils are also responsible for ensuring that food sold in their area is fit for human consumption. The Health Commission has responsibility for ensuring compliance with food standards, including composition and labelling. The distribution of powers, as well as new approaches to ensuring food safety being developed at the national level, are being reviewed. This is part of a comprehensive review of the Food Act.

At this stage, this has occurred within the commission and with limited consultation with the Local Government Association. It is intended to release for public comment a discussion paper raising various options shortly. This will be widely distributed, and comment received during that consultation process will be taken into account in drafting amendments to the Food Act later this year.

Current trends in improving food quality focus more on industry quality assurance and accreditation involving the development of food safety plans, ensuring processing and manufacturing practice follow HACCP principles (Hazard Analysis and Critical Control Point Programs) and ensuring proper training of food handlers. The discussion paper will address these issues, as well as more effective delineation of responsibilities between local and State Governments in the administration of the Food Act.

The South Australian Health Commission has reviewed its capacity to deal with routine communicable disease matters and respond to foodborne outbreaks. The Communicable Disease Control Unit has been upgraded to branch status, with five additional positions, in response to escalating demands for surveillance and control activities. Two additional positions for the Environmental Health Branch's Food Unit have been approved and resources are being considered in the context of discussions with the Local Government Association about roles and responsibilities and best use of resources.

3. Amendments to Standard C1 of the Australian Food Standards Code will address the concerns raised by the Coroner in relation to the microbiological quality of source meat and finished product. These amendments are expected to be gazetted in the Commonwealth *Gazette* within the next month.

4. Access to the Internet now allows rapid exchange of information and consultation between the South Australian Health Commission and the Communicable Disease Control (CDC) in Atlanta and Communicable Disease Network of Australia and New Zealand (CDNANZ) in Canberra. Teleconferences and computers link members of CDNANZ around Australia and other active networks involve State food officers, National Food Authority Advisory Committee (NFAAC) members and State chief health officers.

5. A protocol which became formal policy on 13 October 1995 will ensure coordination of activities between Communicable Disease Control Branch and the food unit staff. In particular, in relation to each occurrence which may represent a threat to public health, and where extraordinary measures may be required, a specific room is activated as a response centre area and a response administrator is appointed.

6. Epidemiological questionnaires as an information gathering device are designed with a specific situation in mind. However, there are a number of 'pro formas' on hand from which specific questionnaires can be developed at short notice.

7. The epidemiological interview process is extremely difficult, and the needs of the acute clinical situation must take priority. During and immediately after admission of critically ill children to hospitals, relatives are generally not able to provide reliable dietary histories, contacts and movements and/or other details unrelated to the immediate prognosis of their child.

Epidemiological interviews are carried out sensitively, thoroughly and as soon as practicable by experts.

8. The scientists who do the analysis (both formal and informal) use Epi Info, a software package used by practising epidemiologists the world over as a tool for formal scientific analysis of the data.

9. This is recommendation is addressed by the Bill before us.

A reminder to practising doctors of the legal requirement to notify and a current list of notifiable diseases was published in the AMA's *Medical Review* in December 1995 [the December edition is sent to all doctors, not just AMA members].

The same article entreated doctors to advise the CDCU [which must be the Communicable Disease Control Unit] of any unusual infectious disease on a direct telephone number, and the HUS outbreak was specifically mentioned.

HUS and TTP are not notifiable diseases as such (although food poisoning is) and in view of the need for national standardisation, the issue of whether HUS (and TTP) should be added to the schedule is being debated by CDNANZ.

Dr Scott Cameron is heading a team of experts convened by the Commonwealth Department of Human Services and Health to develop a national CD surveillance strategy by June 1996, and a schedule of notifiable diseases will be reviewed as part of that project.

I have also been advised that there must be consensus in relation to the uniform definition of notifiable diseases, and it is believed that this consensus will be achieved within a couple of months. The normal process would be that the NRMC gives its blessing to this before there is any change to the schedule. It may be that the Minister can act without the blessing of the NRMC if the process is deemed to be taking too long. The advice to the Minister continues as follows:

10. The review of the Food Act referred to under [recommendation] 2 will address this issue.

The National Food Authority (NFA), which is responsible for coordinating national food recalls, has been reviewing its guidelines on the subject.

Recommendations 11 and 12—Actions in relation to these recommendations—are covered under [recommendation] 2 above.

I am quite confident that the Hon. Mr Holloway, in particular, will be more than satisfied with the completeness of the responses that I have provided and will not have any awkward questions to ask me during the Committee stages of the Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

New clause 1a—'Commencement.'

The Hon. DIANA LAIDLAW: I move:

Page 1, after line 13—Insert—

1a. This Act will come into operation on a day to be fixed by proclamation.

The amendment relates to the commencement of this legislation.

New clause inserted.

Clause 2—'Notification.'

The Hon. DIANA LAIDLAW: I move:

Page 1, lines 16, 17 and 18—Leave out paragraph (a) and substitute new paragraph as follows:

(a) by striking out from subsection (1) 'becomes aware that a person is suffering from a notifiable disease or has died from a notifiable disease the medical practitioner—' and substituting 'or person of a class prescribed by regulation suspects that a person is suffering from or has died from a notifiable disease, the medical practitioner or person of a prescribed class—';

The notes with which I have been provided cover the three amendments dealing with a related issue. The amendments are designed to cover a fairly technical situation which has been raised with the Minister in the past 24 hours by the Hon. Robert Lawson QC. Members will be aware that the Bill seeks to remove current section 30(4) of the principal Act. That section absolved a medical practitioner from reporting a notifiable disease to the commission if he or she knew or believed that a report had already been made, for example, by a laboratory.

As I stated in my second reading explanation, the thrust of the Bill is to get earlier notifications and to clarify reporting responsibilities. Just to recap on the rationale, in addition to notification by the doctor responsible for managing the patient's care, it is also important to have responsibility on pathology laboratories to notify cases. The laboratory in most cases will be the first source of a definitive diagnosis of a communicable disease and is in a position to rapidly and reliably inform the commission. The treating practitioner's notification will add important information that is not available to the laboratory. This would include the address of the patient, the timing of the illness and the like.

Provision of both notifications, the treating doctor's and the laboratory's, is important in putting together the total picture and allowing appropriate public health intervention. It has been suggested to the Minister that, by removing the exception to reporting currently contained in section 30(4) and doing so totally, the Government and the Parliament would unwittingly be putting some doctors in breach of the legislation in a way that was never contemplated. To give an example, a patient lying in hospital may be visited by ward round. It has been suggested that by removing section 30(4) *in toto* we are effectively placing a statutory obligation on every one of the doctors on the ward round to notify the Health Commission if they suspect a patient is suffering from a notifiable disease.

In practice, it would be the doctor responsible for managing the patient's care who should notify the commission. There would clearly be no expectation that all doctors on the ward round would have to do so. However, the Minister accepts that it is not desirable to have people unwittingly and unintentionally in breach of a statutory obligation. Accordingly, a series of amendments has been placed on file. I have moved one; they are all interlinked. The purpose of each amendment is as follows.

Clause 2A now includes the words 'or person of a class prescribed by regulation' in the reporting requirement to ensure laboratory notification as well as reporting by the medical practitioner. This amendment is really in the nature of a restructuring of existing provisions. It is intended to prescribe persons in charge of pathology laboratories under this provision. Such persons are currently prescribed by regulation pursuant to subsection (7) of the principal Act.

Clause 2(4) seeks to overcome the potential to put doctors in breach of the legislation unwittingly and unintentionally, as I noted earlier. A medical practitioner will not be required to report where he or she knows or reasonably believes that a notification has already occurred. However, it is clear that a laboratory notification is required as well as a treating doctor's report. This, as I noted previously, is not the situation under the existing Act. The other amendments are consequential on those two principal amendments that I have just outlined.

The Hon. P. HOLLOWAY: First, I thank the Minister for the answers she provided to my earlier questions. I just have a couple of brief questions in relation to the amendments that she is moving. First, she referred to people in pathology laboratories as being included under 'class prescribed by regulation'. Are any other groups covered or envisaged to be covered by this class of notification?

The only other matter that I wished to raise was in relation to clause 4. I can understand the reason why we would need some exclusion in the case of doctors doing rounds and so on, that it would obviously be ridiculous to have a requirement on a number of doctors who might be seeing a patient. Nevertheless, the Opposition has some concerns that the requirement now requires a medical practitioner to reasonably

believe that the report has been made. Obviously, we would have some concerns that that might lead to a loophole. For example, if someone had been to see a GP and perhaps been referred on to a specialist, it might well be that the GP believed that the specialist had provided the notification of the suspicion of the notifiable disease and, similarly, the specialist might believe that the GP had done it. We would not like to see a situation where there was a loophole in the legislation whereby a report of a suspicion of a notifiable disease might be missed. Will the Minister give some explanation about how she reasonably believes this clause will operate in practice, and will she give us an assurance that that clause will cover any possible loophole?

The Hon. DIANA LAIDLAW: In terms of persons of a class prescribed by regulation, there are no other classes so prescribed at the present time. However, the amendment has been prepared to enable some flexibility to prescribe such classes of person if the need arises. It has also been suggested that it would be highly improbable that this legislation could create a potential loophole between a GP and a specialist. We now have the situation whereby there is mandatory reporting where, if a medical practitioner becomes aware that a person is suffering from or has died from a notifiable disease, the medical practitioner shall advise as soon as possible. We believe, as the Opposition has accepted, that this expression 'is suffering from a notifiable disease' indicates that a definite diagnosis needs to have been made by the practitioner before there is a requirement to notify.

We believed that that was too rigid. The Opposition has accepted that the flexibility now written into the Act via these amendments will increase the responsibility on doctors to report. So, one could envisage a situation where a person is being seen by both a GP and a specialist, where the obligation provided in these amendments would see an increased likelihood that the disease would be notified rather than the opposite, as the honourable member has suggested, in terms of there being a loophole in the Bill as outlined and according to the proposed amendments.

The Hon. P. HOLLOWAY: I have one final matter that the Minister has not previously covered. Section 30(3) of the principal Act requires that, when a report is made under this section, that is, when the commission has been notified of a notifiable disease (and now, if these amendments are carried, to be based on suspicion), where that report relates to a person in a local government area the commission must, where there is an immediate threat to public health in the area, immediately communicate the contents of the report to the local council for the area. The matter I raised earlier was whether it was intended that the local council would be notified just of the suspicion or whether it would be confirmed before they were notified. Clearly, that is a matter that would need to be addressed by the Government. I would like some indication on that matter.

The Hon. DIANA LAIDLAW: The honourable member has raised a practical issue that will have to be addressed and I suspect will be in the process of preparing any regulations and prior to the proclamation of the Act. Earlier, the honourable member asked a question about the staff in the communicable diseases control branch or unit. With the addition of the five staff this will virtually double the full-time professional staff in this unit.

The Hon. P. HOLLOWAY: I thank the Minister and indicate that the Opposition supports the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 1, line 22—After 'subsection (4)' insert—
'and substituting the following subsection:

(4) A medical practitioner (other than a person of a class prescribed by regulation) who suspects that a person is suffering from a notifiable disease is not required to make a report under subsection (1) with respect to that case if the practitioner knows or reasonably believes that a report has already been made to the commission by another medical practitioner who is or who has been responsible for the treatment of that person.'

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 1, after line 22—Insert:

(d) by inserting in subsection (5) 'or person of a class prescribed by regulation' after 'A medical practitioner';
(e) by striking out subsection (7).

As I outlined earlier this amendment is in two parts and is consequential. I also briefly thank all members who contributed to this debate. I know that amendments have been proposed in the past 24 hours that are greater in length than the original Bill. The Minister, the Government, and especially myself, appreciate the cooperation of all members, including the shadow Minister for Health.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's suggested amendments.

WITNESS PROTECTION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

EDUCATION (TEACHING SERVICE) AMENDMENT BILL

Returned from the House of Assembly without amendment.

RACIAL VILIFICATION BILL

Adjourned debate on third reading (resumed on motion).

(Continued from page 1354.)

The PRESIDENT: The Hon. Paolo Nocella has moved to amend the motion by leaving out all words after 'that' and inserting in lieu thereof 'the Bill be withdrawn and referred to the Legislative Review Committee for its report and recommendations'.

The Hon. SANDRA KANCK: I support this motion moved by the Hon. Mr Nocella. This is a very vexed Bill; it does not seem to have simple solutions. Whatever is proposed seems to have other ramifications, and I refer to the Hon. Mr Redford's comments that inserting these provisions would introduce conciliation aspects which would not work and which would only muddy the waters, and that further reinforces the need for further consideration of this Bill. For instance, I talked about one letter I received just today about the legislation. I do not think the public is terribly aware of what is happening with this Bill.

There was some flurry last year when the Opposition first said it would introduce legislation but, since then, the media

has not given it much attention. Consequently there has not been a great deal of public debate. Reference of the Bill to the Legislative Review Committee will allow all considered opinions to be properly heard, be they legal, ethnic or from the public at large. At the Federal level Democrat senators make great use of the Senate Scrutiny of Bills Committee, which has proved to be a success. In my time in this Parliament I am not aware of this procedure having been used before. Having seen how successfully it is used in the Senate, I believe the same sort of success might be possible with this piece of legislation.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I do not intend to delay the third reading inordinately, because the Australian Democrats have joined with the Australian Labor Party in taking this approach. I have spoken with the Hon. Mr Nocella because I think we were placed in a somewhat difficult position in terms of this amendment not having been circulated beforehand to members of the Chamber, but I understand his position in relation to that. Hopefully we will not see a recurrence of the situation.

I want to indicate that, in the brief time available, I have had a chance to speak to the Minister responsible for the legislation and I indicate that the Government is strongly opposed to this proposition from the Labor Party and supported by the Australian Democrats. The position of both the Government and the Minister is very strongly that this is seen as a deliberate delaying tactic by the Labor Party to prevent the introduction of racial vilification legislation in South Australia. This is a common tactic used in the Senate, as the Hon. Sandra Kanck has mentioned, to refer Bills off to committees, to be parked in committees and delay the introduction of the legislation.

The Minister, of course, was not aware of this, but indicated his very strong concern about this particular move, and has asked me on behalf of the Government certainly to strongly oppose the move by the Australian Labor Party as a delaying tactic to prevent the quick implementation of racial vilification legislation in South Australia. We are disappointed that the Australian Democrats have joined with the Labor Opposition to frustrate the Liberal Government's attempts to introduce racial vilification legislation in South Australia.

Because of the lateness of the hour and the fact it is the last sitting day, I do not intend to divide on this motion, but I want all members to be aware of the very strong views that the Government and the Minister have in terms of opposing it. The only reason for not calling for a division in relation to this issue is the lateness of the hour and the fact that we still have a number of Bills to be processed through the Parliament this afternoon.

Amendment carried.

WORKERS REHABILITATION AND COMPENSATION (DISPUTE RESOLUTION) AMENDMENT BILL 1996

Adjourned debate on second reading (resumed on motion).

(Continued from page 1332.)

The Hon. R.R. ROBERTS: This Bill was introduced because of some anomalies that have appeared in the Act over the passage of time. One of the problems that has appeared since the introduction of the new Act has been with respect to the process called LOEC. It is not my intention to go into a long debate on this because it has been the subject of extensive debate in the Lower House where my colleague Ralph Clarke moved an amendment to do away with the LOEC process. The Minister and his officers have engaged in long discussions with the Hon. Mr Elliott and my colleague Ralph Clarke and pointed out that there are some problems because some 1400 people have been involved in the LOEC process since the changes were introduced, when the two year review was brought into being.

I am advised that it will present some logistical and taxation problems.

The Minister has given a commitment to the Hon. Mr Elliott and to my colleague Ralph Clarke that he and his officers will undertake certain actions to protect the situation. I am advised that, from tomorrow, the LOEC process will not continue, because the board will make a decision to do away with that. As I said, there are some complications with trying to overturn LOEC and put people back onto weekly payments. I understand that has been clouded even further by a recent decision of the Supreme Court in the past few days.

The Minister has given an undertaking to my colleagues regarding the implications of trying to fix up this problem. There has been an agreement that the intention of the legislation has not been met by the practical application of the new rules and that it needs to be firmed up. Agreement has also been reached that, to do this now by legislative procedure, would probably hold more pitfalls than can be handled. What it would mean is that those people who are on LOEC would be on the wrong end of the consequences with respect to taxation, and there are also some implications for WorkCover in that respect.

I indicate support for the second reading on the basis of the understandings that have been reached between the parties. I am confident that the officers of WorkCover and the Minister will be able to look at these problems and come up with an appropriate procedure. I have been guaranteed that, if that requires legislative change, legislation will be drafted in cooperation with the Australian Democrats and the Opposition to ensure that the intention of the Parliament with respect to the new WorkCover arrangements will be revealed. We will support this legislation.

The Hon. M.J. ELLIOTT: The Democrats support the second reading of this Bill; it has been a long time coming. I am not quite sure how long ago it was that it was agreed that the question of appeals would be looked at by a committee, but it seems to have been a terribly long time. When the Government, under previous legislation, sought to change the way the appeals system worked, I made quite plain that I had formed the view that the current appeals processes under the Act were not working. I also expressed the view that the proposals made by the Government at that stage would not solve the problems but create more than they solved. As a consequence of those issues not being resolved at that time, a committee was established, composed of one representative from the Liberal Party, the Labor Party and the Democrats, a representative of the Employers Chamber and a representative of the UTLC. That group met on regular occasions and managed to reach a consensus as to the form an appeals process could take that was fair to all parties.

It took some time after reaching agreement on the points of principle to get legislation that reflected that and then further negotiations took place in terms of what rules would apply in relation to the appeals process, rules which of course we do not directly approve but which we still have a right to

knock out in this place. But, at last, what has been a very long process has come to an end and it has been a consensus. It has probably been something of a revelation for some people that it was possible to get employer and employee representatives, as well as different political Parties, to sit down and work things through. Clearly, there has been some give and take in that process. Different people had reservations about aspects of that process, but at the end of the day I think everybody agrees that we have a result that is far superior to the earlier process.

The greatest criticism of the processes as they existed before was that they simply took too long to reach a final determination. The saying goes 'justice delayed is justice denied' and that is very true. In relation to workers' compensation matters, it is not just a simple denial of justice. The longer it takes to make these determinations the longer it takes for genuine rehabilitation to take place, the longer it takes for compensation itself to be properly addressed, and the longer it takes for a person to get their life back in order. Anybody who is involved in this system will know just how distressing it can be, even if at the end of the day you win—although how you could ever win when you are involved in workers' compensation is beyond me. All you do is win some form of compensation for an injury that should never have taken place in the first instance.

We have before us a piece of legislation that has broad consensus, and I would hope that the Government would look at what was achieved here and that it might seek to emulate the procedures more frequently. It seems to me that, in the tough area of industrial relations (which I guess is the area this fits into), if you are capable of getting resolution with employer and employee representatives talking together, there must be an awful lot of places where we have missed that opportunity before and will miss it again. I certainly found it a very useful process, and it was very enlightening to see the participation of all involved.

While this debate has been proceeding, a number of other issues in the workers' compensation area have also come forward in a most unfortunate way. It is something that I have raised in this place on a previous occasion. It is the way in which the second year review processes are being carried out. In previous debate it was agreed that there be a two year review, but this place insisted that, if as a consequence of a two year review a person was aggrieved by the decision, whilst their appeal was being heard if they were receiving weekly payments they would continue to receive them until the appeal process was complete.

Unfortunately, it appears that the private insurers, virtually under the instructions of WorkCover, were using an artificial device to get around the rights of people to continue to receive weekly payments. That artificial device, at least in relation to one company, was to write to recipients of weekly payments and inform them that the company intended to transfer them from weekly payments to a LOEC payment. A LOEC payment is a loss of earning capacity, which is a capitalised sum usually paid on an annualised basis. So, instead of getting a weekly payment, a person would get an annual payment, and that annual payment was discounted by 20 per cent allowing for the fact that tax was not paid.

I always had some concern about LOEC, and during the debate here I sought to have it removed, but I lost that argument. As an unfortunate consequence of LOEC not being removed, no protections were put on LOEC as existed for weekly payments in terms of continuing to receive payments whilst appeals were being heard. The artificial device letter written to people stated:

> We are going to transfer you to LOEC. At the same time, as part of the second-year review, we are going to decrease your payments.

One example is that a person, who was in receipt of about $401 per week, was told that under LOEC he would receive $420 for the whole year. That was because the person who was being transferred to LOEC was having a two-year review carried out and a judgment was being made about his capacity to earn a wage. On that basis, there was a significant reduction in the LOEC payment.

The letter then went on to say, 'However, we are prepared to offer you redemption.' The letter was couched in quite strong and in some places deceptive language. In my view, it was nothing more or less than blackmail; it was an outrage. I have had a meeting with representatives of insurance companies and directly expressed to them my outrage at their behaviour in the writing of this letter. The insurance companies, without defending the language of the letter, offered the defence that they were doing this only because WorkCover essentially told them to do it. I think that WorkCover suggested they should do it, but there was the threat of non-renewal of their licence if they did not.

A suggestion can easily be seen as a threat. People were faced with receiving a one-off payment for a year which was no bigger than their previous weekly payment and being told that they could redeem and take it or leave it. They could have decided to go through an appeal process, but they would have had no cash in hand whilst they were doing it. That was clearly against the intent of the Parliament, as indicated by the amendments that were made regarding appeals on weekly payments.

In consequence of those actions I wrote a letter to the Minister on 19 February. The reason I wrote at that stage, although it appears that the insurance companies had been doing this for five or six weeks, was that I had been out of Adelaide until late January. It was only when I came back and saw the scope of the correspondence and the telephone calls that were being received, and more particularly what was contained within them, that I wrote to the Minister. The letter reads:

> My office has been approached by an increasing number of WorkCover recipients who have raised concerns about the manner in which their cases have been treated by private agents now responsible for the management of their claims.
>
> There seems to be a suggestion that agents are using the LOEC scheme to circumvent specific safeguards placed in the Act which were aimed at ensuring retention of existing weekly payments while decisions concerning maintenance levels are reviewed.
>
> You will be aware that there were significant efforts made to ensure that safeguards were included in the Act to protect workers who feel unfairly treated by decisions made regarding benefit levels. If an accidental loophole has been created, I consider it a gross abuse of the intention of Parliament if the LOEC provisions are being used as a mechanism to avoid protections available under weekly payments. It is a matter which was of significant debate and it was never the intention of the Parliament for LOEC to be used in this manner. In fact I sought to have LOEC removed! I seek your urgent and cooperative action in this matter as I have done when other unintended consequences have emerged.
>
> Yours sincerely, Mike Elliott.

The Minister replied in a letter dated 2 April. I will read his letter into the record as it is important in terms of what we do from here. The letter states:

> I refer to your letter of 19 February 1996 concerning the existing use of the LOEC provisions of the WorkCover Act and their relationship to the State Government's legislative reforms enacted in 1995. I also refer to our discussions of this issue within the

Dispute Resolution Working Party on 27 March 1996 and our telephone discussions this morning. Let me say at the outset that I appreciate the constructive manner in which you have raised this issue with the Government and have sought to work with the Government in finding a solution to the very real issue which your correspondence has identified.

I confirm my advice that the Government is prepared, through WorkCover, to put in place variations to existing policies and practices of Workcover and its claims management agents which lead to the elimination of the existing anomaly whereby LOEC recipients are treated differently to weekly payment recipients in so far as income maintenance during review proceedings is concerned. The Government is prepared to adopt this approach because the different treatment through the use of LOEC provisions which is now evident was not the intention of Government (nor I believe the Parliament) when amendments were made last year. (I would however point out that the differential treatment in part is a product of the original 1992 amendments passed by the previous State Government).

I note that the Minister is putting on the record that it was not the intention of Government or Parliament for the LOEC provision to be used in the way it is. The letter continues:

The solution proposed by the Government is set out in the attachment to this letter. The effect of this new policy is intended to be that the worker who challenges a reduction in their LOEC payment will not sustain a financial loss for the period leading up to a Review Officer's decision. It should also be noted that the concept of paying an interim benefit to LOEC recipients is comparable to the treatment of weekly payment recipients whose payments are reinstated to pre-existing levels during the course of review proceedings and liable to be recoverable following a decision (under section 36(4) and (5)).

As Minister for Industrial Affairs I will submit this new policy to the WorkCover Board for immediate implementation at its next meeting on 12 April 1996. In addition to the implementation of this policy, I will request the WorkCover Board to advise me whether the continued use of LOEC provisions is necessary or desirable given the strong support from workers and employers for the redemption provisions. In the absence of specific advice that the continued use of LOEC is necessary or desirable for financial or taxation purposes I will request the WorkCover Board to cease the practice of moving workers from weekly payments to LOEC.

I attach for your information copies of correspondence which I intend to forward to the Chief Review Officer of the Review Panel and to the President of the Workers Compensation Appeal Tribunal as soon as this new policy is endorsed by the WorkCover Board. I note that you foreshadowed some legislative amendments on this issue. Having briefly perused your draft Bill I consider the implementation of the above policy to be a preferable approach. As currently advised, no legislative amendments are necessary to implement this change to WorkCover's LOEC policy. However, in the event that WorkCover subsequently advise that specific amendments to the Act are required to facilitate the implementation of this policy, I will take steps to initiate amendments for consideration during the next parliamentary sitting.

Yours sincerely, Graham Ingerson.

An attachment to the letter, also signed by Graham Ingerson and dated the same day, sets out the undertakings that the Minister gave at that time. It states:

1. The Government will request (and if necessary direct) WorkCover to immediately cancel its existing LOEC policy and substitute a revised policy (binding upon its claims management agents) which incorporates the following principles:

1.1 Workers currently in receipt of a LOEC payment (but who have not had a second year review decision made) will have their entitlements reassessed at least three months prior to the expiration of their previous LOEC period (with appropriate transitional provisions for workers whose LOEC payments are due within the next three months); and

1.2 Where those workers have had their LOEC payment reduced and commenced review proceedings within one month of receipt of notice of the decision (under section 95 of the Act), the worker may apply for (and upon application be granted) an interim benefit payable by WorkCover of an amount equivalent to the difference between their reassessed LOEC payment and their previous LOEC payment calculated *pro rata* for a three month period; and

1.3 That WorkCover will agree to the review application being treated as a priority case by the Review Panel (with the Minister agreeing to correspond with the Chief Review Officer under section 77D(1) to achieve this objective); and

1.4 Following the review decision, any amount of the interim payment made by WorkCover to which the worker was not entitled to be repayable by the worker.

2. The Government will also request (and if necessary direct) WorkCover to implement items 1.2, 1.3 and 1.4 of the above policy in respect of workers who have already had their LOEC payments reduced as a result of the second year review provisions, and who have commenced review proceedings within one month under the Act.

3. This new policy will not apply to workers who have already reached an agreement with WorkCover for a redemption payment.

I will not read the letter that was sent to Andy Saunders, the Chief Review Officer, but the essence of that letter is that, if these cases go before the review panel, the Minister wants them to be treated expeditiously.

[Sitting suspended from 6.3 to 8.30 p.m.]

The Hon. M.J. ELLIOTT: Before dinner I put on the record a letter that I received from the Hon. Graham Ingerson on 2 April this year relating to LOEC. Subsequent to the receipt of that letter, I received a further letter from the Minister dated 11 April 1996, which states:

Dear Michael,

Re: WorkCover—LOEC

I refer to my letter of 2 April 1996 and to our subsequent discussions. I confirm the undertakings provided in that letter and, in particular, the fact that the WorkCover Board at its meeting tomorrow is scheduled to address this issue as a matter of urgency. I also take this opportunity to clarify and confirm the following additional matters:

1. I have, since forwarding my letter to you, received and accepted advice from WorkCover that there is no financial impediment to the board deciding that from tomorrow no new LOECs will be made by WorkCover or its claim agents. Accordingly, I am advised that the board is in a position to adopt this measure as a matter of policy within the next 24 hours.

2. I have also been advised by WorkCover that the variations to WorkCover's administrative policy on LOEC, outlined in my letter of 2 April, will be implemented forthwith following a decision by the board and that contact with the affected workers in review will be made as a matter of priority, particularly in making an interim payment available.

3. I repeat my in principle undertaking given in the House of Assembly last night that the Government will, if necessary, bring legislation into the budget session to repeal the LOEC provisions of the Act once the board has ceased its operation and once the interests of the approximately 1 400 workers still on LOEC are fully taken into account.

4. I repeat my undertaking that the Government will consult with the Opposition and the Australian Democrats in the development of any such legislation.

5. I confirm my advice that any immediate repeal of the LOEC provisions is likely to have unintended legal, financial and taxation consequences for the workers currently on LOEC and possibly the scheme as well. For example, I understand that the tribunal has already decided that a worker cannot, once LOEC, be transferred to weekly payments. Further, such a move obviously could have adverse taxation implications for these workers.

6. I also confirm that the WorkCover actuary is currently assessing the financial impact on the unfunded liability of the redemptions made to date, including the workers who were on LOEC and who have accepted a redemption. The actuary is due to complete this analysis by the end of April and report to the board in May. This report from the actuary is also relevant to the development of any amendments which would repeal LOEC for existing LOEC recipients.

I trust that the above matters, when assessed in the context of my earlier letter, clearly explain the position of the Government on this

issue and its undertakings. These matters highlight the importance of altering WorkCover's LOEC policy in an efficient administrative manner and, at this stage, without legislative amendment which would be counterproductive to the interests of LOEC workers. I would be pleased to speak to you further on these matters.

It is important that those letters go on the record, so that the undertakings made by the Minister are clearly understood. The Minister has made plain that it was never the intention of this Parliament that LOEC could be used as an artificial device to avoid injured workers continuing to receive full weekly payments whilst there was an appeal in relation to the second year review.

There is no doubt that WorkCover and the insurance agents have clearly contravened the spirit of the legislation that was passed in this place. They might like to argue that it was legal, but as far as I am concerned the behaviour was certainly immoral—not only because they chose to use the artificial device but also because of the tenor of the correspondence that was sent to the WorkCover recipients.

I also have on the Notice Paper a private member's Bill, and I believe that the Labor Party has amendments which it moved in the Lower House and which it may or may not intend to move in this place in relation to LOEC. If I had a concern in relation to my own amendments, I realised that LOEC had some complexities in terms of taxation. I was certainly concerned, if my legislation passed, to ensure not only that it would achieve the goals which I had set but also that there might be some unintended consequences, which I did not want to occur, in relation to taxation interpretations for workers.

In Committee I will ask further questions of the Minister and seek further assurances before I make a final decision as to whether I will pursue my Bill or support the Labor amendments. At this stage I believe that, as a consequence of joint meetings between the Minister, Ralph Clarke, the Hon. Ron Roberts and me, we have an agreement but it is subject to full clarification of the issues discussed during the meeting. At the meeting we all agreed that the artificial device of using LOEC to avoid weekly payments whilst appeals are being carried out should cease. We agreed that the action should be retrospective, that workers who have already been through the device, and not just those in the future, should be protected and that if injured parties decided to lodge an appeal they would receive a LOEC payment for three months. If the appeal has not been clarified during that time, they would receive a further LOEC payment for three months. We agreed also to have further meetings during the break to further clarify the situation and to look at legislation when Parliament resumes.

The whole WorkCover issue has been quite divisive, but there has been a great deal of goodwill and cooperation in getting legislation through. I am sure the Minister understands that, if undertakings that have been given in the correspondence that I have read into *Hansard* today or further undertakings given during Committee are not met, that will undermine the cooperation that has developed and would mean that cooperation in future simply would not be possible. I indicate support for the second reading of the Bill, and I hope that, with clarification of some matters in Committee, it will have a speedy passage.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. M.J. ELLIOTT: I indicated during the second reading that assurances were on the record, and most have come via correspondence. I will ask a few questions so that we have those assurances by way of direct response from the Minister in this place. The Minister agrees that the intention of the Parliament as a whole was not to allow LOEC payments to be used as a device to avoid injured workers receiving payments whilst they were appealing cutbacks following the second year review.

The Hon. K.T. GRIFFIN: I am advised that the Minister agrees that was not the intention.

The Hon. M.J. ELLIOTT: The correspondence seems to indicate that if injured workers who have already been offered LOEC or redemption do not accept that and are now in that nether world of having to decided whether or not accept it, if they make a decision to appeal they will be given a month to make that decision. They will receive an interim LOEC payment for a three month period and, if the appeal is not heard during that time, they will receive a payment for a further three months; is that a correct understanding?

The Hon. K.T. GRIFFIN: The answer is 'Yes'.

The Hon. M.J. ELLIOTT: As I understand it, the vast majority of people who have been affected by the lack of protection for LOEC have been people who have been put through, as I described before, the 'device' of being on weekly payments, being told 'We are going to offer you a LOEC as part of the two year review process but you can take a lump sum.' As I understand it, that artificial device was actually applied somewhere in late December or early January, and the assurances already given cover those people. There are also people who were already on LOEC, and I understand that during December at least some of these people were also being subjected to the two year review and having the same sorts of pressures applied.

Discussions I had with the Minister indicated that it was the Minister's intention that the protections we are now talking about in terms of receiving LOEC interim payments for three months would apply back to when the new legislation came into force or the two year review was first being applied, so it will not apply just to those who are being told that they will be transferred to LOEC but also to people who were on LOEC at the time the new legislation came into force. Is it correct that they will get that same protection?

The Hon. K.T. GRIFFIN: My understanding is that, where workers have had their LOEC payment reduced and commenced review proceedings back to 17 August 1995 when the second year review provisions came into operation, they will be covered.

The Hon. R.D. LAWSON: I ask a question of the Attorney. Is it accepted that LOEC was in this context, to use the Hon. Mike Elliott's words, 'a device' and, secondly, does the Attorney accept that workers were 'pressured', once again to use the Hon. Mr Elliott's word, into accepting it?

The Hon. K.T. GRIFFIN: My understanding is that the lack of review rights was really a product of the 1992 legislation. It was not so much a device as one of the options that was provided to agents and, in terms of the question of pressure, I suppose the only pressure was that there had to be a decision taken. If a decision was taken not to accept, there would be potentially a review and no interim payments. Workers who accepted redemptions and received lump sum payments under the Act have done so only after independent legal and financial advice. I cannot see how you can construe that as pressure in the context described.

Clause passed.

Remaining clauses (2 to 6) and title passed.

Bill read a third time and passed.

SOUTH AUSTRALIAN TIMBER CORPORATION (SALE OF ASSETS) BILL

Adjourned debate on second reading.
(Continued from 26 March. Page 1110.)

The Hon. T.G. ROBERTS: I support the second reading and indicate that I have some concerns about the lack of guarantees in relation to some of the outcomes. Hopefully, during the Committee stages, the Government will be able to supply and fill in some of the gaps and the detail in relation to the sale of Forwood Products. The Bill, as described, provides for the eventual sale of Forwood Products and such of the assets as are owned by the South Australian Timber Corporation and utilised by Forwood in its business operations. It is intended that this asset sale will be concluded in the early part of 1996 and that Forwood was established for the purpose of corporatising and ultimately privatising the Government's sawmilling and timber operations in the South-East of this State. Certainly, it was envisaged for the corporatisation to occur, but I was perhaps a little naive: I did not see ultimately that privatisation had to be the end result of corporatisation.

Corporatisation was seen by the previous Government as a way of streamlining the process and altering the direction of the old Woods and Forests Department into a more streamlined operation to counter much of the criticism that had been directed at Woods and Forests in relation to its returns back into the Consolidated Revenue accounts. Some of the criticisms I have heard about the old Woods and Forests, and then recently Forwood Products and SATCO, were done on the basis that those that were critical did not do a close enough analysis of the role and function that this proud organisation had in the total development of the South-East of this State in particular and, in recent years, the Adelaide Hills. The role that Woods and Forests in particular played was invaluable over almost 100 years.

The programs that had been put in place in sowing softwoods in the South-East were invaluable in building up a base for the financial future of that area. It certainly ensured that, during that period of growth between 1947-48 to 1968-69, the South-East was able to employ a large number of people, particularly migrants who had been displaced during the Second World War, and it added to the colour and flavour of the South-East, giving a dimension to the economy in that area that previously it lacked, and that was an industrial base. The South-East was quite rich in primary industries. There was not a lot of value added wealth, but certainly it was rich in primary industries, and the timber industry supplied that stability it required to make the South-East what it is.

There was a long period of drawn out development in an orderly manner. It was probably as near as you could get to a socialised industry, with long lead times in planning—

The Hon. M.J. Elliott: That is the Liberals for you!

The Hon. T.G. ROBERTS: In the early days it was Liberal Governments that socialised the timber industry, providing employment for unemployed people during the depression, and perhaps the planting out of forests and plantations ought to be looked at in these days of high unemployment. At the moment we are looking at a Bill that is not re-visiting the growth period during those difficult years, during the 1890s and 1930s. We are looking at a Bill that is selling off those assets that have been accumulated over that very long period.

There is a lot of concern about the possible destabilisation of that industry. Of course, I only need refer members to the debates that have gone on inside this Chamber. The questions that the primary industry shadow Minister has asked in relation to the plans that the Government has had during a long period of negotiations around the possible sale of the asset, the timber, have been partly answered, and the whole of the process for potential sale has been clouded in innuendo and rumours, to a point now where we have a Bill before us that facilitates the next stage of the corporatisation into privatisation.

The main concerns of members on this side of the Council are in relation to any guarantees that might be given to the continuation of the existing industries that are built around the harvesting of the timber rights in that area. Certainly the principal union in the South-East, the CMFEU, and the maintenance services unions are concerned that there are no guarantees built into the maintenance of the milling program if the allocations of timber can be moved around. In the case of two mills, Nangwarry and Mount Burr, the asset value of those mills has been allowed to deteriorate, particularly in the case of Mount Burr, which is one of the older mills. It recently had an allocation of timber to it to keep it going for another five years, and that saving plan was put together in the early days of the Liberal Government.

The Nangwarry mill and the IPL value added section of Nangwarry was recently divided. It was one business unit up until about two weeks ago. That was separated out, I suspect, to make it easier to privatise, so the milling operations and the value adding operations of IPL could be looked at as separate business units. Therein lies another problem in relation to security.

Given the age of the Mount Burr mill, if an allocation of timber is made to that mill and the potential owner decides not to mill the allocation at Mount Burr but decides that the asset of the timber can be moved or milled in another place or that the raw log can be moved to another place, we can understand the concerns of people in the Mount Burr district. If you look at the separation of the two business units on the Nangwarry site, you would probably see a number of bidders for the timber allocation that goes with the twin business units. It might be a bit more difficult to sell the individual business units of the IPL and the milling operations of the Nangwarry saw mill, but separately they would become distinct business units. The IPL value adding at Nangwarry would survive because of the demand for the product, but the timber operation could be closed or shifted, and that is another area of concern for workers in that area around Nangwarry, Penola and Kalangadoo. Auspine does have a stabilising effect at Kalangadoo, but a section of the Nangwarry operations is at risk.

Another area of concern is Mount Gambier Pine Industries, which is a mill in the housing and business section of Mount Gambier. Its real estate would be quite valuable to speculators or developers who wanted to use the mill site for housing. I am sure the workers at Mount Gambier Pine Industries would be quite nervous if new buyers moved into that area and decided that they would not mill the timber allocation they were granted through Mount Gambier Pine Industries but would sell that business to real estate for housing or shopping complexes and would move their timber allocation to another area in the State, interstate or overseas. The State Mill is a different proposition in that there is quite a large investment in it, and the timber allocation to the Mount Gambier State Mill would probably be allocated and

used there. So, the unions have put forward a number of concerns in relation to which they would like answers. We thought we might have had a little more time to debate the issue around some of the guarantees that might be given by the Government to the Opposition and to the unions in relation to some securities further down the line, but unfortunately that is not the case.

Another concern is that the economic benefits (or a large proportion of them) that have flowed into this State over a long period of time could easily be lost to the State particularly if large, particularly international, buyers are moved into the market. I understand some of those interested in the sale are Boral, CSR, and Auspine. There are three local millers and processors who would have a vested interest in maintaining the asset base and the allocations in that region. I also understand that there are some overseas interests in Korea, Japan and America who may or may not have the same intentions. As members can see, it is a very dramatic period for millers, processors and workers in that area of the State, not just because of the sale of the assets of SATCO and Forwood Products, but also because of the uncertainty of losing control of the allocated resource. Woods and Forests, Forwood Industries and the Department of Primary Industries have played a role in research and propagation of forests, and we would hope for some guarantees that that would continue.

Those are the concerns that I have. I hope that the union's concerns will be taken into account by the Government and that the guarantees for which the people in the South-East are looking in relation to maintaining a stable employment and economic base will be able to be given. If the Government has any news as to any potential buyers, interests or guarantees that it can give to maintain job security and investment programs, I hope that will come out during the Committee stage.

I suppose that the investment lead times that people require in that industry need to be a consideration of the Government as well, and I hope that the concerns of potential investors are taken into account. With those few questions (to which we might be able to get answers), I support the second reading.

The Hon. R.R. ROBERTS: I rise to put the position of the Opposition in respect of this Bill. I state at the outset that we are not necessarily opposed to the second reading thereof. The Opposition has concerns, which stem basically from the history of asset sales in this State and some of the outcomes that have occurred by not having before-the-event scrutiny by this Parliament. The obvious example of that has been the water contract where, during the sale process, we were all assured that certain things would happen within the contract.

Unfortunately, we were never able to see the proposals in the contract at the first or second stages. When I say the first stage, there was the expression of interest and then the specific bids, and we did not know what caveats were on them. We were assured that there would be equity but we found out, only after intense questioning by the Opposition and the Democrats when a select committee was formed, that most of the assurances that were given and the understandings that we received were fallacy and were nowhere near what was being espoused by the Government as to its intentions.

It is important to look at the obligations of the people who were engaged in negotiating those contracts. It is interesting to note that, because of the controversy over the EPA and the water contract in South Australia, much debate has taken place. Indeed, the Auditor-General has come into the equation and has had a bit to say about it.

Before I address the requirements of the private companies and what the Auditor-General has said, it is important to state that the Opposition has called for this Bill to be held over. This Bill has only come into this place in the last couple of weeks. It is our preferred position to hold it over. It has always been the convention in this place that, when a Bill comes into the Council, if the Democrats, the Liberal Party or the Labor Opposition are not ready to deal with it and they want to undertake further consultation, agreement is reached to allow that to occur.

As I understand it, the Hon. Mr Elliott has indicated to me that, at this stage, he intends to allow this Bill to pass. I understand that and why he is doing it. However, I am disappointed because I believe that what we are really looking for in this situation is transparency. The overall principle that we should be looking at is what is best for South Australia when we sell off another of our principal State assets.

I, for one, was anxious, as was the Labor Opposition, to find out the union's position. We wanted to find out whether it was happy with the process. We wanted to get its opinion as to what sort of sale it thought would be in the best interests of its members and the communities in which those members live. We wanted to ask industry what sort of sale it felt was in its best interests and what guarantees it would need.

We are interested in the sort of caveats that may be placed on the timber that will be processed, given that, for the next 30 years, Forwood Products will have access to 75 per cent of the harvestable timber in South Australia that belongs to PISA. Given the mistakes in the water contract, it is clear that there must be wide consultation so that South Australians can have an input into this process. There must be some transparency and some clear definitions as to what the sale will mean, how it will be applied, and whether any caveats for value adding will be placed in the sale and matters of that nature.

Our concerns in this respect are genuine, especially with forests, because on 30 November last year I asked a series of questions in this place, based on advice received from people in the community, as to whether the Government was actively pursuing the sale of the State's forests. The same question was asked by my colleague in another place (Mr Ralph Clarke) of the Premier, who said emphatically 'No' and that the Government was not actively pursuing the sale of the State's forests. He also told the *Border Watch* some two or three days prior to that date that the Government was not actively pursuing the sale of the State's forests.

After the sacking of Dale Baker, a number of documents were presented, including one from the Centre for Economic Studies under the hand of Cliff Walsh which many members will have seen. The Opposition was also given a copy of a legal opinion from the Attorney-General's Department which stated specifically that, in respect of the Government's proposal to sell the forests, a number of things needed to be considered and the proposal contained some fundamental flaws.

After intense questioning in this place by the Opposition—and I believe that the Democrats asked one question on this matter—we were told that the Government was not going to sell the forests. In January or February this year, the Government announced its new policy, namely, that it would not sell the harvesting rights or the forest lands in South Australia. That was a completely different proposition from that about which we were talking previously.

Despite the protestations of people such as the Leader of the Government in this place and the Treasurer in another place that the Government did not sign any deal, it was the Government's clear intention to flog the forests in which South Australians have had a considerable investment over a long period and the infrastructure of which holds the communities in the South-East, in particular, together.

I have the benefit of some advice about the department's intentions in respect of the sale of forests in this State. When the Hon. Terry Groom became Minister, it was put to him by the department that the assets of PISA ought to be transferred into Forwood, which should be rationalised, corporatised and then sold. That transfer was to take place by administrative action. The Government of the day did not want to do that.

I note that the second reading explanation of this Bill, from which the Hon. Terry Roberts quoted, states that Forwood Products was set up to be corporatised and sold privately. That is inaccurate. The intention of the previous Government was to set up Forwood Products and amalgamate some of the assets of SATCO and Woods and Forests, as it was then. It would then be corporatised and, as a company, it would engage in joint venture operations with private companies.

Prior to the election in 1993, expressions of interest were received, and it is stated in the policy document that was presented by the Labor Government at that time that it was the clear intention of Forwood Products to proceed in that manner. However, this Government has come into power, given guarantees in its policy that it would not sell our forests and, as soon as it have been elected, at the first whiff, at the first smell of money, it could not help itself and started down that path. The Opposition and I, in particular, do not trust them and I am very suspicious of their motives. I am told—and I believe this is one of the reasons why the Hon. Mr Elliott has acceded to the Government's wish to push this Bill through tonight—that the first expressions of interest are due next Friday, and then the second expressions of interest will take place.

That is the point at which my concern starts. I think the people of South Australia ought to have the right to know under what conditions it was sold; whether in fact this Government will put caveats on the buyer of Forwood Products, given that it will have 75 per cent access to the State's forests for the next 30 years; whether it will put caveats on them as part of the sale that state that there has to be value adding or processing done in South Australia, which is an extremely important part of any sale.

It is mentioned in Cliff Walsh's documents, and in other documents that we have received, that this ought to be taken into account. The Centre for Economic Studies questions the sense in actually selling forests with 30 years. It talks about a number of things, but at page 4 it states:

> Secondly, beyond the forest ownership questions, there is a need to ensure that the market mechanisms will exist to ensure the optimal pricing for the allocation of log. Such an outcome may not result if a large degree of the forest, that is 460 000 cubic metres per annum for 30 years, is tied to the Forwood sale unless of course the new Forwood owner has the right to resell his log rather than use it in Forwood's mills if this provides a higher return; although, even then, it is not clear that this would provide an efficient result if the new Forwood owner has little say over the timing and supply of his log.

There is an indication that it may well be more profitable. If we go into private enterprise, and there are no caveats on this sale, we will see those State riches, in the form of forests, value-added overseas and a number of the mills in the South-East could well be closed. I believe that the best course of action, and this is the point of view that the Opposition has taken, is that this Bill be widely circulated for comment and that input be taken from a broad range of interested parties in the community over the next three months, so that there can be some transparency and people can know where their assets are going and under what conditions. What we are really doing here is, in a sense, buying a pig in a poke, or selling a pig in a poke—whichever side of the argument you want to look at—in that we are saying, 'Yes, we will sell the assets.' I was concerned, given the history, that the original proposition was to transfer by administrative action assets from PISA into SATCO, as it then was, form Forwood Products and then onsell the whole lot.

I have taken advice on the matter and I will touch on that later. I was concerned, in any event, that we ought to be amending this Bill to ensure that the Minister by administrative action could not transfer forest assets into SATCO because, if one reads this Bill, we find out that, on the sale, the SATCO board disappears and the Minister becomes the corporation himself. I was fearful that we might have some administrative action, but I am reasonably confident now that this involves a couple of Acts and we can look at it at another time.

Talking about the pig in the poke situation, it is interesting if we look at what happens in private contracts, see what private companies do and look at the suggestions that the Auditor-General has made in respect of sales and privatisation. With regard to private companies, present requirements for disclosure of transactions between the public and private sectors, under the rationale of commercial confidentiality, are much weaker than those applying to private sector firms themselves. Listed companies that propose to sell their major business undertaking must first seek ratification of the proposal by shareholders at a general meeting. If we apply that in this sense, you would interpret that to mean that the shareholders, the people of South Australia, ought to have some access to the proposal.

Shareholders must receive information that explains the rationale for such proposals, and again we should apply that. In the event of a takeover or acquisition of interests of minority shareholders or in the event of directors seeking to engage in major transactions with related parties, shareholders must be presented with expert reports. These reports to which I have alluded tonight would never have seen the light of day if there had not been ructions within the Liberal Party and those leaks started to occur. These expert reports must include an assessment of whether the offer is fair and reasonable, and I think that the taxpayers of South Australia are entitled to the same sort of consideration.

It is interesting to look also at what the Auditor-General has said. In his report he said:

> There is a need for urgent accountability measures to deal with privatisation and outsourcing. These are the most important issues facing Parliament at this time (part A, page 12).

The Auditor-General warned:

> Transactions between the public and private sectors are being entered into, or are proposed to be entered into, with major and ongoing financial implications for the State. These warrant adequate 'before the event' processes which are not provided for under current legislation. I have suggested that various precedents which already exist in legislation of this State be built upon to achieve improved accountability mechanisms in this respect. In particular, to ensure the major public/private sector transactions, including asset sales, contracting out arrangements and special industry packages, take place only after Parliament has had an opportunity to be informed of them and if necessary to make decisions about them.

There should be 'before the event' scrutiny of all major transactions with the private sector; after the event processes will not be sufficient to ensure accountability (Audit Overview, Part A, pages 88-9). The Auditor-General suggests approaches to this issue involving a 'before the event' process involving a summary of all arrangements entered into with a duration of over one year and over a specified minimum dollar value to be tabled in Parliament and covering: the identity of private sector participants; duration of contract; identification of any assets transferred to the private firm; a cost benefit analysis of the deal; and details of any significant guarantees, loans, grants, obligations etc.

In addition, there should be a summary of such arrangements in the public sector agencies' annual reports to Parliament. However, the Auditor-General regards these as the minimum, not the maximum, requirements that this Parliament ought to have access to, which we have not had in other major sales. It is my view that that information ought to be gathered. There are two ways of doing it. As one of our considerations we talked about looking at this as a parliamentary select committee contract. The proposition that we settled on is that this Bill ought to be adjourned to allow the five weeks in the break for consultation and openness of the process to scrutiny, then we could come back and ensure that proper mechanisms were in place.

I refer members to what is happening in Western Australia. The Western Australia Commission on Government which was presented in August of 1995 said:

> The process of competitive tendering and contracting need to be inherently secretive (p.86).
>
> We see no inherent conflict between the move towards competitive tendering and accountability. There is, however, a potential for lack of accountability when information concerning the awarding of contracts is not available for public scrutiny (ibid).
>
> The public has a right to know how its money is being spent and what goods or services are being provided. This requires the full details of contracts to be made public (p.87).
>
> After considering all these arguments (for confidentiality) we consider that the principle of public accountability of public funds should outweigh any concerns for commercial confidences (ibid).
>
> Private sector firms should also understand that contractual confidentiality provisions that prevent the release of information are not possible when doing business with Government (p.88).
>
> In any activity involving public money, the weight of public interest rests more with accountability than with competitiveness (p.89).

That is a sentiment that I endorse and it is a right that the public of South Australia ought to expect. The Western Australian Commission on Government recommended:

> Upon the awarding of a Government contract, regardless of whether the contract involves the commitment of expenditure, the charging of a royalty, or the sacrifice of revenue rights, a copy of the complete contract should be lodged for public inspection with the State Supply Commission [as it is in Western Australia] or tabled in a House of Parliament.
>
> The State Supply Commission guidelines should provide that, as a precondition for doing business with Government, tenderers must be prepared for details of any contract to be made public.

Those reasons reinforce the Opposition's view that we ought to take a step back in this process and gather information and make this process much more transparent. I have said that I was suspicious of the Government, and I believe rightly suspicious, given its history and the clear indication that it wanted to sell our forest reserves. My colleague Mr John Quirke intended to move an amendment to this Bill that gave an assurance that the State Government through PISA maintains responsibility and control over the proper management, maintenance, care and the future development of the forests themselves to ensure the long-term viability of forest and forest products industries in the region.

I have taken some advice tonight. It was cobbled together as quickly as we could, given that it was our belief that this Bill would be held over for public consultation and input by the community, the unions involved and the industries involved. I am advised that under clause 7 of the second schedule the Minister will be responsible for SATCO, among other things. He will have responsibility for PISA and SATCO. In that capacity the Minister can sell off the assets of the corporation—and that was the part that I was worried about. Separately, under the Forestry Act the Minister has the control and management of the forest reserve pursuant to section 9 of that Act. However, a forest reserve cannot become an asset available for disposal by the corporation because a forest reserve can cease being a forest reserve only if the procedure in section 3 of the Forestry Act is carried out. That procedure provides that a proclamation by the Governor releasing a forest reserve proclaimed is subject to a disallowance by either House of Parliament. Therein I am comforted that there is some safeguard. The Minister cannot transfer the forest reserve to himself, as the corporation, before first bringing the issue to the Parliament.

I did have that crosschecked and I am advised that that is the case and I no longer propose to move those amendments, but put on the record that we were concerned. I also put on the record that the Opposition will be vigilant in respect of these matters, including the Forestry Act and those provisions of the Crown Lands Act, which would come into effect if the forest reserve reverted to Crown land. I believe that this process is not transparent, as I said. We have received letters of concern regarding some of the conditions from affiliates and unions working in the area. They are concerned about issues such as job security and tenure of employment for Forwood Products' employees that would be threatened if there are no guarantees that the buyer or buyers of Forwood Products will process the allocatable resource at local operations. One can understand the unions' concern for the continued employment of their members. I also point out that this has vast ramifications on those communities in the South-East that rely on forestry.

My constituents are also concerned that there are currently no guarantees that any prospective buyer or buyers will maintain the current operations. On this issue the Treasurer has not been able to give categorical assurances to the Mount Burr work force that their jobs are secure or that Mount Burr will continue to operate under the new owner. They also had some concerns of a different nature. I am advised that no guarantees or assurances have been given to the current employees that their conditions of employment will be carried on by a new owner. This includes agreements currently in place or being negotiated on a wide range of issues such as workplace training and skills development, issues that they feel are important for the continued skilling of the industry to ensure its sustainability. The issue of superannuation as contained in schedule 1 of the Bill requires closer scrutiny to ensure transferring employees are not disadvantaged. They also made the point, which we have countenanced, that gave some assurance that the State Government through PISA maintains responsibility for control over the proper management, maintenance and care and future development of the forests to ensure the long-term viability of the forest and forest products industries in the regions.

I have explained that and I do not intend to pursue that for the reasons that I have outlined in respect of the advice that

I received tonight. They also believe there are other issues that need to be taken into consideration. For all of those reasons, it is the belief of the Opposition that, given the public has invested in this industry—they have carried the burden of the forests and forestry in South Australia and created those industries that sustain our brothers and sisters in the South-East of this State—there is no question that the future of the forests is the future of the South-East. The Opposition believes that those people have the right to an opinion and we have an obligation as a Parliament to seek the views of not only the affiliate of the ALP—the union—but those people in the industry and local government and those people who run private enterprise milling operations in the South-East. It is worthwhile canvassing their views. It is our preferred position that this Bill be adjourned so that those consultations can take place during the parliamentary break and give the people of South Australia every opportunity to get the best possible result out of any sale of Forwood Products.

The Hon. M.J. ELLIOTT: I have more than a passing interest in this piece of legislation, if for no other reason than my roots, coming as I do from the South-East. With most of my family, including my parents, sister and much of my extended family still living in the South-East, and having grown up there until the end of my university days, before I had to make my home elsewhere, I have very strong and continuing attachments with that area. During my holidays, I worked in the forests and the factories in the timber industry down there and, as a consequence of all of those connections, I have more than a passing interest. My grandfather was a part owner of the firm Harrop and Cameron—he was one of the two Harrops—which was one of the first companies operating in the timber industry in the 1930s and 1940s. So, I have certainly a number of attachments and interests, although largely historical now, with the timber industry.

The Democrats do not have a view which is all pro privatisation or all against, and it is a case by case analysis. We have had great concern about privatisations where they have involved natural monopolies, for instance, electricity and water, where we think it really is better if the Government supplies those services. We also have concern about privatisation where it involves the provision of significant public services, such as education, health, welfare, etc, and we have expressed concern in relation to the privatisation of the prisons, but we have not opposed at any stage the privatisation of the timber mills. I draw a very clear distinction between privatisation of the timber mills and privatisation of the forests, which I do oppose very vigorously.

So, in approaching this legislation, I make it clear that, although I will raise some issues, in general principle I have no problem with the privatisation of the timber mills. However, I do have significant problems with the privatisation of the forests. Although I will mention the forests, they are not central to this Bill but, since the subject has been raised by other members, I think the issues around forests are worth addressing, so I will do so both during the second reading and the Committee stages.

This legislation was introduced in the House of Assembly on 7 February and introduced into this Chamber on 21 March. I did not have anybody approach me expressing concern about the legislation until last Wednesday. The first approach that I recall was a letter received from the CFMEU. At about the same time, I also received some approaches from members of the Labor Party. I am not saying that those approaches were not genuine, but I must say they were fairly late in the process. I hear what the Hon. Ron Roberts is saying about giving appropriate time to analyse legislation, but the legislation has been around for a while.

The first time that it was flagged to me that there was particular concern about the legislation according to my records is last Wednesday, when I received a letter from the CFMEU saying it wanted to have a meeting with me. I had to say at that stage that Parliament was sitting on the Wednesday and Thursday, and I had already fully committed the Friday, so I said I could not see those people until next week. As it happened, the organiser has been down in the South-East for most of the week, and we have been chasing each other by mobile phones for most of the time, without a great deal of success. I really do think if there are concerns with a piece of legislation, to leave it until a week before the end of the session when it was likely to be voted on, is leaving things extraordinarily late.

Members interjecting:

The Hon. M.J. ELLIOTT: Yes, considering that we were not going to sit this week. Last week was set aside, and this week was always doubtful, but considering that the legislation was introduced on 7 February leaving it to a day before we were due to rise was leaving it fairly fine.

The Hon. P. Holloway: It does not change the merits of the argument.

The Hon. M.J. ELLIOTT: No, I will get to the merits of the argument. I was addressing the question raised by the Hon. Ron Roberts saying that we have to have due time to look at these things. I agree with that absolutely but, frankly, something went terribly wrong inside the Labor Party in terms of its considerations if these problems did not emerge, and I was not approached until the middle of last week, requesting me to talk about the Bill. Given the time constraints that all of us have—and I can only tell members that I have an awful lot of them with the number of Bills I have to consider—that is leaving things fairly late in the piece in terms of having a realistic chance to discuss issues.

I would suggest to members of the Labor Party that they need to look at some of their internal dynamics about how they consider things and when they initiate discussions. By comparison, I have a very clear impression that discussions have been going on between at least some spokespeople from the Labor Party and the Treasurer for a considerable period of time. If they thought it was worthwhile speaking to the Treasurer for a considerable period of time, but came to me only last week and now complain I have not given them enough time, I think there is something wrong there. If they thought they needed to talk to the Treasurer, they must realise that there are three Parties in this place, and if there are matters of concern they damn well should be raising them earlier with everybody, and not leaving it until very late in the piece.

Having said that, I actually have some more awareness of internal dynamics, not just within the Labor Party, but internal dynamics between various union groups which I will not explore now because I think they are irrelevant to the central issues, but at least I have developed some understanding as to what has been occurring. Nevertheless, having received from the CFMEU a list of concerns, I have explored those as well as a number of other issues which they did not raise or perhaps did not raise in depth which parallelled concerns and interests that I had. I have explored those further. I will explore them in part during the second reading

stage and will explore them further during the Committee stage, as I am sure the Labor Party will as well.

The Hon. P. Holloway: In great detail; we will.

The Hon. M.J. ELLIOTT: Okay, that is good. A letter that I received from the CFMEU on 9 April addressed its specific concerns. The first raised was job security and tenure of employment for Forwood Products employees: if threatened, there are no guarantees that a buyer or buyers of Forwood Products will process the allocatable resource at the local operations. The third dot point was that no assurances or guarantees have been given to current employees that their conditions of employment would be carried on by a new owner. This includes agreements currently in place or being negotiated on a wide range of issues, such as workplace training and skills development.

The fourth dot point relates to the issue of superannuation as contained in schedule 1 of the Bill which requires closer scrutiny to ensure that transferring employees are not disadvantaged. I guess that those three are among the five industrial issues that they raised. Other members may wish to correct me, but my understanding is that, when Forwood Products was created in 1993, the employees were offered the choice of options between transferring over to Forwood Products, staying with PISA or taking a package and leaving totally. If they decided to transfer to Forwood Products, a package was also involved with that. So, I understand that they were offered those three choices.

I understand also that the vast bulk of employees transferred over to Forwood, receiving payments of between $2 500 and $10 000 as part of a package which made up for the changing conditions that were involved. They then entered a company, Forwood Products, which was structured as it is now; it is a company that has shares. The Government is currently proposing to get a buyer for those shares, and the same company will be continuing. As it is a continuing company, the workers' conditions will not be changed as a consequence of the sale itself.

The Hon. R.R. Roberts: It's a shame about the mills.

The Hon. M.J. ELLIOTT: That is a separate issue; we will get to that one afterwards.

The Hon. R.R. Roberts: It's one of their major issues: you made the point about conditions.

The Hon. M.J. ELLIOTT: No; it is a separate issue. Sick leave and various other matters which have been raised in more detail and which I have also seen are conditions which exist now and which will not change as a consequence of the sale. Those sorts of industrial conditions—employment conditions—will not be changed. If the Labor Party wants to complain, it should look at what it did in 1993, when it corporatised and effectively, even at that stage, set up a structure which allowed privatisation by creating a company which had shares, held by the Government at that stage, and transferred the employees from PISA over to Forwood. I do not believe that the sale itself will change employment conditions, and so on, simply as a consequence of privatisation itself. When I say 'privatisation', I mean where the shares transfer from the ownership of the Government to a private owner.

The second point is that there are currently no guarantees that the prospective buyer or buyers will maintain the current operations. On this issue, the Treasurer has not been able to give categorical assurances to the Mount Burr work force that their jobs are secure or that Mount Burr will continue to operate under a new owner. Anyone who cares to be honest about this will realise that no assurances were given at the beginning of 1994 that Mount Burr would continue. The only reason that Mount Burr is continuing at this stage is that there has been an allocation of timber for five years on the basis that it is used at the Mount Burr mill. There are still some three years of that period left to run.

Again, whether the mill is owned publicly or privately, in its next term of office the Government can decide whether or not it will allocate a log resource to that mill. It can choose whether or not to do so, whether it is publicly or privately owned. The fact is that, even if it is privately owned, the Government can still determine that a certain amount of log is available on the basis that the mill will stay open. It can make that decision, because it will still control that log supply.

So, I do not think that in essence the position in relation to Mount Burr will be changed. It will always be tentative, and it will always be based on whether the Government decides to allocate logs to Mount Burr out of its forest holdings. If it had not done that in 1994 the mill would already be closed. If it does not do it again in 1999, the mill will close at that point, whether it is in public or private hands. While a private operator may not want to keep it open, if it is offered 60 000 cubic metres of log a year—which I think is about what it is getting now—on the basis that it remain open, I expect that it will remain open. So, I think the same pressure will still be on the Government after the next election, regardless of who is in office and whether the mill is in public or private hands.

The last point—point 5—indicates the need for a clear reference in the Bill that gives assurances that through PISA the State Government maintains responsibility and control over the proper management, maintenance, care and future development of the forests themselves to ensure the long-term viability of the forests and forest product industries in the region.

I have indicated that the Democrats have a very strong view that the forests should remain in public ownership, but this Bill does not change that one way or the other. Nothing in this Bill allocates forests or timber supply anywhere, and currently the Government can choose, as could the previous Government, not by legislation but by administrative fiat, to allocate any forest resource it has available to wherever it wants. It does not have to come to Parliament to do that; it never has had to do so.

The Hon. T.G. Roberts: There is a social obligation.

The Hon. M.J. ELLIOTT: I agree that there is a social obligation, but I am arguing against the suggestion that this Bill needs a clause to do this. There was nothing in legislation that did this under Labor. I guess the next issue to address is the question of the log resource itself. As I understand it—

The Hon. R.R. Roberts: Transferring the proceeds of the sale.

The Hon. M.J. ELLIOTT: Just a second; one thing at a time. As I understand it, Forwood Products is currently using about 600 000 cubic metres of log a year. That is split up into a series of contracts. One contract currently supplies 440 000 cubic metres a year over a 15 year period; another contract is supplying 60 000 cubic metres a year over a 10 year period; a third contract is supplying 42 000 cubic metres a year over a five year period; and a final contract is supplying 58 000 cubic metres a year up to five years. As I understand it, that last contract is capable of being stopped by either partner.

In total at present, whether it is in public or private ownership—and at the moment it is in public ownership—600 000 cubic metres of log is being processed by Forwood

Products. When I say 'processed' I mean 'processed'—it is milling it, as distinct from other operators down there who are getting logs and just chipping them, which is a criminal waste of a valuable resource; and there is a significant amount of that happening. However, Forwood Products is not one of those.

The contracts as they currently exist also make clear that it is expected that all the log under these contracts is to be processed by Forwood Products. The existing log contracts make clear that the log must be processed by Forwood Products and that that can only not occur with the Minister's permission. That is the current arrangement.

If Forwood Products continues operating solely as a Government owned instrumentality, I guess we have to assume that 600 000 cubic metres of the available forest resource will be used by the current milling operations. As I understand it, that is about 72 per cent of the total log resource—so those mills will use 72 per cent of the resource whether they are public or private. Therefore, the amount of forest resource that is not already locked up and is otherwise available is about 28 per cent.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: 'What is the consequence of the change of rotations?', do you mean?

The Hon. R.I. Lucas: No. If you say that it is 600 000 cubic metres now—

The Hon. M.J. ELLIOTT: I believe it was about 500 000 cubic metres.

The Hon. T.G. Roberts: It was 480 000 cubic metres.

The Hon. M.J. ELLIOTT: I will take the honourable member's word on that. So, even now, after the change in rotations that occurred, only about 28 per cent of the total log resource is available. Looking at the figures and guessing very quickly, I think about 180 000 to 200 000 cubic metres of spare log resource is not being directly allocated to these mills. If the mill is transferred to private ownership, what is the difference if the log is processed publicly or privately, as long as it is being processed. The current contracts make clear that it must be processed and that contract can only be avoided—

The Hon. R.R. Roberts: We do not know what the contracts say.

The Hon. M.J. ELLIOTT: But they are existing contracts with Forwood in relation to this log supply.

The Hon. R.I. Lucas: How far ahead do they go?

The Hon. M.J. ELLIOTT: It is 15 years for 440 000; 10 years for 60 000; five years for 42 000; and up to five years for 58 000.

The Hon. R.I. Lucas: Are there any options for extension?

The Hon. M.J. ELLIOTT: There are no options for extension. I do not think there is a real risk that the log which is going into these mills will suddenly be exported as raw log. However, I still have concerns (which I will get to in a moment) about the future of that material, the other unallocated 28 per cent—and when I say 'unallocated', a lot of it is already bound up in contracts with CSR Softwoods and Auspine. A great deal of the rest of it is committed, probably over some 10 to 15 years.

I am pleased to see that our longest contract at this stage is 15 years. There are much longer contracts existing in New Zealand: I am told that contracts there can go for two rotations, which can be up to almost 60 years. It seems that logging in Canada to some extent works a little like our pastoral leases—it is 15 years' renewable, and sort of goes on in perpetuity. That really causes me grave concern. We are in a world where there is a dwindling supply of wood fibre, and there is no doubt that plantation timber values will escalate quite dramatically. Any supplier who locks themselves into long contracts is almost certainly a fool, as distinct from any buyer who can get a long-term contract.

The Hon. R.R. Roberts: Asset Management advises us that it is 15 years, with the right of renewal for another 15 years. Somebody is telling porkypies.

The Hon. M.J. ELLIOTT: The honourable member can ask his question during the Committee stage. I understand that the current bid process is already in the middle of stage one: in fact, by next Friday stage one of the bid process will be complete. That is one of the factors that I had to take into account: just where things were in that cycle. The Government has asked companies to make a bid for 15 years on the basis of the current log supply and, as I understand it (and we will clarify this during the Committee stage) also for 30 years, but, as I understand it, the 30 years relates not to 600 000 cubic metres but to 440 000 cubic metres.

Further, it has asked that the price of log be linked in some way to market prices of log around the world—I suppose a spot price or something like that. I think there are some difficulties within that, and that is something that I want to explore further during the Committee stage.

As long as there is an insistence that that log is processed in the South-East, that does not create a major problem for the South-East. What is a far greater problem for the South-East is the fact that, at the moment, as I understand it, one million cubic metres of wood chip a year is going overseas through Portland. As I understand it, about 400 000 cubic metres of wood chip would be sufficient to run a decent paper mill, and I know that there was some talk about getting in the South-East a newsprint mill which would be bigger than its current paper mill. When one realises that there is the capacity for a significant new industry in the South-East and that at this stage we have that much chip simply going off overseas, one sees that it is a major problem.

If there is an issue I would like the Government to clarify, it is whether or not it is prepared to intervene, and perhaps even to use the contract here as a part basis, to try to stem the tide of the wood chip that is leaving the South-East. I have no doubt that, in terms of economic return for the State and extra employment, there is significant extra opportunity available if only we could do something to try to keep that wood chip in the South-East. Perhaps the Government should be exploring, as part of the contract process, what additional employment might be produced in the South-East.

There is the potential at this stage for a great deal of value adding in the South-East not just for wood chip, to which I have already referred, but there is not a great deal of value adding in that area beyond the simple cutting of timber. We tend to cut the planks in various sizes although we do have a couple of specialist products down there—very successful ones such as LVL and a couple of other lumber type products. However, in terms of further value adding we have not made the most of the timber industry in the South-East.

The Hon. T.G. Cameron: You sound like you are opposing this measure.

The Hon. M.J. ELLIOTT: No, I am saying that these problems exist at present. They are not new problems. The fact is that the South-East has never made the most of what it has, whether it is timber that is running through the Government mills or through the private mills.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: The honourable member obviously has not been listening.

The Hon. T.G. Cameron: You say that all the time.

The Hon. M.J. ELLIOTT: Well, you have to listen all the time. What I am saying is that this contract offers a very clear opportunity to try to attract new industry into South Australia by using woodchip and by looking at value adding with some of the lumber that is currently being cut. I have argued that the future of Mount Burr does not depend on whether it is publicly or privately owned. Its future depends on whether or not the next Government is prepared to link the sale of lumber from its forest to the continuation of the Mount Burr mill, and that will be true regardless of ownership. As the Hon. Terry Roberts said, there are really two operations at Nangwarry. One is the laminated veneer lumber operation, and there are now three plants there with capacity for a fourth. That has been dramatically successful, and I do not think that there would be any suggestion that it is likely to be discontinued.

The Hon. T.G. Roberts: The timber could be.

The Hon. M.J. ELLIOTT: I was about to get to that. The question as to whether or not the timber operations continue fits into the same category as Mount Burr. Ultimately, it will be a question of whether or not the Government makes a decision that it wants it to continue. There is no question about what a private operator would prefer to do long term, but the Government could always link log supply to the future of that mill and ensure its continuity.

I am aware that, during the term of the previous Government, serious discussion went on about whether or not the Government should continue to support the Mount Burr and Nangwarry mills. I got the impression that there were times when it was touch and go. To its credit, recognising the social disruption that could occur, it decided they should continue. The present Liberal Government, at least in relation to Mount Burr, so far has made a similar decision. With those words, I support the second reading but there will certainly be a range of issues that I and I am sure the Labor Party will want to explore during the Committee stage.

The Hon. P. HOLLOWAY: I speak in opposition to this Bill, and particularly the way in which the Government intends to push it through on this last night of sitting. I want to make some general comments first about the context in which this asset is being sold. It was not so long ago that the Auditor-General reported to Parliament that the most serious issue facing this Parliament is the accountability of the Brown Government's outsourcing and asset sales program. That is what he told us is the most important issue facing Parliament. Specifically in relation to asset sales, he set out in detail in his report what we should do when assets are sold. He used the Pipelines Authority as an example.

Following the sale of the Pipelines Authority some time ago, this sale of Forwood Products is the first case that we have had, and I would have thought it was incumbent upon this Parliament to look very carefully before we sell it. Here we have such a Bill on the last night of the session; yet at the same time this Government has a sale process under way that is due to be finished by 19 April. There is no way known that any scrutiny by this Parliament of this Bill in any way measures up to what the Auditor-General requires us to do. I will read it into the record to express my concern about this. On page 35 of his report, with reference to the sale of the Pipelines Authority, the Auditor-General said this about the sale of assets:

> Without reflecting on the sale of the pipelines specifically, the intention of Parliament, in this instance, was limited by the following:
> · the 'briefing' given to the Industries Development Committee was at the final stage of the sale process reflecting the fact that legislation providing for the briefing process was assented to in May 1995. The sale was executed on 30 June 1995;
> · confidentiality requirements in section 34 of the Pipelines Authority Act 1967 meant that, if any useful information were gained by the Industries Development Committee, it could not be used by it without the Treasurer's approval;
> · there was no 'before the event' procedure that provided Parliament, or a committee of Parliament, with a mechanism to enable timely review of the appropriateness of the terms of the proposed sale arrangements.
> Recognising that other sales of this significance may occur—

and here it is; we have the first one here in this very Bill before us now—

> I believe it is important that matters such as the preceding be addressed as a matter of priority.

Mr Speaker—Mr President, the Opposition believes—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Yes, I did get that wrong, but I did correct myself. But what is far more important than the inane interjections from members opposite are the comments of the Auditor-General, when he said, 'I believe it is important that matters such as the preceding be addressed as a matter of priority.' This Bill clearly fails to do that, and the Opposition will at least go on record as supporting the Auditor-General, and we will do what we can to uphold the honourable values that he set out in his report.

The Hon. M.J. Elliott: When did you guys start? Last Wednesday?

The Hon. P. HOLLOWAY: I am not sure what the Hon. Mike Elliott means by that interjection, but he can explain it to us later. Perhaps he could have told us during his speech why he is not upholding the views of the Auditor-General on this issue. However, we should look at what happened under this Government with the sale of the South Australian Water Corporation. I was not in Parliament when that corporatisation Bill went through, but we all know what happened afterwards. We now have a select committee that is revealing all sorts of very interesting things about the sale procedure. It is quite clear that many of the undertakings that were given by this Government were not honoured.

There were promises about no overseas ownership, among others, and I am sure that those members on the select committee and more familiar with this issue than I am can relate in much greater detail the broken promises of this Government on that issue. Nevertheless, that is the point. A Bill was introduced to privatise SA Water, and following that SA Water was sold. There was nothing that Parliament could do in advance to prevent some of the disasters that have happened. We now have an opportunity with this Bill, and it is very sad that it is to be lost.

The forests are a most important part of this State. Indeed, they are a key resource. The value of the forests is very significant. As a State, unfortunately we do not have a lot of natural resources. For example, we do not have the great mineral resources of other States and we do not have a lot of natural timber, but thanks to the foresight of previous Governments—and Tom Playford deserves most of the credit and the Governments before him—

Members interjecting:

The Hon. P. HOLLOWAY: Yes, but the great growth in forests came about then. There has been a longstanding

tradition in this State that Governments have valued forestry. We have so few natural resources of our own.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: We had so few natural resources of our own that it was recognised in this State over many years that we had to develop a forestry industry and that has happened over many years. The Hon. Legh Davis might like to talk about Scrimber. Whatever else he says about it I say this: at least the Labor Government had the decency to try to find an industry to protect the people of the South-East. But what is this Government doing? What does the Brown Government care about the people of the South-East in this particular instance? I tell you that it cares absolutely nothing; it will sell them down the river. That is exactly what will happen when this particular matter is resolved.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: The Hon. Legh Davis can talk about laughing stocks, but we will see how popular he is in these regions in a few years when the consequences of this Bill become obvious to the people of the South-East: I do not think he will be welcome down there at all.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: Whatever else he says about the former Government, at least it tried to provide a value-added industry in the South-East region. This Bill destroys value-added industries in the South-East and no-one should forget that key fact. The issue before us is the sale of SATCO. What concerns me most, particularly given the comments of the Auditor-General, is the value of the forest. In 1992 the Economic and Finance Committee, of which I was then a member, carried out an inquiry into the accounting concepts and issues involved in the growing of timber in the Woods and Forests Department. As a result of that inquiry, I did learn some interesting facts about the timber industry and the accounting of it.

Originally, the Auditor-General had qualified the accounts of the Woods and Forests Department because it had not conformed to a particular accounting standard—it was AIS10 if I recall correctly. But that particular accounting standard was not an appropriate accounting standard for the measure of the value of the timber in our forests. Subsequently, that accounting standard was dropped as a standard for the measurement of forests. But the point I want to make is that the accounting for forests is quite different from the accounting of most firms. Here you have a resource that will increase in value over 30 or 40 years, or whatever the term of the forest is, and then its value is realised in one fell swoop right at the end.

The Hon. M.J. Elliott: Unless it burns down.

The Hon. P. HOLLOWAY: That is right, unless it burns down. It accumulates its value over 30 or 40 years and that value is realised at one time. The accounting problems involved are very much different from other resources. How do you measure the value of forest at a particular time when timber is growing? You cannot measure the amount of timber you have on every tree over thousands of hectares of forests, and of course this is a great problem. This is what deeply concerns me about the sale process: we will be selling off a particular value of timber in these contracts with Forwood Products, but exactly what is the value of that? What is exactly the value of that timber that we are selling? I do not know that anyone can provide an accurate measure. These estimates can vary greatly, and that, in effect, is what the Economic and Finance Committee discovered, that there were real problems in measuring the value of forests at any one time.

In fact, the Woods and Forests Department were actually at the forefront of accounting when measuring forests. Although it was criticised originally by the Auditor-General, it transpired—and it is in the report of the Economic and Finance Committee—that the Woods and Forests Department, as it then was, was actually leading the country in developing new accounting standards for forestry because it is a very complex issue. Given these problems, I have great concerns that when we are selling a particular resource, or at least selling access to it—however one likes to present it—we are really not all that certain of exactly what we are selling. The accounting dilemma adds to that.

The report of the Economic and Finance Committee in 1992 also found that there was some cross-subsidy. The report found that the actual forest growing operations of the then Woods and Forests Department were very profitable operations. The problem was that the timber processing side of it was not profitable and was being cross-subsidised by the forest growing operations. As a result, the Economic and Finance Committee recommended that that cross-subsidy should be ended and that the Government of the day should look at making the timber processing activities more profitable and I suspect that that is what led the then Minister, Mr Terry Groom, to look at Forwood Products and corporatisation to make the process more efficient. However, I believe that it was never the intention of the Government at the time to in any way compromise the importance of the forests to this State by selling them off.

We have seen that the Brown Government has been involved in a process where government has been divested, either through outsourcing or privatisation—call it what you will—of all the traditional areas of government. Modbury Hospital has been outsourced; the QEH is to be outsourced, and all the other hospitals will go in its wake; one prison been outsourced, with more on the way; SA Water has been outsourced; and all the computer processing of this State has been outsourced. We know that, in the US, education has been outsourced, and there have been a few forays into that area here. They have not yet come to anything, but who can say what the Government will do in the future? The way this Brown Government is going, one has to ask: 'At the end of the day what will be the point of having a government at all?' What will governments be responsible for? Everything will be outsourced and controlled by private companies. All we need for government is a handful of people administering contracts.

The Hon. J.C. Irwin: Very good.

The Hon. P. HOLLOWAY: The Hon. Jamie Irwin confirms that that is exactly what this Government will do. It is rather similar to what has happened in the UK. Many people in the UK thought it was a great thing, but if you go to the UK today you will find that people in the UK are not all that happy with the way things have evolved. Everything has been privatised and a handful of people have become very rich indeed, but the rest of the country does not really like it very much. I think they are just waiting for the next opportunity when they can get rid of the Government that has imposed all this on them.

The Hon. L.H. Davis: Have a chat about Paul Keating.

The Hon. P. HOLLOWAY: I will take up the invitation of the Hon. Legh Davis in a moment.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Yes, he did sell some and I do not know that it did him all that good politically, either.

Members interjecting:

The Hon. P. HOLLOWAY: I will discuss those things in more detail later. I welcome the opportunity to digress on those matters in a moment.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: One person in the Government who will be obsolete will be the Hon. Legh Davis, who is the head of the Statutory Review Committee. There will not be any statutory bodies to review by the time this Government is finished.

The Hon. L.H. Davis: There are plenty left.

The Hon. P. HOLLOWAY: I am sure there will not be when the honourable member or his Government have finished with them. I think that the individuals in this Government would actually sell their grandmothers.

The Hon. T.G. Roberts: Or lease them out.

The Hon. P. HOLLOWAY: That is certainly a possibility with this Government. The attractiveness of privatisation to Governments is that it means that the fruits of the past, all the assets that have been accumulated over generations, can be sold off so that the Government can use those proceeds to win political favour over a year or two. That is why we have privatisation. Nobody should be under any illusion: that is why we have it. Also, in this case, of course, the attraction of privatisation to the Government is that it can divorce itself from all the tough decisions it has to make in terms of labour relations and management. It can get rid of them; it can pass them off, and that is really the problem that members opposite have.

Let us not mince words: what privatisation is all about and what this Government is all about is not wanting to have to deal with the hard decisions in the South-East in relation to these forestry milling operations. This Government, like the Kennett Government in Victoria, loves to pretend that it takes all the hard decisions, but it does not. How hard a decision is it to sell off assets? What great skill or political hardship is involved in selling assets? None at all. This Government is not into hard decisions. This Government would not know what hard decisions were if it ran over them. Instead, it likes to pretend that this is somehow a virtuous decision and a difficult decision; but, of course, it is not.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: The Hon. Legh Davis talks about scrimber. I would have thought that the decision that the Hon. John Klunder made to close it down probably was a fairly hard one.

Members interjecting:

The Hon. P. HOLLOWAY: Members opposite can laugh.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: The honourable member can joke but, again, I make the basic point. Whatever is said about the former Labor Government, it was concerned about providing jobs in the South-East in electorates that it did not hold, from which it had no political advantage, but it was at least trying to shore up an employment base in the South-East. But what has the Brown Government done to shore up employment in the South-East? By privatisation of Forwood Products it wants to get the private sector to close down a few sawmills that it is not prepared to close. It wants it to make all the tough decisions; therefore, that private company to which it sells will have to live with the odium of the decision of getting rid of many jobs in the area. That is what it is all about: it is nothing more nor less than that.

Members interjecting:

The Hon. P. HOLLOWAY: The honourable member says that I have no idea, but we will see. When we had the SA Water Bill, members opposite made all sorts of comments. We had all the sweet talk from this Government about SA Water at the time it was being corporatised, all these guarantees that there was no hidden agenda and there was nothing down the road. We have all seen what happened and what a mess it has been. I am sure that the Hon. Terry Cameron could go on at great length here this evening and tell us about the mess that was made during the sale of SA Water and how that contradicted many of the undertakings given during the corporatisation of SA Water.

The Hon. T.G. Cameron: A disgrace. We're still waiting for the share float for the mums and dads.

The Hon. P. HOLLOWAY: That is right. That was just one of the many undertakings that they gave. They talked about Australian ownership and all sorts of undertakings that did not eventuate. This Government is full of salesmen and not statesmen, that is for sure. I would have thought that if Tom Playford was around today he would be horrified at this sort of sale. I imagine when we get to ETSA, which I have not come to yet, that alone would be enough to make him turn in his grave, but I would have thought that what is happening to the forests he would find absolutely horrifying.

What is really happening is that this Government is reversing the historical trend in this State where, because of the poor resources this State has had, it has been the tradition that Governments have accepted that, for the State's economic growth, Governments would need to have a role in the basic infrastructure of the State and provide the basic resources. That tradition has worked well in this State for at least 100 years. What this Government is doing is turning that on its head. The political attraction for it is that, with all those accumulated resources, when it sells them off it can live high on the hog on the fruits of these sales for a few years. It can pretend that it has done a great job with all the proceeds, but the tragedy is what happens when the resources of the State are all gone. We can see what has happened in England. The place is just a total mess. Even with the sale of everything in the UK they still have massive debts. The only problem now, of course, is that they have no capacity to ever meet those debts.

The Hon. T. Crothers: And they've got no income from Government assets.

The Hon. P. HOLLOWAY: Exactly: there is no income and no capacity to meet the debts that they have. The other thing I would like to say about this process is that we are told that on, I think, 19 April we will be calling for expressions of interest in relation to this sale, and that is why we must rush this Bill through quickly.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I hope we will do, and I must say that I will be doing everything I can to make sure that we are. But what is the Government telling us about the expressions of interest? Is it not a disgrace that this Parliament really knows nothing about it? We are given this Bill that we are supposed to be subjecting to scrutiny on behalf of the people of this State, yet what do we know about the sale process for which expressions of interest are due in just eight days time?

We are told nothing. It is the same mushroom syndrome, which is why we now have four select committees into a

range of contracting out processes: the Modbury Hospital, the EDS contract, the Group 4 prison at Mount Gambier and SA Water. We have had select committees investigating those matters because we have not been adequately informed about what is happening, and we still know very little about those particular sales. We have this Bill before us and we are supposed to be doing a job on behalf of the people of this State to ensure that this sale process is subject to adequate scrutiny. The Auditor-General of this State told us that we have a special responsibility.

The Auditor-General said that, in his opinion, this was the most important issue facing the Parliament, and what are we doing? We know nothing at all about this expressions of interest process. What do we know about the sale? No statements have been made about it; we do not know whether there are any restrictions on who can purchase; we do not know what restrictions have been made on the closure of sawmills, or whatever. The other issue we need to look at, and about which I agree with the Hon. Mike Elliott, is that in the near future it is likely that we will be facing a shortage of timber. Timber is a finite resource. Certainly timber in countries of the equatorial region, where they have been cutting down rainforests at a rapid rate, has a very limited life.

Regions such as the South-East which have considerable timber resources could become a very valuable asset. That again raises the whole issue about this sale. If we are selling the rights to timber, it is important that we know the value of that asset. I have already discussed the problems in knowing how much timber we actually have. That is a difficulty in itself, but we also need to look at what the impact of the price will be. I agree with the Hon. Mike Elliott that the price is likely to rise fairly rapidly in the near future, and we should be taking that matter on board.

Before we pass this Bill, we have a duty to the people of this State to ensure that, before we enter into any deal to sell Forwood Products, particularly if it has associated with it some rights to harvest timber, we are getting a good deal for this State, but we know absolutely nothing. We are not told any part of it, and there is nothing in any of the provisions of this Bill that would guarantee the Parliament of this State obtaining the information to assure us that we are getting good value for our money; that we will get a good deal for this State. That is why, until we get that information, I cannot support it in its current form, and I have no intention of doing so.

As I mentioned earlier, the Auditor-General has given his views on this matter. Obviously the fact that the Auditor-General released a report dealing specifically with these issues shows how great his concern is. It is incumbent upon us, when we are dealing with this sale of assets issue, to ensure that the public interest is protected. But there is absolutely nothing at all in this legislation that I can see which achieves that. We have seen enough examples in the past from this Government to make us wary of the fact that we will run into great danger. If we pass this Bill, if we accept the glib assurances (they are part and parcel of this Government) it has given us on other issues, we will not be able to fulfil our function to the people of South Australia and guarantee that this sale of the Timber Corporation is in the public interest.

I could say a lot more about this particular issue and the comments made by the Auditor-General in his report. Indeed, he included a section on asset sales and went into some considerable detail about what he thought we should be doing. It is interesting that, at page 81 of his report, under 'Future sales', the Auditor-General noted:

> The following assets have received Cabinet approval to proceed to the sale implementation stage of the Asset Management Task Force sales process.

Listed among the assets was Forwood Products Pty Ltd, which we are selling now, and the Mount Burr sawmill. It is interesting that he took those two assets separately. The Auditor-General concluded:

> . . . that substantial sales have occurred in 1994-95 and will continue during 1995-96.

And we have certainly seen that. The Auditor-General continues:

> . . . as such asset sales are significant in the context of the overall budget and debt reduction strategy of the Government and need to be underpinned by a sound sale process that exhibits appropriate accountability mechanisms.

Again, we can ask the question in relation to this Bill: where are the accountability mechanisms? The Bill does not say anything about how this sale process can be kept accountable for the people of this State: it is devoid of that sort of information. All it says is that the Timber Corporation can be sold. I would have thought that without any of the mechanisms about which the Auditor-General is talking, and without any opportunity for this Parliament, through any of its committees, to examine the details of the sale process, in all conscience we should not let this Bill pass.

I am surprised that the Hon. Mike Elliott, in view of the stance he has taken on other issues, is supporting this process. I would have thought he was a strong supporter of what the Auditor-General has been requesting, and that is why I am rather disappointed he is prepared to let this process go through. However, if this Bill is passed tonight then I do not think the Hon. Mike Elliott can get up here in the future and be critical if things go wrong. This is the opportunity that he has to ensure the mechanisms are in place so that when Forwood Products is sold we can say to the people of South Australia, 'Look, we have done our job. We have scrutinised this process.

We have put in place the conditions that will ensure the sale of this is in the best interests of the people of the State, the processes are transparent and the people of this State are getting a good deal.' If we cannot do that, then we are failing the people of South Australia. There is no way that by the passage of this Bill in its current form we can say to the people of South Australia that we have done our job. It is for that reason that I intend to oppose this Bill.

Members interjecting:

The Hon. T. CROTHERS: It is nice to hear the welcome and I am glad the Hon. Mr Lawson said to me to tell them about the Commonwealth Bank sale, because I opposed that, too, even though my own Party was pushing it very hard. I have never held the view that one should shy away from matters that one considers to be of an important principle. There are several points that I do not think any of the speakers have touched on. I would certainly welcome some answers from the Government spokespersons when they speak on this debate. I will raise several points that have not been touched on. I understand, for example, that when Forwood Products is sold it will be sold forever and any contracts that are entered into—

The Hon. L.H. Davis: You can be sure about that.

The Hon. T. CROTHERS: When ignorance is bliss one does not listen, Mr Davis; I just deflect your interjections by

turning a deaf ear to them—not much wisdom is to be gained from listening to your inane interjections. The problem is that once you sell off that asset there is no way you can regain it. I say this for the interest of Mr Elliott. In respect of the workers' compensation legislation, 12 months ago the Hon. Mr Elliott agreed to support the Government on a particular issue. It has come back to haunt him. We have seen the honourable member introduce a private member's Bill to try to remedy a situation about which several Opposition members told him precisely what would occur during the debate that night, yet he went ahead with it. He will also live to regret this because what he has attached his vote to tonight is short-term gain for a huge potential long-term loss.

I point out that the Hon. Mr Elliott will not get the chance that he has had to come back for a second bite at this legislation for many years, unlike the second bite he has had now to rectify his erroneous ways in supporting the Government on an issue 12 months ago. The honourable member we will not get a second chance at this Bill because it will be gone for the years that are enhanced in the contract. We will not be able to touch that, otherwise we will be sued. We will not be able to touch that during the life of those contracts. This is a once off. We have to make the right decision or we can forget it for years to come.

The facts are that Australia spends $1 250 million a year importing timber. I understand that this Bill will entail an allocation of afforested areas in respect of the use of the timber on the land to the people who are involved in the purchase of whatever is up for grabs. What the Bill does not tell me is that at the moment our timber by and large, in one form or another, is being enhanced in value. Moreover, the more timber we can process in the South-East the less export dollars we expend on importing substitute timber from overseas, timber which itself is becoming scarcer and scarcer as the years go by and, as our needs grow, so will the cost grow in respect of having to import timber, if the purchaser of this sale determines not to value add to the timber in the South-East but to export whole logs.

We do not know what is in the contract, but there is nothing in the Bill that prevents that, so we have a bucket with two holes in it. There is the capacity to impost costs onto the taxpayer through the loss of jobs in the South-East. Those people will have to be looked after by the Australian taxpayer. If they decide not to value add to the standing lots of timber that they extract from the South-East forests, we still have the cost impost. We will have additional costs if they export the logs whole, because we will have to import overseas replacement timber to ensure that there is sufficient timber for Australia's requirements.

It bears repeating: Australia spends in excess of $1 200 million per year to import timber—a cost that will increase with every passing year, according in small part to demand but in larger part to the lessening of supply as the world's timbers diminish, which they do on an almost month-by-month basis. In addition, the only other option we would have to avoid those additional cost imposts because we have to import timber for our own needs, because our South-Eastern stands of timbers are being exported in whole log form—and I am surprised at Mr Elliott for not taking a much more far-sighted view—is to concentrate on the remaining limited amount of natural-born timber that we have and the areas that are so dependent on timber growth, if they are to retain their social values and if they are to retain their intrinsic values to our water supply coming down through the various river valleys.

Unfortunately, as a federation of six States and a couple of territories those are the sorts of things that we do not think of. We do not think of Australia in its totality; unfortunately, we think about each State in isolation. What of the Thatcherism approach this Government is utilising with respect to the economic application that flows from our State Treasury? We should look at England. Did England improve economically under Thatcherism? Of course, it did not. It is the poor old man of Europe, and it is getting poorer as each month passes.

The Hon. R.D. Lawson: That's sexist, T.C.

The Hon. T. CROTHERS: You might not know, but I understand. It was often said about Liberace that he was neither male, female or even neuter gender—and beyond that I care not to comment further. Of course, the other thing that happens is that, once we do what is obviously the Government's intention in selling off this South-Eastern forest land and property, we lose Government control over the future intentions of the company to which the stuff is being sold. The Government loses total control. As I said—and I will say it again—Mr Elliott will not let the workers compensation Bill get another go in 12 months. I imagine that, when the contract is signed, it will be for decades, and that is how long we will be outside of having control of our own assets in the South-East.

As a small boy, when I used to go to my Latin classes, I was always taught a very ancient Roman maxim, and it was very simple—*festina lente*. When one translates that into our language, it means 'hasten slowly'. However, we have been forced to hasten quickly—and more quickly—because the time span that has been allocated for the consideration of this Bill has been kept short—and quite deliberately so, and certainly by the Minister involved. There has been a short time span, indeed. I must put on record again that Mr Elliott will live to regret his actions in supporting this sale, without at least taking the option to seek more time to explore this issue in greater depth. I will be interested to hear from the Government's spokesperson—and I notice Mr Davis scribbling away. I suppose he will make another flowery contribution. Who knows what that man might do. He is consistent by his inconsistency.

The Hon. L.H. Davis: You are certainly living up to that Latin maxim.

The Hon. T. CROTHERS: Sometimes for some Government backbenchers I have to speak slowly so that I can get through to them.

Members interjecting:

The Hon. T. CROTHERS: Do you want me to slow down a bit more for him?

Members interjecting:

The Hon. T. CROTHERS: I had not intended to speak—

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: I felt constrained—

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: Well, at least I had mine done mentally. You are writing yours down. But congratulations on your learning to write. I had not intended to speak. I thought that my content was fairly serious. I thought, and I hope I am right, that the people who were handling the affairs may not have thought of some of those points that I had brought up. We talk about our balance of payments problem, and you cannot blame the Keating Government now: they are well swept away. But we will pay a price.

The more we sell off Australian owned assets to overseas owned interests—and we do not know who will end up

owning this company, because they can sell it off in two or three years—the more that the profits are expatriated out of this nation. I understand that the expatriation of profits from Australia now is some $3 billion plus per year. As I have said, it is short-term gain for long-term loss. That has certainly been the case in the United Kingdom, and I would have thought that it was in the interests of all South Australians that we were given the time to have plumbed and canvassed this matter much more deeply than we possibly can, given the time available to us.

The Hon. T.G. CAMERON: Like the Hon. Trevor Crothers, originally I was not going to speak on this Bill. However, after hearing the excellent contribution made by the Hon. Paul Holloway, I decided that it would be appropriate to get up and say just a few words not so much about the detail of the Bill or about some of the flaws inherent in it, because I think they were adequately canvassed by the Hon. Paul Holloway in his thought provoking address but because it is quite clear from the way that this legislation is being bulldozed through the Parliament that the Government has some ulterior motive in ensuring that this legislation goes through the Parliament in this session. It is all very well for the Government to point out that it wishes to effect the sale within a certain time frame. It is all very well for the Government to say that, if the legislation does not go through in this session of Parliament, it will jeopardise the sale process.

It is quite clear to members on this side of the Council that the timetable for the introduction of this legislation into Parliament has been manufactured. It is nothing more than a political set-up. The timing of the introduction of this legislation coinciding with the timetable for the sale makes it clear to members on this side that the Government has set the time frame and is desperate to bulldoze this legislation through in this session of Parliament.

One can only speculate about the kind of deal that has been done with the Democrats in order to obtain their support for this legislation. Like the rest of my colleagues, I am dumbfounded by the Democrats' decision to support the Government on this legislation. When I listened to the contribution made by the Democrats, for a while I thought they were opposing the legislation, but it is clear from the Hon. Mike Elliott that they intend to support the Government tonight in its desperate attempts to ram this legislation through the Legislative Council.

The negotiations relating to this legislation have been conducted in secret. It is clear from the contributions made by honourable members in this Chamber and by members in another place that the Government intends to treat the Opposition with contempt. I am not quite sure what the Government placed on the table to secure the agreement of the Australian Democrats, but it is clear that the negotiations that have taken place with regard to this legislation have been surrounded by secrecy.

This is an ongoing pattern in this Government. Everything that it does is surrounded by secrecy. One can ask a question in the Parliament and be told, 'We are not going to give you that information, but we will give you a confidential briefing provided you give us an undertaking that you will not tell anyone about it.' If that is what the Premier of this State means when he talks about honest, open and accountable government, all I can say is that he had better check the dictionary and understand what honest, open and accountable mean.

It is a bit rich for the Premier of this State, Dean Brown, in a document that was released prior to the last election entitled 'The Liberal Vision for South Australia,' to say:

> The Liberal vision for South Australia is for open and honest government fully accountable to Parliament and the people for its actions and decisions.

What a performance we have seen from this Government so far on the EDS contract, the water contract, the sale of SATCO, this legislation and every other action that it has taken in relation to asset sales. They have been surrounded by secrecy. The Government will not tell anyone anything. It will not even tell its own backbenchers. Often when the Government will not let anyone know what is going on, one can go to a Liberal Party backbencher and get some idea of the Government's intentions. However, it is clear, in relation not only to this legislation but to other asset sales, that the Cabinet is keeping its own backbenchers in the dark on many of these decisions. Therefore, it is no surprise that someone like Dale Baker should be up on his feet in the Parliament protesting about the secretive way in which the Government is operating. Again, it is a bit rich when we find in another document the Premier stating:

> South Australians believe that the Government has become remote from the people, out of touch with their needs and aspirations, and unwilling to account for Government actions which have let down all of us.

I wonder how that statement stands up today, with the actions we have seen by this Government, when at every attempt by the Opposition and on most occasions the Democrats to ascertain what is going on we run into an absolute brick wall—absolute silence. It is interesting to examine some of the statements made by the Premier prior to the last election. It is obvious that he had no intention of keeping his election promises or of honouring commitments that he made in a number of speeches in a number of documents that were released to the public. They include 'Make a change for the better,' and I will quote from that in a moment; 'Parliament policy', and I will quote from that in a moment; and there was the Liberal Party policy speech, 'Dean Brown, Liberal Leader, South Australia' on Sunday 28 November 1993. We have another here, called 'Code of conduct: Government—To serve the people'.

In the lead-up to the last election Dean Brown went to great lengths to try to impress upon the people of South Australia that a Liberal Government would be an open, honest, accountable Government and, above all, in relation to Government contracts and Government legislation, that it would place the matters before the Parliament. Dean Brown went on *ad nauseam* about how open and accountable this Government would be. In a document entitled 'Open Government accountable to the Parliament' (and this will make you laugh, Mr Acting President), he states:

> A Liberal Government will revitalise the institution of Parliament, ensuring Parliament is strengthened in holding Executive Government to account.

What a load of hogwash that was: ensuring Parliament is strengthened in holding Executive Government to account! By the time we finish this term of office, we will have had to set up 20 select committees to find out what this secret Gestapo-like Government is doing. I could go on further, and I will.

The Hon. DIANA LAIDLAW: I rise on a point of order, Mr Acting President. I ask the honourable member not to refer to the Government in the terms that he did which, given the Bill that we have just discussed, are racially based.

Equally, this Bill is about timber and since I have been in the Chamber there have been only two references to the term 'timber'. I am not sure whether he can spell, let alone read, but at least he should seek to address the subject.

The ACTING PRESIDENT (The Hon. J.C. Irwin): Order! I ask the Hon. Mr Cameron to withdraw the offending remark and keep his contribution relevant to the Bill before us.

The Hon. T.G. CAMERON: Mr Acting President, would you mind pointing out to me what was the offending remark and whom I offended? I was talking about the Government; I was not talking about any individual.

The Hon. Diana Laidlaw: Gestapo. We have just been talking about racial vilification.

The Hon. T.G. CAMERON: When I address a question to the Acting President, I am not asking the monkey to answer. I directed my question to you, Mr Acting President. You are not in the Chair, Minister, so shut up and let him answer.

The ACTING PRESIDENT: I ask the Hon. Mr Cameron to resume his seat. The Minister has drawn the Council's attention to an inappropriate remark. I do not think we have to put up with the games of repeating the remark for the honourable member to get it again into *Hansard*. The Minister has made the point that it was an offensive remark and explained it.

The Hon. R.R. Roberts: It is not unparliamentary, Mr Acting President.

The ACTING PRESIDENT: I rule that it is.

The Hon. T.G. CAMERON: I withdraw the remark, Mr Acting President. I was referring to the activities of the National Socialist Government of Germany, and that is how they are acting. This is a Government that is not accountable to this Parliament. Even when properly established select committees of this Chamber seek access to Government contracts, we find that members opposite vote against a resolution to allow a select committee access to a Government document which involves hundreds of millions of dollars. We have the same problem with the select committee dealing with water outsourcing. We cannot get near the contract. Members opposite do not want to show the Opposition and the Democrats what is in that contract. Under this document from which the Premier quoted, a Liberal Executive Government will be held to account. When has this Government made any attempt to hold Executive Government to account?

The ACTING PRESIDENT: Order! There is too much cross-discussion taking place across the Chamber. In the interests of our making some progress on this last night before we go into tomorrow, I ask that—

The Hon. T.G. CAMERON: Mr Acting President, I am not aware of the interjections. I can hear some squawking from the front bench but it is not penetrating. Let them go if they wish: they are not bothering me. Under a further statement issued by the Government prior to the last election, entitled 'Under Accessible Government' the Premier—and this will bring a chuckle—said:

> A Liberal Government will insist the public is at all times fully informed about Government decisions and activities.

What about living up to that promise and informing us about Government decisions and activities? The Premier went on to say:

> A Liberal Government will ensure that freedom of information legislation is fully effective in providing access to Government information.

Look what happened when an FOI application seeking access to the polling conducted by Kortland was submitted. Some $300 000 of public money was spent and a secret envelope was passed to Cabinet. I bet that they had a good time reading the results of that survey. It probably saved the people on Greenhill Road a healthy sum of money. Getting back to this Bill, I note that in the contribution—

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: I always take note of the Hon. Trevor Crothers, especially when he starts quoting Latin. He is a fount of information. I cannot quite remember the quote, but it said 'hasten slowly'. It was a fascinating quote, and I have been somewhat impressed by it. I will continue. A couple of contributions were made by the Hon. Mr Lucas (and I see that he is now sitting in the Chamber). He said:

> As with all asset sales, the sale is also an important part of the Government's program to substantially reduce the State's debt. In selecting a purchaser, the Government will not determine the matter on price alone. Although price is a key objective in the process, it is a matter to consider along with the other objectives of achieving economic benefits to South Australia. . . ensure fair and equitable treatment of all Forwood employees. . .
>
> Whilst the objective of fair and equitable treatment of all Forwood staff is a factor in the assessment process, the Government will give high regard to proposals which provide a range of ongoing employment commitment to the Forwood staff.

I cannot see one of those commitments contained anywhere in the legislation. It is all very well for the Government to state that that is its intention, but there are no guarantees. That is no guarantee as far as the employees are concerned. There is a great deal of concern about what will happen to the employees. Concern is also being expressed by Quentin Cook, Secretary of the Timber Workers Division of the CFMEU. The union is attempting to protect the interests of its members who, no doubt, are concerned and worried—as is the entire community and one of the local members, Mr Dale Baker—by what is taking place there.

What concerns me about this legislation is the lack of contribution, detail and information. I am concerned by the way in which once again a piece of legislation has been concocted, a time frame has been set up and the legislation has been rammed through this Parliament without proper consultation and without allowing the other parties, in particular our Party, to conduct proper community consultation with their affiliates and with the employees concerned. If one examines the Liberal Party's 1993 policy, one finds that the Premier said:

> Parliament must be, and must be seen to be, a forum for careful scrutiny of legislation, the debate of important public issues and the body to which the Government ultimately is accountable.

Where has that occurred on this occasion? The time frame has not allowed careful scrutiny of the legislation.

An honourable member interjecting:

The Hon. T.G. CAMERON: If the Hon. Mr Lucas would like to come into the Chamber, instead of hanging around the back door and interjecting, I might be able hear what he has to say. I will have to read the transcript in the morning to find out what his interjection was. Come in, sit down: you do not have to stay right back there. I will not bite you. Clearly, one of my main concerns is the way in which this piece of legislation has been shrouded in secrecy. Under the Liberal Party's codes of conduct policy—

Members interjecting:

The Hon. T.G. CAMERON: Everything they do! The Hon. Paul Holloway interjects and says that everything this

Government does is shrouded in secrecy, and a very succinct interjection it was. Under the Liberal Party's code of conduct policy, the Premier stated that all Ministers will recognise that full and true disclosure and accountability to the Parliament are the cornerstones of the Westminster system, which is the basis for Government in South Australia today. Whatever happened to that?

Members interjecting:

The Hon. T.G. CAMERON: Well, we are certainly not living up to the Westminster system, we are certainly not getting full and true disclosure, and we are not getting accountability to Parliament. If they are cornerstones of the Westminster system, does that mean that the Premier does not support the Westminster system? He went on to say that the Westminster system requires the Executive Government of the State to be answerable to Parliament and through Parliament to the people. Why did you lot today vote against a motion to have the EDS contract tabled before the select committee? You are a bunch of frauds. You are not even prepared to live up to the policy commitments that you made verbally and put in writing when you distributed all these documents. What a load of rubbish this is! What you have done—shredded them? Have you shredded them since the last election? Obviously.

I turn to the last quote that I want to put on the record. In the Liberal Party policy speech launch on 28 November 1993, Mr Brown promised the South Australian people—another broken promise—that 'a Liberal Government will be committed to open and honest Government, fully answerable to Parliament and people.' Where has that promise gone? It has gone down the sewer with the rest of their promises. The Premier also went on to say in this speech:

> A Liberal Government will ensure that Parliament is strengthened in holding Executive Government to account.

Every action that this Government has taken, every asset sale that it has conducted and every piece of legislation that it has put through this Parliament have been shrouded in secrecy. The Government's actions have made a mockery of the Premier's words. They have made an absolute mockery of the Government's policy documents and statements: the Liberal Party policy speech—'Parliament to serve the people', 'Parliamentary administration'—and what a joke was the document 'Make a change for the better.'

Quite clearly, once again, the South Australian Timber Corporation (Sale of Assets) Bill (I had to get that into my speech somewhere) exposes the hypocrisy and the rubbishy statements that were made by the Premier prior to the last election. Every action that this Government has taken has belled the cat in relation to those statements made by the Premier prior to the last election. It is about time that this Government and this Council recognised that, if this Government continues to act in this manner—to treat this Parliament and select committees with contempt and to operate in a secretive, almost ASIO-like fashion—it will be held to account at the next election. It cannot, prior to an election, make a whole series of promises about accountability, open and honest government, the need for Executive Government to be held to account, revitalisation of the institution of Parliament, and so on. In every contribution that has been made by every speaker opposite in this Council one thing stands out: that is, what they do not say about this piece of legislation or their true intentions regarding this sale.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: No, I've organised a taxi.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Well, you ought to talk. Do you want to start an argument?

The PRESIDENT: Order!

The Hon. T.G. CAMERON: Well, give me a bit of protection, Mr President. She is having a go at me.

The PRESIDENT: Order! I ask the honourable member to resume his seat. I am not deaf. I do not think that we need to raise the decibels to the degree that the honourable member has. I know he is enthusiastic about this Bill, but I remind the honourable member—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! I have been in the Council for about five minutes but I have not heard anything relevant to the Timber Corporation. I wonder whether the honourable member would like to link his remarks in some way to the Bill.

The Hon. T.G. CAMERON: Thank you, Mr President. I am sorry if I offended your eardrums, but the volume of the interjections emanating from the other side of the Council must have unconsciously made me raise the level of my voice. For that I apologise. Provided the interjections are kept to a reasonable volume, there will not be any necessity for me to raise my voice.

It is not only the Opposition that is protesting about the hypocrisy of what was said by this Government and the way it acted when in Opposition. One only has to look at statements made by the Auditor-General. He warns that:

> Transactions between the public and private sectors are being entered into or are proposed to be entered into with major and ongoing financial implications for the State. These warrant adequate before-the-event processes which are not provided for under the current legislation.

The Auditor-General goes on to say:

> I have suggested that various precedents which already exist in legislation of this State be built upon to achieve improved accountability mechanisms in this respect, in particular, to ensure the major public/private sector transactions, including asset sales, contracting out arrangements and special industry packages, take place only after Parliament has had an opportunity to be informed of them and, if necessary, to make decisions about them.

This Government is not even taking into account what the Auditor-General himself said. He is their Auditor-General. When the Auditor-General steps into the public limelight and makes such a clear statement about what this Government should do, then one would expect that on the South Australian Timber Corporation (Sale of Assets) Bill—which could see something like $500 million or $600 million returned to the Government coffers—the Government would be a little bit more honest and live up to some of the promises made by the Premier prior to the last election. It is about time that this Government was honest, open and accountable, and that it treated this parliamentary institution with a bit more respect than it currently does.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): Normally at the end of a second reading contribution I thank honourable members for their contributions, but on this occasion I can only thank some of the earlier contributors. It was a childish performance from the Hon. Mr Cameron—and I note he is now leaving us. We had the Hon. Mr Cameron, in effect, preaching accountability to this Government, and we had the wonderful economic naivety of the Hon. Mr Holloway in terms of preaching sound economic management to this Government. What gross hypocrisy in the contributions of the Hons Mr Holloway and

Mr Cameron, to be preaching to this Government after the performance that they imposed upon the people of South Australia for the last 10 years or so.

As I said, it was a wonderfully naive contribution from the Hon. Mr Holloway in terms of economics, financial management and accountability. I am amazed that the Hon. Mr Holloway could stand up in this Chamber and with a straight face be critical of a Government that was looking to bring about sound financial management of our timber resources and Forwood Products—as this Government is seeking to do—after he was a member of a Caucus which for 10 years inflicted the multi-million dollar losses of the South Australian Timber Corporation upon the taxpayers of South Australia.

As my colleague the Hon. Legh Davis has indicated, we had the wonderful experiments of Africar, the wonderful experiments of timber mills at Greymouth, New Zealand, the wonderful experiments of Scrimber—and my colleague mentioned a figure of $62 million—this wonderful public sector management that the Hon. Mr Holloway extols on behalf of the taxpayers of South Australia. He then has the hide to stand up in this Chamber and be critical of this Government because it wants to stop the type of financial ineptitude that he, as a member of the Caucus, inflicted upon the taxpayers of South Australia. I just do not know how the Hon. Mr Holloway can sleep at night, with that sort of contribution.

The Hon. L.H. Davis: Probably doesn't.

The Hon. R.I. LUCAS: Perhaps he doesn't.

The Hon. L.H. Davis: I think he would toss and turn.

The Hon. R.I. LUCAS: I am glad that the Hon. Mr Cameron is with us again.

The Hon. T.G. Cameron: At least I am sitting in my seat: I am not hiding over there by the door.

The Hon. R.I. LUCAS: The Hon. Mr Cameron has a hide to stand up in this Chamber and preach accountability, ethics and appropriate behaviour, with his record with the company called Canned Fruit Company or Twin Fruit Company, or whatever it was. Members in this Chamber witnessed on a daily basis the behaviour of the Hon. Mr Cameron. For him to stand up in this Chamber and preach to this Government about accountability, ethics, financial management, honour and integrity—

The Hon. L.H. Davis: It's like putting Alan Bond in charge of the Australian Securities Commission.

The Hon. R.I. LUCAS: That is a very good interjection from the Hon. Mr Davis. The Hon. Mr Cameron has no financial integrity at all. He has no record of any sort in terms of financial management or accountability. For him to have the hide—I am glad he is blushing at the moment—to stand up in this Chamber and try to preach to this Government about accountability, ethics and management is, as I said, a childish, juvenile and puerile performance from him this evening.

Let me assure the Hon. Mr Cameron that, if he wants to discuss those sorts of issues on a Bill concerning which he was meant to be discussing the South Australian Timber Corporation (at least the Hon. Mr Holloway, wonderfully naive as he was in terms of financial management and economics, was attempting to justify and defend the appalling performance of his Labor Government for 10 years in terms of the Timber Corporation and management), his contribution had nothing to do with this legislation. I cannot offer any more comment than what I have already offered in relation to the Hon. Mr Cameron.

There is not much to respond to by way of sensible contribution on the Bill from members opposite this evening. Certainly my colleague the Hon. Mr Redford made a well considered contribution last week and raised a couple of questions. I now have a statement from the Treasurer to respond to one or two of the issues that the Hon. Mr Redford raised. I quote from a note I have from the Treasurer as follows:

> Forwood Products Pty Ltd ('Forwood') does not hold 'harvesting rights'—rights to harvest timber in the State owned forests are held by the Minister for Primary Industries ('the Minister'), and delegated under the Forestry Act to the Chief Executive of the Department for Primary Industries.
>
> Forwood holds ordinary commercial contracts with the Minister for the supply of roundwood from the forests. These contracts provide for the Department for Primary Industries to control the harvesting and transport of timber, and to sell it to Forwood in the contracted volumes.
>
> The basis of the Information Memorandum is over the first 15 years the following roundwood contracts apply:
>
> 440 000 cubic metres per annum for 15 years;
>
> 60 000 cubic metres per annum for 10 years (tied to Mount Burr);
>
> 58 000 cubic metres per annum for up to five years;
>
> 42 000 cubic metres per annum for five years.
>
> Should a tender be put in for 30 years, the Information Memorandum explains that this only relates to the base load of 440 000 cubic metres per annum (and no more). A separate contract would be required under such circumstances, but for no more than 440 000 cubic metres per annum.
>
> Neither Forwood nor the South Australian Timber Corporation holds any forests or forest land. The sale of Forwood does not involve the sale of any forests or forest land.

I look forward to what I am sure will be an interesting Committee stage of the debate.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. P. HOLLOWAY: Why is it cited as the South Australian Timber Corporation (Sale of Assets) Act rather than relating to Forwood Products?

The Hon. R.I. LUCAS: I am advised that it is because the sale of shares in Forwood substantially alters the business of the South Australian Timber Corporation.

The Hon. A.J. REDFORD: I thank the Leader for his statement in relation to what current contracts Forwood Products has. I would be grateful if the Minister can confirm that what will be sold is that which essentially forms part of the current balance sheet of Forwood Products: in other words, there is no intention on the part of the Government to increase the assets of Forwood Products by entering into contracts with PISA in relation to harvesting rights, timber, land or whatever.

The Hon. R.I. LUCAS: I am advised that that is correct.

The Hon. M.J. ELLIOTT: I am not sure that that is quite correct and perhaps the Minister might respond. My understanding is that the bidders have been asked to make bids on the basis of existing contracts, the longest of which runs for 15 years. The 15-year contract is for 440 000 cubic metres. They have also been asked to bid for perhaps 30 years for that 440 000 cubic metres of potential contract. Although there is not a contract beyond 15 years, they are being asked to bid for up to 30 years of 440 000 cubic metres per year and I would like to have that confirmed.

The Hon. R.I. LUCAS: I am not sure whether the Hon. Mr Elliott was in the Chamber when I replied in the second reading, but I will quote again the information provided to me by the Treasurer, as follows:

Should a tender be put in for the 30 years, the information memorandum explains that this relates only to the base load of 440 000 cubic metres per annum (and no more).

As the Treasurer indicated through me in reply to the second reading, that makes it quite clear.

The Hon. M.J. ELLIOTT: While we are talking about the contracts, there are questions I want answered. Will the Minister explain how the price of timber will be set within the contracts?

The Hon. R.I. LUCAS: I am advised that the prices are fixed for the first year and renegotiated with the Minister on a yearly basis after that. I am told that it is expected that in discussion with the Government the potential purchasers might be seeking to negotiate some sort of market-based increase in the pricing over the period of the contract, but that would be a subject for negotiation.

The Hon. T.G. ROBERTS: I have a question in relation to the definition of the difference between assets owned and utilised. Could the timber allocations be defined as assets utilised by Forwood in its business operation? It relates to clause 5, but there is no real reference to the definition, and that is why I am asking the question.

The Hon. R.I. LUCAS: I understand that there are three separate definitions here. The first is assets utilised by Forwood. I am advised that they are the land, buildings, plant and equipment owned by SATCO. I am advised that the assets owned by Forwood are generally intangible assets such as trade creditors, work in progress and other intangible assets, as well as some LVL lines held by Forwood's subsidiary.

We have assets utilised by Forwood Products and assets owned by Forwood Products. The third category of assets are the forests, and they are held by the Minister and not Forwood Products. They are not for sale, and the contracts held by Forwood Products will stay with Forward Products because the shares in Forwood Products are being sold. We have three categories of assets: assets utilised by Forwood Products and assets owned by Forwood Products, and the forests is the third separate category of assets.

The Hon. M.J. ELLIOTT: I want to pursue the question of liabilities and, in particular, non-pecuniary liabilities. In discussions I had with the Government early today, one obvious non-pecuniary liability to me seemed the potential for on-site contamination from copper chrome arsenite, and we know that there have been a number of spills, and certainly material has been handled for a long time at the Mount Gambier site. We know there is ground water contamination under the Mount Gambier site. It was confirmed at the discussion I had this morning that a thorough scrutiny of all the sites owned by the Government has taken place, and that all contamination has been removed from site or neutralised in some fashion, including, I believe, some PCBs that were found at Mount Burr from some old switching devices.

I want to confirm that, in terms of liabilities that could come from contamination, with the exception of ground water contamination, all other liabilities appear to have been cleared, removed or neutralised in some way. I want to confirm also precisely what is happening in relation to the ground water that is still being recovered, with the plume at this stage, I believe, being contained beneath the Mount Gambier mill itself. Where material has been removed from a site, I would like to know where it has gone, particularly the PCB material; and what other non-pecuniary liabilities exist?

The Hon. R.I. LUCAS: If the Hon. Mr Elliott bears in mind that we are not environmental experts, we can provide a degree of information. I am advised that independent environmental audits were conducted at all sites and, with the exception of the ground water contamination issue which the Hon. Mr Elliott has mentioned, all other environmental issues that were identified have been remediated in accordance with the current environmental standards that are required.

In relation to the honourable member's second question, our best information is that we think the contaminated material has been removed but treated on site, but if the honourable member wanted a more detailed response than that that is about the best I can give him.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: As I said, we are not environmental experts, if the honourable member can bear that in mind. In relation to the ground water contamination, I am advised that it is being pumped out of the ground and used as make-up water in the CCA treatment process, which, I am advised, is an approved remediation process for dealing with this issue.

The Hon. M.J. ELLIOTT: There was a further question as to what other non-pecuniary liabilities there may be. The environmental contamination issues were an obvious one, but I do not know what other ones there may be.

The Hon. R.I. LUCAS: My best advice is that we are not aware of any other non-pecuniary liabilities.

The Hon. M.J. ELLIOTT: Obviously, the Minister cannot answer the questions now, but would he be prepared to provide information in terms of all identified contamination and precisely what the remedial action was in relation to all that contamination?

The Hon. R.I. LUCAS: Certainly, I am prepared to give a commitment to get as much information as I can and correspond with the honourable member during the break between this session and the next one.

The Hon. R.R. ROBERTS: In view of the advice of the Auditor-General, in that he believes that parliamentary scrutiny of contracts ought to be paramount—and I do not want to go over all that he said—will the Government provide copies of the documentation seeking expressions of interest in bidding for Forwood Products, which process, as I understand, closes next Friday? I do not want a filled in one; a pro-forma would be fine. Will the Minister provide the advice that will go to second bidders, that is, the people who want to make a formal bid? I am not asking for the commercially sensitive detail that would be provided by the bidders, but I want a copy of the contracts which will be presented and which would express whatever caveats the Government might or might not put on them.

The Hon. R.I. LUCAS: I will certainly need to take advice on that, but my understanding at this stage is that it probably will be possible to provide the pro-forma for the first round bids within the framework and the parameters that the honourable member has raised but, obviously, I will need to raise that with the Minister responsible. I undertake to correspond with the honourable member in the break. In relation to the first round bids, my understanding is that that is likely to be able to be met in terms of providing him with that pro-forma.

I will have to take some advice from the Minister and the Treasurer on that second question, as we are not entirely clear on it. We are obviously at a certain stage in the process, and we are clear on the honourable member's first question. I am prepared to correspond with the honourable member in the

interim and supply some sort of response to that request as well. Whilst I can be a bit more definitive about his first request, I am not in a position to suggest to him what direction the Government might be prepared to take in relation to his second request.

The Hon. R.R. ROBERTS: Could the Minister provide copies of any written advice, instructions or information that is provided to bidders with respect to the contracting process? As I understand it, we have expressions of interest, and the next step involves formal bids. Are there any other steps in the process? Can the final pro forma also be provided to the Parliament, if there is indeed a third step?

The Hon. R.I. LUCAS: I am happy to take up all those issues with the Minister and reply to the honourable member as soon as I can.

The Hon. T. CROTHERS: I understand that these contracts—and, therefore, one presumes the allocation of afforested areas that go with them—will be of 15 years duration at a minimum. What caveats and liens, if any, are attached to the contract that prevent the firm that originally buys into it from selling out its interest plus, presumably, the contents of its contract to an overseas firm? If there was no estoppel with respect to stopping that, the firm might decide that all it is after is the stand of timber, which it will export in pure log form, without any value adding. As I said in my other speech, that would put all sorts of additional pressures on us all over the place.

The Hon. R.I. LUCAS: I am told that all the timber contracts contain a provision which requires the timber to be processed within South Australia.

The Hon. T. CROTHERS: Could 'process' simply involve felling the timber? Would that qualify as 'process'? If I fell a tree, that is process. Is it a detailed stipulation or what?

The Hon. R.I. LUCAS: I am advised that Forwood does not do the cutting down of the timber. That is done by PISA. The production or processing referred to with Forwood is in effect processing or production—it is not the cutting down. That is done by PISA.

The Hon. T. CROTHERS: I am worried about the person who would contract now. If they sold their business to another company, what stipulation is there for an ongoing continuance of PISA doing the cutting down? The problem I see with this is, because you are out in the private area with little or no Government control, and because of the absolute ruthlessness of some of these overseas companies, you could get a situation tailor made for them to buy out whoever the original contractor is and then proceed to ruthlessly utilise some elements of the caveat you talk of in such a way as to fulfil the contract, certainly not in a moral sense but in a legal sense.

The Hon. R.I. LUCAS: I am not sure that I entirely understand the honourable member's question. If I have got it correctly, my advice is that a purchaser cannot on sell the contract without the permission of the Minister, and if that was given, the requirements or the caveats—to which the honourable member has referred—would be part of any on selling, assignation, passing on—whatever word you want to use—of those particular contracts. So, it is a clear requirement that the processing or production be conducted in South Australia.

The Hon. T. CROTHERS: Is there any caveat, in addition to that in the contract, if the companies were sold, that would ensure that a percentage of profits made from the company buying out the original signing would have to be reinvested in Australia? Is there anything to prevent them from expatriating their profits completely overseas, or is there something in there like a caveat, which says, like so many companies do now, that 60, 70 or 80 per cent of their profits have to be reinvested here in Australia?

The Hon. R.I. LUCAS: I am advised that the purchasing arrangements would be subject to the usual FIRB guidelines, so those particular guidelines would in effect govern the purchasing arrangements.

The Hon. R.R. ROBERTS: I want to step back. In providing some information to the Hon. Terry Roberts, the Minister talked about the three categories of assets. The third category was the forests, but they were not for sale. As I understood it, I thought the forests belong to PISA. Is the Minister clearly saying that Forwoods actually have forests—

The Hon. R.I. Lucas: Forwoods have no forests. The Minister has the forests.

The Hon. R.R. ROBERTS: Any release of those forest products would be subject to the Forest Act and, before they could be released, would they have to come to this Parliament? Is it true that they can be stopped by a vote of either House of Parliament, or can the Minister transfer forests to himself? Given that he is now given the power, when he becomes the corporation—

Members interjecting:

The Hon. R.R. ROBERTS: I know he has the forests. He has two functions. First, he is the Minister in control of the forests and, if this legislation passes, he is the corporation. Can he then transfer forest assets to the corporation, or himself?

The Hon. R.I. LUCAS: I am advised that, if the import of the honourable member's question is whether the Minister can delegate to himself or to SATCO the ownership of the forests and then sell the forests, the answer is 'No.'

The Hon. R.R. ROBERTS: The question to which I really want an answer is: what is the process to dispose of the forests?

The Hon. R.I. LUCAS: I am told that, if anyone wanted to sell the forests, if that is what the Hon. Ron Roberts is seeking, the Forestry Act would need to be amended.

The Hon. T. CROTHERS: If the original assignee decides to set up another company, what method of estoppel would be in the original contract to prevent him or her from doing that; what would be the requirement under the FIRB; and what would be the other requirements in respect of ministerial permission when the original assignee is simply transferring the assets to another company? He may have a board of three directors in the first company and a board of three directors in the second company, of whom two are the same as in the original company.

The Hon. R.I. LUCAS: I am advised that the FIRB guidelines would apply in the circumstances outlined by the Hon. Mr Crothers.

The Hon. P. HOLLOWAY: I wish to follow up some of the questions about the assets and the contracts. What is the dollar value of the contracts that are now in place? I understand that these contracts are between the Minister and Forwood Products, so there should be no question of commercial confidentiality with regard to any private corporation involvement. What is the value of these contracts?

The Hon. R.I. LUCAS: I am advised that that information is commercially sensitive, because PISA sells product not only to Forwood but also to other companies.

The Hon. P. HOLLOWAY: In view of the Minister's comment, I wonder what information is given to the companies that will be making these expressions of interest in relation to the value of these assets.

The Hon. R.I. LUCAS: I am advised that those companies must make their own commercial assessment of the value of the products and that no commercial valuation is given to those companies. That is what they are in the business for. They have to put a commercial valuation on it, and that is their responsibility. No commercial valuation is given to them along the lines that the Hon. Mr Holloway is suggesting.

The Hon. P. HOLLOWAY: In view of that, clearly the Government must have some idea of the valuation for its own purposes to enable it to assess the virtue of the sale. So, I ask the Minister what valuation of the assets has been made. I am talking particularly about the timber involved in the contract. Who conducted that valuation, and how recent was that valuation? In other words, when was it made?

The Hon. R.I. LUCAS: I am told that the valuation of forests is done by PISA itself on an ongoing basis and that it has its own computer model which undertakes that task.

The Hon. M.J. ELLIOTT: I find it intriguing that the Minister should say that the companies have to do their own valuation. If you were trying to put a value on Forwood Products before buying it, you would want an assured supply of timber but, if you did not know how much you would be paying for the timber, how could you decide how much the mills were worth? If the timber was extraordinarily expensive, the mill would not be worth as much as if the timber was cheaper. So, surely the Government has to give some indication to the bidders of the expected price for the timber, or a realistic bid could not be made—or it would have to be a low bid.

The Hon. R.I. LUCAS: I understand the honourable member's question, and I wish to clarify my response. The advice I am given is that they are not provided with the overall valuation of the timber product for the 15 years of the contract. What they are given information on in the data room is the initial pricing, and they then have to bid in terms of the ongoing pricing over the 15 years. The price bid that they put in is then their decision in terms of the total value of the contract over the 15 years, and they therefore compete with others in relation to that. They do have access to the initial price of the initial year, but the total valuation of the contract is obviously not given to them. They then have to do their own figures, and they compete with others in terms of the overall valuation of the contract—and if it is a 15 year contract, over the 15 years.

The Hon. M.J. ELLIOTT: I take it that the first year would be the price that Forwood currently pays. An indication was given earlier that for future years some sort of negotiated agreement would have to be contained within the contract. I am curious to know how a company can bid without actually knowing what the formula will be. If you submit a bid without knowing what the final resource will cost, it will be extremely difficult. If you will know what the resource will cost in the first year but you actually bid for a resource for the mills and 15 years of resource—knowing what the first year's price is but not necessarily knowing what the formula will be for price adjustment—it appears to me that submitting a bid without knowing that formula would again create enormous difficulties. It seems that the formula would have to be decided before final bids went in.

The Hon. R.I. LUCAS: As I indicated earlier, that is a judgment for the potential purchasers. They have to come up with a potential price escalation formula.

The Hon. M.J. Elliott: As part of the bid?

The Hon. R.I. LUCAS: Yes. As I indicated earlier, the arrangements are that there is an initial price and it can be negotiated annually with the Minister. The expectation is that the purchasers will want a different arrangement, that is, an annual discussion with the Minister about what the price might be. Therefore, they will want a greater degree of certainty and they may well bid on the basis not of an annual renegotiation with the Minister but of some price escalation formula. Then they can be certain, having known the starting price, what the total value of their bid will be, using their own price escalation formula. Different companies might tackle it in different ways in terms of how they value that.

The Hon. M.J. ELLIOTT: As part of the process, is it the intention of the Government to say, 'This is the bid we choose: end of story', or is it the Government's intention to identify one or two companies and to negotiate further to finetune the bids to choose the company that gets the contract?

The Hon. R.I. LUCAS: I am advised that the current intention is that there will be a two-round bidding process, that, having received the initial or first bids, a short list of companies or proposals will be selected to engage in a second bid. The hope or the expectation is that there will be a clear winner or selected tenderer, in relation to that second process. That is the current expectation as to how the process will operate.

The Hon. M.J. Elliott: Does it mean that no bid will necessarily be accepted?

The Hon. R.I. LUCAS: I am advised that that is correct.

The Hon. P. HOLLOWAY: What due diligence process does the Minister envisage will be undertaken in this sale process?

The Hon. R.I. LUCAS: I am advised that a vendor due diligence has already been conducted with a combination of Crown Law and consultants. The purchasers will need to organise their own due diligence arrangements, so I am not sure to which due diligence aspect the honourable member is referring. The vendor due diligence has been undertaken already and purchaser due diligence will be undertaken by the individual purchasers, and that will be done through the second round.

The Hon. P. HOLLOWAY: Will the Minister provide details of the consultant who was involved in that vendor due diligence?

The Hon. R.I. Lucas: Do you want a name?

The Hon. P. HOLLOWAY: Yes, and also the timing of it.

The Hon. R.I. LUCAS: I understand that we do not have the name of the consultant. If the Hon. Mr Holloway is prepared to accept it, I will take it on notice, take it up with the Treasurer and correspond with the honourable member. In relation to his question on timing, we know that it has been done but as to when it was done I undertake to take up that issue with the Minister and correspond with him.

The Hon. M.J. ELLIOTT: I want to follow up on a question asked by the Hon. Ron Roberts about the ability of the Minister to sell forests, and the Minister's response was that it would take legislation. That surprised me, but I will not debate that at this stage. It is a question of when is a forest a forest. People are interested in the trees rather than the land. There are contracts between PISA and Forwood Products,

between PISA and Auspine, and between PISA and CSR Softwoods, and none of those have involved any legislation. Trees and logs can be sold from the forests without such legislation. Is it possible for the Minister to make commitments that go beyond one cycle? How far into the future can the Minister make a commitment in terms of the forest resource as distinct from the forests including the land? Is there any limitation?

The Hon. R.I. LUCAS: I am informed that, at the moment, the contracts are for up to 15 years and that the confidential information memorandum which, as I indicated earlier, was signed by the previous Minister—so it must have been some time last year—envisaged periods of up to 30 years. We are not legal experts, but our understanding is that there is probably no limit in terms of saying that it cannot be any more than 40 years, 50 years or whatever else it was. The current position is 15 years, and the previous Minister envisaged—because it is part of this confidential information memorandum—contracts of up to 30 years. That was the practice or what was approved or supported at that stage. Our understanding is that there is no limit, but we are happy to take advice and, if that advice is different, to correspond with the honourable member during the break.

The Hon. R.R. ROBERTS: I am interested in two particular areas. First, I understand that some years ago—and I think it was done again last year—consultancies occurred on rotations in forests and consideration was given to whether it was wise to go from 47 years back to 37 years. The reports that I have seen indicate that that was done during the days of the Hon. Terry Groom and that they recommended against reducing the rotations. Given that the decision was taken last year by the Minister, I wonder whether a report or consultancy was undertaken and whether that is available for the Parliament to peruse. More importantly, I am interested in what processes have been undertaken for replantings or extra plantings because of the fact that we have now come back from 47 to 37 years. What planting program has been implemented to pick up that 10 year period? Have we engaged in extra plantings, are they the same, or do we have plans to go forward with extra plantings because of the change in rotation?

The Hon. R.I. LUCAS: I am advised that these are questions more appropriately directed to PISA rather than the AMTF. We understand that there was a consultant's report. I am not sure as to its distribution or circulation, but I am happy to take it up with the Minister for Primary Industries and correspond with the honourable member during the break. We understand that there was a report; whether or not that report is available I am not sure. In relation to the level of extra plantings, again, it is a question that we are not in a position to answer tonight. It is a question more appropriately directed to PISA, but I am happy to undertake to get a response for the honourable member to the particular questions he has asked.

The Hon. R.R. ROBERTS: I understand the position that the Minister is in. But I make the point that since we have changed the rotation we have made more timber available. Obviously, we are using it more quickly. If the plantings remain the same, and we are harvesting it earlier, we will fall behind. I wonder whether any adjustments will be made. The other point I want to make concerns a report that was published in the *Advertiser* of 30 January 1996. After a two day conference of the Liberal Parliamentary Party on the Thursday and Friday, and just after the reshuffle, an announcement was made by the new Minister for Primary Industries, Mr Rob Kerin, that he was setting up a specialist committee to look at the future use of forests in South Australia and the harvesting, managing and growing of forests.

Amongst other things, the guidelines required a consideration of the operational, financial and economically viable options for obtaining better value from the forests. My question is: has there been an interim report from that committee? An expert committee has been set up to look at the best options in forests. We are now undertaking to sell them. I am wondering whether an interim report is available. When the final report is published, will the report be made public or available to the Parliament for scrutiny, or will it be tucked away as so many of these reports are?

The Hon. R.I. LUCAS: The answer to the first question is 'No.' I do not know the answer to the second one. When we receive the report, the Government and the Minister will make a judgment.

The Hon. P. HOLLOWAY: I want to ask some questions in relation to the expressions of interest which have been called and which I understand close on 19 April. Were these expressions of interest advertised or were expressions of interest invited from particular corporations and, if so, which ones?

The Hon. R.I. LUCAS: I am advised that the call for expressions of interest was advertised extensively nationally and internationally and that there was no hand selection of prospective individual companies.

The Hon. P. HOLLOWAY: I mentioned in my second reading speech that the Auditor-General's Report, under the chapter on assets sales (page 81), had listed Forwood Products Pty Ltd and the Mount Burr Sawmill separately. That raises the question: is it the intention of the Government to sell Forwood Products as a whole entity or will there be a break up of the assets? If so, what is envisaged in that break up? Further, why is the Mount Burr Sawmill considered separately, as listed in the Auditor-General's Report under 'Future Sales'?

The Hon. R.I. LUCAS: I am advised that some time ago under the previous Minister there was consideration of the sale of Mount Burr as a separate entity but that the current arrangement is that the whole entity be sold.

The Hon. T.G. ROBERTS: Is there any obligation on the successful tenderer to harvest the timber at the price and formula set at the time that a contract is let? Could you, for instance, put a contract in with a formula and be successful for saw log and allow it to mature to veneer log, which would be another 10 to 15 years, and thereby bypass the interests of the saw logging industry and take your allocation into the veneer log sector?

The Hon. R.I. LUCAS: I am advised that the answer to the honourable member's question is 'No.'

The Hon. T.G. Roberts: They can't do that?

The Hon. R.I. LUCAS: No.

The Hon. P. HOLLOWAY: In response to an earlier question, the Minister said that a computer model had been used to estimate the value of the timber. In my second reading speech I referred to the Economic and Finance Committee 1992 report on the valuation of forests. One of the problems at that time was that there was a lot of uncertainty about how the forest could be valued. There have been a couple of quite significant adjustments made to the accounts for the then Timber Corporation because various adjustments to the model had resulted, in accounting terms, in quite substantial increases. One was as much as $86 million. An adjustment

that large was made to changes in the model. Have these problems been ironed out; does the Minister regard these models for now valuing timber as accurate; and has an acceptable accounting formula for valuing the forests been accepted into the Australian accounting standards?

The Hon. R.I. LUCAS: I am advised that the detail of those questions is more appropriately directed to PISA. I will undertake to get responses to the honourable member's questions from the Minister responsible, but we are not in a position tonight to give that sort of detail in relation to the model.

The Hon. T. CROTHERS: Given that the growing and milling of timber is the industrial lifeblood of the South-East, does this sell-off of our timber assets in the South-East indicate that the Government has no intention now of acquiring additional land in the South-East with a view to increasing the size of timber plantations there?

The Hon. R.I. LUCAS: As I indicated in an earlier reply to the Hon. Ron Roberts about plantings, that question has to be directed to PISA because this Bill has nothing to do with that issue. Nevertheless, in a spirit of reasonableness, I shall be happy to try to get a response for the honourable member as well as for the Hon. Ron Roberts and have someone correspond with the honourable member during the coming break.

The Hon. P. HOLLOWAY: Earlier, the Minister indicated that it would be up to the companies to make their own valuation of timber into the future after this year. How much information is going to be made available to the public about the contract that is accepted? Will we know the final price offered for the various components of the contract such as forest assets? How much information will the Government make public if the sale process is successful? How much will we know about the price paid for the individual assets?

The Hon. R.I. LUCAS: I am advised that an approximate total sale price of the company might be announced at the time of the sale. That is about all I can indicate to the honourable member.

The Hon. P. HOLLOWAY: The Minister will be aware of the considerable debate within South Australia about how much information should be provided regarding outsourcing contracts. Will the sort of information provided involve details of the contract, especially the less commercial aspects of the contract relating to the individual assets sold, the conditions placed upon the sale of those assets and other relevant information? Will the detail of any sale be made public with just the one exception of the more sensitive commercial information?

The Hon. R.I. LUCAS: I am advised that it is unlikely that detailed sensitive information will be released at the time of the sale. I must admit that I am half tempted at this hour to compare the amount of information that the Government has provided and been requested to provide with the information provided over the sale and leaseback arrangements regarding the sale of Torrens Island and the range of other leaseback arrangements for a range of other assets under the previous Government, but I do not intend to be provocative or to unduly delay proceedings this morning.

The Hon. P. HOLLOWAY: Clause 2 provides:

> This Act will come into operation on a day to be fixed by proclamation.

We know that expressions of interest are due by 19 April. First, when is it envisaged that the Act will be proclaimed, in the unfortunate event that it is passed this evening? Secondly, what will happen if this Bill is not passed by 19 April? How will that affect the process that is now under way in relation to the expressions of interest that have been called for?

The Hon. R.I. LUCAS: Again, we are not legal experts here and would have to take Crown Law advice or advice from my learned colleague the Attorney-General about these issues. But the advice that I am given is that, as long as the Act is proclaimed prior to the eventual completion of the sale, that would appear to be sufficient.

The Hon. P. HOLLOWAY: When is completion of the sale envisaged?

The Hon. R.I. LUCAS: As soon as we can organise it. If you are selling a house, how long will it take you to sell your house?

The Hon. P. HOLLOWAY: Exactly what is the role of the Asset Management Task Force in relation to this sale? There is only one reference in this Bill and that is in relation to clause 5(9)(b), where the balance of the sale is to be paid into the Asset Management Task Force operating account. Clearly, the Asset Management Task Force is involved in the sale, so will the Minister outline its role? Also, as the Auditor-General's Report details other sales of assets such as the former State Bank and the Pipelines Authority, what different provisions have been made to the sale process here, in relation to the Timber Corporation, from those made in the other two cases to take account of the different nature of assets involved here?

The Hon. R.I. LUCAS: The task force advises the Government on asset sales, as the name suggests.

The Hon. P. HOLLOWAY: It is all very well to say that it advises, but the question really is how much involvement is there? For example, who will be assessing the expressions of interest when they come in? Will the Asset Management Task Force have any role in that or will it be another arm of Government?

The Hon. R.I. LUCAS: The involvement will be as much as is needed, and it will have some role in the assessment, together with other agencies.

The Hon. P. HOLLOWAY: Which other agencies, is the obvious question?

The Hon. R.I. LUCAS: As in most cases, Crown Law and obviously PISA would have some role in this. There may well be some other agencies as well.

The Hon. T.G. ROBERTS: Will the Minister advise whether the correct terminology for the description of processes is an RFP or an RFT, and is a probity auditor associated with the processes?

The Hon. R.I. LUCAS: What does the honourable member say RFB stands for?

The Hon. T.G. ROBERTS: Is it a proposal or a tender?

The Hon. R.I. LUCAS: What is RFB?

The Hon. T.G. ROBERTS: RFP and, in that case, will a probity auditor be required?

The Hon. R.I. LUCAS: I do not know whether or not this helps the honourable member but the AMTF will review all offers received and select a final group of applicants who will be invited to conduct due diligence for the purpose of participating in a formal bidding process for the purchase of Forwood Products. I do not know how the honourable member wants to define that.

The Hon. T.G. ROBERTS: That is an Audit Commission process. Will a probity auditor be required to check the bids or will it be an open process?

The Hon. R.I. LUCAS: I will take that question on notice. I will be happy to correspond with the honourable member during the break.

The Hon. P. HOLLOWAY: In relation to asset sale processes, the Auditor-General's Report indicates that Cabinet had approved a process involving three main steps: a scoping review, sale preparation and the sale implementation. Could the Minister indicate exactly what has been undertaken in relation to each of those three stages? Obviously the sale implementation stage has not yet taken place. Certainly in relation to the scoping review and the sale preparation, I would like the Minister to indicate whether the process that was approved by Cabinet has been adhered to here, and exactly what reports have been prepared in relation to that process?

The Hon. R.I. LUCAS: Yes.

The Hon. P. HOLLOWAY: The Minister says 'Yes,' it has been undertaken. However, I also asked what reports have been prepared in relation to the individual processes, namely, the scoping review and the sale preparation phase of the sale.

The Hon. R.I. LUCAS: The scoping review was carried out in early 1995, the vendor due diligence studies were carried out as I earlier indicated and, on 4 December 1995, I am told, we moved to the current stage, which is stage 3.

The Hon. P. HOLLOWAY: One of the processes in the scoping review was the decision as to whether the corporation should be offered as a whole or in parts, as well as the value of selling the asset versus retaining it. What was the result of that review; that is, the value of selling the asset versus retaining it, who conducted that review and how much consideration was given to retaining the asset rather than selling it?

The Hon. R.I. LUCAS: As with all potential asset sales a hold versus sell study was conducted and, on the basis of that, Cabinet approved in principle a sale.

The Hon. P. HOLLOWAY: This Bill is about selling the timber corporation, and it is our duty in considering this Bill to assure the people of this State that this sale is in the public interest.

The Hon. R.I. Lucas: You would want some better questions than these.

The Hon. P. HOLLOWAY: I suggest that we want some better answers from the Minister. We have not heard anything in this entire debate so far that gives us any information at all on which the sale of this corporation can be justified. All we are given are glib assertions from the Minister that, yes, Cabinet had a look at it and decided to sell it. If a proper study was done, there ought to be figures that make it clear that it is in the public interest—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I want to know the facts; that is what I want to know. If it is in the public interest to sell this asset and it is part of the process that is agreed by Cabinet that we should go through with the sale of this asset, we are entitled to know the outcome of this study. The Leader can digress into all sorts of issues of past history, but in April 1996 what is before Parliament is a Bill that provides for the privatisation of the South Australian Timber Corporation. We have a duty and an obligation to the people of this State to scrutinise this Bill. I would have thought that we are entitled to at least some information from the Government. There is a procedure. It is all set out. The Government tells us that it has all these good procedures in place and it adheres to them rigorously. It says that one of them is that the value of selling the asset versus retaining it should be put up. This Parliament is owed an explanation by the Minister regarding the details of the outcome of the sale, and the Minister should provide more than just the glib comments he has provided to date.

Clause passed.

Clauses 2 to 4 passed.

Clause 5—'Sale of assets and liabilities.'

The Hon. P. HOLLOWAY: As I indicated previously, subclause (9) provides that the Treasurer may apply the net proceeds of the sale under this section in discharging or recouping outstanding liabilities of the corporation, Forwood and the Forwood subsidiaries. Will the Minister indicate the outstanding liabilities of the corporation?

The Hon. R.I. LUCAS: I am advised that there is a loan to SAFA that will be repaid out of the sale proceeds, and there would be provisions for employee sick leave as well as a range of other provisioning arrangements which would be liabilities at the time of the sale.

The Hon. P. HOLLOWAY: Clause 5(9)(b) provides that the proceeds of this sale should be paid to the Asset Management Task Force Operating Account. Is any fee payable to the Asset Management Task Force for its role during the sale process and, if so, what is that fee?

The Hon. R.I. LUCAS: I am advised that there is no fee, as such, but obviously the operating expenses of the task force are a cost offset to the sale process.

The Hon. P. HOLLOWAY: What is the estimated cost of that component? Is that the total cost of the entire sale process involving legal, contract and consultant fees, and the like?

The Hon. R.I. LUCAS: We are obviously not in a position to be able to do that. It will depend on how long the process goes. As with the sale of any asset, if you do it quickly, the costs are less. If it takes a long time, your costs are more.

Clause passed.

Clause 6 passed.

Clause 7—'Legal proceedings.'

The Hon. T.G. ROBERTS: What outstanding legal proceedings, if any, by or against the corporation, are in process?

The Hon. R.I. LUCAS: I am advised that currently there is a personal injuries claim and there is also a potential dispute in relation to wood shavings, but they may be settled by the time of sale.

Clause passed.

Clauses 8 to 11 passed.

Clause 12—'Preparation for disposal of assets and liabilities.'

The Hon. P. HOLLOWAY: Under clause 12, certain actions are authorised such as that provided in subclause (1)(a). The Minister has indicated from the Government's perspective in terms of vendor diligence that some review of the assets has already been undertaken. Is this provision, along with the others in this clause, designed to enable the purchasers to undertake an assessment of the assets and liabilities of the companies for sale or, if not, for what purpose is this clause included in the Bill?

The Hon. R.I. LUCAS: This provision covers stage two of the process. Substantially stage two, as I have indicated, has been completed.

The Hon. P. HOLLOWAY: Is the Minister really saying that subclause (1)(a) is superfluous: that it is not necessary because it has already been undertaken? Is that what I understand the Minister to be saying?

The Hon. R.I. LUCAS: I am advised that all this work has substantially been completed.

The Hon. P. HOLLOWAY: In relation to that, paragraph (b) relates to the preparation of assets and liabilities for disposal. Will the Minister say exactly what preparation has been or is being undertaken in relation to clause 12(1)(b) of this Bill?

The Hon. R.I. LUCAS: An example is environmental remediation which is being completed.

The Hon. P. HOLLOWAY: Also in respect of subclause (1)(c), what is envisaged in the other action? The clause provides that the Treasurer shall authorise after consultation with the corporation in preparation for or anticipation of disposal of their respective assets and liabilities. What other action has been, or is likely to be, undertaken under that clause?

The Hon. R.I. LUCAS: I am advised that that is just a catch-all clause.

The Hon. P. HOLLOWAY: In relation to subclause (2), which authorises people to do this work, paragraph (c) provides for consultants or other persons whose services are engaged by the Crown or the corporation and Forwood for the purpose of carrying out the project. What budget is provided for persons undertaking this task?

The Hon. R.I. LUCAS: We do not have that information. I will undertake to try to get some detail if I can and correspond with the honourable member.

Clause passed.

Remaining clauses (13 to 16), schedules and title passed.

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

That this Bill be now read a third time.

The Council divided on the third reading:

AYES (10)

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

NOES (7)

Crothers, T.	Holloway, P. (teller)
Levy, J. A. W.	Nocella, P.
Roberts, R. R.	Roberts, T. G.
Weatherill, G.	

PAIRS

Laidlaw, D. V.	Cameron, T. G.
Redford, A. J.	Pickles, C. A.

Majority of 3 for the Ayes.

Third reading thus carried.

Bill passed.

COUNTRY FIRES (AUDIT REQUIREMENTS) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to amend the *Country Fires Act 1989* in order to remove an anomaly which requires the Auditor-General to audit the accounts of all CFS organisations.

Prior to the introduction of the 1989 Act the Auditor-General was required to audit the accounts of the CFS Board only.

The Crown Solicitor has advised that the manner in which the audit requirements were worded in the 1989 Act has resulted in an obligation upon the Auditor-General to audit the CFS Board as well as the 77 Groups and 450 brigades which make up the volunteer element of CFS.

It is clear that the intent of the legislation was for the Auditor-General to audit the accounts of the CFS Board only and it is obviously impractical for the Auditor-General to audit all CFS organisations.

Since this anomaly was first raised in 1992, the Auditor-General has been seeking an amendment to the Country Fires Act. I am pleased to be able to implement this change which for some reason was unable to be brought to the House by the previous Government.

I commend the Bill to Honourable Members.

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 21—Accounts and audit

This clause amends section 21 of the principal Act. Section 21 currently requires the Country Fire Service Board to cause proper accounts to be kept of the financial affairs of 'the C.F.S.' (which includes the Board, the C.F.S. organisations and all C.F.S. officers, employees and voluntary workers). The Auditor-General is, under subsection (3), required to audit 'the accounts'.

This amendment makes it clear that the Auditor-General is only required to audit the accounts of the Board and not those of each C.F.S. organisation. The amendment requires the accounts of the organisations to be audited in accordance with the regulations.

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

FRUIT AND PLANT PROTECTION (ENFORCEMENT) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

The prime objects of this short Bill are twofold.

Firstly it will amend the principal Act by providing that every member of the police force is an inspector under the Act. Secondly, it will permit the establishment by regulations, of a scale of expiation fees for illicit introductions of produce into South Australia. In that regard the Bill also recasts section 13 of the principal Act to give clearer Ministerial powers concerning prohibitions and restrictions on the entry of produce into the State.

The *Fruit and Plant Protection Act* came into effect in 1992 and was based on legislation reflecting a century of experience in this area. The legislation has had considerable practical worth and in concert with a good deal of Government effort, has seen South Australia remain free of permanent populations of fruit flies. Freedom from this economically significant pest has given the State easier access to interstate and overseas markets and thus has enhanced the significance of its horticultural industry.

A feature of this scenario is the Government funded campaigns to eradicate fruit flies in urban areas. Expert advice is that these outbreaks result from residents bringing infested 'backyard' fruit from interstate rather than from commercial shipments of fruit. The latter are accompanied by certificates of freedom from, or treatment against fruit flies and considered to be a low risk. Considerable penalties apply to infringements by commercial operators.

The long term average number of outbreaks in South Australia is five per year with eradication cost of about $120 000 each. More to the point urban outbreaks can jeopardise an export market simply because some of our overseas trading partners make no distinction between the State's urban and horticultural areas. As a result, certain markets are retained only with much difficulty and potential expense. For example, the loss of say the citrus market to USA and New Zealand would amount to $22m annually (with potential for growth to $50m) to South Australia.

In light of the above, the Department of Primary Industries is to tighten its approach to offences by issuing Expiation Notices to travellers found with illicit fruit in their possession. This more rigorous application of the *Fruit and Plant Protection Act 1992* will apply both to fresh produce that constitutes a fruit fly host and grapes as a host of phylloxera. A flat expiation fee already is provided by section 13 of the Act. The Bill refines this provision by facilitating regulations that set a scale of expiation fees tied to the quantity of illicit produce.

The Police and the Highway Patrol in particular, have opportunities in the course of their other duties to detect offences. It is proposed to amend the Act to provide that every member of the Police force is *ex officio*, an inspector under the Act. This is far preferable administratively than the current provision which would require the Minister to individually appoint Police officers as inspectors.

Finally, the Bill updates the monetary values of the penalties under the principal Act.

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 3—Interpretation

The definition of 'inspector' is altered to reflect the amendments deeming police officers to be inspectors without specific appointment.

Clause 4: Amendment of s. 6—Inspectors

Section 6 of the Act is amended to provide for police officers to be inspectors and to update the provisions relating to inspector's identity cards.

Clause 5: Amendment of s. 13—Prohibition on introducing fruit, plants, etc. affected by disease

The power of the Minister set out in section 13(2) to prohibit fruit etc from coming into the state is recast to make it clear that the Minister may issue a prohibition for the purpose of preventing the introduction into, or spread of disease in, the State (rather than a prohibition being conditional on a reasonable suspicion that the fruit is or might be affected by disease).

Section 13(7) makes it an offence to breach a prohibition issued by the Minister or the general prohibition against bringing into the State disease affected things. Currently if the offence is constituted of a prescribed offence it is an expiable offence or, if prosecuted, subject to a maximum penalty of a division 7 fine ($2 500). In any other case the maximum penalty is a division 4 fine ($15 000).

A prescribed offence is currently defined as an offence that consists of introducing or importing into the State—

- not more than 1 kg of fruit, or 5 plants, for the person's own consumption or enjoyment; or
- any soil, packaging or thing (other than fruit or plants) not intended for sale or use for commercial purposes.

The clause alters this definition so that an offence will be a prescribed offence if the purpose of introducing or importing the thing into the State is for domestic use, consumption or enjoyment (no matter the quantity or the nature of the thing introduced or imported).

The clause updates the penalties and allows the regulations to impose a scale of expiation fees for prescribed offences.

SCHEDULE

Amendments to Penalty Provisions in Principal Act

The schedule updates the penalties throughout the Act.

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

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

PUBLIC AND ENVIRONMENTAL HEALTH (NOTIFICATION OF DISEASES) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

FISHING, NET

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

That the regulations made under the Fisheries Act 1982 concerning ban on recreational net fishing, made on 4 April 1996 and laid on the Table of this Council on 10 April 1996, be disallowed.

I do apologise to the Council, not on my behalf but on behalf of the Government, for the Government's act of vindictiveness and utter contempt for the process of the Parliament and the system of regulations in South Australia. After seven or eight months of procrastination by the Government in respect of the regulations on recreational net fishing, last week we had a vote. I welcome the contribution of the Hon. Sandra Kanck and the work done by the Hon. Mr Elliott with respect to investigations on this matter. This Council clearly found no evidence to suggest that the activities of recreational netters caused any harm to the school fish species in South Australia.

The day after, like petulant school children, this Government immediately reconvened the Executive Council and reconstituted the regulations. However, in a sensible move in one sense, the Government divided the regulation in respect of recreational net fishing and put the other package of regulations up as a separate package. This showed a little bit more commonsense than the previous Minister who tried this omnibus routine of attempting to slip all the regulations through. This left the Legislative Council with no alternative but to reject all the regulations. Those who supported the recreational net fishermen expected that the rest of the regulations would come back in.

We have a situation where those regulations can stand. This motion is on behalf of those recreational net fishermen who again were denied that family activity over the Easter period, which was a gross act of vindictiveness and contempt for the process of the Parliament. It has denied all those people who had some expectations that the will of this Parliament would prevail over this Government. It has revealed a weakness in the regulation process in that as soon as a regulation is stopped the members of the Government, like petulant school children, run back and put the regulation up again with absolutely no changed circumstances. They are spoilers and children.

These are the actions of people of a very low calibre. These are the sort of people who could do the limbo under a flounder! That is what members opposite are. Members opposite sit there in smug lines. We well remember—and those recreational net fishermen well remember—the performance before the Parliament adjourned last time at about this time of the night, when the Government decided to adjourn the motion because it had to get the report of the Legislative Review Committee, which came down the very next day or the day after. The smart ploy was to stop those people engaging in recreational net fishing over the Christmas holiday period. Having gone into extensive negotiation and procrastination, we finally forced a vote last week to give these people justice. That is what it was about. There are no changed circumstances.

One person who stands condemned more than all others is the present Minister. When the present Minister was a backbencher he wrote to one of my constituents, on 9 June last year, and expressed a response to a request from my constituent as follows:

I have expressed the concerns which have been put to me by yourself and other constituents, and I have made the following points to the Premier and the Minister:

1. The loss of recreational amenity to families in the Spencer Gulf area—many of whom have enjoyed recreational netting for generations.

2. The fact that little is caught of the threatened species, and there may be marginal extra effort targeting King George Whiting and Schnapper by those no longer allowed to net.

Well, he got that right. The letter continues:

3. The matter of licence fees—and a *pro rata* amount will be repaid to licence holders.

While anecdotal evidence exists of recreational netters doing the wrong thing, I have argued that because of the nature of netting in our area and the fact King George whiting is rarely caught, an exemption should be considered. To be blatantly honest, I do not like the chances of achieving any changes, as this ban is strongly supported by professional fishermen and recreational line fishermen. The overwhelming majority of public submissions to both the marine scalefish white paper and the recent netting review were opposed to recreational gill netting.

That has been proven to be absolutely wrong. He got that part right. He goes on trying to con recreational fishermen, by saying:

I realise that this is not reflective of most recreational netters in my area, but I know it was put forward as part of the reasons for the ban. I also have no doubt that professional netting interests would have argued strongly that as they were going to be rationalised then amateur netting should be banned. Frankly, I feel that you were beaten by the numbers game and any backdown is unlikely. Justification is also drawn from the situation in other States. Please find enclosed a summary of the current situation in other States.

That was well canvassed in the Legislative Review Committee and it was found that it did not stand up. The letter continues:

I stress my understanding that the local fishery is different from others in this State, and certainly interstate.

As a backbencher, he recognised that there was no justification for imposition of this ban. His letter continues:

Not only have I raised your concerns with both the Premier and the Minister, but I have also forwarded a copy of your letter and restated my concerns with the decision to ban recreational netting.

I will continue to canvass the issue. However, I believe I will have great difficulty in achieving change as the Minister has stated he would be most reluctant. However, the Minister stated yesterday that he will give recreational netters two months to supply new evidence to support their case.

I understand your frustration with this decision and personally feel frustrated that a decision has been made which disadvantages a group of people without any real advantage to the fishing industry.

When in Opposition this man gave his support and expressed his frustration at the previous Minister—

The Hon. Caroline Schaefer: He has never been in Opposition.

The Hon. R.R. ROBERTS: He will get the chance. As a backbencher, he made promises. He gave commitments to them. He is in the position now where he cannot hide behind the back bench any longer. This is the new Minister who signed the regulation the other day. I hope that we will not be frustrated by petty antics here tonight, because there are no changes in the circumstances, and this is the same motion. I would not be surprised if, tonight, the Council, as is its right, disallows this regulation again, if indeed the Government were to go through this process. That will be on its head, and it will be for the people in the community to judge what sort of Government it is, and how vindictive, how much of a spoiling Government, it is.

It cannot take the vote of the people of this State. It will do anything to justify the unjustifiable, and this is another indication of just how low this Government is prepared to stoop to get its own way. Despite every effort to find justification for this regulation, it has been unable to do so, but does it accept the umpire's decision? No. It has used the rules, the Standing Orders and dirty little manoeuvres to deny the people of this State who are licensed and who have been participating in this recreational pursuit for many years access to their recreation and enjoyment. I call on all members of the Council to make a just decision and again to disallow this regulation, so that fishers may continue to participate in this family activity.

The PRESIDENT: Order! The honourable member used language that bordered on the bizarre. I do not think it is necessary to accuse Ministers of making dirty little manoeuvres, and I think that remark ought to be withdrawn.

The Hon. R.R. Roberts: Is it unparliamentary?

The PRESIDENT: Yes, it is clearly unparliamentary. In the manner in which it was used, it was clearly unparliamentary.

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

That the debate be now adjourned.

The Council divided on the motion:

AYES (8)

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

NOES (9)

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

PAIRS

Laidlaw, D. V.	Cameron, T. G.
Redford, A. J.	Pickles, C. A.

Majority of 1 for the Noes.

Motion thus negatived.

The Hon. CAROLINE SCHAEFER: This matter looks like it will drag on like *Blue Hills*: it has had nearly as many episodes now and it looks like it will break the record. So far I have not bothered to speak because I think it is a trivial act to get publicity with no justification. Having sat here for this long, however, I think that the time has come for me to make some comment.

The Hon. Ron Roberts knows perfectly well that, since recreational net fishing has been banned in Spencer Gulf and St Vincent Gulf, fish have returned to the area. You can ask any recreational fishermen in the area. Mr President, as you know, this time last year the people in our area were driving around with stickers on the back of their utes, 'Ban Baker, not nets.' In January, I went to an area where you holiday, Sir, to speak to the same people, expecting to be abused by them, and they said, 'No, he was right. We are now catching for the first time in 20 years our quota out of boats. We are now catching for the first time in 20 years our quota from the beach.'

I do not know where the Hon. Ron Roberts goes when he leaves this place: whether in fact he just sits in here and dreams, I do not know. But I know that tomorrow morning at 6.15 on regional radio I will hear the Hon. Ron Roberts again telling the unwitting people of Yorke Peninsula and Eyre Peninsula that they can go netting. They will roll out their nets only to find that, no, they cannot go netting because he is playing silly pedantic games with these people.

Our Government has taken a responsible, tough decision. We have taken that decision, and it is working; if he cares to ask anyone, there is ample proof that it is working. I am not only disappointed in the Hon. Ron Roberts for playing stupid games at this hour of the night—not once, but every time we sit late—but what is more disappointing is that the Democrats, who usually stick by their principles and who claim to be the conservationists of this State, are now voting against conserving fish nurseries.

This is one of the most disappointing acts I have seen. I know the Hon. Ron Roberts is a great man at playing games, but he surpasses himself tonight. He becomes the court jester of this Parliament.

The Hon. K.T. GRIFFIN (Attorney-General): I refer members to page 904 of *Hansard* on 14 February 1996, when I made a number of observations about this disallowance motion. I adopt them again and will not spend a further 10 minutes repeating what I said then; they are equally applicable now.

In relation to the Hon. Ron Roberts' histrionics, if he cares to look back through the record books he will see that there were a number of occasions where regulations were disallowed by one House—this House in particular—when the previous Government was in office, when the previous Government turned around the next day and repromulgated the regulations. There is nothing improper about that.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: That is rubbish, and you know it. The majority of the numbers in this Council have combined to disallow it. That is the name of the political game.

Members interjecting:

The Hon. K.T. GRIFFIN: It is all about the numbers. But the law allows an Executive Government to repromulgate them and that is what we did and I imagine that that is what will happen again. This Government, as the Hon. Caroline Schaefer says—

Members interjecting:

The Hon. K.T. GRIFFIN: I am not smug about it—I am just telling you the facts. If you do not know the facts and cannot recognise them, that is your problem. There is nothing improper in the Government's repromulgating the regulations if it believes that it is doing the right thing. It is obvious that the banning of net fishing in the way that has been undertaken by this Government under this and the previous regulations has been very favourably received. Sure, there has been a bit of antagonism from some who have lost their rights to net, but throughout the State there has been applause for the Government's being able to take a strong decision and provide a benefit to people who previously were frustrated by the activities of net fishermen. I certainly vigorously oppose the disallowance motion.

The Hon. M.J. ELLIOTT: The original disallowance motion was moved in September or October last year. I did not speak to that motion for a considerable period of time because I was waiting for the Government to put on the record in this place the substantial reasons why the netting ban was placed. I did not have a view one way or the other. When the Christmas holidays were drawing near, at that stage I spoke for the first time and indicated that I still had an open mind, that I would be very concerned if fish stocks were genuinely at risk. I also said to the Government, 'For goodness sake, come into this place and bring the evidence.' We went right through the Christmas holidays, we came back after the Christmas break, I met with the new Minister and raised a number of issues with him and said at that stage, 'Look, this is causing me some concern: I will not agree to a regulation that is not based on fact, but if there is substantial reason I will support it.'

We went through to 14 February when the Hon. Mr Griffin spoke in this place, and I invite members to read through it carefully. A substantial argument was not put forward in his contribution. I refer to page 903 where there is less than a page of contribution on a matter of some significance.

The Hon. K.T. Griffin: It is the quality that counts, not the quantity.

The Hon. M.J. ELLIOTT: With respect—and I am sure that you did not prepare the speech—it was not a substantial contribution. Even after that, I would still not support the vote. The Hon. Ron Roberts was pulling his hair out as he was wanting to get it up, but I was not involved in game playing and still taking the same position, namely, for goodness sake bring up the substance of the debate.

I met again with the Minister and the Minister's advisers and sat with them for about a hour, and during that discussion again they were not producing substantial material. I put a number of questions and propositions to them and asked them to get back to me.

The Hon. Caroline Schaefer interjecting:

The Hon. M.J. ELLIOTT: I am running through the events as they unfolded. When I finally got a letter they again did not address the issues. The time came to vote last week, which must have been some six or seven months after the disallowance motion was first moved, and nothing of any substance had been put into this place—including the contribution the Hon. Caroline Schaefer made here tonight. Nothing even approaching that had been made. It was a short contribution and was not meant to be comprehensive, but at least she was making comment and observations about what was happening.

There was not even a contribution of that level, which was a very quick contribution, made in the debate until this time to substantiate the regulations. I said last week that, if there was any suggestion that the fish stock was at risk, I would support the regulations. I said that last week. The Government's response was to whack the regulations on the next day, again with nothing to substantiate the situation. I did see the Minister in passing in the building tonight and there was a suggestion that perhaps we should have a talk. I am sure he meant that, but of course the Parliament is now to go into another six week recess. For how long is this matter going to drag on? People are giving clear indications that they are prepared to look at the facts, but no-one seems prepared to lay facts on the table.

Members interjecting:

The Hon. M.J. ELLIOTT: I am not saying whether they have got them or not, but the facts are not being laid out. As to the accountability of the Government to Parliament, that has been raised in this place over the past 24 hours and this is another case. The Government is doing something that may actually be reasonable, but that is not sufficient. The Government has to be accountable as well. There is a disallowance motion in this place and it should have been treated seriously and the substance to support what the Government has done should have been brought into this place. It was not, and any reasonable person who reads through what happened in this place on this issue so far

would have to agree that there has not been any substance contributed by the Government so far. That is to its shame.

It is further to the Government's shame that, having not done that, the very next day after the motion had been disallowed it simply whacked the regulation back in again. If it chooses, after the regulation has been disallowed, to whack it in again, for goodness sake it should substantiate it and put a case together. I have said that I am prepared to support the regulations if they could be substantiated. I said I was prepared to look at other ways of restricting effort and I made a number of suggestions in this place last time.

The Hon. Caroline Schaefer: I'll take you and show you.

The Hon. M.J. ELLIOTT: I would be happy to, because that is more than has happened so far.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: Nothing has changed since last week and there is no reason for me to vote differently this week from last week, because nothing has changed in terms of the information put before us. It is important that the Government substantiate what it is doing. If it had done so, and it had a considerable period in which to do it, the first disallowance would never have occurred.

The Hon. R.D. LAWSON: I do not wish unduly to delay the debate. The Hon. Mr Elliott said that nothing has been said of substance by the Government in relation to justification of the regulations, but he clearly overlooks the report of the Legislative Review Committee, which was tabled on 18 December 1995, a report of some 30 pages. That committee had examined the regulations when they came up in the ordinary course. The committee took evidence from the South Australian Fishing Industry Council, the Port Augusta Fish Advisory Committee, the South Australian Amateur Fishermen's Association, commercial net fishers from Port Lincoln, Cowell and Port Kenny and departmental officers. The committee examined that evidence and summarised it in its report. I do not propose to detain the Council unduly by referring to that evidence, but I should remind the Council that, contrary to the assertions both on this occasion and previously by the Hon. Ron Roberts, an examination was made of the effects of recreational netting on King George whiting.

The Hon. Ron Roberts said blandly to this Council on a couple of occasions that netters do not take King George whiting, but the evidence was to the contrary. He is not interested in evidence. The Hon. Mr Elliott ought to be aware of the evidence. The committee reported on the evidence given to us that, although the predominant species taken by recreational nets are yellow eye, mullet, tommy ruffs, salmon trout and yellow fin whiting, they also take King George whiting.

Contrary to the claims of many fishers, it is not true that these species are under-exploited. According to a search of the five species just mentioned, only mullet is under-exploited. Nor is it correct to say that recreational fishers' nets do not take King George whiting. A study conducted by Dr Keith Jones in 1987 found that, although King George whiting was not a major target species for recreational netters, the catch rate of that species in recreational nets was double that of catch rates achieved by recreational anglers fishing especially for King George whiting.

In that study King George whiting was the fourth most abundant species in the recreational fish and net catch. Clearly, the evidence presented to the committee and reported to this Parliament in December contradicts the assertions of the Hon. Ron Roberts. Other evidence is outlined—

Members interjecting:

The Hon. R.D. LAWSON: No, people have not bothered to read the report. The report was tabled between sessions on 18 December, but it was available for members, and the fact that it was tabled was duly advised. It said that the committee split on Party lines. It is true that the ban on recreational fish nets did split on Party lines. However, the review of the evidence and the other elements of the regulations was not the subject of any division on the committee. So, I oppose this laughable motion.

The Hon. P. HOLLOWAY: I am sorry to detain the Chamber tonight, but the Hon. Robert Lawson has given a quite distorted view of the hearing before the Legislative Review Committee, and it would be remiss of me not to put the correct position on the record. The Legislative Review Committee considered four matters. The committee divided on the issue of recreational netting because, quite clearly, there was no evidence whatsoever that recreational netting had done the damage that was ascribed to it.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: The Minister clearly has not read the evidence attached to the report.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: No, she has not. That was taken out of context. The Hon. Robert Lawson has read part of it but has not read the totality of the report. What he has not read either is the evidence that officers of the department gave, because it is quite clear from the evidence given to the committee by officers of the department that they introduced this ban as a result of political pressure in some areas and that it was done to please councils. On the record, in the evidence that is in the report, the officers conceded that they took this decision to please perceptions rather than reality. That was the term they used: I remember actually asking the question. They conceded that they were dealing with perceptions, not reality.

The other point that the Hon. Mr Lawson did not mention is that a study was undertaken by SARDI. Although I do not have it in front of me, I believe it was due to report in June this year. The view that Labor members on the Legislative Review Committee took was that we should wait until that report came down later this year, because that would provide evidence. But there was certainly nothing at all on the evidence we received that would justify the ban. Of course, there were other matters in relation to the report; it was not just to deal with netting. There were three other issues on which we did agree with the Government: the size limit on whiting, commercial netting and so on.

In relation to a point the Hon. Caroline Schaefer made earlier, when she said she had been to some resorts where she was told that the situation had improved, if that is the case I suspect that it is those locations where changes have been made to commercial netting. But that was not—

Members interjecting:

The Hon. P. HOLLOWAY: And, indeed, the King George whiting. In fact, the Hon. Ron Roberts' motion does not seek to reimpose the regulation of that. I remind members that the original regulation had four parts. In this case we are talking only of recreational netting, not the size limit on King George whiting or the other changes to commercial netting areas.

We are purely talking about recreational netting, and on that issue it was clear to members on this side of the Council who were members of the committee that no clear evidence was given at all, but there was evidence that the ban had been imposed purely to deal with a few political problems in various parts of this State, but it had little to do with fact. That is why we recommend that no action be taken, at least until the report from SARDI is released in a few months. For that reason, I support the motion of the Hon. Ron Roberts.

The Hon. R.R. ROBERTS: I thank members who made contributions, both accurate and inaccurate. A couple of issues need to be answered. Our learned QC friend, the Chairman of the Legislative Review Committee, has given a very skewed version of the evidence. This man has spent a lifetime making the unbelievable sound believable, and he has tried it again tonight. The Hon. Robert Lawson went through the evidence—which so enamoured the Hon. Legh Davis, who is well known for his advice on fishing—and talked about a range of issues, but he said very little about recreational net fishing: he talked about the evidence.

There is no evidence. The Hon. Paul Holloway mentioned the study undertaken by SARDI, but that study relates to catches from boats and has no relevance to the catches from recreational net fishing. No evidence was presented about recreational net fishing because no-one has ever done any research. Recreational net fishermen have indicated that they are prepared to be involved in a process of natural attrition regarding nets, which have reduced from 6 500 to 5 000 because people are so frustrated with the antics of this Government and the procrastination that has taken place that they have handed them in.

The Hon. Mr Lawson quoted from the evidence of David Hall, who made a number of assertions to the committee. Mr Hall said that if we were to increase the efforts on our fishers it would be disastrous. Everyone knows that, but SARDI has not recommended that for years because, with a natural attrition policy, there are fewer nets each time. The Hon. Mr Lawson also overlooked the evidence presented by Dr Kerry Edyvane, SARDI's chief fishing biologist, when she reviewed the Ocean 2000 report commissioned by the Federal Government. She clearly stated that six species in this State were either fully exploited or under-exploited, including blue crabs, ocean jackets, mullet, tommy ruff, and salmon trout.

The last three species are the main targeted species of recreational net fishermen. Once that evidence was put forward and we asked questions in the Estimates Committee, the previous Minister, and colleague of the Hon. Caroline Schaefer, concocted a workshop and said, 'There could now be some doubts.' We must remember that this Government did not intend to take evidence from anyone, whether it was from people living in Port Augusta on the size of whiting, whether it was professional fishermen who had been denied access to Coffin Bay, or anyone else. It wanted to ram this legislation through without any consultation. When I railed against the last ploy of this Government to deny people recreational net fishing, the Attorney-General accused me of not speaking on the matter after I had moved the disallowance motion. I had given an opportunity to all those people to be consulted for the first time about the activities that were affecting them.

Once that evidence came in they tried their hardest to cobble together conflicting evidence and they could not do it, because there is no evidence. The only way they will obtain evidence is to allow those people to fish and ensure that they put in a fishing return, which will be filled out on the beach.

An overwhelming majority of recreational fishermen have written to me. I received 553 personalised letters from recreational net fishermen. I am trying to come to terms with the point that the Hon. Caroline Schaefer made that people are happy with it. I would like to find one recreational net fisherman who is happy with it, because there is none. This Government has tried vainly to justify the unjustifiable. These fishermen are prepared to keep their returns. The fact of life is that most recreational net fishermen keep returns. For instance, I know of one fisherman today who resigned his affiliations with the Liberal Party and who has vowed never to support them again. For the past 14 years he has kept a record of his catches.

No-one collects any factual evidence: they rely on anecdotal evidence. The anecdotal evidence cannot stand up. The fact is that we had 7 500 recreational nets fishing. The evidence produced by their chief biologist stated that all those species were under exploited. It is fallacious. They are trying to justify a decision that was rammed through by the previous Minister for Primary Industries, despite the evidence. He was pleaded with. Evidence was presented that his argument was wrong and he ploughed on. He said to me, 'You cannot win this.' Maybe we will not, but when the cause is right we will continue to fight.

I commend the Hon. Mr Elliott: he will not be browbeaten by the Caroline Schaefers or the Robert Lawsons of this world. Come up with the evidence: the Government cannot do so. The only way we can obtain sensible data is to allow these people to fish and submit their returns. If we can show quite clearly in 12 months time that those catches are impinging on the fish stocks, then we will have another look at it.

In relation to King George whiting, the Hon. Caroline Schaefer was mixed up with the people who go out in boats. Certainly, they are catching more King George whiting, not because we have blown out of the water the recreational net fishermen who have been catching mullet and tommies but because the professional fishermen have been denied the power hauling and have allowed the whiting and the snapper, the over exploited species, to come back in. It has nothing whatsoever to do with the recreational net fishing.

The Hon. Caroline Schaefer is as misguided on this subject as the previous Minister, who on the *Country Hour* one day invited the 300 000 registered recreational anglers to ring me up and abuse me because I would be affecting their recreation by supporting recreational net fishing. I can report to this Council that I received seven phone calls, all from recreational net fishermen, congratulating me, but I did not receive one from an angler. There is a very good reason for that: recreational anglers target different species.

The previous Minister said that recreational net fishermen should get a boat and go out fishing. What do members think they will do—go out fishing between the high water mark and the low water mark for tommies and salmon? Of course, they will not. They will go out and fish for King George whiting and snapper, which are the two species that are over exploited in this State. I thank the Hon. Mr Elliott for his indication of support and I hope that on this occasion the Government will take the will of this Parliament and not show the same contempt that it showed the last time this matter was before the Parliament. I commend my motion to members.

The Council divided on the motion:

AYES (9)	
Crothers, T.	Elliott, M. J.
Holloway, P.	Kanck, S. M.
Levy, J. A. W.	Nocella, P.
Roberts, R. R. (teller)	Roberts, T. G.
Weatherill, G.	
NOES (8)	
Davis, L. H.	Griffin, K. T. (teller)
Irwin, J. C.	Lawson, R. D.
Lucas, R. I.	Pfitzner, B. S. L.
Schaefer, C. V.	Stefani, J. F.
PAIRS	
Cameron, T. G.	Laidlaw, D. V.
Pickles, C. A.	Redford, A. J.

Majority of 1 for the Ayes.

Motion thus carried.

ADJOURNMENT

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

That the Council at its rising adjourn until Tuesday 28 May at 2.15 p.m.

With the exception of part of tonight, I thank members for their cooperation during this part of the session. I also thank all the staff of the Parliament. It is a very late hour, so I will not individually mention all the staff. Again I thank Jan Davis and the table staff. I thank all the staff in Parliament House who work so hard, for such long hours. We apologise for the early hour of the morning. I hope *Hansard*, along with everyone else, can get a sleep-in this morning. To all the staff, thank you for all you do for us as members of Parliament. Generally, I thank members for their cooperation, with the exception of tonight.

The Hon. R.R. ROBERTS: I support the motion, and reiterate the remarks of congratulations and thanks for the efforts that are made by staff.

An honourable member interjecting:

The Hon. R.R. ROBERTS: I congratulate them on the level of their concern. If the Hon. Carolyn Schaefer does not think it is worthy, that is up to her. I think that the staff ought to be congratulated on the amount of effort they put in. They have to put up with some very tedious people, sometimes on my right and sometimes on my left, along with the *Hansard* staff, who have again done a wonderful job.

Motion carried.

At 2.11 a.m. the Council adjourned until Tuesday 28 May at 2.15 p.m.