LEGISLATIVE COUNCIL

Tuesday 3 December 1996

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2 p.m. and read prayers.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 5, 16, 19, 47, 56, 60, 81, 90, 95, 98 and 102.

MOUNT GAMBIER HOSPITAL

5. **The Hon. P. HOLLOWAY:**

1. Which company won the contract to build and finance the construction of the Mount Gambier Hospital?

2. What are the details of the lease-back arrangements for the Mount Gambier Hospital and, in particular—

(a) What is the term of the lease and what rights of renewal, if any, apply?

(b) Who will own the hospital at the end of the lease and if the Crown has a right to purchase, how will the purchase price be determined?

(c) What annual or periodic payments are due under the lease to the financier/constructor for the hospital and what provisions exist in the lease for these payments to be varied?

(d) Who is responsible for cyclical and urgent maintenance and repairs to the hospital?

(e) What is the total estimated cost of the hospital to the Health Commission over the life of the project?

3. How will the cost of leasing the new hospital be provided, i.e. will the lease be funded from the recurrent Mount Gambier Hospital budget or from some other source?

4. (a) What financial analysis was undertaken of the benefits and costs of private funding of the Hospital compared with public provision?

(b) Who undertook this analysis and will it be made public?

5. What are the claimed financial savings from private funding of the hospital as compared with public funding and how have these been calculated?

The Hon. DIANA LAIDLAW:

1. The financier of the Mount Gambier Hospital Development Project is BZW Australia Limited and the builder is Hansen & Yuncken Pty. Ltd.

2. (a) The initial lease is for 25 years with the option of renewing for a further two five year terms or one 10 year term.

(b) Mount Gambier Hospital Limited, a special purpose vehicle which is the owner of the new hospital, has entered into a 35 year ground lease with the Mount Gambier and Districts Health Services Inc (MGDHS). At the end of this period the hospital will revert back to the MGDHS.

(c) The lease payment is $488 865 per quarter. The lease payments are indexed by the Consumer Price Index from December 1995.

(d) The owner of the hospital—Mount Gambier Hospital Limited.

(e) The total of the lease payments, in present value terms, after taking the ground lease payments into consideration is $27.7 million using a 5 per cent real discount rate. In determining this present value the lease payment excludes maintenance.

3. The majority of the lease payment will be funded from recurrent savings achieved at the hospital from efficiencies which will be generated from providing health services in a purpose built facility. Department of Treasury and Finance will provide the balance.

4. (a) A financial analysis of the proposal was undertaken taking into account all relevant costs associated with the construction using private funding and compared with costs if the facility were publicly funded.

(b) The financial analysis was undertaken by SA Health Commission and the Department of Treasury and Finance. The analysis has been made available to the Auditor-General's Department.

5. There are no financial savings from this proposal and it has never been claimed that the private funding of a hospital would generate financial savings. The Government was aware of the higher cost when the approval was given. The decision to proceed with private sector funding was based upon:

- The Government inherited a massive debt. In the health arena, the public hospital infrastructure urgently required upgrading to enable it to meet the demand for hospital services in the near future.
- SA Health Commission planning identified that for the RAH, TQEH and Lyell McEwin Health Service there is a total indicative estimated cost of major works for public hospital patient facilities until 2006-07 of up to $425 million. This compares with an estimated availability of capital funds of around $330 million if current expenditure patterns in SAHC capital works program were continued; i.e., 10 years of continuous replacement still isn't enough to cover the run down health assets left by the previous Government.
- The Health Facilities Plan also determined that the demand for hospital services will increase by around 17 per cent between 1991 and 2001 and 29 per cent between 1991 and 2011.
- Given the urgent requirement to upgrade the hospital infrastructure in the metropolitan area, the Government also recognised the requirement to provide up to date infrastructure and equipment in rural South Australia.
- The community, staff and hospital boards of Mt Gambier and Port Augusta have for a long time been seeking upgraded facilities. This Government was not prepared to ask them to wait another 10 years.
- The Government decided to provide the much needed facilities immediately by funding the new hospital facilities through entering into long term leases with the private sector.

DISABILITY SERVICES

16. **The Hon. SANDRA KANCK:**

1. How many Option Co-ordinators are there in the Disability Services section of the Health Commission?

2. Are they providing a similar function to that which was previously offered by provider organisations?

3. Did these officers come from within Disability Services or are they additional or new appointments?

4. Was extra funding provided to Disability Services to pay for these positions or was funding taken from other sources?

5. How many new services to people with disability have been co-ordinated by Option Co-ordinators since they were introduced?

6. What is the total cost (including labour with on-costs and other associated costs) of the Option Co-ordinator Agencies and what is the source of the funds for these functions?

7. Is there a priority for providing services to people with disabilities and, if so, what is the priority of need?

8. Are there benchmark prices that Disability Services have set regardless of residential setting and, if so, what are these prices?

The Hon. DIANA LAIDLAW:

1. There are no Options Co-ordinators employed within the Disability Services Office (section) of the Health Commission. There are 13 staff employed within the Disability Services Office, including three clerical officers. The Office provides policy and service planning advice and administers funding of $155 million allocated to more than 90 agencies, mostly non-government organisations, throughout the disability sector. This includes five Options Co-ordination agencies.

A total of 129.7 FTE Options Co-ordinators are employed in the five Options Co-ordination agencies as follows:

Government agencies:	
Intellectual Disability Services Council Options Co-ordination	93.7
Adult Physical and Neurological Options Co-ordination	16
Brain Injury Options Co-ordination	10
Non-government agencies:	
Sensory Options Co-ordination	5
Crippled Children's Association Options Co-ordination.	5

2. Options Co-ordinators provide a first point of contact for people with disability, access to appropriate assessment of need and case management services including the direct purchase of services for their clients. This is in accordance with recommendations of the report of the Disability Services Implementation Steering Committee (June 1993) and the funder, purchaser and provider model adopted by the Health Commission.

Many of the functions of Options Co-ordinators, such as assessment, the determination of access to services and case management, were previously undertaken by disability service providers. This resulted in multiple assessments, inequity in access to services and inefficiencies in the provision of services now being addressed by the reform of the sector.

3. Options Co-ordination was created through the transfer of staff from a number of disability agencies and the re-allocation of existing resources.

Five Options Co-ordination Managers were appointed in February 1995, three were new management positions in the Sensory, Adult Physical and Neurological and Brain Injury Agencies. The other two managerial positions, at the Crippled Children's Association and the Intellectual Disability Services Council were created through the transfer of existing positions.

A number of case managers were transferred from Julia Farr Services and additional Options Co-ordination resources were provided through savings achieved from changes in staffing arrangements at Julia Farr Services.

A number of positions were set aside from Julia Farr Services for Options Co-ordination staffing. These positions were allocated to the two new Options Co-ordination agencies for people with a disability due to brain injury or adults with physical and neurological disabilities. These agencies have case management responsibility for client groups which historically have been the responsibility of Julia Farr Services.

The Crippled Children's Association Options Co-ordination Agency was formed from part of the Care Options Unit of CCA.

Negotiations with a number of sensory disability agencies led to a transfer of existing resources to the new Sensory Options Co-ordination Agency.

The Options Co-ordination function for people with an intellectual disability is performed by IDSC Community Services. An increase in staff numbers has followed the transfer of some functions, with resources, from Strathmont Centre. IDSC has also absorbed the work of a number of social workers from the Spastic Centres of South Australia.

However, six temporary positions have been created within Brain Injury Options Co-ordination and Adult Physical and Neurological Options Co-ordination to work within Julia Farr Services to provide residents with accommodation and lifestyle choices.

4. Transitional funding, received through the Commonwealth State Disability Agreement, was made available for the salary costs of three of the Options Co-ordination managers in the first instance. See response to Question 3 for additional information.

5. Prior to the introduction of Options Co-ordination, people with an acquired brain injury, a sensory disability and adults with a physical and/or neurological disability were not receiving an independent case management service and many had little or no access to information on support services that may be available. Approximately 2 100 clients are now registered with the three Options Co-ordination agencies responsible for these target client groups.

In addition, since the introduction of Options Coordination, 61 people with a physical disability have been diverted from admission to Julia Farr Residential Services. This has resulted in a substantial saving in residential care costs which has enabled many more people with physical and/or neurological disability to receive home-support services. To date, a total of 73 people with severe and multiple disabilities have been maintained in their own homes through the efficient use of resources in this way.

6. The total 1996-97 budget for the five Options Co-ordination agencies allocated through the Disability Services Office is $6 117 254. This represents approximately 3.9 per cent of the total State disability services budget which includes funds received through the Commonwealth State Disability Agreement.

7. Priority of access for the provision of disability-funded services is determined by the urgency and the need for a response to an individual or family. This need may arise from a combination of factors. These include:

- the level of function of the client in the areas of physical mobility, behavioural and/or social skills, cognitive ability and communication;
- the situation in which the client is in or may soon be if not supported sufficiently. This may include homelessness, the absence of a carer or supportive local community network, limited or no access to support services or the ill-health and/or age of the primary carer, and
- disadvantage, which may include financial disadvantage or the result of coming from an Aboriginal or Torres Strait Islander or a non English speaking background.

It should be noted that the situation of the client and his/her family does not necessarily determine the level of priority for disability support services although it may be a reasonably accurate indicator for some people.

In circumstances involving legal obligations these must be met and override priority of access requirements, these situations include guardianship, custody and treatment orders, custody, probation and child protection legislation.

8. No benchmark prices for residential services have been set by the Disability Services Office. However, the Disability Services Office will be putting in place mechanisms to determine reasonable costs for like services, including residential services, that are purchased from the disability sector in future years through service agreements.

SEX DISCRIMINATION

19. **The Hon. P. HOLLOWAY:** On behalf of a constituent, Mr. Brian Smith, the following questions are asked concerning a sexual discrimination complaint made by an ex-staff member in Mr. Smith's employ, to the Equal Opportunity Commission—

1. Why did not the Officer from the Equal Opportunity Department interview two girls who Mr. Smith named as his witnesses?

2. Why did not the Officer from the Equal Opportunity Department want to see Mr. Smith's documents?

3. Why did the Officer from the Equal Opportunity Department ask Mr. Smith to supply names of ex-staff going back 12 years?

4. Why was a Section 54 issued for names of ex-staff members for the preceding 12 months when the departments officer's previous request had been for 12 years?

5. Why did not the Commissioner of Equal Opportunity, Ms. J. Tiddy, answer Mr. Smith's solicitor's letter dated 22 June 1994 which questioned the relevance for the request by the Commission to supply names of people who had left Mr. Smith's employ before the alleged offence?

6. Why is it that Mr. Smith's personal letter to the Attorney-General, dated 13 September 1995, has not been acknowledged officially by the Attorney-General's Department?

7. (a) Should Mr. Smith have been informed by the commissioner, Ms. J. Tiddy, that his answers to the commissioner's initial complaint would be used in court against him?

(b) By not being warned, had Mr. Smith's rights been taken away from him?

The Hon. K.T. GRIFFIN:

1. The recollection of the investigating officer is that these two women were put forward as character witnesses, and the officer did not believe that his character generally was an issue. The investigation generally came to a halt when Mr Smith refused to comply with written requests to name past and present employees and so the officer did not interview anyone after the officer had spoken to the complainant, the respondent and one independent witness.

2. The officer has indicated that the relevance of the documents was to establish that Mr Smith's business was in financial difficulty. The officer saw no reason to doubt this, and did not think it necessary to peruse his financial documents.

3. The officer wanted to conduct a thorough investigation. The officer did not specify a period of 12 years, but asked for the names of all past and present employees.

The officer thinks that this letter contained an error and that the officer meant to limit the request to the period commencing twelve months prior to the letter. This would make the first letter consistent with the section 54 notice that was ultimately issued, as outlined in answer 4 infra.

4. As already indicated, the officer believes that the officer intended to specify a period of 12 months in the first letter of request, but that this was mistakenly left out. It is certainly true that there is

a disparity between the first letter and the official section 54 notice, in that the letter sought names of present and past employees whereas the notice was limited to the preceding twelve months.

5. Commissioner Tiddy believed that the solicitor's letter had been sufficiently answered in the course of telephone conversations between the solicitor and the officer.

6. Mr Smith has written numerous letter to me over a period of time. I can confirm that a letter dated 13 September, 1995 was received in my office. It is the usual practice that all letters are acknowledged in writing. Mr Smith has also been in regular telephone contact with my office manager in relation to his concerns. I am advised that there were occasions when a telephone conversation followed the receipt of a letter and that my officer verbally acknowledge receipt of Mr Smith's letter. That is likely to have occurred in this case.

7. (a) No. This is a civil jurisdiction.
(b) No.

LEARNER DRIVERS

47. **The Hon. T.G. CAMERON:**

1. What has happened to the proposal made by the Minister on 17 November 1994 in the Adelaide *Advertiser* to investigate sharing the cost of a $2 million plus high-tech simulator to help learner drivers?

2. Has this proposal been implemented?

3. If not, why not?

The Hon. DIANA LAIDLAW:

1. This proposal was investigated by the Department of Transport.

Driving simulators are effective in training novice drivers in certain of the skills necessary to operate a motor vehicle. However, such skills can also be obtained through practical on-road training alongside an experienced driver trainer.

In terms of maximising the access to such training, at low cost, the current provision of driving instruction through licensed motor driving instructors in South Australia is deemed to be far more cost effective than comprehensive use of simulator training.

2. No.

3. From the available literature, there is insufficient evidence to support the use of the simulator identified, for education and training of drivers, in order to achieve road safety benefits in a cost effective way. At present, other educational and training tools have the advantage of achieving road safety benefits but it is expected that as technology becomes available at a more reasonable cost, the use of simulators may be considered as a more realistic option.

TRANSADELAIDE

56. **The Hon. SANDRA KANCK:**

1. What is the function of the TransAdelaide Industrial Project Team located on the 8th floor of the QANTAS Building, North Terrace, Adelaide?

2. How many staff are employed on this project?

3. How many of the staff are permanent employees and are they employees of the Department of Transport?

4. Of the temporary staff, on what date did they begin employment with the TransAdelaide Industrial Project?

5. What is the cost of accommodation for the TransAdelaide Industrial Project?

6. What are the individual salaries and/or wages and overtime paid to all members of the TransAdelaide Industrial Project Team?

7. What is the budgeted cost for wages and salaries for the TransAdelaide Industrial Project Team for the financial year 1996-97?

8. What is the total budgeted cost of the TransAdelaide Industrial Project Team for the financial year 1996-97?

The Hon. DIANA LAIDLAW:

1. The functions of the Transition Management Unit (formerly the Industrial Project Team) include:

(i) Preparing industrial awards and agreements for the Bus Sector for presentation to the Australian Industrial Relations Commission (AIRC).

(ii) In accordance with AIRC requirements preparing a new Industrial award for Salaried, Professional and Technical Officers.

(iii) Consolidating awards covering maintenance (metal trades) employees and reviewing the Rail Operating Award.

(iv) Assisting in the development of enterprise bargaining agreements for presentation to the AIRC.

(iv) Administering the Government's Targeted Voluntary Separation Scheme.

(vi) Managing the redeployment of excess employees to positions within TransAdelaide, the broader public sector or private sector.

(vii) Amending and revising personnel policies and procedures to achieve a high level of performance and the operational and organisational objectives of TransAdelaide.

2. Six.

3. Five are permanent TransAdelaide employees and none are employees of the Department of Transport.

4. Administrative support to the unit is provided by temporary staff or by existing redeployees. The current redeployee resigned on 30 October 1996. A replacement is currently being sought.

5. $2 566.66 rental per month plus $183.33 per month for cleaning services.

6. Four employees are classified pursuant to the Salaried Officers Award and one is paid outside the award. The most recent administrative support person was paid at their redeployee rate of pay.

7. $265 279.00.

8. $420 890.00.

RAIL COMPLAINTS

60. **The Hon. T.G. CAMERON:**

1. Has the Department of Transport received more complaints from Hawthorn, Clapham and Belair householders about vibration from freight trains since the standard gauge line has been completed?

2. Is the increased vibration of a magnitude that could possibly affect the structure of dwellings along the track?

3. Is it appropriate to be comparing vibrations from freight trains on the standard gauge line with vibrations from blasting when the vibrations from freight trains are of a much longer duration when passing a dwelling than the vibrations from blasting?

The Hon. DIANA LAIDLAW: As the section of standard gauge line referred to by the honourable member is owned by Australian National, it is suggested that the question should be referred to Australian National for a response.

In the meantime the chief executive of the Department of Transport has advised that to his knowledge, the department has not received any complaints on the subject—and if any such complaints were received they would be referred to Australian National.

MINISTERS' INTERESTS

81. **The Hon. SANDRA KANCK:**

1. Has the Minister for Primary Industries owned any shares in Western Mining Corporation at any time since 1 July 1996 and, if so, how many?

2. Has the Minister had an interest in any trust that held shares in Western Mining Corporation at any time since 1 July 1996 and, if so, what kind of interest?

3. Has the Minister's spouse owned any shares in Western Mining Corporation at any time since 1 July 1996 and, if so, how many?

The Hon. K.T. GRIFFIN:

1. No.
2. No.
3. No.

90. **The Hon. M.J. ELLIOTT:**

1. As of 30 June 1996, did the Minister, or his spouse, hold interests in retail properties, either directly or indirectly?

2. What are the names of the companies in which interests were held?

The Hon. R.I. LUCAS:

1. No.
2. Not Applicable.

95. **The Hon. M.J. ELLIOTT:**

1. As of 30 June 1996, did the Attorney-General and Minister for Consumer Affairs, or his spouse, hold interests in retail properties, either directly or indirectly?

2. What are the names of the companies in which interests were held?

The Hon. K.T. GRIFFIN:
1. Directly, none; indirectly, none that I am aware of.
2. Not applicable.

98. **The Hon. M.J. ELLIOTT:**
1. As of 30 June 1996, did the Minister for Primary Industries or his spouse, hold interests in retail properties, either directly or indirectly?
2. What are the names of the companies in which interests were held?

The Hon. K.T. GRIFFIN:
1 Yes.
2. Kerin Agencies; Kerin Lange Rural.

102. **The Hon. M.J. ELLIOTT:**
1. As of 30 June 1996, did the Minister for Housing, Urban development and Local Government Relations, or his spouse, hold interests in retail properties, either directly or indirectly?
2. What are the names of the companies in which interests were held?

The Hon. DIANA LAIDLAW:
1. No
2. N/A.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Education and Children's Services (Hon. R.I. Lucas)—

Regulation under the following Act—
Bank Merger (BankSA and Advance Bank) Act 1996—Transfer Employees
Friendly Societies Act 1919—Rules—Confirmation pursuant to section 10 of the Act

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

Reports, 1995-96—
Adelaide Convention Centre South Australia
Country Fire Service
South Australian Tourism Commission
Regulation under the following Acts—
Workers Rehabilitation and Compensation Act 1986—Scales of Medical and Other Charges

By the Minister for Consumer Affairs (Hon. K.T. Griffin)—

Regulation under the following Act—
Liquor Licensing Act 1985—Dry Areas—Brighton and Seacliff

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

Reports, 1995-96
Enfield Memorial Park
Foundation SA
Outback Areas Community Development Trust
Pharmacy Board of South Australia
Public and Environmental Health Council
South Australian Psychological Board
The Physiotherapists Board of South Australia
Regulations under the following Acts—
Development Act 1993—Major Developments
Water Resources Act 1990—Conditions on Licences
District Council By-laws—
Tumby Bay—No. 13—Caravans used for Habitation in Townships.

GOVERNMENT AGENCIES

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement from the Minister for Tourism in the other place on the Restructure Bill.

Leave granted.

WINE AND TOURISM COUNCIL

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement from the Minister for Tourism in the other place on the Wine and Tourism Council appointment.

Leave granted.

OPERATION CHALLENGE

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement from the Minister for Emergency Services in the other place on Operation Challenge.

Leave granted.

RETAIL SHOP LEASES AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of the Retail Shop Leases Amendment Bill 1996.

Leave granted.

The Hon. K.T. GRIFFIN: On 14 November 1996 I introduced the Retail Shop Leases Amendment Bill 1996 into the Parliament. This Bill responds to a number of concerns identified by the select committee on retail shop leases, reflecting the unanimously agreed recommendations. In addition, a feature of this Bill is that it provides for a statutory right of first refusal for an existing tenant who has no right or option to extend a lease. The Property Council has advised that it is fundamentally opposed to legislating for a statutory first right of refusal. There is no doubt that such a provision is unique in Australia. The retailer associations for their part have also indicated concerns with the drafting of the provisions in the Bill, but for other reasons.

The Retail Shop Leases Advisory Committee, which is established pursuant to the provisions of the Retail Shop Leases Act 1995, met on 22 November 1996. The committee, which I chair, brings together representatives of lessors' and lessees' organisations. A key focus of the discussion at that meeting was the statutory right of first refusal provisions, as set out in the Bill. The committee at that meeting expressed a desire to achieve a workable outcome that would minimise litigation and antagonism. In recognition of this desire I put forward a proposal to the committee which involved the development of a mandatory code of practice under the Retail Shop Leases Act to address the relationship between the parties at the end of a lease. I advised the parties that it was my intention that such a code of practice be enshrined in the regulations pursuant to the Retail Shop Leases Act 1995. The proposal I forwarded to all members of the committee on 22 November 1996 is as follows:

1. The industry representatives recognise the commitment of the Government to proceed with amendments to the Retail Shop Leases Act 1995, particularly to include in the Act a statutory right of first refusal for tenants in retail shop premises as set out in Part 4A, Term of Lease and Renewal, clause 20B, in the Bill introduced into the Parliament on 14 November 1996.

2. The industry representatives recognise the Government's intention to proceed with the Government Bill in the current session of Parliament with a view to having it pass through before Christmas 1996.

3. The Government recognises that the industry representatives will continue their own lobbying with respect to the final form of the first right of refusal, although it is noted that all of the Bill is agreed by all parties except as to the substance of new section 20B and the drafting of clause 7 (new section 13).

4. The Government, once the Government's Bill is passed by Parliament, will bring the amendments into operation as soon as possible. However, because all of the industry representatives desire to have a workable right of first refusal, the Government agrees to suspend the operation of the new section embodying the statutory right of first refusal until 30 April 1997 in order to allow the industry representatives to develop an enforceable code of practice under the Retail Shop Leases Act, particularly to deal effectively with what occurs at the end of a lease of retail premises.

5. The industry representatives will, during the period of the suspension, collectively develop an agreed mandatory code of practice which the Government would enshrine in the previous regulations pursuant to the Retail Shop Leases Act 1995.

6. The date for completion of the development of the code of practice, that is, 30 April 1997, is to be delayed only with the agreement of all parties.

The proposal was considered by the members of the committee. The Retail Traders Association, the Newsagents Association and the Small Retailers Association responded requesting two changes to the proposal (including broadening the consideration of the issues to those relating to what happens at the end of a lease generally) and returning the signed document. The Australian Small Business Association also indicated its agreement to the proposal. The Property Council, in its response, stated in part:

> I am sure you appreciate that while we absolutely commit ourselves to work together with the Government and the retailer representative organisations to achieve a fair and reasonable solution, which could include a Code of Practice, to what is clearly an important issue for retailers in South Australia, we would not be fairly representing the views of our members if we accepted as good policy the proposed 'right of first refusal' clause as drafted.
>
> I trust that this letter is accepted in the cooperative spirit in which it is written and we can quickly establish the forum to resolve this difficult issue in the interests of all South Australians.

Westfield Shopping Centre Management Co (SA) Pty Ltd advised it was fully supportive of the position put by the Property Council. It was the Government's intention to proceed with this Bill in the current session of Parliament. It has now become clear that time will not allow the Bill to pass in the current session and will have to be dealt with when Parliament resumes in February 1997. I have received representations from the Retail Industry Forum requesting that the Bill be held over until the next session of Parliament. The members of that forum include: Retail Traders Association of South Australia Inc.; Small Retailers Association of South Australia Inc.; Newsagents Association of South Australia Limited; Motor Traders Association; Pharmacy Guild of Australia (SA Branch); Hairdressers' Association and Cosmetologists' Employers Association of SA Inc.; Meat and Allied Trades Federation of South Australia (SA Division); Furniture Retailers Council of SA Inc.; South Australian Employers Chamber of Commerce and Industry; and the Hardware Association of South Australia. That letter was signed by Mr John Brownsea of the Small Retailers Association.

In light of this it is my intention to convene an urgent meeting of the Retail Shop Leases Advisory Committee with a view to undertaking further consultation during the Christmas-New Year period, encouraging the parties to achieve a consensus position on how to deal with the relationship between the lessor and lessee of a retail shop lease at the end of the lease, prior to the resumption of Parliament so that a mandatory Code of Practice can be implemented. It is my view that if at all possible the parties should, with my involvement where necessary, negotiate a Code of Practice which more adequately addresses the issue of what should happen at the end of a retail shop lease and thus minimise the prospect of extensive litigation in interpreting what might otherwise pass the Parliament.

The Hon. Anne Levy: My amendments will be on file.

The Hon. K.T. GRIFFIN: That's fine.

Members interjecting:

The PRESIDENT: Order!

HOUSING TRUST RENTS

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement of the Minister for Housing, Urban Development and Local Government Relations about Housing Trust rent increases.

Leave granted.

DISABILITY SERVICES

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement of the Minister for Health about disability services.

Leave granted.

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order! The Hon. Michael Elliott has continued to interject. He will ask me for his protection in a minute, and I will not be able to give it if he continues in that fashion.

QUESTION TIME

TEACHERS, COUNTRY

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

Leave granted.

The Hon. CAROLYN PICKLES: The Opposition is aware that the Chief Executive of the Education Department has established a working party to prepare a position paper identifying solutions to staffing problems facing country schools. A paper signed by the Chief Executive states that issues to be addressed include teacher rating, the shortage of applicants for leadership positions, the availability of temporary relief teachers, lack of applicants for school choice positions, teacher training, subsidised housing, university recruitment issues, incentives for principals and the reintroduction of a merit-based transfer system.

These matters are crucial to country schools and the Opposition fully supports the initiative taken by the Minister's Chief Executive in having these matters examined. These issues were also raised at the select committee by the teachers' union. The Opposition believes that, to be effective, it is most important that the working party embraces the teachers. My question is: given the Minister's announcement of his new desire to work positively with teachers on employment issues and to avoid any industrial action during 1997, will he ensure that representatives of the South Australian Institute of Teachers are included as members of the working party?

The Hon. R.I. LUCAS: As always, we will be seeking the views of the Institute of Teachers. We are always

consultative, whether it be in 1997, 1996, 1995 or 1994. It does not matter: we always consult with the Institute of Teachers. As I have indicated before, I am delighted to continue to meet with the Institute of Teachers on a monthly basis, and I give an unequivocal assurance that the interests of the Institute of Teachers will be listened to and they will be consulted in relation to these issues.

The Hon. CAROLYN PICKLES: I have a supplementary question. The Minister may be hard of hearing, because I asked: will he ensure that representatives of the South Australian Institute of Teachers are included as members of the working party?

The Hon. R.I. LUCAS: I indicated that the Institute of Teachers will be consulted.

TEACHERS' DISPUTE

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question on the subject of the teachers' pay claim.

Leave granted.

The Hon. CAROLYN PICKLES: On 18 June, the Minister for Education told the Estimates Committee that, if the Government had to increase its offer to teachers, 'either there will be increased taxes, which might be designated as a teachers' pay tax, or we will have to reduce expenditure'. This week, the Minister said, 'Both parties have to meet somewhere in the middle.' The difference between the teachers' claim and the Government's current offer is $136 million. My question is: has the Minister obtained an assurance from the Premier that the Government will not blame the teachers for seeking a fair pay rise by imposing a teachers' pay tax, or is this option still available to the Minister to fund negotiations?

The Hon. R.I. LUCAS: The new Premier has indicated in answer to a number of questions that there will be no new taxes for the remainder of this parliamentary term.

TOURISM COMMISSION

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about public sector employment.

Leave granted.

The Hon. R.R. ROBERTS: The Opposition has been advised that the Chief Executive Officer of the Tourism Commission (Mr Michael Gleeson) received a phone call from the Minister for Tourism on 30 May of this year, following delays in the settlement of a property owned by the Tourism Commission, Estcourt House. The conversation concerned the officer representing the commission in that particular transaction. According to the CEO's record of the telephone conversation, it became heated and full of expletives. Then the Minister issued an order to the CEO in the following terms:

> Fire Rod Hand. I want him out of the commission today. Do you understand?

The next day, the CEO wrote a memo to the Minister in which he advised:

> Further to your directions to me yesterday, Rod Hand is not in the commission's office today and I have instructed him to work from home.

I seek leave to table a copy of the memo.

Leave granted.

The Hon. R.R. ROBERTS: The staff of the Tourism Development group within the commission then wrote to the CEO on 5 June. They stated:

> We feel that the treatment of Rod, as we are aware of it, was unethical in that it steps outside accepted conventions relating to the separation between Ministers and public servants, and it is not conducive to the supportive environment necessary for the achievement of the Government's tourism development objectives where complex negotiations are required.

That was signed by 10 members of the commission. I seek leave to table the document that was sent to the Minister.

Leave granted.

The Hon. R.R. ROBERTS: My question to the Attorney General is: does the Attorney accept that the facts described constitute a breach of the conventions in place for relations between Ministers and public sector staff?

The Hon. K.T. GRIFFIN: I am not aware of all the facts and I do not intend to give a legal opinion on this or any other matter on the run. I will look at the matters which have been raised by the honourable member.

TRIBOND DEVELOPMENTS PTY LTD

The Hon. M.J. ELLIOTT: My questions are addressed to the Attorney-General.

1. Is it correct that the deed of release between Tribond, the West Beach Trust and the State of South Australia, signed on 24 October 1996, stated that none of the parties would divulge the quantum of settlement? If so, why did the Attorney-General do so?

2. In the event that the Attorney-General was the subject of personal litigation on this matter, would he be seeking Government indemnity for his legal expenses?

The Hon. K.T. GRIFFIN: I think the second question is hypothetical. I do not know to what the honourable member is alluding. In relation to the settlement in relation to Tribond, that matter is already on the public record.

SOUTH AUSTRALIA, ASIAN PROMOTION

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Tourism, a question about Asian tourism and education business in South Australia.

Leave granted.

The Hon. BERNICE PFITZNER: Just yesterday I had a visit from two Singapore business people, Mr Tan and Mr Wong, who have invested in Perth, Brisbane and Melbourne and who have approximately $20 million to invest in South Australia. When I inquired as to how they came to consider Adelaide, they said that it was with great difficulty. First, not many Singaporeans had heard about Adelaide and, when information was requested about Adelaide from travel agents in Singapore, they were asked to spell the name. These businessmen had searched the local newspaper known as the *Straits Times* in Singapore, but could find no publicity on Adelaide, South Australia. They looked into the Chinese newspapers and Mr Wong said that he noticed two lines about Adelaide. It was thus fortuitous that Mr Tan happened to play golf in Singapore with my brother, who regaled him with the beauty and comforts of our Adelaide.

After further discussion with the two businessmen, who are engineers by training, it became obvious that they were concerned that such a lovely place as Adelaide was not being marketed sufficiently well. Their advice is that we should be

marketing not only the benefits of tourism in South Australia but also the excellence of education available in Adelaide.

An honourable member interjecting:

The Hon. BERNICE PFITZNER: Don't judge me by your standards. At present, there is a perception that Melbourne has the best schools and that, if you cannot get into a Melbourne school, Perth is considered to be the second best. I mentioned the excellence of Adelaide schools and our favourable student/teacher ratio, but Adelaide does not figure at all. In fact, Mr Tan has enrolled his son at a Melbourne college, they are intent on buying a house there and they have also booked 11 trips to visit Melbourne per year. Further, they say that Perth has sold its tourism attractions so well that Singaporeans are now finding that they have to queue to play a game of golf. They are now more inclined to look towards Adelaide to find better recreation facilities, saying that Perth is becoming overcrowded.

On the same day I met with two people from Kuala Lumpur, Malaysia. They are in the information technology business and are also looking to invest in Adelaide. This time the contact was a personal friend who is the Vice-President of the new Australia Asia Chamber of Commerce and Industry. They were also interested in golf courses, visiting them at Wirrina and Normanville, as well as being interested in time-share holiday facilities. Again, they knew very little about Adelaide and South Australia; they know New Zealand much better. One of the people has a daughter there and travels to New Zealand monthly to visit his daughter and to monitor his investments. Both he and his father were educated in New Zealand, and now he is sending his daughter there for education.

It takes about 10 to 12 hours to fly between Kuala Lumpur and New Zealand, and a similar trip to Adelaide takes about six hours. I give these examples to show the tremendous potential that exists in South Australia to attract such investors through education and tourism. My questions to the Minister are:

1. What strategies have we in place to sell Adelaide to the rest of the world, in particular to our Asian neighbours?

2. What evaluation methods have we in place to check that our strategies are having a positive outcome?

3. What strategies have we in place to sell our excellent education system, in particular the independent schools?

The Hon. Carolyn Pickles interjecting:

The Hon. BERNICE PFITZNER: Yes, because they are looking for boarding places, which are easily available in independent schools. My final question is:

4. What evaluation methods do we have in place to show that the marketing of our schools is comparable to that of Melbourne or Perth or any other capital city?

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

TOURISM COMMISSION

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about public sector employment.

Leave granted.

The Hon. R.R. ROBERTS: As a result of a directive from the Minister for Tourism to the Chief Executive Officer of the Tourism Commission to sack Rod Hand from the commission, a meeting was arranged between the Chief Executive Officer and the Commissioner for Public Employment, Mr Graham Foreman. A memorandum regarding that meeting was prepared by Lesley Dalby who was also present. The meeting was to discuss 'the situation with regard to ministerial direction being given to the Chief Executive to terminate the employment of Rod Hand'. The conclusion of the meeting was as follows:

> It was believed that the Minister could not direct a chief executive to sack any employee under the Public Service Management Act chief executive provisions. Additionally, it was believed that Rod had acted totally appropriately in the case of the Estcourt House sale, had taken all appropriate and pertinent steps, and the Crown Solicitor's Office had been involved all the way through and, when the purchaser did not settle on the due date as required, Rod was in no way to blame. Michael believes it inappropriate to terminate employment of Rod and refuses to do this as directed.

I seek leave to table a copy of that document.

Leave granted.

The Hon. R.R. ROBERTS: My question to the Attorney-General is: did the Minister for Tourism breach the Public Sector Management Act when he ordered Michael Gleeson to sack a member of the Tourism Commission staff?

The Hon. K.T. GRIFFIN: As with the other question, I do not intend to deal with something like this on the run. I will look at the question and give some consideration to the issues that have been raised.

NEW FOCUS REPORT

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Industry, Manufacturing, Small Business and Regional Development, a question about recommendations contained in the New Focus report.

Leave granted.

The Hon. T.G. CAMERON: As part of its role to develop South Australian business and attract investment to the State, the Department of Manufacturing, Industry, Small Business and Regional Development launched 'The Case for South Australia' on 31 July 1996. Promotional material, including a multimedia kit comprising booklets and a CD-ROM were released at the launch. In August this year MISBARD commissioned New Focus, a market research company, to evaluate the effectiveness of the case for South Australia, to evaluate a business response to the material and the launch, and to recommend ways of securing a stronger partnership between Government and business.

After conducting 136 interviews with business representatives who had attended the launch, New Focus released a report containing 10 main recommendations, many of which were highly critical of the way the present Government promotes business in South Australia, and included: the need for the Government to increase the amount spent on marketing small and medium businesses by at least $25 million a year; to be more proactive and aggressive in selling the strengths of South Australian businesses; to further reduce red tape; to give genuine incentives, grants and tax concessions to small business; to develop a listening culture in Government that is currently lacking; to show caution on promoting certain messages, particularly quality of life issues that portray South Australians as being lazy and aimless; and to reverse the education drain out of the State. My questions to the Minister are:

1. Now that it is clear what South Australian small and medium businesses think about the Government's current marketing strategies, will the Minister please explain what he intends to do about it?

2. Will the Minister implement the report's recommendations and, if not, why not?

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

TELEPHONE TOWERS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to make a ministerial statement about mobile telephone towers.

Leave granted.

The Hon. R.I. LUCAS: I have been advised that the shadow Minister for Education, the Hon. Carolyn Pickles, has issued a public statement, once again including statements that are not correct. I quote from the honourable member's statement as follows:

> It is outrageous the Education Minister, Rob Lucas, tried to get the protest by Mitcham Girls High School students stopped.

That statement is incorrect, and the shadow Minister knows that; obviously it did not stop her from making that statement publicly and issuing it to the media. My first knowledge of the situation was at about lunchtime today which, I understand, was after the protest had been conducted some time during the morning. Departmental officers have advised me that some students, who had signed permission forms from their parents—I think their mothers—joined their parents in a community protest, not at the school but somewhere nearby—I think it was a pre-school. It could be that those students wishing to go who did not have permission from their parents to leave the school premises to join a community protest might not have been allowed to go, but I will need to check that as I am not aware of the detail.

Certainly a number of students (I am told about a dozen) had permission from their parents and joined their parents in that protest. I understand that those students and others sought to disrupt traffic movement along the main road nearby. They continually activated pedestrian crossing lights in an attempt to delay traffic flow during that period of protest. The advice provided to me just before Question Time is that the school was advised that that was not appropriate behaviour for students, but other than that I do not have too much more detail.

I place on the public record that the shadow Minister for Education's statement, which she knew was not correct, is in fact absolutely incorrect. I first became aware of this situation at about lunchtime. I certainly issued no instruction to the school or to the departmental officer or officers to take action. Certainly, if departmental officers spoke with the school and students were advised that, if they did not have parental permission, they could not attend the protest, I absolutely support any action that might have been taken along those lines. If departmental officers and the principal advised students in one of our leading Government schools not to be involved in a protest that sought to disrupt traffic on a major public thoroughfare, I would also absolutely support that action. I am disappointed that the shadow Minister for Education evidently does not support those sorts of actions.

Members interjecting:

The PRESIDENT: Order!

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order!

PUBLIC PROSECUTIONS DIRECTOR

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Attorney-General a question about the Attorney-General's rights to direct the Director of Public Prosecutions.

Leave granted.

The Hon. J.C. IRWIN: The Attorney-General's power to appeal and his right or otherwise to intervene in the role of the Director of Public Prosecutions seems to be occupying much of the shadow Attorney-General's time, so much so that he is the leading exponent of the new sport of letterbox debate, which is rife in this Parliament at the moment. He now insists that the Attorney-General has misled Parliament in relation to the Director of Public Prosecutions Act. This stems from Mr Atkinson's dogged insistence that the Attorney-General could, have and should have intervened to appeal the recent sex case, despite the fact that the DPP moved immediately to do so himself. Will the Attorney-General please explain, once and for all, whether or not he can or cannot intervene in the role of the DPP in relation to appeals?

The Hon. K.T. GRIFFIN: I categorically refute the assertion that I have misled the Parliament on this issue or, for that matter, any other issue. What troubles me is that Mr Atkinson, as shadow Attorney-General, does not seem to understand the role of the DPP and the whole rationale for the establishment of the DPP back in 1992.

The Hon. Diana Laidlaw: I think he doesn't want to understand.

The Hon. K.T. GRIFFIN: Maybe he does not want to understand; maybe it is convenient just to make these sorts of assertions about what could or could not have happened in relation to the Krawtschenko case. My predecessor, the Hon. Mr Sumner, announced the appointment of the current DPP, Mr Paul Rofe QC in July 1992. He made a ministerial statement in August of that year and at the time he made the announcement of Mr Rofe's appointment he said:

> Mr Rofe's appointment marks the beginning of a new era in the conduct of criminal prosecutions in this State.

The creation of the Office of Director of Public Prosecutions means that, formally, the day-to-day control of criminal prosecutions has passed from the Attorney-General to the Director of Public Prosecutions. While the South Australian Director of Public Prosecutions Act establishes the independent functions of the Director of Public Prosecutions, the Act enables the Attorney-General to give directions and furnish guidelines to the Director in relation to carrying out the Director's functions. Such directions and guidelines must be published in the Government *Gazette* as soon as possible and must be tabled in Parliament.

At the same time as he made that ministerial statement announcing the appointment, he did table the Attorney-General's directions to the Director of Public Prosecutions pursuant to section 9 of the Act concerning the rights of victims of crime. Those who can cast their minds back to that time will reflect that that was a broad policy statement about the way in which the Director of Public Prosecutions should deal with issues relating to the rights of victims in criminal cases, and it was a perfectly proper way in which to deal with a broad policy approach. The Director of Public Prosecutions also issued directions himself in relation to the way in which prosecutions would be handled across the public sector, that is, implementing a prosecutions policy. Again, that is quite

appropriate, but that was the only direction given by my predecessor which affected the Director of Public Prosecutions. It resulted from a consultation process required by section 9 of the Director of Public Prosecutions Act, the publication in the *Gazette* and the tabling in both Houses of Parliament. That is there for a very good reason, that is, to ensure that there is no political interference with the day-to-day operations of the role and responsibilities of the DPP.

I have followed in that same vein. When, for example, a matter arises which might relate to a question of an appeal, I may well talk to the DPP—as I did in the case of Krawtschenko—and ask the DPP to let me know when he had made a decision about what he wished to do. Again, that is quite a proper course. Whenever a penalty is imposed which might be a bit suspect, either (as is most likely) as being manifestly lenient or something occurs in the prosecution process, I certainly consult with the DPP, but I have never had to go to the point of having to give a direction after consultation with the DPP which was published in the *Gazette* and laid before both Houses of Parliament. I can say that, if I were to do that in relation to a particular matter, all hell would break loose in the Parliament, the public media and possibly across Australia. Members will reflect back to the debate in Victoria, where the DPP is absolutely independent and is not subject to any control or direction at all and where there were alleged disagreements between the Attorney-General and the Director of Public Prosecutions in that State. So, it is a very sensitive position.

If I were to assume the responsibility to vet every matter before the courts that I did not like and then determine whether I should give a direction that the DPP shall or shall not to appeal in those circumstances it would be against the spirit of the DPP Act. It would be quite contrary to what everybody in the community looking at this objectively would recognise as being an independent office, accountable to the Attorney-General ultimately, but nevertheless free of that sort of day-to-day influence, which principle my predecessor also adhered to.

The DPP and I do talk on a regular basis and there is a good relationship between the Attorney-General and the DPP. If you look at the DPP's report which I tabled a few weeks ago you will see that that is reflected in the report. So, whilst there is a mechanism for giving directions to the DPP under the DPP Act, that is something which is more likely to be addressed in the context of a broad policy direction. If it were to be exercised in relation to a particular matter, I could recognise that it would become a matter of significant public criticism and certainly not in the spirit of the DPP Act or the establishment of that office back in 1992.

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: Press reports of a statement issued by the Federal Minister for Finance, Mr Fahey—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Thank you, Mr President. Press reports issued by Mr Fahey following the Government's decision to sell the operations of Australian National indicate that a scoping study would begin immediately and that expressions of interest would be called for early next year. The scoping study will determine whether AN is broken up or sold as a whole. The Minister for Transport has indicated that it is her and the Government's wish that AN should be not broken up but sold as a whole. Is the Minister satisfied with the terms of reference of the scoping study and the people undertaking it; and will the Government be making a submission to the scoping study?

The Hon. DIANA LAIDLAW: We will actually be working with those undertaking the scoping study, so it is a matter not so much of making a submission but of working with the team, both in the Office of Asset Sales and with the consultants who are to be engaged by the Office of Asset Sales. They ultimately report through the Department of Finance to the Minister. I met with the head of the Office of Asset Sales last Friday, and we talked about the Government's preference for AN to be sold as a whole. We talked about a whole range of other options, also the terms of reference and the terms of agreement in the way in which the Federal Government will undertake this whole process. South Australian consultation is a matter of considerable importance to this Government, and the agreement is being clarified to confirm that point in stronger terms than initially proposed by the bureaucrats. So, the South Australian Government and representative officers will be working very closely on this whole process, because of the major importance that this whole process has for jobs in this State and for rail assets and the future of rail in general.

The Hon. P. HOLLOWAY: As a supplementary question: in view of the fact that State officers will be working with the scoping study, will the Minister release this study when it is completed?

The Hon. DIANA LAIDLAW: The study has been commissioned by the Federal Government. I understand that expressions of interest have already been sought from the consultants, and that should be confirmed by the end of next week or the following week. They will have until the end of January to report and we will be consulted and involved in that process; but it is not my or the State Government's report or our responsibility to release it.

EYRE HIGHWAY

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Eyre Highway.

Leave granted.

The Hon. CAROLINE SCHAEFER: I have received a number of submissions from constituents in the vicinity west of Kyancutta expressing extreme concern about the condition of the Eyre Highway. The road is quite narrow and there are numerous hills in that area. The verges are seriously worn and drop away very sharply, which in turn leads many of the trucks and heavy vehicles on that national highway to drive in the centre of the road. There is extreme concern, particularly among parents of students who travel on school buses on that highway. I quote in part from a letter I have received from two of those parents, as follows:

> Numbers of road trains and over-width vehicles are increasing, and the speed of many of these is beyond the State limit. Also, the edges of the road are quite narrow in many places, and are crumbling and dangerous. This situation often causes the truck drivers to travel more in the middle of the road than on their side. On windy days their trailer sections wave dangerously from side to side (a terrifying sight when you are about to pass them) and have been responsible for several deaths in the last year. . . Our children travel to and from school each day on this highway, and the above issues are of serious

concern to us. Our family is precious to us, and all we can do at present is say a prayer and hope they get to school safely each day.

I have been supplied with the following statistics. Road accidents between Kyancutta and Ceduna on the Eyre Highway between 1 January 1994 and 30 April 1996 are as follows: 49 reported collisions, seven deaths (all since January 1995), and 77 injuries. Of these, 31 reported collisions occurred on the stretch of highway from Minnipa to Cungena. Of the motor vehicles involved, 65 per cent were cars and 35 per cent heavy vehicles. While I recognise that funding for a national highway—and this is part of National Highway One—is a Federal matter, I would ask the Minister what has been or is likely to be done to alleviate some of the fears of constituents in that region.

The Hon. DIANA LAIDLAW: Like the honourable member I, too, have received representations on this matter and am aware that she has been actively working in the community to highlight the urgent need for this road safety issue to be addressed. In the August 1996 Federal budget a sum of $3.3 million was allocated for the Eyre Highway widening. Last month, it was decided that an additional $2 million for 1996-97 be allocated to enable the widening between Kyancutta and Yaninee to be completed this financial year. So, $5.3 million of Federal funds will be invested on the Eyre Highway as a whole in terms of the widening project but, in particular, $2 million between Kyancutta and Yaninee. That should alleviate many of the real problems about which the honourable member's constituents have been anxious.

From a number of calls to my office I am aware, too, that people believe the Government may be talking about money but that nothing is happening on site. I highlight that a very strong work force contingent in Ceduna is working on the crushing of the rock necessary for these roadworks to be undertaken and completed this year. We believe that, once this rock has been crushed, construction in the field will commence in April. There have been lots of safety concerns, and I am particularly concerned about not only the road surfaces and the steep shoulders but the behaviour of many heavy vehicle operators when they know that this is a potentially dangerous section of national highway. We have asked for extra enforcement by police in terms of the speed limit for heavy vehicles, in particular road trains, being 90 km/h. But in the meantime I have asked the department to consider whether we should lower the speed limit from 90 km/h, which is the established speed, to 70 km/h for the 100 kilometre section of road between Cungena and Kyancutta while this narrow section of the road is being given attention to improve the surface and safety performance by widening the shoulders so that the whole width of the road is eight metres.

Shortly, I will be able to report to the honourable member the outcome of that investigation by the Department of Transport, because while the road funds have been provided, which was the critical issue for us to address before preparing the road work in terms of the crushing of rock and the scheduling of the work by the end of this year, in the meantime I am aware that many holiday makers and others over the Christmas break and school term will utilise that road. There is also grain harvesting and a range of other matters. It may well be that, because of demand on the road from now until at least April-May when work on widening the shoulders will start, we should reduce the speed limit from 90 km/h to 70 km/h for a whole host of heavy vehicles.

DOLPHINS

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for the Environment and Natural Resources, a question about the health of the former Marineland dolphins.

Leave granted.

The Hon. T. CROTHERS: The former Marineland dolphins, which were moved to the Sea World lagoon on the Gold Coast when Marineland closed its doors in 1990, have become huge money spinners on the Gold Coast. When the idea of moving the dolphins—

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: There's more; listen. When the idea of moving the dolphins to Sea World was first raised there was an outcry from the Liberal Party (Heini Becker, MP, for example, argued it was too expensive); conservationists (one of which was Julie Greig, now a Liberal MP, who was a spokesperson for that group); and the Australian Democrats, who condemned the former Government's decision as it believed moving the animals would endanger their lives. In fact, the move went smoothly and the dolphins could not be doing better. A recent report in the *Advertiser* states that the dolphins are healthy and well. The five dolphins—and I know them by first name as I spent four years on the relevant committee (Rebel, Buttons, Tuffy, Cheeky and Salty) and the sea lion Conana, with whom I am on flipper shaking terms, have all become part of a Sea World swim-with-the-dolphin scheme which raises over $150 000 every year for marine research. My questions to the Minister are:

1. Was the Minister aware of the current good health and income generating ability of the former Marineland dolphins?

2. Would the Minister now agree that the former Labor Government made the correct decision in transferring the dolphins to the Sea World lagoon?

The Hon. DIANA LAIDLAW: I will refer the honourable member's questions to the Minister and bring back a reply. I am sure that, like me, the Minister will be very impressed with the honourable member's affection for the dolphins and knowledge of their names.

CHILD AND YOUTH HEALTH LIBRARY

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport, representing the Minister for Health, a question about the relocation of the Child and Youth Health Library.

Leave granted.

The Hon. SANDRA KANCK: I have been informed that the Child and Youth Health Library is to cease to have its own separate location and will be situated elsewhere as a cost-saving measure. One suggestion for the relocation has been to the Women's and Children's Hospital. The three major concerns with this proposal have been brought to my attention. First, the current library is very unique because of its historical value. The Child and Youth Health Service began in 1909 as the School for Mothers, and later became the Mothers and Babies Health Service. Until recently, it was known as the Child Adolescent and Family Health Service (CAFHS). In the early years this service was community-run, with some of Adelaide's leading families providing charity work. I am sure members in this place would be interested to know that such women included Lady Napier Birk and Lady

Vivienne Laidlaw. Indeed, the library is named after Lady Vivienne Laidlaw. There is a concern that a relocation to a hospital will change the focus of the library from a historical one to a clinical one.

The second concern relates to a shortage of library space at the Women's and Children's Hospital as well as the extra pressure on staff should no extra staff be provided to maintain this extra service. The third concern is that the current location is very convenient for the library's current users, including staff and volunteers of the Child and Youth Health Service. I have been informed that not only would the removal of the library be inefficient for the current users but that the Women's and Children's Hospital site would be more difficult to access. My questions to the Minister are:

1. Can the Minister advise whether the collection, including its historical aspects, will be kept together should the library be incorporated into a hospital library?

2. If the historical books are separated from the collection, where will they be housed?

3. Is the Minister aware that there is a shortage of space in the Women's and Children's Hospital library, and what changes will need to be made at the hospital so as to make room for items from the Child and Youth Health Library?

4. Is the Minister aware of the needs of the library's current users and the ramifications to them should it be located elsewhere?

5. Given concerns that the library will be relocated, will the Minister advise whether there are any other plans to relocate other services away from the South Terrace location?

The Hon. DIANA LAIDLAW: I, too, am particularly interested in the answers to the questions asked by the honourable member. I recall attending the naming of the first library on South Terrace, very close to Pulteney Street, soon after my mother died in 1963. When that building was sold and the library relocated to its current site, I again attended the recommissioning of that library, as did other members of my family, and I think that the Minister for Health was present, too. It is an important library in its own right. It is extensively used. The name is an issue of less relevance than the other two factors but, from my perspective and, I hope, from the Minister for Health's perspective, that ensures that particular attention will be given to this issue. I will seek a very speedy response to the honourable member's questions.

ADELAIDE CITY COUNCIL

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, in his capacity as Leader of the Government, a question regarding misleading letters.

Leave granted.

The Hon. ANNE LEVY: A number of residents in North Adelaide have received a letter signed 'Dr Michael Armitage, State member for Adelaide' inserted in their letterboxes. This has not gone throughout Dr Armitage's electorate but only to part of the North Adelaide section of his electorate. The letter contains gross untruths. It states:

> The fate of North Adelaide and its historical status within the Adelaide City Council boundaries hung in the balance during discussions in Parliament relating to the Adelaide City Council Bill. The ALP and the Democrats were both keen to remove North Adelaide from the Adelaide City Council boundaries, but the Government refused to agree to this proposal.

That is a lie. As a perusal of *Hansard* will prove, at no time did Democrat or ALP members say that they are keen to remove North Adelaide from the Adelaide City Council boundaries. It was raised—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: It was raised as one of the matters which should be looked at in a review of governance of the Adelaide City Council, in the same way as a proposal put forward by Professor Lennon should be looked at, namely, that the boundaries of the City of Adelaide should be Regency Road in the north, Cross Road in the south, Portrush Road in the east, and South Road in the west. These were put forward as matters which should be investigated: they were certainly not proposed. To say that the Government refused to agree to this proposal is a plain untruth. The proposal was never put for the Government to agree or disagree. The State member for Adelaide was not part of the conference at which various compromises were discussed, although agreement could not be reached, so he would not know what was discussed at that conference. That proposal was not one of the matters which was discussed in that conference.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: It is disgraceful that a member of Parliament should circulate to his electorate what is a plain lie and can be shown to be so by a perusal of *Hansard*.

The PRESIDENT: Order! The honourable member is now debating the issue, and she knows Standing Orders better than that.

The Hon. ANNE LEVY: My question is: will the Minister refer this misleading document to the Premier so that the Premier, who has said that he wishes to have a new relationship with the Adelaide City Council—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —and intends consulting with the Opposition and the Democrats in the process, can take up with his Minister, if he remains a Minister, the inadvisability of circulating incorrect information to the citizens of North Adelaide?

The PRESIDENT: Order! The honourable member is a past President of this Chamber and probably understands the Standing Orders better than I do. Her question contained nothing but opinion and debate. I suggest that, in future, the honourable member abide by the Standing Orders, or I will rule the question out of order.

The Hon. ANNE LEVY: Mr President, I read what was in the document.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The answer to the question is 'Absolutely no, I will not.' The fact is that everybody in Parliament House knows the secret agenda of Mike Rann and the Labor Party. The honourable member did not read all the letter, and I have not seen it, but I cannot recall her reference mentioning the conference. We are talking about the recent events in Parliament House, and everybody in Parliament House, Labor members and Liberal members, knows the secret agenda of Mike Rann during that recent debate and discussions. Mike Rann and the Labor Party were supporting, first, getting rid of North Adelaide, as has been suggested in the letter, and, secondly, getting rid of the residential rate rebate for North Adelaide residents. That policy is supported by Mike Rann and the Labor Party, and everyone in Parliament House knows the secret agenda of Mike Rann and the Labor Party on this issue.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I am not surprised that the Labor Party is squealing and squirming on this issue because, when North Adelaide residents become aware of the stance that has been adopted by members of the Labor Party and pushed by their Leader, Mike Rann, I am sure that they will be outraged.

It does the Hon. Anne Levy no good at all to stand up in this Chamber and to try to keep a straight face and ask that question when she knows the views of the Hon. Mike Rann and some of the members of her Party in relation to this issue. Whilst it is not for me to advise the Hon. Anne Levy on political strategy, it is not smart politics for the Hon. Anne Levy to stand up in this Chamber and to try to pretend otherwise when, as I said, all members of this Chamber know the secret agenda of the Labor Party and the Hon. Mike Rann in relation to this issue. The answer to the question is, 'No, I will not be taking up the issue.'

ELECTRICITY BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 498.)

The Hon. SANDRA KANCK: For the most part, this Bill is consequential to the demands arising from competition policy and other legislation that passed this Parliament earlier this year and last year. The Democrats have a number of concerns about this Bill in relation to, first, the impact of vegetation clearance on local councils and, secondly, the impact of the changes on workers in the electricity industry. I will also be saying something about the importance of promoting ecologically sustainable energy. Local councils are not at all pleased with those parts of the Bill that deal with vegetation clearance. Their concerns relate to clause 55(2), which was not included in the draft Bill on which the Local Government Association had previously been consulted. As this Bill currently stands, local councils will have transferred to them the responsibility for vegetation clearance without the accompanying levels of funding to match the liability that will be incurred.

The Government will probably argue that there are no changes in the Bill that were not recommended by the Environment, Resources and Development Committee's review of management about powerlines in non-bushfire risk areas, but Cabinet has been very selective about what measures it has selected from that committee's review. The committee's review consisted of a package of recommendations and, if only particular parts are selected, then it is a distortion of what the Environment, Resources and Development Committee had recommended. I suspect that my colleague the Hon. Mike Elliott might be having some comment on this before we get to the Committee stage. In his second reading explanation the Treasurer stated:

> Local government will become responsible for vegetation clearance in those areas, with the transfer of funds saved by ETSA to local government. At the same time, the regulation of street tree planting for these council areas will be brought to an end, something which they have been pursuing for some time.

On the face of it, one might conclude that the councils would therefore be happy with these changes, but an examination of the substance of clause 55(2) will show why they are not happy. Neither the councils nor the Local Government Association, as I said, have been consulted on this part of the Bill. This is surprising, given that this section, which deals with vegetation clearance, will have an enormous impact on local government.

The Local Government Association did not become aware of these provisions in the Bill until it had passed the Lower House. Local councils are very concerned with this clause because funding, the extent of liability and areas for which they will be responsible are all very unclear. Many of these will be determined by regulation, which will give Parliament limited powers to intervene after the event. As a consequence of my discussions with local government, I raise a substantial number of matters in regard to the implications of clause 55(2). The 1993 Hannaford, Benson and Ainslie report to the Norwood committee stated that for the whole State the cost of vegetation clearance was $8 million, with half of that being for metropolitan councils; in other words, $4 million. A media release from the Hon. John Olsen's office has stated that $1 million is to be allocated to councils for vegetation clearance.

I would like to know why there is this discrepancy. If it is to be $1 million, how is that $1 million to be allocated to the councils? Will it be based on historical levels or will councils have to lobby and fight for their share of the money? If the councils will have to bargain for the money, with whom will they be negotiating? Currently, councils negotiate with ETSA on the level of pruning. With the advent of telecommunication companies and their cables, with whom will the councils be negotiating? Will funding to councils reflect best practice pruning in order to protect the health and vigour of street trees? Will funding be provided in a way that ensures that future funding levels do not decrease below cost of service provision levels? It has been pointed out to me that, using the untied roads grants as a comparison, they found that the level of funding decreased below service provision levels.

Will pruning take place to the levels set by electricity and telecommunication entities, which could disregard treescapes, or will it reflect the present situation wherein councils have the power to restrict pruning to protect their treescapes? Whichever of these, will appropriate funding levels be provided? Will the funding levels reflect the considerable evidence taken by the Environment, Resources and Development Committee to fund best practice pruning in order to protect the health and vigour of the street trees, which are public assets, bearing in mind that best practice pruning standards are not currently being met by ETSA? Will the funding be provided in a way that ensures that future funding levels do not decrease below cost of service provision levels?

Liability is being handed over to local government but I am unclear as to the extent of that liability. What will be the full extent of the liability? (For example, will it be for surges, outages, damage to infrastructure and/or the death or injury of a line worker?) Which authority will decide the cause or damage, or injury/death of a worker? Does the Government consider that this will result in councils being involved in costly and time wasting litigation? Is the liability that councils will bear the same liability that ETSA currently holds? My belief is that it will be a much bigger liability than ETSA has. If it is different, I would like details to be provided of what that difference is and why it is different. If liability is to be transferred, perhaps at a greater level than ETSA has, why will not full funding for the carriage of the liability also be transferred?

The Government has historically claimed immunity from legal action. If this same immunity is not to be provided to councils, does the Government expect that claims will escalate as a result? Does the Government consider that the Local Government Mutual Liability Scheme will accept the risk and provide appropriate coverage to councils? Has the Minister discussed this matter with the managers of the Local Government Mutual Liability Scheme? If so, what does he expect the premiums will be? Does the Government expect current premiums to rise? Does the Minister expect that coverage will still be provided for those councils who will not cooperate in cutting down heritage value trees? In regard to regulated clearance standards, are the clearance standards proposed to be the same as the Environment, Resources and Development Committee recommended? If not, in what respect will they be different? Which authority will monitor clearance standards and who will pay for this monitoring?

There appear to be inconsistencies in discussions taking place about voltages and the potential impact this will have on councils and vegetation clearance. Telecommunication company voltages are not being made public. Although the level of voltage of telecommunication cables must be known by the Government, this information is not being made public when it should be available for this particular debate, at least. Why is this information being withheld from the public?

The worst fear about the non-disclosure of these voltages is that regulations might be changed down the track, which could result in local treescapes being cut back severely. Because ETSA had an agreement with the telecommunication companies and a cost study was conducted on behalf of Telstra, the actual voltages of telecommunication cables must be known by the Government. Why is it not revealing them? It is understood that Telstra's cables can carry up to 50 volts and Optus' cables up to 90 volts. Will the Minister confirm these figures?

A problem arises when telecommunication company cables are near high tension wires. If these cables were to contact electricity wires, the high voltage could burn through the protective cover and cause a telecommunication company cable to become live. ETSA has stated verbally to councils—but not in writing—that, even if telecommunication company cable voltages were high or even if the cables were in contact with high voltage electricity lines, the councils would not be required to cut back trees near those cables. If pruning is unnecessary in those scenarios, why is there any reason for pruning at all around any low voltage wires? Councils are being told by ETSA that, even if telecommunication company cable voltages were high or were to be in contact with high voltage electricity lines, councils would not be required to cut back their trees.

Among the reasons given by ETSA for pruning are the following: children climbing street trees and contacting wires; outages; damage to infrastructure; trees becoming conductive to earth; and the risk of life threatening over-voltages through 240 volts lines caused by contact from the high tension lines above. While these are the claims, what degree of risk is involved and what research has been done to arrive at these conclusions? What percentage of outages in the metropolitan area has been caused by trees? Timber is generally regarded as non-conductive but can become conductive when the trees become carbonised. At what voltage and at what distance from the lines does a tree become carbonised?

With respect to surges, Optus tells us that we are protected because its system is hard welded into the ETSA Surge Protection (CMEN) system. However, ETSA says that this same system does not protect the public. Will the Minister explain this apparent contradiction? Has the Government considered limiting undergrounding of high tension lines in identified risk areas? I am told that that would involve about 10 per cent of the total length of powerlines in the metropolitan area. Are plains dwellers subsidising Hills dwellers, given that the bushfire risk is in the Hills and all household consumers pay the same electricity rates? Unless an adequate explanation is provided, the whole basis of standards where high tension lines are over telecommunication lines comes into question. It is essential that Parliament clarify these inconsistencies before passing this Bill.

It is interesting to note that no other State has handed over full financial liability to local councils. In some cases there is provision for a council to carry out the task, but this is only through individual agreements. In New South Wales, local government accepts no responsibility for vegetation clearance and, therefore, any liabilities created do not impact on local government. In Victoria, there is a facility for the electricity authority to enter into agreements whereby a council can undertake this duty on behalf of the electricity authority. The electricity authority undertakes vegetation clearance in Queensland, and this is also the case in Western Australia. The general view from the States is that local governments are not the appropriate bodies to be responsible for vegetation clearance. Why is South Australia going down the path of handing over to local governments the responsibility for vegetation clearance when other States are not pursuing this path? I also have concerns about the intention and impact of clause 59(1), which provides:

> A person who connects an electrical installation to a transmission or distribution network must ensure that the installation, and the connection, comply with technical and safety requirements imposed under the regulations.

That attracts a maximum penalty of $10 000. Do such penalties apply in the current situation? Under what conditions will this maximum penalty apply? Who incurs the penalty if the worker is the employee of a company? I would like to make a comparison. If an LP gas tanker driver wrongly connects the hose from his tanker at a petrol station and things go awry as a result, I do not think that the LP gas tanker driver would be individually responsible for any damage that occurred. I doubt that he would be responsible for a $10 000 fine. I understand that there are 20 to 30 tradesmen in this State who would do this work of installing a meter and connecting it into the system. A fine of up to $10 000 on an individual seems very heavy handed. Will the Government tell me whether there have been any instances where something has gone wrong in this process of connecting up to the network? If the Government can give me any examples of this, are they examples that justify a penalty of up to $10 000?

Because of competition policy agreements, ETSA is not allowed to stay in control of the total system, and this will raise some occupational health and safety issues further down the track. At the moment, when line workers are told that an area has been deadened, they can be certain that this is the case, because not only is the professionalism of the job at stake but also the loyalty towards co-workers and a sense of team comes into play. Does the Minister think that those extra components—the loyalty to co-workers and the sense of team—will be lost through competition? Does he think that worker safety would be reduced as a consequence?

I also want to talk about ecologically sustainable energy, which will come as no surprise to the Government. In his

second reading explanation the Treasurer stated that the provision in this Bill for other licensees could facilitate new generation initiatives such as cogeneration and solar or wind power projects. I congratulate the Government on the intention, and I hope that something will develop as a result, because this is very exciting. However, I stress that these sorts of things will not happen in a vacuum; they will require assistance from the Government. A very important part of the equation is that the true cost of electricity needs to be factored into its price; namely, the cost of global warming needs to be recognised. Increasing the cost of electricity to reflect this added cost of global warming would also mean that there would be less difference between the cost of providing renewable energy sources, because it would then be able to compete on realistic terms with more traditionally generated electricity.

Governments do not appear to have grasped the seriousness of Australia's responsibility for reducing greenhouse gas emissions. Clearly, they do not seem to understand that the electricity industry is a large contributor of greenhouse gases. Whilst the precise pace of global warming is not known and it is debated amongst scientists, there is certainly no argument that there has definitely been an increase of warmth in our atmosphere. The economic cost and social dislocation of global warming are enormous—sea level rises being the most obvious one. Climate change also results in agricultural change, and even has health implications. Coal based electricity emits great levels of CO_2 into the atmosphere and is, therefore, a large contributor to the greenhouse effect.

If this Parliament were to follow the economic rationalists' path to its full extent, these environmental costs would be factored into the cost of coal based electricity to reflect that enormous environmental cost. The application of competition policy to electricity, with its stated aim of driving down the cost of power, with no environmental cost factored into the price, will only encourage greater use of coal based electricity. Ironically, at a time when the world is seeking for countries to decrease greenhouse emissions, Australia finds itself actively encouraging the use of coal based electricity, which will greatly increase Australia's contribution to greenhouse gas emissions. At the very least, some of the cost 'savings' of competition policy should be channelled into renewable energy industry. I go back to my earlier point: even though the Treasurer states that there are opportunities for establishing renewable energy supplies such as solar and wind power projects, these will need Government backing at all levels for them to be successful.

The Hon. T. Crothers interjecting:

The Hon. SANDRA KANCK: That sounds a wonderful idea. I note that the Opposition has placed amendments on file, and I will be supporting those amendments. I had identical amendments drafted but the Opposition beat me to the punch in putting them on file. While I recognise the inevitably of the contents of much of this Bill because of competition policy agreements, I stress that I am not a fan of what is happening. The aspects of the Bill dealing with the transfer of clearance responsibilities appear to be poorly thought out and unnecessary under the competition policy agreements, and I would be most interested to hear the Minister's justification for including them when they were not in the draft Bill. I know that I have asked a lot of questions, particularly in relation to the vegetation clearance aspects, and I will be most interested to hear the Minister's replies to those questions. The Democrats support the second reading.

The Hon. M.J. ELLIOTT: I rise to address one issue within this Bill relating to clearance of vegetation around powerlines, and I do so as a member of the Environment, Resources and Development Committee, which spent considerable time investigating the issue. I will not address this issue at length, but I make the point very strongly that, in a couple of areas, there is no way known that what is occurring in this Bill can be represented as a recommendation of the Standing Committee of Environment, Resources and Development. First, and importantly, the committee made a package of recommendations, and for a Government to extract even a single recommendation, treat it in isolation and say, 'This is what the committee wanted' would be a gross misrepresentation of the position.

As a member of the committee, I had some concerns about some recommendations, and one concern related to the potential for transfer of responsibility to councils but, when looked at as a total package of recommendations, I was more relaxed. For instance, within that package of recommendations was a proposal that there be a set time frame under which all powerlines be undergrounded, and that that be done at lower cost by collocating both power and telecommunications cables in the same trench. A large number of recommendations were made and, if the recommendations are taken as a total package, I think it is a reasonable package.

To extract one recommendation and say, 'This is what the committee recommended' is more than just a misrepresentation. Of course, it is even worse than that. My second point is that while the committee entertained the potential for councils taking responsibility it was not to be compulsory. Under the recommendations of the committee, councils would have a choice. The first responsibility belonged to the electricity authority, but the council could take responsibility for the pruning of trees so that the council could have a pruning form with which it was happy but, as a consequence of that, the council would also be accepting some liability. That is not the way I read this Bill.

The way I read this Bill is that the responsibilities are handed over to local government, whether or not they want them, and that is quite different from the recommendations in two dramatic ways. This is not a recommendation of the ERD Committee. In fact, I find it quite disappointing that the Minister says that an issue needs addressing, that is, clearance vegetation around powerlines, refers it off to a standing committee of the Parliament, the standing committee reports with a package of recommendations, and the Minister chooses to take one and then distort it grossly, stating that he is reacting to the ERD Committee.

As far as I am concerned, three or four months of that committee's time was wasted because, at the end of the day, those recommendations were ignored. That is nothing short of a disgrace. I do not know how much time the Minister spent working on this Bill and how much it is a product of minders, because I believe that some people inside ETSA have not been realistic about this issue from the very beginning. They have been too keen on protecting ETSA's position and, in some instances, in quite ridiculous ways. ETSA has made no real attempt to come to grips with the issue of vegetation clearance. It has always taken a position and then defended it; it has never been prepared to involve itself in realistic discussion.

I suspect that those people within ETSA have got their own way; that, having not persuaded the committee to do what they wanted, they have now persuaded the Minister that this is what the committee really recommended, which it did

not. I make that fact plain and place it on the record so that, if this debate proceeds further, no member of this place is under any misunderstanding.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contributions to the second reading debate. I particularly thank the Deputy Leader of the Australian Democrats, the Hon. Sandra Kanck, for her goodwill and courtesy in her handling of this Bill. I had a discussion with the Deputy—

The Hon. M.J. Elliott: What about my goodwill? I criticised one clause. He is trying to drive a wedge between us!

The Hon. R.I. LUCAS: The Leader of the Australian Democrats is way too defensive. If he would only let me conclude my statement he would not feel that it is in any way a slight on the formidable contribution we have just heard. Last week the Deputy Leader of the Democrats said that she was willing to indicate the questions that she wanted to ask. She was going to place them on the public record last Thursday, but we did not sit on Thursday evening and so she undertook to give me a copy of the questions that she intended to raise in the contribution we have just heard. That was given to me last Friday and I was able to provide that to the Minister's office. I am therefore now in the position of being able to provide the Minister's response to those questions. As I said, I think the Leader was being a tad too defensive.

The Hon. M.J. Elliott: I thought you were doing it again.

The Hon. R.I. LUCAS: The honourable member will realise that I was not doing it again, whatever 'it' is. I was thanking the Deputy Leader for her courtesy, because her actions have meant that we have been able to expedite consideration of the Committee stage of the legislation. As a result of the Deputy Leader's courtesy and goodwill, I am now in a position to read, on behalf of the Minister, some responses to the questions the Deputy Leader has just placed on the public record.

The telecommunications carriers will be operating under the provisions of the Federal Telecommunications Act, not under State legislation. Sections 130(1) to (4) outline the carriers' powers relating to vegetation clearance. The funding to be provided to the LGA for councils is the funding that ETSA would have spent to do the work averaged over the past three years of clearance costs for the areas concerned. Funding will not be increased because: (a) ETSA, in all of its activities, is required to continue to reduce its operating costs, as should councils, and (b) as undergrounding proceeds, fewer trees need be to cut.

The Government does not recollect the report referred to, but the figure of $8 million is about right. ETSA's actual expenditure can be examined to demonstrate that less than $2 million per annum of the total is spent in the areas to be transferred to local government. Perhaps the report aggregated all non-bushfire risk areas, which is not the proposal before Parliament. The funds would be identified as an additional component of ETSA's dividend to Government. The Local Government Reform Fund would receive the funds to be distributed by the Local Government Association on the basis of ETSA's past three years expenditure—council by council.

Section 55(7) of the Bill provides immunity from common law, provided the responsible body complies with the principles of vegetation clearance as detailed in the regulations. That is the same immunity which applies to ETSA through exercising the same duties as are being transferred in part to councils. If a council does not establish and act on a vegetation clearance plan it will be liable for any outcomes. The Environment Resources and Development (ERD) Committee of Parliament considered the adequacy of the Local Government Association Mutual Liability Scheme and concluded:

> The committee recommends that the provisions of the Local Government Mutual Liability Scheme, appropriately structured, could provide indemnity for any member council operating vegetation clearance independently of the Electricity Trust of South Australia or any other supplier.

At present, under the Electricity Corporations Act 1994, ETSA has immunity in regard to cutting off supply and certain other matters. As a transitional measure, immunity from civil liability is provided to ETSA under the Electricity Bill 1996, in consequence of cutting off the supply of electricity or the failure of supply. It has been anticipated in the Bill that this immunity may be reassessed in the near future, as reflected in the provision that the Governor may proclaim the expiry of the relevant clause. The intention is to allow ETSA time to reorganise its commercial insurance arrangements before such immunity is removed. In this sense, the references in the question to liability and the funding of that liability are misplaced, since the current arrangements do not involve Government funding of a given liability, but the creation of statutory immunity in lieu of civil liability for the specific risks mentioned.

The total of power surge claims received by ETSA since 1987 is $288 000. The LGA scheme would be capable of handling that, if councils did not act to clear vegetation. Councils have the powers now to arrange undergrounding where they believe vegetation is a high priority. However, councils will no longer have the 'do nothing' option. The ERD committee's first recommendation was that:

> The committee recommends that the present regulations, being drafted in 1988 to bring them in line with national standards, are adequate.

From the date of proclamation of the Electricity Act the regulator will be established in MESA. This is part and parcel of the Hilmer competition reforms which require regulatory functions to be separated from Government business enterprises. It is unlikely that there will be routine monitoring of councils, as there is no monitoring of ETSA. If the responsible body fails in its duty and liability results, the onus is on the responsible body to behave appropriately.

The Government is not aware of the precise voltage levels of the carriers' systems. However, we understand them to be very low voltage. Accordingly, there is insufficient electrical pressure to cause current to flow through a tree from the carriers' insulated cable. Low voltage in ETSA's terms means 415 volt phase to phase or 240 volt phase to earth. At these levels, current flow is possible, but in South Australia only minimal clearance (100 millimetres) is required. The higher voltage (11 000 volts and above) is another matter. It can arc for some distance, does not actually have to touch the conducting material and is quite capable of setting a tree on fire.

ETSA as an electrical engineering authority is well aware of the potential dangers of electricity. All too frequently we see the headlines about those who did not observe the safety requirements about electricity. Unfortunately, children have been burnt and damage has been done to equipment through tree contact with powerlines. Whenever there is a storm, the

tree-related outages in areas where ETSA has been prevented from tree pruning are significant.

Dry, seasoned timber is generally a poor conductor. Living trees, with a sap supply from top to bottom, are quite conductive. Experiments conducted by Professor Hobson at the University of South Australia have demonstrated that a tree in touch with an 11 000 volt line can cause grass at its base to ignite. He also showed that a branch across the mains burst into flame in a matter of seconds.

Optus suspends its cable to a steel conductor which is bonded to the steel channel of stobie poles. Interstate, wooden poles do not prove this earthing, so the steel cable could become live. Accordingly, clearance from trees is needed there, but not here. The Power Line Environment Committee spends about $3 million per annum from ETSA and $1.5 million from councils undergrounding high and low voltage mains in areas of high profile. There are no Government schemes to underground urban residential streets, though the Premier's announcements as Minister for Infrastructure on 21 October this year outline the assistance which would be available to councils to initiate local undergrounding schemes.

The answer to question 1(c)(10) is 'Yes.' In other States, local government is responsible for clearing its trees from overhead powerlines. One option in 1988 when these regulations were made was for councils to become responsible as they were in other States. It was decided at that time to leave the responsibility with ETSA but to give it clear duties with which councils were expected to cooperate. Some have steadfastly refused to do so, giving rise to this change.

I have some answers under a heading of 'Fines, section 59(1)'. Currently, the Electricity Corporations Act 1994, regulation 5, has a division 7 fine and a division 7 expiation fee. This is equivalent to a $2 000 fine or a $200 expiation fee. Section 59(1) of the Bill is designed to apply to all installations and connections, that is, up to 275 000 volts, and the range of penalty takes this into consideration. It is expected that the upper level will apply to extreme breaches or repeat offenders. The person who connects is responsible. However, it is the employer's responsibility to ensure that employees are adequately trained to carry out the responsibilities.

There have been instances of faulty workmanship associated with connecting supply; for example, exposed live terminals/conductors, no electrical protection provided, incomplete switchboards and no main earth, etc. There was a recent incident where an electrical contractor suffered a severe electrical shock while modifying metering equipment. For the new environment, industry is expected to self regulate. However, in this environment, severe penalties will be incorporated for severe breaches.

The answer provided under 'System control' is as follows. The question appears to assume that the provisions in the Bill signal that the system control functions now residing in ETSA will be hived off into a separate body established under the provisions of the Electricity Bill. This assumption is not correct. The provisions in the Bill were made in order to allow, should future circumstances under the national electricity market require it, the separation from ETSA of system control such that the national system control functions under the national electricity market could be carried out by an independent body as the agent of the market operator, the National Electricity Market Management Corporation (NEMMCO).

If it is required under the competition agreements that system control be separated, it is envisaged that it would continue to coordinate all switching and isolation requirements of the total system and thereby protect all participants. If it is decided to establish independent control centres, then adequate links and protocols will be established via the contracts to ensure that the safe operation of the system is maintained. It is not envisaged that the creation of the national electricity market will erode the standards of occupational health and safety, nor erode the technical and operating safeguards currently provided under the Electricity Corporations Act 1994 by ETSA.

I shall refer to one last issue which was raised by the Deputy Leader of the Democrats in respect of illegal planting and of which I am advised as follows. Over the last year or so ETSA has become aware that some councils have planted trees, such as plane trees, close to overhead powerlines. So far, ETSA has not taken any action in relation to those changes because of the amendments before the Chamber which will overcome the need to remove those illegal plantings. If the Opposition and the Australian Democrats insist on these amendments, I am advised that ETSA will be forced to act to correct the problem of illegal plantings. To indicate the scope of the potential problem that confronts ETSA, I shall indicate the following illegal tree plantings by councils in Adelaide since 1988: Thebarton council, approximately 300 London plane trees; Woodville council, approximately 200 eucalypts; Unley council, approximately 200 London plane trees, 200 jacaranda trees and 100 Queensland box trees; Marion council, 100 London plane trees; Adelaide council, 500 London plane trees; Salisbury council, 300 mixed trees; Tea Tree Gully council, 300 mixed trees; Kensington-Norwood council, 200 plane trees; Saint Peters council, 200 plane trees; and Walkerville council, 200 plane trees. I am advised that the following councils have applied for and adhered to exemptions: Mitcham, Prospect, Enfield, Hindmarsh, East Torrens, Noarlunga, Willunga, and most councils in country areas with non-bushfire risk areas (NBFRAs).

The Hon. Sandra Kanck: It sounds a bit like blackmail.

The Hon. R.I. LUCAS: No, they are just advising the law. ETSA is advising members of this Chamber as to the consequences of any decisions they might take. I can only share with members the information provided to me as the Minister responsible for the Bill in this Chamber. I am sure that the Deputy Leader would not wish me to be derelict in my duty by not sharing all possible information that would assist her deliberations during the Committee stages of the legislation.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Interpretation.'

The Hon. CAROLYN PICKLES: I move:

Page 2, lines 14 and 15—Leave out all words in these lines.

Following submissions from the Local Government Association (based on the concerns of numerous councils) after the Bill left the Lower House, the Opposition and, I note, the Australian Democrats have placed on file a series of amendments to deal with the issues which were raised. Primarily, the amendments are aimed at maintaining the *status quo* regarding the responsibility for vegetation clearance around powerlines and public liability relating to inadequate vegetation clearance. Before addressing the substantive issues

I wish to raise the issue of the consultation process as far as the vegetation clearance provisions are concerned. We have been advised that a draft Bill without these provisions was circulated to the Local Government Association. The Local Government Association had the opportunity to comment on that draft Bill, but it was not the same Bill as was introduced into the House of Assembly.

The Bill as it was introduced contained provisions for vegetation clearance which could have a dramatic impact on the costs and risks imposed on councils. Clearly, the Local Government Association had no opportunity to comment to the Government on the way the Bill went before the Lower House. We have been advised by the Local Government Association that it was only when the Bill passed the Lower House that it was able to contact the Government, the Australian Democrats and the Labor Party to raise its issues of concern. Perhaps the Minister dealing with the Bill in this Chamber will say why this consultation process was not followed through in an effort to resolve this issue. Generally, the past practice has been for councils to prune trees and bushes if they are below powerlines in suburban streets. But where branches protrude through the powerlines, ETSA has undertaken to trim those branches. This makes sense from a safety point of view as well as being consistent with ETSA's responsibility to ensure that the electricity supply is transmitted without interruption.

Under the existing arrangements ETSA has a broad immunity from what would otherwise be common law claims for damages arising from power failure. Therefore, it also made sense from the point of view of minimising financial risk if ETSA did the pruning of trees around powerlines. This Bill radically departs from existing practice by placing a burden on councils to clear vegetation around powerlines and to be responsible legally for vegetation planted underneath powerlines on footpaths under the care of councils. The proposed arrangements are set out in clauses 55 to 58 of the Bill. All our amendments relate in one way or another to this issue, and we aim to completely remove any obligation on the part of councils which has previously been an obligation accepted and undertaken by ETSA.

In the future, of course, as envisaged by this Bill, there may be more than one electricity supplier, so it will not necessarily be ETSA. Still, we say that the obligation to keep vegetation away from powerlines by appropriate clearance methods should lie with the electricity supplier rather than with councils. Therefore, our first amendment deletes reference in the Bill to council officers. Council officers are referred to in the Bill only in the context of being people who may be responsible for clearing vegetation. It should be noted that the electricity suppliers will still be able to enter into contractual arrangements with councils for councils to take on the obligation of keeping vegetation away from powerlines. The capacity to do this has existed for several years. The Opposition finds it acceptable for individual councils to agree with electricity suppliers to maintain vegetational clearance programs on a case-by-case basis, but we are opposed to the wholesale shifting of responsibility and cost to councils. Partly, there is an issue of safety. There is definitely an issue of legal liability in the event of failure to adequately clear vegetation if that leads to a power blackout or a power surge, and there is a cost factor as well.

The Liberal State Government has shifted millions of dollars of costs to the local government area in numerous areas where the State Government previously held responsibilities. In one sense, the vegetation clearance provisions in this Bill could be seen as a cost-shifting exercise away from the State Government to local government. We do not believe that it is appropriate in respect of vegetation clearance near powerlines. I note that the Environment, Resources and Development Committee inquired into this issue of vegetation clearance. The committee recommended that the primary responsibility for vegetation clearance around overhead powerlines should remain with the power supplier. I ask the Minister dealing with this Bill in this Chamber why this Bill is not consistent with the committee's recommendations. The Minister may well have responded to that, and I apologise for missing his reply but, as he knows, I was engaged in a meeting and got into the Chamber as soon as possible.

The Hon. SANDRA KANCK: I assume that we will use this clause as the test for the rest of the amendments. In relation to one of the questions that the Minister dealt with about trees becoming conductive, which seems to be at the heart of this whole issue of vegetation clearance, I want to provide the Committee with some information that has been given to my by a St Peters councillor. She set out to find out how live trees become, and I will read what she has to say, as follows:

> To check the electrical current within live trees, a St Peters councillor spent some time in the rain one winter with an electrical engineer (Mr W.O. Gibberd) measuring (using probes and a voltmeter) the voltages from trees to ground at various heights of the trunk of trees, some of which were in contact with the live bare wires—both high and low tension and low tension alone. We repeated the exercise on trees with no overhead wires. We purposely did this in the rain as the water present on the surfaces would maximise any potential for the tree to conduct to earth. In most cases, we were not able to find any measurable voltage reading and on the couple of occasions that we did it was not consistently in trees that were touching electricity wires. The councillor concerned did this with some trepidation to start with as ETSA had convinced that person that the hazard was real; but if one thinks about it, if the system were leaking to earth, with the number of trees that we have in contact with the wires in the town of St Peters, there would be massive leakage from the system and we would either suffer continual 'greyouts' or the system would fail and blackouts would result.
>
> We are not able to say at what voltage the tree will become conductive. We do not deny that it is a possibility with sufficient charge such as with a lightning strike. We do not know of it ever happening in the town of St Peters and suggest that this is an area that needs independent research.

It is reasonable to put that on the record because I have grave doubts about the whole issue of clearance of vegetation.

I spent some time going through all the questions that I have about this issue. I do not believe that the issue of clearance and the transference of clearance powers to local councils is associated with competition policy dividends, so from that point of view it is not important that this be debated and passed with the legislation before Christmas. At some stage, I would be quite happy to consider this when there has been more time for adequate community consultation. I would be interested to hear if the Government thinks it is related to competition policy and the dividends that are payable to the State Government.

I heard the answer that the Minister gave to my questions, but I do not believe that it justifies including this unexpected measure in the Bill. I indicated in my second reading speech that I would support the Opposition's amendments, because I had the same amendments drafted, and I do so now with pleasure.

The Hon. R.I. LUCAS: I seek clarification from the Hon. Sandra Kanck. Does the honourable member indicate that at this stage she opposes the principles behind these

amendments, that she is prepared to reflect on them on another occasion, or is she implacably opposed to the whole principle, whether it be considered now in this legislation or separately in another piece of legislation when she has had another opportunity for further consultation and discussion?

The Hon. SANDRA KANCK: I do not believe that proper consultation has occurred in regard to the transfer of powers to local government. If at some stage there is adequate consultation, if I am satisfied of the results of that consultation—in other words, it needs to be a proper consultation, not one that is done on the surface and the Government simply reintroduces what is contained in clause 55(2)—and if I have an understanding that local government is satisfied with the outcome of the negotiations, I will be happy to consider this particular aspect in a separate Bill at a later stage.

The Hon. R.I. LUCAS: I thank the honourable member for that clarification. I do not seek to put words into her mouth, but my understanding is that her support for this legislation or any future legislation depends on councils supporting it. I understand that she cannot envisage a situation where, even if there were proper consultation but the Government and the Local Government Association or councils had a different view from each other, she would support anything other than the councils' view. If I have not fairly reflected her view, she might put that on the record. That was the sense of what I gained from the honourable member's view, that is, that her view is dependent on local government saying that it is happy with a proposed change rather than necessarily just having proper consultation.

The Hon. SANDRA KANCK: The Minister has read me correctly. Given that this liability is to be handed over to local government when it has not asked for it to be handed over, it needs to be happy with what is passed by Parliament. The Local Government Association and most councils are composed of reasonable people and it is most likely that some agreement can be reached. It might be associated with an increase in funding to deal with the issue, but I am certain that, with proper consultation, an agreement can be reached.

The Hon. R.I. LUCAS: I thank the honourable member for that clarification. I gather that there is a small opening through which it is possible for the Minister and the Government of the day to have further discussions with the honourable member. I am sure that she will be willing to enter into those discussions and keep an open mind on these issues. On behalf of the Minister and the Government, I place on the record the Government's opposition to the amendments that have been moved by the Labor Party and supported by the Australian Democrats in this Chamber. I also place on the record the Government's reasons for that opposition and I hope that may give the Hon. Sandra Kanck some food for thought for the process of possible reconsideration over the Christmas-new year period.

My advice is as follows. Vegetation clearance in non-bushfire risk areas has been a problem for many years. Following the events of Ash Wednesday 1983, in December 1987 the Labor Government brought a Bill into the House containing a new regime for vegetation clearance around powerlines in South Australia based on national and international standards. A select committee reviewed the Bill and reported on 22 March 1988, as a result of which legislation was passed creating separate levels of duty for ETSA to discharge regarding clearances in bushfire and non-bushfire risk areas.

The Local Government Association participated in developing the regulations, which passed through with no fewer than eight drafts over three months. When the regulations were finalised, the LGA advised that it would not support them. Another review occurred, this time with two LGA representatives included. Regulations were made on 27 October 1988. Since then, a few councils have refused to allow ETSA to discharge its duties. The ERD Committee has confirmed that the regulations are appropriate. Under the Public Corporations Act introduced by the Labor Government, it is untenable for ETSA's directors to have a duty that others prevent them from discharging.

That is an important issue upon which the honourable member might reflect in any possible reconsideration. It would be worthwhile speaking to a range of people, not just councils but perhaps people representing ETSA as well. The point of view of which I am advised is that the Public Corporations Act, which was introduced by the Labor Government, places a duty on the directors of ETSA that they now find (as directors of ETSA) that they are unable to discharge because of the actions of some councils.

In evidence to the ERD Committee on 29 November 1995 (page 5 of the transcript)—and with LGA representatives present—ETSA propounded the concept of councils becoming responsible for vegetation clearance as they are in other States. Another reason for the initiative is that some councils object strongly to or ignore the regulations regarding the species they are allowed to plant near powerlines. Part of the Government's package of measures to deal with these matters is the repeal of those regulations on the basis that, if councils are to clear vegetation, they can plant what they like. Again, that refers back to the information I gave the honourable member in the reply to her second reading contribution regarding the fact that a large number of councils are planting a large number of trees, for example, the Adelaide City Council, which has planted 500 London plane trees illegally. I am advised that the Unley council has planted 200 London plane trees, 200 jacaranda trees and 100 Queensland box trees, again illegally, according to the advice that has been provided.

Cabinet determined a position on these matters but did not announce it until the Minister for Infrastructure discussed the measures with the executive of the LGA. That meeting occurred on 19 September 1996 and a letter outlining the measures was left with the LGA. Funding currently spent by ETSA for the work is to be provided to the LGA for councils to take over the responsibility. The LGA raised one issue, concerning overhead communication cables, which the Minister agreed to take back to Cabinet. No issue was raised about the transfer of vegetation clearance. On Tuesday 12 November 1996 an ETSA officer attended the LGA Vegetation Undergrounding Subcommittee and answered questions about the proposed arrangement. The LGA wrote to the Minister again on 15 November 1996 regarding other matters contained in the Government's package. Once again, there was no mention of the vegetation issue.

When the Bill was introduced into the Parliament the Opposition said *inter alia* that it would be supporting the Bill—again no mention of this issue. The Government can only assume that a disaffected council has expressed its views to members in disregard of the interests of other councils that are talking to ETSA about how they will take over the responsibility. The Government cannot accept the amendments. The Government believes that it is dealing with an issue that the Labor Government did not handle from 1988

to 1993, and that it now needs to resolve this matter. It is important, because claims have been made in this Chamber about inappropriate consultation, for example, and I presume that has been used to explain the reasons why the Labor Party—and I make no criticism of the Australian Democrats at this stage—has changed its view between the two Houses.

The Minister's office has advised me that this Bill was discussed in the House of Assembly and the Labor Party indicated that it would support the Bill, with no mention made of this issue at all. I am not sure what the sequence was: maybe the Hon. Sandra Kanck raised the issue and that has prompted the Labor Party to take action. That occasionally happens, and it might have been the case with this issue. As the Minister's office has indicated, the Minister met with the LGA on 19 September and left a letter with it on that date outlining the measures. The LGA then raised one issue with the Minister, but it did not raise any issue or concern about vegetation clearance.

The Hon. Sandra Kanck: It was not in the draft Bill.

The Hon. R.I. LUCAS: I am advised that it was in the letter that was left at the LGA and that it then raised with the Minister the issue of overhead communication cables to take back to Cabinet. Having received the letter that outlined these issues, I am told that no issue was raised by the LGA with the Minister concerning the transfer of vegetation clearance. As I said, on Tuesday 12 November an ETSA officer attended the LGA Vegetation Undergrounding Subcommittee and answered questions about these issues. The LGA then wrote to the Minister again on 15 November. Clearly, all the matters regarding concerns that it had with the Government's legislation were then well known, and again it made no mention of the vegetation issue.

Whilst I can understand that the Opposition and the Australian Democrats are seeking to criticise the new Premier and then Minister for Infrastructure about lack of consultation, the Minister's office has clearly indicated that: the Minister left the letter with the LGA back in September; that it then communicated with him complaining about other issues but not this issue; that an officer in November attended a meeting and answered questions; and that the LGA then wrote as an association to the Minister regarding other matters of concern but, again, did not raise the vegetation issue.

It is important to place those issues on the public record and, if the position of the Australian Democrats on this occasion is not to support these provisions being in the Bill, I hope that the Hon. Sandra Kanck will at least bear those matters in mind in relation to her continued consideration of the issue. The second point I would ask the Hon. Sandra Kanck to consider with this small window of opportunity about which we are talking—and, as I said, knowing that she would not lock her view in concrete at this stage—is the issue of the Public Corporations Act and, from the advice I have been given, the ETSA directors' duty of responsibility in relation to these issues; namely, to consider the particular dilemmas and concerns that are raised for ETSA and for the directors of ETSA if they have a duty under that Act to act or operate in a certain way but are being prevented from doing so by the actions of councils. As I said, I understand from what the honourable member has said that she is unlikely (or unwilling) during this week of debate to change her view, but I would ask her at least to keep an open mind on how that issue and this total issue might be addressed in any future consideration of the amendments.

I agree with the Hon. Sandra Kanck that this clause ought to be treated as a test clause for the package of amendments. The Government indicates its strong disagreement with the amendments. However, I acknowledge the brutal reality of the crushing numbers of the Australian Democrats and the Labor Party in this Chamber and acknowledge that the Government, in seeking to represent the constituents of South Australia, will have its views thwarted again by the majority of this Chamber, but I do not intend to repeat the arguments for the other clauses of the package.

The Hon. CAROLYN PICKLES: I will put a few things on the record. The Minister is trying to make a few snide comments about the Labor Party's following in the footsteps of the Australian Democrats on this issue. The fact is that when my colleague in another place handled this legislation—

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: He certainly did support it, and it is under his instruction and with the support of the Australian Labor Party that I am moving these amendments. On 13 November the Opposition received a letter that was addressed to the Hon. Terry Roberts—who probably would have been handling this Bill had he been here today. The letter states—

The Hon. R.I. Lucas: Who is the letter from?

The Hon. CAROLYN PICKLES: It is from the Local Government Association. It states:

> On 5 November a Bill for an Act to regulate the electricity supply industry; to make provision for safety etc.

It describes what the Bill does and it talks about clause 5. It provides:

> No prior warning was given that the legislation contained such a provision or that it was about to be introduced into the House of Assembly. The above clause was included subsequent to consultation on a previous drafting in which no provision was contained.

So, it was in response to the concerns of the Local Government Association that it had no consultation process at all about this clause. I can only say that we took the LGA at its word; we do not believe that it is lying. In its view, there was no proper consultation by the Government with it on this issue. It is greatly concerned about the matter, and we are responding to those concerns. Does the Bill have to pass the Council prior to Christmas?

The Hon. R.I. Lucas: Yes.

The Hon. CAROLYN PICKLES: Clearly, we will have to go into a deadlock conference on this issue. Perhaps we can get some understanding about some of the issues the Minister has raised. Our clear understanding is that there was no proper consultation and that the Local Government Association was in receipt of a draft Bill which did not contain this clause. The Bill changed from the time it was presented to the House and a draft Bill was sent to it. That is a valid concern, and we have responded to that by moving these amendments, which are to be supported by the Australian Democrats.

The Hon. SANDRA KANCK: I feel that I need to stand on behalf of the Local Government Association and defend it. I have a copy of a letter and draft Bill from MESA. The letter is signed by Bob Burgstad, Manager, Regulation, dated 30 September 1996. Its heading is 'Draft electricity Bill (safety and technical aspects)' and it states:

> As promised at the previous consultation meeting which most of the representatives on the enclosed list attended, please find attached a copy of the draft electricity Bill for your review and comments. You will note that references to price regulation have been deleted.

However, to facilitate the implementation of the technical regulator's functions as soon as possible, it has been agreed to proceed with industry consultation until pricing issues have been resolved at both State and national levels. Should you consider that other members of your organisation may be interested and able to contribute to the review process, please provide them with a copy of the draft Bill attached. A consultation meeting on the contents of the Bill is scheduled for Thursday 10 October.

As I said, this is dated 30 September. The Bill, in an amended form, was introduced into the Assembly on 17 October. I am not sure what day of the week 30 September was, whether it was a Friday.

The Hon. R.I. Lucas: Who is that letter from?

The Hon. SANDRA KANCK: This is from Bob Burgstad, Manager, Regulation, with a copy of the draft Bill. That letter clearly talks of technical things. It makes no reference to native vegetation. If you go to the Bill itself in part 4, we have division 1—

The Hon. R.I. Lucas: Who is the letter to?

The Hon. SANDRA KANCK: It was to 28 different organisations, including the Local Government Association. However, it has no mention of native vegetation. Part 4 of the draft Bill—this Bill that was posted out on 30 September—has division 1, 'Electricity offices'; division 2, 'Powers and duties relating to infrastructure'; division 3, 'Powers relating to installation'; division 4, 'Powers and duties in emergencies'; and division 5 'Safety and technical issues'. If we compare that to the Bill that was introduced, we find that we go from division 4, 'Powers and duties in emergencies', to part 5, 'Clearance of vegetation from powerlines'. It simply does not exist in the original draft Bill.

In no way, shape or form does it exist, so how could local government have commented on it? They did get a copy of a draft Bill, but it is not the Bill that was introduced into Parliament. I asked that question during the second reading debate. Perhaps the Minister can elaborate on this now. Why was it not in the draft Bill? Why did it appear in the Bill that came into Parliament?

The Hon. R.I. LUCAS: It is correct to say that there was an original daft Bill that did not contain this measure. That is not being disputed. Draft Bills go through a draft Bill stage, and in the end it is the Bill that has been agreed to by the Cabinet that goes out. I have a copy of the letter that the Hon. John Olsen left with the executive of the LGA on 19 September. This is the Minister, and not the officer to whom the Hon. Sandra Kanck is referring. I am advised that the Hon. John Olsen did not leave a copy of the legislation with the executive on 19 September but left a copy of this letter. I will quote just one aspect of it that is pertinent to the point we are discussing, as follows:

Cabinet has approved a package of measures which, operating together, allow real progress with undergrounding to the extent that ratepayers are willing to contribute. The package includes—

and it talks about a range of other things—

repeal of the regulations on tree planting in metropolitan non-bushfire risk areas.

The Hon. Sandra Kanck: Is this associated with this Bill?

The Hon. R.I. LUCAS: Yes. It states:

This accedes to the thrust of councils to plant larger trees but will require them to be responsible for tree trimming with funding provided.

The advice I am given is that on 19 September the Hon. John Olsen met with the executive of the LGA. I have a letter addressed to John Ross (President of the LGA) from John Olsen on 19 September, which I am advised he left with them, indicating that this was included as part of the package. Clearly, two different stories are being circulated.

An honourable member interjecting:

The Hon. R.I. LUCAS: Okay, but one cannot go much higher than the Minister in relation to the issue. I have acknowledged that there was an earlier draft of the Bill that did not include these aspects, but that is common practice. As a Bill goes through draft stages, bits are added and bits subtracted.

The Hon. Carolyn Pickles: It is a fundamental shift.

The Hon. R.I. LUCAS: Yes, but the Minister—and you cannot get any higher than the Minister—met with the executive of the LGA—and you cannot go higher than the executive of the LGA—on 19 September. I am advised that he indicated to them that the package, which included this issue, was to be canvassed, and he left a copy of the letter from which I have just quoted a paragraph, which indicated that the issue would be canvassed. As I said, subsequent to that he received other letters that raised issues which the Minister subsequently took up with Cabinet but which did not relate to this issue. As I said, again in November an ETSA officer met with one of these subcommittees—the under-grounding subcommittee or something like that—and raised these issues.

Subsequent to that, there was another letter, which did not raise the issue, yet the Hon. Carolyn Pickles has obviously received a letter from the LGA in mid November which raises concerns about consultation. The LGA is a large organisation, and perhaps various pieces of that organisation have not been talking with other parts of it. I do not know: I cannot explain the position in relation to the LGA. All I can say is that, obviously, the Labor Party received a letter of complaint about there being no consultation at all.

I have an indication from the Minister that he met with the executive of the LGA and left with it a letter that indicated that these issues were part of the package that Cabinet had approved. That is why I am raising the issue with the Hon. Sandra Kanck. If this part of the Bill is to go down in a screaming heap because of the weight of numbers this week, in those circumstances she should at least be prepared to contemplate the principle behind the issue rather than just the issue of the consultation.

At the very least, there would appear to be some confusion about the consultation. Some people believe there has been no consultation. The Minister is generally most meticulous in these issues in trying to ensure that people are consulted. The Minister had a discussion with the executive of the LGA. The Minister received many letters from the LGA after that time which raised other issues but which never raised any concern about this aspect. I acknowledge that the LGA appears to have raised concerns with the Labor Party, but evidently not, according to my advice, with the Minister. Clearly we have a state of confusion in relation to the consultation issue.

It would be a shame if the whole Bill went down in a screaming heap as a result of the issue of consultation. As I understand it, the Labor Party indicated its support of the legislation in the House of Assembly, but now indicates its opposition because it believes there has not been consultation. That is the reason for its change of position. I acknowledge that the Australian Democrats did not have an opportunity to debate the legislation in another place and is therefore placing on the public record its position for the first time. The numbers are not with the Government at the moment but, as

always, I struggle on manfully to defend the Government's position. I am delighted to hear the Hon. Sandra Kanck leaving open a window of opportunity. Should the honourable member maintain her position through this parliamentary week, she might consider the principles behind this issue, or perhaps even revisiting this particular clause.

The Hon. SANDRA KANCK: The letter from the Minister for Infrastructure to the LGA is interesting, as are the dates. The Minister has referred to 19 September when the Minister apparently met with the LGA executive. The draft Bill that went out for consultation is dated 30 September and, if I had received the Bill, say, two weeks after the earlier letter and the Bill did not contain those provisions, my assumption would be 'Well, they have changed their minds and they are not doing it at the moment,' and I would have gone merrily on my way. I cannot explain it, just as the Minister cannot explain it.

Something has gone awry. Perhaps Bob Burgstad did not know. I do not know what happened, but obviously something has gone wrong. I stress that my concern is not just about consultation because this issue is also about funding and liability, and it is as a result of the issues of funding and liability that this break down in communication and lack of consultation has become an issue.

The Hon. R.I. LUCAS: I do not intend to prolong this debate. If we are going to lose, we might as well lose relatively quickly. The Hon. Sandra Kanck has hit on an issue. The officer to whom she has referred, I am advised, is from the Department of Mines and Energy, South Australia. One issue in relation to this Bill is that two Ministers have been involved: the Minister for Mines and Energy, originally, and then the Minister for Infrastructure in relation to ETSA Corporation. Perhaps this Mines and Energy officer had not caught up with the fact that Cabinet had made a decision to incorporate in the Bill not only the issues about which Mines and Energy was concerned but also the issues about which ETSA was concerned.

Perhaps the Mines and Energy officer decided to circulate to 28 organisations, which happened to include the Local Government Association, a copy of one of the original drafts of the Bill, and that that officer had not caught up with the fact that Cabinet, as is the way with legislation, had decided to include other issues into the legislation. The Minister for Infrastructure, being quite genuine about the matter, has been happily consulting with the executive of the LGA and advising that that is what Cabinet has decided and indicating that that is what is in the Bill. That still does not explain why the LGA, from 19 September onwards, if it had a concern about the issue—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The LGA wrote to you, but I am saying that it does not explain why, from 19 September onwards, if the LGA had some concerns—irrespective of other drafts being circulated—it did not raise the matter with the Minister. One can go no higher than the Minister in relation to these issues. If the LGA was told by the Minister that this was to be included in the Bill and it had any doubts about it, why did the LGA not say to the Minister, 'What is going on? A draft Bill is circulating that does not include it. You told us that it was in there.'

The LGA corresponded with the Minister all through this period, yet did not raise the issue with the Minister, so I am advised. However, on 13 November the LGA wrote to the Opposition raising its concerns. As I said, I do not intend to prolong the debate at the moment. Clearly there has been some confusion and misunderstanding. I would say to the Deputy Leader of the Australian Democrats and to the Leader of the Australian Labor Party that, if nothing can be resolved this week, at the very least, or if this matter is to be revisited, a window of opportunity for possible resolution should be left open.

The Hon. CAROLYN PICKLES: Despite the apparent confusion on the part of the Government, there remains the issue that the Local Government Association has indicated in its letters and meetings with the Opposition that it is very concerned about this issue and that it wishes these amendments to be put forward. Whether it conveyed its views to us, to the Government or to the Australian Democrats is neither here nor there. It has conveyed its disquiet about the Government legislation, and we are going through the proper process of moving these amendments which will be successful in this Chamber.

Amendment carried; clause as amended passed.

Clauses 5 to 10 passed.

Clause 11—'Obligation to preserve confidentiality.'

The Hon. R.I. LUCAS: I move:

Page 7, line 15—'After 'information' insert 'gained in the course of administering this Act (including information gained by an authorised officer under Part 7)'.

This clause relates to the obligation of the technical regulator to preserve confidentiality. This amendment ensures that the technical regulator's obligation to preserve the confidentiality of commercially sensitive information extends to such information gained by an authorised officer.

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

Amendment carried; clause as amended passed.

Clauses 12 to 18 passed.

Clause 19—'Term of licence.'

The Hon. R.I. LUCAS: I move:

Page 11, line 11—After 'guilty of a' insert 'material'.

I am advised that this relates to licence renewal. This amendment is to clarify what is implicit, namely, that renewal of a licence should not be refused on the basis that the applicant has been guilty of a contravention of a requirement imposed by or under this Act or any other Act in connection with the operations authorised by the licence, unless such a contravention was a material contravention, that is, a contravention of some import and proper relevance to whether renewal of the licence should be refused.

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

Amendment carried; clause as amended passed.

Clauses 20 to 36 passed.

Clause 37—'Suspension or cancellation of licences.'

The Hon. R.I. LUCAS: I move:

Page 17, line 5—Leave out 'contravened' and insert 'been guilty of a material contravention of'.

This relates to the suspension or cancellation of licences. This amendment ensures that the technical regulator's grounds for suspension or cancellation of a licence are more completely provided in the principal Act.

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

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 17, after line 7—Insert paragraph as follows:

(d) there has been any act or default such that the holder of a licence would no longer be entitled to the issue of such a licence.

This amendment is consequential on the last.

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

Amendment carried; clause as amended passed.

Clauses 38 to 46 passed.

Clause 47—'Power to carry out work on public land.'

The Hon. CAROLYN PICKLES: I move:

Page 20, after line 10—Insert:

(aa) excavate public land and install underground cables; or.

Because we are inserting a new subclause 47(2) we need to ensure that the electricity supplier has the power to excavate public land and install underground cables. Regardless of the background to the discussions at a national level regarding the stringing up of further overhead cables by both Telstra and Optus, I for one cannot see the sense in two companies stringing up new cables, a separate cable for each company. On a national level we ought to be able to organise our infrastructure better than this.

The Hon. SANDRA KANCK: I support the amendment.

The Hon. R.I. LUCAS: The advice I have been provided with earlier is that the Government opposes the package of amendments being moved by the Labor Party and supported by the Democrats. We will be treating them as a package.

Amendment carried.

The Hon. CAROLYN PICKLES: I move:

Page 20, lines 16 to 18—Leave out subclause (2) and insert:

(2) An electricity entity proposing to install electricity infrastructure for the distribution of electricity to land that has not previously been connected to a transmission or distribution network must not install powerlines for that purpose on or above public land except as authorised under the regulations.

By framing the provision regarding new infrastructure in this way we are ensuring that regulations must provide for recognition of the electricity supplier's vegetation clearance responsibilities. The regulations can then take into account the option for individual councils to make contractual arrangements with the electricity supplier regarding vegetation clearance, and the regulations can also take account of the difference between bushfire-risk and non bushfire-risk areas. The Opposition will not entertain regulations, however, if they impose a duty on councils to ensure that powerlines are kept free from vegetation, since we maintain that that particular responsibility should stay with the electricity supplier.

The Hon. SANDRA KANCK: I support the amendment.

The Hon. R.I. LUCAS: The Government opposes the amendment.

Amendment carried; clause as amended passed.

Clauses 48 to 54 passed.

Clause 55—'Duties in relation to vegetation clearance.'

The Hon. CAROLYN PICKLES: I am happy to move these amendments *en bloc*. I move:

Page 25—

Lines 5 and 6—Leave out 'other than public powerlines referred to in subsection (2)'.

Lines 10 to 16—Leave out subclause (2).

Line 21—Leave out 'or council'.

Line 24—Leave out 'a council or' and insert 'an'.

Line 29—Leave out 'a council or' and insert 'an'.

Line 30—Leave out 'council or'.

The Hon. SANDRA KANCK: We support these amendments.

The Hon. R.I. LUCAS: We oppose them.

Amendments carried; clause as amended passed.

Clause 56—'Role of councils in relation to vegetation clearance not within prescribed areas.'

The Hon. CAROLYN PICKLES: I move:

Page 26, lines 3 and 4—Leave out 'that are not within a prescribed area.'

This amendment is consequential.

The Hon. SANDRA KANCK: It is supported.

The Hon. R.I. LUCAS: We oppose this.

Amendment carried; clause as amended passed.

Clause 57—'Power to enter for vegetation clearance purposes.'

The Hon. CAROLYN PICKLES: I will move these amendments *en bloc*. They are consequential. I move:

Page 26—

Line 21—Leave out 'or a council officer.'

Lines 22 and 23—Leave out 'or council.'

Line 24—Leave out 'or council officer.'

Line 29—Leave out 'or council officer.'

Line 31—Leave out 'or council officer.'

Page 27—

Line 1—Leave out 'or council officer.'

Lines 6 and 7—Leave out subclause (6).'

The Hon. SANDRA KANCK: We support them.

The Hon. R.I. LUCAS: Opposed.

Amendments carried; clause as amended passed.

Clause 58—'Regulations in respect of vegetation near powerlines.'

The Hon. CAROLYN PICKLES: I move:

Page 27, lines 19 and 20—Leave out 'or councils.'

This amendment is consequential.

The Hon. SANDRA KANCK: We support this.

The Hon. R.I. LUCAS: Opposed.

Amendment carried; clause as amended passed.

Clauses 59 to 78 passed.

Clause 79—'Powers of court on appeal.'

The Hon. R.I. LUCAS: I move:

Page 36, line 30—Leave out subclause (3).

This amendment is in relation to removal of exclusion of appeal from the District Court. I am advised that, as a result of representations from industry, it has been decided to remove the provision which excludes further appeal.

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

Amendment carried; clause as amended passed.

Clauses 80 and 81 passed.

Clause 82—'Application and issue of warrant.'

The Hon. CAROLYN PICKLES: I move:

Page 37—

Line 11—Leave out ', electricity officer or council officer' and insert 'or electricity officer'.

Line 15—Leave out ', electricity officer or council officer and insert 'or electricity officer'.

These amendments are consequential.

The Hon. R.I. LUCAS: The Government opposes these amendments.

Amendments carried; clause as amended passed.

Clause 83—'Urgent situations.'

The Hon. CAROLYN PICKLES: I move:

Page 37, line 25—Leave out ', electricity officer or council officer' and insert 'electricity officer'.

Page 38, line 12—Leave out ', electricity officer or council officer' and insert 'electricity officer'.

These amendments are consequential.

The Hon. R.I. LUCAS: The Government opposes these amendments.

Amendments carried; clause as amended passed.

Remaining clauses (84 to 98), schedules and title passed.

Bill read a third time and passed.

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

A quorum having been formed:

DEVELOPMENT PLAN (CITY OF SALISBURY-MFP (THE LEVELS)) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 608.)

The Hon. P. HOLLOWAY: The purpose of this Bill is to amend the City of Salisbury Development Plan to permit the construction of the so-called MFP Smart City project at The Levels. In effect, the Bill rezones the site for the Smart City at The Levels from light industrial to allow for mixed development including residential associated with the Smart City. The Smart City proposal is the outcome of the Brown Government's self-styled refocusing of the MFP project, which it promised to undertake on coming to office. Previously, the MFP project was based around redevelopment of degraded land at Gillman. Over 18 months ago, the Brown Government decided to shift this development to The Levels.

In spite of suggestions by Salisbury council at the time, the Government did not begin the rezoning process for the new MFP site. Members will recall that at least one major developer bitterly opposed the development at The Levels believing that it would adversely affect its own residential development in surrounding areas. This issue clearly was caught up in the Brown-Olsen division within the Government, as it was only a few weeks ago (perhaps months) that the Smart City project finally received the go-ahead. So, John Olsen won not only the leadership battle but that battle too.

The current dilemma for the Government is that the project will be further delayed if the rezoning procedures are not resolved quickly. That is unusual. Generally, it would be undesirable for such zoning to occur by an Act of Parliament rather than through the normal procedures. In the normal course of events, the rezoning of land would be undertaken by the relevant council in accordance with the procedures set down in the Development Act. These procedures would involve releasing a draft amendment plan for public consultation, and the entire process may last three or four months. What we have before us is a Bill that will fast track that process. Instead of having lengthy public consultation, as I understand it, the matter will be dealt with quickly by way of this Bill so that the contracts for the Smart City proposal can be signed. The Opposition has agreed to this action because it supports the MFP Smart City project, and I know that my colleague Kevin Foley, the shadow Minister for Infrastructure, has repeatedly called upon the Government to speed up this project: he has been doing that for many months.

Consequently, the Opposition supports the speedy passage of this Bill which will bypass normal public consultations in the knowledge that there has already been widespread publicity for the project and because we are assured that the Salisbury council supports the proposal. We are pleased that the threat to the future of the project has been removed and we hope that with the passage of this legislation the MFP Smart City project will provide a much needed shot in the arm to the local economy.

Most of the substance of the Bill is the new draft development plan, which will replace the previous plan and which deals with the zoning of the site for the new Smart City. The Opposition welcomes the Smart City proposal and we are, therefore, happy to facilitate this project, even though perhaps it would have been better for the Government to have taken action earlier and gone through the normal procedures. Nonetheless, we believe that we should now get on with this project as swiftly as possible and, consequently, we support the Bill.

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

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

Second reading.

The Hon. K.T. Griffin, for the Hon. DIANA LAIDLAW (Minister for Transport): 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.

This short Bill seeks to amend the provision of the *Pulp and Paper Mill (Hundreds of Mayurra and Hindmarsh) Act 1964* which relates to the payment of Council rates to reflect an existing agreement between Kimberly-Clark Australia and the District Council of Millicent.

The Act ratifies an Indenture entered into in 1964 for a period of 50 years between the Government and Apcel Limited (now Kimberly-Clark Australia) in relation to the pulp and paper mill complex owned by Kimberly-Clark at Snuggery in the District Council of Millicent.

Section 4 of the Act which deals with local government rates was amended in 1976 to provide that the rates payable for the mill complex are to be a prescribed percentage of the 'net annual value' of the mill site and the mill. However, there have been difficulties in interpreting and applying this provision because 'net annual value' is not defined in the Act. Although the 1976 amendment was probably drafted in the context of the rating provisions of the *Local Government Act 1934* and the definitions of the *Valuation of Land Act 1971* as they were in force at that time, these provisions and definitions could not be applied to the assessment of 'net annual value' required by section 4. This left valuation authorities with little guidance in arriving at 'net annual value', other than English cases decided before 1925.

As a result of this ambiguity, and Millicent Council's desire to rate the mill complex on a basis more consistent with local government rating provisions, an agreement between Council and Kimberly-Clark was reached. The agreement provides that the mill complex be rated on the same basis as the surrounding rural properties, which is currently the capital value of the land, and be liable to the same rate in the dollar as those properties.

The agreement was phased in over several years and from the financial year 1994-95 Kimberly-Clark has paid rates equivalent to those paid by surrounding rural properties. This arrangement still provides some level of subsidy as the Council's differential rating powers under the Local Government Act would, in the absence of these provisions, allow it to put in place a rating structure which would result in higher rates for the mill complex. The Bill is designed to ensure that the intent of the agreement will be preserved even if the Council should change its current rating policies and practices using the powers currently available to it under the Local Government Act.

Kimberly-Clark Australia and the District Council of Millicent have been involved in the development of this Bill and support the introduction of these provisions to formalise the practical arrangement which is now in place.

This Bill is a hybrid Bill.

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s.4—Local Government rates

This clause provides that the Company that operates the mill is liable to pay the District Council of Millicent general rates each financial year in respect of the mill site and the mill. The rates will be the same as those that apply to farming land in the vicinity of the mill. No other rates or charges under Part X of the *Local Government Act* may be levied by the council in respect of the mill or mill site. The new rates will apply to the 1996-1997 financial year and each subsequent year.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

SOUTH AUSTRALIAN PORTS (BULK HANDLING FACILITIES) BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 552.)

The Hon. T.G. CAMERON: The Labor Party supports the second reading of this Bill and we do not have any amendments to move in relation to it. This Bill is to authorise and facilitate the sale of bulk handling facilities situated at Port Adelaide, Port Giles, Wallaroo, Port Pirie, Port Lincoln and Thevenard, which were previously owned and operated by the South Australian Ports Corporation. As I understand it, it is intended that this asset sale will take place within the next few months.

I briefly place on the public record the proposed reasons for the sale. We have been advised, and according to the Hon. Stephen Baker's speech in another place, based on current charges and cost structures, that the Ports Corporation would not be able to replace the bulk handling facilities at the end of their economic life and they will require substantial regular maintenance because of the environment in which they operate. The condition of the bulk handling facilities is declining with age and corrosion, and it is expected that significant capital expenditure will be required to maintain them, and to maintain safety and environmental regulations.

We note that the jetties and wharves concerned will continue to be managed by the Ports Corporation and will continue to be accessible to members of the public and available for use by fishing and other vessels unless such uses are incompatible with the operations for the loading of grain or other commodities. In another place, the shadow Minister (John Quirke) asked whether or not there would be a preferred tendering arrangement. We believe that such a tendering process has been entered into, so we ask whether that is the case and whether the Government has considered whether or not that is in the best interests of taxpayers. The Australian Labor Party supports the second reading of the Bill.

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

PARLIAMENTARY REMUNERATION (SUPPLEMENTARY ALLOWANCES AND BENEFITS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 644.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition in another place has indicated its support for this Bill. We believe that it tidies up a number of matters that were of concern to the Auditor-General and we are happy to lend our support to the measure.

The Hon. K.T. GRIFFIN (Attorney-General): I thank the honourable member for her indication of support. This is one of those Bills, which, if one looks at it objectively, should not be regarded as controversial. It is essentially to deal with a legal issue and confers no additional benefits on members of Parliament.

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

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

CRIMINAL ASSETS CONFISCATION BILL

In Committee.

(Continued from 28 November. Page 611.)

Clauses 1 to 3 passed.

Clause 4—'Tainted property.'

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

Page 4, line 25—Leave out 'commencement of the proceedings' and insert 'commission of the offence on which the proceedings under this Act are based'.

The Bill contains a provision which deems the property of a serious drug offender to be tainted property, unless the offender proves to the contrary. This kind of provision was contained in the Act replaced by the Bill and is contained in equivalent legislation in other jurisdictions. The general provision is to be found in clause 4 of the Bill and reference to it is to be found in the exceptions listed to clause 15 of the Bill, page 11, line 2.

When the Bill was being drafted it was decided that the deeming provision should not be unlimited as it is in the current Act. The deeming provision is admittedly draconian and should be limited in time. Time limits to the deeming provision exist in equivalent legislation in other jurisdictions. However, the two references to the time limit in the Bill are inconsistent. The provision in clause 4 dates from the commencement of proceedings; the reference in clause 15 dates from the time of the commission of the offence. Clearly the limit should date from the same time in each case. The purpose of this amendment is to make the limit date from the commission of the offence in both cases.

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

Amendment carried; clause as amended passed.

Clauses 5 to 14 passed.

Clause 15—'Restraining orders.'

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

Pages 10 and 11—Leave out subclause (5) and insert:

(5) However, the following special provisions apply where the forfeiture offence or the suspected forfeiture offence in relation to which the restraining order is made is a serious drug offence:

(a) the Director of Public Prosecutions must take reasonable care to ensure that the offender (or alleged offender) and all persons who may have an interest in the property are given notice of the order and of the implications of this subsection;

(b) the order cannot (subject to the following exceptions) be revoked or varied so that it ceases to apply to property within its ambit;

(c) the order does not lapse because of an interval of inactivity following the conviction of the offender for a serious drug offence;

(d) if the offender is convicted of the serious drug offence, then 6 months after all rights of appeal are exhausted or expire or 6 months after the order is made (whichever is the later) the order is automatically converted into a forfeiture order for the forfeiture of all the property to which it then applies.

Exceptions—

1. The court may authorise the application of property towards the payment of legal costs in accordance with this Act.[2]
2. The court may revoke or vary the order so that it ceases to apply to property if the owner of the property satisfies the court, on an application made before the conversion of the order into a forfeiture order, that the owner acquired the property lawfully or at least 6 years before the commission of the relevant forfeiture offence and the property is not tainted.
3. The court may revoke or vary the order to protect the interests of a person who satisfies the court, on an application made before the conversion of the order into a forfeiture order, that the person has acquired an interest in the property to which the order relates in good faith and for valuable consideration.
4. The court may order the payment of compensation out of the Criminal Injuries Compensation Fund (not exceeding the value of the forfeited property) in favour of a person who satisfies the court, on an application made after the conversion of the order into a forfeiture order, that the person had acquired an interest in the forfeited property in good faith and for valuable consideration but did not receive notice of the order before the forfeiture took effect or not in time to apply for protection of the relevant interest before the forfeiture took effect.

[2] See section 20(2).

This amendment arises from representations made by the Bar Association and the Law Society. Both bodies wanted the automatic forfeiture provisions of the Bill amended to provide more explicit and detailed protection for the property interests of innocent third parties. Parliamentary Counsel has decided that the amendments required the redrafting of the whole of subclause (5) and the exceptions to it. Members may note, therefore, that some of the version of subclause (5) in the Bill as introduced is repeated in this amendment. The amendments to subclause (5) consist, first, of a new paragraph (a), which requires the Director of Public Prosecutions to take reasonable care to ensure that the defendant, and anyone who may have an interest in property acquired in good faith and for valuable consideration, is given notice of the order and the implications of forfeiture.

The qualification to good faith and valuable consideration is there because it is not unknown for defendants to try to transfer assets to friends, colleagues or family in order to avoid the consequences of this legislation. Secondly, what is to become paragraph (d) of the subclause has been amended to ensure that the automatic forfeiture does not occur when the accused, having been convicted, is in the process of appealing or is being retried having been successful on appeal.

Since the automatic forfeiture provisions are automatic, the accommodation of the interests of third parties requires a redrafting of the exceptions. Exception 2 deals with the case of a person who has acquired the property lawfully or at least six years before the commission of the offence and who can show that the property is not tainted. If the property is not tainted it is not subject to forfeiture even if it has not been acquired in good faith and for valuable consideration.

The six year provision ties in with the presumption of forfeitability, which has already been discussed. Exception 3 deals with a person who has acquired an interest in tainted property but has done so in good faith and for valuable consideration. Exception 4 deals with the case in which a person has not received notice that the property is or will be forfeited and wants to assert an interest in it after it has been forfeited. I believe that these provisions address the concerns of the Law Society and the Bar Association about this clause. The amendments do not, as requested, make the validity of the whole process dependent on verification of notification because so to do would be to render it unworkable as a practice. I commend the amendments to the Council.

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

The Hon. M.J. ELLIOTT: After having received submissions, I raised questions on this matter and the Attorney-General's amendments address those issues.

Amendment carried; clause as amended passed.

Clauses 16 to 18 passed.

The CHAIRMAN: I point out that clause 19, being a money clause, is in erased type. Standing Order 298 provides that no question shall be put in Committee upon any such clause and the message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

Remaining clauses (20 to 39), schedules and title passed.

Bill read a third time and passed.

DEVELOPMENT PLAN (CITY OF SALISBURY-MFP (THE LEVELS)) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 667.)

The Hon. M.J. ELLIOTT: I rise to indicate that the Democrats will support the second reading of this Bill. I want to ask a couple of questions that can be answered either at the end of the second reading debate or in Committee. I note that, when the first legislation came into this Parliament to legislate for the MFP, the Democrats moved amendments to allow the area around Technology Park to be incorporated into the MFP site. I note that at the time both Liberal and Liberal parties voted against those amendments. So, some years down the track, I now reflect back and wonder how many years were wasted working on the Gillman site, which we criticised very strongly, when we could have got on to working on the site that we are now setting about rezoning. I make that comment at the outset. While we have expressed some scepticism from time to time about whether the MFP would work, it was not a question of whether it would work but whether it would be made to work. I do not think that question has been resolved as yet. It appears to me that that is the challenge for the Government.

The fear expressed at a public level is that what is to be built at the MFP will be just a glorified housing estate—just one step up or down from West Lakes, or some variant on Golden Grove, both of which are interesting developments and certainly a lot better than some other areas of our suburbs but, in terms of world's best practice, I do not think either can claim to be that. It is terribly important that what happens on this site is genuinely world leading. I am asking the Government to identify, either at the end of the second reading stage or in Committee, what it is about this particular development that will make it world's best practice—something that will create real benefit for the State as a whole.

I have asked that question outside this place in meetings with some representatives. One response I received was, 'One thing we will be aiming for is energy efficiency.' When asked, 'What level of efficiency are you looking for?', it was suggested that the MFP would aim for about 50 per cent less energy being consumed in the on-site housing estate than is

used in a standard suburban house. On the face of it, 50 per cent sounds fairly dramatic. In reality, a reduction of 50 per cent on the average suburban household's energy consumption is remarkably easy. I know that from personal experience. A couple of years ago we went through our home and changed from incandescent lighting to fluorescent lighting. We also changed our ordinary shower rose to a water saver shower rose. Half the water that flows through a shower rose is hot water. As a consequence of using less hot water, I turned down the temperature of my hot water service a few degrees and the losses due to differences in temperature therefore decreased.

Those simple changes alone reduced our electricity consumption by close to 50 per cent. Members would be quite amazed how much energy consumption is expended through lighting. Most people are still using incandescent lighting, which is phenomenally inefficient. Fluorescent lighting uses somewhere between 20 per cent and 25 per cent of the energy of incandescent lighting. The amount of energy used by a shower in the form of hot water is phenomenal. What I am saying is that we do not have to use even world's best technology. It can be off-the-shelf stuff which pays for itself. A shower rose pays for itself in three months. The cost of fluorescent lighting varies with the room in which it is being used and how regularly it is used, because replacement globes cost $20 rather than 50¢. However, the pay-back time is still in the period of 12 months to two years, depending on whereabouts in the house it is being used.

So, world's best practice is not reducing energy consumption by 50 per cent. I do not know what it is but the figure would be significantly less than that. We must be very careful about having people setting standards who think they are doing a great job but who do not really know that they are doing. We must have people who say, 'What are the technologies available and how far can we push them?'

The Hon. T. Crothers: Who is watching the watcher?

The Hon. M.J. ELLIOTT: Yes. We must make a very clear and real attempt to ensure that what goes into the site is world's best. I want to hear today from the Government what it will do to guarantee that that happens. I want to know whether the Government has already set standards and, if not, how will it go about it? The indication I received was that a 50 per cent energy saving was one standard the MFP was going for. I have seen a draft design of what the site will look like and, I must say, I was pretty disappointed to see that the railway station did not appear to be located closest to the largest residential areas. I admit that this is all draft, but that again was of concern.

There is no doubt that there will be exciting things there: the wetlands and parks, and the use of swales, etc., and South Australia is probably leading the world in that area now. There is no doubt that there will be some exciting developments, but we can and should be seeking to do world's best across the whole gamut of design—everything from individual components within a house to the overall house design and house orientation, to street and suburb design.

We have to get all of that to be world's best. I had the opportunity to visit the energy efficiency village at North Haven, and I must say that I was stunned at the poor house design. They were busy bragging about the wonderful geothermal energy and other things they were using in the houses, but they had not designed the houses to minimise the energy demand to start off with. They did not build the houses with significant eaves or orientate them so that they caught the sun best at the right time of day and did not get the sun when they should not get it. They had not done basic things like this in the energy village: they were too busy focusing on the technology they were installing inside. They were chasing the whiz bang technology and not doing the basics.

I reiterate that what we want to see out at the MFP site is development using all technologies, including basic technologies. If house eaves need to be a certain width, if a house needs to be pointed in a certain direction, if we have to orientate streets so that houses can face the right direction, we must do all of that. Before the Bill goes through I want to hear from the Government that there is a real commitment to make sure that all those sorts of things are happening and we do not simply have another very nice suburb.

The Hon. T.G. Cameron: It's the positioning of the house.

The Hon. M.J. ELLIOTT: Yes. It is the positioning of the house on the block, relative to each other and next door to each other. This is very basic stuff but, unfortunately, we are not doing it very well in South Australia. I recall 15 to 20 years ago watching a television program about a house that had just been built in Canberra. It needed virtually no heating or cooling because of its basic design, layout and window size. I will not go through all the house design features—they were basic features—but they ensured that that house in Canberra, which suffers extreme heat and cold, needed little heating and cooling because of the basic layout and design.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: Yes, obvious things like that. If I go out to there in two years, by which time I presume some houses will be on site, and I find incandescent globes being used in the display homes, I will throttle the appropriate Minister, because he or she will have done this State a great disservice if they allow anything as stupid as that.

The Hon. K.T. Griffin: Figuratively speaking!

The Hon. M.J. ELLIOTT: Perhaps politically speaking.

The Hon. T.G. Cameron: You'll get a few lessons from the Liberals.

The Hon. M.J. ELLIOTT: I have been watching carefully, but sometimes they move too quickly. I did not get it all the first time but I am sure that, if I keep watching, next time around I will. In supporting the Bill, I plead with the Government: for goodness sake, get this one right.

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

EQUAL OPPORTUNITY (TRIBUNAL) AMENDMENT BILL

Returned from the House of Assembly without amendment.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

[Sitting suspended from 5.58 to 7.45 p.m.]

SECOND-HAND DEALERS AND PAWNBROKERS BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 486.)

The Hon. T. CROTHERS: I rise to indicate that, in the main, the Opposition will support the Second-hand Dealers and Pawnbrokers Bill introduced by the Attorney-General and now before this Council for its consideration. However, on behalf of the Opposition I have placed on file amendments to clauses 10 and 13 of the Bill, and I will deal with them in Committee. Suffice for me to say at this stage that the amendment to clause 13 emanated from and was the generally held view of the Opposition at its Party meeting, after representations had been made by interested parties to various members of the Opposition. The filed amendment to clause 10 had as its genesis one of the members of the other place, Ms Robyn Geraghty, after one of her constituents made representations to her. The Bill now before us has been deemed necessary because of the proliferation of newcomers into the second-hand dealers industry.

Should it pass, the Bill will impose certain record keeping obligations on those who deal in pawned or second-hand goods so that a description of the goods, the serial number, date of receiving or buying the goods, the full name and address of the person from whom the goods have been purchased, etc., must be recorded and kept. In addition, it will impose obligations on second-hand dealers where goods are suspected of being stolen. As well as these provisions, the police will have powers of entry and inspection under the legislation. It is fair to say that of late there has been increasing community and police concern over pawnbrokers and second-hand dealers and their possible role in the receipt, distribution and disposal of stolen goods. In fact, a recent police operation conducted by the South Australian Police Force relating to the retrieval of stolen property revealed that stalls in some second-hand markets and some second-hand dealers were being used as a channel for the disposal of stolen property. This operation recovered stolen property to the value of $615 044, and this figure represented over 43 per cent of stolen property associated with offences cleared during this operation.

In addition to the foregoing, there were significant decreases in the number of reports of break and enter offences during the period of the operation. It is clear to me that, against that background, this is a Bill whose time has come. Having said that, I still believe that the Bill's effectiveness will only be maximised relative to the amount of ongoing police activity in this area.

Some of the new features of this measure now before us will include: first, the strengthening of police powers of entry and inspection in respect of copies of records and computer information held by dealers; secondly, specific provisions in relation to pawnbroking are reintroduced and these in the main will centre on contract of pawn; and, thirdly, specific provisions for persons claiming ownership of goods that are in a dealer's possession, together with the right of the person in question to apply to the Magistrates Court for return of the goods, along with an application on the part of the dealer to hold goods until the issue of ownership is determined. The Magistrates Court will, I understand, hear these matters informally as minor statutory proceedings.

As already stated, the Opposition has two amendments on file relative to this Bill. However, there is one further matter on which I wish to canvass the Attorney-General and which is of some concern to the Opposition, following some representations that have been made to us by the longer serving members of this industry. During the course of those representations, it was put to us that honest dealers will be 'put out of business'. I raised this issue last week with the Attorney-General, and his express belief is that such will not be the case. On balance, I believe him to be right.

He has also given me the assurance that the Bill can and will be revisited should the effect of the new legislation make life impossible for those long-serving members of this second-hand dealers group. I would ask that, in his closing address, he address this matter as I have asked him to do. May I also add that, in my view, it is most unfortunate that some of the new kids on the block have a question mark over their trading practices that have so recently been found wanting—this, within the confines of an industry that used to take great pride in its own self-imposed regulations. Unfortunate as it is, recent police operations have revealed matters to be of a contrary nature to that which was formerly the case.

Therefore, I believe that, in order to restore public trust in respect of the purchase of goods from the industry, this Bill is absolutely necessary. In fact, I further believe that this Bill will, on the scale of balance, be of considerable assistance—for want of a better description—to the old and the bold brigade that have served in the industry for so long in restoring public confidence to the industry. With the exception of my two filed amendments, and the assurance that I am seeking from the Attorney-General in the *Hansard* record, I indicate the Opposition's support for the second reading and, indeed, the principal thrust of the Bill.

The Hon. SANDRA KANCK: I indicate that the Democrats welcome this legislation, although it is perhaps not as strong as we would have liked it to be. In recent years, certainly since South Australia deregulated in 1988, we have seen a number of things alter in our society that have required some form of partial reregulation at the very least. We have seen increasing levels of unemployment to, I guess, a stagnation level.

We have seen the advent of poker machines. As a consequence of those matters more people are turning to second-hand dealers and pawnbrokers in an effort to raise money and reduce debt. In turn, this has raised the issue of stolen goods being sold to second-hand dealers and pawnbrokers. There are other problems, such as second-hand dealers who operate simply from mobile phones. I know that the Attorney and this Government have tended to shy away from licensing, and I know that the Attorney's preference has been for negative licensing. So, the content of this Bill is predictable. I note that other States do have licensing regimes. I draw members' attention to an article in the *Weekend Australian* of 7 September entitled 'Crime and the Big Lie'. The article is about how Governments are campaigning on crime all the time. The reality is that crime statistics show that rates of crime are dropping. I do not want to enter into that argument, which I support, but there is information about what has happened in Western Australia. The article states:

> The burglary rate in Perth has actually declined this year by a substantial 17 per cent, according to latest police figures. It's not that the thieves have been frightened into staying at home. Indermaur [a criminologist] says the best explanation is a little-noticed but eminently sensible amendment made to State legislation covering the operation of pawnbrokers. Under these provisions, anyone offering second-hand goods is required to produce a number of forms of verifiable identification. If you can't fence the goods, there's no point stealing them.

This is an example of how these issues can be tackled very effectively if in one year the burglary rate is reduced by 17 per cent. I seek the Attorney-General's assurance that if the

methodology proposed in our legislation does not work he will undertake to revisit the legislation. I assume that, if such an undertaking were given, the measure would be by things such as burglary rates. I would be interested also to know how long the Attorney would be willing to let this system operate before he decided whether it was a success or failure.

I have only one other question. This is more to do with the fact that I have not had time to do the research; I apologise for that. I note that clause 24(1)(b) refers to the sale of four or more different second-hand vehicles. I want to be sure that that is consistent with our second-hand motor vehicles legislation.

The Hon. K.T. Griffin: It is.

The Hon. SANDRA KANCK: Thank you. I indicate that the Democrats support this Bill.

The Hon. R.D. LAWSON: I, too, support the second reading of this Bill. It is interesting to reflect upon the history of second-hand dealers' and pawnbrokers' legislation in this State over the years. Pawnbrokers were first regulated in South Australia as early as 1851. This indicates that very early in this State's history a need existed to regulate pawnbrokers. However, the principal legislation in relation to pawnbrokers came into force in 1888 when the Pawnbrokers Act was enacted. That Act contained the usual types of provisions one expects to find in a pawnbroking Act regulating the pawning, redemption and sale of goods. It provided for licences, the keeping of records and the like.

That legislation operated without much amendment at all until 1990, when the Summary Offences Amendment Act (No. 2) of that year was passed and the provisions relating to pawnbroking were removed. The reason for the repeal of the Pawnbrokers Act was then stated to be the fact that the existing consumer credit legislation provided adequate protection. It was noted in the report on that Bill that the £20 or $40, which was the maximum applied to it, had been unaltered for many years. Reference was made to a legal opinion that pawnbrokers who undertook transactions of above $40 and less than $40 required both a credit provider's licence and a pawnbroker's licence. It was thought that that was an unnecessary duplication.

It is interesting to note, finally, in that regard that it was then envisaged that the Uniform Credit Act would be introduced into Parliament shortly thereafter to replace the Consumer Credit Act, but of course that did not transpire until earlier this year. So, the specific provisions relating to most pawnbroking activities ceased to have operation at that time.

The second-hand dealers legislation in this State is of similar longevity. I will go back only as far as the Second-hand Dealers Act 1919, which has operated for most of this century. The 1919 Act contained the usual regulation which one might expect to find for second-hand dealers: the requirement for a licence; the requirement for a licensee to keep the business name painted on the premises; regulation of the hours of business; a requirement that the dealer keep unaltered and unsold goods for four days and, if given notice by the police, for a further five days; and provisions for the cancellation of licences upon conviction for offences against the Act.

The Second-hand Dealers Act 1919 was amended on a number of occasions, and finally in 1985 it was completely repealed and a new second-hand dealers Act called the Second-hand Goods Act 1985 was passed. At the same time, Parliament took the opportunity to repeal the Marine Stores Act 1898. The 1985 Act dealt with the licensing of second-hand dealers, it controlled the conduct of business by dealers, it imposed certain duties on commission auctioneers, and it contained disciplinary and evidentiary provisions. Only a couple of years later in 1987, the Second-hand Goods Act 1985 was repealed and provisions were inserted into the Summary Offences Act to deal with second-hand goods. Curiously, the second-hand goods provisions were wedged into the Summary Offences Act between provisions relating to interference with homing pigeons and graffiti and such arcane matters as unlawfully ringing doorbells. It always struck me as somewhat unusual that this industry should be regulated in a miscellaneous portmanteau piece of legislation such as the Summary Offences Act. However, I welcome this new Bill, which will now be cited as the Second-hand Dealers and Pawnbrokers Act 1996 and which will regulate dealers and pawnbrokers in a piece of stand-alone legislation.

There are a number of features of the Bill which are worthy of mention. First, the Bill adopts a negative licensing provision, namely, one that does not positively require a licence to be obtained in the first place, but if a person is convicted of an offence of dishonesty or other prescribed offence, or if a person who is carrying on business as a second-hand dealer—which includes a pawnbroker—becomes bankrupt, it is possible to prevent them from continuing to carry on business. And there are other provisions in the Bill which disqualify dealers from continuing to carry on business.

There are a number of requirements that might be seen to be contrary to the spirit of the age, which is deregulation and the cutting of red tape. For example, persons commencing business as second-hand dealers are required to give notice to the Commissioner of Police at least one month before commencing operations. Records of second-hand goods are required to be kept and, indeed, the new provisions envisage, as I read the second reading explanation, that they be more detailed than at present.

It is somewhat curious that a number of dealers in recent years have complained about the fact that the record keeping requirements of the legislation were not as stringent as they had been in the past. It is a curious thing—but not altogether unexpected—that some dealers complained about the fact that they were required to keep very detailed records and, when they were relieved of that obligation, complained about the fact that they no longer had the records which previously they had been reluctant to keep.

An honourable member interjecting:

The Hon. R.D. LAWSON: Indeed. So, one finds this curious paradox in small business that there is a reluctance to accept regulation but that, then when provisions are passed which relieve regulatory obligations, they tend not necessarily to be satisfied with the result.

It must be said that a number of matters which are to be regulated and controlled by this legislation do not appear in the Bill but, as the Attorney has indicated, will be covered in regulations to be promulgated in due course. I cannot let the occasion pass without mentioning that I have a predilection for matters of detail such as this being incorporated in legislation rather than being left to regulations. However, that said, the one advantage of regulations is that they are disallowable instruments and can be the subject of parliamentary review and scrutiny and can, in certain circumstances, be disallowed if thought inappropriate.

The fact that a number of detailed provisions are not yet covered is a matter that, in passing, I lament. For example,

it is said in the report that it is envisaged that a similar system to that used by banks to verify customers when opening accounts will be used in relation to identifying the person from whom goods are bought or received. I commend this measure, although I hope that it will not be as bureaucratic as some banking requirements tend to be.

The Hon. Sandra Kanck noted the burglary rates in Western Australia and lamented that economic conditions and the introduction of poker machines have meant that more people are now selling goods to pawnbrokers, and no doubt there is an element of truth in what she says. However, it is also true to say, and the Council should be reminded, that these days, with greater disposable income, many people have items that are surplus to requirements and avail themselves of the opportunity that second-hand dealers provide of quitting unwanted goods and turning them into cash.

The very success of the company that advertises widely, namely, Cash Converters, indicates that there is a widespread demand in the community for a modern business, which is conducted from attractive premises rather than what might be called the somewhat dingy premises of traditional second-hand dealers. It is undoubtedly true that they fulfil a need in the community, which need does not necessarily have anything to do with economic conditions; nor can it be inferred as some people often do—and I am not suggesting that the honourable member implied this—that the growth of these businesses is as a result of the prevalence of stolen property in the community. No doubt there are, as there have always been, dealers who do not make sufficient inquiries and turn a blind eye to property that they might suspect as having been stolen. However, there is no evidence to suggest that that type of conduct is on the rise.

The Hon. Sandra Kanck suggested that the introduction of tougher measures in Western Australia led to a reduction in the burglary rate by a figure of some 17 per cent over a year. In my view, it would be drawing a long bow to suggest that burglary rates can be affected in such a dramatic fashion by legislation of this kind. Burglars, housebreakers and the like operate largely outside the law and there are many illicit opportunities for the sale of goods illegally obtained. However, it is an industry that requires appropriate regulation.

But it is an industry that requires appropriate regulation. The reintroduction of some of the pawnbroking provisions and buy-back arrangements, which are to be dealt with in regulations, is to be applauded. The remedy available to a person who sees stolen goods in a dealer's premises is also a useful measure because, as I read the provision, the Magistrates Court will have jurisdiction to intervene in appropriate cases in a summary fashion and, one would hope, with minimum expense.

In the second reading explanation it was said that Operation Pendulum, conducted by the South Australian police, had ascertained that second-hand dealers and pawnbrokers were a channel for much stolen property and that some stalls and second-hand markets in the city handle stolen goods. I venture to suggest that it is not only second-hand markets in the city that handle stolen goods but also those in the suburbs and country areas. Likewise, many garage sales, trash and treasure markets and the like provide an opportunity for dishonest persons to convert stolen goods into ready cash.

We would be foolish as legislators if we thought that measures of this kind would entirely stamp out such illegal activities. Clearly, illegal activities will continue to be conducted but, as legislators, all we can do is produce a regime that will protect the community in a sensible fashion without imposing the heavy hand of bureaucracy on legitimate business activities. I commend the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for this Bill. The Hon. Trevor Crothers, on behalf of the Opposition, has raised several issues; one could be put under the general heading that honest dealers or long-established dealers will be put out of business. In response to that, the Bill before us in fact builds on legislation that is already in place in South Australia. At present, pawnbrokers and second-hand dealers are required to keep records of the identity of persons who sell goods. They are required to report to police any suspicion that goods they have may have been stolen, and the new requirements build on what is already there.

Legislation around Australia is currently being reviewed or has been reviewed. Similar requirements to those proposed in the Bill are found in other legislation. In relation to pawnbrokers, the interstate regimes are harsher than what is proposed in the Bill. For example, interstate legislation demands that pawnbrokers sell unredeemed pawns at public auction. That is not a requirement in this Bill. The requirement for South Australia will be that the goods must be sold as soon as reasonably practicable in a manner conducive to obtaining the best price. It was pointed out to us by pawnbrokers and others in the course of consultation on earlier drafts of the Bill that requiring them to put goods up for sale by public auction would mean that they would have significant expense, they may not necessarily get the best price and it would be an ongoing burdensome requirement adding significant costs to their business activities. In fact, it is in their interest to get the best price for the goods that have been pawned.

The South Australian Bill was changed following industry representation that the auction requirement, as I say, would result in lower returns. As I have indicated in the second reading report, the police have undertaken that there will be a policing focus on this area of activity. I note that the Hon. Mr Crothers has said that, in his view, ongoing policing activity is necessary to ensure the effective application of this legislation. There will need to be significant consultation on draft regulations when they are prepared, and industry groups will be given the opportunity to have input as they were on the Bill. Two draft Bills were put out and were subject to consultation. This Bill has also been sent out and modifications were made on each occasion. The Bill before us now is a very good outcome from the consultation process designed to deal with the issues perceived to be relevant in the pawnbroking and second-hand goods industry.

The honourable member has two sets of amendments: one relates to what should go on the pawn ticket, and the other relates to furniture. We will deal with those at the Committee stage. I support the former. I do not support the latter and I will give more detailed explanations of the reason—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: The pawn ticket. I have no difficulty with that, because we had intended to deal with those issues in regulations, and there is sufficient flexibility in the words drafted in the amendment to enable that still to be appropriate. But, in respect of that which deals with furniture, I will give a more detailed response at the Committee stage. I do not support it, because I think it is an unworkable proposition.

The Hon. Sandra Kanck has welcomed the legislation but has indicated that, in her view, it is not as strong as she would have liked. The honourable member made the observation that this Government tended to shy away from licensing, and that is a very accurate representation of this Government's position. But, when one comes to look at licensing in the context of second-hand goods dealing and pawnbroking, there is no evidence at all that licensing second-hand dealers and pawnbrokers will be any more effective than the proposals in this Bill requiring the proper maintenance of records, proper identification of those seeking to pawn or trade second-hand goods, or in dealing with those sorts of activities such as trash and treasure markets and garage sales.

Of course, if there are regular garage sales at the one address, the inference will be that that is a second-hand goods dealer. With trash and treasure type markets we are seeking to put in a provision which will not place undue burdens upon the operators of those markets but will nevertheless identify those who have kept stalls at those markets, because a very strong view has been expressed to the Government that many who operate through trash and treasure type markets are second-hand goods dealers and that they are a forum for shifting stolen goods. I think we have in this Bill—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: That is what I said—garage sales, too. I did not make the observation that some are a way in which stolen goods can be traded, but I made reference to the fact that, if a garage sale is advertised at a particular address on a number of occasions, the presumption is that they are carrying on business. Quite obviously, that can extend to trading in stolen goods, although there are many garage sales which are quite reputable, and I certainly do not want to cast any aspersion upon all the many thousands of South Australians who find garage sales a convenient means of shifting all those accumulated second-hand goods which they cannot dispose of in any other way.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: As long as you can trace the title, the bargain is fine. There was pressure from the second-hand goods and pawnbroking industries to move back to licensing. We resisted that because we could see no justification for it. In a sense, it is a negative licensing, because those who commit a breach of this law may be disqualified from carrying on business. We believe that that will be as effective as any form of positive licensing may be. The last thing I want to do is establish a bureaucratic regime which requires even more people on deck to process licences which in our view will not be effective in dealing with issues of proper record keeping, and so on.

The Hon. Sandra Kanck referred to the Western Australian burglary rate dropping by 17 per cent. If we find, as a result of this legislation, a significant drop in the housebreaking, break and enter, and burglary rates, I will be delighted, but I do not think that one can assume that that will necessarily occur. It may be that proper policing, as the police have indicated they are prepared to implement as a result of this legislation, will have the effect of deterring the sale of second-hand goods. It may have some impact on break and enters, burglaries, and so on. However, I think, with respect, that it is simplistic to link the two so inextricably.

At this stage, we have not identified the criteria by which we will determine whether or not this legislation has been a success. Quite obviously, the sorts of stories that are raised from time to time about police opening up pawnshops as, in a sense, undercover operations and collecting, in one instance I remember a year or so ago, $1 million worth of stolen goods suggest that it may well have a significant deterrent effect.

I cannot give the Hon. Sandra Kanck an assurance as to what the Government may do in the circumstances that the rate of break and enters, for example, does not drop when this legislation has been in operation. Quite obviously, I cannot give her any indication as to what period of time would be necessary to establish the effectiveness of this legislation in that context. However, what I can say is that we will be looking very carefully at the way in which this is implemented, looking at the way in which the police seek to enforce it and endeavouring to ensure that there is a critical analysis of the way in which it is operating, as well as looking at whether the record keeping and other requirements are worth the inconvenience which is imposed upon pawnbrokers and second-hand dealers.

The Hon. Sandra Kanck also referred to clause 24(1)(b) where it relates to four or more second-hand vehicles. That is complementary to the second-hand vehicle dealers legislation, where there is a presumption that, if you deal in four or more vehicles in a year, you will be a second-hand vehicle dealer. The figure is the same, and one relates to the other. The Hon. Mr Lawson has made an observation about the attitude of some second-hand dealers who, as with other businesses, criticise regulations but when one seeks to remove the regulations people who are in business criticise the removal of the regulation and more particularly criticise the removal of a licence which they see as in some way giving some credibility and status to their business operation.

I found that in the areas of occupational licensing where we sought to remove licences there is at least a perception that licensing under Government legislation will provide some credibility to the conduct of the business, but I do not believe that that is the case unless, of course, you have educational and other competency requirements that are linked into the licensing or registration requirements.

The Hon. Robert Lawson has made reference to his predilection for matters of detail to be in the Bill rather than in regulations. I have no difficulty with the expression of that view. I indicate that, as a matter of principle, I endorse that. The difficulty, though, is that with something such as second-hand goods and prawn brokers' legislation, so much of it will need to be the subject of further consultation and some flexibility will need to be achieved; and that is not always possible with a Bill whereas it is possible with regulations. I indicate that we intend to consult with the industry in relation to the regulations and that, hopefully, out of that there will be a satisfactory regulatory regime that will serve the interests of the public, as well as those who carry on business. I thank again members for their indications of support for this Bill.

Bill read a second time.

In Committee.

Clauses 1 to 9 passed.

Clause 10—'Retention of second-hand goods before sale.'

The Hon. T. CROTHERS: I move:

Page 8, line 20—Leave out all words on this line and insert:

(2) Despite subsection (1), goods may be sold and delivered—

(a) in the case of furniture or other goods of a prescribed kind—immediately; or

(b) in any other case—after three days,

if the dealer—

The effect of this amendment on clause 10 would be that, in respect of certain goods, the three-day holding period would be waived. The key word 'immediately' is contained in

subclause (2)(a), that is, at the point of sale. In my second reading contribution I said that the necessity for this amendment had come to the Opposition's attention via a constituent of a member of the Lower House, Mrs Robyn Geraghty. The constituent made considerable representation to Mrs Geraghty in respect of their own business. Whilst, in generic terms, it is fair to say that I believe the Bill has been made necessary by the stand and deliver merchants who have proliferated recently in the industry, it is, as with most Bills, the sad case that some unfortunates become caught up, by accident rather than by design, in some aspects of the Bill.

My amendment seeks to alleviate that hardship—certainly for that constituent who made those representations to a member of my Party in another place. In that instance it is a small business employing three people, and it has been suggested that, because times are hard and things have been tough, those three employees have already had their hours reduced. With any further reduction in volume of trade that business would probably be better off closing and, as a consequence, those three permanent part-time employees would be forced onto the dole. In their representations they indicated that they deal with larger items of furniture such as lounge and bedroom suites and wall units and little else in respect of household goods. They suffer from a lack of storage space in a relatively small establishment. I understand that they have only 360 square metres of storage space. In order to keep an even cash flow they rely on quick turnover. They do not want to have to hold for three days the types of second-hand household effects with which they deal—the larger household items such as lounge suites, bedroom suites and wall units—and want the option of being able to on-sell these.

They also made the point about second-hand household goods that home garage sales—and the Attorney touched on this in his reply—are exempt from the Bill. My understanding is that garage sales have become semi-professional and in other respects very professional and provide direct competition for the shops that I am talking about. Therefore, home traders operate at a significant advantage over people whose sole business is second-hand furniture. Our constituents tell us that this has led to many stores of the type that they operate closing down in South Australia. The pressure that is placed on them is making their trading position relative to cash flow much more parlous than ever before.

The Attorney has been most kind in going through the matter with me step by step and has not held anything back, but he said—and it certainly makes sense—that it is difficult to define just what is furniture. For example, a pure gold tap weighing 10 ounces, which might have been stolen, could be sold, and still be classified—if exemptions were given—as a household effect. However, the people on whose behalf I am moving this amendment do not deal in those sorts of household effects. As I have said, they deal with the larger effects. I understand that the Democrats will support my second amendment and the Attorney has indicated that he is happy with it, but the Opposition does not have the numbers to prevail with this amendment. I appeal to the Attorney's considerate soul to consult with Robyn Geraghty in another place so that, when regulations are promulgated, some way can be found—and I realise it is difficult—to give these people the sort of relief they seek from the Bill.

It is worth putting it on the record that they have told us that, for instance, they have no problems whatsoever with holding periods for electrical items, TVs, videos, stereos, computers, mobile phones, jewellery, CDs, power tools, bikes, etc. So, if I appeal to the Attorney's ever willing to listen ear it is perhaps possible that, when the regulations are being promulgated, this could be looked at with a much more sympathetic view than it is possible for him to look at my amendment. I commend the amendment to the Committee.

The Hon. K.T. GRIFFIN: Regrettably, I must oppose the amendment. To some extent the Hon. Mr Crothers has anticipated some of the arguments I would be putting against the amendment. If the amendment is carried it has the potential to undermine the whole of the Bill, and the reason for that is that 'furniture' is undefined. The Chambers Twentieth Century Dictionary—one of many—defines 'furniture' as 'movables, either for use or ornament, with which a house is equipped.' One can speculate upon what might be encompassed by that definition; clearly, it is broad enough to cover white goods, electrical or electronic appliances, movable heaters and coolers, paintings, lamps, spot light fittings as well as items such as chairs, tables and beds. Arguably, anything movable in a house could be considered to be furniture. It is clear that, while the term 'furniture' has colloquial meaning, it does not accord with its dictionary meaning. There is nothing which the court would be able to use to describe easily the ambit of the description 'furniture'.

The Government has no problem with dealing with the issue by way of regulation when proper consideration can be given to the sorts of goods which should be subject to a holding period, but to agree to the amendment in this form would undermine the whole purpose of reintroducing a holding period in this State. The Government recognises that it is onerous to impose a holding period on dealers for items such as lounge suites, beds and dining tables which are large and which take up warehouse space. The problem is recognised. I would suggest that the appropriate place to deal with these concerns is not in the Bill and not in the manner proposed, but I indicate that we will consider the issue further, because it has been raised with us by several dealers. We will consider it in the drafting of regulations, which as I have said already will certainly be the subject of consultation with the industry.

Amendment negatived; clause passed.

Clauses 11 and 12 passed.

Clause 13—'Pawn tickets.'

The Hon. T. CROTHERS: I move:

Page 12, line 5—Leave out 'the regulations' and insert 'this section'.

After speaking to the Attorney-General outside the Chamber and to the Hon. Ms Kanck, the Democrat who is handling the Bill, I understand they are both supportive of the provision I seek to insert into the Bill by way of this amendment, which I commend to the Committee.

The Hon. K.T. GRIFFIN: I am prepared to agree with the amendment. The form of the pawn ticket and the kind of information to be included in the ticket was, as I indicated in my second reading reply, a matter that the Government intended to deal with in the regulations anyway. The honourable member's amendment allows sufficient flexibility for the regulations to deal with a range of issues and will result in persons using pawnbrokers being appropriately advised of their liability under a contract of pawn. There will still be a requirement for regulations, but at least some key issues are now provided for in the amendment. I support the amendment.

Amendment carried.

The Hon. T. CROTHERS: I move:

Page 12, after line 7—Insert—

(1a) A pawn ticket must—

(a) specify the amount provided to the person pawning the goods under the contract of pawn; and

(b) include an itemised statement of all fees and charges that are or may become payable under the contract of pawn and, if any of the fees or charges are not ascertainable at the time of contract, a statement of how those fees and charges will be determined; and

(c) comply with any other requirements of the regulations.

This is a corollary to the first of the amendments I had on file in respect of clause 13. The Attorney-General will correct me if I am wrong. If I am right, I have nothing further to say but leave myself in the merciful hands of the Attorney-General and the Hon. Ms Kanck.

The Hon. K.T. GRIFFIN: We support it.

Amendment carried; clause as amended passed.

Remaining clauses (14 to 27), schedule and title passed.

Bill read a third time and passed.

WAITE TRUST (MISCELLANEOUS VARIATIONS) BILL

In Committee.

Clause 1—'Short title.'

The Hon. M.J. ELLIOTT: While I agree to this Bill and do not propose any amendments, I raise one issue of concern in respect of its consequences, that is, in relation to what uses this land may be applied in the future. I am aware of one proposal that the State Tree Centre be shifted onto the Waite land. It shall be of no surprise to members that I strongly support the work the State Tree Centre, Trees for Life, Greening Australia and PISA undertake at this centre. In total, these groups will employ about 32 staff on the Waite land. With respect to the trust, there is no doubt that it was set up in relation to education. I have seen a submission which seeks to portray these organisations as educational bodies. There is no doubt that they carry out some educational work, but it would be a very long stretch of the bow to suggest that that was anything like their primary role. Their primary role is about getting trees planted in rural South Australia. It appears that what is happening with the shifting of the State Tree Centre to this land is a matter of convenience for the Government in that it wants to be able to sell the site where the State Tree Centre is currently located. The TAFE centre is being moved from there and relocated to the Waite land. There is no question about that being an educational institution, but the State Tree Centre is not, although, as I said, it carries out a small educational role.

It is the matter of precedent that concerns me. Over the last couple of years there have been a number of occasions when we have had to consider bequests made to the State. There seems to be an increasing tendency to fiddle with bequests, and from time to time there is a strong suggestion that we are going beyond what the bequests intend. I cannot help but wonder whether in the future people will start to reconsider leaving a bequest to the State if they feel that they cannot have any confidence that that bequest will be treated as intended. As I said, I do not have any problems with the State Tree Centre. Clearly, it does not fit into the terms of the bequest. My real concern is that if and when—and that seems to be the way it is likely to turn out—it goes onto this site, what next will be located there if all it has to do is demonstrate at some time it does a little bit of educational work, even if the vast majority of its work is not educational. I have some concern about the bequest and whether or not it will, indeed, be treated properly. To some extent, I expect that it is not, and that is a great pity.

The Hon. R.R. ROBERTS: I indicate support for the Bill and the amendments. I am also aware of the Hon. Mr Elliott's concerns because I was involved in the discussions. It is worrying that the expectations of people who make bequests with the best of intentions may not be fully complied with. It is often easy after about 30 or 40 years for people to adopt what they term a modern view, but people who make bequeathals to the State should have their wishes respected. However, whether or not the Hon. Mr Elliott or I believe that the State Tree Centre is principally or partly educational, an argument can always be made for both sides. The committee addressed these matters, and a decision will be made on the recommendation of the Attorney-General. Whilst I have no real problem with the current Attorney-General and probably will not have any trouble with the next Attorney-General—we will probably have to wait six months for that—it is always a bit of a worry when some of these things are left to the whim of one person. The reality, of course, is that the Attorney-General will consult widely, and I respect that, but I indicate the Opposition's awareness of the concerns that have been raised, principally by Mr Elliott. We will be interested to see what happens in the future at Waite, and we will use our best endeavours to ensure that the wishes of the Waite family are complied with in the future use of that land.

The Hon. R.D. LAWSON: I wish to make a couple of points regarding the matters raised by members. First, the Hon. Ron Roberts mentioned that interference with bequests of the kind proposed by this legislation may lead to a drying up of philanthropic spirit. I think it worth saying that this so-called bequest of Peter Waite was not really a bequest in any conventional sense nor was a trust created in what might be termed a conventional sense: for example, where a deed of trust, a will or a settlement or some other formal instrument is executed and a trust arises from the terms of those documents. The fact was that in 1913 Peter Waite offered the State of South Australia 114 acres of land, which forms part of the land the subject of this legislation, for the purpose of the establishment of an agricultural high school. That offer was made in correspondence with the then Premier.

The select committee, of which I was a member, heard that there was apparently no other instrument or statement of desire on the part of Mr Waite. That simple gift together with the statement of intention was sufficient to impress the gift with a trust, which is properly characterised as a charitable trust, but it was not a bequest in any conventional sense. That is why it seems to me that the preamble to the legislation is quite different from that which one normally finds either in legislation that creates a body corporate as a perpetual trustee of such a trust, which is the model often used, or in legislation in which trusts are set out, usually by way of a schedule to an Act, and in some cases varied by legislation. The preamble to this Bill states simply and, as I read it, correctly:

> The Waite land was a gift for the purposes of the establishment of an agricultural high school and is therefore subject to a charitable trust for those purposes.

The Hon. Michael Elliott doubts that the establishment on this land of the South Australian Tree Centre would constitute some purpose which was beneficial to agricultural education and training within the meaning of clause 2(1) of the Bill. The committee had before it the constitution of each of the organisations which together comprise the South Australian Tree Centre and, as the Hon. Michael Elliott said, the primary purpose of none of those organisations could be described as

agricultural education; nor, indeed, could they be described as purposes beneficial to agricultural education and training.

I think, however, that he was a little harsh in his assessment of the agricultural education aspects of the work of those organisations. Whilst it is true to say, as he mentioned, that agricultural education was not the primary purpose of the South Australian Tree Centre, the activities of that centre do, in my view, constitute purposes beneficial to agricultural education in a general sense. And, no doubt, it will be possible for any approval which is granted—if, indeed, it is granted for that purpose—to be couched in such terms as to require the centre to fulfil a role in relation to either the provision of agricultural education or some other purposes that are beneficial to agricultural education.

I have had quite a deal of experience with charitable trusts over the years and, of course, the Attorney-General is the traditional guardian of all charitable trusts in this State. The Attorney has a role to play in relation to them and, in particular, in relation to the jurisdiction which the Supreme Court exercises over all charitable trusts. The role of the Attorney in this regard is quite different from the role played by other Ministers of the Crown in relation to their responsibilities. I am quite comfortable with the provisions of the Bill as it is proposed to be amended, and they do not give any inappropriate or discretionary power to the Attorney which ought not be granted to the Attorney.

The Hon. K.T. GRIFFIN: I make some observations about this measure from the perspective of the Attorney-General. I think all Governments endeavour to honour terms of charitable trusts for which they may have some responsibility. In this case, it is important to recognise, as the Hon. Robert Lawson has said, that the creation of the trust was by a letter and has been honoured over the years, although over the years pieces of land have been transferred, in one instance for the Unley High School; there has been another area of land acquired which has become part of the Urrbrae property but not impressed with the trusts; and there has been a stretch of land which has been vested in the local council, possibly in breach of trust. So, what we are doing in this Bill is, once and for all, identifying, first, that certain land is subject to a trust specifically identified in the Bill; and that certain land which may have been impressed with trusts and transferred away from the Minister for Education, possibly in breach of trust, is no longer subject to those trusts and any breaches of trust in relation to those transfers have been excused.

For the first time, we deal with the issue in legislation upfront so that everybody knows the terms of the trust and it deals with the transfers and acquisitions over the years. We have also put beyond doubt that Urrbrae is coeducational. In the early stages, it was undoubtedly an agricultural high school for boys. We have also ensured that Technical and Further Education may establish a facility on the land, as part of the natural progression in agricultural education from high school or secondary education to tertiary level education. We have also provided that there may be some need in the future to modify or approve the use of the land for purposes which are related and beneficial to education.

We have done that by ensuring that the Attorney-General has the ultimate responsibility for recommending to the Governor approval of that sort of use. I think that is appropriate, given that the Attorney-General is the traditional custodian of the powers in relation to and oversight of charitable trusts. That is not a power which is exercised lightly, nor is it a power in respect of which the Attorney-General may be directed by the Cabinet of the day.

It is noted in the second reading explanation that one proposition being floated is that the State Tree Centre be located on the land, and the question arises whether its work in the context of education is likely to be beneficial to the work that is undertaken on the Urrbrae property. That matter has not been determined but the power is there to consider it and to approve it, if it is sufficiently within the terms of the legislation and the trust.

The select committee has endeavoured to recognise the concerns that the Hon. Mr Elliott has expressed by providing for publication of any approvals that might be granted in relation to additional uses for this land. I share the views that have been expressed that, as much as it is practicable and possible to do so, Governments should endeavour to uphold the wishes of those who establish charitable trusts. There are occasions where, when all else fails, some other use might be required.

That is not the case with the Waite Trust so far as it relates to Urrbrae, because an agricultural high school is already there and it looks as though it will flourish for many years, and that will be even more so when it is complemented by the proposed technical and further education developments. When all is examined, it may be that the educational component of Trees for Life will properly relate to and contribute to the work of agricultural education.

Clause passed.

Clause 2—'Variation of Waite Trust.'

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

Page 2, after line 21—Insert—

(1a) An approval under subsection (1) may be subject to conditions.

(1b) The Attorney-General must cause notice of an approval under subsection (1) (including any conditions attached to the approval) to be published in the *Gazette*.

The amendments allow an approval given by the Governor on the recommendation of the Attorney-General to be subject to conditions and also to require publication of an approval under clause 2 to be published in the *Gazette.* That builds in, at least, some protection in respect of the concerns that members have raised. I make one other observation in relation to the Bill. It was sent to the grandson and grand daughter of the late Peter Waite, Mr Peter Morgan and his sister, who have indicated their support for the way in which the Bill is drafted and the extension of the use as proposed in that Bill.

Clause as amended passed.

Clause 3 passed.

New clause 3A—'Exchange of trust land.'

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

Page 2, after line 28—Insert new clause as follows:

Exchange of trust land.

3A. (1) The Governor may by instrument in writing, on the recommendation of the Attorney-General, approve the exchange of a specified portion of the trust land, not exceeding 2 000 square metres, for a specified portion of the land contained in Certificate of Title Register Book Volume 4357 Folio 711, of at least equal size, for the purpose of allowing an access road to the Unley High School gymnasium to be constructed.

(2) On an approval being given under subsection (1)—

(a) the portion of the Trust land exchanged in accordance with the approval is freed from the terms of the Trust; and

(b) the portion of the land contained in Certificate of Title Register Book Volume 4357 Folio 711 exchanged in accordance with the approval is subject to the terms of the Trust (as varied by this Act).

The select committee received evidence from citizens in the vicinity of Kitchener Street about the access to and egress from the property into Kitchener Street. Some consideration had been given by the local council to redirecting the exit from the property, that is, Unley High School gymnasium. Whilst no final position has been developed in relation to that, the select committee believed that it would be appropriate to authorise an exchange of land limited as per clause 3A to facilitate such a redirection of the exit from Unley High School gymnasium if that was subsequently agreed by all parties. Proposed new clause 3A seeks to facilitate that. It will be a recommendation by the Attorney-General to the Governor in consequence of which that exchange of land may occur.

New clause inserted.

Clauses 4 to 6 passed.

Schedule, preamble and title passed.

Bill read a third time and passed.

FISHERIES (PROTECTION OF FISH FARMS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 632.)

The Hon. M.J. ELLIOTT: I support the second reading of the Bill. I have taken note of the concerns raised by the Hon. Ron Roberts during his contribution and, clearly, I have received submissions from some of the same people who have spoken with him. The issues raised by the honourable member are of some importance, but it is not my intention to oppose the Bill. I intend to move one amendment, which will put a sunset clause in this legislation five years hence. That time frame is one whereby we will have a very good measure as to how this law will be applied or, as some people fear, misapplied. I make quite plain that, if it is misapplied, there will be no support from the Democrats for a further renewal of this section of legislation.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the Bill. We can deal with the issue of the sunset clause at the Committee stage, but when it comes to provisions relating to the criminal law I have a concern about a sunset clause being imposed. I must confess that I have not had an opportunity to consider that issue in relation to this Bill, but my immediate reaction would be to oppose it. We can deal with that at the Committee stage of the Bill. The Hon. Ron Roberts raised a number of issues during his second reading contribution on the Bill, some of which, I suggest, are not directly related to the subject of the Bill. Nevertheless, I will give him some answers. The honourable member raised a series of questions, the first of which being that he was advised that many tuna are caught but that, because of the method used to catch and transport them, many of them die before reaching the fish farm. One must ask how many fish die before the quota is taken.

The answer is as follows. The issue of tuna mortality during the towing period from the point of capture to the permanent cages in Port Lincoln has been considered at length by the Australian Fisheries Management Authority (AFMA), the responsible agency for management of the Commonwealth southern bluefin tuna fishery. Although some anecdotal evidence exists of mortality during the towing operation, no firm evidence has been provided to either confirm or deny the alleged mortalities. The Commonwealth has established a domestic monitoring program to help ensure that all fish that die during towing are debited against the operator's quota. In addition, random aerial surveillance methods have been used to provide checking of reported mortalities against those observed from the air. It is understood from these programs that overall mortalities are very low.

The second question raised by the Hon. Ron Roberts is: how many fish are being lost due to theft and how many have died for one reason or another? The answer with which I have been provided is as follows. The Australian Tuna Boat Owners Association (ATBOA) has advised that the industry currently spends around $150 000 per annum with its coastal protective service for private security.

The ATBOA contend that, if fish losses were not an issue, the industry would not be prepared to spend such an amount. Although the level of loss by way of theft is considered by industry to be significant overall, no insurance claims have been made due to the nature of the insurance policy whereby at least 10 per cent of the total fish in a pontoon have to be stolen in one incident to allow for a claim. The nature of a theft is such that high value fish are taken in small numbers. These losses are evidenced by the incidence of fish showing signs of gaffing and hook marks not attributable to farm practice or capture. As well as this, some farmers have reported finding gaffs inside their cages which would indicate that they have been dropped by persons attempting to steal from the cages. Regular counts are undertaken by the farmers, and these also indicate a significant incidence of fish loss.

Reports provided for the Joint Government Industry Research Farm would indicate that in excess of some 20 per cent of fish contained within this farm have been lost by way of theft at various times. The issue of mortality within the cages is very low on most occasions. As members may be aware, the recent mass mortalities of tuna in Boston Bay have placed considerable strain on the industry. The cause of the mortalities has yet to be finally determined, but initial indications of death by suffocation as a result of silt stirred up during a storm would still seem to be the most likely cause. Results from tests conducted on a wide sample of dead fish have found no indication of any viral infection. In general, farm practices are considered to be appropriate and are continually being improved as the industry matures. As a result, there would appear to be very few mortalities resulting from farm practice.

The third question is as follows: are fish farms considered under the Development Act? All fish farms that are conducted on either public land or water and have significant impact are assessed under the process clearly laid out in the Development Act 1993. There were some other issues which did not necessarily arise during the course of the second reading debate in relation to development and management but which the honourable member has raised and to which I have some responses. The honourable member raised the issue of the aquaculture management process and suitability of sites. Aquaculture management plans are a statement of policy by the Government on aquaculture development. They provide guidelines as to the activities and general locations that would be approved for fish farming purposes.

The process of drafting these management plans parallels that for development plan amendment reports under the Development Act in that there is a comprehensive public consultation process. All aquaculture development applications in marine waters of this State are determined by the

Development Assessment Commission under the Development Act 1993. It is the Development Assessment Commission that ultimately decides on the fate of an application. The suitability of a site is not determined by Primary Industries South Australia or by the Department of Environment and Natural Resources but by the applicant and then confirmed by the Development Assessment Commission in its decision on the application.

The role of PISA Aquaculture is as an advisory body to applicants and others with an interest in aquaculture. PISA Aquaculture also employs the planning officers who provided an assessment report to the Development Assessment Commission on applications. The Hon. Mr Roberts also raised the issue of aquaculture development applications in Coobowie Bay, and I am informed that a total of 60 hectares of aquaculture is proposed by Coobowie Bay, which was the site of the original trials of the Pacific oyster in 1968. A number of residents and visitors to the area have expressed their concerns about the visual aspects of aquaculture leases and their potential intrusion into other activities in the bay. While there has been some exaggeration of the likely impact, policies have been introduced into the plan covering the area to ensure that visual impacts are minimised and development does not interfere with access in and out of the bay.

The honourable member also raised the issue of change of ownership of the seabed. The alteration in ownership of the seabed is little more than an administrative change in terms of aquaculture planning. It impacts on aquaculture only in terms of the tenure arrangements under which an aquaculture enterprise operates.

There is then also a question about feral colonisation of Pacific oysters, which were introduced into State waters in the 1960s and which are now the basis of a thriving shellfish farming industry with export potential. Scientific evidence available until recently suggested that the oysters would not naturally colonise as South Australian conditions were not favourable. This has since been found not to be the case in some areas, and populations of Pacific oysters have established. PISA Aquaculture is working with the oyster industry on a number of strategies in respect of this occurrence.

In his second reading contribution, the Hon. Ron Roberts raised the issue of section 45 and its use in relation to interference with a lawful fishing activity to achieve the same outcome as the proposed regulations. The honourable member said, I think, that the situation could be rectified by substituting the words 'lawful fishing' or 'fish farming' in section 45 of the Fisheries Act 1982. Information with which I have been provided is that, as previously stated by the Minister for Primary Industries in the House of Assembly, considerable advice on this matter was taken from the Attorney-General's office, the Crown Solicitor's office and Parliamentary Counsel.

It was the joint opinion that the Act needed to be amended as presented, and that issue was also discussed with me. The provisions in the Bill are an outcome of that combined consultative process. The Hon. Ron Roberts also said that it should be noted that the Commonwealth Fisheries Management Act 1991, which is relevant to the State Act, Division 3, defines the word 'take' to include harvesting. It is not certain what the honourable member is attempting to show. However, Division 3 of the Fisheries Act 1982 relates to the entering into of agreements between the State and Commonwealth for either jointly managed fisheries or arrangements under the Offshore Constitutional Settlement, whereby one agency has control over the management arrangements of a fishery, even though the fishery may occur in waters under the jurisdiction of the other agency. Definitions relating to 'take', be they in the Commonwealth Act or the State Act, are not affected by this section.

The Hon. Ron Roberts raises issues about the 'fish farming' and 'fishing activities' definitions: these activities are clearly defined in the Fisheries Act 1982, and no further amendments are required. The legal instrument for the issue of the relevant lease or licence is section 53 of the Fisheries Act 1982. In relation to the Bill, the Hon. Ron Roberts suggested that the term 'marked off area' is not clearly defined in the fish licence, and asked: does the marked off area refer to the whole lease or just the one-third that is being used at the time?

My information is that the area to be marked off, as per the marine fin fish farming licence, includes only the area currently under use, as such access by the public to the remainder of the lease site would be maintained. In the case of oyster leases, etc., the whole of the lease site is under use and, as such, the prohibition relates to the whole site.

I hope that that explanation deals adequately with all the issues raised by the Hon. Ron Roberts. If there are other matters to be raised during the course of Committee I will endeavour to answer them but, if they are matters that are outside my area of responsibility, it may be that we will have to put off the Committee stage until tomorrow. But, in any event, I will do the best I can to address any further issues that might be raised during Committee.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Protection of fish farms from unauthorised entry, interference, etc.'

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

Page 3, after line 14—Insert new subsection as follows:

(13) This section will expire on the fifth anniversary of its commencement.

I flagged the amendment during the second reading debate. The effect of the amendment is that this new section would expire on the fifth anniversary of its commencement. I felt that some issues raised by the Hon. Ron Roberts were of legitimate concern. Whether or not problems are created, only time will tell. I am saying that for a five year period I am prepared to suck it and see how the law works, whether it works in a proper manner or actually creates some other perhaps unintended consequences. It is only in this way that the concerns of the Hon. Ron Roberts cannot be ignored and will have to be considered. If things are made to work and do work properly, then there will be no problem after the five years has expired.

The Hon. K.T. GRIFFIN: I indicate opposition to the amendment. I appreciate the concern that the honourable member has put but proposed section 53A is largely modelled upon the trespassing provisions of the Summary Offences Act. When the matter was raised first by the Government I took the view that it was important to at least deal with it in the context of trespassing as we know it now in respect of the Summary Offences Act but modified to deal with the different environment in which the law would be imposed. We see that there is a provision for warning off and a person who returns within a particular period to the marked off area would commit an offence and may be prosecuted. That is probably the only effective way that one can deal with this sort of issue. The Summary Offences Act provision, with some stretch of the imagination, may have been workable but,

because we have seawater with no readily defined boundaries, it was felt to be important that we tailor this sort of provision to deal with that and so we have a reference to 'marked-off area', which is defined as:

> . . . an area comprised of or within the fish farm the boundaries of which are marked off or indicated in the manner required under the terms of the lease or licence in respect of the fish farm;

In this way we would not have someone inadvertently trespassing and finding themselves subject to a prosecution.

The Hon. M.J. Elliott: The amendment allows for that.

The Hon. K.T. GRIFFIN: I acknowledge that the Hon. Mr Elliott's amendment still allows for that to occur, but he seeks to impose a sunset clause. With respect, I cannot see value in the sunset clause. If the law is not workable the most likely outcome is that it will be back before the Parliament for either amendment or repeal.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: I acknowledge that that too is a difficulty, but that is the situation with the law relating to trespass under the Summary Offences Act. Whenever you establish a statutory offence it is uncommon if not unheard of to impose a sunset clause on an offence; it is either an offence or it is not. Sunset clauses are generally imposed in relation to planning or other sorts of issues which do not have these sorts of connotations. If the honourable member has some precedent which would convince me otherwise I am certainly prepared to consider it, but I cannot think on my feet and on the run of any example where a sunset clause deals with something being unlawful now but lawful after a particular period of time has expired.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: You are changing it to make it unlawful in the context, because a problem is believed to exist in relation to trespass on leases and the poaching of tuna fish. Obviously, evidence will have to be obtained to be able to prove a case beyond reasonable doubt. That is always the case, but all the representations to Government have been that it is almost impossible to gather evidence against people who are within the vicinity of the pontoons or nets or whatever, even though there is a very strong suspicion that they have been poaching and have dropped the implements over the side as they have seen a boat approaching. I acknowledge that there are some important issues in this proposition. I suggest that they have been properly dealt with and that the sunset clause should not be enacted, but it is ultimately a matter for this Council and the Parliament.

The Hon. R.R. ROBERTS: Clause 2 provides that an authorised person in relation to a fish farm means an operator or person acting on the authority of an operator of a fish farm. In my consultations with people in Port Lincoln and other places, a fear was expressed that, given that security firms now patrol these fish farms, some sort of vigilante group of people would be going out there to protect fish farms. All sorts of reasons were given for why people would not want anybody near a fish farm, including the ability to count them or how many dolphins might be hanging in nets and a range of other concerns. Does this Bill allow for any vigilante style operation where people, acting on behalf of owners, could go around detaining people and in effect making arrests?

The Hon. K.T. GRIFFIN: Quite clearly the answer is 'No', and I would object to that. It is one of the reasons why it has not been raised in the course of the consultation. The reason for having an authorised person defined as an operator or a person acting on the authority of the operator of a fish farm is to identify the person who has the authority to warn off, in a sense.

Under the Summary Offences Act, if there is somebody on premises without a reasonable excuse—it may be a home which has squatters or school premises—my recollection is that section 17 provides that the owner, or a person authorised by the owner, may in a sense warn off or request people to leave. That must be included, otherwise you do not set up the basis for the ingredients of the offence—if the person refuses to leave or the person having left returns within a period of 24 hours.

Under the scheme of this provision, if a person who has entered the marked off area of a fish farm is asked by an authorised person to leave the area, the person must not fail without reasonable excuse to leave the area immediately and must not enter the area again without the express permission of an authorised person or a reasonable excuse. The context in which you have an authorised person is, for that reason, to warn off.

A person who, while present in the marked off area, uses offensive language or behaves in an offensive manner, is guilty of an offence. That does not require anything else. The ingredients of that sort of offence would obviously have to be proved. The person who is present in the marked off area must, if asked to do so by an authorised person, give his or her name and address to the authorised person. That is a provision which, if you have someone on your property as a squatter, you as the owner or someone whom you authorise can require their name and address.

We have also provided in subclause (6) that an authorised person must, if requested, inform the person they are warning off of the authorised person's name and address and the capacity in which a person is an authorised person under this section. The authorised person must not address offensive language to or behave offensively towards the person in relation to whom the authorised person is exercising a power conferred by this section. What we have tried to do is guard against the so-called vigilante by making it an offence to behave offensively, to use offensive language against a person who is within the marked off area without any proper authority, and also to ensure that the owner or the person who may be authorised by the owner—not a vigilante, but maybe there is an employee, a contractor who might be an authorised person, or a security service—does not have any power of arrest and does not have any power or authority to act offensively towards a person in respect of whom ultimately a charge may be laid.

The Hon. R.R. ROBERTS: In his contribution, the Attorney referred back continually to the Summary Offences Act and the area of trespass. He said he has modified this because of the sea. Is it not true that these penalties reflect or mirror the provisions of the Summary Offences Act? If that is true, will the Minister say why we could not specifically use the Summary Offences Act in this regard? Why do we need this special legislation? I have told members of the Tuna Boat Owners Association that I believe their cages and the fish within them should be treated in the same way as any other vessel on the sea. One should not be able to enter the fish cages or get fish out of them, because the tuna boat owners have paid a registration fee and therefore own the fish. The same would apply to the tuna boat owners' vessels. If someone illegally boarded a vessel tied to a wharf, it would be deemed as trespassing. I do not understand why a floating fish farm is any different from a boat. Will the Minister explain why we need these provisions and not those laid

down in the Summary Offences Act? As I understand it, these provisions reflect those in the Summary Offences Act.

The Hon. K.T. GRIFFIN: If I cast my mind back to my law school days, there is a distinction between domestic animals and wild animals. You could never have property in wild animals *ferae naturae*, whereas you could always have property in domestic animals *ferae domesticae*. Even if you domesticated a wild animal, at common law you could never have property in it. Fish are within that category. The Fisheries Act has changed that in relation to the taking of fish, but the honourable member will note that subclause (8) of the Bill provides:

> 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.

The focus is upon, first, identifying that someone has property in the fish and, secondly, dealing with the peculiarities of the fact that you have a floating net not necessarily definable other than by the pontoon at the top. It is all very well to ask why it should not be treated as though it were a ship. The fact is that a ship does not have water flowing through the middle of it.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: In the holds, that is right; but that is contained within the hull of the ship. Here you have nets with water flowing through them. The problem is how you establish property in the water. We have dealt with leases of the sea bed and, presumably, the waters above it. But the water flows backwards and forwards, so you do not have property in any part of the water except an area through which the water flows. In terms of the fish within the cages, they are swimming around. That is distinctly different from a building, a boat or a motor vehicle. If one considers the Summary Offences Act, we do not have to deal with the issue of the property and land, although section 17 provides:

> . . . 'premises' means—
> (a) any land; or
> (b) any building or structure; or
> (c) any aircraft, vehicle, ship or boat.

In developing this we took the view that it was appropriate to specifically provide in the Fisheries Act where you would expect people who were fishing and who were involved in aquaculture to go for the law which related to their area of endeavour. In other words, it should be specifically tailored to deal with the peculiarities of a marked-off area. With a house you have boundaries, with a ship you have a structure, and with an aeroplane you have a structure, but all that you have with an aquaculture lease is an area that is marked off with a net or a cage. That is because people go backwards and forwards across the water without being impeded by natural boundaries, whereas with land you have a fence and with a house you have walls. In law, it is quite different in concept from a lease, although, as I have said, we have tried to adapt to aquaculture the provisions relating to trespass on premises.

The Hon. R.R. ROBERTS: Clearly, the Hon. Mr Elliott will support that view, but I think the Attorney-General will have a hard time. He gave the example in his law school days of wild animals. However, these tuna boat owners own the fish. They have a quota allocated to them, and they pay a fee for each fish. I suppose it is academic. However, the Attorney has explained that this situation is different, that this is a developing industry, one which has been developing for some time, and that where we started from with fish farms is far different from the current situation.

I will address myself to the amendment moved by the Hon. Michael Elliott. Like the Attorney-General, I have a problem with sunset clauses for criminal offences. However, in this case we are talking about a developing industry, and I think this proposal will focus people's minds on five years' time. I take on board that the Attorney says that from time to time we may have to revisit whether or not we will need a sunset clause if those circumstances arise, but in any event the situation will be reviewed. I support the Hon. Mr Elliott's amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

SOUTH AUSTRALIAN TOURISM, RECREATION AND SPORT COMMISSION BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 614.)

The Hon. M.J. ELLIOTT: I understand that this Bill is about to be withdrawn. However, before the Minister does so, I would like to make a couple of comments. I discussed this Bill with the Minister at a meeting about a week ago. The major concern that I expressed was that we were creating a commission which would have a substantially economic role, yet we were giving the commission responsibility for the whole of recreation and sport. Much of recreation and sport is not economic in its primary intent but is primarily recreational. I expressed concern to the Minister at that time, because we have a commission which has an economic focus and which is responsible for sport. I hold the strong personal view that recreation and sport generally should be directly the responsibility of the Minister, as it is currently, and that there should not be an economic body between it and the Minister. The Minister proposed some amendments to tackle that issue in part, but I am pleased that this Bill will be withdrawn because I think a grave mistake would have been made in that area in particular.

Another comment I would make is that my understanding is that Tourism SA has been quite successful over recent years, and there is a saying, 'If it ain't broke don't fix it.' I am not necessarily saying that what was to be created was going to be a disaster, but I think it does at least suggest to us that we should be careful about what we are doing: when you have something that is working, you tamper with it at some risk. There is no doubt that there are some bodies that were starting to look a little redundant—the Grand Prix board, for instance, in the absence of the Grand Prix, or Special Events, etc. There is certainly some significant overlap in responsibilities and it is worth re-examining the structures. Whether the structures were right or not is quite another question.

It was not my intention to oppose the Bill as a whole, because I believe that Governments should be allowed to make some judgments and to make some mistakes and I think that it is only in this place when you are absolutely convinced that there is going to be real damage done that one would intercede. In this case I had concerns, and I certainly had some people raising concerns with me but, with the exception of my concerns around recreation and sport, the concerns were not of a nature that would have caused me to reject the Bill out of hand. Noting that the Bill is to be withdrawn, I will make no further comment at this stage, but I hope that there

will be significant public consultation before we see a replacement Bill come back into this place in the new year.

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

That Order of the Day: Government Business No.13 be discharged.

Motion carried.

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

That the Bill be withdrawn.

Motion carried.

SOUTH EASTERN WATER CONSERVATION AND DRAINAGE (CONTRIBUTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 501.)

The Hon. M.J. ELLIOTT: I support the second reading of this Bill. It provides a mechanism for the collection of the community contribution for the Upper South-East dry land salinity and flood management program. I am concerned that people integral to the implementation of this Bill were not even notified that it had been introduced to Parliament. The Local Government Association, particularly the South-East Local Government Association (SELGA), was made aware of the existence of this Bill through my office when I rang that organisation seeking comment. Its ability to respond to this Bill in a timely manner and this Chamber's ability to deal speedily with it has been hampered by the Government's lack of consultation and communication.

In the short time available, the groups have raised several issues for clarification. The first concerns section 34A of the Act, which deals with the contribution by landlords for the cost of board works. The clause deals with contributions by land-holders for the cost of works undertaken by the South-East Water Conservation and Drainage Board. It seeks to amend section 34A of the Act by deleting any reference to 'in respect of a financial year' and by adding 'all' before land-holders. Such actions would appear to be contrary to the original intent, whereby approval was to be granted to the board to raise the levy for the Upper South-East dry land salinity and flood management program. An amendment to the Act by inclusion of section 34A in November 1995 was undertaken without consultation with local government.

There is support from local government for the raising of a levy for the above program. Section 34A should therefore be amended to provide for the undertaking of the intended purpose within a fixed time, that is, six years, as stated in the House of Assembly statement. This provision should have a sunset clause to ensure that it reflects only the Upper South-East dry land salinity and flood management program as stated.

The levy should be applicable only to that program as approved by the Minister and include only those land-holders within the approved plan. Before being approved by the Minister, any plan should require an adequate consultation program with land-holders and local government. The Bill as drafted will enable the board to raise a levy on all land-holders in the South-East, which could include the ongoing maintenance of the Upper South-East dry land salinity and flood management program or any other program.

The South-East Local Government Association does not consider that this is acceptable and suggests that it should apply only to the construction program of the Upper South-East dry land salinity and flood management program. Any maintenance levy should be the subject of negotiation with all relevant parties, including land-holders and local government.

Further in its submission to me, the association argued that subsection (4) should be varied by deleting 'altering, removing or maintaining any water management works' and inserting in lieu thereof 'the Upper South-East dry land salinity and flood management plan under subsection (1) of the section'. I do not agree with that suggestion.

SELGA does not support the Minister's fixing the rate of interest for late payment of levies. It believes that the provisions of the Local Government Act, whereby an agreed formula is fixed for all parties to be aware of the consequences in advance, is fairer and more appropriate, and I will move an amendment to that effect. SELGA states:

> In summary it is disappointing to find the Government has presented this Bill to amend the Act without consultation with local government. A similar process occurred in 1995 with the insertion of section 34A within the Act. Although repeated requests have been made with both the former and present Ministers for Primary Industries and departmental officers in relation to ongoing maintenance for the USEDS&FMP, no responses have been forthcoming. SELGA was extremely surprised when learning only recently of the insertion of section 34A into the Act in November 1995 and the presentation of the Bill presently before Parliament.
>
> The Bill in its present form would enable the board to levy contributions across all councils in the South-East, whereas the agreement with the Minister and the department was for local government support for such a plan across the District Councils of Lacepede, Lucindale, Naracoorte, Tatiara, Coonalpyn Downs and the Corporation of Naracoorte.

It is my intention to move amendments which will make plain that the levy should be raised only in those areas that either contribute to the dry land and flood problems or suffer from them. It certainly should not be levied in areas that have no relationship to that program. That will be the principal aim of amendments that I will be moving.

Concern was expressed also that this Bill is being debated while we are still waiting for the Water Resources Bill itself to be handled by Parliament. The view was expressed to me that we should not be making final decisions in the absence of the final form of that Bill but, as I understand it, Federal Government moneys will be at risk if this does not go through now. The logical way to handle that situation is to include a sunset clause of 12 months in this Bill and, if we want to make subsequent changes to mirror any changes made in the Water Resources Bill, we will be in a position to do so. And, as this Bill is being considered quickly and without adequate consultation, if there are other unintended consequences that we do not pick up at this stage, we will be able to address them later. I am not prepared to put at risk moneys for a major and important program in the Upper South-East. Some time ago in the Parliament I expressed concern about dry land salinity before it was on the political agenda and it is pleasing to see, at last, that action is taking place.

I want to place a couple of questions on record and I hope that the Minister will refer them on and answer them tomorrow. First, is it the Government's intention to use new section 34A only in respect of raising funds for the Upper South-East dry land salinity and flood management plan? If not, what other programs will the funds be used for? Can the work identified in new section 34A(4) only be that which has been identified in the board's approved management plan? Is a levy presently being imposed on any land-holders in the South-East under the provisions of the principal Act? How is the levy to be collected? When was the amount of land

which was to be rated and which was referred to in the Act changed from 10 hectares to 30 hectares?

I refer to one other amendment. The Bill, as it stands, provides that only land greater than 10 hectares will be rated. It then precludes some categories of land. For instance, if you have land under a heritage agreement, you would not be levied. I think that is quite reasonable, but there is a potential conflict. Let us imagine, for instance, a person who owns, say, 16 hectares of land, 7 hectares of which is under a heritage agreement. They have only 9 hectares of useable land but will be paying a levy on the lot. That is unreasonable. It is fair to have the levy applied against the amount of useable land. If members look at the amendment it will make more sense. The intention was that land of more than 10 hectares be rated, but I am saying that, if it is the intention that certain sorts of land should not be rated, that should be subtracted from the total holding before it is determined whether or not you fall under the scheme and should be levied. I do not think there is anything else I have not already flagged during my contribution. I support the second reading of the Bill.

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

ADOPTION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 500.)

The Hon. J.F. STEFANI: I will make a very short contribution to this legislation. Some years ago I was in a position to represent a constituent in tracing her relinquished daughter. There had been some substantial concerns at the time that this mother could not trace her daughter and, finally, a contact was made. Unfortunately, the daughter refused to see the mother, but nonetheless there was a possibility for the relinquishing mother to contact the foster parents, which was certainly a relief for her. The legislation has a number of amendments, which are provided to streamline the system that has been in place since 1988. It tries to address some of the concerns expressed both by the relinquishing mothers (or parents) as well as the adopted children. Some consultation has occurred and there were some concerns, which I understand the Minister has now addressed, particularly in terms of the renewal of the veto, which has to be lodged every five years.

I understand that the Minister will now provide a mechanism by which the veto can be lodged every five years through a third party, which third party can be a solicitor, a person who has the power of attorney or a close relative of the adopted child. It is a concern that other members of Parliament and I took on board, and we endeavoured to address the concerns expressed to us by some of our constituents. It was a great privilege to be able to do something of this kind, because these concerns are very genuine. They come from people who are adopted and who have life experience of circumstances that most of us would never encounter. Indeed, as a community we need to consider these concerns. During the Committee stage I believe that it will be appropriate for the Minister to outline the system through which the veto can be lodged through a third party. With those few remarks, I support the legislation and thank the officers of the department for their briefing and the way they attended to our concerns as members of Parliament.

The Hon. CAROLINE SCHAEFER: I wish also to contribute briefly to this debate. One of the interesting things about being part of the Legislative Council is that, in dealing with all legislation, we sometimes become interested in and informed about issues with which we have had little contact prior to being in this place. This Bill fits into that criterion. It was not a Bill in which I intended to become involved until I was lobbied by a number of people, both those who had been adopted and those who had sought information about children they had relinquished. As such, I found the history of adoption in this State quite interesting.

In 1926 there was an open system of adoption where children were able to retain their birth names and had the right to inherit from the relinquishing parents. Of course, that is not the case now. Secret adoptions began in 1937, but until 1945 adopting parents knew the identity of the birth parents, and total secrecy in adoption was not introduced until 1966. That is quite different from what I had assumed. I had assumed that the system of adoption had become more open as time went by, but that was not the case. In 1988 wide-ranging reforms were brought into this place that allowed any parties who sought information to gain access to that information. Apparently, there was bipartisan agreement at the time that a review would be established after five years. This Bill is in answer to that bipartisan agreement.

Under the new system encapsulated in this Bill, individual negotiations will occur between the adoptive and the birth parents so that there may be agreements as to access to the child for relinquishing parents. There may be agreements about various visiting rights. It will be something that is negotiated on an individual basis, which I thoroughly support.

This Bill also seeks to do some other things, including complying with the Hague convention on protection of children and cooperation with respect to inter-country adoption. This measure seeks to eliminate the abduction and sale of children throughout the world. It seeks to bring our State into line with the United Nations Convention on the Rights of Children, which allows for the opinions of children over five to be taken into account in legal proceedings, and in adoption and custody proceedings, and to bring other legislation in line with the Adoption Act 1988 and with recent changes to the Family Law Act.

However, the issue on which most of us were lobbied concerned the right of people to establish a veto system—those who wished not to have their whereabouts or their particulars identified. In some cases that involved children who had been adopted and who did not wish to be traced by their birth parents; in other cases they were relinquishing parents who did not wish to be identified by their child. We then had the conflict of the rights of people to information versus the rights of people to privacy, and I see that as a difficult issue for us to consider, because I am sure that all members would acknowledge that both are equal rights.

Most members are aware of instances, as mentioned by the Hon. Julian Stefani, where people have been devastated by being denied the right to ascertain their heritage and, in some cases, people who have been devastated to learn that they are adopted and other aspects of themselves about which they had no idea. To establish some sort of fairness, this Bill allows for a right of veto to be signed but to be renewed every five years. A number of people put to me and, I am sure, to all members in this place that it should be a lifetime veto and

lifted only if the person changed their mind. This, of course, did not allow then for the rights of those seeking information.

So, the position has been reached whereby people must renew their veto every five years. People then asked what would happen if they were overseas, could not be contacted, were ill or, for some reason, were unable to renew that veto, even though it was something they passionately desired. The Hon. Julian Stefani and I sought a briefing on this matter from the departmental officers, whom I thank for their help, and as a result some discussions took place with the Minister. I believe that, in Committee, a commitment will be made that a third person, such as a solicitor, may have that veto signed and lodged on the appropriate date if the person who wishes to impose that veto is unable to do so.

It is very difficult for Bills such as this which affect peoples' lives, personalities and personal instances to be fair to everyone, but this seems to be a compromise that, hopefully, will address some of the concerns put to us. I support the second reading.

The Hon. SANDRA KANCK: I begin from a position of support for openness with respect to information about adoption. I have been lobbied quite strongly on this Bill, and I have not hidden my position from the people who have been arguing for lifelong vetoes. This issue draws on the whole gamut of human emotions: from the pain of the birth mother; to the fears of the adoptive parents; to the anger, sadness and grief of adopted children because they do not know why they were adopted; to those moments of joy we occasionally hear about where there has been a reunification of the natural mother and her child, and one that has worked. They do not always work but sometimes they do and they are a cause for great joy. There is no doubt that it is a highly emotive issue and, despite the fact that the number of adoptions is dropping year by year, it remains an emotive issue. It is one of those issues where you are damned if you do and damned if you don't.

Prior to 1988, when a natural or birth mother signed over the care of her child to the head of what is now FACS—it has had different names at different times—the mother gave up her right to parent her child, but I stress that she did not sign away her rights to anything else. That was the only thing she signed away. I certainly believe that, when the child has reached adulthood and is no longer being parented by the adoptive parents, there are not too many good reasons to continue to enforce the distance between the natural mother and her relinquished child. It is important to recognise that those mothers did not agree that they were going to stay away from their children for life; they did not agree not to maintain an interest; they did not agree to give up a desire for knowledge about their child or grandchildren.

It is interesting to look at what occurred at the handing over of—or at the birth of—these children. Young women often 15, 16 or 17 years of age gave up their children and signed a form, often under some degree of duress. They were never provided with a copy of that consent form and interestingly, from a contract law point of view, the contract was made between the adoptive parents and the Director-General of the department, and the woman who had given birth to the child was effectively sidelined: she was really removed from the equation. This was done within the morality of the time and, as I say, many of those mothers were minors. There was the stigma of a child being born out of wedlock and a general social belief at the time that women could not bring up a child without a father around. There was a very restricted view of what a family was, which is very different from our present day reality where we know that women are quite capable of bringing up children without a father being around.

The pressures were on those young women—some of them almost still girls—to give up the children and many of them were told that they had an obligation to that child to give it up to ensure that the child would get a better life than they were able to give it. It is important to recognise for the most part that those birth mothers did the best they possibly could at the time within the constraints and morality then existing. However, I have discovered from lobbying that those who have placed vetoes on information feel intensely about it. I do not support lifetime vetoes, and I have made that clear to those people who have lobbied me about them.

What did interest me, when I was talking about the five-year vetoes, was that FACS is not under any obligation to advise people when the veto expires. This may or may not explain the drop off in the rate of the number of people renewing their veto. It may be that they had second thoughts about it but it could be that they simply were not advised. After all, if you are in that fairly small group of women, for instance, who gave birth to an illegitimate child and do not want your husband to know that that occurred, you are hardly going to have the date circled on your calendar saying 'Renew adoption veto'. So, I can understand from the position of those people that having some reminder could be useful and, if it does occur, there needs to be provision for it to occur in a confidential form.

I have an amendment on file to deal with this, and I will argue more strongly for it at such time as I move it. I also have another amendment which I put on file just today. Where an address is known this would require FACS to provide certain non-identifying information to the adopted child once they have reached 18 years of age about either the death of the birth parent or information about health aspects that could be important to the health of the adopted child. It is almost seven weeks to the day since this Bill was introduced and I know that the Government will argue that we have had plenty of time to discuss it, given that the discussion occurred with the release of the discussion paper and the recommendations over about a two year time frame. The problem for me was that I did not know which of the recommendations that had come out was to be acted on by the Government.

It was only seven weeks ago that, along with all the other legislation that I am dealing with, I was able to begin discussion with the many groups that have visited, phoned or written letters to me. It is very difficult to begin a consultation on anything if you do not know what it is that you are consulting about. It is a pity that we only had seven weeks in which to do it. Only this morning another group met with me, and the latest amendment that is circulating in my name is a consequence of that meeting. I am quite sure that if I had had more time to conduct more consultation I probably would be moving more amendments. Perhaps some members will say, 'Thank heavens we did not have more time.' I express some concern that seven weeks is not long enough for an issue as contentious as this; however, I believe that the Bill will advance the cause of the many parties that are involved in adoption and I support the second reading.

The Hon. DIANA LAIDLAW (Minister for Transport): I thank all members for their contribution to the debate. I understand that various amendments will be moved, which we can address during Committee. However, at this

stage I will take up matters raised by both the Hon. Caroline Schaefer and the Hon. Julian Stefani following meetings that they held with the Minister and his officers to discuss various concerns about processes in relation to access to information. Following that meeting, the Minister gave certain undertakings which he has since provided to me to read into the record as follows:

> Concerns have been raised relating to people possibly forgetting to renew their veto, or seeking clarification about the manner of lodging a veto. It is my intention to include in the regulation a section specifically addressing section 27B(6)(d) of the principal Act [as follows]:
>
> A direction under this section must be lodged, renewed or revoked in a manner approved by the chief executive to include:
>
> 1. The use of a prescribed third party for the lodgement or renewal of a direction under some circumstances.
> 2. The system for reminding people about the imminent expiry of a direction, should the person wish, including the option of the use of a third party address.
> 3. The manner in which a veto must be lodged.
> 4. Arrangements regarding the early renewal of a direction in certain circumstances.

I believe that both the Hon. Caroline Schaefer and the Hon. Julian Stefani are satisfied with that undertaking by the Minister and that their concerns will be addressed in regulations.

Bill read a second time.

In Committee.

Clauses 1 to 8 passed.

Clause 9—'Court must consider opinion of child.'

The Hon. P. HOLLOWAY: This clause provides that, before a child under five years of age is adopted, the Youth Court must interview the child. I understand that the provision under the previous Act was that the child had to be 12 years old. Recently it has been put to me that the courts had considerable difficulty, even where children were 13 years of age, in actually determining their position. I am sure we all support the opinion that the child's view is paramount in such situations. What did concern me was that it was suggested there had not been any consultation with the court over this particular provision. Would the Minister say whether or not that was the case? Was there consultation with the magistrates of the Youth Court before this change was made? Secondly, are any problems envisaged with children who are as young as five years of age in terms of getting a clear expression of their views on such matters?

The Hon. DIANA LAIDLAW: The honourable member has raised a question that has provoked some debate. The review committee appointed by the Minister recommended that the age be lowered from 12 to five. That recommendation was one of many in a discussion paper that was circulated for comment. At that time the recommendation, together with the others, was sent to the magistrates and the judges. They did comment and expressed some concern. Those concerns have since been considered by the Minister and by the review committee, and the Government has determined that it will continue with the recommendation from the review committee. I will outline the reasons why.

First, the UN convention states that children have a right to be heard in all judicial proceedings which relate to them. In terms of adoption, the Government considers that the purpose of adoption is for the child, and therefore the court must satisfy itself that the child understands what adoption is about and agrees to the process. Adoption is a permanent legal agreement, probably the most serious decision a court could make about any child at that time of its life, and knowing it will have continuing ramifications for that child.

The court must attach weight according to the age and maturity of the child. At about five years a child is verbal, can voice opinions and understands concepts about parents, family and the like, and their views should be heard. Separate representation for every child is not necessary as many adoptions are straight-forward matters to which all parties agree. I am advised also that the court may decide that a separate representative is needed and that it has the power to appoint one if the court is not satisfied that a child's view has been properly represented. The court can request other information in relation to a child's view if it so wishes.

For children over 12 years who need to formally consent to the adoption, the consent may be revoked at any point up to the making of the order. The court needs to be sure that the child is not revoking consent before making the order. The Government does not pretend that this matter is easy. The Hon. Paul Holloway alluded to this in terms of asking his question, but considering all the views presented by the review committee—an experienced panel of people—and the concerns of the magistrates referring those concerns back to the review committee, the Government on balance has resolved that the opinion of a child aged five and over should be heard.

Clause passed.

Clause 10 passed.

Clause 11—'No adoption order in certain circumstances.'

The Hon. P. HOLLOWAY: Under this clause the court will not consider an application for adoption made by or on behalf of the person who is cohabiting with a birth or adoptive parent of the child in a marriage unless the Family Court of Australia has given that person leave to proceed with the application. We can all accept why that is desirable; however, the point that has been put to me is that there has been a huge increase in the costs of the Family Court. The concern is that those huge increases in costs may deter adoption applications. Will the Minister comment on that and say whether she has any remedies for that problem, or whether she sees it as a problem?

The Hon. DIANA LAIDLAW: We appreciate the recent changes that have been made to the Family Court's practices and costs. It is a matter the Government is keen to keep under notice in terms of step-parent adoption. I give an undertaking to the honourable member that the Minister will do so.

Clause passed.

Clauses 12 to 16 passed.

Clause 17—'Consent given under law of another jurisdiction.'

The Hon. P. HOLLOWAY: Subclause (2) provides:

> Subject to any law of the Commonwealth, the requirements of this Act relating to consent to adoption will be taken to have been complied with. . .

The query put to me is that the phrase 'any law of the Commonwealth' is a bit vague. One assumes that this applies to the Commonwealth of Australia as opposed to any State within the Commonwealth. Will the Minister clarify that definition?

The Hon. DIANA LAIDLAW: The advice of the Attorney-General and my adviser is that the wording is correct; it is consistent.

Clause passed.

Clauses 18 to 22 passed.

Clause 23—'Substitution of section 27.'

The Hon. SANDRA KANCK: I move:

> Page 8, line 31—Insert '(but the Chief Executive cannot require that a renewal be lodged in person)' after 'Executive'.

The amendment allows people who have lodged a veto to renew it without having to attend at a FACS office. This is particularly a concern of the Adoption Privacy Protection Group. Given the vehemence of the feelings of members of that group and their desire not to be, as they put it, harassed—I do not feel that what FACS does constitutes harassment, but because of their state of mind some of these people may regard questioning, however gentle, as harassment—it seems to me that we should make things as simple as possible. We can renew a driver's licence by post. Similarly, people who want to renew a veto should not be forced to front up to a FACS counsellor.

The Hon. DIANA LAIDLAW: The Government accepts the amendment. It is consistent with the advice that I provided earlier to both the Hon. Julian Stefani and the Hon. Caroline Schaefer.

The Hon. P. HOLLOWAY: The Opposition supports the amendment. It clarifies the procedures to be dealt with at the renewal of a veto. I mentioned this matter during the second reading debate when I stated that the Opposition did have some concerns. The Opposition believes that the amendment clarifies the situation, although we understand that it is similar to the practice already adopted by the department.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 8, after line 31—Insert:

(8) The Chief Executive will, if necessary, send a person who has lodged a direction under this section a renewal notice approximately 6 months, 3 months and 2 weeks before the date on which the direction will expire, unless the person has requested in writing that no such notices be sent.

(9) Subject to any written directions of the person to the contrary, a renewal notice will be sent to a person at his or her address last known to the Chief Executive.

This again arose from discussions that I had with members of the Adoption Privacy Protection Group four weeks ago, and I mentioned in my second reading speech that I was surprised to find that there is not any systematic mailing out to people advising them that their veto is about to expire. It is a complex issue, because when we talked about it some more I asked, 'What if I bring in an amendment that requires FACS to send out a letter to advise them?' They said that some people will not even want the letter arriving at their home. Then we discussed the issue of third parties being the recipients of those letters and I suggested in the first instance that the Adoption Privacy Protection Group could in fact be the repository for such renewals to be sent, so that if someone is concerned about their privacy, despite anything that FACS can say to the contrary that their material will be handled confidentially, then some sort of provision like using a third party is the sort of thing that might help to solve the problem. When I said that perhaps the Adoption Privacy Protection Group could be the repository, the initial reaction was, 'Only if we can get extra money to allow us to do it.' I said that I cannot guarantee money; all I can do is put an amendment like this in place.

I understand that there is nothing in the current legislation that would prevent such a procedure from being followed, anyhow, but this is more an amendment for peace of mind. It does not mean that the Chief Executive will have to do it: he or she will only have to do this if the person lodging the veto indicates that they wish it to happen. So, it cannot accidentally happen. By having it at these three set time periods—six months, three months and two weeks—if a person has changed address there is some chance that it can be tracked down.

As I say, I know that it is not going to substantially alter what is occurring at the present time or what can occur at the present time, but it is for peace of mind. I note from what the Minister said in her summing up that the Government is looking at doing something similar by regulation. I am always want, where I can, to get things into legislation rather than leave it to regulation, and I hope that the Opposition will support me on this.

The Hon. DIANA LAIDLAW: The Government is prepared to accept this amendment. We believe that our current practices accommodate the requests of those who wish to be advised that the date of renewal is due. Although the honourable member has indicated that there is not a systematic approach, it is an approach that the Minister understands has been effective to date. We appreciate that this approach of six months, three months and two weeks is to apply before the date of the veto is to expire and will apply to people who already have the veto and for people who may seek to place a veto in future. The letters sent at three months and two weeks will simply be to those people who have not responded, and I understand that the honourable member's sentiment in this respect is to ensure that they are provided with every opportunity, because of the sensitivity and vulnerability some people feel in these circumstances.

For my own part I welcome this amendment. I was very involved, as shadow Minister for Community Welfare, in the preparation of the legislation that has been in place for some years now. The Minister at the time was the Hon. John Cornwall. We met as a select committee, a particularly productive select committee, in terms of seeking to accommodate all the diverse interests. As the Hons. Caroline Schaefer and Julian Stefani noted earlier, it is not possible in this field to meet everyone's interests, but we sought to accommodate all the groups and, as much as possible, all the individual interests with extreme sensitivity, because there is no more important matter than a person's identity and that is a matter about which all members of Parliament are particularly sensitive. So, this amendment, in terms of the procedure for the veto—and the veto was a matter that was very important to the Liberal Party at the time and was embraced by the Government of the day—if it helps to ensure that a person who may wish to place a veto is encouraged to pursue that veto, then the Government would certainly endorse this initiative.

The Hon. P. HOLLOWAY: As I indicated earlier, the Opposition supports the clarification of this process. During my second reading speech, I indicated some concern with the procedures as to how vetoes may be renewed. The shadow Minister for Family and Community Services and I had discussions with departmental officers for which we are very grateful. They were most helpful. However, I would like clarified on the record during what period before a veto is due to expire can it be renewed?

The Hon. DIANA LAIDLAW: I am advised that it can be renewed only at the expiration of the five-year period, but there is provision in the legislation for the CEO to have some discretion in this matter where there are exceptional circumstances, for instance, if a person will be out of the country. I attempted to address some of these matters in my reply at the second reading stage. In exceptional circumstances, such as a person being out of the country, can the CEO accommodate the wishes of that individual. My information, which is new to me, although it may not be new to members, is that about 1 200 vetoes are currently in place and it is estimated that about 42 000 people have been adopted.

The Hon. Carolyn Pickles: Are the numbers decreasing?

The Hon. DIANA LAIDLAW: The honourable member is referring to applications for vetoes, and I have more recent information on that. When this legislation was introduced with provision for the veto, there were about 1 800 applications. On the first anniversary when people were invited to renew those vetoes, that figure dropped to about 900. The figure of 1 200 which I gave a few minutes ago is incorrect. It is those 900 people that we are seeking to accommodate in terms of renewal advice.

While as a matter of principle the Government acknowledges the value of knowing one's identity, we respect the fact that in some circumstances it is not the wish of all people. It is interesting to note that, over the period of five years since the major changes were brought in, people have become more confident with the whole procedure and we have seen a fall in the number of people who believe that they need to renew the veto. They have probably come into contact with other people who have got to know their parents and vice versa. Perhaps adoptive parents are less nervous about the challenge that contact may provide. I suspect that many positive stories throughout the media of positive contacts might also have encouraged people not to see the need to renew the veto. But where there is seen to be such a need, I am pleased to note that as a Parliament we will still respect the wishes of those people.

The Hon. J.F. STEFANI: Is a second reminder notice sent out if the veto is not received?

The Hon. DIANA LAIDLAW: Under this provision there are three notices—at six months, three months and two weeks. That is not current practice, which involves only one. There may be circumstances where letters are mislaid and this is a safeguard measure for people who have placed the veto.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 8, line 33—Leave out 'must' and substitute 'may'.

This clause refers to vetoes imposed by either adopted persons or birth parents on the release of information. It has been put to the Opposition that for those people who have decided to impose a veto and have then gone through the decision to renew the veto, having come to terms with this very difficult decision, they should be able to discuss the matter with the department if they wish. Whereas the department should provide information if those people wish it, we do not believe they should be encouraged against their will, as the clause presently provides, to have a further interview with officers of the Department for Family and Community Services.

We certainly respect those officers from that department and we believe that they do a good job in providing information. It is felt by some that the clause, as it presently stands, is a little intimidatory towards those people who have made their decision and do not wish to be persuaded that they should have an interview against their wishes. This amendment and the following amendment (which changes two words of the clause) will still enable the department to provide information to adoptees or birth parents where they require it, but it would not be seen by those groups to be so coercive.

The Hon. DIANA LAIDLAW: I am interested in the honourable member's suggestion that the provision in the Bill may be intimidating to the individual involved. The provision in the Bill waters down, in a sense, the provisions in the Act. I was always happy to accept the provisions in the Act when they were before the Parliament some five years ago and it is perhaps worthwhile considering this matter. In terms of provision for open adoption, section 27(4) of the Act provides:

> The Director-General may, before disclosing information to a person under subsection (1), require the person to attend an interview.

In terms of interviews, new section 27C provides:

> The Chief Executive must, before providing information to a person or accepting a direction from a person under this part, encourage a person to participate in an interview with a person authorised by the Chief Executive.

The honourable member seeks to water that down further so that it would read:

> The chief executive may, before providing information to a person or accepting a direction from a person under this part, invite the person to participate in an interview with a person authorised by the Chief Executive.

On reflection, the Government is prepared to accept the honourable member's amendment, although the Minister's experience and the experience of the officers concerned has not been that it is an intimidating process. However, if there is general concern that it is seen as such, we are prepared to ensure that no person would feel intimidated. For that reason alone, we would be prepared to accept the amendment, although, in practice, we do not believe that it has intimidated people.

The Hon. SANDRA KANCK: The Democrats will also support the amendment. Like the two previous amendments I have moved, this is more about image rather than substance. If anyone is to be intimidated in this process, it is likely to be the poor FACS worker behind the counter, because the strength of what some of these people feel about this is immense and I can imagine some of them coming to the counter and saying, 'Don't you dare attempt to counsel me or interview me.' The amendment moved by the Hon. Paul Holloway might save the FACS worker from being intimidated.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 8, line 34—Leave out 'encourage' and substitute 'invite'.

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

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 8, after line 35—Insert—

Certain information must be provided to adopted person

27CA. (1) If—

(a) an adopted person has attained the age of 18 years; and

(b) the chief executive is in possession of information relevant to the health of the adopted person or has information that a birth parent has died; and

(c) the chief executive knows the whereabouts of the adopted person,

the chief executive must provide the adopted person with that information, whether or not the adopted person has requested information under this part or not.

(2) Information provided to an adopted person under this section must not contain details that would enable a birth parent or a person who would have been a relative of the adopted person if the adoption order had not been made to be traced.

This came on file in the middle of the afternoon. As I said in my second reading contribution, it came out of a meeting I had late this morning, early this afternoon. I would have liked to have more time to be able to canvass it with both the Government and the Opposition. I put on record the little

story which goes with this and which explains why I have moved the amendment.

I do not know whether there can be a relinquishing grandmother, but that is to whom I was talking. Her daughter had had a child when she was 15. I do not know the circumstances behind that, but the woman concerned, effectively the birth grandparent, did not know until three months after the birth when she received an account from the Queen Victoria Hospital for the confinement. She found out fairly quickly what had happened, so she marched to the desk at the Queen Victoria Hospital with her account and said, 'I have come to collect a baby.' The people at the Queen Victoria Hospital were quite amazed and they explained to her that the baby had been adopted. She said, 'Well, if the baby has been adopted, this is not my account because, if I have this account, I must have a baby due for me in exchange.' She obviously felt very strongly about that child having been adopted and, in one way or another, she has attempted to follow the interests of the child.

In this case, the birth mother died 10 years later from cervical cancer. The grandmother had attempted to relay that information to the child because another of her daughters has had cervical cancer and also another daughter has had a breast removed through breast cancer. Obviously, there is some genetic tendency in the family. She regarded it as important for her grand daughter to know that this was the case, that she was at risk. She had attempted to get a letter to the grand daughter to explain to her that her mother had died, and died as a result of cervical cancer. She has subsequently met the grand daughter on one occasion. She does not even know the grand daughter's surname. She met her in a shopping centre. The grand daughter knows this information, but she did not know about her mother. She said that she was given other information about her mother, that she was alive and well. In such circumstances, it is pretty important that the adopted child know when there is this sort of information that could have life threatening consequences for that person.

This is the reason why I am moving my amendment. My amendment allows for the Chief Executive of the department, where an address is known—and I recognise that, in many cases, addresses will not be known—to pass on information that is relevant to the health of that adopted person or information that a birth parent has died, and that must be non-identifying information. As I said, I recognise that this has been done at very short notice, and I apologise for that. After the information I was given today, it seemed to me that it was important enough to draft this amendment.

The Hon. DIANA LAIDLAW: The Government appreciates the sentiment expressed by the honourable member but cannot accept this amendment. We believe that it fundamentally goes against the provisions of the Act that the honourable member herself has supported to date, that is, where a person taking into account all the ramifications of their decision would place a veto on contact. We would appreciate that, in placing a veto on contact, that would take into account factors that may be medical by nature but still their preference remains that there be no contact. In terms of seeking to regulate this situation, the honourable member would be obliging the department to find the person concerned—either adopted child or birth parent—and there are at least 25 000 adoption files in the department. For a whole variety of reasons it may not always be possible to follow this through.

Irrespective of those administrative difficulties, the Minister and the department are aware that the system works well at present because the situation is essentially addressed—not regulated as the honourable member wanted—with some discretions in the current Act in section 27(5). In this Bill, that provision is reworded slightly and is now printed in clause 27B on page 8. This provides some discretion in terms of the Chief Executive Officer and the way in which they would be dealing with information that has come to their attention. We believe that this is the best way in which to deal with the vexed issues that the honourable member has raised. I will confirm the way in which clause 27B is working at present without the restrictions placed—albeit in good faith—by the honourable member. My first real life example is of a birth mother in her forties who approached the department to advise that she had multiple sclerosis.

She had an adopted daughter aged 16 years. The department contacted the child's adoptive parents. The child was then medically tested and the child's doctor and birth mother's doctor conferred. No identifying information was released in that circumstance. The problem was apparently addressed, in terms of the concerns raised in that instance, by the birth mother. The second example is of adoptive parents discovering that their three-year-old adopted daughter has a genetically transferred illness. The department contacted the birth mother, as the same illness could be transferred to any future children she may have.

That instance was seen to be a most satisfactory response and contact between the department and the birth mother. We believe that the system is essentially working without the restrictions that the honourable member would seek to place on administrative practice.

The Hon. P. HOLLOWAY: The Opposition will not support the amendment. We do, however, support the principle that in cases where information relating to the health of an adopted person is available and in the benefit of the person it certainly should be released. We have no problem with that. Rather, we believe that the provision contained in new clause 27D, which gives the Minister the discretion to disclose any information that is necessary in the interests of the welfare of an adopted person, is probably a better way to proceed.

Normally, I would be arguing against discretion in legislation but, in this case, when we are dealing with not only a very sensitive area but an area involving many different cases, such as adopted people who want to know their origins and those who vehemently do not want to know, and similarly with birth parents, that it is appropriate and will lead to the best outcome if a degree of discretion is included. It is my understanding, and the Minister has just confirmed this, that where health information relative to the adopted person is available, the department will use its best endeavours to ensure that that information is passed on. We believe that that is probably the best way to proceed.

One concern we have with the amendment moved by the Hon. Sandra Kanck is that it states that the Chief Executive must provide the adopted person with that information, whether or not the adopted person has requested the information. So, even if an adopted person has clearly not wanted to receive information and has lodged a veto, under this amendment information would be provided regardless. Certainly, it would be better to have had a little more time to consider some of the ramifications of the clause.

I do not blame the Hon. Sandra Kanck for that, because I am sure that we are all aware of how much legislation has been passed through this place in the past few days. On balance, we believe that it would be better to stick with the

more discretionary powers that will exist in the Bill rather than to risk creating difficulties with this more prescriptive measure.

The Hon. SANDRA KANCK: I indicate my disappointment at not receiving support for the amendments. I was pleased to hear the examples provided by the Minister where intervention has successfully occurred. Given the lack of time to consider this amendment, for which I have already apologised, it is not surprising that it will be defeated. I certainly would have liked the opportunity to canvass with other people just how effective that discretionary power has been until now. For the time being, at least until the Act comes up for another round of amendments, say, in five years, I will have to accept that things are generally working well.

The Hon. J.F. STEFANI: Is it possible under section 27 for the Electoral Commissioner, in the general administration of matters, to consider—when people reach voting age and register accordingly—a provision for them to indicate, if they so wish, whether they desire to register a veto in respect of the adoption laws?

The Hon. DIANA LAIDLAW: As the honourable member would be aware, it is not possible to direct the Electoral Commissioner, but certainly the Minister would be prepared to discuss the matter with him. I suspect, but without commitment on my part, that there may be some reason to look at other avenues where regular advice and registration forms are sent, such as for motor vehicles and the like. This is a particularly sensitive subject and, although I do not wish to encourage a lot of vetoes, nor would I ever wish to be responsible for people not being aware that the veto opportunity is there if they wish to avail themselves of it. I suspect it is important that as many opportunities as possible be available to explore ways in which people can be aware.

Certainly, some years ago there was a whole flood of information and public debate, and the issue was on people's minds. Although it may have fallen away as an issue, mainly because of a lack of media attention and the like, you could not assume in those circumstances that everyone was aware of their rights. In all adoption matters there is a great sensitivity and respect needed for identity and human relationship issues. Within that context I am sure the honourable member will explore the issue with the Electoral Commissioner, and he may wish to explore it with me.

The Hon. Anne Levy: Surely privacy would mean that you would not want the Electoral Commissioner having a lot of information which has nothing to do with electoral matters.

The Hon. DIANA LAIDLAW: In terms of the concerns expressed by the honourable member, it would not be information held by the Electoral Commissioner or Motor Vehicles Registration: it would simply be a service provided with the information held solely by FACS in this instance. Big privacy issues are to be taken into account and, because of the sensitivity of those issues, we would not rush into any of this. However, I would not wish to be responsible for not ensuring that as many people as possible were aware of the veto right in case they wished to exercise it. After the debates of the past and the number of years, you would almost have to assume that most people would already be aware of those rights.

Today there are so few adoptions of children born in this country—there are certainly more inter-country adoptions—that we can assume that these issues will not be so great in the future. Nevertheless, it is amazing to me at times, because I am interested in public affairs, how there are so many issues which I do not think people could have possibly missed but of which there is no knowledge or awareness. That would be the only reason why we would be prepared to explore those other avenues, but certainly not to abuse any privacy issues.

Amendment negatived; clause as amended passed.

Remaining clauses (24 to 27), schedule and title passed.

Bill read a third time and passed.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 559.)

The Hon. M.J. ELLIOTT: I support the second reading of this Bill. I have received submissions from several sectors in relation to this Bill, and I particularly thank the Local Government Association for its constructive consultation on this and other issues. The main concern has been in relation to clause 65AAB, dealing with the ability of the Minister to sack a council if it is deemed to have been unreasonable in its use of confidentiality provisions, and I flag my opposition to this clause. I believe that, if a Minister had the ability to ensure the public disclosure of documents kept confidential by a council when deemed necessary, councils would be sure to use the confidentiality provisions judiciously. The LGA has raised concerns about the Government's original clause. A statement that the LGA released on 23 October reads in part as follows:

> Councillor Ross [the LGA President] said councils had supported clarification of the confidentiality provisions of the Act, three-year terms of office and full postal voting. 'In fact, we support every clause of this Bill except this extraordinary and unwarranted power related to sacking councils. This is a gross power to intervene in local affairs and confirms that it is not only the Adelaide City Council which is in the Government's sights,' he said.

It further states:

> Under the current Act, councils are accountable to their communities and the ways in which State Government can intervene are specifically limited. . . 'I believe all councils will be angry about the proposal and about the lack of consultation,' Councillor Ross said. Councillor Ross said there was an incredible irony and double standard with the amendments having been agreed on Monday in a secret Cabinet meeting without any consultation with councils or communities. 'The lack of consultation represents a breach of the Minister's own promises to consult with councils,' he said. Councillor Ross said an LGA survey late last year showed that only 3 per cent of all local government business items in SA were dealt with confidentially. Public and media debate during 1995 had resulted in significant reductions in the use of provisions by a number of councils—a demonstration that local democracy works, he added.

The LGA has concerns with the provision, as it requires the Minister to decide whether a council has acted in a reasonable manner. This does not take into account whether the council itself had felt that its actions were reasonable.

The LGA has raised concerns about the ALP's amendment to this clause which was passed in another place. The LGA believes that, although this amendment emphasises the investigation provisions, it still enables a Minister to sack a council. The LGA's preferred position is to delete this provision and deal with it in the context of legislation expected to appear next year which will review the total Local Government Act. A fall-back position would be to amend the provision so the Minister is able to instruct the Ombudsman to do it within a prescribed time of, say, 21

days. In fact, I am having amendments drafted to put that into effect.

I have also received submissions about other provisions of the Bill. The Blackwood Belair and District Community Association has commented about the extension to a three year term. In relation to clause 15, the association submits:

> We agree that the extension to a three year term is worthwhile. However, we do recognise that, for councillors working in a voluntary capacity, coping with large agendas, attending various subcommittees, meeting local residents and expected social engagements, as well as their paid employment, there is a tendency to burn out after several terms of office. It may be expected that many councillors will retire after a three year term, leaving the particular council with an inexperienced new group of local representatives who will struggle for at least the first year coming to a complete understanding of their roles and working as a team.
>
> We propose that the solution would be to have staggered elections so that half the council representatives are up for election at one time; that is, as the Federal and State Governments have in the Senate and the Legislative Council. While 18 months may be too short, possibly a four year term with two-yearly half council elections would be more acceptable. While it is acknowledged that this would be more costly to councils' ratepayers, we believe that the effectiveness of councillors and planning for the local councils would be improved.

The LGA has a policy on both, and was happy to accept the three year term for councillors.

On the question of postal voting, several concerns were raised about this provision, and again the Blackwood Belair and District Community Association put the following to me in relation to clause 13. There was a query as to whether Australia Post always time stamps letters upon collection these days and, with the following day being a Saturday, there may be some inconsistencies with the receipt of ballot papers on the following Monday. I ask the Minister: would the closing date be on the Friday or on the following Monday?

Finally, I have been approached by a local councillor who has raised concerns about the security provisions intended to ensure the *bona fides* of voters using postal voting in local government elections. At the State and Federal level, which involve compulsory voting, it can become apparent whether someone else is voting under your name. With voluntary voting, if there is no means of checking whether someone else has used your name, the system is open to corruption. If checking signatures, this must be done on the envelope and not on the ballot paper. I will certainly ask the Minister to respond to that matter.

Having raised those issues, I have already indicated I will be moving some amendments in relation to investigations being carried out into the use of confidentiality provisions. At this stage I have not had other amendments drafted, but look forward to the Minister's response to the other matters that I raised.

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

STATE RECORDS BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 555.)

The Hon. M.J. ELLIOTT: I support the second reading of this Bill. I understand that it has taken many years for this Bill to appear and that it has generally been welcomed as being long overdue. This creates the expectation that there has been much consultation and awareness about the Bill before us. Unfortunately, my investigations have shown that there was, in fact, little awareness of the Bill's introduction to Parliament. I have been told that even people in State Records itself were not made aware of this legislation prior to its introduction. A subcommittee of the Friends of South Australia's Archives, which was formed to deal with this issue, is generally in favour of the Bill, notwithstanding the lack of consultation and advice in respect of the 1996 version of the Bill. I note at this point that the most recent draft Bill on this issue was circulated in 1995. The Friends of South Australia's Archives say that this Bill is a positive step in the development of South Australia's archival and records management practices. This is an area which has seen significant erosion of confidence through the events of recent years.

In a report from the subcommittee, the groups says that examples of the need to restore confidence come from individuals and group experiences, particularly in regard to records disposals in the past five years. It has raised concerns about the sudden presentation of the Bill into Parliament without advising interested organisations, including public service authorities, or seeking public comment and submissions. It is also concerned that private and group submissions on an earlier draft Bill, which resulted from meetings organised by the Australian Society of Archivists, the Records Management Association of Australia and the South Australian Centre for Australian Studies were ignored almost totally. They say that the only notable exception to this is the plan to expand the proposed council by splitting the single archives management appointment into a position on the council for each group.

I note the points raised in the second reading debate by the Hon. Anne Levy on several issues in relation to this Bill, and I will reiterate some concerns which have been raised with me also. These include a concern that parliamentary records are excluded from the operations of the Bill. A clause omitting these records was not included in preceding drafts which were presented publicly. It is felt by the Friends group that the position of State Records is undermined somewhat if it is not considered by Parliament to be the appropriate archival body to manage these records. On the other hand, the creation of a parliamentary archive is not provided for in this Bill. I note the Hon. Anne Levy's comments about the anomaly created by the provision of court records to be dealt with under this Bill but the omission of parliamentary records. Parliamentary records rely on protection by convention and practice, which are two of the procedures that this Bill is intended to overcome. I look forward to hearing the Attorney-General's response in relation to this matter.

The Friends of South Australia's Archives believe that the proposed State Records Council needs a higher standing and authority than now defined in the Bill. They say that, given the trend towards appointing non-specialist executives across the range of Government agencies, it is imperative that the proposed State Records Council has professional archival records management and historical expertise in the event of the head of State Records not being a professional archivist. I recognise that some of the measures sought by this group have been taken up in the Hon. Anne Levy's amendments. This includes the stipulation that members nominated to the State Records Council be professional members of these professional bodies and not just eligible to be ordinary members. I note that the ALP refers to the Friends of Archives' request for user representation on the board. I look forward to the Minister's response to issues such as the

relationship of the Bill to collections of private material held in various museums, libraries and galleries.

There is also an ongoing concern as to the placement of the Archives and Records Management Authority in the public service bureaucracy. The Friends of Archives believes that these items should be matters for public debate which has not been allowed to occur because of the quick and unheralded introduction of this Bill. The Local Government Association also forwarded some comments on this Bill in relation to its inadequacy in recognising the role that local government plays in record collection custody. I quote from a submission, as follows:

> The approach in the Bill of the Manager State Records having considerable powers is considered somewhat excessive in relation to councils. It may be more appropriate to have a specific public record provision in the Local Government Act, as is the case in some other States, which puts the onus on councils to have procedures in place of a satisfactory standard, consistent with those applying to State Government agencies.
>
> It is suggested that the need for interventionist powers for State Government over the practices and operations of local government needs reconsideration and further consideration in the context of the current local government Act review. It is clearly in the interests of councils to ensure that they have and indeed maintain appropriate records standards to enable them to function efficiently and to ensure that they are able to respond to requests as required. Additionally, councils are custodians of important historical information, and the current structural reform in local government has highlighted the importance of this to local communities.

Other questions raised by the LGA relate to the broad definition of 'record' and 'official record', the custody of official records in situations where it would be difficult for councils to determine when records are no longer required for 'current administrative purposes', and the Government's proposed fee for access to a council's own records in the custody of State Records.

I note that the Hon. Anne Levy has sought an amendment in relation to the fee issue. The LGA believes that further consideration is required of this Bill's relationship to the Local Government Act in terms of the approach to public records management and technical matters. For example, the Bill proposes an amendment to section 65d of the Local Government Act, while the Local Government (Miscellaneous Provisions) Bill currently before the Council proposes the repeal of this section—a slight contradiction!

Finally, the LGA has been greatly concerned about not being advised of the existence of the Bill. There seems to be a bit of that going around. In a letter to the Minister for State Government Services, the LGA Secretary-General, Jim Hullick, says, in part:

> Our subscription to the Services SA parliamentary service alerted us to a State Records Bill being recently introduced to the House of Assembly. In response, the LGA communicated in writing with State Records at an officer level and was advised that it was not known if our original submission had been received and taken into account or whether a reply was ever forwarded to us. We have no record on our files of having received a reply.

I understand that just this morning the LGA found an acknowledgment of receipt of the letter but no further response.

The Hon. Anne Levy: Perhaps we should change the Minister.

The Hon. M.J. ELLIOTT: Yes, or do something about his archives, because there seem to be some problems there. The letter continues:

> Against this backdrop I am concerned that without any further apparent notification a State Records Bill has now been introduced. In accordance with the memorandum of understanding between the Premier and the LGA, at the very least I would have expected the courtesy of advice that it was proposed to introduce the Bill given it had been over 12 months since our last communication with the State Records Office. I am appreciative of a recent response from State Records to a further communication from the LGA, with brief comment on the concerns raised previously in our letter of 28 September 1995.
>
> Following receipt of advice from our solicitors, we have prepared the attached submission on the Bill. In particular, we are concerned that the Bill fails to adequately recognise that councils do collectively comprise a sphere of Government and the proposal to provide the Manager, State Records with considerable powers appears unnecessary and excessive in relation to local government. I would appreciate your urgent response to the concerns raised so the LGA is in a position to advise our members on this matter.

That letter was sent to the Hon. Wayne Matthew, the present Minister for State Government Services, on 25 November. From conversations I have had this morning with the LGA I understand that there has been no response to that letter. It has been a comedy of errors. It appears that the official holder of South Australia's records cannot find his own records. I look forward to hearing the Minister's response to these concerns about the issues that have been raised.

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

MOTOR VEHICLES (INSPECTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 593.)

The Hon. DIANA LAIDLAW (Minister for Transport): At this time I simply want to sum up the debate and not move into Committee. A number of amendments have been placed on file by the Hon. Mr Cameron, and I appreciate that the Hon. Sandra Kanck indicated in her second reading contribution that she wishes to consider a number of the issues and the manner in which I respond to matters that she raised. I was quite fascinated, however, with the colourful language used by the Hon. Sandra Kanck in her contribution when she likened private inspectors to putting Dracula in charge of the blood bank. She then very wisely went on to say, to some amusement to myself and possibly others who read *Hansard*, 'Not that I am saying that all second-hand dealers are corrupt.' By slandering them in one breath and then backing down pretty quickly in the next makes one wonder where she is coming from, other than on the basis of some considerable prejudice in this area.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: That is where I think the Hon. Mr Cameron is definitely coming from—and we know that from experience with earlier Bills involving the motor vehicle industry. It is very interesting in terms of the difficulties that Mr Cameron has with the private sector, which is contrary to the experiences of his Party when it was in Government. When the Hon. Frank Blevins and the Hon. Barbara Wiese were Ministers, they dealt with the real world; they did not have the same prejudices and the same low starting point that the Hon. Terry Cameron has when it comes to the private sector. It is interesting because the precedent for involving the private sector in these sorts of functions was set by former Labor Ministers. Of course, the honourable member was not a member of this place at that time. In terms of the issue of driving licences and the like, log books and

driver testing, that was an initiative introduced by the Labor Party and supported by the Liberal Party—

The Hon. T.G. Cameron: And a bad one.

The Hon. DIANA LAIDLAW: A bad one?

The Hon. T.G. Cameron: In my opinion, yes.

The Hon. DIANA LAIDLAW: That is interesting. That will be of considerable interest to those involved in the private sector, because in the real world, where Mr Cameron is not a player, the practice is that New South Wales and Victoria—in fact, all Governments in Australia—and all road safety experts are looking to South Australia in terms of the competency based testing that we have involving the training of private sector drivers to certain high accreditation standards. I am prepared to acknowledge the former Government's initiatives in this respect, because I am not as uptight and prejudiced in terms of the way in which I approach the transport portfolio.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: There is no mateship, there is no greed, and there is no graft, if that is what the honourable member is accusing me of in this respect. I take particular offence at being told that I am handing this out to my mates in the private sector. That is what I was—

The Hon. T.G. Cameron: You are hopeless.

The Hon. DIANA LAIDLAW: I am not hopeless. That is what was said, and not one person on the back bench disagrees with what I just said—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Terry Cameron!

The Hon. DIANA LAIDLAW: —in terms of what you have accused me of.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The honourable member will get a chance.

The Hon. DIANA LAIDLAW: I have not handed out anything to the private sector in terms of my mates. This recommendation came from the police and the Department of Transport. Who is the honourable member accusing in the Police Department and the Department of Transport? I am acting on a recommendation from the police and the Department of Transport. The honourable member may not respect them as authorities, but I do.

I am acting on their advice that the way in which we should proceed in this field is to involve the private sector. Because they have made such recommendations, we are very involved with the police and the department in establishing the standards for such involvement. As I say, graft and involvement and greed and the gutter is where Mr Cameron is very happy, and that is where he is with this Bill.

The Environment, Resources and Development Committee of this Parliament, when it considered compulsory motor vehicle inspections in its sixteenth report, addressed this issue of private inspectors. The members of the Labor Party on that committee were the Hon. Terry Roberts, Ms Annette Hurley and the Hon. Mike Rann. They addressed at some length this issue of private contractors and the standards that should be set. They did not say that private contractors should not be involved in this field. The committee simply set what it believed the standards should be if and when there was involvement of the private sector in this field.

If those members did not believe that the private sector should be involved in this field, they would have divorced themselves from this report. They would have said that they do not support any involvement of private contractors in this field or they would not have bothered to be involved in the preparation of a unanimous report which indicated the standards that should be set when compulsory inspections were undertaken by private contractors.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Yes, I understand that. It says 'if' and it means that, if they did not support the involvement of the private sector, they would have removed themselves from it. Secondly, they would have had—

The Hon. T.G. Cameron: The Labor Party is opposing this; don't you understand.

The PRESIDENT: Order! The Hon. Terry Cameron!

The Hon. DIANA LAIDLAW: I understand very clearly and that is why I am saying—

The PRESIDENT: Order! I would like the Hon. Terry Cameron's undivided attention for one moment.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! I have asked the honourable member to refrain from interjecting. He will have all the chance in the world tomorrow to speak and I will give the honourable member all the protection he needs, but tonight I request that he does not interject any further.

The Hon. DIANA LAIDLAW: The committee recommended as follows:

> That private contractors who carry out compulsory inspections be registered to perform those inspections and that they be supervised by way of random inspections and performance audits by Government officials.

They are the same standards that the Labor Party set for private sector involvement in the issuing of drivers' licences, and all road safety and road transport officials are looking at adopting those same standards Australia-wide.

The Hon. Terry Cameron is new to this job. He does not understand the history of these issues and he does not seem to respect the views of his colleagues or the parliamentary process in terms of the unanimous reports that are prepared on behalf of his members and committees generally. Certainly, the practice in the past has been that these reports provide the framework for the Government's introducing legislation in this area. The standards set by the select committee have been adopted by the Government in terms of private contractors being involved in this field. I indicate that, notwithstanding the honourable member's fundamental opposition to a key part of this Bill, the Opposition did support the following initiatives: first, the introduction of pre-registration identity inspections for new vehicles; the appointment of authorised agents from the private sector to carry out such identity inspections; the transfer of vehicle identity inspections from the South Australian Police Force to the Department of Transport; the introduction of two levels of identity inspection; the Department of Transport inspectors and private sector inspectors to be provided with the power to seize and detain a motor vehicle; inspectors to be subject to a criminal record check; and introduction of a cost recovery fee of $15 for an inspection by the Department of Transport and a $50 visit fee.

In addition, the Hon. Terry Cameron has acknowledged the contribution made by the Department of Transport in regard to the recent downturn in vehicle theft in South Australia and that acknowledgment is appreciated. To clarify what is proposed, further information on the three tiers of inspections is provided. The first level of inspection is to confirm that the correct vehicle identifiers on brand new vehicles are provided on the application to register and, ultimately, recorded on the vehicle registration database. As

a first level inspection applies to new motor vehicles, only employees of new motor vehicle dealers will be authorised. Accordingly, it is not proposed that any second-hand motor vehicle dealers would be involved and authorised to undertake the first level of inspection. No computer access will be necessary to complete a first level identity check. Certification would be provided in the form of a certificate which must accompany the application to register. The first level inspection is a simple process which can be undertaken as part of the pre-delivery and registration of new vehicles.

The second level inspection is a more extensive vehicle identity inspection to confirm that the identifiers currently on the vehicle do not match any of the police stolen vehicle records. It is also an opportunity to confirm that the identifiers have not been altered or tampered with. Second level identity checks apply, in the main, to second-hand vehicles new to South Australia or where the identity details provided on the application to register do not match the history record of the vehicle. Initially, only Department of Transport inspectors will be authorised to undertake second level inspections. Later, it is proposed to establish a restricted network of authorised agents to provide a service on a visiting basis which would be closely monitored and audited by the Department of Transport. Authorised second level agents are likely to be approved from third level roadworthy inspection stations and limited to a selected number of new car dealers that also sell second-hand vehicles. It is not proposed that any employees of firms that sell only second-hand motor vehicles would be authorised to undertake the second level of inspection.

The third level of inspection corresponds to the existing roadworthy and defect clearance checks currently undertaken by the Department of Transport and police. A restricted network of authorised inspection stations is proposed. Improved public access to these services would result, as currently all defect removals within the metropolitan area are undertaken by the Regency Park inspection station's inefficient service, which is costly to both consumers and business.

Specific responses to issues raised are as follows. First, the Opposition indicated that it does not support second level identity inspections being transferred to the private sector. Further to the information provided earlier that the transferring of second level identity inspections to private sector is a risk, that can be managed by the Department of Transport by the careful selection of agents and the ongoing monitoring and auditing of the performance of those agents. That is a position accepted by both the Department of Transport and the police on the basis of early experience with the driver licensing system. A network of second level inspection facilities will considerably improve access for the industry and the public to these compulsory services.

The Opposition indicated it does not support third level roadworthy inspections being transferred to the private sector. The reason for supporting the transfer of third level inspections is essentially the same as the explanation I gave regarding second level inspections. In terms of the $15 fee proposed for second level inspections undertaken by the Department of Transport inspectors—that this should be regulated and applied to both first level and second level inspections undertaken by the private sector—I advise as follows. The Department of Transport did consider the need to regulate for an upper limit to the fee to be charged by the private sector for first and second level inspections. Regulation could not be justified, particularly in view of the Government's recent successful outsourcing of passenger vehicle inspections. And I refer to the taxi industry. I have not heard the honourable member complain about that, but I suspect he will.

The $15 fee proposed for the Department of Transport inspections has been determined on a cost recovery basis. The $50 visit fee will encourage the efficient use of Department of Transport resources by providing an incentive for the conduct of multiple inspections at each visit and provide a basis for the recovery of the travel costs involved. First level inspections can be incorporated as part of the pre delivery, registration and stock control process conducted by new car dealers. As such, the cost is expected to be considerably less than that charged for the second level inspection.

In terms of the terminal access necessary for private sector inspectors to be able to conduct vehicle inspections, I advise that no direct terminal access by private sector authorised agents will be necessary to implement the proposals contained in the Bill. Department of Transport authorised officers and police officers will be the only persons authorised to directly access the Police 'Eagle' stolen vehicle system. It is proposed that the Department of Transport through telephone and facsimile will provide second level inspection information to the authorised second level agents by controlled access, which will be available only at the Regency Park inspection station. This process will strictly control access to the system and, accordingly, privacy will not be compromised.

The Hon. Mr Cameron also asked questions about the procedure of an audit trail that would identify the problem only once they had picked up the agent approving vehicles that were stolen. The first point to re-emphasise is that second level inspections to detect stolen vehicles will not be undertaken by firms that deal only in second-hand motor vehicles. Authorised agents for the second level inspection undertaken by the private sector are expected to be individuals with an automotive trade background from new car dealerships that also deal in second-hand vehicles. The honourable member would know that that applies to most people in this field.

Training and forensic techniques to identify stolen vehicles will be provided to authorised agents. With their sound trade background of the vehicles they would be inspecting, it is anticipated that the probability of detection of vehicles with altered or falsified identification will be improved. I would have thought that the honourable member and all members of the Labor Party would endorse that objective, but that does not appear to be the case. The first level identity inspections are likely to be undertaken by clerical and stock control staff from within the new car dealer businesses. The existence of a conspicuous and rigorous audit system will act as a deterrent to abuse of the system by authorised agents within the private sector. This deterrent will be further enforced by continuous monitoring by the Department of Transport audit staff.

I continue to be disappointed by the attitude taken by the Hon. Mr Cameron whenever the private sector motor trade is referred to in this place or elsewhere. He has a hang up, because the Motor Trade Association at one time gave a donation to the Liberal Party. It also happened to give a donation to the Labor Party. However, because it did not give as much, he seems to be bitter, prejudiced and rooted in the past. He cannot be rid of the personality complex and chip on the shoulder he has about this matter. It is interesting that, if I had that same attitude, I would not work with the AWU, his

former union, or the PWU. I suspect that unions that give to the Labor Party would not even give 5¢ let alone $5 000.

Members interjecting:

The Hon. DIANA LAIDLAW: They would not even give $5 000, as the MTA gave to the Labor Party, yet I continue to work with them in the State's interest. It is interesting that this man cannot work with a respected agency and association such as the MTA—one that has, in the past, given to the Labor Party. If the shadow Minister had not come along and defamed it, it probably would have continued to give.

Bill read a second time.

ADJOURNMENT

At 12.9 a.m. the Council adjourned until Wednesday 4 December at 2.15 p.m.