LEGISLATIVE COUNCIL

Thursday 28 November 1996

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

LOCAL GOVERNMENT (CITY OF ADELAIDE) BILL

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

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

Motion carried.

RSL MEMORIAL HALL TRUST BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to vary the terms of the trust of the RSL Memorial Hall; and to repeal the Services Memorial Hall Act 1939. Read a first time.

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

That this Bill be now read a second time.

The Returned & Services League of Australia (SA Branch) Incorporated (the 'RSL') has requested this legislation to enable it to sell its Memorial Hall premises in Angas Street and to use the proceeds of the sale to buy or lease premises suitable for its present needs. Legislation is needed to allow the RSL to sell the Memorial Hall because it does not have absolute ownership of the Memorial Hall. The Services Memorial Hall Act 1939 provides that the premises are to be available for use by the league so long as it has 250 financial members. If the number of members falls below 250 the trustees are required to transfer the Memorial Hall to the Minister of Works or such other Minister as the Governor may direct and the hall will be dealt with or disposed of in accordance with directions to be given by the Governor.

The history of the Memorial Hall goes back to the time immediately after the First World War. In 1918, 1919 and 1920 the Returned Sailors and Soldiers League raised money by public subscription for the purpose of building a clubhouse, and erecting a hall to be dedicated to the memory of those who fell in the war. Some doubt arose as to the exact way in which the money raised by the league was to be apportioned between the objects for which it was subscribed. An action to determine this was settled and the terms of the settlement were embodied in a trust deed in 1922. The terms of the settlement provided that £4 000 of the money raised was to be transferred to the Attorney-General for the erection of a memorial hall, and the balance was to be paid to the league to enable it to equip and maintain the Returned Sailors and Soldiers Club.

Nothing was done about building the Memorial Hall until 1939 by which stage the £4 000 held in the Treasury had accumulated to approximately £7 000. The league then asked the Government to make this sum available for the erection of a memorial hall on a block of land adjoining the league's premises. Under the terms of the trust deed the Government was required to buy the land and build the hall itself. However, the Government agreed to use part of the money to buy the site of the proposed hall and to hand over the land and the balance of the trust moneys to the league who would use the land and money for building a memorial hall. The league was willing to invest some of its own funds in addition to the trust money. This agreement was embodied in the Sailors and Soldiers Memorial Hall Act 1939. (The name of the Act was changed to the Services Memorial Hall Act in 1975).

The Memorial Hall was to be a focal point for the commemoration of those who died on active service and a place to which the public would have access for that purpose and to view trophies and memorials relating to the Great War and other hostilities. This purpose has not been fulfilled to any significant extent. Traditions have evolved under which observances of occasions such as Anzac Day and Remembrance Day have taken place at other venues.

Until 1976 the league held two adjoining properties in Angas Street, one housing the club and offices and the other housing the Memorial Hall. In that year the league, with the consent of the Attorney-General, executed an amending trust deed to allow it to sell the clubhouse and office premises and, with the proceeds of the sale, to adapt the Memorial Hall premises to accommodate office and other facilities as well as the hall. The clubhouse premises were sold to the Housing Trust which owned adjacent premises. Office facilities, meeting rooms and other facilities for members were provided in the Memorial Hall premises.

The Memorial Hall premises are large in relation to any requirements the RSL has now or in the foreseeable future for the purposes of its administration, for meetings or for the accommodation of memorabilia. The RSL wishes to be in a position to sell the premises and to buy or lease premises appropriate to its needs from time to time while at the same time keeping faith with the public who subscribed funds towards the erection of the Memorial Hall. This is achieved by providing that the proceeds of sale of the Memorial Hall are to be held on trust by the RSL for the purposes of providing, maintaining and furnishing a hall in memory of those who have fallen while on active service in war or similar hostility.

The 1939 legislation required the Memorial Hall to be located within the City of Adelaide south of the Torrens River. Clause 4(2) of the Bill requires the premises to be in the City of Adelaide unless the Attorney-General approves the purchase or lease of premises outside the City of Adelaide. The Memorial Hall premises may, under clause 4(3) of the Bill, continue to incorporate administrative or club facilities.

Clause 4(4) of the Bill allows trust property not immediately required for the purposes of providing and maintaining a memorial hall to be used for any other purpose within the objects of the RSL if it consists of income from investment of trust property or with the approval of the Attorney-General. This provision will allow surplus trust property, should there be any, to be put to use without the need for further legislation. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

Clause 2: Repeal

This clause repeals the *Services Memorial Hall Act 1939*.

Clause 3: Interpretation

This clause defines the terms Memorial Hall, RSL, and trust property for the purposes of clause 4.

Clause 4: Trust

This clause in effect substitutes the trust under which the RSL holds Memorial Hall under the repealed Act and authorises the RSL to sell Memorial Hall. The proceeds of the sale will be subject to the trust.

The purposes of the new trust are similar to the purposes for which Memorial Hall is currently held, namely, for providing, maintaining and furnishing a hall in memory of those who have fallen while on active service in war or similar hostility.

As is currently the case with Memorial Hall, premises provided for the purposes of the trust may incorporate administrative or club facilities for the RSL.

It is a term of the trust that the approval of the Attorney-General is required before the RSL purchases or leases land or premises outside the City of Adelaide for the purposes of the trust.

The RSL is authorised by the clause to apply trust property not immediately required for the purposes of the trust for any other purpose within the objects of the RSL. If the RSL proposes to use capital rather than income from trust property in this way, the approval of the Attorney-General is required.

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

CRIMINAL ASSETS CONFISCATION BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 590.)

The Hon. K.T. GRIFFIN: I thank all members for their contribution to the debate. The Hon. Carolyn Pickles indicated that the Opposition supports the Bill. I am grateful for that support. The honourable member asked whether I have considered extending the reversal of onus of proof now relating to serious drug offences to serious fraud offences. I had not done so when the honourable member raised the matter. After due consideration, I am not inclined to do so. The presumption in question is draconian and, as the honourable member said during the course of the debate, it is essential to keep in mind the balance between the power of the State to fight crime and the rights of individuals to enjoy their property. The presumption applicable to serious drug offences is an extraordinary measure justified by the general obnoxiousness of the drug trade, the very large profits that can be, and are, made from it and the fact that the profits are made in the end out of gross social dislocation and human misery.

On the other hand, large-scale fraud and embezzlement tend these days to be the concern of the Commonwealth via the Corporations Law and the regulation of the securities trade. The local frauds with which general State law has practical application may involve, in gross, large sums of money but tend, in my experience, to leave a paper trail and do not involve, as with the serious drug offences targeted by the presumption, the financing of an entire lifestyle as a career in crime. In the absence of any evidence that the presumption is really and genuinely needed to make the enforcement of the law effective, my view is that such a strong measure should remain confined to areas of law enforcement in which its application is central and needed. Of course, the subject can be revisited at any future time in which it appears that circumstances warrant that reconsideration.

The Hon. Robert Lawson asked that I provide such information about the financial operation of the scheme as is available to me. I advise that before the financial year 1991-92 no separate figures were kept in relation to net payments. The financial year figures since then of net receipts from the current legislation are as follows: 1991-92 $143 915.39; 1992-93 $59 543.95; 1993-94 $273 266; 1994-95 $273 744.93; and 1995-96 $178 835.47. These figures are net confiscations and therefore do not include property restrained and subsequently not forfeited. That may happen because the accused is acquitted or because restrained money has been released for legal expenses or other approved payments. For example, the last Annual Report of the Director of Public Prosecutions reveals that in one case the entire restrained assets of over $90 000 were expended in legal fees. In another case restrained property valued at $250 000 will, I am informed, be likely to be lost to the Official Receiver because of the bankruptcy of the accused.

The last annual report of The Commissioner of Police contains further statistical information. The commissioner comments:

> The number of cases referred to the Confiscation of Profits Section decreased from 249 in 1994-95 to 165 in 1995-96. This was due to a revised set of criteria for investigating cases, resulting in a better targeting of cases and increased value of restraining orders made. The value of restraining orders in relation to property has increased substantially each year from an asset value estimate of $589 000 in 1994-95 to $4 464 215 in 1995-96. The actual cash value will be dependent on proceeds obtained at time of sale.

That is an exact quotation from the annual report. However, I think the reference to $589 000 should be to 1991-92 and not 1994-95.

I thank the Hon. Mr Redford for his thoughtful contribution. I can really understand his wariness of the severe nature of this legislation. There can be no doubt that it is severe, and that is all the more reason why law enforcement in the courts can and should approach its application at a practical level with extreme care. I can give him comfort in at least two respects. First, it was apparent in developing the Bill and in the consultation process that a number of members of the legal profession who practise in the area of the criminal law were unaware that the existing Act contained such wide powers. I can only assume that to be so because they have not been abused in the past. Secondly, I can assure him that the courts, as guardians of individual rights in particular cases, have taken the view since the introduction of the initial legislation that the powers given by the Act and its equivalents in all other Australian jurisdictions are severe and potentially draconian and have, therefore, taken great care in interpreting and applying the Act to give as much scope for the protection of the individual as is consistent with the legislation and just in the individual case.

Lastly, I thank the Hon. Mr Elliott for his contribution and the serious questions that he has raised. The first concerns the procedural matter of the extent to which notice of the restraining order and the effect of the provisions in question should be given. I am inclined to agree with the general tenor of the submission on this point, although not all of its details, and have initiated the drafting of an amendment which addresses these concerns. The amendment, if not on file now, will be on file shortly. The second point concerns the relationship between the Legal Services Commission guidelines for funding and the discretion granted to the court to order payment from restrained funds for the purposes of legal expenses. I have examined the arguments put forward by the Law Society and the Bar Association on the issue, as well as a proposed amendment that the Hon. Mr Elliott has been kind enough to have drafted for consideration.

I remain unpersuaded that change is needed, and I offer the following reasons. First, the current clause provides that the overriding test is what the court thinks to be reasonable. That allows the court to consider the circumstances of every case in a flexible way which takes into account the individual circumstances of each defendant. I am not inclined to try to

find, for example, what the family home might be in legislation and, hence, give rise to technical arguments about the meaning of such a phrase when used in a statute. The Hon. Mr Elliott and I might well disagree about whether the family car, whatever it might be, should be regarded as so sacrosanct as to be immune from sale for the purposes of a legal defence. It may be reasonable, in the circumstances, that the family Rolls Royce be sold to fund a defence.

Secondly, while I realise that the Hon. Mr Elliott's amendment does not use such phrases, it requires the court to have regard to the relevant criteria applied under the Legal Services Commission Act to applications for legal aid. The first question is: what criteria? Is this intended to include, for example, an assessment of the merits of the defendant's case? Is it intended to include the commission's funding cap for particular types of cases? The second question is: why are the two linked? The Legal Services Commission guidelines are and have been established in the context of making arrangements for the equitable distribution of public money between competing claims. Some involve policy decisions such as whether to give priority to domestic violence cases. This context is completely absent in the cases with which this section deals.

Here the question is whether the public interest in restraining the use of private money which might be tainted should bow before the private interest of funding a defence and, if so, to what extent. These are entirely different questions. To supply the answer to the first question as the answer to the second question ignores that difference. I doubt whether the Law Society would support the honourable member's amendment. The Director of Public Prosecutions has commented that the reasonableness test is flexible and will cope with the situation fairly. He adds:

> This section should be seen as a last resort for funding and should not therefore be fettered by considerations adopted by the commission.

My third point is that the law will be self-correcting on this point. If a defendant applies for the use of restrained funds, a primary consideration will be whether he or she has applied for legal aid and, if so, with what result. The commission guidelines will have been applied if an application has been made. If an application has not been made, then the court will surely require one to be made. A defendant will thus come to restrain funds as a source of funding a defence, having already been assessed and refused. The guidelines will have been applied. The question for the court will then be, given that situation, whether and on what basis the public interest in restraining use of private money which may be tainted should bow before the private interest of funding a defence. It is up to the court then to assess the situation and come to a conclusion. There is no point in requiring regard to be had to guidelines which will already have been applied.

Lastly I want to be clear about what I think justice means in this kind of case. The submission from the Law Society speaks in particular of the possibility that the court will require the defendant to sell the family home and/or car. It states:

> The effect of the failure to exclude such assets would have a twofold hardship:
>
> (a) that if the accused is forced to realise the family home (and/or car) to meet legal fees, the wife and children suffer and, even if the accused is acquitted, there is not compensation; and
>
> (b) a person whose assets are subject to a restraining order is placed in a worse position than a person whose assets are not confiscated and who is funded by the Legal Services Commission.

The answer to (a) is that a person who is accused of a crime and must, for whatever reason, fund his or her own defence may have to sell assets including home and car in order to do so, and there is no compensation if he or she is acquitted. That is so whether or not this Act is involved at all. Why should it be any different if this Act is involved? Why should a person be better off under this Act than any other? The answer to (b) is that it states a self-evident proposition. Of course a person who is not subject to a restraining order is in a better position than one who is not; that is what restraining orders are for. If the argument is that we should not have restraining orders at all, that is an entirely different argument. Again, I thank all members for their serious consideration of this measure and I commend the Bill to the Council.

Bill read a second time.

RETAIL SHOP LEASES AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 526.)

The Hon. ANNE LEVY: The Opposition supports the second reading of this Bill and does so most enthusiastically. This legislation results from the Joint Select Committee on Retail Shop Tenancies, which reported in July this year. The select committee heard a great deal of evidence as to how the current system relating to retail shop tenancies was causing extreme hardship and difficulties for many small retailers. The select committee felt that legislative assistance could be given to these people that would alleviate many of the problems they face and make life a lot easier for them.

Many of the problems they face relate to the rents they are charged, the difficulties or ambiguities in having their leases renewed and the extra costs which they can be landed with without warning and which appear to many retailers to be unreasonable. It is a question of the little people versus the big people. It is in such situations that government for centuries has had a role to step in and try to assist the small person in their unequal struggle with the large land owner.

The problems between large land owners and small people who make use of the land to earn their living goes back for centuries. Its latest twentieth century manifestation is in the lease arrangements which apply for small retail shop tenancies where in many cases the land owner is a large corporation operating not just one shopping centre but many around the country. Certainly, an unequal bargaining situation applies and, as I say, in such situations it is highly legitimate that government should control the relationship by legislation.

The select committee made 16 different recommendations. The Attorney has introduced a Bill to implement some of those recommendations. We seem to be having a plethora of Bills. There is also a private members' Bill before this Council which purports to implement the recommendations of the select committee but which in fact does far more than that. There is a private members' Bill in the other place which sticks completely to the recommendations of the select committee.

At the outset I should indicate that, while we support the second reading of this Bill, we will certainly move amendments (which I am afraid are not yet on file) so that the Bill reflects the select committee's recommendations far more accurately than the Bill which the Attorney has introduced. Certainly, the Bill has failed to do the job properly in relation to implementing the select committee's recommendations. I thought it might be worth considering the select committee's

16 recommendations to see what has and what has not been covered by the Bill. The first recommendation of the select committee was:

...that the Act be amended to provide that before a retail shop lease is entered into, renewed or assigned, the lessee or assignee must be given a statement of legal consequences.

This is a statement in writing that contains information concerning the legal consequences of breaching covenants of the lease, or terminating the lease early. It must also state clearly that there is no automatic right of renewal, if this is the case. It should also warn a prospective lessee that any oral representations made by the lessor in the course of lease negotiations may not be enforceable unless they are incorporated into the written lease document. For example, it should clearly state that representations for the right to renew the lease should be in writing and not oral. It should also include a clear warning that, before a lease is signed, a lessee should obtain independent legal and accounting advice with regard to the financial viability of the business and the terms of the lease.

The Bill before us does just that. While not put in one clause of the Bill, by going through the various clauses, that first recommendation from the select committee is implemented in the Bill before us. However, the second recommendation from the select committee was:

...that the Act be amended to provide that the landlord must give the existing tenant the first right of refusal on a new lease unless it can be established that the landlord would be disadvantaged by the granting of the right or that any of the following should occur:
(i) the tenant has been in breach of the lease.
(ii) the landlord has plans to redevelop the centre; or
(iii) the centre would benefit from a change of tenancy mix; or
(iv) the landlord can obtain a higher rent for the tenancy;

This recommendation has not been implemented as was intended by the select committee. It is certainly true that it does provide a first right of refusal, but only to a very limited group of tenants, that is, those who have had a lease for at least five years but who have not had a lease for 10 years, or more. A very narrow group of tenants is being given this right of first refusal; not any tenant, as was indicated in the recommendation. The first right of refusal will apply only until the tenant has been there for 10 years. It also allows a lease to contain a clause abrogating this right. We can well imagine that it would not be long before all leases put up by landlords would contain a clause abrogating this right of renewal, and the prospective tenant would be told, 'You accept it with that clause in or you do not get a lease at all.'

There are further possibilities of let out from this provision by means of regulations and, in fact, what the Attorney has put up is a cop out: it is not what the select committee recommended at all. I will certainly be moving amendments so that the recommendations regarding first right of refusal are as the select committee recommended. The third recommendation of the select committee was:

...that the Act be amended to enable the lessee to request from the lessor written reasons for the lessor's decision not to offer the lessee a renewal or extension of the lease where the reasons will provide a basis for judicial review of the lessor's decision.

That recommendation is not in the Bill before us and will certainly not occur unless there is legislative provision for such request being acted on. Again, I will be moving amendments so that that provision of the select committee recommendations is incorporated into the Bill. The fourth recommendation was:

...that the Magistrates Court have jurisdiction to entertain an application to review the rent if it is harsh and unconscionable.

That provision is not in the Bill that is before us, despite it having been a majority recommendation of the select committee. I remind members that the select committee comprised equal numbers of Liberal and non-Liberal members. Counting the members from both Houses, this was a clear majority decision of the committee so that it was supported by several of the Liberal members of the joint select committee. To me, it is inexplicable that it is not incorporated in the Bill before us when there was agreement—not unanimous, but certainly a clear majority view—that this protection should be awarded to small retailers, yet it is not in the legislation before us. Recommendation 5 was:

...that section 31(2) of the Retail Shop Leases Act dealing with information and explanations of outgoings and the basis on which the lessee's contribution to outgoing is determined, be extended to apply to leases under Part 4 of the Landlord and Tenant Act.

I think that recommendation is in the legislation before us. It certainly is in the two private members' Bills—one in each House—and is very much to be welcomed. The sixth recommendation was:

...that the Act be amended to require a lessor to state in the Disclosure and Outgoings statements:—
(i) If the lessor is adding a margin to the cost of services supplied by the lessor and, if so, the amount of such margin, or on-charge being levied or the method that is being used to calculate same;
(ii) If the lessor is obtaining the service at a price different from the price being charged to the lessee and, if so, the amount of the difference or the method which is used to calculate the same.

That recommendation is in the Bill before us, as it is in the two private members' Bills, and I certainly support the introduction of those provisions. The seventh recommendation of the select committee was:

...that the Act be amended to require a lessor to state in the Disclosure Statement the current tenancy mix in a retail shopping centre and any changes to the tenancy mix that are contemplated by the lessor at the time that the lease is negotiated and, where appropriate, make it clear that there is no guarantee of exclusivity, if that is the case.

That recommendation is in the Bill before us, as it is in the two private members' Bills. The eighth recommendation was:

...that the Disclosure Statement be amended to require a lessor to state whether or not during the life of the lease:
(i) a fit out will be required and, if so,
(ii) at whose expense, and
(iii) to what extent and the estimated cost or the method of calculating the cost.

That recommendation is in the Bill before us; it is also in the private member's Bill in the other place. The private member's Bill in this place certainly incorporates that, but goes a bit further in recommending caps to the potential cost of any fit out. I do not support that aspect of the Hon. Mr Elliott's private member's Bill, as it is going beyond what the select committee has recommended. The select committee recommendation is incorporated in the Government's Bill and I support it.

The ninth recommendation was that the name of the Act be amended to the Retail and Commercial Leases Act. That is being done in the Bill before us and I support it. The tenth recommendation was that a casual licence for a calendar month or less be excluded from the operation of the Act. That also is in the Bill before us and in the two private members' Bills and I support it. The eleventh recommendation was that the mediation provisions be implemented as a matter of priority and the model currently working in New South Wales be used as the basis for our system in South Australia. That

recommendation does not require legislation to be implemented, and when the Attorney responds I would be grateful if he could tell us how matters are proceeding regarding implementing the mediation provisions. There was agreement from everyone—small retailers, shopping centre owners and pretty well every witness who came before the select committee—that implementation of the mediation provisions was highly desirable and should be done as soon as possible. As I say, that does not require legislation and I would like to know how we currently stand on that in this State.

The twelfth recommendation was that the Act not apply to the exercise of an option to renew or an assignment of a lease entered into before the commencement of the Act. That again does not require legislation; it is merely a continuation of the existing situation. So, obviously, there are no provisions in the Bill relating to it. The thirteenth recommendation concerns amendment to what is required in an auditor's report. If the auditor's report does not relate to any outgoings other than land tax (where applicable), water and sewerage rates and charges, local council rates and charges and insurance, it is sufficient so long as it is accompanied by copies of receipts in respect of all expenditure by the lessor as referred to in an earlier paragraph in the Act. That recommendation occurs in the legislation, and indeed in both private members' Bills, and I am sure will have unanimous support.

The fourteenth recommendation was that the words 'registered conveyancer' be inserted into section 14(1)(b) of the principal Act, meaning that the cost of attendance on the lessee by the lessor, or a lawyer, or a registered conveyancer acting for the lessor, should be a charge on the lessee. This is in the Bill before us and we obviously support it. The fifteenth recommendation was that in the provisions of the Land Valuers Act we felt it was not necessary to impose any additional duty upon a valuer because the ethics of the actions of a valuer are fully covered by the Land Valuers Act, and therefore there was no need to add any provisions to the Retail Shop Leases Act. The last recommendation (number 16) was that there be no change to section 17 of the Act dealing with a minimum five year term for a retail shop lease. That, like a number of the others, does not require legislation and consequently is not mentioned in the Bill.

I have gone through these recommendations carefully as there may be members of the Council who have not examined the very important report of the joint select committee in detail. Of the 16 recommendations made, 13 required legislation. Of the 13 which required legislation, only nine are being implemented in the Bill before us. The four which are not being implemented in the Bill before us are very crucial to small retailers, particularly the right of first refusal for renewal of a lease as recommended by the select committee, not the very much watered down and restricted version which applies in the Bill and, secondly, the ability to have harsh and unconscionable rents being reviewed by the Magistrates Court. Those two recommendations were crucial ones from the select committee. In one case the Attorney has not implemented them at all; in the other, it is in such a watered down and restricted version that it really is a slap in the face to small retailers in this State.

I can well understand that on these two crucial issues they will feel abandoned and ignored by this Government. The select committee report gave them hopes of alleviation of some of their greatest problems, but in these two absolutely crucial areas these hopes have been dashed by the Bill which the Government has brought in. The Government's pretending that it is implementing the recommendations of the select committee turns out to be a hollow promise indeed to the small retailers in this State who are suffering very badly. I said I supported the second reading enthusiastically. I repeat that comment so that when we get to the Committee stage in this Chamber we can insist on implementing the recommendations of the select committee which will then provide the relief and assistance to the small retailers in this State which the select committee report had promised them.

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

The Hon. DIANA LAIDLAW: Mr President, I draw your attention to the state of the House.

A quorum having been formed:

SOUTH AUSTRALIAN TOURISM, RECREATION AND SPORT COMMISSION BILL

Adjourned debate on second reading.

(Continued from 12 November. Page 441.)

The Hon. BERNICE PFITZNER: I rise to speak to this Bill. This Bill will repeal the South Australian Tourism Commission Act and abolish the South Australian Events Board, the Adelaide Convention Centre Board and the Office for Recreation and Sport. It is noted that the main reason for this restructure is to create a new organisation to facilitate:

1. a reduction in duplication in decision-making areas such as marketing, administration, corporate services and capital works;

2. a more efficient use of existing human, financial and other resources;

3. a reduction in the number of boards and board members, thus reducing the costs associated with administration;

4. an ability to capitalise on opportunities created by the 2000 Olympics and Paralympics held in Australia; and

5. more money from existing individual budgets to be spent on marketing and promotion of the consolidated whole.

I also note in the Bill that the functions of the commission include the following: to promote the State internationally and domestically as a tourist destination; to promote the State internationally and domestically as a venue for the holding of conventions and conferences; and to promote and develop recreation and sport within the State. All these are tremendous concepts, and we now need to work hard to achieve these goals.

I would also like to explain why I think Adelaide is such an idyllic place for our Asian neighbours to visit. By so doing, I hope to raise our awareness of our marketing potential. Our friends from neighbouring South-East Asia live mostly in the tropics around the Equator where the climate is usually hot or hotter and very humid. In this description, I exclude East Asia—that is, Japan, parts of China, Taiwan and Korea. The tropical Asian countries are also very crowded: one is jostling with people everywhere one goes. There is a constant cacophony of noise: of the traffic and people yelling above the traffic sounds. The evenings are cooler and balmy, but there are still the crowds and the noise. The people are mostly very industrious, working long hours for good salaries. They live in houses or flats very close to each other, cheek by jowl usually—again, with noise and people everywhere.

The roads are congested and people are rushed, pressured and irritated. For recreation, they have to queue up for a round of golf, a game of tennis, squash or badminton, or to go sailing, and they play in a hot, humid climate. They shop in beautiful air-conditioned arcades but, again, with crowds and noise. Restaurants and cinemas are cool but, again, they are also crowded. There is the excitement of it all, certainly, and the feeling of activity. However, if you live in that environment all the time, sometimes you get to the stage where you say, 'I want to get off.' And then where do you go?

Let me now describe South Australia and Adelaide. Here, the Mediterranean climate is superb with its long summers, hot at times, but dry, and mild wet winters. In Adelaide, we have large open spaces with few people, easy traffic and a minimum of noise. We have people who mostly work hard, but not so intensely that they look burnt out. There is not the same pressure here. Our Asian visitors wonder where people have gone when they come here, and they wonder whether we are on holiday. The houses here mostly have gardens and are mostly detached—and what a luxury that is. There are beautiful roses and other flowers everywhere, clear blue skies, and you can see a myriad of stars at night. The air is clean and clear and crisp. Asians just love the climate, and after a few days notice that their coughs and colds evaporate as their lungs are filled with our clean, fresh, clear air.

The shops here sell goods of a very high quality, which are also reasonably priced. Nobody is pushing; nobody is shoving. The restaurants are full of beautifully cooked fresh food, and there is unlikely to be a queue for a table. Fruit, vegetables, meat and drinks are also inexpensive; in particular, the seafood, again, which is fresh and so very cheap. Golf courses are plentiful and there are no long waits. Green fees are unbelievably inexpensive. As for tennis, the council courts are free. At a temperature of 22°C and dry, Asians feel that they are in air-conditioning all the time. They cannot get over this most fair and most pleasant land.

We move on to other pleasures: to the Barossa and the high quality wines and the high quality old world accommodation to be had there. Then we have the Flinders, and Wilpena with its peace and quiet and wilderness areas where, to Asians, the silence is deafening. Then there are the animals, our quaint antipodean creatures, such as kangaroos, koalas, wombats and blue-tongue lizards. Then we have the yellow beaches, with no crowds and the blue, but very cold, waters of the Antarctic—most exhilarating. Then we have Port Lincoln, with its fishing, oysters, abalone and crays. It is just so very different and so very agreeable. Then we have farms for the children where we can see chickens with feathers and eggs, cows and sheep, sheep shearing and sheep dogs rounding up sheep, and where we can go camping. At night, these people sleep soundly, and they do not need any air-conditioning.

In addition, we have wonderful theatres, orchestras and art galleries and well-stocked book shops. Our greeting cards and wrapping papers are so extraordinarily beautiful and different. This is just part of what my Asian colleagues see here that they do not have at home. We should also try harder to attract conventions. We have top class hotels and top class convention venues in Adelaide, and they are all well priced. We have top excursion venues, plus we have the pokies and the casinos, all of which are uncrowded and restful and away from the madding crowd, which is the normal environment in Asia. For tourists and convention participants there is an opportunity to relax, to let go of some of the tensions and enjoy an increased sense of well-being. Each time I come home to Adelaide after visiting Singapore, the land of my birth, I feel the same way.

We do not value our Australia enough, but I know that tourists do, so we have to sell our country better. It is with eager anticipation that we look forward to this new commission, which will find innovative ways to market our place in the sun. Tourism has the potential to provide a substantial increase in the number of jobs which we all desire, especially for our young people. We must market ourselves better. I wish the commission well in its very competitive and challenging role. I support this Bill, which establishes this commission on which we will pin our tourism and convention flags.

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

INDUSTRIAL AND EMPLOYEE RELATIONS (TRANSITIONAL ARRANGEMENTS) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill proposes amendments to the *Industrial and Employee Relations Act 1994* to extend the transitional period for changes to arrangements for the registration of associations under the Act.

New arrangements for the registration of Industrial Associations under the Act were enacted with the *Industrial Conciliation and Arbitration (Commonwealth Provisions) Amendment Act (SA), 1991* and brought into operation on 1 January, 1993. The new scheme of registration was designed to operate in conjunction with the Commonwealth *Industrial Relations Act, 1998* and provides for associations to be able to register under both Acts without having dual legal personalities attached to the single association. The 1991 amendments to the Act provided a transitional period of four years for registered organisations to amend their rules to comply with the new arrangements. During this transitional period relevant associations are protected from deregistration proceedings as a result of their dual incorporation. The transitional period is due to end on 1 January, 1997.

The majority of associations registered under the Act have completed the necessary rule changes in order to make the transition to the new arrangements. Some associations however, have encountered circumstances beyond their control, which have delayed efforts to register rule changes to comply with the new arrangements.

Failure to complete the necessary rule changes before the end of the transitional period will result in these associations losing registration under the Act.

Whilst the Government might be entitled to be critical of those associations which have failed to make the necessary rule changes during the four year transitional period, it is considered that in some cases, the circumstances facing some of these associations warrants providing some compensation through an extension of the transitional period for one year.

The Government has consulted the United Trades and Labour Council of South Australian and the State Industrial Registry with regard to the circumstances confronting these associations and agreement has been reached to the effect that a twelve month extension of the transitional period would provide appropriate scope for these associations to address the matter.

The Government has also advised peak employer and employee bodies of its intention to further review the registration arrangements under the Act in line with changes in Commonwealth law in this area.

The Government will consult with peak employer and employee bodies regarding proposed changes to the Act as a consequence of

amendments to the Commonwealth Act during the extension to the transitional period.

I commend this Bill to the Council.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of Schedule 1, section 16—Registered associations

This clause amends section 16(2) of Schedule 1. This is the provision that prevents any objection of the kind that was formerly prevented by section 55 of the *Industrial Conciliation and Arbitration (Commonwealth Provisions) Amendment Act 1991* from being taken to the registration of an association whose registration continues in effect under section 16(1). The period of this moratorium on objections is extended from 1 January 1997 to 1 January 1998.

The amendment also ensures that the transitional arrangements which were made in section 55(4) to (7) of the *Industrial Conciliation and Arbitration (Commonwealth Provisions) Amendment Act 1991* in relation to associations which would otherwise be liable to objections of kind recognised in *Mohr v Doyle* continue to operate with the necessary modifications.

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

The Hon. R.I. LUCAS: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

LAND ACQUISITION (RIGHT OF REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 October. Page 251.)

The Hon. R.D. LAWSON: This short Bill will provide a right of review in certain circumstances to persons whose land is the subject of a proposal to compulsorily acquire. The Land Acquisition Act already contains certain provisions relating to a right to object, and I will come to those in a moment. The Land Acquisition Act was enacted in 1969 following a report, as I recall it, by the then Crown Solicitor, Mr W.A.N. Wells, QC, and the Act has served the State very well. However, one of the difficulties about this and similar Acts is that a person who objects to acquisition has but limited grounds for complaint and redress.

To some extent, the measure before the Parliament will improve the rights of such persons. The existing provisions are contained in sections 11 and 12. Under section 11, a person who does have an interest in land which was the subject of a proposal to acquire may, within 30 days after receiving the notice of intention to acquire the land, require the acquiring authority to give an explanation of the reasons for the acquisition and to provide reasonable details of any statutory scheme in accordance with which the land is to be acquired. It should be borne in mind that acquiring authorities under the Land Acquisition Act can include not only Government Ministers but also statutory corporations where special Acts empower them to acquire land. Often the acquiring authority is a local government authority. So, the first part of section 11 of the existing legislation gives a person a right to have an explanation for the reasons for the acquisition.

Section 12 provides that, within 30 days after a notice of intention to acquire the land is given or if an explanation of the reasons for the acquisition is required within 30 days after that explanation is provided, the person may by written notice request the authority not to proceed with the acquisition of the land, an alteration of the boundaries of the subject land, that a particular part of the land be not acquired or that further land be acquired. In my experience, it is not unusual for such requests to be made, however, it is unusual for authorities not to proceed with the acquisition of the subject land, because it is the usual practice of acquiring authorities to undertake a fairly detailed examination before issuing notices of intention to acquire. So, by and large, the acquiring authority has already made up its mind very clearly on the acquisition and only on very limited and rare occasions is a decision not to proceed made as a result of representations from the land owner. There is a tendency on acquiring authorities of whatever level not to accede to requests of land owners, even in cases where ultimately the proposal which led to the acquisition does not proceed. In other words, once an acquiring authority has made up its mind about issuing a notice of intention to acquire, it is very reluctant to admit that its proposal was in some way in error and usually it proceeds regardless.

The grounds upon which a request not to proceed can be made are set out in section 12(3). They include, first, that the acquisition would seriously impair an area of scenic beauty, and that has always been in this legislation. The second ground is that the acquisition would destroy, damage or interfere with an Aboriginal site, and that was a new addition to the legislation. The third ground is that acquisition would destroy or impair a site of architectural, historic or scientific interest. That has always been in the legislation, but to my knowledge it has never been used, although I may be wrong in that. The fourth ground is that the acquisition may prejudice the conservation of flora or fauna that should be conserved in the public interest and, fifthly, that some other public interest might be prejudiced. There is a further catch-all clause which provides that requests may be made on any other ground. Obviously, there are very wide grounds upon which a request can be made but, notwithstanding the wide grounds, it is unusual for proposals to be abandoned altogether. I am aware of some cases, however, where acquiring authorities have made alterations to the boundaries of acquired land, especially in relation to road widening proposals.

It is worth mentioning in this context the balance of the scheme of the existing Land Acquisition Act. Section 15 provides that, after the service of a notice of acquisition, an authority may acquire land by agreement. In those cases where land is acquired by agreement it is obviously unnecessary to consider rights to object, because the very fact that an agreement has been reached indicates a willingness on the part of the land holder to part with his or her land. Although it must be said that in many cases land owners, under threat of the possibility of acquisition, do agree voluntarily to part with their land upon their being satisfied that the price to be paid is reasonable in their view. The fact that an authority has given a notice of intention to acquire does not require the authority to proceed with the acquisition, but if it does decide not to proceed it must give notice to those who received the notice of intention to acquire in the first place. If the authority does not acquire the land within 12 months after giving a notice of intention to acquire, it will be presumed that the authority has decided not to proceed and if it does desire to proceed the authority must give a further notice.

They are the provisions relating to pre-acquisition notices. Section 16 of the Act deals with the notice of acquisition which is the instrument by which land is actually expropriated. That section provides that, after the elapse of three months but before the elapse of 12 months from the publica-

tion of the notice of intention to acquire, the authority may publish a notice of acquisition in the *Gazette*. Upon publication of the notice in the *Gazette*, the land vests in the authority to the extent of the interest specified in the notice. So, the draconian act is the publication of a notice in the *Gazette* and, once that is published, the land is vested in the acquiring authority.

As members will know, there is a scheme for payment of compensation by negotiation with the authority—and the authority is required under section 23 to negotiate in good faith about the compensation. However, if those negotiations do not produce a price that is satisfactory to the dispossessed land owner, the acquiring authority is required go to court and have the court determine the price. At the time of that determination by the authority to proceed to court, it must make an offer of compensation and it must pay the amount of compensation offered into court. But, very often there have been quite long delays in the determination of compensation under this Act.

In earlier years (not so much in more recent years) the delays were often considerable; however, the Land and Valuation Division of the Supreme Court now disposes of these matters fairly expeditiously. The principles of compensation are set out in section 25 of the Act, and over the years they have served the scheme well. It is worth mentioning that section 25(1)(*i*) contains a provision which is fairly novel to the State of South Australia and which is often misunderstood. It provides that one of the principles under which compensation shall be determined is as follows:

> Where the land is, and but for acquisition would continue to be, devoted to a particular purpose, and there is no general demand or market for land devoted to that purpose, the compensation may, if reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement;

Many people, including lawyers, reading that paragraph are excited to believe that it is possible to obtain compensation on the basis of equivalent reinstatement. The celebrated cases on the subject deal with buildings such as churches for which there is no general market (or at least there was not a few years ago) and which, if valued according to ordinary valuation principles, would be valued at a fairly low figure. In this situation, the acquiring authority must bear the cost of building another equivalent church in some other place. To my knowledge, the provisions have not often been invoked. There have been some cases where, for example, particular factories have been acquired, and reinstatement, which is often much more expensive than the pure value of land and premises acquired, has been claimed but without success.

I refer to the provisions of the Bill. It is proposed to insert after section 12 of the principal Act a mechanism by which a person, whose land is the subject of a notice of intention to acquire, may request the Minister to review the decision of an authority which has refused a request not to proceed with an acquisition. In cases where a Minister, or a department under the direct control of a Minister, is the acquiring authority, it is difficult to see how this right of review will provide much comfort to a dispossessed owner. However, in many cases, authorities are local government authorities or statutory authorities.

The right of review mechanism will provide some benefit in those cases, because it will not be an appeal from Caesar to Caesar but, rather, an appeal to a Minister in respect of some decision of which the Minister may be unaware. It will mean that a person whose land will be the subject of an acquisition has the opportunity to lay before a responsible Minister some case for not proceeding with the acquisition. The Minister is given power in his or her absolute discretion to review the decision. The Minister has power to conduct the review him or herself, or may request some suitable person to conduct the review on the Minister's behalf.

The merits of the proposed undertaking for which the acquisition relates cannot be called into question. That is a sensible provision. Land acquisition reviews should be strictly limited to the proposal to acquire a particular piece of land. Landowners should not have the opportunity to require the conduct of a mini Royal Commission into some proposal, for example, the building of a highway or a bridge, the laying of a railway line, the building of a dam, or some other major public works. The question for review is whether or not the particular piece of land ought to be acquired. Those whose land might be affected do not have any greater standing than the rest of the community to require a Minister to undertake a review of the whole proposal. To allow dispossessed landowners that right would undermine effective Executive administration.

The Bill contains provisions which will require the Minister to act expeditiously. In fact, the review must be made within 14 days of the Minister's receipt of the application. The Bill does not specifically empower the Minister to extend the time for review, and it is possible that, in practice, 14 days might be found to be too short a time. If that is the case, appropriate amendments can be introduced. The other important provision which is appropriate in the circumstances is that a Minister's decision is not subject to judicial review by any external court or tribunal. Again, it seems inappropriate to have process under the Land Acquisition Act turned into an examination of the decision of government to acquire.

It is interesting to note that rights of review of this kind exist in some other of the legislation under compulsory acquisition in other States and Territories. The most highly developed mechanism appears in the Northern Territory Land Acquisition Act 1978, which lays down a prescribed pre-acquisition procedure and which gives the Lands Acquisition Tribunal power to conduct a pre-acquisition hearing. In such a hearing the tribunal is required to consider, on the evidence placed before it, whether the proposal in respect of which it is conducting a pre-acquisition hearing should be implemented by the acquisition of the land proposed to be acquired or whether it should be modified or abandoned. I recall a case in which the Northern Territory Government proposed to establish a new gaol on a pastoral lease south of Alice Springs.

The holder of the lease objected to the establishment of the gaol on that lease for various reasons, which were clearly arguable. The mechanism was, in my view, somewhat cumbersome. In the event the matter was, as I recall, settled, so that the tribunal was not required to make a particular determination. It is also interesting to note that, in the Public Works Act of New Zealand, the Minister or local authority which proposes to acquire land may publish a notice calling on every person directly affected to set forth in writing any objection, and a public hearing is held unless an objector otherwise requires. That appeal board was constituted on earlier legislation under the Town and Country Planning Board, but I am not aware of any cases under the New Zealand legislation that would throw any light upon the subject of the currently proposed amendments.

In conclusion, the proposal to give citizens a right of review under the Land Acquisition Act is a reform and an improvement. It gives to persons rights which they do not

currently enjoy. The Bill is to be commended, as is the Attorney for bringing it forward. I support the second reading.

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

[Sitting suspended from 12.33 to 2.15 p.m.]

MULTICULTURALISM

A petition signed by 54 residents of South Australia concerning ill-informed sentiments expressed by a federal member of Parliament and praying that this Council will strongly urge the Prime Minister of Australia to take note of the matters raised herein and give a firm commitment that the Australian Government will uphold the principles of multi-culturalism and denounce racial discrimination which could divide the Australian community was presented by the Hon. Bernice Pfitzner.

Petition received.

HOMOSEXUAL/BISEXUAL LIFESTYLE

A petition signed by 39 residents of South Australia concerning homosexual/bisexual lifestyle and praying that this Council will instruct the South Australian Department of Education to prevent pro-homosexual groups such as PFLAG from disseminating in South Australian schools false information which may encourage students to experiment with this dangerous lifestyle was presented by the Hon. R.I. Lucas.

Petition received.

DIAGONAL ROAD-MORPHETT ROAD INTERSECTION

A petition signed by 405 residents of South Australia concerning traffic congestion at the intersection of Diagonal Road and Morphett Road and praying that this Council will re-order transport planning priorities to bring forward plans to build a railway crossover at the intersection of Diagonal Road and Morphett Road was presented by the Hon. T.G. Cameron.

Petition received.

WARRADALE RAILWAY STATION

A petition signed by 377 residents of South Australia concerning Warradale Railway Station and praying that this Council will give a high priority to providing an alternative means of crossing the railway lines at Warradale Railway Station was presented by the Hon. T.G. Cameron.

Petition received.

LIBERAL PARTY LEADERSHIP

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of the ministerial statement made by Premier John Olsen this afternoon in another place on the subject of portfolio arrangements.

Leave granted.

QUESTION TIME

EDUCATION, BONUS POINTS

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

Leave granted.

The Hon. CAROLYN PICKLES: The Opposition has received a copy of a paper presented to the Senate of the University of Adelaide which shows that the fall in retention rates and the decrease in the number of students completing publicly examined subjects for year 12 has resulted in a crisis in the number of students seeking courses at the university. The paper says:

> There has been a marked decline in enrolments and subjects which the university has specified as prerequisites either for admission to courses... '

It goes on to say:

> Of particular concern are a number of science subjects—maths 1, maths 2, physics and chemistry—which have experienced reductions in enrolments of between 30 per cent and 40 per cent in the last four years.

The paper also says:

> It is inescapable that the number of maths-science students, and particularly the double maths cohort, has fallen to a dangerously low level, if the State is to have an adequate supply of teachers, computer scientists, information technologists and engineers.

The paper says that as a result of this decline of students in these courses, the three South Australian universities are considering giving bonus points to students who undertake particular year 12 subjects. My questions to the Minister are:

1. Has the Minister taken any action to address the matter of the falling number of students undertaking science and language subjects at year 12 level and, if so, what is that action?

2. Does the Minister agree that the solution to this problem is for universities to offer bonus points to increase the number of students undertaking these subjects?

3. Will the Minister now agree to a full and public inquiry into the operation and outcomes of SACE?

The Hon. R.I. LUCAS: This issue has been raised by the Hon. Mr Elliott on a number of occasions before in this Chamber, and I refer the honourable member to the answers I have given in the broad to the Hon. Mr Elliott. I have written to the Vice-Chancellors of the three universities expressing the view of the South Australian Government that we certainly would be concerned at any actions which might ensue in South Australia which may result in a shortage come the turn of the century, when there is likely to be a need for a significant number of new teacher graduates leaving our universities. We would be concerned if any action taken now or in the coming year or so contributed to that. We acknowledge that some of the Federal policy changes within which the universities are having to operate at the moment may create particular concerns and difficulties for the universities. Again, that is an issue that the Hon. Mr Elliott has addressed in relation to the proposed operations of the HECS scheme, in particular, and university entrance.

As to the third question, there are certainly arguments both for and against the bonus point arrangement. I think there is a somewhat simplistic view that just giving bonus points will solve the problem. That is certainly not my view, because it

is not just an issue of what bonus points might be given to a year 12 student: it is whether or not a year 12 student, having completed year 12, then chooses to enter a particular tertiary course. Year 12 students, on my experience, do not choose teaching, law or medicine as a career solely on the basis of whether or not maths 2 or languages has a bonus score. They choose those careers for a variety of other reasons.

So, bonus points may or may not be part of a possible solution; it is certainly not going to be the solution in itself. It is a decision for the independent universities to make. One or two universities in Victoria have gone down the path of the bonus point process. I know that the University of Adelaide has been considering the option of a bonus point system for maths and for languages but, in the end, whilst that might increase the number of students who undertake maths and languages at year 12, it is then another step to encourage those people who have undertaken study at year 12 to then choose teaching as a career, as opposed to medicine, law or engineering, or a range of other options. I would advise those people who have a simplistic view that imposing a bonus point arrangement by the universities will solve the problem to think again, because it will not be the total solution.

The honourable member is now calling for a full and open inquiry into SACE, but this seems to be a moveable feast. The honourable member called for a review of SACE for some time and I advised her on a number of occasions that the Senior Secondary Assessment Board of South Australia was conducting what it calls an improvement strategy or a review of the South Australian Certificate of Education. Now that the honourable member has had that response, she has decided to call for a full and public inquiry into SACE.

The Senior Secondary Assessment Board process is open: it is not a closed, confidential session. If the honourable member or any member of the public wants to make a submission to the Senior Secondary Assessment Board, I am sure she could do so. I am not sure what the process is for someone who is not associated with a school, but I am sure that, if people wrote to Dr Jan Keightley, who is the Chief Executive of SSABSA, she would ensure that their views were considered as part of the review process.

This would result in a significant degree of duplication, given that the Senior Secondary Assessment Board is going through a public consultation and a review of SACE. It is being carried out in component parts so that all of it is not unnecessarily delayed. The process with the component parts is to take some two years. Reports will be presented on each component as the results of each individual working party come to hand. For the Minister for Education to establish an independent, full and public inquiry into SACE at the same time would be foolhardy and would involve a significant degree of duplication. Therefore, as Minister, I reject the notion that is now being suggested by the Leader of the Opposition in relation to this issue.

The Hon. Carolyn Pickles: When will we get the results of the review?

The Hon. R.I. LUCAS: I have already answered that. If there are any other aspects of the three or four questions to which I have not responded, I will bring back a reply as soon as possible.

GRAPE PICKERS

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Industrial Affairs, a question concerning the recent investigation into working conditions of southern grape pickers.

Leave granted.

The Hon. R.R. ROBERTS: Earlier this year I raised a number of concerns about the pay rates and working conditions of southern seasonal grape pickers after receiving numerous complaints. These complaints included: pickers not being told what they would be paid before starting their day's work; pay rates as low as 45¢ for filling a 10 kilogram bucket; first aid equipment not being provided to contractors, with one picker being told to put his fingers in the soil after he had cut himself; pickers having to supply their own snippers; and toilets and drinking water not being provided to workers. I am sure that members would find those working conditions disgraceful.

Eventually, the Minister for Industrial Affairs (Hon. Graham Ingerson) was prompted into action, ordering an investigation into the pay and conditions of grape pickers. He vowed that all parties would be interviewed as part of the investigation to ensure that no-one was being exploited. In this week's *Southern Times* Messenger, it has been revealed that no grape pickers were interviewed as part of the investigation. The article states:

> Industrial Affairs Department Chief Executive Officer Matthew O'Callaghan says that no grape pickers were interviewed as part of the investigation. 'The investigation quickly established that they [pickers] were not covered by an award', he said. 'Interviewing one or 100 pickers would have not changed the facts.' After more than six months of demanding the investigation report be released under the Freedom of Information Act, a copy was finally provided to the *Southern Times* Messenger earlier this month. It was only released after the Ombudsman's office intervened, saying there were no reasons for it to remain confidential.

I also note in the same paper, on page 4, that there is a call from the United Trades and Labor Council's Assistant Secretary Jude Elton asking for an award to be established of general application to cover all those workers not covered by an existing award. She then expands on some of the issues relevant to grape pickers. I am certain that this would not be a big task as the Australian Workers Union covers grape pickers in this industry under other awards and enterprise bargaining seems a matter of course.

In the interests of natural justice, I find it totally unacceptable that the investigation failed to check the facts from both parties in this dispute. My questions are:

1. After vowing that all parties would be interviewed to ensure that no-one was being exploited, why were grape pickers completely ignored in the Department for Industrial Affairs investigation?

2. Does the Minister still consider this to have been a balanced investigation?

3. What steps will the Minister take to ensure that grape pickers will be protected from similar pay and conditions in the future?

4. Will the Minister introduce an award to cover all workers not covered by an existing award and, if not, why not?

5. Will the Minister release a full report publicly of these investigations and, if not, why not?

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

POLICE FORCE

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Education

and Children's Services, representing the Minister for Police, a question on the Police Force.

Leave granted.

The Hon. G. WEATHERILL: It was recently reported in a newspaper article that there would be changes to the character of Police Force personnel to bring about a much greater number of women, a greater ethnic diversity and an increase in university graduates. At the time, I did not think much about it until it was reported to me that these policy changes may have made it more difficult for big, strong people to be accepted into the Police Force.

Members interjecting:

The Hon. G. WEATHERILL: Have a look around. That is despite these people being able to show their intelligence, fitness and commitment to the ideals of the Police Force. It is very difficult these days to find a policeman when walking around the streets of Adelaide but, when I did, I noticed that there were not too many big policemen on the beat.

Members interjecting:

The Hon. G. WEATHERILL: Very, very few.

Members interjecting:

The PRESIDENT: Order!

The Hon. G. WEATHERILL: I am saying police officers. I have raised this issue because I know of one person who has tried to get a position in the Police Force. He has done all the required courses but he has found it very difficult to enter the Police Force. My questions are:

1. Precisely what changes have taken place in the Police Force entrance criteria over the past three years?

2. Does the South Australian Police Force currently have a policy of increasing the proportion of women, ethnically diverse and tertiary educated members of the Police Force and, if so, what entrance criteria have been established to implement these policies?

3. Could such criteria be challenged under the Equal Opportunity Act? The Attorney-General might like to comment on that.

4. To what extent have the changed policies or changed entrance criteria created a bias against male applicants of larger than average size?

The Hon. R.I. LUCAS: I could use a couple of one-liners, but I will not. I will be pleased to refer the honourable member's question to the Minister and bring back a reply as expeditiously as possible.

HINDMARSH ISLAND BRIDGE

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Attorney-General a question about the Hindmarsh Island bridge inquiries.

Leave granted.

The Hon. SANDRA KANCK: The Hindmarsh Island bridge affair has a lengthy and convoluted history. Support for the construction of the bridge by the major Parties has chopped and changed and a series of inquiries has been conducted. It should be put on the record that the Saunders report remains the only inquiry to have had complete access to the information relating to secret women's business. That report's finding of the spiritual significance of Hindmarsh Island provided the basis of the then Federal Minister's 25 year ban. The South Australian royal commission conducted by retired Supreme Court Judge Iris Stevens found that secret women's business had been fabricated to obtain a declaration under the Federal Act to prevent construction of the bridge, but the commissioner based her finding almost exclusively on evidence from a very small minority of Ngarrindjeri women and a number of male academics. Almost all Ngarrindjeri people chose not to give evidence, preferring to await a second Federal inquiry, given that they believed that the royal commission was an inquisition into their spiritual beliefs.

That inquiry was commissioned by the former Federal Labor Government and conducted by Justice Jane Matthews. Justice Matthews's inquiry could not in the end be used by the new Federal Minister for Aboriginal Affairs, John Herron, due to a breach of the doctrine of the separation of powers, and it had already been compromised by the Minister's refusal to appoint a female Minister to read the final report. Consequently, evidence pertaining to secret women's business was withdrawn and another inquiry dealt with only a portion of the evidence. Despite being hamstrung, Justice Matthews conducted a revealing inquiry and made a number of telling observations that cast serious doubts on the findings of the royal commission. The royal commissioner concluded:

> The Seven Sisters dreaming story...was never part of the dreaming of Ngarrindjeri people. It was part of western desert mythology and is likely to have been introduced by Doreen Kartinyeri.

She failed to explain why the Seven Sisters dreaming, which is common to Aboriginal women across the country, is isolated from the knowledge of one small group in Australia. Justice Matthews found:

> There is considerable material, much of it unearthed for the purpose of this report, which directly refutes the royal commissioner's findings on this matter. Reference to the Seven Sisters dreaming story in Ngarrindjeri culture can be found in several sources, some of which go back a long time.

Justice Matthews further states:

> There are undoubtedly gaps in what is known of the Seven Sisters dreaming story and the sacredness of the waters of the Goolwa Channel, but I nevertheless think that Betty Fisher's version of the story reveals enough to enable the connection to be made between the story and the significance of the area.

While Betty Fisher's evidence was dismissed out of hand by the royal commissioner, Justice Matthews found that some of the paper on which Betty Fisher wrote her notes relating to the issue of secret women's business dates to the late 1960s or early 1970s. In a paper that was presented to the Australian Anthropology Association conference in Albury at the beginning of October, anthropologist Steve Hemmings makes this observation:

> Philip Clarke [who was an expert witness to the royal commission, by the way] arrived at this conclusion in his evidence to the commission, although his PhD thesis contains several references to Ngarrindjeri people holding beliefs associated with the Seven Sisters—

The PRESIDENT: Order! I think the honourable member is now debating the subject rather than giving a brief explanation for her question. She should conclude her explanation and ask her question.

The Hon. SANDRA KANCK: I will do that very quickly, Sir. So, Mr Stephen Hemmings has shown that Philip Clarke, who was an expert witness, has in the past given references that show that he knows that the Seven Sisters dreaming was associated with the Ngarrindjeri people. My questions to the Attorney-General are:

1. Does the Attorney-General acknowledge the veracity of the Matthews report?

2. Does the Attorney-General acknowledge the discrepancies between the findings of the Matthews report and the South Australian royal commission?

3. Does the Attorney-General believe that the evidence uncovered during the Matthews inquiry and subsequent information presented to the Australian Anthropology Association conference in October and information published in edition 48, 1996 of the *Journal of Australian Studies* contradicts Royal Commissioner Stevens's finding that secret women's business was a recent fabrication?

4. Does the Attorney-General believe that sufficient doubt is created by the discrepancies in evidence and findings by the royal commission and Matthews inquiry to necessitate the convening of another inquiry?

5. Is the State Government still bound by its contract with Built Environs to construct the bridge? If so, what would be the penalty for breach of contract for not proceeding?

6. Is the Government liable for any damages to any other party in respect of not proceeding with the construction of the bridge? If so, what is the likely extent of those damages?

The Hon. K.T. GRIFFIN: The honourable member is casting around trying to find some justification for the activities of those who sought to frustrate the building of the bridge. It is all very well to selectively quote from particular reports and to use that as evidence to support one's argument, but the fact is that the royal commission heard evidence from a wide range of people, particularly those who attended a variety of meetings at which those who refused to give evidence also attended. One should seek to make a decision based on all the evidence and not selectively weigh certain evidence against other evidence from other sources. So, the Government does not acknowledge that there is any deficiency in the report of the royal commissioner.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: The Hon. Mr Elliott again selectively seeks to use parts of other material to undermine the royal commission report. The Democrats can never live with or come to terms with the fact that there was an open inquiry before the royal commissioner, who bent over backwards to ensure that there was proper evidence. The so-called dissident women gave evidence. You have to remember that they were at all the meetings at which the proponent persons were present, and the royal commissioner found that the dissident women were women of character and credibility. The opportunity was given to those who did not support the views of the so-called dissident women to give evidence, but they declined to do so.

The report of the Matthews inquiry is out in the public arena, but one has to acknowledge that the High Court has determined that the Federal Minister is not able to rely on that report. The Democrats and the Labor Party in Canberra seem to be seeking to frustrate the passing of legislation in the Federal Parliament to allow the building of the bridge to continue. As Mr Ralph Clarke, the Deputy Leader of the Opposition, said, they ought to put it all behind them and let us get on with the job. Unfortunately, some of his own Federal colleagues are not prepared to accede to the statements which Mr Clarke has been making.

So, as far as the Matthews report is concerned, whilst it is in the public arena, in terms of Senator Herron's ability to rely on it, the High Court has already made a decision. Although the Labor Party in Canberra says that the Commonwealth Minister can do certain things without passing a Federal Act, there is adequate law and evidence to indicate that that is a totally wrong assessment of the evidence. So, as far as the last question is concerned, about the Government's legal position, I indicated in an answer some time ago to the Hon. Mr Holloway that I do not intend to debate in the public arena the pros and cons of the Government's legal position. To do so would telegraph to those who would wish to undermine what we may or may not be seeking to achieve.

No-one could believe that it is in the interests of the taxpayers and other citizens of South Australia that I telegraph to the public at large what our technical and legal positions might be if certain circumstances occur. I have indicated previously that we are not prepared to move until the legislation passes through the Federal Parliament, but it is the earnest wish of the State Government that the bridge be built.

The Hon. SANDRA KANCK: As a supplementary question, has the Attorney-General read all of the Matthews inquiry report? If I provide the Attorney-General with a copy of Steve Hemmings paper to the Australian Anthropology Association Conference, will he read it?

The Hon. K.T. GRIFFIN: I am not sure what a paper to an anthropology conference has to do with this issue. There are many papers written by people, some eminent and some not, who all claim to be authorities. Of course, if you put them end to end they would reach around Australia. There are all sorts of papers upon which people seek to rely on either for or against a particular argument. If the honourable member makes the paper available, at this stage I cannot guarantee that I will be able to read it. So far as the Matthews report is concerned, I have read a substantial portion of it and have had a good assessment made of it for the purposes of the interests of the State.

AUSTRALIAN NATIONAL

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

Leave granted.

The Hon. P. HOLLOWAY: Yesterday, the Minister for Transport told the Council in answer to a question from the Hon. Terry Cameron in relation to the use of the State Government's veto powers under the railways transfer agreement that arbitration remains an option. Once the privatisation of Australian National railway services takes place, how does the Minister intend to preserve the rights of the State Government now enshrined under the railways transfer agreement to force any rail closure proposal to arbitration?

The Hon. DIANA LAIDLAW: By using the terms of the railways transfer agreement.

MIMILI SCHOOL

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about the Mimili school.

Leave granted.

The Hon. R.D. LAWSON: Yesterday, the Hon. Ron Roberts informed the Council of what he described as 'the facts' relating to asbestos at Mimili school and Hillcrest school. He accused the Minister of 'unevenhandedness of treatment' between those two schools. He alleged:

> When one compares the treatment handed out to Aboriginal children in out-of-the-way Mimili with the treatment given to white children in the metropolitan area, under the full gaze of the popular press, one can see the hypocrisy...

He went on to say that this was 'racist'. Did the racial origin of students at either Mimili or Hillcrest play any part in the decisions made by the Minister or his department in relation to those schools?

The Hon. R.I. LUCAS: I was not in my chair yesterday afternoon when the Hon. Ron Roberts took the opportunity—

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: He did not have the courage to ask me during Question Time because last time he received a fearful beating. Yesterday, he did not have the courage to put the question to me when I was in the Chamber but took the opportunity during the grievance debate to make a series of claims and accusations about my approach to Mimili and Hillcrest. I have been in this Chamber for 13 or 14 years. On a number of occasions I have been a willing participant in vigorous political debate. Frankly, the Deputy Leader of the Opposition's performance yesterday was beneath contempt. It was the first occasion in all my time in Opposition or as a Minister of the Crown that I have ever been accused of being a racist. I reject it emphatically. I object to the fact that a member of this Chamber would stoop to such contempt, get down in the gutter and accuse me of being a racist in relation to these issues.

I have no problems with the member—as he has on a number of occasions—having the courage to ask questions in Question Time and challenge the administrative decisions that I and officers of my department take. I am the Minister, so I will cop that. However, it is cowardly and beneath contempt that the honourable member should attack me in this way. I do not believe that any other member of his Party, the Democrats or my Party—whatever they might think of the difficult decisions I have taken—would honestly accuse me of being a racist. I take exception to it. If the Deputy Leader of the Opposition has any integrity at all, he will publicly apologise for that accusation. I thank two members of his Party in this Chamber who spoke to me this morning and dissociated themselves from the Deputy Leader of the Opposition's comments and apologised for his actions yesterday afternoon. I thank those members. They know who they are, and I do not intend to identify them. I thank them for their integrity and for the fact that they are not prepared to be associated with the Deputy Leader's comments.

I placed on the public record the differences between Mimili and Hillcrest. I want to refer to two or three further short examples of significant differences in relation to the situation at Mimili and at Hillcrest. Yesterday, the Deputy Leader of the Opposition said:

> The teachers at Mimili school decided to evacuate the children from the building, and notified the Education Department.

The Deputy Leader of the Opposition knows that that is just not true; he has been told on three separate occasions that that is not true. This was a new building, a vacant building, that was transported to Mimili. It was not being used at all by students or staff. It was being made ready for use and expansion at the school. The Deputy Leader of the Opposition said in this Chamber yesterday that the decision had been taken to evacuate the children from the building. He knows that that is not true. Yet he stood up in this Chamber yesterday in a cowardly fashion and made those claims for political purposes. The difference at Mimili was that the building was not inhabited. Yesterday, the Deputy Leader of the Opposition indicated that a direction was given to the teachers at Mimili to reverse their decision.

I have indicated to the Deputy Leader of the Opposition that the decision was taken by the Coordinating Principal, whose name I have revealed previously. The decision was not made by me as Minister: the Coordinating Principal took the decision. I support the Coordinating Principal's decision, because he was on location and knew what was in the best interests of the students. He took the decision that the safest place for the students and staff was in separate rooms where there was no question of asbestos. He did not leave them out on the oval, because there may well have been an issue in that respect. The Coordinating Principal ensured that the rest of the school day was completed with students and staff in the same building but in different rooms.

The difference at Hillcrest, on the advice which was given to me and which I shared with the Chamber yesterday, is that the buildings about which the complaint had been made were buildings that students, in particular young girls, had to use on a continuing basis. Students had to continue to use them. It was not an empty building, not a vacant building. It was a building that students, particularly young girls, had to use on a continuing basis throughout a day. That was the difference. I do not intend today to highlight a number of other significant differences between the situations at Mimili and Hillcrest. I have no objection, even though I disagree—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: Just listen—with the honourable member's judgment of these situations, if he takes a genuine difference of opinion with my administration as a Minister. But when the honourable member moves beyond that, in a cowardly fashion, to accuse me of being a racist—and it was for that reason the honourable member took a different opinion with the way I handled the situation—then that is beneath contempt. I have had a long time in this Parliament and I can recall very few occasions when I have felt the way I do at the moment and yesterday afternoon when I was advised of the claims and statements the Deputy Leader of the Opposition had made about me.

As I said, if the Deputy Leader has any shred of integrity, I await a public apology in this Chamber for the claims he made yesterday. Let him continue to make his accusations about how the policy was administered, but he should at least have the courage, in front of his colleagues and my colleagues, to withdraw that cowardly accusation that, as a Minister and as a person, I am a racist.

The Hon. L.H. Davis: Apologise now.

Members interjecting:

The PRESIDENT: Order!

WAGES

The Hon. T. CROTHERS: I seek leave to make a precied statement before asking the Attorney-General, representing the Minister for Industrial Affairs, a question about wages.

Leave granted.

The Hon. T. CROTHERS: Recently a new report by a team of respected economists—and the words 'respected economists' appear in this statement via an article in the Australian *Financial Review* of Wednesday 6 November this year—found that growing wages dispersion in Australia will undermine productivity and efficiency in the longer term, driving the economy down. A low wage, low productivity road, argues the same report, will in fact drive the economy down. This report, by Dr Roy Green and colleagues at the University of Newcastle's Employment Centre, challenges

the orthodox neoclassical economic view that award wage rises reduce employment growth, and that comparative wage justice has no place in a decentralised wages system.

The report, amongst its many findings, asserts that the Industrial Relations Commission, in its present hearing of the ACTU's living wage claim, if it rejects that claim, risks institutionalising a two tier wage structure between organised workers able to secure big pay rises through bargaining and award workers trapped in a low pay ghetto. This report further asserts that growing earnings inequality will create in workers a perception of unfairness that undermines morale and productivity, and further that, contrary to the economic rationalist view of the operation of the labour market, fairness is a force that can only be suppressed to secure short term efficiency gains at the cost of major system wide efficiency losses and disruption in the longer term.

I do not want to express a personal opinion. I see some members on the Government benches sniggering, but I assure members that what that report asserts is what happened at the brewery during my period of employment there—and that remark is not from someone who worked part time as a conductor on the Ghan: it is from someone who was actually at the coal face of real work. The real question is not whether comparative wage justice should be allowed to operate, but rather how it should be accommodated within the whole structure of enterprise bargaining and work place reform to achieve stable and orderly pay determination.

Dr Green and his colleagues also reject the notion that lifting award wage rates will kill employment, saying that this rests on a static view of the economy where there is no output or productivity growth. I further note that both the Prime Minister and his Federal Industrial Relations Minister, Mr Reith, have indicated that the present Federal Government will, in fact, support increases of $8 per year over the next three years for low-paid workers. My questions are:

1. Has the Minister read the report of Dr Green and his colleagues to which I have referred?

2. Does he agree with it and, if not, why not?

3. Does he believe that if the Federal Government's offer is accepted and that low-wage workers receive $8 per year over the next three years this section of the work force will see their purchasing power decline even further over the next three years?

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

ADELAIDE FESTIVAL

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking—

Members interjecting:

The Hon. ANNE LEVY: This will be brief.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for the Arts a question about the annual report of the Festival.

Leave granted.

The Hon. ANNE LEVY: The Minister, on at least two occasions, reassured the Council that she would be tabling in the Council the annual report of the Adelaide Festival. I have checked with the clerks, who have indicated that no copy of the report from the Festival board has yet been tabled, though I am also informed that the board of the Adelaide Festival authorised production and distribution of its report at least six weeks ago. In fact, it is freely available to anyone who approaches the Adelaide Festival. I presume that a copy has been sent to the Minister and she has been sitting on it for about five weeks, without bothering to table it in the Parliament as she promised she would do.

I have obtained a copy of this report. It is a remarkable 10 page document that never once mentions any financial outcome of the Festival. There is no financial information whatsoever included in this annual report. I understand that quite a number of business people are members of the board of the Adelaide Festival, and I cannot imagine that any one of them would authorise an annual report for any of their businesses which contained no financial information. It would be quite against the rules of the Stock Exchange in the first place. Even where that is not required—and I am sure the Hon. Mr Davis would back me up—no private company would ever put out an annual report containing no financial information at all. My questions to the Minister are:

1. Has the Minister received a copy of the annual report of the Adelaide Festival?

2. When will the Minister table it in Parliament seeing that reports of Government agencies must be tabled in Parliament within six sitting days of the Minister receiving them?

3. Has the Minister referred it back to the Festival board to ensure that a proper annual report is presented containing the appropriate financial information, balance sheets and income and expenditure statements?

The Hon. DIANA LAIDLAW: The financial accounts are available to the honourable member and all members of Parliament in the report of the Auditor-General for the year ended 30 June. I am sure the honourable member has taken an opportunity to look at that as signed off by the Auditor-General and published and presented on 1 October. In the meantime, I have received and ensured that the honourable member received a copy of the annual report—at least that was my request to the board, that a copy of the annual report be forwarded to the honourable member because of her interest.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: I am sorry that it was not, because that was the request I made because there was nothing to hide. There is nothing to hide about the outcome: that has been fully disclosed by me. As I said, the audited accounts have been presented by the Auditor-General. I will table a copy simply for the interest of members of Parliament. There is no requirement on me as the Minister to table it, as I am required to table various other annual reports in the arts or transport area, but, as I have said I would do so, I certainly will. As I indicated, when I received it I made inquiries to ensure that the honourable member received a copy, too. I am pleased that the honourable member now has such a copy.

DUCK HUNTING

The Hon. M.J. ELLIOTT: 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 duck hunting.

Leave granted.

The Hon. M.J. ELLIOTT: In March this year I asked the Minister about his decision to allow the continuation of recreational duck hunting in South Australia. As part of his response he said that his animal welfare advisory committee had advised him of its opposition to the hunting of any animal

for sport. I have been told that the answer ignored the fact that the chairman of the committee (Dr Mary Barton) wrote to the Minister on 3 February with a very specific recommendation to ban duck hunting as a sport on the grounds that there was good evidence that wounding rates were higher than generally acknowledged. The letter, obtained under freedom of information, states in part:

> AWA was concerned that it is obvious that far more ducks are wounded than is generally acknowledged, and so the pain and suffering...is clearly even greater than previously acknowledged.

The Minister's response about wounding rates of birds also underestimates the number of birds wounded. It appears to be contrary to evidence that he received from his Director of Natural Resources on 15 February, which acknowledges higher wounding rates, including figures of five to eight ducks crippled for every 10 ducks bagged. There is concern that the Minister's response to my previous question fails to acknowledge evidence that he has received from the AWA and the Director of Natural Resources about the high wounding rates of ducks, as he implies that the evidence of duck wounding is only based on a computer model. My questions to the Minister are:

1. Can the Minister confirm that he has received a specific recommendation from the AWA in relation to the banning of recreational duck hunting on the grounds that there was good evidence that wounding rates were higher than generally acknowledged?

2. Does the Minister acknowledge that he has received other evidence, including evidence from his own Director of Natural Resources, aside from computer modelling in relation to the wounding rates of ducks?

3. Will the Minister make available to this Parliament all evidence that he has received on the subject?

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

EDUCATION, BONUS POINTS

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

Leave granted.

The Hon. P. NOCELLA: I realise that part of my question, to some extent, has been covered by an earlier question, but I still wish to pursue this matter on the basis of different evidence. The dramatic drop in year 12 language enrolment numbers has been a source of serious concern for educators and language teachers alike for some time now. In his report delivered to the Minister in August 1995, Joseph Lo Bianco includes amongst his recommendations the adoption of a bonus points scheme for languages. This is a scheme that has been in operation in Victoria for several years where it was adopted by all Victorian universities. By adopting such a scheme a significant increase in language enrolments—both at school and at university level—was achieved.

Recently in South Australia, the efforts of those who have for years been advocating the introduction of a bonus points scheme for languages in our universities were rewarded by the University of Adelaide showing its willingness to introduce such a scheme for both languages and mathematics. Strong support for such a proposal was shown almost universally by educators, parents and teachers' organisations and advisory bodies such as the Minister's own Multicultural Education Coordinating Committee as well as the Ethnic Schools Board. It is against this background that the reaction shown by SSABSA is so thoroughly disappointing when it, through its Chief Executive (Janet Keightley), poured a considerable amount of cold water on a proposal which had been hailed universally as a major breakthrough.

In expressing concerns about the proposed bonus points scheme of the University of Adelaide, and by suggesting that even further investigative work be carried out, SSABSA is not only ignoring the substantial body of experience gained over a number of years in Victoria but also the wishes of a vast body of experts and educators as well as the specific recommendation contained in the Lo Bianco report. The predictable outcome can be at best a further delay in the introduction of the bonus points scheme and, at worst, the dumping of the scheme into a too hard basket.

Will the Minister intervene as a matter of urgency and ensure that SSABSA provide constructive support for the adoption of a bonus points scheme for languages at the University of Adelaide—and subsequently at the other two universities—instead of persisting with its obstructive stance against what is considered by many to be the single most important initiative to combat the decline in language enrolment numbers?

The Hon. R.I. LUCAS: I think the honourable member does not adequately understand the process which he has just outlined to the Parliament. There are two issues. First, as Minister by law I am not able to intervene with the Senior Secondary Assessment Board of South Australia. It is a completely independent statutory authority, independent of the Minister of the day, the Government of the day, and cannot be directed by the Minister for Education in relation to this issue or any other issue. The second issue is that whatever view the Senior Secondary Assessment Board of South Australia expresses, it too cannot direct, control or, ultimately, in the end, directly affect independent decisions taken by the universities on bonus marks for languages, or, as the Leader of the Opposition referred to earlier, maths and science subjects as well.

It, together with all the other bodies to which the member has referred—the Multicultural Education Coordinating Committee, the Ethnic Schools Board and indeed everyone else—can express a view to the University of Adelaide about whether or not they agree with it but, in the end, that cannot directly affect the independent decision to be taken by the council of the University of Adelaide. It would have to be weighed up with all other views put to the University of Adelaide. I certainly acknowledge that the University of Adelaide would place some weight on the view of the Senior Secondary Assessment Board of South Australia that might be put to it but, in the end, the council of the University of Adelaide, as it has demonstrated on a number of occasions, is able to, and can if it wishes, take a decision even though the Senior Secondary Assessment Board of South Australia has a completely different view.

Therefore it is not possible for me to undertake the course of action that the member has suggested. I can only suggest that the member, who clearly has a passionate view in relation to this issue, personally contact the University of Adelaide by way of a submission to express his view and perhaps also write to Dr Jan Keightley, the Chief Executive of SSABSA, to express his view about the SSABSA submission.

The final point that I would make—and it is a far too complicated and technical matter to discuss at length in the Chamber—is that the Senior Secondary Assessment Board

argues that the current scaling process already provides a type of bonus point system for students of the study of languages. If the member wishes, I am prepared to provide a copy of the SSABSA explanation of how that process works and how SSABSA believes that it already provides a bonus mark system for students of language. Part of the SSABSA argument, as I understand it, against further bonus marks is that they believe that that would be, in effect, a double bonus mark for students of languages who already are receiving—in SSABSA's view, anyway—some sort of bonus assessment as part of the scaling process. I would be happy to provide that further detail to the member if he so requires it.

INDUSTRIAL AND EMPLOYEE RELATIONS (TRANSITIONAL ARRANGEMENTS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).
(Continued from page 615.)

The Hon. R.R. ROBERTS: I rise to indicate the support of the Opposition for this Bill. These matters have been well canvassed in the other place and I am advised by my shadow Minister, Mr Ralph Clarke, that there is no objection and that this matter ought to be proceeded with as quickly as possible. Therefore, I indicate support without amendment.

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

WAITE TRUST (MISCELLANEOUS VARIATIONS) BILL

The Hon. K.T. GRIFFIN (Attorney-General): I bring up the report of the select committee, together with minutes of proceedings and evidence, and move:

That the report be printed.

Motion carried.

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

That the Waite Trust (Miscellaneous Variations) Bill be not reprinted as amended by the select committee and that the Bill be recommitted to a Committee of the Whole Council on Tuesday next.

Motion carried.

POLICE (CONTRACT APPOINTMENTS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 27 November. Page 602.)

Bill read a second time.
In Committee.
Clauses 1 to 3 passed.
Clause 4—'Substitution on ss. 6 to 9C.'

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

Page 2, after line 27—Insert subclause as follows:

(6) On making and notifying to the Commissioner a decision not to reappoint the Commissioner at the end of a term of appointment, the Minister must cause a statement of the reasons for that decision to be laid before each House of Parliament within six sitting days if Parliament is then in session or, if not, within six sitting days after the commencement of the next session of Parliament.

This is part of a package of amendments which were moved concerning altering the contractual arrangements between the Government and the Commissioner. The matter has been debated in another place, and I urge honourable members to consider the fact that not to reappoint constitutes a substantial change in the contract. I believe that this is a worthwhile amendment and I ask the Committee to support it.

The Hon. SANDRA KANCK: I indicate that, as a matter of consistency with the rest of the legislation, I will be supporting the Opposition's amendment.

The Hon. R.I. LUCAS: Having consulted the Minister responsible, I indicate that it is still not the Government's preferred position to see this particular series of amendments included in the legislation. However, I acknowledge that the numbers in this Chamber are not with the Government, and I understand that the Minister responsible for this legislation will consider the Government's position once it has left this Chamber and moves to the other place. I do not think the Government's position is that it will be the end of civilisation as we know it today if these particular amendments stay part of the legislation; but I will leave that final decision to the Minister for Police and he will be able to consider it when the legislation arrives in the House of Assembly.

Amendment carried.

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

Page 4, after line 27—Insert subclause as follows:

(3) On terminating the appointment of the Commissioner, the Minister must cause a statement of the reasons for the termination to be laid before each House of Parliament within six sitting days if Parliament is then in session or, if not, within six sitting days after the commencement of the next session of Parliament.

This completes the series of amendments. It is of the same tenor as the other amendment and I ask for the Committee's support.

The Hon. SANDRA KANCK: Again, for the same reasons that I supported the earlier amendment from the Hon. Mr Roberts, we will be supporting this so that it is consistent with the rest of the legislation.

The Hon. R.I. LUCAS: The Government's position remains the same.

Amendment carried; clause as amended passed.
Remaining clauses (5 and 6) and title passed.
Bill read a third time and passed.

FISHERIES (PROTECTION OF FISH FARMS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 5 November. Page 309.)

The Hon. R.R. ROBERTS: This matter was before this Chamber in the last session. I raised a number of questions during that debate and many of them have been answered by officers of the Primary Industries Department. I have also had the opportunity to talk to a great number of people, at their request mainly, about the considerations of this Bill. This Bill seeks to change principally the conditions of fish farms so that there is greater control by fish farmers over the property in which they are fish farming and it seeks to erect substantial legal barriers to the community's accessing those areas.

During my consultations on this Bill, I met with the tuna boat owners in Port Lincoln who are concerned for the future of their stock, and I understand that. They wanted a 250 metre exclusion zone around their fish farms. I do not agree that that is a reasonable proposition, and I told them that it was my opinion that the fish farms—in their case, tuna cages—

were the property of the fish farmer. The fish have been registered and paid for, and I consider them to be the property of the fish farmer. The fish cage itself is no different from any other vessel floating in the sea. It is not my view that anyone ought to be able to get on board those vessels or take any of the legally owned contents from them.

However, it is worth remembering that these are leased sites in the ocean, which these people now access under lease from the people of South Australia. It is a well-known principle, which is generally accepted in the community, that the waters belong to the community, and it is unreasonable to give exclusive rights to waterways and to the areas around floating structures so that the public cannot have access to them.

I have also had contact with the Streaky Bay District Council, which responded to my offer to that organisation to comment. That district is involved in oyster farming, and the council's view was that the structures and the frames, etc., were the property of the fish farmer. The sites cover significant areas and this Bill refers to the three sections of a site, and in some cases only one third is used at any one time. It was the belief of the Streaky Bay District Council that the public should not be excluded in those areas not being utilised for fish farming on any lease, and I can but agree with that.

This legislation reflects the Summary Offences Act in many cases. I have raised my concerns with a number of other people, including people who have made approaches to me from Coobowie, where there is a proposition for oyster farming to take place. I will comment further on that in a moment. In the other place, the Opposition supported the Bill but made a number of points. We are aware of the rapid growth of the aquaculture industry in South Australia and we are pleased that this industry, which the Bannon and Arnold Governments fostered in its infancy, is now growing at full strength. The Opposition is also aware of reported problems, particularly in the tuna farming industry, with recent losses of large numbers of stock because of adverse weather conditions and farming practices, and previous losses of stock which have been reported in the media as due to theft.

It is the 'due to theft' part that influenced this piece of legislation to a large extent. It has not been proven and, despite an enormous number of inquiries, I have not been able to ascertain that there has ever been one prosecution of anyone for interfering with a fish farm. There is a lot of anecdotal evidence that people are out there stealing fish. To my knowledge and that of the people to whom I have spoken, no-one has ever actually been caught and charged. In his second reading contribution, the Minister in the other place stated that the industry's concern about theft from aquaculture sites was the motivating factor in this Bill. The Minister for Fisheries also noted that the Fisheries Act currently fails to provide for an offence of theft from an aquaculture site, because the current offence of interfering with lawful fishing activities covers only the taking of fish and not fish farming. One might ask why the Minister did not simply amend section 5 of the Fisheries Act by including a new interpretation of 'fishing activity' to include the farming of fish. I say that, because the Bill before us seems to go overboard by placing in the Fisheries Act a new section which replicates much of sections 17(a) and 41 of the Summary Offences Act.

I have had the opportunity to talk privately with the Attorney-General, and he assures me that on the best legal advice available to him there are good reasons for that and that, in his contribution, if only by way of summing up, he intends to address those matters. I look forward to that. In the past, I have had good cooperation from the Attorney-General and, by and large, if the Attorney-General assures me that something is so, I am prepared to accept his assurance in good faith. It appears to the Opposition that problems with trespass and theft are well covered by sections 17(a) and 41 of the Summary Offences Act and that any particular problems with trespass and theft that are encountered by the industry could be addressed by the police prosecuting offenders using current legislation. I note that the penalties that apply under proposed section 53(a) of the Fisheries Act are identical to those currently existing under the relevant sections of the Summary Offences Act.

It looks like a dog, it barks like a dog, and I will be interested to know why it is not a dog. I would be pleased if the Minister would indicate whether there have been any attempts at prosecution for trespass or theft from agricultural enterprises under the Summary Offences Act (if not, why not); and, if there have been any prosecutions, what have been the outcome of those prosecutions. It seems to the Opposition that the tools are there to attack this problem, but perhaps those tools have not been fully utilised in the past. I would also be pleased if the Attorney-General would indicate the level of the problem with which we are dealing. It seems unusual to bring to this Parliament a whole range of new offences and penalties without having any idea of the extent of the problem with which we are trying to deal. I reiterate that, to my knowledge, there has been no prosecution, but I will welcome the Attorney-General's advice on that.

Finally, we are aware that the inclusion of the new section in the Fisheries Act will widen the net in relation to those who can police acts of theft or trespass within the aquaculture industry to include the South Australian Police and authorised Fisheries officers. I think it is worth noting that, given the cutbacks in the Inspectorate of Fisheries in South Australia, under the Fisheries Act every policeman is a Fisheries officer. I was present at a meeting chaired by the Chairman of the Scale Fish Committee, Mr Ted Chapman, where the question was asked why there were not more inspectors. The advice from his professional adviser was that there was really no need for more Fisheries inspectors because they could always call the police. If we are to do that I cannot see why we cannot rely on the Summary Offences Act, because that is the legislation under which the police operate and with which they are more familiar. This is probably the reason for the Bill, although it is unstated in the Minister's second reading contribution.

I acknowledge that I have also had good cooperation from the Minister for Fisheries and his professional officers, including Mr Don Mackie of the department, who has been quite helpful in answering a whole series of questions that I have raised. I also thank Mr David Hall for the responses that he has given me, and I will touch further on those. I also acknowledge the help, assistance and advice that has been provided to me by the Conservation Council of South Australia, particularly by Mr Peter Marchant, who specialises in fisheries areas for the Conservation Council. Many of his thoughtful contributions will not necessarily be reflected in this legislation but will certainly find their way into Opposition fisheries policies because of their soundness and commonsense approach.

The Opposition asked a number of questions, and I will put on the record those questions and the answers that were supplied to me by Mr David Hall. In respect of section 20 of the Fisheries Act, I indicated that I would wish to see the conservation and preservation objectives of the Act (sec-

tion 20(a)) more clearly defined. This could perhaps be achieved by the inclusion of a section 20(b), which could provide:

After the words 'distribution of those resources' insert the words 'within a demonstrated commitment to the principles of ecological sustainable development'.

I acknowledge that some of this information came as a result of consultation with others. The response I received from Mr David Hall, the Director, was:

Section 20 of the Act clearly obliges the Minister, the Director and various management committees to have as their principal objective: to ensure through proper conservation, preservation and fisheries management measures that the living resources of the waters to which the Act applies are not endangered or over-exploited.

In the view of Mr David Hall, the suggested amendment would muddy the waters and could lead to a weakening of the obligations already placed upon those charged with the management of the State's resources. The term 'fish farming' used in section 5 and throughout the Act and regulations should be replaced by the term 'aquaculture' to reflect the situation in these areas.

I received another answer from David Hall in respect of a larger question, but I am keen to get his answer on the record. He stated:

I note the comments regarding the definition of 'fish farming' and 'aquaculture'. Various organisations have defined these activities and a range of meanings has been ascribed to them dependent upon the purpose of the definition. For the purpose of the Fisheries Act 1982 the type of activities referred to in your letter has been defined as fish farming. The comments regarding linkages between the Fisheries Act 1982 and the development approval process are not valid. You state in your facsimile that the aquaculture committee approves development and issues a fish farming licence. This is not the case. The aquaculture committee approves a development application. There is a requirement under the Fisheries Act 1982 to have the Minister issue a lease/licence (section 53).

This grant is separate to the development approval, and the development approval does not automatically ensure that a lease/licence would be issued. There is also a further requirement for a permit to be issued under section 50 of the Fisheries Act 1982 to release fish into the waters of the State. This is also separate to the development approval process. It is my opinion that at this point in time it is not, as you assert, desirable to have a development approval and the licence for the same activity.

I respect the answer; however, I also reserve my position on that issue. Under section 35 of the Act, applications for a licence to conduct aquaculture in marine water should be limited to applications made by persons who are successful applicants at a competitive tender conducted in a manner prescribed by the regulations. This can be adjudged under the Scheme of Management (Miscellaneous Fisheries) Regulations, sections 9 to 16, regarding details of public tendering procedures for licences in that fishery. We also put to the department:

The applications that have been received for aquaculture licences and leases are from people who 'found out' that these leases were to be made available. There does not appear to have been any public notification or any call for applications. Applications are being dealt with on a first come first serve basis. It would appear that those in the know have had an unfair advantage over the rest of South Australians.

In his response to me, David Hall, as signatory, said:

Applications are, as you point out, processed on a first come, first serve basis. I reject the assertion, however, that any individuals have specific knowledge of what lease sites are to become available.

I wish to introduce information I have received from constituents at Coobowie Bay on Yorke Peninsula. My constituents at Coobowie Bay are concerned about the establishment of oyster leases in what they believe is a pristine location. Coobowie Bay is a picturesque bay which provides shelter for boats, recreational facilities and fishing and crabbing sites. It has been a popular place for holiday homes, and many people, including my principal constituent in this matter, have spent up to $200 000 on 'shacks', although my constituent on this occasion does live on his property. They do so because of the existing use of those natural resources and the pristine beauty of the sites in that bay.

I asked my constituent, Mr Steven Ruddock of 112 Beach Road, Coobowie, to provide an outline of what happened in his case. He has provided me with a briefing note of which I will put most on the record so that the Minister and his officers can respond as soon as possible to the concerns of Mr Ruddock and his family and those of the 300 petitioners who petitioned the Government. My briefing note informs me that early in March 1996 people found out about the oyster farming proposal locality and noticed the test site markets. Considerable discussion took place whereupon they spoke to a lot of people who also noticed what they believed was already an eyesore. Some people rang the council and were told that it was nothing to do with the council. This introduces another area of concern that has been raised with me by people as far away as Port Augusta and, indeed, by councillors in Port Lincoln who believe that councils ought to have some say in the development of aquaculture and aquaculture sites whereas it is proposed in this legislation that almost exclusive rights will be provided to fish farmers. They argue that they, in fact—

The Hon. Caroline Schaefer interjecting:

The Hon. R.R. ROBERTS: I will tell the honourable member what this has to do with it, but as a member who lives in the area she ought to know what is going on. I refer to aquaculture sites to which some people have exclusive rights to the exclusion of others. In many cases, councils have to deal with the problems of aquaculture. I refer to the tuna deaths in Boston Bay where tuna that had died on fish farms (to which people have almost exclusive rights) were cast into the water. The council was left with the job and expense of cleaning up about 60 tonnes of dead tuna. I understand the concern of councils about the right to have some say in the planning of fish farms in their localities.

The Hon. Caroline Schaefer interjecting:

The Hon. R.R. ROBERTS: If the honourable member can contain her enthusiasm long enough to listen, she will learn that the constituents of Yorketown forwarded a letter to the council suggesting that the location of the proposed fish farms was incorrect. They also provided a small petition of 163 names—which took only a few hours to collect—against this venture. In addition, they tried to obtain maps regarding the positioning of the farm and were told that they were not available to the public. This is a public estate. Information about the siting of a farm in a significant proportion of the bay was not considered advice that the public ought to be able to access. I find that strange, but the Hon. Caroline Schaefer obviously does not. The management plan states that this venture must be positioned where it will not directly affect tourism or change the scenic value. We must remember that this bay is a tourism and recreational area.

With 10 hectare sites—and I think there will be about six 10 hectare sites—of oyster racks, my constituents think that that will significantly change the aesthetics of the bay and, certainly, the visual pleasure they receive from looking at pristine waters rather than oyster cages. My constituent and many other concerned people contacted John Berggy of the

Fisheries Department who decided to visit Coobowie Hall for an information day on 16 May 1996. My constituent telephoned him before he arrived and requested that he bring maps showing the areas to be used for farming. It is reasonable to ask someone from the Fisheries Department to bring a map which shows where fish farms are intended to be sited. Mr Berggy arrived at the meeting with no maps. He said he did not know where the farms would be positioned. He informed my constituent that he had been inundated with objections to the proposed farms and that only a few people supported them.

My constituent sent him a personal submission and a petition of 17 pages. At that stage, 380 signatures from people against oyster farming in Coobowie Bay had been received. My constituent states:

> We were advised to do this by the Fisheries [Department]. Meanwhile, council put oyster lease applications through council, and even though there were so many people against Coobowie Bay being used for this venture, council still fully endorsed the draft management plan.

On the one hand council says it is not interested, and on the other it endorses a plan. My constituent continues:

> Some people, including myself, rang the Ombudsman with regard to a conflict of interest regarding...[an] Assistant District Clerk also applying for an oyster lease.

I understand that the State Ombudsman (Mr Biganovsky) is looking into that matter. The letter continues:

> Finally on 29 May 1996 there was a meeting at the Coobowie hall where 90 per cent of the people that attended were against the proposed oyster farms, the other 10 per cent were proposed oyster farmers... The representatives from the Fisheries and Government committees and council representatives. John Berggy, who organised the management plan, could still not show us a map as to where the proposed farms were to be situated.

With respect to the establishment of sites and leases for fish farms, the system does not allow people to have a say about previous use. It is pleasing to note that a review of the aquaculture plans is taking place. I also received correspondence asking a question about section 48g(5) of the Act, which deals with copies of permits issued under this section. The letter also suggests that a register be established and available for public inspection so that people who might have some concerns can check whether their rights are being infringed by people not operating fish farms within the terms of their permits. The response I received stated:

> As stated the Minister may authorise by the issue of a permit, certain activities within marine parks. These activities must be in accordance with the management plan for the park. I am not aware of any permits issued under this section over the past five years for any activities in a marine park or an aquatic reserve. Some ministerial exemptions have been granted for education/research organisations (such as the Adelaide University/SARDI) to undertake long term monitoring/study of reefs etc. These notices are kept in a register and published in the *Government Gazette*.

I also asked a question about the release of exotic fish, and the response states:

> Your comments regarding the release of exotic fish into waters are noted. The protocols for the release of exotic fish are very stringent and I would suggest that you consider the provisions of the Fisheries (Exotic Fish, Fish Farming and Fish Diseases) Regulations, 1984.

It is my intention to pursue those issues further. During further discussions about fish farming and the involvement of fish farmers in other fishing activities, I have also been approached by people from the pilchard industry. This is an interesting scenario, and I know that the Hon. Mr Elliott has expressed a particular interest in the pilchard industry and the involvement of the Tuna Boat Owners Association in this industry. In 1991, under the previous Labor Government, a history commenced in respect of tuna boat owners and their involvement with pilchards. I am in receipt of a letter written by Mr R.K. Lewis concerning the pilchard industry. The letter talks about a concept for an experimental pilchard fishery, and states:

> A trial period for commercial pilchard fishing will be introduced commencing March 1991 to be followed by further exploratory fishing based on allocated catch quotas. It is intended that the approximately 16 month trial will provide an opportunity for interested licence holders with net endorsements in the marine scalefish fishery to develop catching and marketing skills in relation to the pilchard fishery. This will be an interim period of unallocated quota to provide for experimental fishing.

A total allowable catch was contemplated, and the letter further states:

> The TAC during the trial period will be: 400 tonnes permitted to be taken up to 30 June 1991 (by holders of South Australian fishery licences); and 1200 tonnes to be taken during the 1991-92 licence year; catches by southern blue fin tuna fishery quota holders under ministerial exemption to take pilchards to meet the food requirements of the southern blue fin tuna industry farming project (only).

And this touches on a significant part of what I am about to say. The letter continues:

> The TAC to be allocated between State fishery licence holders beyond the initial trial period concluding on 1 July 1992 will take account of information gained during the trial period.

The letter further states:

> It is envisaged that southern blue fin tuna licence holders, coordinated through the Tuna Boat Owners Association of Australia, will be given sufficient access to the resource to meet fish food requirements during the period (2.5 years) of the southern blue fin tuna trial fish farming project. This will be in addition to the 1200 tonne quota allocated to State licence holders. Feed requirements beyond that period will be met through supplies obtained from State licensed fishers endorsed to take pilchards or other sources.

There was a clear intention to terminate the tuna boat owners' access to this pilchard fishery, even though they did not hold scale fish licences as did the other seven fishers. Access was to be for food requirements only, and food requirements beyond that period should be met through supplies obtained from State licensed fishers endorsed to take pilchards and other sources. Also, the question of eligibility to participate in a trial project was raised. The letter continues:

> During the 16 month trial period all South Australian fishery licence holders with current endorsements to take pilchards as an approved species will have access to take pilchards using existing gear endorsements, that is, the status quo. Special access will be considered with regard to: licence holders with net endorsements (other than bait net only) in the marine scalefish fishery will be eligible to apply for the use of fine mesh seine nets to take pilchards only. Authorisation will be via ministerial exemption.

We are again talking about ministerial exemption and not necessarily licences. The letter continues:

> The southern blue fin tuna quota holders nominated by the Tuna Boat Owners Association will be granted a ministerial exemption to take pilchards using fine mesh seine nets to satisfy the feed requirements of the southern blue fin tuna farming project only.

The letter then talks about access beyond 1 July 1992. It continues:

> Access to pilchards beyond 1 July 1992 will be granted only to net licence holders (other than bait net only) in the marine scalefish fishery who obtain allocated units of entitlement to the fishery by means of auction/tender arrangements. Special access to southern blue fin tuna quota holders will cease on the conclusion of the southern blue fin tuna pilot farming project. The Government reserves its prerogative to vary the annual TAC for pilchards in line with biological and other management factors relating to the fishery. Also the Government may issue new units of quota entitlement by

way of auction/tender (or other means) if it is considered appropriate. Authorisation to use fine mesh seine or any other nets to take pilchards will be removed from those licences which are not endorsed with pilchard quota after 1 July 1992.

The letter also talks about monitoring and other conditions. During my investigations with respect to the protection of fish farms, I was made aware of the concerns that currently exist with pilchard fishermen with endorsed pilchard licences, who are licensed fishermen and pay licence fees to catch scale fish in South Australia.

What has occurred since 1991 and the 18 month period beyond that is that there has been a series of extensions to the Tuna Boat Owners Association to continue to catch fish. What has occurred is that pilchard fishers have upgraded their equipment at great expense to themselves and they are paying their due licence fees to be able to access the tuna industry. I am advised that they have the capacity and the will to fully fish that proclaimed fishery.

We now move on to another phase about which I have been made aware. I have a copy of an agreement between the Tuna Boat Owners Association of Australia and the Liberal Party shadow Cabinet relating to the development of tuna farming at Port Lincoln and State Government approvals and other support to facilitate the development of the industry to maximise its potential. Members will remember there was great fanfare with the announcement from Dean Brown (the then Leader of the Liberal Opposition) and the shadow Minister for Primary Industries (Mr Dale Baker) about an agreement they had made with the Tuna Boat Owners Association in respect of developing the tuna fishing industry. It appeared in that shorthand way in the public domain. However, when one reads the full document, one develops a great concern. I am advised that this agreement is being used as the basis for denying pilchard owners further quota. For the benefit of members, I point out that the agreement states:

1. The association is developing a new industry, namely Southern Blue Tuna Farming ('Farming') based at Port Lincoln, South Australia—

very innocuous—

2. The shadow Cabinet is developing policies for the economic growth of South Australia to be implemented on the election of a Liberal Government at the next South Australian election due by March 1994. Those policies are giving a very high priority to value-added processing of South Australian products for export markets and to incentives for regional development in South Australia—

very laudable—

3. The association began farming on an experimental basis in 1991.

This is when the fishers had their short-term ministerial exemption to catch fish and, when that exemption expired, they were to access the market from other licence holders. The agreement continues:

In 1992, an experimental farm and three commercial farms produced about 120 tonnes. In 1993, production is likely to be about 800 tonnes from six of the nine leases to be allocated according to a management plan.

4. The association estimates that by 1995—

and this is where it starts to get interesting—

annual production will be 1 300 tonnes and that this level of production would generate 550 jobs directly (70 actual in 1992) and 1 700 indirectly (210 in 1992).

I assume that is direct jobs. They are significant figures and it would have been wonderful if that had ever been achieved. The agreement further states:

5.The association believes the main benefits of farming will be the following—

- it is a high value added and job intensive industry, turning canned and quality tuna to high quality sashimi, with additional value adding
- all product will be exported—demonstrating South Australia's ability to develop an internationally competitive industry involving high levels of entrepreneurial skills
- significant research infrastructure can be created in areas such as breeding, animal health and nutrition
- new transport infrastructure will be created, providing opportunities for other industries
- it will have significant add-on benefits for existing industries such as ship repairs
- other ancillary industries will be created, including the production of feed with further processing to a pellet form.

I must point out that the previous Labor Government had an agreement to be involved in a joint venture to develop a pellet as well. Further:

- it will set a precedent for the further development of other grow-out fisheries such as rock lobster
- it will be a significant tourist attraction in itself.

6. The association estimates that by the mid-1990s, the farming will be worth between $250 million and $300 million per annum in direct and indirect economic benefits to South Australia, with even further substantial scope for expansion. Farming will underpin the growth of the total tuna industry to around $500 million value by 1996—concentrated in South Australia.

7. To develop the benefits of farming to maximum potential, the association believes the following requirements must be met—

- flexibility in the management plan to allow additional production capacity on existing farms where monitoring research demonstrates acceptable impact on the surrounding waters;

Given the tuna deaths and the findings of the expert monitors, there seems to have been some problem. It continues:

- Provide certainty by the establishment of a fee structure limited to the cost of the South Australian Government of agreed programs for research and monitoring, and overhead costs of administering these programs;
- Approval from the South Australian Government for tuna farmers to catch around 6 000 tonnes per annum of pilchards to feed the tuna farms;
- Full cooperation in research between the South Australian Government and the tuna industry.

8. The Leader of the Opposition, the Hon. Dean Brown, and the shadow Minister of Primary Industries, Mr Dale Baker, have had detailed discussions with representatives of the association about the arrangements necessary to ensure farming is developed to its maximum potential. Based on these discussions, the shadow Cabinet gives a commitment that on election, the Liberal Government will—

- approve a quota of 6 000 tonnes per annum of pilchards to be caught by tuna farmers for farms on the following conditions—

(a) Up to one-half of the pilchards are taken outside current State waters.

How can an Opposition or a Government give an undertaking to someone that they will take one-half the pilchards outside their own jurisdiction? It continues:

(b) A comprehensive research program is established with the focus being on the environment, fish nutrition and farm management.

(c) The association takes the initiative to develop the production of pellet feeds in Port Lincoln.

— Agree to changes to the management plan to allow additional production capacity on current sites provided monitoring shows the impact on surrounding waters is acceptable.

— Establish a fee structure for the farms based on any extra costs to the South Australian Government of agreed research programs.

9. The continuation of the arrangements in point 8 is subject to the association's guarantee that the farming will create 400 direct jobs by 1996. It is also subject to the association establishing a full research program covering environmental monitoring, nutrition and animal health. This memorandum of understanding is signed by Hon. Dean Brown MP, Liberal Leader, Mr Dale Baker MP, shadow Minister for Primary Industries on behalf of the shadow Cabinet, and Mr Brian Jeffriess, President of the Tuna Boat Owners Association.

It is a most unusual document when one considers that at present there is enormous difficulty in trying to establish pilchard fishery quotas. Those pilchard fishermen who are licensed to take scale fish in South Australia are being restricted in their ability to catch fish in their fishery. Some tuna boat owners, in my view, are doing the right thing by buying up fish licences under the two for one scheme, and they are catching fish.

I have had approaches from pilchard fishermen who are saying that they agree with fish farming, and why would they not? It is part of their industry. But there is a dedicated fishery in the pilchard fishery, and those fishers have the capacity to catch the total allowable catch. In most other fisheries, they are the people who catch the fish in a dedicated fishery; no-one else is allowed to access those particular fisheries. I point to the exclusion of all others from the tuna fishery, where the tuna boat owners have exclusive access. Pilchard fishermen cannot go out and catch a few tuna, but we have a situation whereby what was an experiment to allow research and production has now gone into a long-term arrangement. But it is worse than that. I am advised that, when the discussions are taking place, members of the Tuna Boat Owners Association wave this document around and say—

The Hon. A.J. REDFORD: On a point of order, Mr Acting President, this is very interesting stuff but it has absolutely nothing to do with the Bill. The Bill is about fish farms.

The ACTING PRESIDENT (Hon. T. Crothers): I had not thought that the honourable member overtly strayed from that which was germane to the Bill, but if you perceive that he has I would ask the Hon. Deputy Leader to stay within the parameters of the Bill—although I am not saying that I thought that what I heard had strayed from the Bill. I remind the Deputy Leader that Standing Orders provide that he must stay within the parameters of the provisions of the Bill.

The Hon. A.J. REDFORD: I accept your ruling. It is pretty boring stuff, though.

The Hon. R.R. ROBERTS: High praise, Mr Acting President, from the champion. When it comes to boring, I take it as a compliment that the champion says that I am good at it.

The ACTING PRESIDENT: I will ask the Deputy Leader to stay within the parameters of the Bill.

The Hon. R.R. ROBERTS: The honourable member is trying to divert scrutiny from what is going on. Clearly, it is beyond him to make the connection between fish farms and pilchards, which just happen to be the food base for fish farms. That is a bit difficult for the honourable member to understand. What we are seeing now is these accommodations being made for fish farmers who can access the fishery, and they have a little agreement that was made between the previous Premier—who is now on Hindmarsh Island, that dream place for defunct Premiers—and the shadow Minister for Fisheries, Mr Dale Baker. That is what they have, and it is affecting other fishers who would dearly love to get into fish farming but cannot because there are associations, laws and barriers preventing them.

The Hon. A.J. Redford: Which ones?

The Hon. R.R. ROBERTS: You have to have a licence, for a start.

The Hon. A.J. Redford interjecting:

The ACTING PRESIDENT: Order! I ask members to stop coming the raw prawn with each other.

The Hon. R.R. ROBERTS: I would like to have a licence to get rid of feral backbenchers; I would be the first to apply. Small business men in the fishing area are being disadvantaged once again by the actions and activities of this Government. That is what we have here. Members opposite are the champions of small business, but the pilchard fishers are saying that they are concerned because they cannot get on with their business because of some cosy arrangement between this Government and operators of aquaculture farms. These aquaculturists are claiming that no-one can go near their property: they want exclusive rights, and this Government is doing everything possible in that regard.

I have already said that the provisions in this Bill reflect the Summary Offences Act. It is beyond me at this stage but I have had an assurance from the Attorney-General that he will try to explain to me why the Summary Offences Act cannot cover the situation of trespass, theft and so on in this Bill.

My colleagues on the opposite benches do not like having revealed what is happening in the tuna farm industry and its associated industries. The pilchard fishers in South Australia are capable of catching all the pilchards in the quota and providing them to other people in another industry. They are prepared to do it. But what is happening is that advice has been given to the department on certain quotas by Mr Keith Jones, as I understand it, the scientist. There are people railing against those quotas and this agreement for these fish farmers, these tuna boat owners, and this Government is holding up the ability to set those quotas. They want to know why they are being denied the ability to get on with their business and are being told that any allocations have to have 1 200 tonnes more than the licensed fishermen. There is legal advice being taken as to the legality of all this, and I am advised there could be breaches of the Electoral Act. With his limited knowledge of the law, the Hon. Mr Redford may well recognise that and is trying to find refuge, to get out of the scrutiny of this Bill. There are a couple of other issues that I wish to address.

An honourable member interjecting:

The Hon. R.R. ROBERTS: Certainly not.

The Hon. A.J. Redford: You have lost your place, have you? It is under the small words.

The Hon. R.R. ROBERTS: No, you are thinking of Dean Brown. He has lost his place—with your help. Torn between conflicting disloyalties, that is what you are.

The ACTING PRESIDENT: Order! The honourable member ought not answer the interjector, and I call on the interjector to cease.

The Hon. R.R. ROBERTS: Thank you, Mr Acting President. I accept your kind offer, but I need no relief from people of that stature. Unlike members of the Government, we have taken the opportunity to consult with people who want to have a say. Members opposite obviously do not want to hear about the concerns of my constituents. However, I have a responsibility, having consulted widely, to respond to the concerns of constituents who have taken the trouble to make a contribution, and it is my intention to honour the constituents' wishes in this matter and support small businessmen—unlike the two squawking back benchers opposite. They do not want to support them and they have no respect for the wishes of my constituents in the fisheries.

I was also asked to consider some points again from the Conservation Council in respect to protection of fish farms, and also in response to the replies that I received from David Hall—which I have acknowledged, and I thank him for his

cooperation, and Don Mackie. In respect to fish farms, the comment has been made that:

Unfortunately, there is a small number of South Australians who might regard $10 million worth of anything left unattended out the back of Boston Island, including $10 million of tuna, a bit of a challenge. Excluding them from the lease area is not going to slow them down. These people may also be attracted to a few million dollars' worth of crayfish they are planning to leave next to a heavily used anchorage beyond Taylor Island. The extraordinary clauses of this Bill restricting the use of violent behaviour signals clearly that the Government foresees the possibility of violent confrontation. A Bill which simply makes interfering with the fish farms and farm fish illegal is all that is required.

That is all that is required; we do not need this. It continues:

Reporting to the police or to fisheries officers of suspicious behaviour would then be all the security patrols would be required to do if these services were adequately funded. The oyster racks are spaced at least six metres apart. There is room between them to build sandcastles or watch wading birds without causing any disturbance to the fisheries.

I also asked them to respond to the answers I received and one of the responses I shall put on record out of respect for their efforts. It is a reply to comments made by PISA fisheries to proposed changes to section 20 of the Fisheries Act. It states:

The objective of the Fisheries Act which we wish to replace requires that the standard by which the department is to measure its performance is only that living resources of the water are not endangered or over-exploited. There have been a substantial number of marine environmental management initiatives for which this Government has taken credit which require a higher level of care than that for our marine environment. Programs such as Coast Care, Ocean Rescue 2000, Agenda 21 and the state of the marine environment reporting are based on assumptions that the marine environment is endangered, is being over-exploited and that remedial action is necessary. The more these programs evaluate and document the coastline, the more these programs are showing that these assumptions that coastal waters are under threat are correct.

The Government has claimed that aquaculture may become a bigger industry than the wine industry and earlier this year promised that all aquaculture planning would be completed by 30 June. There is still almost a third of the coastline without current plans and the offshore development plan has not yet been finalised. Aquaculture development is being approved using the conditions in the aquaculture management plans of dubious legality. There is nothing in the Fisheries Act that empowers the Minister for Fisheries to make aquaculture management plans. This development may have been found to be not allowable under the more stringent conditions of the marine aquaculture development plan, which has been in draft stage for a long time.

The aquaculture unit of PISA is so uncertain of the requirements that are needed for an aquaculture management plan that the recently released Lower Eyre Peninsula draft plan is an entirely different format to any other of the plans, including plans approved recently. This is the third such change in the format in the past 12 months. In respect of Coobowie development—

The Hon. Caroline Schaefer: You have done that bit.

The Hon. R.R. ROBERTS: I am putting on record the wishes of my constituents, which you obviously oppose. The Hon. Caroline Schaefer does not want constituents' concerns expressed in this place. That is actually what we are here to do: express the concerns of constituents. I will write you a manual. With the Coobowie development, until recently the aquaculture committee of the Development Assessment Committee approved an application for two oyster leases at Coobowie adjacent to the town of Edithburgh. The applicant applied for a 20 hectare lease in 1993. The proposed development was advertised in the local paper—the *Yorke Peninsula Country Times*—on 29 June and 6 July 1993.

The Hon. CAROLINE SCHAEFER: On a point of order, Mr Acting President, my colleague has already risen on a point of order that the Hon. Ron Roberts is not speaking about this Bill. This is an Bill to amend the Fisheries Act, cited as the 'Fisheries (Protection of Fish Farms) Amendment Bill'. The clause to be inserted is 'the protection of fish farms from unauthorised entry, interference etc.' It seems that we have heard for almost an hour a lot about aquaculture, fisheries and planning but very little about this Bill.

The ACTING PRESIDENT: In general terms, whilst ranging far and wide, he is still within the parameters of the Bill, which itself ranges far and wide, in that fishing is like many other industries where one aspect, fortunately or unfortunately, impacts on other aspects. For that reason there is no point of order.

The Hon. R.R. ROBERTS: By way of explanation, I point out that Coobowie Bay is in the middle of a highly populated tourist and recreation area, and this Bill seeks to make it illegal for the public to have access to these sites or to go anywhere near them. If the honourable member from Eyre Peninsula cannot make the connection, I am sorry. The proposed development was advertised in the local paper, the *Yorke Peninsula Country Times*, on 29 June and 6 July. The reason for this might have been that the usual practice for the location was given using the AMG coordinates, which do not appear on any marine charts. These use latitude and longitude, so local fishermen may have been unaware of the location. I make the point that this Bill wants to make it illegal, yet it is extremely difficult for members of the public to locate where these sites are. We are saying that someone who purports to be representing the owner can hold them—

The Hon. Caroline Schaefer interjecting:

The Hon. R.R. ROBERTS: Well, listen and learn! Whatever was the reason for the lack of comment, there was no problem for the residents, because nothing happened on that occasion. The application sat gathering dust for three years. Recently, another application was received. More accurately, two new applications were processed. These applications were made by the same applicant: instead of one application for 20 hectares, there were two applications, each for 10 hectares, and the location was slightly different. If you are still on the site, you will still be slightly guilty under this legislation. The relevant authorities decided that these two new applications did not need advertising, so residents were unaware that anything was happening until the matter came before the assessment panel.

It is worth reflecting on the changes that have taken place since the original application was made at Coobowie. This is where it becomes complicated in locating whether you are acting illegally on a site, because this is what people face. The seabed is no longer held as Crown land but, by virtue of section 15 of the Harbors and Navigation Act 1993, it is now owned by the Minister for Transport, and that change is a cause for some concern. I doubt whether the Minister for Transport actually knows that she owns it. This means that the department for determining the suitability of the site is no longer DENR. It is now the aquaculture unit of PISA. People have to traipse from Transport to PISA, which has been acting as entrepreneur for aquaculture development. That is the worrying trend to me, but it is not associated with this Bill. In this regard, it is worth noting that the natural resources group of DENR opposes the location.

It has been only in the last three years that the cast iron guarantees that the marine scientists gave the Government and the courts that the introduced Pacific oyster would never breed in South Australian waters have been shown to be false. In nearly all the locations where the oyster has been grown in South Australia, it is establishing wild populations outside

the leases. I can imagine floating around in Coobowie Bay, finding a rock shelf and picking a heap of oysters. Next minute, some officious little character, with a likeness to people I could name, nabs me for stealing fish—Pacific oysters. Although the scientists have told us that they do not grow here, unfortunately the oysters do not have a copy of the release. These are the problems we have.

At the same time as we are finally establishing some control over the rabbit population, we are now introducing into the environment a marine rabbit in the form of the Pacific oyster. The release of the draft aquaculture management plans has shown South Australians exactly what the total cost to them will be by way of lost amenity for this aquaculture development.

Many South Australians have now looked at these costs and have decided that they are far too high. Among those opposed to the high cost of aquaculture were 300 Yorke Peninsula residents who signed a petition opposing this development. The Gulf St Vincent/Fleurieu Aquaculture Management Plan was approved in July this year. The plan was used to provide guidelines for the development assessment, except for instances where it might have opposed approval—in which case it was ignored. On page 27 of the plan is a clear statement of policy that the aquaculture development in this zone should be sited as far as practicable from residential areas. That is an important issue because we then reduce the number of people possibly subject to the legislation. In any event, it should be not less than 1 000 metres away. However, a residential subdivision is approximately 500 metres from one of these developments.

It was decided to ignore these and future residents, mainly because the District Council of Yorke Peninsula planner and building inspector felt that the area was unattractive. Real contradictions exist where the council claims it is not its problem but its planner says it is okay because he makes the judgment that the area is unattractive. I thank those people who have taken the trouble to make a contribution to me on this matter. The best part of a dozen and a half people have gone out of their way to make a contribution. I thank the Attorney-General for his patience and his longstanding interest. I am sure that the Attorney-General, like me, when we are subjected to long or boring speeches from members like the Hon. Angus Redford—

The Hon. R.D. Lawson interjecting:

The Hon. R.R. ROBERTS: —and on the odd occasion from the QC—

The ACTING PRESIDENT: Order!

The Hon. R.R. ROBERTS: Mr Acting President, he just interjected.

The ACTING PRESIDENT: Order! I ask the Hon. Mr Roberts not to reflect on individual members. The matter was raised as a point of order and I ruled that there was no point of order. I ask the Hon. Mr Roberts not to reflect on another honourable member.

The Hon. R.R. ROBERTS: The Attorney-General has been extremely patient and I thank him for that patience. I expect a reasonable response from him. I ask the Attorney to make those explanations in respect of the Summary Offences Act, indicating why these new provisions are absolutely necessary. I am reasonably confident that the Attorney-General will be able to satisfy most of the Opposition's concerns and, subject to his advice, I will take it back to the Labor Caucus, and I give the Attorney an undertaking to deal with the Bill expeditiously on Tuesday.

The Hon. CAROLINE SCHAEFER: That was indeed a fascinating diatribe if ever I heard one. The Hon. Ron Roberts said that he dropped his notes and mixed them up, and that became extraordinarily apparent as he wound through his 1½ hours. I think he mixed up his file with his aquaculture file, because many of the concerns expressed are the concerns of people interested in the new and pioneering aquaculture industry. However, his comments had absolutely nothing to do with this Bill.

Members interjecting:

The Hon. CAROLINE SCHAEFER: I am doing that. In fact, I will read you part of it so that you will understand it next time.

The Hon. Carolyn Pickles interjecting:

The Hon. CAROLINE SCHAEFER: You obviously do. The Bill covers 2½ pages. The Hon. Mr Roberts' speech covers five or six pages.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: The Hon. Ron Roberts has had a go.

The Hon. CAROLINE SCHAEFER: He certainly has. As I said before on a point of order, this Bill is about the protection of fish farms from unauthorised entry, interference, etc. It defines the 'operator' of a fish farm and provides that:

> The operator of a fish farm has a right of exclusive occupation of the marked-off area of the fish farm...

It delineates the—

The Hon. Carolyn Pickles interjecting:

The Hon. CAROLINE SCHAEFER: It has absolutely nothing to do with deals. This Bill is about theft: it is not about the development of the aquaculture industry. It goes on to provide:

> If a person who has entered the marked-off area of a fish farm is asked by an authorised person to leave, the person—
> (a) must not fail, without reasonable excuse, to leave the area immediately; and
> (b) must not enter the area again without the express permission of an authorised person or a reasonable excuse.

There are then five subclauses dealing with each division fine, and the position is summed up as follows:

> A person must not, without lawful excuse—
> (a) take or interfere with fish within the marked-off area of a fish farm; or
> (b) interfere with equipment that is being used in fish farming, including equipment that is being used to mark off or indicate the marked off area of a fish farm.

So, the remainder of what we heard has absolutely nothing to do with this Bill. This Bill is nothing more than an attempt to stop common theft. In this case, it pertains to the theft of fish, shellfish, molluscs, etc. from fish farms. Most of us are already protected under the law from the theft of our property. As it is a new industry, aquaculture or fish farming has few of those protections. Not many years ago the tuna fishing industry was on the brink of collapse, with tuna catches suitable for canning only. I do not know whose idea it was, but someone thought of farming these fish, that is, putting them in enclosures where they are fed until they reach a specific size. They are now eagerly sought overseas, particularly in Japan as sashimi. It is not unusual for one fish to bring $3 000 on the Japanese market. However, it is indeed a specialist market. A fish must not be bruised or marked in any way. This is so important that divers actually catch the fish; they are not gaffed or caught by hooks.

This is an industry which nets between $50 million and $150 million per year, yet it is estimated that up to 20 per cent of the catch is lost through theft every year. It is lost

through theft, one at a time and surreptitiously, usually at night, and we are talking about fish which, individually, are worth up to $3 000. Believe me, this makes the fish farmers very twitchy. People claim that there is no proof of theft on this scale, but there is ample evidence of fish with gaff and hook marks, and indeed gaffs have been found within the enclosed area. The tuna industry itself spends $150 000 per annum to employ a private security firm in an effort to stop this theft. There is no insurance, because under the insurance that the fish farmers carry they must lose 10 per cent in one incident, and of course that is most unlikely because it would require somebody to be caught red-handed with a large catch of stolen tuna. These people are very hard to catch.

This Bill and the previous Bill seek to delineate an area around a fish farm in much the same way as I have a fence around a paddock. Mr Roberts talked about oysters going feral. Frankly, if my crop gets outside my fence, I cannot do anything about somebody reaping what is outside it, but I can if it is inside the fence. He talked about ownership of the sea floor. If I have a perpetual or a pastoral lease on Crown land, I do not own that land: I am simply the caretaker of it, but I do have a legal right to make a living. That is all that these people are about.

He says that you cannot see or work out where the delineated area is, but in fact it must by law be clearly buoyed. It allows, I think, 60 metres between any two fish farms to provide ample access for tourism and recreational fishers, and it allows for that recreational use. You, Mr President, and I were involved with the member for Flinders in ensuring that ample space was provided between the fish farms.

I could debate for some time issues such as the aquaculture industry, pilchards, feral oysters and Coobowie Bay which, by the way, is subject to an aquaculture development plan in the same way as there are development plans on land. Those documents are public documents, and the Hon. Mr Roberts' constituents have the right to go to their council and make representation in the same way as if it were covered by a land development Act.

So, all in all, I wonder why I have sat here for an hour and a quarter. The Hon. Mr Roberts talked at length on a number of issues, which would be worthwhile debating in another forum if they had anything to do with this Bill. However, I understood that the Parliament provided a forum in which we discussed and debated the Bills before us. I repeat: this is an amendment to the Fisheries Act to give some legal redress to fish farmers against theft. It has nothing whatsoever to do with the developing industry.

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

LOCAL GOVERNMENT (CITY OF ADELAIDE) BILL

The Hon. DIANA LAIDLAW (Minister for Transport): The managers for the two Houses conferred together at the conference, but no agreement was reached.

The PRESIDENT: As no recommendation from the conference has been made, the Council, pursuant to Standing Order 338, must either resolve not to further insist on its amendments or lay the Bill aside.

The Hon. DIANA LAIDLAW: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

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

That the Council do not further insist on its amendments.

I have to report that, earlier today, the Minister thanked all members for their cooperation in attending the many meetings that were held to achieve commonsense and find common ground on this very important Bill for the City of Adelaide and for the State of South Australia. However, the Minister was not able to thank members for their cooperation in terms of reaching common agreement in the best interests of the State and, especially, our city. I make a last-ditch appeal to members of the Legislative Council to put the best interests of our city and the State above petty Party politics. It is not something that the Hon. Ron Roberts knows much about but, nevertheless, I will try. Because this Bill is so important, I will endeavour to appeal to the better nature and, possibly, intelligence of the honourable member. This issue should be above petty Party politics in this Council, in the electorate and, certainly, in the Adelaide City Council.

There are some extraordinary ironies in the positions taken to date by the Opposition and the Australian Democrats, because they appear adamant that a so-called 'democratically elected council' not be sacked, but in the same breath they say that they want to cooperate with the Government to change the whole basis of governance in the Adelaide City Council for the sole reason that they acknowledge that the council is not democratically elected. This is the extraordinary situation we find. On the one hand they say, holier than thou, that the democratically elected council should not be touched, yet on the other hand they want the governance changed and will cooperate with the Government because they know it is not a democratically elected council. The argument they present is intellectually unsound; it is a joke. We have been through a charade.

It is also a tragedy because the same Party—principally, the ALP—that propelled South Australia into virtual bankruptcy is again prepared to hide its head in the sand—this time in respect of the Adelaide City Council—and pretend that everything is okay. Well, it is not okay. It is ignoring the gravity of the problem amongst councillors, just as it did five or six years ago when it ignored the problems in the State Bank. This is the tragedy of the situation. The Minister offered a compromise. I do not know whether he did it with conviction, but he was certainly prepared to do it. He suggested that the council continue for another six months until the time of the next election, rather than cease to function at the present time, and that commissioners be installed for a year until May 1998, rather two years until May 1999. So, the Government was prepared to make major concessions in the hope that the Opposition would put aside Party politics for the good of the Adelaide City Council and our city.

I recall that the Opposition and the Australian Democrats were prepared to look at the appointment of an administrator for only up to two months after the May election in case the issue of governance had not been fully agreed by everyone following full consultation as the amended Bill provides at the present time, but they were not prepared for commissioners to take on the functions of the Adelaide City Council. They do not seem to care for the realities of the situation. Today, in practical terms, the council does not function. The councillors do not support the Lord Mayor. In fact, they cannot stand the sight or sound of the Lord Mayor. They do not speak to or of him other than with distaste. The Lord

Mayor no longer speaks with them other than with vengeance and venom.

I know that the Lord Mayor now wishes to stand for the position of alderman, but he does not do so with an agenda of vision for the next century—which is only three years and one month away. He proposes to stand for election as an alderman to enable him to settle scores, and he has made that quite clear to those with whom he has spoken about his intentions for the future. He wants to settle scores with all the other 13 councillors. The one thing that has united the council is their hatred of the Lord Mayor, and he wants to settle scores against all of them. That would be the worst possible basis on which to sustain a council for the next six months. Yet, the Opposition and the Democrats are prepared to do so.

There will then be a continuation of the personality problems and the lack of focus for the city that we as ratepayers, taxpayers and citizens of this State should require. We saw a further example of that just last week when the council voted to set aside consideration of Adelaide Partnership.

This is a partnership developed with State, Federal, and private sector interests with which local government participated. The same partnership recognised that this whole issue of government should be addressed. This setting aside of Adelaide Partnership must be one of the lowest points to which this council has fallen in recent times in terms of exercising its responsibilities. I suppose we should not have been surprised because, just one month after the partnership was announced, the Adelaide City Council voted to distance itself from the marketing arrangements that had been agreed elsewhere.

It changed its mind on that issue; I suspect it will change its mind on Adelaide Partnership. I certainly hope it will because the council has shown little consistency, logic, conviction and vision at this time, yet it is the same council which the majority of members in this place appear to be prepared to endorse as suitable for running our city, not only in this critical few months leading up to the next election but also beyond. I remind members that the Hon. Anne Levy, leading for the Opposition, stated:

> The Opposition supports the second reading of this Bill, but wishes to move a large number of amendments when we reach the Committee stage, so that the Bill as it comes out of Committee will be very different from that which goes into Committee.

That is what the Opposition has done. It never intended, as we saw at the conference, to move away from the position it had taken early on, or was prepared to work with others, including the Government, to ensure that we had a city that works in the best interests of all South Australians. There is a lot at stake, as we all know, not only in the very competitive environment in which we work with various cities but in attracting investment and generating jobs. It is important in my efforts to appeal again to the Democrats and the Opposition to quote the remarks of then councillor Jane Lomax-Smith when she sought to distance herself from the Adelaide City Council.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: She said that she wanted to speak with you. She wrote this article, which states:

> I am resigning because the council has achieved very little since May 1995 and is unworkable. The entire term has been wasted. We have no achievements, only the advantages of projects initiated several years ago. Rundle Mall, Gouger Street, King William Street South, bicycle tracks—these were all initiated by a former council and delivered, some inadequately, by this council.

She further states:

> At present we cannot even exercise the powers we have because of the bickering and the infighting. We are regarded by the community as irrelevant and, sadly, most of the council members haven't even noticed.

It is clear that she could easily have been talking not only about the Adelaide City Council members but the members of the Legislative Council, because it is apparent from what they have said that they are not prepared to acknowledge the degree of difficulty within the Adelaide City Council, and to acknowledge, as Jane Lomax-Smith has said, that the council is regarded by the community as irrelevant, and that 'sadly, most council members haven't even noticed'. She talked about governance issues and also indicated that, philosophically, she does not support the sacking of a council. I do not think any of us, by nature, would support the sacking unless we were provoked in the most difficult circumstances.

This has happened only three times in recent history—each case very different; each case very difficult, and this instance is no less different or difficult. So these decisions are taken with care and in the best interests of governance and the interests of people in that local area. While Jane Lomax-Smith did not agree philosophically (as we do not) with the principle in terms of sacking councils, what she says is that this is a most important initiative which should be taken at this present time because the council needs a breathing space. It needs space and time to think about what it is doing. It needs space and time to look at these governance issues, to implement them, to get them working and then to start afresh, but that opportunity will not be provided unless I can appeal to members of the Chamber to look again at the position that they have taken. If my appeal falls on deaf ears, the Bill lapses and certainly I understand it would be the intention of the Minister that it not proceed.

The Hon. ANNE LEVY: I oppose the motion of the Minister. I am sure it will not surprise her that I do so. This Bill has been very thoroughly debated at the second reading stage in both Houses of Parliament. There was very lengthy debate on it in this place. It seems to me unnecessary to repeat all the arguments. As a member of the conference, Mr President, I assure you that there were attempts to make compromises and to achieve accommodation with the diametrically opposed views of the other Parties, but accommodation could not be reached. It is totally wrong to say that there was no attempt at compromise on either side or that either side was intransigent. However, compromise could not be reached and there were issues on which no compromise could be found at all.

Without going into detail, the majority of members from the Legislative Council felt that there was no reason for sacking the council: it had not in any way breached the provisions of the Local Government Act. If the council was unworkable, there is a provision in the Local Government Act which a Minister can use to dismiss a council. The council is clearly not non-functional or corrupt, or the provisions of the Local Government Act could apply. As I say, a compromise could not be reached and I would support the majority of this Council maintaining the necessity of its amendments. This will result in the Bill being set aside.

It is important to note that the Opposition certainly shares the concern of the Government regarding the governance of the City of Adelaide. We have stressed this all along. We have never pretended that everything is lovely in the garden. However, the Opposition is not in a position to do something

about this but the Government is. If the Government was concerned about the method of governance of the City of Adelaide, then two years ago it could have set up a commission of inquiry into the governance of the City of Adelaide. There was absolutely nothing to stop it from doing that. It does not require legislation to set up a commission of inquiry into the governance of the City of Adelaide.

The Hon. A.J. Redford: Absolutely correct.

The Hon. ANNE LEVY: Yes. The fact that the Government has not done so but wanted to sack the city council as a prerequisite to considering the governance suggests to me, as it does to many other people, that the Government has had some ulterior motive. There have been many suggestions as to what such ulterior motives could have been. One suggestion is that the Government had designs on the parklands, but that is not a rumour to which I give very much credence. But it seems to me that there has been some ulterior motive. The Government claims to be concerned about governance, but it could have done something about that two years ago. We were not in a position to do something about it two years ago: the Government was, and it has done absolutely nothing about it.

It ill behoves the Minister to point the finger and say that it is the Opposition that is preventing changes in the City of Adelaide's governance. It is not within our power to make changes: it is within the Government's power and it could have done something two years ago. I hope that, if this Bill is laid aside, the Government will think seriously about the governance of the City of Adelaide, that it will set up a commission—a committee, a board or some structure—to investigate the governance of the City of Adelaide, and that it will take this matter seriously and look to achieving reform of the governance of the City of Adelaide so that this will be to the benefit of all South Australians. On that point I could not agree more with the Minister. But what has been proposed by the Government is not the way to achieve it, and it will be the Government's responsibility to achieve it in a manner which it could have started over two years ago.

The Hon. M.J. ELLIOTT: I oppose the motion. It is unfortunate that a resolution was not found by the conference. It needs to be recognised that there were two issues before the conference: first, whether or not the city council should be sacked; and, secondly, whether or not there should be a commission of inquiry into the governance of the City of Adelaide and, if so, how that commission should be comprised and set up, and what its terms of reference should be. But the Government has decided that the fundamental question for it was being able to sack the city council. The Government always had available the option of having the commission established under legislation. It is certainly true to say, as the Hon. Anne Levy has said, that the Government has always been in a position outside Parliament to establish such a position.

It seems to me that the advantage in doing it under the legislation was that we could have had a commission the structure and terms of reference of which were agreed to not just by all political Parties: I note that both the Local Government Association and the city council itself had expressed support for the form and terms of reference in the amended Bill. The Government, at this stage at least, appears to have lost an opportunity, although I note that with the change of premiership—and I have already had a very brief discussion with the new Premier—the whole issue will be reconsidered. I hope that, if the Government decides to set up a commission of inquiry, it looks carefully at what was said in this place and the sorts of amendments that were moved and supported by the Democrats, the Labor Party, the Adelaide City Council and the LGA. It seems to me that an inquiry that operates with those general terms of reference and structure has a much better chance of being supported at the other end and not being criticised as being partisan or failing to look at all the important issues.

It is a pity that the conference did not spend time looking at whether or not those terms of reference should be amended or whether the composition was acceptable to the Government. Those questions simply were not explored. The Government continued to focus on wanting to be able to replace the council by commissioners. The compromise offered by the Government not to sack the council now but, when the council's term expires, to put commissioners in for a year was not, in my view, a compromise at all, because they both have one essential feature, that is, there would be a term during which there would not be elected representatives of the ratepayers. I argue that ratepayers have a right to be represented. All taxpayers have a right to be represented. As I have said previously, the basis of the Boston Tea Party and many other historic events have often swung around the fact that people do expect to have their say.

I believe that the Government has, unfortunately, lost a golden opportunity, but it is not irrecoverable. However, it seems to me that, if the Government takes too long in making a decision to set up a commission of inquiry, the next problem it will have is that any changes that are recommended in the future will be more difficult to implement, for a number of reasons. The first reason is that it is possible that there could be recommendations for changes in boundaries—either a contraction or an expansion of the city. If that is to happen, it would be best to happen in the context of other amalgamations being considered right now. There really is not much time to consider that question. Or it will mean that there will be considerable chaos at a later time when it seeks to cause those changes and changes to other councils that have already been through one lot of turmoil in the current amalgamation discussions.

There is very clearly an opportunity lost and, the later it takes to carry out an inquiry and to bring legislation back to this Parliament, the more difficult it is in terms of clashing with the next council elections. However, it seems to me that the Government might now have to consider extending the life of the current council for a few more months than initially recommended by this Council, just to make-up for other time lost. However, I do not think that would be too great a price to pay if in the long run we have significant changes in governance.

It has to be noted that all three Parties in this place have agreed that there needs to be changes in governance and I think the issues are fairly clearly identifiable. What we need is an inquiry, and the issues can be handled fairly quickly because the inquiry does not have to make all the decisions, although it may make recommendations. What it needs to do is to spell out each of the issues and explore the possibilities. The ultimate decision will be made in this place and in the other place. It will be a political decision as to what the Act could look like, and then we can get on with electing a council under a new set of rules.

I was quite amazed that issues that had never been raised at any time during the public debate suddenly came up in the conference as being important: for instance, questions of the administration of council were raised. Not once, to my

knowledge, had the issue of administration been raised during public debate, but suddenly it became a major feature of conference discussion. I found that quite extraordinary.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: I am talking about the public debate that has gone on and the issues raised by both the former Premier and by the Minister, and anyone who reads the second reading contribution of the Minister in both the other place and this place will not find the word 'administration' or anything similar.

I finish on a positive note. I understand that the incoming Premier had already announced this morning, before the conference even reported, that he did not intend to proceed with the sacking of the council. I understand he wants to draw a line under that and make a fresh start. I believe that that is very positive. He will clearly have a lot of things on his plate in the next week or two. However, we can still achieve positive outcomes, and in my dealings with the new Premier in the past I have found that he has been reasonably accessible and easy to talk with—more so than some others with whom I have had dealings in the past—and at this stage I am confident that we will see positive outcomes.

The Hon. A.J. REDFORD: I support the motion. I refer to the contribution just made by the Hon. Michael Elliott. The Australian Democrats and the Hon. Michael Elliott have been consistent in their attitude and approach throughout the whole of this debate. Whilst I believe that the Hon. Mr Elliott's views are misguided, he certainly has approached the issue with a degree of intellectual honesty. I am afraid that we cannot say the same about the Australian Labor Party—flip, flop, flip, flop. Mike Rann, the Leader of the Opposition, came out and the only thing he said in the media conference was, 'I want a say in who the commissioners are.'

The Hon. R.I. Lucas: We know what he was saying privately—'Go ahead.'

The Hon. A.J. REDFORD: He was saying all of that. He thought that he would put his own political opportunism ahead of the good governance of this State. He was under a great deal of pressure from the Left. It is disappointing that the Left so heavily dominates the Australian Labor Party these days with the demise of the Centre Left and the poor numbers of the Labor Unity or the Right faction. The whole of Michael Rann's approach in this matter has been driven by the Left. It seems that we will not get much out of the Australian Labor Party on this. It will be a period, over the next 12 months as we enter an election year, of political opportunism.

Things have happened since we made our second reading contributions. I draw members' attention to two things that have come to my attention about the Adelaide City Council since I last made a contribution in this place on the topic. I understand that there is to be a by-election for the Gawler-Hindmarsh ward, to take place on 14 December, to find a replacement for Councillor Papodopoulos, who resigned. There are three candidates: first, John Rowley; secondly, Josh Chappell; and, thirdly, Roger Rowse. I know that both Josh Chappell and John Rowley received a telephone call from the current Lord Mayor, Mr Henry Ninio, and were told that they should not proceed and should not contest that election.

The Hon. R.I. Lucas: Why not?

The Hon. A.J. REDFORD: I will come to that in a minute. Further, if they proceeded to exercise their democratic right the Lord Mayor would decimate them.

The Hon. R.I. Lucas: He threatened them?

The Hon. A.J. REDFORD: Yes, he threatened them. His candidate is one Roger Rowse. I understand that he is very confident of success. For those members who do not know the background of Roger Rowse, he is a former undischarged bankrupt and now taxi driver who is receiving the support of the current Lord Mayor. If this gentleman wins it will be on the heads of members opposite: it will be on the head of the Leader of the Opposition, Mike Rann, in conjunction with the Lord Mayor, Henry Ninio. Roger Rowse has been described as Henry's hatchet man on the floor of the council.

The Hon. Carolyn Pickles: Your hands are not entirely clean on this issue, so be very careful.

The Hon. A.J. REDFORD: The honourable member interjects and says that my hands are not entirely clean. If she wants to make a contribution and explain how my hands are dirty, I give her that invitation, because I have nothing personally to do with this election, although I might after I have finished this contribution. The fact is that members of the Australian Labor Party have supported Henry Ninio and, by their silence, they have supported his conduct. Constituents approached me last week in relation to conduct engaged in by certain of the city councillors, and I will not name them, in relation to premises that they rented from the council in Flinders Street. In fact, they ran a business until very recently and, indeed—

Members interjecting:

The PRESIDENT: Order! There is too much cross-talk.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: They ran a shop and they are now the subject of a legal claim by the Adelaide City Council to the tune of some $42 000. They are small business people. They came to see me and they provided me with a list of complaints, and I am currently dealing with the administration of the Adelaide City Council on behalf of those constituents in relation to that issue.

When I have all the information altogether, I will make it available to the Attorney-General. In the discussions that I had with them, they drew my attention to what I believe to be quite serious misconduct on the part of members of the council. These people were involved in a very lengthy series of negotiations with the Adelaide City Council in relation to the entering of a lease. Subsequent to their taking possession, they sought to secure subtenants to take over portion of the premises. My constituents—

The Hon. CAROLYN PICKLES: I rise on a point of order. I would have thought that the honourable member should confine his remarks to the matter before the Chamber, which is the outcome of the conference. This has absolutely nothing to do with the conference.

The PRESIDENT: Order! I was not at the conference and I am not sure that those remarks were made but they do deal with the matter in hand, so I rule that there is no point of order, although I suggest that the honourable member make his remarks brief.

The Hon. A.J. REDFORD: I am not seeking to debate the issue again. This matter has come up since and it points very clearly, for the benefit of the Leader of the Opposition, to the maladministration and the sort of conduct that we are confronted with by the Adelaide City Council. I am told that, during the course of negotiations, a number of councillors, both in relation to the initial signing of the lease and in relation to the subleasing, came to the premises, which was a tea and coffee shop, and sought and secured free meals and free services. In my view—and when I get some further

information I will refer the matter to the Attorney-General—that clearly falls within certain provisions of the Criminal Law Consolidation Act, particularly section 250. In my view, it is that sort of conduct, coupled with the Libyan deal and the various other fiascos, that completely undermines my confidence and, indeed, the confidence of most South Australians in the administration and conduct of the Adelaide City Council. I do not propose to go over the arguments again.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: I do not intend to go over the arguments again, but on a daily basis we all on this side of the Council are hearing stories and receiving examples of maladministration, poor conduct and poor administration on the part of the council. It will be on the head of the Australian Labor Party that that administration will be inflicted on all South Australians and that we will have Henry Ninio as an alderman or perhaps as the member for Adelaide, as I think he was proposing at one stage.

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: My colleague claims that he is standing for the seat of Adelaide, but it is highly unlikely that he would ever become the member. You never know, and it will be interesting to see what the ALP does with its preferences. Perhaps it would give its preferences to Henry Ninio before it would give them to the Liberal Party candidate. Certainly, I have no confidence that the Australian Labor Party would adopt a reasoned or principled attitude to that matter.

The Hon. CAROLYN PICKLES: I had no intention of entering the debate but I found the Hon. Mr Redford's contribution to be quite distasteful. If there is any evidence of any kind of wrongdoing, under the legislation the council can be sacked and administrators appointed. If the Hon. Mr Redford had any evidence of that he should have given it to the former Premier or the Minister, or reported it to the police. But to stand in this place and slur every member of the council by implication and not have the guts to go outside and say that, when he knows a lawsuit would be slapped on him, I find disgusting. To say that we are part of it—

Members interjecting:

The CHAIRMAN: Order!

The Hon. CAROLYN PICKLES: An election will be held in May, and voters of the City of Adelaide will be well placed to make their decision on whoM they wish to represent them in the council. I think your remarks in the Council today—

Members interjecting:

The CHAIRMAN: Order!

The Hon. CAROLYN PICKLES: —have been totally uncalled for, quite out of order and inappropriate.

The Hon. A.J. REDFORD: Mr Chairman, I rise on a point of order.

The CHAIRMAN: There is no point of order.

The Hon. CAROLYN PICKLES: Certainly, to accuse the Labor Party of having any complicity in this matter is outrageous, and I ask you to withdraw those remarks.

The Hon. P. HOLLOWAY: I oppose the Minister's motion and support the original amendments moved by the Legislative Council which have the effect of ensuring that Adelaide City Council is not sacked. One of the amazing features of the whole debate is the number of times that the purpose and reasons for the Bill have changed. We have heard all sorts of reasons: we heard that development was being blocked; there were problems with the mall; that North Terrace needed to be upgraded and it was not being done; the Hon. Mike Elliott told us, with regard to the conference and long after debate in this place had passed, that there were administration problems with the council; and now we hear that there is corruption. We also heard that there were problems with Henry Ninio and the Libyan trade deal.

All sorts of reasons were put forward, but the only problem was that the then Premier denied that he was acting for any of those reasons. He said that the council was being sacked not for what it had done but for what it had not done. When asked when it had not done, he said, 'It has not provided leadership.' When asked what sort of leadership, we did not hear anything. Nevertheless, in a few moments when the Bill is finally allowed to rest in peace, we will be able to say that the Bill may not have led to a change in the governance of the City of Adelaide but it has changed the governance of South Australia.

There is no doubt that this Bill has made a significant input into the events of the past 24 hours, when the governance of South Australia was changed. If anyone doubts me, they would only have had to listen to Dale Baker on the ABC this morning. Dale Baker is a person for whom I have some respect; he is a person who speaks his mind and says what he thinks. He made quite clear on radio this morning that the Government and former Premier had mishandled this whole debate on the Adelaide City Council very badly indeed, and that should be the word on this matter.

The Minister said that the Adelaide City Council was not democratically elected. The means by which the Adelaide City Council was elected two years ago and by which every other council will be elected in May next year is exactly the same. We can all see that we need changes to the property voting franchise of the council, but the franchise for the City Council is no different from that which applies to every other council in the State. So, if the Adelaide City Council is not democratically elected then neither is any other council in this State, and neither will it be in May next year when all the other councils go to an election. If we need to change that, I would suggest that the Government should have used the opportunity of the miscellaneous provisions legislation still before this Parliament to do so.

The Minister also claimed that the Government had offered a compromise during the conference but that the other Parties were not willing to accept it. Of course, that was not the case. The ALP did offer a compromise, and the Minister ultimately revealed in a speech that we had accepted that, if it took longer to undertake a review of the governance of the City of Adelaide than was originally envisaged, we would consider appointing an administrator for a short period to enable that review to be completed. So, it is untrue to say that the ALP was not prepared to compromise on this issue. The matter on which we were not prepared to compromise was the sacking of the City Council, and that is simply because there is a fundamental principle at stake there: when there are no reasonable grounds to sack a council, why should it be sacked? Other members have pointed out that, if there are problems with corruption of the nature that the Hon. Angus Redford mentioned, means are available under the current Act to deal with that problem.

Another point I want to make about this whole debate is that I do not believe that the Liberal Party really wants reform of the Adelaide City Council. What it wanted in this whole

exercise was to replace the council with three friendly commissioners for a period of up to three years so that it could do as it wished. The point that needs to be remembered was that the Liberals were not prepared to consider even the question of the boundaries of the City of Adelaide. How can you have genuine reform of the governance of the City of Adelaide if you do not consider a question as fundamental as the boundaries? I make that point because it illustrates that the Liberals do not genuinely want reform of the City Council: they simply want no council at all for three years. If you want a reason for it, I think we all know that the member for Adelaide represents a fairly marginal seat, and basically this Government does not really want any reform to look at matters such as boundaries, whether North Adelaide should remain in the city or the question of rates and rebates. It does not want to look at those questions.

The fact is that the Liberal Government is not interested in genuine reform of the City of Adelaide. Let members opposite shed no crocodile tears about there being no change to the governance. If there is no change to the governance of the City of Adelaide it will be because the present Government does not want it to happen. As has been pointed out by other members, if the present Government wants to review the governance of the City of Adelaide it is quite capable of doing so without legislation coming through this Council. I hope it does; like the Hon. Mike Elliott, I hope that the current Government does address the governance of the City of Adelaide and some of the important issues that have been raised during the course of this debate. I hope the new Premier and the new Minister for Local Government, if there is one, do go out and talk to the city council and start talking to the Local Government Association and adopt a policy of cooperation rather than compulsion in dealing with these matters.

I want to address a couple comments made by the Hon. Angus Redford when he said that, if somebody standing for a by-election for the City of Adelaide is elected, somehow or other it is the responsibility of the Australian Labor Party. Well, of course it is not. Whoever is elected at the by-election for the City of Adelaide will be responsible to the electors of the City of Adelaide. Why should not the electors of the City of Adelaide choose their own representative? That is what this whole debate is about. If commissioners had been installed, the residents of the City of Adelaide would not have had anybody responsible for them making decisions on their behalf for three years. If they vote in the wrong person—that is, the wrong person according to the Hon. Angus Redford—that is his problem. If it is the wrong person in my view, then that is my problem. The fact is the electors of the City of Adelaide can choose whoever they want, and it is not up to us to tell them who they should vote for. If Henry Ninio wants to stand as an alderman and if the people of the City Adelaide vote for him, that is their business. It is up to them. Whether or not we like the decision is just too bad. It is up to the electors.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: The final point I want to address—to which the Minister refers by way of an interjection—is the claim by the Hon. Angus Redford that we support Henry Ninio. It was made quite clear during my addresses that we do not support Henry Ninio's behaviour. That is not the question. The question is ultimately whether or not the electors of the City of Adelaide support Henry Ninio. Again, I remind the Minister that the former Premier and the Minister for Local Government made quite clear during this debate that they were not sacking the Adelaide City Council because of Henry Ninio. Is the Minister saying they were wrong? Is the Minister saying the real reason for this Bill was to get rid of Henry Ninio?

The Hon. Diana Laidlaw: I am saying that there are lots of reasons for it.

The Hon. P. HOLLOWAY: Now she is saying there are lots of reasons, one of which, apparently, is to sack Henry Ninio. That is not what the former Premier said at the time. It is about time that the Government worked out where it wants to go on the City of Adelaide question. We have had all these bogus reasons. Just a few moments ago the Minister contradicted what was said earlier. It is about time the Liberal Government worked out exactly where it is going.

As I said earlier, I hope that the new Premier and the new Minister for Local Government, should there be one, go out and start talking to people in local government and the other players. I believe they will achieve far more with a bit of cooperation than they will with this unnecessary exercise we have seen before us today. As Dale Baker said on radio this morning, it has been an absolute debacle on the part of the former Premier, and the sooner it is all forgotten and put behind us, the better. Hopefully, the impetus for change in the City of Adelaide will not be lost and this Government will look at these issues again and in a much more realistic way. I oppose the motion of the Minister.

The Hon. R.R. ROBERTS: I indicate my opposition to the proposal of the Minister for Transport representing the Government on this issue. I rise to congratulate the members of the committee, especially those representing the Opposition in this place and the Democrats, for the sensible way in which they approached the consideration of this Bill. I would particularly like to congratulate the members of the Adelaide City Council and the Local Government Association for the example they set in their handling of this dispute from the time it started. We did not hear rhetoric, vilification or vindictiveness from these people who are being pilloried by this Government and the former Premier of this State. The Local Government Association and the Adelaide City Council provided an example to Dean Brown and his dodgy Government of how to handle things properly.

At all times, they conducted themselves with decorum. They were prepared to negotiate and consult and to put forward cogent arguments for the consideration of members of the Liberal and Labor Parties and the Democrats. Not once did they stoop to vilification and personality assassination because they were not able to get their own way. They went about their business in a way which set an example for Governments and Oppositions, and they should be congratulated.

I refer to the Hon. Diana Laidlaw's contribution upon introducing this motion before this Council where, even at the end of the day when all was lost, she again resorted to vilification, personality assassination and condemnation of the Adelaide City Council and its members. She said that they were involved in settling scores. She said that there was no cooperation, that they did not work together and that they engaged in petty Party politics. She hoped that we would not engage in petty Party politics and that we would support the motion. She said that members of the Adelaide City Council had no intellectual capacity. She said that this episode resulted in the lowest level of cooperation between the Adelaide City Council and the Government. There was no cooperation between the Government and the Adelaide City

Council. The Government's interpretation of 'cooperation' was to sack them. There was no consultation or intellectual argument.

The Minister said that there was no logic, partnership or vision in the council. These words come from a Party which, in the past couple of days, has been engaged in settling scores. It is ironic that members of the Liberal Party never cooperate and are interested only in petty Party politics. These are the people who condemned the Adelaide City Council. By example, they are outrageous. It is breathtaking hypocrisy. The Hon. Angus Redford referred to maladministration and misuse of taxpayers' funds. It is these matters which saw the Liberal Party slump in the polls and which resulted in the Premier's demise. The Hon. Angus Redford was hypocritical enough to talk about the control and administration of the Adelaide City Council from the refuge of Parliament. At all times, the Adelaide City Council has acted with decorum and put its arguments in the public arena logically, without abuse and without hiding behind a shield.

If members of Parliament, the Premier or anyone else wanted to sue them, they had every opportunity. But those with a small grasp of the law know that they can hide in Parliament and denigrate the efforts of people who are working for their peers in local government. I am reassured that, again, the Legislative Council, in cooperation with members of the community who are prepared to discuss and put forward their argument in a logical way—as did the LGA and the Adelaide City Council on this occasion—will be able to stop the excesses of an over-exuberant Government which, obsessed by the fact that, because of a political mistake at the last election, it ended up with large numbers in the Lower House, believes it can enforce unreasonable demands on the community. This is a victory for the LGA, the Adelaide City Council and the Legislative Council.

When coming to work, I sometimes pass the statue of Colonel Light on Montefiore Hill. The statue usually stands with a hand pointing at the city of Adelaide: for the past six months, its hands have been held over its eyes in absolute disgust. I am sure that when I pass Montefiore Hill tomorrow, the Colonel Light Statue will have its thumbs up in support of the Legislative Council and the Adelaide City Council in the interests of democracy.

The PRESIDENT: I point out to honourable members that I thought there was far too much comment about what took place in the conference.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Yes, you.

The Hon. R.R. Roberts: I did not comment; I was not there.

The PRESIDENT: You did, as did a number of others who contributed to the debate. I suggest that what occurs at a conference should remain there and that members only comment about the proposal at hand.

Motion negatived.

Bill laid aside.

INDUSTRIAL AND EMPLOYEE RELATIONS (TRANSITIONAL ARRANGEMENTS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 624.)

The Hon. M.J. ELLIOTT: I support the Bill. It is a brief Bill which has the support of all sides of the industrial argument. Having put the Bill through some detailed analysis and scrutiny, I have no difficulties with it.

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

ROXBY DOWNS (INDENTURE RATIFICATION) (AMENDMENT OF INDENTURE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 602.)

The Hon. M.J. ELLIOTT: Again, I will make a brief contribution on this matter as the Democrats spokesperson on mines, the Hon. Sandra Kanck, has already addressed this issue at length. As a Party which from our very foundation has opposed the mining and use of uranium, it would come as no surprise that we oppose the mining of uranium at Roxby Downs which is, after all, the largest known uranium ore body in the world.

It would be no surprise that we oppose the Bill, but we can certainly count and we realise that, as both the Labor and Liberal Parties support that mining operation—even though we will continue to oppose it—at the end of the day legislation will be passed to allow it to occur. Our real concern is that a range of issues deserve proper and due consideration, and the Hon. Sandra Kanck has covered those in great depth. As the Democrats spokesperson on water resources, I want to focus on that issue, which has been covered by the Hon. Sandra Kanck. The Roxby Downs operators have been a little too glib by half in trying to suggest that the amount of water they want to use will not create a problem.

Their press releases talk about how much water comes over the border each day and how much water they use, and they suggest that there is not a problem. They intend to use some 42 megalitres a day, and they say, 'But that is only 10 per cent of what is coming over the border.' What they do not say is how long it takes for the water to travel from the border to where they are pumping it. It takes one million years for the water to travel from where it first falls in Queensland and New South Wales to where they are removing it. It would therefore be reasonable to assume that for the water to travel from the border to where they are drawing it will take somewhere between 300 000 and 500 000 years. For the operators to say that they are using only 10 per cent of the total water entering the South Australian part of the basin, and that therefore there is not a problem—

The Hon. A.J. Redford: How old is the world?

The Hon. M.J. ELLIOTT: Several billion years.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: No, it is not flippant—two to three billion years, something of that order. I obtained this advice from the Department of Mines and Energy—I hope I can rely upon it as a source of information. The information was also recently published in a Bank SA publication. As I said, for the operators to say, 'Look, we are using only 10 per cent of the water arriving, therefore we are not causing a problem' is a bit glib. In fact, the Roxby Downs operators should tell us how much water they are using in a particular area and how quickly it is replaced.

With respect to bore field A, the operators started pumping nine million megalitres a day and increased to 15 megalitres a day, so they were clearly using the water faster than it was

arriving in that area. As a consequence, bore field A was being depleted, several mound springs had already dried up and other mound springs were in serious decline—an indication that the operators were using water faster than it was arriving, and the very reason why they were going to bore field B, which is larger in area and further to the east in the Artesian Basin. Bore field A is on the western extremity of the basin. Clearly, if they were going to extract the amounts of water they wanted, they required access to a much larger draw-down area and also, I guess, to move further into the basin, away from the area they had already depleted.

It is not unreasonable to ask very serious questions about whether or not what they are doing is sustainable. The Department of Mines and Energy has carried out research work. Two extensive reports are being prepared, and I know of groups in South Australia that have lodged freedom of information applications to view those reports. On the last occasion I spoke with them, only a week or two ago, they still had not received those reports. However, I understand that the substance of those reports suggests that some questions are being asked about how much water can be drawn from the area.

Why should we be concerned about the amounts of water being removed? The first point is that this Bill, which the Labor Party is supporting, will guarantee the rights to draw that water. Effectively, through the indenture this Parliament is giving up any possibility to later on say, 'Whoops, we made a mistake, we have allowed them too much water and, as a consequence, despite the fact that real damage will be done, we cannot undo it.' That is what this Parliament is agreeing to. We have the Labor Party suggesting that we will set up an inquiry through the Environment, Resources and Development Committee, which already has at least a year's work on its timetable. So, in a year's time the Environment, Resources and Development Committee will start looking at this question. What if it comes back to the Parliament and reports that there are serious problems in terms of water supply? What will this Parliament do, having a year before passed legislation giving an unfettered right to the indenture operators through an agreement which will be legally binding? There will be nothing it can do short of paying perhaps massive compensation if it wishes to change the law and change the indenture. I find that truly remarkable.

What are the consequences of too rapid a draw down? The consequences, first, can be environmental. As I said, several mound springs have already been extinguished and several others severely depleted. The drying up of those springs has both environmental and Aboriginal significance. It may take tens, if not hundreds of thousands of years, before the head of water returns and those springs run again. Species, and in some cases species which are found nowhere else but in individual springs, will be permanently extinguished even if the springs return in tens or hundreds of thousands of years. I do not think anyone can say how important the water is that simply comes to the surface in various places and what part that plays in the ecology, but certainly that will stop for the odd tens or hundreds of thousands of years. So, there is the environmental impact and also the Aboriginal significance of some of those springs.

Then there are economic questions. I understand that Western Mining has bought a couple of the pastoral properties because it realised how much resistance there would be from pastoralists who were going to have their bores dry up. But how far the impact will spread on to other pastoral properties will be an interesting question. I repeat that once depleted it will probably be an effect which will last for tens, if not hundreds, of thousands of years. That is how long it will take for a reversal. So, that is the potential economic impact on pastoralists and other smaller users of water.

Finally, even if there is a sustainable level of draw down from the basin—and I am sure there is a sustainable level of draw down from the basin for economic purposes—we have to think about how that is shared around. We already know that a proposed steelworks north of Coober Pedy is on the drawing boards. They will be wanting water from the basin. I understand that they are looking at putting in their own bore field north of bore field A in the Lake Eyre area. They will be wanting to draw significant quantities of water out of the basin and then there may be other economic ventures also looking to draw out of the basin.

The Hon. Sandra Kanck: Do you think the Opposition understands these things?

The Hon. M.J. ELLIOTT: One would hope that it does, but this water having been devoted to the exclusive use of one company will not be available for other use whether it be economic, environmental, Aboriginal impacts or whatever. This decision is being made and approved by the Labor Party without any evidence before it concerning whether or not it is sustainable. I defy one member of the Labor Party to tell me that they have evidence that the draw down is sustainable and I defy them then to tell me what they will do if they find out that the draw down is not sustainable, how it will be coped with. I find this absolutely extraordinary. It is being done because the Labor Party is too scared to be seen to be negative. It is not being negative to question and, if anyone suggests that the questions I am asking are being negative, then there is a fair bit of hyperbole in such a suggestion.

They are reasonable questions and reasonable questions need to be adequately answered. We have already had experience in the past about the inadequacy of environmental work done. We must not forget that the Environment, Resources and Development Committee spent a considerable amount of time looking at the leaks at the tailings dam at Olympic Dam. Having been told and assured that everything was being done properly, we found out later that it was not. It was more good luck than anything else that, at the end of the day, there does not appear to have been negative consequences.

Rather than learning from that experience, some people simply close their eyes. No industry is absolutely sacred. Nobody should be able to be above due and proper questioning. This Parliament has a role to make sure that it carries out that proper questioning when it has legislation put before it, and it should not make decisions that are based on ignorance. That is precisely the position that this Parliament is in right now in relation to water. It is a very sad day. The Government really has treated this Parliament with contempt in terms of the lack of information it has provided on this issue and its failure to give adequate time for the matter to be treated within this Parliament. It has not been in the Parliament nearly long enough.

We should learn from history. I spoke about the tailings dam. This Parliament has ratified other indentures that later proved to be a major mistake. Let me remind members in this place of the consequences of the indenture signed for the paper mills in the South-East, an indenture that gave an absolute right to the companies to send their effluence into Lake Bonney. Lake Bonney, the largest permanent fresh water body in South Australia, was killed for decades, and

only now is life starting to return—albeit that the fish quite often have two tails rather than one. This is a fact.

The Hon. R.R. Roberts: Have you seen it?

The Hon. M.J. ELLIOTT: Yes, I have seen it. The fact is that, because of the organochlorins and other chemicals that have gone into that lake, it will take a significant time to recover. That is not to say that one does not want to do as much as is reasonably possible to encourage industry—but I did say 'as much as is reasonably possible'. The only defence that previous Governments had in relation to what happened with Lake Bonney was that it happened in another era and it happened largely in ignorance. But, as I said before, there is a real danger that a decision is being made by this Parliament again in ignorance of the true situation in terms of sustainable draw down of water and also in terms of, once we know what the sustainable draw down is, how it should be allocated and whether or not one company should get such exclusive right to the allocation of waters from the artesian basin.

I suppose that one other question is: just how efficient are these people being with their use of water? I understand that their practices have improved, but they should be challenged to improve further. It has been suggested to me that one of the reasons they want large quantities of water is because they want to generate their own electricity.

This Act also envisages production of electricity on site. My advice is that, if they do not use water cooled turbines, electricity generation will be extremely inefficient, and that the only way they can produce electricity efficiently on site is to use water. It is likely that a significant amount of the water that is being granted via this Bill and indenture is to be used for the production of electricity on site. If that is the case, it is most unfortunate and, indeed, they should have been challenged to be getting the electricity from perhaps Port Augusta, even if it meant installing gas turbines there and guaranteeing an ongoing life for the Port Augusta power station, which clearly will, over time, come under threat because of its reliance upon coal and because of cost threats resulting from national competition policy and the import of electricity from Victoria and New South Wales.

There really could have been an opportunity to guarantee some long-term industry in Port Augusta rather than giving away water in the way we are which, if anything, will cause the north of the State to suffer some disadvantage. As I said, the substantial contribution to this debate has been made by the Hon. Sandra Kanck but I did want to focus particularly on the issue of water, because it has been treated far too lightly by this Parliament so far.

The Hon. T. CROTHERS: I did not intend to enter this debate, but I have listened very carefully to the contributions from both members of the Democrats, during the course of which the Opposition came under fairly heavy attack in respect of its support for the amendment to the Roxby Downs indenture. I would dispute that we have acted in any other way but responsibly in respect of our support of this Bill. I want to take the Hon. Michael Elliott on in this regard. He referred to the fossilised water that exists under our artesian basins: it takes hundreds of thousands of years to accumulate. And he is right. He says that the level of water contained in the basin is not monitored. I do not think that is correct: I believe that hydrologists monitor the level of waters contained—

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: There are no second prizes. I believe that hydrologists, very skilled people, monitor the levels of water contained in those basins. I myself am a very proud grandfather of 12 grandchildren, and there is no way on this earth or the next one that I will be a party to anything that causes detrimental environmental damage to them and any offspring that they might produce through the generations.

However, the point which I wish to make and which shows up the weakness of the argument mounted by the Leader of the Democrats is that he talks in terms of the fossilised water taking perhaps millions of years to accumulate in the basin. He is right. And we do know, because of hydrological surveys, that the water that flows into our basin basically flows from the north of Queensland and from parts of the Northern Territory when there are heavy downfalls of rain and, because they are part of the cyclonic seasonal rotation of climate in this nation, the rains can be very heavy indeed. But, as he correctly said, how can one tell how much water will flow into the basin over hundreds of thousands of years? What happens if all of a sudden northern Australia has a climate change and is subjected to very heavy rains, or if by nature it dries up altogether? That is the one non-determinant. We cannot say. How he can, in all fairness and in all equity, make the statements that he has made is beyond my ken.

I for one want to see nothing but sustainable development. We cannot stand still; we cannot sit on our hands. I am as much an environmentalist as anyone, because of my grandchildren—I love them—but I often wonder why it is so that South Australia, more so than Queensland, more so than Western Australia, is subjected to these tirades and attacks every time a mining project is either to be expanded or to be opened up. What is to happen in respect to the mining projects that no doubt will develop in the Gawler Craton area of mineralisation? What do we do then? How do we tell the people who are employed here that we will not support that because of some potential, perhaps, in 100 000 years for Hergott Springs or some of the Mound Springs to dry up?

What does that tell us in respect of the capacity of our artesian basins to sustain these projects. The Mound Springs flow when the water is closer to the surface. But how much water can we take, even if those springs flow—and I accept the point about the species that have developed locally in the springs and, no doubt, that is something that must be looked at. But that is not of sufficient strength in itself to stop this expanded project. I had promised my Leader that I would not go on unendingly. She has been very forbearing. I said that I would speak for only three minutes. She has given me a fairly decent hand signal. I respect her leadership.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: You notice, Mr Redford, that she was wide awake. I respect my Leader's hand signals. One of my mates, who is an SP bookie, asked me whether he could employ her because she is so effective. Let us ensure that, whatever we do, there is just half an ounce of commonsense and not the waves of emotion that we often see when matters of this nature and importance to the community of South Australian workers are being debated in this Chamber or anywhere else.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contributions. In particular, I thank the Hon. Trevor Crothers for his eloquent rebuttal of the comments made by the Hon. Mr

Elliott. It will mean that I will not need to respond to much of what the Hon. Mr Elliott raised in his second reading contribution. I thank members of the Labor Party for their indication of support for the legislation: that will obviously see the passage of the Bill through both houses of the Parliament.

The Hon. Sandra Kanck raised a number of questions and she is moving two amendments, and I have now been provided with a response on behalf of the Government. It will not surprise her to know that the Government will not be supporting her amendments, but I have had discussions with her. Officers of the department have been working hard to see what responses we can provide. I have had officers brought down to the Parliament to be here in Committee, and I invite the honourable member to work her way through her questions in Committee and we will see what responses we can provide directly to her. We will need to take some questions on notice, and on behalf of the Minister and the Government I give her my commitment, as I have done on other occasions, to correspond with her as soon as we can with a more definitive response in relation to any questions that we cannot respond to immediately.

Bill read a second time.

The PRESIDENT: This Bill is a hybrid Bill and, in accordance with Standing Order 268, should be referred to a select committee. However, the House of Assembly suspended Standing Orders in order that the Bill could be proceeded with as a public Bill. Therefore, I suggest that a similar procedure be adopted in this Council in order to expedite the passage of this legislation.

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

That Standing Orders be so far suspended as to enable the Bill to be proceeded with as a public Bill.

Motion carried.

In Committee.

Clauses 1 to 3 passed.

New clause—'Insertion of Parts 4 and 5.'

The Hon. SANDRA KANCK: I move:

Page 2, after line 32—Insert new clause as follows:

3A. The following Parts are inserted in the principal Act after section 12:

PART 4
URANIUM ENRICHMENT AND REPROCESSING OF NUCLEAR WASTE

Prohibition of uranium enrichment plant etc

13. No plant for the enrichment of uranium or the reprocessing of nuclear waste is to be established in the Stuart Shelf Area.

PART 5
PROTECTION OF ARTESIAN WATER SUPPLIES

Protection of artesian water

14. Nothing in this Act or the Indenture prevents the imposition of rates or charges to discourage excessive depletion of artesian water supplies.

This amendment is in two parts, and I canvassed them in detail last night. The first part concerns the prohibition on the use of the Olympic Dam site for either enrichment of uranium or reprocessing of nuclear waste. Apart from the general concerns that the Democrats have about the use of uranium and uranium enrichment, our specific concern is that whatever mineral is brought in from interstate, it will be treated at the expense of the South Australian taxpayer. I am mostly concerned about uranium, but it applies also to other minerals that could be brought in from interstate. My guess is that the most likely place from which we would receive uranium would be Western Australia.

I asked some questions last night about what the real costs have been in 1996 dollars in terms of infrastructure compared with the royalties that have been returned, and I hope that I will get some answers on that point later. The Democrats are not convinced that the State is really ahead in regard to the mine, and we believe that the whole development at Roxby has come at the expense of the South Australian taxpayer. One must also consider all the assistance that has been given to Western Mining Corporation. We do not believe that anyone else should be able to bring in material from interstate, either for uranium enrichment or reprocessing of nuclear waste, at our expense, in effect.

The second part of the amendment concerns artesian water. I spent a great deal of time talking about this matter last night, and my colleague the Hon. Mike Elliott has also spoken on this issue today. Neither I nor the Hon. Mike Elliott can get across to the Government and to the Opposition our concerns about the implications of this expansion. We are really playing with fire, although that is not the quite the right expression in this case—we are playing with water. When we have water moving through the sandstone at one to five metres a year, it is beyond me to see how it can be replenished. We are taking a massive risk. I cannot see how it will be replenished in an easy way. We cannot do it as a scientific test and have a model to check it against. Once we have done it, if we have made a mistake we will start destroying the mound springs and other associated life forms that go with this resource.

Because of the concerns about the water and the amount being used, not just by Roxby but by all other users in the north, I propose that this clause should be included in the Bill so that, if at some stage in the future the Government decides that it wants to charge any or all users in the north for use of artesian basin water, this provision would allow the Government to impose a charge. It does not oblige the Government to do anything about it. It is simply there as some sort of safety valve if the Government at some time in the future decides that that is the logical thing to do to protect the Great Artesian Basin. I urge the Opposition and the Government to consider the amendments seriously.

The Hon. R.I. LUCAS: As I indicated in the second reading debate and privately to the honourable member, it will not surprise her that the Government, as much as it always wishes to accommodate the honourable member where it can, is unable to do so on this occasion. The first amendment is aimed at expressly precluding the establishment of a plant for uranium enrichment or for the reprocessing of nuclear wastes in the Stuart Shelf area. I am advised that neither the State Government nor Western Mining Corporation have any plans to establish such a plant, nor any desire to do so. The Government considers it inappropriate to use the indenture as a *de facto* means of declaring a large part of the State prohibited for these amended activities. There are also important distinctions between the uranium enrichment process and waste reprocessing which make it inappropriate to bracket them together in an arbitrary band.

The Government's view is that should the honourable member wish to introduce legislation to seek such a widespread prohibition, the better alternative for the honourable member for consideration by the Parliament would be for this matter to be considered by private members' legislation.

The second amendment is aimed at not preventing 'the imposition of rates or charges to discourage excessive depletion of artesian water supplies'. The proposed amendment is contrary to existing clause 13(12) of the indenture,

which states that, 'the State shall not impose on the joint venturers...any charge in respect of the development of or use of any water' from any well fields. It should also be noted that specific controls on potential impacts on groundwater pressures are already provided in clauses 13(8)(c) and 13(8)(B)(ii) of the indenture. These clauses specify that the Minister responsible for water resources may, if it is deemed necessary for the protection of the resource, restrict the abstraction of water from the designated areas.

In addition, the proposed amendment may be contrary to clause 33 of the indenture, which provides that the State will not:

> ...levy or impose or seek to levy or impose or permit to be levied or imposed a tax, duty, rent, charge, tariff, levy...in respect of the conduct by a joint venturer...of a project...the subject of this indenture, which discriminates adversely...

Again, the Government's position is that it is inappropriate to use the amendments to the indenture to establish this particular policy being advocated by the honourable member. For those reasons the Government opposes the amendments moved by the honourable member.

The Hon. R.R. ROBERTS: On advice from the shadow Minister for Mining and Energy in another place I indicate that we too will not support these amendments. We will not support the first amendment, on the basis that we do not believe that this provision belongs in this Bill. The issue of the uranium or nuclear waste that may be reprocessed will have national significance. I do not know that we are producing any nuclear waste at Roxby Downs. As the indenture refers to the operations of Olympic Dam, I believe that, if these matters become a reality or they are considered seriously, there will be a debate nationally and in South Australia.

I point out to the Hon. Sandra Kanck that there is a position on the transport of nuclear products in South Australia and there are restrictions on a State basis, but we have seen what can happen where uranium waste has been stored at Woomera, which is not all that far from the site we are talking about. I am not a supporter of reprocessing or nuclear waste dumps in Australia, but there are suasive arguments that, if we must dump this material somewhere, probably the best place is back where it came from, especially when we have a reasonably large hole and a reasonably large number of options for handling it in that place. Because we do not see that this measure belongs in this Bill we will not support it.

In respect of the second part in relation to artesian water, many of the reasons put forward by the Leader of the Government in this place are pertinent. Again, the Opposition has indicated its position in respect of the use of artesian waters in these areas. I very much support an in-depth inquiry. I note the criticism that there has been no select committee. Based on the premise that we would be dealing only with the terms of the Bill, if we had had a select committee in the other place (and the Government obviously would be entitled to have absolute control of it under the structures and conventions of the Parliament), the reality would probably have been that it would last for two days. We have indicated our preference for an in-depth view where people who want to make submissions—scientists, conservationists and other interested people—would be untrammelled in their ability to pursue these issues in a proper debate. I am certain that at the end of that process if problems are identified it is not beyond the wit of this and the Federal Parliament to enact legislation to stop any real damage to our resources or to restrict any damage to those resources which has come about through decisions made in a proper way and with the best intentions.

Parliaments and members of the public often make decisions on the best information available to them, which is proper in the circumstances, and society often has to adjust if it is shown to be necessary. The Opposition feels this is the proper way to go with this Bill. There needs to be an in-depth inquiry for the future of those other mining operations that the Hons. Mr Elliott and Sandra Kanck mentioned. The water resources in this area may well be fully used by the Roxby Downs or Olympic Dam project, and that may restrict those mining operations. That could well be a possibility—it may not be.

The Hon. T. Crothers interjecting:

The Hon. R.R. ROBERTS: Proper monitoring, as my colleague the Hon. Trevor Crothers mentions, and a proper investigation on a scientific basis, untrammelled by the desire to get legislation through very quickly, are more appropriate ways of looking at those fragile and finite water resources in this State to ensure that we not only get the best use out of them but also that we can sustain them to the best possible effect for those people who engage in activities, including pastoral and other pursuits, in those areas. The Parliament faces these matters responsibly, with the best intentions of the people of the State of South Australia in mind, including the opportunity for jobs.

As to Roxby Downs, the Opposition's position is quite clear. We accept that Roxby Downs is in place. We have done everything that we can legislatively over the years to ensure proper standards are maintained in health, hygiene and occupational safety, and in the provision of services. On numerous occasions we have called for the provision of ongoing health services for those people living in remote South Australia. One of the things this Bill does is provide better health services for this fast developing area.

I sympathise with the concerns of the Democrats. If in 20 years they are proven to be right and we are wrong, it will do me no pleasure and will do nobody any good. If we say we have to wait until everything is proved scientifically, we will never know. We actually have to stick our toe in the water just a little, and I do not say that flippantly.

There has been a great deal of debate in our Caucus about this. There are many people within the Labor Party with a long history of involvement in the argument about uranium. There have also been many people in the Labor Party who have been concerned about mining and development, the provision of jobs, occupational health and safety and a whole range of matters. It is against all those considerations that our Party made a decision, along with our Federal colleagues, that we felt this proposition had to be put. We were of the opinion that, when we had a stage 1 of Roxby Downs, there would always be a stage 2, and to that extent we feel it is a *fait accompli*.

The Democrats have not said they are not in support of development. They have not said they are not in support of occupational health and safety. They have not said that they are not in support of proper facilities for people living in outback South Australia. They have a different view from ours at the present time. However, on behalf of the Opposition, I am comfortable in the position we have taken on this matter, and I look forward to our Party being involved in a proper investigation for the proper use of those artesian water resources, and encourage all members to put their best efforts into addressing that issue as early as possible. The Hon. Mike Elliott says there is a lot of work there. I would fully encour-

age the Environment, Resources and Development Committee to give this a priority.

The Hon. M.J. Elliott: Over aquaculture?

The Hon. R.R. ROBERTS: I think probably, yes, because we are talking about the future expansion of South Australia here and the provision of services which will depend on agriculture as well. I am sorry for the length of this contribution, but I indicate we will be supporting the Government's position in opposing this amendment.

The Hon. SANDRA KANCK: I must say I am very disappointed. I attacked the Opposition last night and there was an opportunity for it to at least partially redeem itself by supporting these amendments. It failed to do so and I will certainly make sure that the Opposition's remarks in *Hansard* in both this place and the House of Assembly are extensively circulated in the conservation movement.

I remind the Hon. Mr Roberts that he is talking about jobs as his justification: we are talking about 200 permanent jobs, each job costing $600 000. If we were to pay a number of people $50 000, we would be able to give jobs to more than 4 000 people at that rate. The Government sits back and allows the market to decide. South Australia would be much further ahead if the Government said, 'Look, here are the particular enterprises or businesses that we want this Government to run with' and then made sure that they worked and provided jobs at a much more reasonable rate. To simply say, 'Look, this is a *fait accompli*' is a very poor excuse for an argument. Obviously, the Liberal Party has remained consistent. It has always been pro uranium and pro Roxby since the original Bill was introduced in 1982.

However, the Opposition's performance has been very sad. As I said last night, the Government allowed a maximum of six weeks from when this Bill was introduced to when it wanted it passed. It appears that it will be passed in five weeks. The original Bill was introduced to Parliament in March 1982 and not passed until November so that there would be reasonable time for public consultation. The Opposition has been a partner in crime with the Government on this Bill to ensure that adequate debate did not occur. All I can do at this stage is express my profound disappointment.

The Hon. M.J. ELLIOTT: Before I ask the Minister my question, I make an observation. As I said during the second reading debate, the Democrats have always opposed uranium mining, and we do not resile from that. But many of the issues raised here about the speed with which things have taken place and the fact that there was no select committee beforehand—

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: Let me finish. I think there are real questions about water that should be answered. I believe that the Roxby Downs expansion could continue without the quantums of water that are being promised and that a substantial amount of that water will be used for electricity generation which could be generated elsewhere. You can have arguments about water which do not become absolutely limiting on whether or not Roxby Downs expands. The arguments are not just about whether or not Roxby Downs should be there or whether it should expand; there are also arguments about the quantums of water being used. In fact, I argue strongly that, if they decide not to generate electricity on site and if they change their on site practices, they will use less water. But we are basically signing a blank cheque for 42 megalitres even though Roxby Downs will not need that for some time. They could expand the project without using 42 megalitres of water. Regardless of what one thinks about uranium mining and regardless of arguments about expansion, they are relevant points.

I am afraid that I do not have my paperwork with me, but there were two reports which examined water availability in the basin in the general vicinity of borefield B. I know that FOI requests have been made but they have not been met at this stage. Why are those reports not generally available to the public?

The Hon. R.I. LUCAS: I am advised that the persons or organisations that have requested those two reports under FOI have been told that they are available but that the organisations are not prepared to pay the photocopying cost under the FOI legislation. They have been told that they are available for viewing but, as I understand it, they have not taken up that opportunity. If the honourable member has information different from my advice, I invite him either to share it with me now or perhaps correspond with me. I am happy to raise the issue with the appropriate Minister.

The Hon. M.J. ELLIOTT: What cost was put on the copying of those reports?

The Hon. R.I. LUCAS: There is a standard charge under the FOI legislation. Agencies cannot make up charges. I think the honourable member was in the Parliament when the Freedom of Information legislation was passed under the previous Government. I am not sure how he voted on that provision—I can check that for him. I cannot remember whether or not he supported it. The agencies cannot make up a charge to stop people getting FOI requests. It is obviously a provision under the legislation which is available. But, as I said, I am advised that the organisations can actually view it and read it without having to incur a cost. If the honourable member has further concerns, I would ask him to correspond with me and I will take up the issue with the appropriate Minister, but at this stage that is the information with which I have been provided during the Committee stage of the debate.

The Hon. M.J. ELLIOTT: Will the Government table copies of those documents in this place next week?

The Hon. R.I. LUCAS: I would have to take advice on that. I am not in a position this afternoon to give a response. I am happy to take advice and correspond with the honourable member as soon as I can.

The Committee divided on the new clause.

AYES (2)

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

NOES (12)

Crothers, T.	Griffin, K. T.
Holloway, P.	Lawson, R. D.
Levy, J. A. W.	Lucas, R. I. (teller)
Nocella, P.	Pfitzner, B. S. L.
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Weatherill, G.

Majority of 10 for the Noes.

New clause thus negatived.

Clause 4 passed.

Schedule.

The Hon. SANDRA KANCK: I indicate that, given the lateness of the hour, I will not proceed with any of the questioning I had included in my second reading contribution. I accept the Minister's undertaking that he will provide written answers.

The Hon. R.I. LUCAS: As is very frequently the case, the Deputy Leader of the Democrats is being very reasonable in her attitude to the legislation. I undertake, on behalf of the

Minister and the Government, to provide the honourable member with replies as expeditiously as possible and to correspond with the honourable member.

Schedule passed.

Title passed.

Bill read a third time and passed.

PARLIAMENTARY REMUNERATION (SUPPLEMENTARY ALLOWANCES AND BENEFITS) 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.

This Bill seeks to clarify and confirm the powers of the Parliament and the Government to provide allowances and other benefits to members of Parliament that are additional or supplementary to the awards to the Remuneration Tribunal under the Parliamentary Remuneration Act 1990.

The Government recognises that it is part of members of Parliament's function to travel. However, it also recognises that there needs to be greater accountability by members of Parliament in relation to their travel. The Government in consultation with the Presidential Members, together with the Opposition and the Democrats has taken steps to amend the parliamentary travel rules to introduce greater accountability.

As part of the Government's recognition that there needs to be greater accountability in relation to members' travel allowances, the Auditor-General was asked to provide a report. As honourable members are aware, the grant and use of travel allowances of members is currently being examined by the Auditor-General and the question of the validity of those allowances and expenses granted either by the Government or by Parliament through the Presiding Members has arisen.

The Government has made available postage, stationery, computer, photocopying and equipment allowances for use by members of Parliament in managing their electorate offices and offices in Parliament House. These allowances have been managed and checked by Parliament Officers and the Minister for Industrial Affairs. The payment of these allowances and expenses by the Government needs to be put beyond question.

The basis of questioning the validity of these allowances and expenses is the judgment of the High Court in the case of *Brown v West*.

The Federal Government had granted all Federal members a postage allowance over and above the postage allowance granted by the Remuneration Tribunal. This additional allowance was challenged in the High Court and the Court held that the Government had no power to award an additional allowance. A South Australian case of similar effect, but on an unrelated topic is *Bromley v South Australia*. In this case a challenge to the Minister for Correctional Services granting ex gratia payments to prisoners over and above the payments provided for in the Correctional Services Act was successful.

The basis of the *Brown v West* decision is that the exercise of the executive or prerogative power is excluded by the Parliament passing an Act which vests in a tribunal the power to make a comprehensive determination in respect of allowances and expenses.

The present uncertainty must be resolved as soon as possible. The Government believes that the present system of a mix of allowances and expenses being awarded by the Remuneration Tribunal, Parliament or the Government best suits the needs of members of this Parliament.

This Bill, in effect, preserves the status quo. Clause 2 puts the issue beyond doubt that Parliament and the Crown may provide to members allowances and benefits additional to those awarded by the Remuneration Tribunal under the Parliamentary Remuneration Act. Clause 3 ensures the validity of past allowances and expenses paid to members pursuant to decisions of Parliament and the Government.

I commend this Bill to honourable members.

Clause 1: Short title

This clause is formal.

Clause 2: Insertion of s. 6A

This clause makes specific provision about the ability of the Parliament and the Crown to provide allowances and other benefits that are additional or supplementary to the awards of the Remuneration Tribunal under the Act.

Clause 3: Application of amendment

The amendment to be effected by this measure is to operate both prospectively and retrospectively.

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

PULP AND PAPER MILL (HUNDREDS OF MAYURRA AND HINDMARSH) (COUNCIL RATES) AMENDMENT BILL

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

ADJOURNMENT

At 6.54 p.m. the Council adjourned until Tuesday 3 December at 2.15 p.m.