LEGISLATIVE COUNCIL

Thursday 5 December 1996

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

ELECTRICITY BILL

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

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

Motion carried.

SELECT COMMITTEE ON A PROPOSED SALE OF LAND AT CARRICK HILL

The Hon. DIANA LAIDLAW (Minister for Transport) brought up the report of the select committee, together with minutes of proceedings and evidence and moved:

That the report be printed.

Motion carried.

EQUAL OPPORTUNITY (SEXUAL HARASSMENT) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Equal Opportunity Act 1984. Read a first time.

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

That this Bill be now read a second time.

This Bill amends the Equal Opportunity Act 1984 to extend coverage to sexual harassment by members of Parliament, members of the judiciary and members of local councils. In late April 1994, Mr Brian Martin QC was appointed to conduct a review of the Act. This review was consistent with the Government's 'Law and People' policy and the 'Women's Policy,' which were released prior to the 1993 election. Mr Martin QC provided his report in October 1994 and it was released in December 1994. The report contained a detailed analysis of existing legislation and of possible amendments to that legislation. Mr Martin QC stressed that the recommendations should not be considered in isolation and further consultation should occur with interested persons and bodies before drafting any legislative amendments.

Following release of the report, a reference group was established with the following terms of reference:

> To coordinate responses to the Martin Review into the Equal Opportunity Act and to consider the consequences of implementing the recommendations.

The reference group was not expected to examine issues anew but rather to consider responses to the report from organisations and interested parties. One of the recommendations made by Mr Martin QC dealt with an extension of the provisions relating to sexual harassment to certain relationships not currently covered by the Act. The recommendation dealt with a wide range of relationships including harassment:

- between workplace participants,
- of employees of incorporated associations by members of the management committee;
- of staff in the hospitality industry by patrons of hotels, clubs, motels and restaurants;
- of employees at retail outlets and of service deliverers by customers;
- of hospital staff by medical consultants;
- of a member of staff or a student at an educational institution by senior students (aged 16 years or more).

As part of his recommendation on the extension of the sexual harassment provisions, Mr Martin QC also recommended that acts of sexual harassment against staff by members of Parliament, members of the judiciary and members of local councils should be prohibited. The Government agrees that sexual harassment is unacceptable and that sexual harassment by members of Parliament, members of local councils and members of the judiciary should be unlawful. However, it has also taken note of submissions made on this matter to the reference group. While the submissions were mainly favourable, a number of issues were raised for consideration.

For example, the former Crown Solicitor warned that there could be difficulties in merely extending the provisions of the Equal Opportunity Act 1984 to cover the judiciary. He advised that members of the judiciary should be protected from complaints of sexual harassment where they have made statements of a sexual nature in the presence of court staff during court proceedings, if the statements are in the context of the proceedings. Further, while the judges of the Supreme Court and District Court did not oppose the extension of the Act, they cautioned that there would need to be a clear distinction drawn between acts by a judge in a personal capacity and things said or done by a judge in an official capacity while sitting in court or in chambers. The judges acknowledged that it would be unlikely that a complaint by court staff against a member of the judiciary could relate to the discharge of strictly judicial functions. However, they considered it to be an area in which caution is required so as to ensure that the discharge of judicial functions is not subject to external control or investigation.

The judges also suggested that documents and papers relevant to the discharge of functions should not be liable to seizure or inspection. This would put the judicial officers in the hands of inspectors and officers appointed by the executive arm of Government. There is a constitutional principle that the executive arm of Government should not interfere with the exercise of judicial discretion by judges and magistrates. Problems could also arise from the extension of provisions to cover members of Parliament, as issues of parliamentary privilege would need to be considered. The use of the phrase 'parliamentary privilege' is not one that should be construed as being similar to a perk of office. It is a basic constitutional principle that ensures that members of Parliament are not inhibited by executive Government from raising issues and taking action in the interests of the people. Therefore, this Bill deals with the issue of sexual harassment by members of Parliament, members of the judiciary and members of local councils but takes the issues of judicial independence and parliamentary privilege into account.

Clause 3 amends section 87, which deals with sexual harassment. New subsection (6)(a) makes it unlawful for a judicial officer to subject to sexual harassment a non-judicial officer or member of the staff of a court of which the judicial officer is a member. New subsection (6)(c) covers sexual harassment by a member of Parliament of a member of his or her staff, a member of the staff of another member of Parliament, an officer or member of the staff of the Parliament or any other person who in the course of employment performs duties at Parliament House. New subsection (6)(e)

makes it unlawful for a member of a council to subject to sexual harassment an officer or employee of the council.

While extending the Act to cover sexual harassment, the amendments seek to protect judicial independence and parliamentary privilege. The amendments contained in section 87(6)(b) and (6)(d) make it clear that the new provisions do not apply in relation to anything said or done by a judicial officer in court or chambers or anything said or done by a member of Parliament in the course of parliamentary proceedings. In addition, clause 4 sets out a procedure for dealing with complaints of sexual harassment by judicial officers and members of Parliament. The section provides that, where a complaint is lodged against a member of the judiciary or a member of Parliament, the commissioner must refer it to the appropriate authority. In the course of a complaint against a judicial officer, the appropriate authority is the Chief Justice. For complaints against members of Parliament the appropriate authority will be the Speaker or President, as the case may be. If the appropriate authority considers that dealing with the complaint under the Act could impinge on judicial independence or parliamentary privilege, the authority will investigate and deal with matter as the authority thinks fit.

The appropriate authority can request the commissioner to assist in investigating a complaint. Complaints against members of the judiciary or members of Parliament that do not impinge on judicial independence or parliamentary privilege will be dealt with under the Equal Opportunity Act 1984 in the normal way. Clause 6 of the Bill provides that the commissioner cannot require the production of books, documents and papers that relate to the discharge of judicial functions or parliamentary proceedings. The Bill sets out a framework for dealing with complaints against members of Parliament and members of the judiciary that seeks to take into account the special constitutional nature of these positions.

A number of issues have been raised by the Chief Justice in relation to the Bill. He suggested that the President, Speaker and Chief Justice could be given the same power to investigate a matter as the commissioner would have under section 94 of the Act. He is also of the view that the President, Speaker and Chief Justice should be given an immunity similar to that contained in section 16 of the Act so that no personal liability attaches for any act or omission in good faith in the exercise of powers or the discharge of duties. Further issues which may also need to be considered include the powers of the commissioner when assisting an appropriate authority with an investigation, and the appointment of an alternative person to act as the appropriate authority if for example the appropriate authority is away as a witness to the complaint or is the subject of a complaint.

The Bill is introduced in order to honour the commitment to introduce a Bill to deal with this issue. By introducing the Bill now, further consultation can occur on the framework adopted in the Bill before the matter is dealt with on the resumption of Parliament in the new year. I commend the Bill to members and leave seek to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 5—Interpretation

This clause inserts definitions into the principal Act. Court is defined to include a tribunal and judicial officer is defined to mean a member of a court or tribunal.

Clause 3: Amendment of s. 87—Sexual harassment

This clause amends section 87 of the principal Act to make it unlawful for—

- a judicial officer to subject to sexual harassment a non-judicial officer, or a member of the staff of, a court of which the judicial officer is a member;
- a member of Parliament to subject to sexual harassment a member of his or her staff, a member of the staff of another member of Parliament, an officer or member of the staff of the Parliament, or any other person who in the course of employment performs duties at Parliament House;
- a member of a council to subject to sexual harassment an officer or employee of the council.

However the clause does not apply—

- to anything said or done by a judicial officer in court or in chambers in the exercise, or purported exercise, of judicial powers or functions or in the discharge, or purported discharge, of judicial duties; or
- to anything said or done by a member of Parliament in the course of parliamentary proceedings.

Clause 4: Insertion of s. 93AA

93AA. Manner of dealing with complaints of sexual harassment by judicial officers and members of Parliament

This proposed section requires the Commissioner to refer a complaint alleging sexual harassment by a judicial officer or a member of Parliament to the appropriate authority, being—

- in the case of a complaint against a judicial officer—the Chief Justice;
- in the case of a complaint against a member of the House of Assembly—the Speaker of the House of Assembly;
- in the case of a complaint against a member of the Legislative Council—the President of the Legislative Council.

If the appropriate authority is of the opinion that dealing with the complaint under the Equal Opportunity Act could impinge on judicial independence or parliamentary privilege, the appropriate authority is required to investigate the matter and is empowered to deal with it in such manner as the appropriate authority thinks fit.

If the appropriate authority gives the Commissioner written notice that a complaint is to be dealt with the appropriate authority, no further action can be taken under any other provision of the Equal opportunity Act on the complaint and the Commissioner is required to notify the complainant and the respondent that the complaint will be dealt with by the appropriate authority.

The Commissioner may at the request of the appropriate authority assist the appropriate authority in investigating the complaint. The appropriate authority is required to notify the complainant of the matter in which it has dealt with a complaint.

If the appropriate authority gives the Commissioner written notice that a complaint will not be dealt with by the appropriate authority, the Commissioner can proceed to deal with the complaint under the Act.

Clause 5: Amendment of s. 93A—Institution of inquiries

This clause ensures that the power of the Equal Opportunity Tribunal to refer a matter to the Commissioner for investigation does not apply in relation to an alleged contravention of the sexual harassment provisions by a judicial officer or a member of Parliament.

Clause 6: Amendment of s. 94—Investigations

This clause prevents the Commissioner from requiring the production of books, papers or documents relating to parliamentary proceedings or the exercise, or purported exercise, of judicial powers or functions, or the discharge or purported discharge, of judicial duties, by a judicial officer in court or in chambers.

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

SOUTH AUSTRALIAN PORTS (BULK HANDLING FACILITIES) BILL

Bill taken through Committee without amendment; Committee's report adopted.

Bill read a third time and passed.

FISHERIES (PROTECTION OF FISH FARMS) AMENDMENT BILL

Consideration in Committee of the House of Assembly's message intimating that it had disagreed to the Legislative Council's amendment.

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

A quorum having been formed:

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

That the Council do not insist on its amendment.

When we were considering the amendment by the Hon. Mr Elliott last night I dealt with it on the run, as I suspect other members were dealing with it on the run, and since that time I have had an opportunity to reflect upon the provision for a sunset clause on this Bill. I did make an observation that I thought it was strange that there should be a sunset clause in relation to a criminal provision. Of course, there are issues about what happens at the end of the five year provision when the sunset clause comes into operation. It will raise questions about the effect of the lapsing, if there is a sunset clause. If D is warned off, then D can be prosecuted if he or she trespasses again without reasonable excuse. Once the expiation package is proclaimed, the statute of limitations for a summary offence will be two years. Does that mean that a warned off person can be prosecuted in the sixth year, that is, after the lapsing? Presumably not, because the offence does not exist at the time of prosecution. Section 16(1) of the Acts Interpretation Act provides:

> Where an Act is repealed or amended, or where an Act or enactment expires, then, unless the contrary intention appears, the repeal, amendment or expiry does not—
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> (d) affect any duty, obligation, liability or burden of proof imposed, created or incurred, or any penalty, forfeiture or punishment incurred or imposed or liable to be incurred or imposed, prior to the repeal, amendment or expiry.

There are a number of decided cases on this section. In *Habib v. Visvikis*, 1986, 44, South Australian State Reports 413, the accused were charged with offences against the Narcotic and Psychotropic Drugs Act 1934. By the time they came to trial, that Act and its regulations had been repealed and replaced by the Controlled Substances Act. The regulations having been repealed, it was argued that there was no longer any proscribed quantity for the purposes of the prosecution. The court held that section 16 saved the relevant regulations. It is, therefore, possible that section 16 will operate in some way on the expiry of the section. It cannot be predicted whether that is so or how. This should be avoided. The statutory abolition of the offence of abuse of public office in the Statues Amendment and Repeal (Public Offences) Act 1992 led to a complicated case and a division of opinion in the Full Court in Question of Law Reserve No. 2 of 1996, unreported, 19 July 1996. In that case, the intention of Parliament was, in my opinion, clear and ultimately prevailed. The intention of Parliament in this case I suggest is unclear.

If the Hon. Mr Elliott is unsure whether he supports the Bill, then he might consider a reporting clause. It could be that fish farm licensees should report to Parliament via the Minister annually on the number of persons warned off and prosecutions instigated, but that is a matter for him. In any event, I am not in favour of that sort of reporting offence, although the opportunity is for members to raise questions at appropriate times about the number of prosecutions which have occurred and the results of those prosecutions. However, I can indicate that, in the normal course, if there are problems with a section, either in that it is oppressive or is incapable of enforcement or there are difficulties when prosecutions are laid, those matters are invariably drawn to my attention, even though a piece of legislation may not be committed to me as Attorney-General.

The way in which these things operate suggests to me that, notwithstanding that the Hon. Mr Elliott wishes to have a sunset clause in order to review the operation of the section, in any event if there are problems with the administration, one way or the other, they will again come before the Parliament. As I said, it is a matter which is in the hands of members from time to time to raise questions about the number of prosecutions that might have occurred, whether or not there have been any problems with the application of this section.

I would suggest that, because of the nature of the industry to which this section is proposed to apply, if there are problems about it, if the Government hears about them and does not do anything, the Opposition or the Australian Democrats would be only too pleased to be able to raise the issue in the Parliament. I suggest that, in the context of this legislation, there will be appropriate monitoring by the Government, the Opposition and the Australian Democrats, as well as by those who are likely to be affected by the application of this legislation.

The advice I have received from my legal officers is that the sunset clause in the context of this legislation, without some careful transitional provisions, should be avoided. It is for those reasons that, whilst not being insensitive to the issues which have been raised about the application of this legislation, the Government did oppose last night and continues to oppose a sunset clause on this piece of legislation and, accordingly, as I have already moved, it is our view that the House should no longer insist upon its amendment.

The Hon. M.J. ELLIOTT: I am still of the view that we should insist on the amendment. I did not find the arguments of the Attorney-General convincing. Quite clearly, if the laws are working properly and adequately, then the Parliament will allow them to continue. I would not expect that we will wait until the end of the fifth year before doing so. It would be sensible for us to debate it by about the end of the fourth year. Any suggestions about the period beyond the end of the fifth year are hypothetical. In any case, if the Parliament decided that the law was not to continue beyond that date, any action which would have been initiated surely was initiated under the law as it was at the time of the offence. I do not see anything particularly confusing about that, other than I imagine that if it is not going to continue to be an offence, I suspect there may be a decision not to continue to enforce it, but that is a decision that can be made. I do not think it causes any special problems.

I believe that legitimate concerns were raised in public and raised by the Hon. Ron Roberts. While in the first instance I was prepared to support the legislation, you cannot always tell exactly how things will work until they have been in force for some time. If things go astray, I want the opportunity to revisit them. While it might be argued that the Parliament can look at them anyway, there is no guarantee about where the numbers will be at that stage. I am saying that I am prepared to offer my numbers to help the legislation go through, but I am doing so still with some possible concern about ramifications. The proviso I am putting on it is that I am prepared to support the legislation but I want to be confident that, if it does not work, it will be revisited. It is only by using a sunset clause that that can be achieved.

The Hon. R.R. ROBERTS: Members will remember that, when we discussed this matter, one of the last questions addressed was whether the legislation could work with or without a sunset clause, and it was agreed it could work either way. At that stage, I deliberately employed the technique that the Hon. Mr Elliott uses from time to time when he is not completely sure of the position he likes to take, that is, he likes to play it safe. I supported his amendment for a sunset clause on that occasion. Members will also realise that it has been my contention that this legislation is unnecessary, because it reflects basically what is in the Summary Offences Act. I note that the opinion that has been sought by the Attorney-General talks about the statute of limitations for a summary offence. I assert that my contention has been somewhat vindicated. However, we have gone far beyond that point. The Hon. Mr Elliott was of a different opinion than I, and I thank him for his recognition of those concerns that have been raised by my constituents. However, this legislation will go through intact. It is a question of the sunset clause.

In his closing remarks in this debate, the Attorney-General indicated that he had some concerns about criminal offences and sunset clauses. Over the years it has been my experience that, when the Attorney-General says he has a nagging feeling that something is wrong and he is going to seek information, it generally turns out to be more or less correct.

I received a copy of the advice from the Minister's department. I note that, without careful transitional provisions, it is said the sunset clause should be avoided. Those provisions are not there and all parties agree that the legislation can have its effect with or without the clause. A suggestion has been made that this legislation could be revisited in five years but, if this legislation fails, we will revisit it well before that time. We will revisit this legislation on a number of occasions, and we will have the opportunity to amend it.

I am certain that, if some of the concerns expressed by my constituents become manifest, those constituents will come back to me, the Attorney-General or, indeed, the Hon. Mr Elliott. I am one member who does not care how long we stay here. I will be here until Christmas Day, if necessary. However, if we insist on our amendment today, then a conference will be required, and I do not believe that what is involved is of such magnitude as to warrant the holding of a conference. I do not believe the Council should insist on its amendment.

The Hon. M.J. ELLIOTT: The danger is that the rights of property will always stand in the way of rights of individuals, and that could be a concern. While the subject might be raised by way of questions in this place, it may not be further addressed. I hope that the Hon. Ron Roberts has not, in the early stages of this debate, gone through the motions of mentioning issues that have been raised with him, but was not prepared, at the end of the day, to ensure that some check and balance was put in place. I will not accuse the honourable member of that, but those sorts of things happen from time to time in this place.

The Hon. K.T. GRIFFIN: I do not think we can say much more than that this particular section is an attempt to try to find that balance between protecting property rights and ensuring that the rights of the citizen are respected. Of course, rights of citizens exist on both sides: the rights of citizens in relation to property; and the rights of citizens in relation to the way in which a citizen—other than the person who has the propriety interest, a member of the public—might be treated. An attempt has been made to find a proper balance in relation to that, whether it is under section 17A of the Summary Offences Act or under section 53(5)(a) of the Fisheries Act. I think that parliaments and governments do try to ensure that there is that sort of balance.

Motion carried.

NOBEL PEACE PRIZE

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

That this Council congratulates the joint recipients of the 1996 Nobel Peace Prize, Bishop Belo and Jose Ramos Horta, recognising the work done to establish a just and lasting peace for East Timor.

(Continued from 13 November. Page 480.)

The Hon. SANDRA KANCK: The Hon. Bernice Pfitzner read into *Hansard* the contributions made at a rally on the steps of Parliament House on 13 November, and I am sure members found them incredibly moving. I know that, as one of the participants, when I first saw what I was to read I had an extraordinarily large lump in my throat and could not go on the first time I read it out. I had to practise my speech a few times so that I could read it without my eyes filling with tears. Those speeches demonstrated that not only did the events of 1975 occur, but that the Indonesian Government has continued a systematic campaign of genocide against the East Timorese people over a 21-year period.

It is worthwhile to follow the excerpts read by the honourable member with other information which shows that genocide, however covert, is being perpetrated in East Timor. The *Peace Courier* journal recently published information from a paper prepared by an academic at the University of Melbourne, Sarah Storey. She has reported on the excessive administration of contraceptives to the women of East Timor by Indonesian authorities. She observes that, while 59 per cent of East Timorese women are using injectable contraceptives, such as Depo Provera, only 19 per cent of Indonesian women are.

To make matters worse, the Indonesian Government is involved in a major drive to increase the number of family planning clinics on the island. The administration of injectable contraceptives appears not to be occurring by choice. As an example, East Timorese adolescent school girls have had military officials arrive at their schools and compulsorily inject them. The *Peace Courier* gives details of a UN population fund report which was released earlier this year and which showed that East Timor has the highest infant mortality rate amongst sparsely populated territories, and the figures are quite horrifying.

While in developed countries the infant mortality rate is between three and seven per 1 000 births, the East Timor rate is 135 deaths per 1 000 births, which is apparently three times that of the rate for the rest of Indonesia. There is no doubt in my mind that these deaths are not accidental and, combined with the mandatory use of contraception, I have no doubt also that what is occurring is genocide. Twenty one years after the Indonesian invasion of East Timor, the Australian Government continues to hope that the problem will go away.

From our Government's perspective, it appears that the problem is not that Indonesia invaded East Timor, but that these damned activists keep reminding people that it happened, and if only those people would go away. Well, I have news for the Australian Government: we are here to stay until justice is done. The recipients of the 1996 Nobel Peace Prize, Jose Ramos Horta and Bishop Carlos Belo, are two East Timorese people who keep reminding Governments around

the world that a grave injustice occurred 21 years ago, and is continuing to occur in East Timor. It is clear that such people, whom I regard as heroes, will not go way either.

The awarding of the Peace Prize to these two people is an embarrassing reminder to members of Australian Governments—past and present—of their failure to take appropriate action, of how they have put economic profitability for a few ahead of basic justice for thousands, and how the inaction of successive Australian Governments has resulted in still more deaths in East Timor—deaths that might have been averted.

Since the Hon. Terry Roberts moved and spoke to his motion, much has happened in relation to East Timor. An international conference being held in Malaysia to discuss East Timor was shut down by the Malaysian police, and 10 Australians, including two South Australian conference delegates, were arrested. Fortunately, all of them were ultimately freed and were able to come back to Australia. Dr Mahathir, Malaysia's Prime Minister, is shortly to visit Indonesia; and Malaysia's ruling political Party, via the louts who intimidated the delegates at that conference, was just a little too keen to be seen to be preventing actions that might displease the Indonesian Government. Unfortunately, Australia's Prime Minister came out batting for Malaysia and, effectively, Indonesia, as did our Foreign Minister, Alexander Downer. Prime Minister Howard said:

> They were told very clearly that the meeting had been prohibited, and the rules of the road are that when you are overseas you've got to do what other countries want you to do.

Mr Downer said:

> The organisers knew this and went ahead and therefore the foreigners involved laid themselves open to possible breaches of Malaysian immigration regulations and consequent deportation.

The only problem with these statements is that those attending the conference had not been given that message. They were attending a conference that was not illegal, despite the ill-informed views of Mr Howard and Mr Downer.

An interesting article in the *Australian* on 11 November written by Dr Harold Crouch, a senior fellow in the Research School of Pacific and Asian Studies at the Australian National University, in part, states:

> The Malaysian Government's banning of an international conference on East Timor is an example of the ASEAN way of handling relations between neighbours. The fundamental principle is that each member should avoid activities that might be construed as interference in another's internal affairs. In practice this means not only that Association of South-East Asian Nations governments should refrain from making public statements critical of each other but also that they prevent their citizens from engaging in activities that might be embarrassing for neighbouring countries. Saturday's aborted Kuala Lumpur conference was only the latest in a series of East Timor conferences organised by human rights activists in South-East Asia. In each case, the host country's Government has been subjected to heavy pressure from Indonesia. Such pressure might, of course, be considered as Indonesian interference in their affairs. The Philippines Government had initially not objected to the holding of the first Asia Pacific conference on East Timor in Manila in June 1994 but, after an angry Indonesian Government pulled out of several joint ventures and a meeting to plan a regional growth triangle, President Fidel Ramos attempted to ban it. The ban, however, was overruled by the Philippines Supreme Court, which considered it an infringement of the right to free speech. The Government then banned the participation of foreign delegates on security grounds. More recently, human rights activists invited East Timorese Nobel Prize co-winner Jose Ramos Horta to participate in an international conference to be held while the Asia Pacific Economic Cooperation Forum leaders are meeting in Manila later this month. Ramos again bent to Indonesian pressure and has banned Horta from visiting Manila during the conference, although he agreed to allow him to visit the Philippines later.
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> Thailand also was subjected to Indonesian pressure when non-government organisations attempted to hold a conference on human rights in July 1994 while ASEAN foreign ministers were meeting in Bangkok. Among the invited participants were some from East Timor. Rather than risk offending Indonesia, the Government banned the conference.
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> The Malaysian Government has had difficulties with Indonesia over the East Timor question. Although the Government has strictly avoided all negative comment on East Timor, it ran into difficulties several months after the Dili massacre in November 1991 when a documentary program on East Timor was shown—apparently inadvertently—on the Government-owned television channel. A junior executive of the channel was blamed for the error and the Malaysian Minister of Information made a special visit to Jakarta to apologise.

That is not all of the article, but I think it would be most unfortunate if we found the Australian Government bending to that same pressure from Indonesia. Members would be aware that, around the time that the winners of the Nobel Peace Prize were announced, Australia was vying for a position on the UN Security Council. We lost, but while it might have been a loss to Australia it was also a great victory for the people of East Timor, because it appears that one of the reasons we lost was the position the Australian Government has taken in regard to East Timor for the past 21 years. It has given a strong message to the Australian Government, and this message must now at last be starting to be heard.

The Campaign for an Independent East Timor publishes a newsletter, the *CIET News*, and the October-November 1996 edition states that they hope:

> . . . that this international recognition bestowed on them will, as the Nobel Committee itself expressed, spur on international efforts to find a solution 'based on the people's right to self-determination'. The awarding of the Nobel Peace Prize to the head of the Catholic Church in East Timor and to the external leader of the Resistance (CNRM) will shame our Government who for too long has aided and abetted the Indonesian military Government.

It is important that this Parliament should take the opportunity to speak out against the systematic brutality of the Indonesian authorities against the people of East Timor. That is very easy for us to do in this place: our lives are not endangered by taking this stand. Bishop Carlos Belo is the head of the Catholic Church in East Timor, so he is much more likely to come under attack than you or I. Jose Ramos Horta no longer lives in East Timor but continues to be a thorn in the side of the Indonesian Government, with his continued lobbying at an international level for the East Timorese and against Indonesia. In doing this he alienates himself from any possibility of returning to his homeland, at least in the short term. If he is successful—and many of us hope that he will be—in the longer term, his efforts will result in his being able to return. It takes courage and sacrifice to go to the barricades as these two people have done. They deserve our congratulations, and I support the motion.

Motion carried.

DENTISTS (CLINICAL DENTAL TECHNICIANS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 October. Page 240.)

The Hon. SANDRA KANCK: The Democrats fully support this Bill and commend the Hon. Paul Holloway for introducing it. Its purpose is to allow suitably qualified clinical dental technicians to supply partial dentures directly to the public. Currently, they are able to provide full dentures only. Broadening the functions of the clinical dental techni-

cians would reduce the costs of dental care. Not only would the cost reduction result in lower costs to the individual but it would also save taxpayers' money. According to the 1996-97 Pensioner Denture Scheme table, a cost saving of $114.50 per patient to the taxpayers is achieved if a clinical dental technical rather than a dentist undertakes to provide full upper and full lower dentures. Pensioners save $27, because they pay only $93 if a clinical dental technician undertakes the work, as opposed to $120 if they go to a dentist.

Of course, no specified comparison is available for partial dentures, because clinical dental technicians cannot currently undertake this work. However, we can surmise that similar cost savings would result if clinical dental technicians were allowed to undertake the fitting of partial dentures. The passing of this Bill has become even more crucial since the Federal Liberal Government savagely cut back its dental program to the States. In South Australia, this has resulted in a loss of $10 million annually being spent on providing for dental health care for the poor. The simple fact is that if people do not have the money to pay for dental services they will opt out altogether, resulting in far greater pain and much greater deterioration of their teeth.

Of course, the State Liberal Government cannot be held responsible for decisions its colleagues at the Federal level make; however, their support of this Bill would alleviate some of the cost of dental services. The debate as to whether or not clinical dental technicians should be allowed to undertake partial denture work in South Australia has been going on for a number of years now. Western Australia is the only other State that does not allow clinical dental technicians to undertake the making and fitting of partial dentures. Such work has been undertaken by clinical dental technicians in Tasmania since 1957, and since 1972 in New South Wales. The world has not fallen apart in those States as a result. I have been informed that no complaints about their work have been made against dental technicians to the dental board in either of those States.

I reiterate Paul Holloway's point in his second reading contribution that the Bill allows only clinical technicians who are suitably qualified to undertake the work. At their meetings with me, clinical dental technicians have strongly made the point that they have undergone the required advanced training at the Royal Melbourne Institute of Technology, which provides them with the expertise of disease identification and infection control. They are currently negotiating with TAFE in South Australia to have the same course put in motion here. Given that South Australia has an ageing population, we can expect an increase in demand for partial denture work. Therefore, there will be more pressure on the Pensioner Denture Scheme, presuming, of course, that it will still be provided in the future. It is this Government's responsibility to prevent unnecessary costs to taxpayers and to the community. It is well known that the community, particularly the increasing number of elderly people, faces increased financial hardships; thus, any move by this Government to thwart moves towards providing more accessible dental care could only be described as immoral. I support the second reading.

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

SELECT COMMITTEE ON A PROPOSED SALE OF LAND AT CARRICK HILL

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

That the report be noted.

I am particularly pleased to report that the select committee appointed by this Council has reached unanimous agreement on a set of recommendations designed to assist in securing the financial future of Carrick Hill and to assist in realising Carrick Hill's potential as a cultural tourism asset in South Australia. These same objectives were the basis of the proposal I presented to the Legislative Council on 30 May, when I moved as follows:

1. That this Council appoints a select committee to consider a proposal designed to secure the financial future of Carrick Hill [as a public asset] in perpetuity, namely—
   (a) that. . . a maximum of 11.34 hectares of land. . . be sold, with the amount of the land to be determined by the Carrick Hill Trust with the approval of the Minister for the Arts;
   (b) that a new trust fund be established to incorporate the net proceeds of the land sale and other external fund raising activities; and
   (c) that the net proceeds of the land sale be directed to effecting necessary repairs and improvements to the Carrick Hill house and that the income from the trust fund be applied towards Carrick Hill's operating costs;. . .

However, the select committee recommends a different approach for realising these objectives. The committee does so following a critical consideration of all evidence. In good faith, we have responded to pleas that Carrick Hill be given an opportunity to demonstrate that it can become more self sufficient and less dependent on Government funds, and that it be given time to allow new initiatives to take effect. The select committee does recommend, however, that Parliament entrust to the Minister the right to sell land up to a maximum of 2.5 hectares if performance targets approved by Parliament are not met. However, any sale of land is considered to be a last resort option. I will elaborate on the committee's eight recommendations in a few moments.

In the meantime I thank all members of the select committee (Hon. Angus Redford, Hon. Anne Levy, Hon. Paolo Nocella and Hon. Sandra Kanck) for the diligent, conscientious way in which they approached what was a controversial and difficult exercise because of the legal, moral and environmental issues involved. I also commend the select committee on the excellent way in which its members were prepared, often at short notice but even with a long-term framework, to make themselves available for the hearing of public submissions and, further, to read all the written submissions received on this matter. A lot of interest was generated by this select committee proposal.

It has been a particularly rewarding task for us all in addressing this issue and ensuring that, in considering the proposal I had put and the representations that were made, we came up with a different plan to achieve the objective of securing the financial future of Carrick Hill as a public asset. At times evidence was given that, to achieve less dependency on Government funds, Carrick Hill should be closed to the public. Of course, that would have still cost money, but it was not a matter that the committee was prepared to entertain, that is, the closure of Carrick Hill to the public. We want to ensure that it is open to the public, respected as a public asset and, hopefully, attracts much more public support and interest than it has to date. Closing it to the public was not a matter that the committee was prepared to entertain.

However, the committee looked at a whole host of approaches that would help ensure that Carrick Hill could become more self-sufficient and could more ably promote its activities and win support. In doing so, we paid particular attention to some of the difficulties that Carrick Hill has faced in reaching its goals in the past. We met and questioned quite vigorously various members of the public, particularly Carrick Hill's neighbours, and it was apparent to members of the select committee that the Carrick Hill board and management has been constrained in activities that it would like to pursue because of opposition from some members of the public—neighbours—who resisted a range of activities that would be ideal to be undertaken at Carrick Hill to generate more income and to ensure that it had wide public appeal.

It is against that background and perceived lack of interest and support from the Mitcham council that the committee has framed a comprehensive and well-considered set of recommendations. I will read them, as follows:

To assist in securing the financial future of Carrick Hill for the benefit of the public and to realise its potential as a cultural tourism asset, the committee recommends:

1. That the sale of land as proposed in the Minister's motion not be approved.

2. That the Government consider the merits of changing the administration and management arrangements for Carrick Hill by transferring responsibility, including land and buildings, to the History Trust of South Australia (or such other body which has the established structure and expertise to effectively and efficiently administer, manage and promote Carrick Hill).

This recommendation was made on the ground that Carrick Hill is now a division of the Department for the Arts and Cultural Development, now known publicly as Arts South Australia. Arts South Australia provides the staff to manage Carrick Hill; staff in turn report to a board; and there have been confused lines of communication for some time. The committee also noted that public concern had been expressed about management and board abilities and that the Government's decision not to appoint a director over the past two years may have exacerbated problems inherent in the management arrangements at Carrick Hill.

The committee believed very strongly that Carrick Hill would benefit from a stronger management and administration arrangement, and it has asked the Government to consider the merits of changing those arrangements by transferring responsibility, including land and buildings, to the History Trust of South Australia. The History Trust currently manages the National Motor Museum at Birdwood, the Maritime Museum and the Migration Museum on North Terrace, and they have all been particularly successful museum operations, generating strong attendance. For example, last year, the Migration Museum had attendance of about 130 000. By comparison, the attendance at Carrick Hill was about 33 000. Within a structure such as the History Trust, the committee considered that there would be more support for a new director and that marketing initiatives could be undertaken that would significantly help Carrick Hill in the very competitive tourism stakes. The committee recommended further:

3. That if responsibility for Carrick Hill is transferred to the History Trust, the History Trust of South Australia Act be amended to provide for:

- the proper vesting of Carrick Hill land and buildings in the History Trust;
- the functions and powers of the Carrick Hill trust to be assumed by the History Trust;
- any land sales, beyond the land identified in recommendation 8, to continue to be subject to approval by both Houses of Parliament;
- an advisory committee to include a nominee of the Friends of Carrick Hill, and at least two people, appointed by the Minister, whose principal place of residence is in the vicinity of Carrick Hill;
- the creation of a trust fund into which the net proceeds of any land sale be paid and applied for the benefit of Carrick Hill.

That if responsibility for Carrick Hill is transferred to a body other than the History Trust, comparable legislative amendments be made to the Carrick Hill Trust Act.

4. That the Government require, by 31 January 1998, the preparation of a long term (e.g. 12 year) corporate plan for Carrick Hill. This plan is to be submitted to the Minister for approval.

The committee was very firm in its belief that a long-term corporate plan, with defined objectives, realisable goals and strong performance targets was necessary for Carrick Hill. It would have to be submitted to the Minister for approval for a variety of reasons. One is outlined in recommendation 5, which reads as follows:

That the corporate plan incorporate performance criteria and financial outcomes, reviewed every three years, designed to reduce dependence on Government funding, with the criteria and outcomes to be prescribed by regulation.

This recommendation was seen by the committee as important because there would be the involvement of Parliament in approving these performance criteria and financial outcomes. Parliament would have to be comfortable with the goals set and approved by the Minister. Therefore, the Minister would be on notice essentially that he or she could not establish performance criteria and financial outcomes that were so unrealistic in the way that Carrick Hill has operated in the past, given its responsibilities for land and buildings and the fact that it has limited appeal. However, the committee wants it to be given time to extend that appeal. The Minister should not be tempted to set Carrick Hill up to fail in reaching these incentives for greater financial self-sufficiency by establishing criteria and outcomes that are totally unrealistic. To have these performance criteria and financial outcomes prescribed by regulation, therefore with the approval by Parliament, was considered to be important in its own right and in relation to recommendation 6, which reads:

That if in the opinion of the Minister, the performance criteria and financial outcomes are not achieved in any three year period, legislation permit the Minister to authorise the sale of land identified in recommendation 8, but subject to the following qualifications:

- that the Minister only authorise the sale of so much land as is reasonably necessary to meet the performance criteria and financial targets that have not been achieved during the relevant three year period;
- that the land in the western area (identified as Section A) be the first land released for sale; and
- that land management conditions be imposed on any land sold, to ensure that residential development on the land is of a quality commensurate with existing residential development in the area.

To expand on that recommendation, members would be aware that the current Act provides for the sale of land subject to the approval of both Houses of Parliament. This set of recommendations says that the Parliament should approve the performance criteria and financial outcomes by regulation. If Carrick Hill does not meet those standards set by Parliament through regulation, then, after a period of time, the Minister is authorised to sell land. This would be a last resort option. I stress very emphatically that, under the set of recommendations on which the committee has agreed, the sale of land would be seen as a last resort option, but we would be very keen to see a lift in performance and the Parliament itself taking an interest in these performance criteria and financial outcomes, through regulation, and taking a particular interest in Carrick Hill lifting its perform-

ance. If it does not meet those parliamentary approved standards, then the Minister would be authorised to sell up to 2.5 hectares of land.

We have nominated (as I will outline in recommendation 8) the potential for land to be sold in both the east and western areas of Carrick Hill, but it is the land at the western end that we believe should be sold first, if there is to be any such sale. That is the area where there is less concern about native vegetation, the stands of grey box and where there is a great deal more introduced vegetation. It is well below the hills face zone. It also adjoins the current Coreega Avenue Estate which has relatively small blocks of land compared with land to the east of Carrick Hill Estate. It is also an area of land, albeit a small part of the proposal, that the Government presented to this place for consideration. Recommendation 7 reads as follows:

That the Minister be able to authorise the division of the land that is to be sold into allotments of a size specified in the authorisation and the subsequent use of the allotments for residential housing and that such an authorisation:

(a) will operate according to its terms and notwithstanding any other instrument (legislative or otherwise) and

(b) will obviate the need for a development authorisation for the division of the land and the change in use of the land for the purposes of the Development Act 1993, but in all other aspects that Act will apply to the construction of any housing on the land.

Recommendation 7 essentially deals with many of the legislative issues that were raised by Mr Chris Legoe and others on behalf of The Friends of Carrick Hill and the Mitcham Foothills Action Group. Recommendation 8 reads as follows:

That within the shaded area on the following map—

the map attached to the report—

a maximum of 2.5 hectares be available for sale under the above arrangements.

The shaded area of the map, which is on both the east and west of the estate, does not impinge on the house, the formal gardens surrounding the house nor the bushland setting to the south. The shaded area comprises about 3.4 hectares. However, we are recommending that of that shaded area comprising some 3.4 hectares only 2.5 hectares (maximum) could be sold under the conditions that this select committee has outlined. We have taken that decision because we are not surveyors and we are not involved in the development business, but we believe that the shaded areas should act as a guide, which, I say again, should be used only as a last resort for further work, if land was sold because the board or any other party responsible for the administration of Carrick Hill had not met the performance targets approved by Parliament.

Finally, I address one other issue in the report relating to the original bequest from Sir Edward and Lady Ursula Hayward and the Government's subsequent enactment of the Carrick Hill Trust Act in 1985. Much comment was made by some witnesses about the fact that the Carrick Hill Trust 1985 did not transfer in full the provisions in the Carrick Hill Vesting Act 1971 in terms of respect for the wishes of the Haywards' bequest. I highlight the fact that this Parliament must work within the current legislation; that is the Carrick Hill Trust Act 1985 and the powers of that Act. That Act provides for the sale of land under certain conditions, the principal condition being that it must have approval of both Houses of Parliament. It is very interesting to look back at the debates in 1985 and to find this provision in section 13 of the Bill which was introduced by the then Premier and Minister for the Arts (Hon. John Bannon).

Section 13(5) provided for the sale or disposal of land subject to the approval of the Minister only. An amendment that the sale or disposal of land be with the approval of the Minister was moved by the Hon. Dean Brown. It was passed unanimously by the House of Assembly and then endorsed in this place. What the Parliament did in 1985—and did so unanimously—was to provide for the sale of land. It distinguished between the sale of land (which was to be with the approval of the Minister) and the sale of other real properties such as artworks or objects. In respect of artworks and objects, the Parliament approved the original provision in the Bill; that is, those items could be disposed of with the approval of the Minister. The Parliament in 1985 raised the stakes in terms of the way in which land could be sold by insisting that it be with the approval of the Parliament, not simply the approval of the Minister, but it did not debate the issue of whether or not there should be sale of land. That was not an argument. It was approved unanimously by the Parliament in 1985 that the sale of land could be accommodated by the Parliament of the day. So, the Act under which we work, as I understand, overrides the provisions of the Bill. Therefore, those people who argued that this Parliament is not entitled even to be contemplating the sale of land may wish that to be the case but legally do not have grounds to argue that case.

In conclusion, while the select committee's recommendations do not approve the proposal as moved by me on 30 May, they certainly contain the sentiment of that motion which was to secure the financial future of Carrick Hill to ensure that it remained a public asset, and was accessible and open to the people of South Australia and, hopefully, tourists and visitors from interstate and overseas. It was to be upgraded, maintained and promoted as a cultural tourism asset to this State. I readily acknowledge a quite different approach from that which the committee was asked to consider. The motion not only complements the principles that the Government and I had in mind when introducing this motion but is more empowering—certainly more challenging—to the local community, who are so keen to see the land as it is established now retained in the future. We are prepared to run with that in good faith. However, in doing so, we expect performance targets and financial criteria to be met. Only—and I repeat only—as a last resort, if the board or whoever is responsible for the management of Carrick Hill in the future cannot meet those targets we would see the right to sell land entrusted to the Minister, rather than there being a sale of land upfront, which was part of the original proposal.

I can genuinely and warmly say that I enjoyed working with all members of the select committee. It certainly has been one of the most rewarding parts of my 14 years as a member of Parliament, and I have not served on a select committee for some years. I had forgotten how rewarding they can be, as members really work hard together to realise outcomes with which we all feel comfortable but which are also of benefit to the community and in the community interest, having heard wide evidence and considered that had evidence critically from the community. I would like to thank the Hons. Anne Levy, Paolo Nocella, Angus Redford and Sandra Kanck not only for being prepared to work on this committee through the controversial issues but because it was such a professionally rewarding experience to work with them.

The Hon. ANNE LEVY: I wish to support the remarks made by the Minister in relation to the report brought down by the select committee on the proposal to sell part of Carrick Hill. I can certainly endorse the Minister's remarks regarding the workings of the select committee. A select committee such as this fully endorses the provision for select committees of the Parliament. At their best, as this one was, they can resolve thorny problems in a spirit of cooperation and tackle a difficult problem in good faith. The result from this select committee is very much to be commended. The Minister has detailed the various recommendations in the report. I will not go through that again.

However, the main result of the select committee is that the Minister's proposal for subdivision of 34 allotments was not supported, and this is mainly on environmental grounds. Many submissions were brought to us as to the conservation value of a portion of the Carrick Hill estate. There is a grey box—

The Hon. Sandra Kanck interjecting:

The Hon. ANNE LEVY: Yes, there is a remnant part of the ancient forest which used to cover the Adelaide plains, the predominant species of which is *Eucalyptus microcarpa*, (commonly known as grey box) and the conservation value of this land is high indeed. Our rejection of the Minister's proposal ensures that this valuable environmental asset will be preserved. As the Minister says, some small portion of land may be sold as a last resort—and certainly not before five years have elapsed—the sale does not refer to any environmentally precious land. The botanists who walked around the Carrick Hill estate with us agreed that the little piece at the western end is of no conservation value at all. Obviously, it is infested with olives, pines and every weed one can think of—except salvation Jane; I do not think I noticed salvation Jane there, but everything else seems to be there. A small portion of the land right at the eastern end, while perhaps of some conservation value, is very much of less conservation value than the bulk of the land where grey box occurs, which is the area directly behind the house, rising up into the hills face zone. The victory in this case is the victory for the conservationists who wanted to protect the valuable grey box ecosystem, and the report of the select committee will ensure that that occurs.

I stress, as did the Minister, that the areas that may be sold as a last resort not only are of little or no conservation value but are around the corner, so to speak, such that residential development in those areas will not impinge in any way on the house and formal gardens of Carrick Hill. They would not be visible from the house. Anyone living there would not impinge at all on the privacy of Carrick Hill, destroy its integrity or the aesthetic appreciation visitors have when viewing the estate from either the front or back of the building.

The only other remark I wish to make at the moment is that, in some ways, the problems of Carrick Hill arise as a result of the priorities that have been set by this Government. I recognise that any Government has the right to set whatever priorities it wishes, but the difficulties Carrick Hill has experienced arise from the fact that the Government is no longer prepared to give it $500 000 a year, as previous Governments have done since it was established. This different set of Government priorities has led to the problems of Carrick Hill being insufficiently resourced and having to find different methods of raising revenue to keep it viable and open in the public interest.

I am not saying whether I agree or disagree with that Government priority. The select committee accepted as a fact the funding priorities of this Government and that it had to work within that as a parameter. However, it is quite clear that it is as a result of Government priorities that Carrick Hill has faced the problems which were brought before the select committee; had Government priorities been different, Carrick Hill would not have had this problem at all. It is not a reflection on Carrick Hill as a venue and as a delight for the people of South Australia; it is a comment that the problems arose purely as a result of Government decisions.

It was not within the province of the select committee to argue whether or not this Government priority was valid: it had to accept that as a parameter and work within it, recognising, of course, that different Governments at different times have had, and probably will have, different priorities in the future. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 12.45 to 2.15 p.m.]

ELECTRICITY BILL

The following recommendations of the conference were reported to the Council:

As to amendments Nos 1 to 5:

That the House of Assembly do not further insist on its disagreement thereto.

As to amendments Nos 6 and 7:

That the Legislative Council do not further insist upon these amendments.

As to amendments Nos 8 to 27:

That the House of Assembly do not further insist upon its disagreement thereto.

Consideration in Committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

The managers of the Legislative Council met with the managers of the House of Assembly late last evening and briefly again at lunchtime today. I am sure that members of the Council will be delighted to know that the position of the Legislative Council substantially prevailed in the conference of managers between the two Houses. The discussions between members of both Houses were generally carried out in a most responsible and reasonable fashion. The members of the Legislative Council put their strong view that aspects of the legislation needed to be processed through the Parliament before the end of this year. Members of the Legislative Council and, ultimately, members of the House of Assembly acknowledged that other aspects of the legislation need not necessarily be dealt with prior to Christmas and that some issues could be considered in the February to April session next year. In particular, I know that publicly, in her contribution in this Chamber and in discussion with me the Hon. Sandra Kanck indicated that she was concerned at the process of consultation that had occurred prior to the discussion of the legislation in this Chamber.

She indicated that, being a reasonable Legislative Councillor and legislator, she was prepared to leave open a window of opportunity for further discussion on these issues, without committing herself in any way at all as to what her future attitude might be. Whilst, obviously, the Government might have preferred a different course of events, when this

was debated in the Legislative Council the Hon. Sandra Kanck at least adopted a position indicating her willingness to listen to further debate and discussion on this issue and for that further consultation to occur, with the LGA and other interested parties but also, I hope, most importantly between the honourable member and representatives of the Government. In the spirit of returning almost to the *status quo*, the conference also agreed not to proceed with amendments 6 and 7.

These amendments sought to strike new ground and, depending on how one reads the amendments (and I do not intend to go into the detailed argument for and against how they might be read), potentially laid out new arrangements and processes requiring undergrounding of cables or powerlines in the future, subject to regulations. So, as I am sure the honourable member will indicate, she will want to continue to discuss this issue with all other members in this Chamber on some future occasion.

Finally, during the second reading debate two days ago I indicated on advice from ETSA Corporation that a significant number of trees had been illegally planted by councils and that this obviously created some significant problems for ETSA Corporation in relation to its own duty of care. I understand that the now Premier and Minister for Infrastructure has indicated a preparedness to ensure that no precipitate action be taken in the months prior to February, when legislation might be reintroduced into Parliament to address these broader issues. I am sure that all members in this Chamber will welcome that willingness on the part of the Premier and Minister for Infrastructure, obviously with an intention of resolving this whole difficult issue.

One thing I learnt from the conference (again without going into the detail) is that this matter is really not a simple, black and white issue. I am advised that important issues of liability and responsibility are placed on the directors of ETSA Corporation by the Labor Government's Public Corporations Act, which was supported by this Parliament some years ago. Requirements are placed upon the directors, and there are liability issues, which will have to be addressed.

I trust that over the next two or three months these issues will be genuinely addressed by all parties concerned. In that spirit of good will, the Premier has indicated that during that period of discussion no precipitate action will be taken to cut off at the pavement, anyway, the 3 000 trees illegally planted by councils. I am not sure whether any action needs to be taken in respect of ETSA Corporation's liability in relation to any trees growing through powerlines during that period. I have not had that discussion with the Minister or with ETSA Corporation. The important issue is whether or not the trees need to be removed during this period within which there will be consultation. There has been some give and take on both sides. As I said, it is proposed that the Legislative Council not further insist on amendments 6 and 7 but that its position in relation to the other amendments prevails.

The Hon. CAROLYN PICKLES: I am pleased that the conference of managers was able to reach agreement on this issue. It seemed that from the outset there had been confusion, lack of consultation or lengthy consultation with the Local Government Association on the clauses to which we refer. The conference of managers has arrived at a sensible position by adopting the *status quo* while consultation continues on this issue with the Minister for Infrastructure. In moving the amendments in the first place the Opposition was at great pains to ensure that that consultation period would prevail. In reverting to the *status quo* we have allowed that window of opportunity for the Government to have ongoing negotiations on what is obviously a very important issue for this State. There is a difference between the approaches of one council from another.

For example, there are different issues for local governments in country and areas from those in the metropolitan area, so it requires further negotiation and ongoing commitment by the Government to reach some kind of resolution. As the Minister indicated, the conference agreed that legislation could be put before us in February. At that time we can revisit the issue with respect to amendments 6 and 7. I am pleased that the conference was able to reach an accommodation, and we look forward to a resolution of this issue which will satisfy all parties in February.

The Hon. SANDRA KANCK: I gave undertakings on Tuesday that I would be willing to look at the parts of the Bill we would alter at a later stage next year. Given that I had made those undertakings, I was certainly surprised to find that we needed a deadlock conference yesterday. I do not think the need for it ever existed. At times during the deadlock conference I found that I was being told things that were not quite the truth; for instance, I was told that what was there was what the Environment, Resources and Development Committee had recommended when, in fact, that committee had recommended a complete package. During the Committee stage on Tuesday night it was very clear that there had been a mix-up in communication between the two departments involved with this legislation, namely, MESA and the Minister for Infrastructure. As a result, the proper consultation that should have occurred with local government did not occur.

I anticipate that a Bill will be before us when we return on the first Tuesday in February. I spoke to members of the LGA following my undertaking on Tuesday night. I have suggested that over the Christmas break all the interested parties get together for a full half day so that we can exchange information to ensure that we are all talking about the same thing, and the LGA indicated that that is probably a very good idea. Generally, I am pleased that we have reached this point. I am particularly pleased that the Treasurer has undertaken that the trees we were told on Tuesday night could be under threat will be given a reprieve. In general, I support the resolutions agreed to by the conference.

The Hon. M.J. ELLIOTT: As a member of the Environment, Resources and Development Committee I, first, express my satisfaction that those clauses have been withdrawn because, as the Hon. Sandra Kanck said, the clauses in the Bill in no way reflected the committee's recommendations. I suspect that even the Minister himself was not fully aware of what had happened to the Bill. The fact is that the consultation drafts of the Bill that were distributed did not include these clauses—they came in at the last minute. My best guess is that the Minister was told that these clauses do what the committee recommended—as I said, they do not. It is also fair to say that the Local Government Association was not completely happy with the initial recommendations, and it would have been far less happy with what finally came in. If this issue is to be resolved satisfactorily, the Minister needs to be aware that his advice from ETSA is not necessarily the best advice. The Minister will need to ensure that someone in his office who has a non-vested interest takes control of the Bill and ensures that all sides are fully heard, or we may find that there will be conflict again. In earlier contributions in this place I have expressed the view that ETSA has been intransigent on this issue. Unfortunately, the very people who have

been intransigent are those who were involved in the drafting of the clauses that found their way into this Bill.

Motion carried.

PARKS HIGH SCHOOL

A petition signed by 952 residents of South Australia concerning The Parks High School. The petitioners pray that this honourable House will urge the State Government to review its decision to close The Parks High School at the end of 1996, was presented by the Hon. Carolyn Pickles.

Petition received.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 54, 66 and 87.

HILLS TRANSIT

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

1. What have been the results of the proposal made by the Minister in July 1995 that Hills Transit would provide a service with more buses and more frequent services at a lower cost to Adelaide hills routes?

2. How frequent are the new services compared to previous services?

3. What savings have been made?

4. Has there been any increase/decrease in passenger numbers and by how much?

The Hon. DIANA LAIDLAW:

1. and 2. Hills Transit have two contracts with the Passenger Transport Board (PTB) to provide bus services on Adelaide Hills routes. One is for the provision of metropolitan area services and the other is for non-metropolitan services.

In regard to the metropolitan contract the following additional services are being provided since the contract commenced in September 1995—

- Route 840X on weekdays—an additional express service from Mt Barker to Adelaide in the morning peak period; and
- Route 166P on weekdays in the interpeak period—5 additional services from Piccadilly to Adelaide and 5 additional services Adelaide to Piccadilly.

In relation to the non-metropolitan contract the following additional services have been provided since the contract commenced—

- seven additional shuttle services between Mount Barker and Aldgate and 7 additional shuttle services Mount Barker to Adelaide on weekdays; and
- four additional shuttle services in each direction on Saturday and Sunday Aldgate to Mt Barker to connect with the service to and from Adelaide.

3. The following information is provided in relation to the savings made—

Savings for individual contract areas cannot be provided as this is commercial in confidence. However, savings achieved in the delivery of public transport reached $13.2 million this financial year compared with the forecast cost of operations before the PTB was established.

4. Patronage has varied as follows for the two contract areas when comparing the October 1995 to June 1996 period against the corresponding period for the previous year.

In the metropolitan contract (Aldgate to Adelaide) there has been an increase in patronage of approximately 9 per cent. There has been a small decrease of 3.5 per cent in the Mt Barker to Adelaide (non-metropolitan) service, but when both contracts are considered together there has been a 7 per cent increase in patronage.

KANGAROO ISLAND

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

1. Can the Minister report on the performance of the Kangaroo Island Sealink in regard to the service agreement for freight carried by the company?

2. (a) What is the schedule of reductions to the freight subsidy?

(b) Will that subsidy still reach zero after ten years?

3. Will the operators of the Super Flyte ferry receive similar concessions if they will commence a service from Cape Jervis to Penneshaw?

4. What precisely does the proposed commercial fishing levy entail?

5. Of the $0.8 million allocated for the maintenance of recreational jetties, how much of it will be spent on the Granite Island Causeway, which is in the then Premier's electorate, leaving how much to be spent among how many jetties, many of which are in very poor condition?

6. (a) How much did the repair of the Brighton Jetty cost the Government?

(b) By how much did the project run over budget?

The Hon. DIANA LAIDLAW: This response answers identical questions asked by the honourable member numbered 131 (Third Session of Parliament) and 66.

1. Kangaroo Island Sealink has operated in accordance with the service agreement.

2. (a) The Transport Subsidy commenced on 1 April, 1995 at $8.00 per linear metre and is applied to all freight vehicles using Kangaroo Island Sealink. The subsidy will reduce to zero over a ten year period, with a reduction of $0.80 per linear metre occurring on 1 April of each year. The current rate, effective from 1 April 1996, is $7.20 per linear metre. The subsidy arrangements will terminate if a sea freight competitor capable of carrying at least 20 per cent of Kangaroo Island freight commences operation.

(b) The subsidy will reach zero after ten years, provided that a competitor capable of carrying at least 20 per cent of freight does not commence operating, in which case the subsidy arrangements will cease.

3. No. Further, if the new Super Flyte ferry (or any other service) carries at least 20 per cent of the sea freight between Kangaroo Island and the mainland, then the subsidy will no longer be available to Kangaroo Island Sealink.

4. Clause (ae) of Section 90 of the Harbors and Navigation Act 1993, enables the Regulations under the Act to—

'fix and impose a levy in respect of commercial fishing vessels; provide for the payment and recovery of the levy; and provide for the revenue derived from the levy to be paid into a special fund for the purpose of establishing, maintaining and improving facilities for commercial fishing vessels.'

In order to consider the most equitable method of applying that levy, the Department of Transport (DoT) has engaged a consultant to undertake a condition appraisal, and estimate the average annual cost to maintain existing facilities in the appropriate condition. The consultant has elected to incorporate the services of two senior officers of The South Australian Fishing Industry Council (SAFIC) so that the work being undertaken could be expected to recommend some asset rationalisation. From this information, DoT and the SA Boating Facility Advisory Committee (which includes SAFIC representation) will have up-to-date data upon which to deliberate on levy quantum and equity.

5. The final estimated cost to resurface the Granite Island Causeway has not yet been determined. Previous Planning was interrupted initially following objections from the Greater Granite Island Development Company, and more recently by the Heritage Branch of the Department of Environment and Natural Resources. The current approximate budget estimate is $220 000 to $240 000, but the implications of the Heritage Branch's suggestions could represent an increase on that estimate. Negotiations with that Branch are still in progress.

Since the allocation of $800 000 in July 1996, the then Premier announced on 10 August 1996, that the Government is making available $12.8 million over the next four years for the upgrading of recreational jetties. The recreational jetties program comprises 48 individual structures for which DoT is currently responsible, and the funding allocated is expected to be sufficient to bring all those 48 structures, up to the agreed recreational standard.

6. (a) All costs for the project, which include demolition and replacement of the jetty, are not yet finalised.

The final cost to the Government will be in the order of $820 000.

(b) The original estimate was $1.26 million. Since that estimate was prepared, the scope of the works was significantly increased to accommodate additional engineering requirements and requests from the City of Brighton and Telstra for enhancements.

The revised estimate is $2.06 million.

ROAD MAINTENANCE AND CONSTRUCTION

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

1. How much has the State Government spent on metropolitan road construction for the years—
   (a) 1993-94;
   (b) 1994-95; and
   (c) 1995-96?
2. How much has the State Government spent on non-metropolitan road construction for the years—
   (a) 1993-94;
   (b) 1994-95; and
   (c) 1995-96?
3. How much has the State Government spent on metropolitan road maintenance for the years—
   (a) 1993-94;
   (b) 1994-95; and
   (c) 1995-96?
4. How much has the State Government spent on non-metropolitan road maintenance for the years—
   (a) 1993-94;
   (b) 1994-95; and
   (c) 1995-96?

The Hon. DIANA LAIDLAW:

	1993-94	1994-95	1995-96
	$m	$m	$m
1.	29.389	36.181	42.525
2.	11.563	9.860	22.398
3.	16.702	15.665	22.565
4.	46.100	49.259	58.065

Figures do not include expenditure on construction and maintenance from federally funded.

AUDITOR-GENERAL'S REPORT

The PRESIDENT laid on the table the Auditor-General's Supplementary Report for the year ended 30 June 1996.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 1995-96—
- Department for Correctional Services
- Department for State Government Services
- SA Ambulance Service
- South Australian Meat Corporation

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

Reports, 1995-96—
- Dental Board of South Australia
- Occupational Therapists Registration Board of South Australia
- Public Advocate
- South Australian Health Commission.

PRISON REFORM

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made in another place this day by the Minister for Correctional Services on the prison reform program.

Leave granted.

AMBULANCE SERVICE

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made this day by the Minister for Emergency Services on enterprise bargaining.

Leave granted.

BIOSALINE RESEARCH CENTRE

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made this day by the Minister for Primary Industries on the Biosaline Research Centre in the United Arab Emirates.

Leave granted.

ABORIGINAL LANDS TRUST

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement given today by the Minister for Aboriginal Affairs on the Aboriginal Lands Trust.

Leave granted.

PALLIATIVE CARE

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement by the Minister for Health on the subject of palliative care.

Leave granted.

QUESTION TIME

SCHOOLS, SOUTHERN CLUSTER INTERVENTION PILOT PROGRAM

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 southern cluster intervention program.

Leave granted.

The Hon. CAROLYN PICKLES: In 1995, no less than 14 per cent of all boys attending years 8, 9 and 10 at four major high schools in the southern region were suspended from school; that is, at four major high schools in just one year 187 boys were suspended for a period from attending. When student behaviour patterns and response mechanisms produce these sorts of results, I believe there is something seriously wrong and it is very much to the credit of the schools that they have sought assistance to address this serious problem.

They have asked the Minister to approve an additional 4.2 teachers to implement a program designated as the southern cluster intervention pilot program to address problems identified for students at risk and especially problems faced by boys who are under expulsion and at risk of leaving school early. The schools also propose to contribute 2.8 teachers to this program.

I am informed that the principals of these schools met with both the Minister for Education and Children's Services and the Minister for Employment, Training and Further Education and, although they left with an understanding that they had support for this program, nothing has been approved as yet. My question is: will the Minister give the Council an undertaking that this program will be fully supported and will the Minister guarantee that staffing will be in place on day 1 next year?

The Hon. R.I. LUCAS: No. It is not always possible for any department or Government to fund the very many good ideas that schools and communities put to the Government for support. As the honourable member indicated, this funding submission sought over four additional salaries, which is over $200 000 of resource. From recollection, and I would need

to check my files on this issue, further resources were requested for the implementation of this program, as well. My recollection is that we were looking at over a quarter of a million dollars for this program. There is no criticism of the program, but the Government is just not in a position to hand over a quarter of a million dollars to a whole series of clusters of schools throughout South Australia with similar, acknowledged needs, as identified by the principals and the staff who are involved in that program.

The Government has put an additional $2 million in the last two years into behaviour management programs. As I have informed the principals, a new learning centre has been established at The Hub in the southern suburbs, which provides specialist facilities, specialist resources and staffing to assist students with very significant behaviour management problems within our mainstream and neighbourhood schools in the southern suburbs. It is acting as an annexe of the Bowden-Brompton Community School and the Government is hopeful of establishing a further annexe in the northern suburbs some time in the next 12 months, which is a further expansion of the offerings that the Government is making in this important area.

The Government is tackling the issues that have been identified by principals, albeit in a different way. We acknowledge that, in the ideal world of unlimited resources, many good ideas such as this proposition would be able to attract the quarter of a million dollars in funding that is being requested. However, in these difficult circumstances, I am not in a position to provide every cluster of schools that comes to me with a quarter of a million dollars in spare money to fund—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Denis Ralph has not had a pay rise since he was appointed. The Leader of the Opposition, together with the Institute of Teachers, seeks to spread misinformation on that point. It is not true to allege that I have given a significant pay rise to the Chief Executive Officer of the Department for Education and Children's Services. It has been claimed that he has received a pay increase of $40 000. He nearly fell over when he saw that, because he has not seen that in his pay packet in the last 18 months. He is a very hard working Chief Executive Officer of the Department for Education and Children's Services. There is no criticism of the proposition.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I will not respond to the Leader of the Opposition's inane, continual interjections. Heaven protect the people of South Australia if she were to become a Minister in some decade in the next century. If she thinks that Ministers sit around with a lazy quarter of a million dollars in the pocket and say to someone who comes along with a submission, 'Here you are. I will clean out the pockets. You can have the quarter of a million dollars.'

Members interjecting:

The Hon. R.I. LUCAS: That was fought for over a long time and was a great need for all schools in South Australia. That is not the way businesses or big departments are run. We do not have magic money trees. We do not have a lazy quarter of a million dollars sitting in the Minister's pocket waiting to be given to the first group of schools that come through the door. I acknowledge the merit of some aspects of the proposal that was put but, as I said, there are many good ideas within the department which cannot always be implemented in the short term.

ETSA CORPORATION

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Infrastructure, a question on the subject of country reviews in ETSA.

Leave granted.

The Hon. R.R. ROBERTS: Country reviews in the ETSA Corporation have been on the agenda for some time. Over the last two or three years, the ETSA Corporation has been doing enterprise bargaining with its employees. One concern has been what would happen in the event of a country review. The enterprise bargaining exercise under ETSA, which was concluded recently, made savings of 9 per cent in the overall operations of ETSA: 3 per cent was to go to the workers; 3 per cent to ETSA; and 3 per cent to the shareholders, which is the Government.

As a consequence of those negotiations and because of the concerns of country workers of ETSA, a meeting was convened in Port Pirie on 13 June 1995 at approximately 11 a.m. It was attended by the Minister for Infrastructure (Hon. John Olsen) and the construction and maintenance manager, Mr Peter Greeneklee. Together they visited approximately 30 members of the Lower Flinders personnel. The topic of conversation was the country review. The Minister stated that while he was in office there would be no forced relocations and no forced redundancies. The Minister also acknowledged that the country depots were further apart than city depots and employees could not be expected to go to the next depot. The Minister said that a different approach was required.

That assurance was welcomed by workers in that region. One worker asked the Hon. John Olsen if that assurance would be held in place if he were to change job—indeed if he were to become Premier. Members would remember that there was speculation at that time that that would occur. I am advised that the Minister said that it is a very simple proposition: read my lips—while ever I am in power there will be no forced relocations and no forced redundancies.

Since that time the country review has been completed and it was announced recently that 13 depots would be closed and ETSA would expect some of its employees to travel up to 40 minutes to another location. In a metropolitan area it can be worked out how far you have to travel when travelling at 60 km/h for 40 minutes, but travelling on country roads at 110 kms for 40 minutes represents a fair distance. What appears to be occurring is that the home terminal boundaries have been withdrawn and there is now an assertion by people representing ETSA that the depot is not what the ETSA workers perceived it to be at the time they made their agreement. My questions to the Minister for Education and Children's Services, representing the Minister for Infrastructure, are:

1. Does the Minister for Infrastructure stand by his solemn pledge and assurances given to the regional workers at Port Pirie that there would be no forced redundancies and no forced relocations?

2. Will he instruct his officers not to mischievously and deceitfully redraw home terminal boundaries to allow his commitments to those workers at Port Pirie to be broken?

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

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Education and

Children's Services, representing the Minister for Infrastructure, a question about ETSA appointments.

Leave granted.

The Hon. R.R. ROBERTS: I have in my possession a memo issued on Wednesday 27 November 1996 advising that Mr Michael Backhouse has been appointed manager of construction and maintenance and will begin his duties with ETSA on 2 January 1997. The memo points out that Mr Michael Backhouse was previously a director and shareholder of Utilink. One of the conditions of his appointment is that he sever his associations with the company Utilink. This correspondence also points out that Michael Backhouse was a former employee of ETSA who received a VSP package in 1993. I have received assertions and I ask these questions so that the Minister may put them to bed or answer them in any way he sees fit. The questions that I will raise are in respect of a situation whereby there has been a general understanding that people who take separation packages from Government departments do not return to those Government departments. Given that background, my questions to the Minister for Infrastructure are:

1. Does the appointment of Mr Michael Backhouse breach the separation package arrangements of the Government?

2. Does Mr Backhouse, or any of his immediate family, have any direct links with the company Utilink?

3. Has Utilink been given preferential treatment in development proposals under the purview of ETSA?

4. Have any instructions ever been given to ETSA not to tender for work that is being tendered for by Utilink and especially the Gawler, Elizabeth and Salisbury undergrounding development which may well advantage Utilink?

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

AMBULANCE SERVICE

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question about the ambulance service's marketing techniques.

Leave granted.

The Hon. SANDRA KANCK: I have previously alerted the Council to the fact that the ambulance service has increased its marketing budget from a modest $46 000 in the financial year 1994-95 to the substantial sum of $942 000 in the last financial year. We know that part of the money was spent on coffee cups that change colour when hot liquid is poured into them. We also know that an extensive collection of fridge magnets were distributed at taxpayers' expense to school children who cannot subscribe to the service. Today I present to the Chamber further evidence of other items that help to count for the almost $900 000 increase in the marketing budget. Apparently, fashion accessories were made and purchased for resale to ambulance service employees, but they failed to move.

For the edification of members, I present the ambulance service tie. It is a green tie, which has ambulances all over it—and, as we would expect, they are white—and they have three corner flashing lights on the top of the cabin, which look somewhat like little rosettes. I am pleased to say that it is Australian made and, although it is polyester, it is not a cheap tie because the design of the ambulance is woven into the fabric.

The Hon. A.J. Redford: It matches your brown.

The Hon. SANDRA KANCK: I am sure it would look lovely on me. Apparently, though, the ambulance service has boxes of these ties, but they were superseded shortly after they were produced by another version of the corporate tie. They did not stop at ties, they also invested in scarves, but they are not quite as good as the ties. It is a slightly darker green and the pattern is not woven—

An honourable member interjecting:

The Hon. SANDRA KANCK: No, it is printed; it is not woven in as it is in the tie. I am afraid to say that these have not been in great demand either and many of them are still sitting in store. Then another exciting piece of merchandising was the ambulance service scrunchies which have been equally slow in moving. I have to say that my personal favourites are the ambulance service socks. Their biggest virtue is that they would remain mostly hidden. They certainly have a very large ambulance on them, anyhow. From all accounts, the storeroom is bulging with unwanted socks as well. My questions to the Minister are:

1. What was the cost of producing the ties, scarves, scrunchies and socks?

2. How many of these items were purchased by the service?

3. How many have been sold?

4. How many remain in stock?

5. What is the difference between the purchase price and the amount recouped by the resale?

6. Has the Minister investigated the $900 000 increase in the marketing budget? If not, why not?

The PRESIDENT: Order! Standing Orders do not allow members to bring exhibits into the Chamber. I suggest to the honourable member that she provide a description rather than the real thing.

The Hon. K.T. GRIFFIN: The honourable member did raise a question on 7 November 1986 about a variety of materials and items, and I have a reply from the Minister for Emergency Services in relation to that. In relation to the fridge magnets and novelty cups, the Minister says:

> The purchase of fridge magnets and novelty cups were part of the overall SA Ambulance Service marketing drive, intended to expand community awareness of the ambulance subscription scheme, to encourage the public to use it and to raise the profile of the Ambulance Service. The marketing effort and budget which were approved by the ambulance board resulted in an increase in the number of ambulance subscriptions by 13 000 in the financial year of 1996.
>
> The distribution of the ambulance shaped fridge magnets to schoolchildren was a strategy aimed at educating them and their families about ambulance cover and ambulance services. This strategy has been well received by children. One design incorporates the '000' number as a lifesaving action message.
>
> Fifty thousand magnets were purchased at a cost of less than 4¢ each, with the purchase totalling $13 000.

And not the $19 000 referred to by the honourable member in her question on 7 November. The Minister continues:

> Approximately 10 000 magnets were distributed at the Royal Adelaide Show. The remaining stock is expected to last into the 1997-98 financial year. A small number of the magnets have also been distributed to doctors who display ambulance cover material.

In relation to the novelty coffee cups, I am informed that 500 were purchased for $10.60 each, including sales tax, as they are for sale, and sold for $12, a profit of $1.40 each. They are secured at the Ambulance Service training college and are all accounted for. They were never stored in the service's storeroom as there was no space for them there. Further, each novelty coffee cup comes with a sticker inside warning purchasers not to wash them in a dishwasher or with a scourer as this obviously damages the cup.

The Minister's answer also indicates that the Minister does not possess one of the cups to which I have referred, nor has he ever used one. In relation to the matters raised by the Hon. Sandra Kanck today, I will refer them to the Minister of Emergency Services and bring back a reply.

LEGISLATIVE COUNCIL

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about ALP policy in the Legislative Council.

Members interjecting:

The PRESIDENT: Order!

Leave granted.

The Hon. A.J. REDFORD: I recently had a look at a copy of a document entitled 'ALP policy statements, as presented to the ALP State conference on 18 to 20 October 1996'. At page 157 of that document, there is a section 'Parliament, the Constitution and electoral matters.' At page 158, under paragraph 1.13, it provides:

> That the Legislative Council be reformed to operate as a House of review only, as a prelude to its eventual abolition.

That is to be contrasted with the Liberal Party policy which is set out in the Liberal constitution at paragraph 3.4, which provides:

> That the objectives of the division shall be an Australian nation in which good Government is provided through a bicameral Parliament so elected and organised as to maintain a second Chamber as a true house of review.

At page 159—

An honourable member interjecting:

The Hon. A.J. REDFORD: The honourable member interjects, and I know he has not read this document because the words are too long. At page 159, paragraph 1.22, the Labor Party document states:

> Labor will reform the powers of the Legislative Council (as a prelude to its abolition) such that—

then there is a preamble about money laws—

> any other Bill becomes law if it is passed by the House of Assembly in two successive sessions, whether of the same Parliament or not, and rejected by the Legislative Council in each of those sessions, provided that one year elapses between its second reading in the House of Assembly and its passing by that House in the second session.

Members will note that the Attorney-General has introduced legislation into this place three times in three successive sessions, and it has been rejected in each of those sessions, and I refer to the topic of non-compulsory voting. Further, one year has elapsed between the introduction in the House of Assembly on the first occasion and its passing by the House of Assembly on the second occasion. I note that the Minister for Education has had a long period in this place and has seen the ALP in action when in Government. Indeed, if Labor policy was the case today, the compulsory voting law would not apply at the next election. In the light of that, my questions to the Minister are:

1. In the Minister's 11 years of seeing the Labor Government in power, did he see any evidence that the then Government implemented that policy; did it have Ministers in this place and, if so, how many?

2. Is the ALP pledge of solidarity by ALP parliamentary members conducive to this place acting as a house of review and, if not, why not?

3. Will the Government reintroduce the legislation allowing non-compulsory voting, giving the ALP members here the opportunity to pass that law, thereby allowing the ALP to implement the policy 1.22 at page 159 of the ALP policy statement before the next election?

4. Does the Government agree with the ALP policy of eventual abolition of the Legislative Council?

The Hon. R.I. LUCAS: That is a very interesting question asked by the Hon. Mr Redford. I must admit that I have not had the opportunity to read in great detail the copious pages produced by the Labor Party at its most recent State council—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: If that's an indication of the quality, I will not learn much at all. I must admit that I read the education policy section and I can assure members that I learnt nothing from those pages. There are many investigations reviewing things and lots of worthy words such as that.

Members interjecting:

The Hon. R.I. LUCAS: Certainly. I have been a member of the Legislative Council, with a number of my colleagues, for a good period of time now. Whilst I have been in the Parliament, I cannot recall ever meeting a member of the Labor Party Legislative Council Caucus who has ever supported the policy that has just been announced. The closest I ever got was someone we all love very dearly, the Hon. Cecil B. de Creedon, who was a member of the Legislative Council for many years. As I said, everyone loved the Hon. Cecil B. de Creedon.

The PRESIDENT: Order! The Minister should refer to him by his correct name.

The Hon. R.I. LUCAS: It would be fair to say that the Hon. Mr. Creedon was certainly not the most loquacious and frequent speaker in this Chamber. Nevertheless, when he spoke on occasions we all enjoyed his contribution. The only occasion I can remember was the time of his farewell speech in the Legislative Council after the 10 or so years he had in here. Mr Creedon talked of his views and policies. At the end of his contribution, he basically said, 'After all my time in the Legislative Council, I now believe the Legislative Council should be abolished.' He had not said a word in all his time before that, but in his farewell speech he said, 'I have had my time in the Legislative Council; now I believe it ought to be abolished.'

The PRESIDENT: Having ensured himself of his super.

The Hon. R.I. LUCAS: Yes. He had his super, he had had his time in this place, and he said, 'Now it ought to be abolished.' I have never met a member of the Labor Party in the Legislative Council who has ever supported the policy of the abolition of the Legislative Council. They sit in the Legislative Council for years and, in some cases, decades, but they never take any action in an attempt to abolish the Legislative Council. When you speak to members opposite, without mentioning any names at all, either present or past, they always indicate quietly, 'Well, look, it is a long-term policy.' I say, 'How long term is it?', and the honest members say, 'About 100 years, or so.' The even more honest members say, 'After I have retired.'

What would the Labor Party do without the Legislative Council? Where would all the leftover union secretaries go? Where would the leftover State Labor Party secretaries go? There would be nowhere to send them. There would be no pastures. The Legislative Council fills a role for members of the Labor Party, and I guess it will continue.

The Hon. Anne Levy: If it were abolished, you wouldn't have Angus Redford to worry about.

The Hon. R.I. LUCAS: The Hon. Angus Redford is a very hard working member of the Legislative Council, and all members of the Liberal Party welcome the contribution he has made and will continue to make in what we are sure will be a long career in the Legislative Council. The Liberal Party's policy is quite clear. It is true to say that the occasional member of the Liberal Party does not support Liberal Party policy, but the Party policy position is absolutely clear, as has been indicated by the Hon. Angus Redford, and will remain an undoubted commitment to the bicameral system in South Australia as well as Australia.

The Hon. Anne Levy: This is a deliberate waste of our Question Time.

The Hon. R.I. LUCAS: No, the first three questions from the honourable member's side were a waste of Question Time. There is a stark difference in the policies, as indicated by the Hon. Angus Redford. I think that this new policy direction in relation to legislation took some members of the Labor Party by surprise: if the legislation is reintroduced and passed by the House of Assembly on two separate occasions then it automatically becomes law, irrespective of the attitude, approach and vote of the Legislative Council. I join with the Hon. Angus Redford and invite members of the Labor Party to abide by the spirit of their Party's policy, because they will never have the opportunity to implement it, even should they really believe it.

I invite them, together with the Hon. Angus Redford, to abide by the spirit of that policy commitment. Should the Attorney-General or, indeed, the Government reintroduce either that or any other legislation for the second time, members of the Labor Party might like to abide by the spirit of their policy commitment as recently brought down.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: It will take more than you, Ron, to give us pain.

MINISTERS' TRAVEL

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about ministerial travel.

Leave granted.

The Hon. T.G. CAMERON: This year I placed numerous questions on notice, of which—

The Hon. Anne Levy: So have I.

The Hon. T.G. CAMERON: I thank the Hon. Anne Levy for that interjection. I will start again. This year I placed numerous questions—

Members interjecting:

The PRESIDENT: Order! I know it is getting near the end of the session.

Members interjecting:

The Hon. T.G. CAMERON: I want the three Ministers to hear; that is why I am pausing.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I am pleased to hear that the Hon. Angus Redford is perusing my questions on notice and that he has noticed that I have put more in them than the Hon. Anne Levy includes in her questions. I applaud the honourable member for his interest. This year I have placed numerous questions on notice, of which more than 60 are still unanswered. Some go as far back as February this year.

On 16 October I asked each of the Government Ministers the following question: how much has been spent by the Minister and/or members of his or her staff on each of his or her portfolios in an official capacity on ministerial travel in the following years: 1 January 1994 to 30 June 1994; 1 July 1994 to 30 June 1995; and 1 July 1995 to 30 June 1996? I also asked: where, when and for what purpose did the Minister or his staff make each of these trips? How much did each trip cost, including transportation as well as air travel, hire car, accommodation and any other expenses? Who accompanied the Minister on each of the trips and for what purpose?

I was advised some weeks ago by the Premier's Department, that is, during the time of the former Premier (Hon. Dean Brown), that it was coordinating the replies of all Ministers. After waiting more than six weeks and receiving no reply I contacted the then Premier's office, and I was assured that answers to the questions were being prepared and would be sent as soon as possible. That was approximately four weeks ago. I know that the Premier's office has been distracted of late but it is about time the questions were answered. My question is: now that we have a new Premier, will the Leader assure me that my questions on this matter will still be answered and when can I expect a reply?

The Hon. R.I. LUCAS: I advise the honourable member that I am still waiting for answers to questions I asked when I was in Opposition, so his complaints about questions he asked just over two months ago, I think—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: On 16 October—so, 1½ months. That pales into insignificance when compared with the record of the previous Government. I am sure the information the honourable member is seeking requires a lot of work from a lot of officers and a lot of departments. I will certainly refer the honourable member's questions to the Premier and his officers to see what information has been gathered and what information can be provided to the honourable member. I am sure that, as soon as is humanly possible, information will be provided to the honourable member.

RACISM

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Attorney-General a question about racism.

Leave granted.

The Hon. BERNICE PFITZNER: I received a telephone call over the weekend from a constituent who lives in the suburb of Aberfoyle Park regarding racist activities carried out against her. She is a person of Asian origin and lives alone. The racial harassment has taken place over eight years and has taken the form of throwing objects, kicking footballs into her garden and banging on the fence. Recently, however, she believes that, as a result of the member for Oxley's remarks, there has been an exacerbation of these racial harassments, even going so far as racial hatred, she says.

The latest attacks have taken the form of slingshot missiles being shot onto her house, and now telephone calls with regard to death threats. This has involved four families in her immediate neighbourhood, and mainly involves eight to 10 children of varying ages with the youngest child aged six years. She has reported this matter to Mr Kym Foster of the Sturt Police Station's multicultural section. Apparently all the police did was discuss the situation with the parents of the perpetrators, and the slingshots, although identified as being

used for the latest attacks, were not confiscated. With regard to the death threats by phone, the police are looking into this for her. My questions to the Minister are:

1. In the circumstances, can the police do any more than has been done, that is, have a discussion with the parents?

2. With the proclamation of the recently passed Racial Vilification Act will there be an increased ability to address such an issue more effectively under this Act?

The Hon. K.T. GRIFFIN: If the honourable member would care to give me the name of her constituent I will undertake to have some inquiries made into the reasons why nothing appears to have been done other than police officers speaking to those who were believed to be the offenders. It may be that there was not sufficient proof to enable any offence to be established beyond reasonable doubt. From the information the honourable member has provided, offences may already have been committed which, regardless of the racial vilification legislation, might be capable of prosecution, but in the end it depends very much on the evidence that is available.

In respect of the question about whether this sort of behaviour might be more effectively dealt with under the racial vilification legislation we have passed, particularly that part which deals with offences, I cannot give an answer as to whether or not it would be more likely to be capable of prosecution under that Act than under the general law. Obviously, offences committed under the criminal provisions of the Racial Vilification Act have to be proved beyond reasonable doubt; suspicion as to the identity of offenders is insufficient. Obviously, if young persons are believed to be involved, the Young Offenders Act provides a process to deal with them through cautions or family conferences if the offences are admitted, or to deal with them otherwise if there is sufficient proof to take them through a prosecution to the Youth Court. I acknowledge that the sort of behaviour referred to by the honourable member is totally unacceptable and ought not to occur in a civilised society. If she would care to give me the personal information about the constituent I would be prepared to follow up the matter.

NATIONAL PARTY

The Hon. T. CROTHERS: I seek to make a brief statement prior to asking the Minister for Education and Children's Services a question about the apparent reawakening of the South Australian branch of the National Party.

Leave granted.

The Hon. T. CROTHERS: The South Australian branch of the National Party has its roots in the old Liberal and Country League Party of South Australia—as members of my generation will recall, the old Party of Sir Thomas Playford. However, as I understand the history of the matter, the first sitting members of this Parliament who claimed to represent rural interests in this State had to wait until 1912 before they were actually physically present as members in this Parliament. They were three in number. During the State election of 1912, the Australian Labor Party was soundly defeated at the polls; in fact, only seven ALP members were returned. A split developed between those seven, as a result of which three rural based ALP members left the ALP, claiming that their interests were different from the other four ALP members, who were city based. So, there you have the genesis of National Party parliamentary representation in this Parliament. In fact, they even claimed to be rural socialists.

This representation of rural interests continued separately but spontaneously through to the present day. Many of us here would well recall the Hon. Peter Blacker of the National Party, who represented a West Coast electorate in this State for 20 years or so until his defeat at the last State election. There again is a clear example of division from time to time between conservative rural voters and their conservative voting city cousins—this in spite of the fact that the late, great Sir Thomas Playford had tried to unite the two competing conservative voting elements of this State's electorate by forming the South Australian Liberal and Country League Party, which has been recognised by many as a very shrewd political ploy, as it kept divisions between the two competing conservative interest groups to a minimum for a very long time.

However, a recent report in the *Advertiser* headed 'Nationals target Liberal seats' revealed that the Nationals are preparing to mount challenges in five Liberal held State seats. Clearly, this article would appear to indicate that all is not well in this political kingdom of Denmark. Of course, of more recent note, in respect of the governing Party's leadership contest, some pundits have said and believe that there was an element of just this sort of conflict of interest in the leadership battle. The *Advertiser* article state that the Liberal Party State Director, Mr David Pigott, said that the Liberals did not take the threat 'all that seriously' but were 'keeping an eye on it'. However, the State Director of the National Party, Mr Grantley Siviour, said that his Party had a 'real chance' of securing the balance of power in this coming campaign. He is reported as stating:

> It would capitalise on Liberal leadership squabbles, poor back bench performances, economic woes and recent electoral boundary redistributions.

He further stated:

> People now see that by having Liberal backbenchers sitting there [these backbenchers] have no say and no ability to put forward a local agenda.

Meanwhile, in the same article Mr Pigott, the Liberal Party State Director, admitted that the Nationals did have a support base in Flinders and Chaffey but were unlikely to push out sitting Liberals. He further stated:

> It also depends on the wash out from the shooters and the Pauline Hansons of this world.

My questions to the Minister are, therefore:

1. What has widened this apparent split between the Nationals and the Liberals here in South Australia, given that the same two political Parties are in coalition in the present Federal Government?

2. Does the Minister support his State Director's statement that the success of the National Party in the forthcoming State election 'also depends on the wash out from the shooters and Pauline Hansons of this world'?

The Hon. T.G. Cameron: What does that mean?

The Hon. T. CROTHERS: That is why I am asking the question; I am always open to learning and to being taught.

The Hon. T.G. Cameron: What do you think it means?

The Hon. T. CROTHERS: I am not allowed to express an opinion: I want to get it straight from the horse's mouth.

3. Does the Minister believe that the tenor of Mr Pigott's remark gives the lie to the Prime Minister's reluctance to be more forceful in leading the debate against Pauline Hanson?

4. Finally, but by no means exhaustively, does the Minister believe, as Mr Pigott asserts elsewhere in the article, that shooters and anti-immigration groups could throw their

support behind the Nationals or run their own candidates? Either way, does the Minister believe that his Party's secretariat will endeavour to secure the second preferences of either the National Party or, should it eventuate, candidates running on behalf of the Shooters Party?

The Hon. R.I. LUCAS: I invite the honourable member to discuss this with me over a cup of coffee or tea or something similar this afternoon during what I am sure will be breaks for conferences of managers. As always, I will be happy to share some frank views with the honourable member in relation to some of the issues he has asked about, which do not directly relate to my ministerial portfolio areas.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: That's true. There are perhaps one or two issues I could broadly respond to in the public forum. As I said, I would be delighted to discuss some other issues privately with the honourable member later this afternoon. Certainly, the position in South Australia in relation to the conservative Parties—

The Hon. T.G. CAMERON: I rise on a point of order, Mr President. When an honourable member in this place is asked a question, is it in order for a Minister to give the Chamber one answer but to offer the honourable member who asked the question a private answer outside the Chamber?

The PRESIDENT: It just so happens that I have Standing Orders in front of me. I suggest that the honourable member refers to Standing Order 111 as it answers his question very easily.

The Hon. R.I. LUCAS: If the Hon. Mr Cameron feels left out, let me issue an invitation at my expense for a cup of coffee, together with the Hon. Mr Crothers, to discuss some of the issues that have been raised.

The Hon. T.G. Cameron: As long as you pay for it.

The Hon. R.I. LUCAS: Certainly. The situation in relation to the conservative Parties in South Australia has been markedly different from that in most other States, in particular Queensland, New South Wales, Western Australia and Victoria, where there is a significant country presence from the National Party, or the old Country Party. As the honourable member indicated, a very astute move was taken in 1932 in South Australia with the establishment of the Liberal and Country League, and that was continued in 1974 at a meeting in Adelaide when the Liberal Party of Australia (SA division) continued from the Liberal and Country League in South Australia. Because of those decisions taken in 1932, the Liberal Party in South Australia has always been a markedly different Party in terms of its broad representation than have some of the other various divisions of the Liberal Party of Australia.

The Liberal Party in South Australia has very successfully managed, in Government and in Opposition, to represent both city and country interests within the one Party. Because of that, the Liberal Party in South Australia has, in effect, very much held sway at elections as opposed to the old Country Party or the National Party. Mr Peter Blacker would concede in a frank discussion that his election was an accident of history rather than a positive vote for a National Party candidate. It was at a time in 1973 when the Liberal Party in South Australia was going through the formation stages of the Liberal Movement. As the honourable member knows, there were strong differences of opinion in the Liberal Party during that period. The National Party, through Peter Blacker, successfully capitalised on that on the West Coast and defeated the Liberal Party candidate, John Carnie, who subsequently served in the Legislative Council.

As the Hon. Anne Levy said, he lost that seat with the assistance of Labor Party preferences. As I said, Peter Blacker would concede that it was not an election for the National Party and its policies: it was, in effect, an accident of history in relation to the turmoil in the conservative Parties at that time. Since that time many high profile campaigns have been run by National Party candidates, such as Helen Tiller against John Olsen. I remember that in Rocky River in 1979 there was a massively funded campaign to try to defeat John Olsen. All the campaigns thus far have proved to be similarly unsuccessful. The success of the Liberal Party in South Australia has been because of its ability to represent both city and country. In John Olsen we have a leader who has very successfully in the past represented both country and city interests.

He comes from a country community on Yorke Peninsula of South Australia. In more recent times he has lived in the metropolitan area and knows full well the importance of ensuring that a political Party does not neglect its rural constituency, even though it might be a relatively small number when compared to the total electorate of South Australia. I do not believe that the honourable member need be concerned too much about the issues raised by Mr Grantley Siviour, Secretary for the National Party, and some of the other issues. In relation to the discussion on Pauline Hanson and the shooters, I would be pleased to have a discussion with the honourable member and, indeed, anyone else, including the Hon. Mr Cameron, after Question Time.

LAWYERS' WORKSHOP

In reply to **Hon. BERNICE PFITZNER** (14 November).

The Hon. K.T. GRIFFIN: In 1996 a series of training courses was run throughout Australia for lawyers who appear in the Family Court as child representatives.

The course was a program developed jointly by National Legal Aid, the Family Law Section of the Law Council of Australia and the Family Court. There have been about 10 courses held throughout Australia to date. The Adelaide course was held from 9 to 11 August.

The courses were strictly limited to a maximum of 40 and in each centre a person was appointed to approve the nominations received should the particular course be over subscribed. Mr Russell, the Manager of the Family Law Practice Section of the Legal Services Commission, was nominated as the Adelaide contact person.

As stated in the honourable member's question, the training program was oversubscribed by 15 people.

A specific concern raised in the honourable member's question was that Mr Russell had been 'less than objective' in carrying out this role. The honourable member refers to a 'woman lawyer with 20 years experience in child representative work'. The practitioner's name is not stated but Commission records show that none of the persons from this State who were not accepted to attend the course fell into that category. All practitioners with significant experience in child representative work in the Family Court who applied were accepted.

The honourable member further states that the practitioner 'paid for the . . . .workshop. . . .(and was) one of the first people to register'. Nominations were not accepted as received but all applications received by the due date were considered in total. The upfront payment was a condition prescribed by the Law Council, the administrative organisers and was a condition over which the Legal Services Commission had no control. I understand refunds were made to unsuccessful applicants.

The honourable member refers to a telephone conversation with Mr Russell when the reason given for the practitioner's exclusion was that 'he had to vary the ages of the lawyers'. This is denied. Age was not a consideration in selecting the applicants for the course.

The Adelaide program was part of a national exercise. At the train-the-trainer workshop in Sydney in May (which Mr Russell attended) it was agreed that the program would work best if there

was a reasonable mix amongst the registrants so as to avoid a predominance of one category of lawyer.

In choosing the 40 successful registrants a balance was therefore sought between lawyers from the city, suburbs and regional areas, solicitors and barristers, legal aid and private lawyers and lawyers with a range of experience in actually conducting child representation matters in the Family Court. This was the basis of Mr Russell's advice in the telephone conversation mentioned.

The honourable member further alleges that Mr Russell 'is discriminating against women, against older people and against one's political persuasion'. Put simply gender, age or political persuasion were not factors which were taken into account in the process of selection. In this regard I advise that 24 women and 16 men attended the course. Although applicants were not required to state their age when applying I am advised that the age range of applicants was thought to be in the order of 30 to 55 years. The reference to 'political persuasion' possibly being a consideration is totally without basis and is considered to be most offensive to Mr Russell. Mr Russell has no knowledge of the 'political persuasion' of any of the course applicants and would never seek (let alone use) such information for the purpose alleged.

It is apposite to note that Mr Russell is a highly experienced family lawyer (with approximately 20 years post-admission practice). He is highly regarded by his colleagues, and he is held in high esteem by members of the Court in Adelaide. Mr Russell is the Manager of the Commission's Family Law Practice Section and is also the staff elected Commissioner on the Commission. In the circumstances, therefore, the honourable member's remarks about Mr Russell are most hurtful and regrettable.

The answers to the specific questions raised are therefore that no formal written criteria applied to selection but recent experience in conducting child representation work in the Family Court was a critical factor. As far as 'lawyers in South Australia who appear to be disadvantaged', only one query from a practitioner was received in relation to non selection and that lawyer had no recent experience in conducting child representation work. Any practitioner not selected was able to apply to enrol in any of the subsequent courses run in other parts of Australia as the practitioner in question was able to do. In any event it was clearly indicated to applicants for the course that attendance at, and completion of the course, would not necessarily result in child representation work being referred to practitioners.

EQUAL OPPORTUNITY COMMISSIONER

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question about the Commissioner for Equal Opportunity.

Leave granted.

The Hon. R.D. LAWSON: The twentieth annual report of the Commissioner for Equal Opportunity for the year ended 30 June 1996 was tabled in this Council by the Attorney earlier this week. The report refers to complaint handling and notes that complaints lodged under the provisions of the Commonwealth Sex Discrimination Act and the Commonwealth Racial Discrimination Act are handled by the South Australian commission. The statistical information contained in the report indicates that almost 60 per cent of the complaints received are lodged under Commonwealth legislation. Of the total of 808 complaints, 345 were lodged under the Commonwealth Sex Discrimination Act and 110 under the Racial Discrimination Act of the Commonwealth—that is a total of 455 out of 808.

The financial summary that accompanies the report indicates that the principal source of funds for the operation of the commission from the Attorney-General's Department amounts to some $1.6 million; Commonwealth payments and grants amount to some $293 000, which was some $15 000 less than budgeted. On page 27 of the report it is reported that the cooperative arrangements agreement and associated delegations, which enable the commission to investigate and conciliate complaints on behalf of the Commonwealth Human Rights and Equal Opportunity Commission are currently in force.

The Commissioner reports that the Government is negotiating with the Commonwealth for acceptable terms and conditions to ensure the continuance of cooperative arrangements. Will the Attorney outline to the Council the nature of those cooperative arrangements and indicate when it is envisaged that an acceptable arrangement with the Commonwealth will be concluded?

The Hon. K.T. GRIFFIN: The agreement between the State and the Commonwealth has come up for renewal over the past two to 2½ years on about three or four occasions. Each time it has had to be rolled over and extended by three or six months, largely because we and the Commonwealth were waiting on a review of administrative arrangements which was being undertaken at the Federal level and which seemed to be delayed for an inordinately long time. Because there has not been any progress on this front, we have sought to speed up the negotiations with the Commonwealth on the basis that the current agreement expires on 31 December 1996.

From the State perspective, we are quite dissatisfied with the funding which comes from the Commonwealth to finance the State's acting as agent for the Commonwealth in dealing with complaints under the Racial Discrimination Act and the Sex Discrimination Act. The Commonwealth wants to reduce even further the amounts which we receive and, in addition to that, wishes us to take on the responsibility for acting as agent of the Commonwealth under the Disability Discrimination Act. We have indicated that we are not prepared to do it on that basis.

Negotiations are continuing with the Commonwealth but we have made clear that we wish to endeavour to resolve the discussions before the current agreement expires at the end of this month. Further discussions are scheduled and, hopefully, there will be a satisfactory resolution to the issue. However, we act as the agent for the Commonwealth under the two pieces of legislation to which I have referred, and we believe that we should endeavour to continue to do so but not on the basis of the grossly inadequate terms that the Commonwealth has offered so far.

MOTOR VEHICLES (INSPECTION) AMENDMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: I have received a letter from Mr Richard Flashman, Executive Director of the Motor Trade Association, following comments that I made in the Legislative Council in summing up the second reading debate. He has asked that I make this statement, as follows:

The Motor Trade Association of South Australia Incorporated is concerned that parliamentarians may conclude or believe that the association was a financial contributor to any political Party at the time of the 1993 State election. The association wishes to make it perfectly clear that it made no such donation or donations and this fact is evident to any person who examines the published list of donations made to political Parties.

The retail motor trade has many small business proprietors who have, over time, urged MTA to form political alliances. However, the MTA board of management has always rejected such approaches

and has affirmed that the association's role is to be apolitical, representing its members' interests on an issues basis, not a political basis.

MTA members are, of course, free to donate as individuals to whichever political Party they wish and, indeed, many do so in their own right or through the Motor Trade Electoral Action Committee, an unincorporated group not being a formal part of MTA but a group to which MTA does provide limited secretarial and accounting services.

Copies of MTA's annual report and financial statements have been provided to certain politicians in an endeavour to convince them that MTA did not make any donations towards the 1993 State elections. Minister, we would hope that the matter has now been sufficiently clarified.

Mr Flashman wrote to me, asking whether I would make that statement, because I stated in my second reading summing up that the MTA had made donations to the Liberal Party and to the Labor Party, and I accept that I was incorrect in making such statements.

The CHAIRMAN: Would the Hon. Mr Cameron like to make a contribution? He made one while the Minister was speaking, but would he like to add to it?

The Hon. T.G. CAMERON: Thank you, Sir, for the invitation. I thank the Minister for reading out Mr Flashman's letter and putting it on the record. I find quite strange the relationship between the Minister and Dick Flashman. It seems that every time I mention his name in this Chamber, or his name is mentioned, within a hour, he sends me faxes or rings me. It is obvious that Mr Flashman has a direct line to the Minister or, more appropriately, one suspects that she rings him every time his name is mentioned in this Chamber.

The Minister may well have been incorrect when she said that the MTA made the donation to the Liberal Party and to the Labor Party, but there is no doubt in my mind who organised the huge donation to the Liberal Party at the last election, which was well in excess of $70 000, from memory. I recall Dick Flashman coming around to my office on Thursday or Friday before the election because they got the wind up that it would become apparent some time after the election that Dick Flashman and his unincorporated group of people who work in the motor vehicle industry had given us a donation. I wish they would just be honest and come straight out and say that they are the MTA, but they will not do that. I suspect it was—

The Hon. Sandra Kanck: We didn't get any!

The Hon. T.G. CAMERON: No, the Democrats did not get any; yet they are supporting their position on this Bill.

The CHAIRMAN: Order! I rule that this has nothing to do with this Bill.

The Hon. T.G. CAMERON: I am responding. You invited me to respond to the Minister's letter, Mr Chairman.

The CHAIRMAN: I will rule accordingly if the honourable member does not sum up his remarks quickly. The honourable member's remarks have little relevance—

The Hon. T.G. CAMERON: How relevant was her letter?

The Hon. Diana Laidlaw: I made an incorrect statement.

The CHAIRMAN: Order! A response was read into the record in relation to what the Minister says was an incorrect statement by her. I have allowed the honourable member reasonable time to respond but he is now expanding it to an extent that has very little relevance—including the reference to the Democrats—to this Bill. I would ask you to come back to the Bill if you would, Sir.

The Hon. T.G. CAMERON: I will conclude by saying that Dick Flashman and some other people came to the Labor Party's office and gave us a donation. The Hon. Sandra Kanck interjected and said, 'We didn't get any!' That is something that she will have to take up with Tricky Dick. The Minister is correct that, technically speaking, the MTA did not make the donation itself. It was organised and collected by Dick Flashman on the industry's behalf.

Clause passed.

Clauses 3 to 5 passed.

Clause 6—'Inspection of motor vehicles.'

The Hon. T.G. CAMERON: I move:

Page 2, lines 12 to 14—Leave out all words in these lines and substitute:

6. Section 139 of the principal Act is amended—

(a) by striking out 'person authorised in writing' and substituting 'public service employee authorised in writing';

(b) by inserting after subparagraph (ii) of paragraph (ab) the following subparagraph:

(iii) has been reported as stolen;.

The purpose of the amendment is to exclude the second level identifying checks and to exclude the defective vehicle checks from being transferred out to the private sector. The Bill currently before us proposes to establish two levels of identity inspections in South Australia and that inspectors from the private sector be authorised to carry out these inspections. As I indicated in my second reading contribution, the Australian Labor Party has no problem with the first level vehicle identifier checks being conducted by private enterprise, but it does see problems in relation to the second level identifier checks and the defective motor vehicles.

I referred to some of these problems in my second reading contribution. Some of the concerns that we have relate to the possibility for corruption to creep into the system. Even under the current system, which I would say is much tighter than the one being proposed, the Department of Transport at Regency Park still finds two to three stolen vehicles per week. We are also concerned about the question of the confidentiality of all the information. We have a whole range of other concerns in relation to what power these inspectors would have in relation to the authority they have to seize vehicles. What power do they have to intervene if someone does not want their vehicle seized? We have concerns about the way in which the fees will be set for these inspectors.

In summary, we believe that this approach by the Government to transfer the second level and the defective vehicle inspections out to the private sector to be a flawed strategy and that the attendant problems that the Government will have in relation to this will be felt in some years' time when the full system that it is proposing is introduced. For the reasons I have outlined, the amendment is designed to ensure that second level checks and defective motor vehicle checks continue to be conducted by the Department of Transport and principally at Regency Park.

The Hon. SANDRA KANCK: I move:

Page 2, lines 12 to 14—Leave out all words in these lines and substitute:

6. Section 139 of the principal Act is amended—

(a) by striking out 'for the purposes of this Act' and substituting 'in accordance with this section';

(b) by inserting after subparagraph (ii) of paragraph (ab) the following subparagraph:

(iii) has been reported as stolen;;

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

(2) An authorisation to examine motor vehicles—

(a) may only be granted to—

(i) a person employed by a person carrying on the business of selling new motor vehicles or new and second-hand motor vehicles; or

(ii) a person authorised to exercise any of the powers of an inspector under section 160 of the Road Traffic Act 1961; and

(b) may be subject to conditions; and

(c) may be revoked at any time.

(3) All authorisations to examine motor vehicles granted by the Registrar under this section will expire on the third anniversary of the day on which subsection (2) comes into operation, and no new authorisations may be granted on or after that day.

I noted the comments by the Minister on Tuesday evening in response to what I said in my second reading contribution. I make it clear that I was not alleging anything about any second-hand motor vehicle dealers. However, I recall last year, when we were dealing with the Second-Hand Dealers Vehicle Bill, that I was approached by the Motor Trade Association. It raised its concern with me about some of the nefarious practices of some second-hand car dealers. So, it is not something that I have taken out of thin air. I recognise that the sorts of people who might be suspect are in the minority, but I have felt that within this Bill, as it was originally worded, there was the potential for corruption. I believe that the amendment goes some way towards keeping some controls on that.

Probably of the greatest significance to the Hon. Terry Cameron is the particular subclauses that I have about who is authorised to examine motor vehicles now. I certainly had some degree of attraction towards the amendments of the Hon. Terry Cameron in the first instance because of the capacity for corruption. I did feel slightly less anxious about the Bill after the Minister explained on Tuesday evening who the people undertaking the inspections would be; that is, the second level inspections. The wording that I have put in the amendment takes up the Minister's wording on Tuesday night. So, that did alleviate some of my concerns. I also understand that the Minister will move to put in a code of practice which, I believe, will also help in this regard.

Finally, the last part of my amendment puts a sunset clause on the authorisations because that will mean that, in three years' time (after this Bill has been enacted) it will come back into Parliament and it will give us an opportunity to keep an eye on the legislation and the way it is working. If there is any evidence of corruption through using these people in the private sector, we will be able to address it at that time. It is fair enough to at least let the Minister attempt to achieve these reforms but to ensure that we have an overview of them again in three years' time.

The Hon. DIANA LAIDLAW: I move to amend the new clause proposed by the Hon. Sandra Kanck by adding the following two subclauses:

(4) The Minister may, for the purposes of this section, establish a code of practice to be observed by persons authorised to examine motor vehicles in accordance with this section.

(5) A person who contravenes a code of practice established under subsection (3) is guilty of an offence.

Penalty: Division 6 fine.

I indicate most strongly that I reject the amendment that has been moved by the Hon. Terry Cameron. I appreciate the time constraints on the last sitting day of this Parliament, so I will not go over the comments again, because I did indicate why we would reject this path. From the comments made by the Hon. Sandra Kanck I conclude that I must have been quite persuasive in rejecting the proposal put forward by the Hon. Mr Cameron. So there is no point dwelling on that part again.

I want to indicate why the Government will support the amendment moved by the Hon. Sandra Kanck. It was hard to do otherwise when she told me that she was going to move an amendment which simply reflected what I had indicated in my reply to the second reading debate regarding level 2 inspections. I indicated that they would be undertaken by a person carrying on the business of selling new motor vehicles or new and second-hand motor vehicles and also people authorised under the Road Traffic Act 1961 in terms of level 3 inspections.

In terms of level 3 inspections, a number of people from the motor industry may have the required mechanical expertise and capacity but they may not necessarily be associated with the selling of or trade in motor vehicles. However, equally, while they have been authorised to do these higher level inspections at level 3, there is every good reason why these same people should be qualified to do a lower—but equally important—level of inspections, at level 2.

Also, the Government is happy, without qualification, in terms of the sunset clause. Whenever you move to a new system, even though you may have confidence in it, the standards have to be set and this has been done following recommendations of the Environment, Resources and Development Committee, and they must be endorsed by representatives of all Parties and both Houses of Parliament. We know from practice elsewhere, initiated by the Labor Party in terms of drivers' licences, and from our own practice, initiated by this Government under the Passenger Transport Act, that the private sector is now undertaking the inspections of taxicabs and vehicles for hire, and that has worked well.

What I did not appreciate at the time but have appreciated since my second reading speech is that, with regard to the private inspection of taxicabs and hire cars—and this is based on provisions in the Passenger Transport Act introduced in 1994—the Act provides for a code of practice, and under that code of practice there are full service arrangements. The arrangements by the Passenger Transport Board to have private inspectors undertake these inspections of taxis and hire cars have been undertaken only because there is a code of practice agreed by all parties, and that has been reinforced by a service agreement. I am more than pleased to be moving amendments which provide that the Minister may, for the purposes of this section, establish a code of practice to be observed by persons authorised to examine motor vehicles in accordance with this section, and that a person who contravenes a code of practice established under this section is guilty of an offence, that being a division 6 fine.

We are learning more about how we can reassure the Hon. Sandra Kanck in terms of codes of practice and service standards rather than just saying that is what we would do. Having it provided in the Act is something I find satisfactory. The combination of the amendments provide some reassurances with which I am comfortable and which I would be seeking in any event. The Government is satisfied with the amendments moved by the Hon. Sandra Kanck, and we support them, with my amendments.

The Committee divided on the Hon. T.G. Cameron's amendment:

AYES (8)

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

NOES (11)

Davis, L. H.	Elliott, M. J.

NOES (cont.)

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

PAIRS

Roberts, T. G.	Schaefer, C. V.

Majority of 3 for the Noes.

Amendment thus negatived.

The Hon. Sandra Kanck's amendment carried; the Hon. Diana Laidlaw's amendment to the amendment carried.

Clause 7—'Where vehicle suspected of being stolen.'

The Hon. T.G. CAMERON: New section 139AA provides:

> Where, following inspection of a vehicle under this Part, the person responsible for carrying out the inspection (other than a member of the Police Force) reasonably suspects that the vehicle has been reported as stolen...

Could the Minister advise what would constitute reasonable suspicion that the vehicle has been stolen?

The Hon. DIANA LAIDLAW: When one reasonably suspects.

The Hon. T.G. CAMERON: What constitutes reasonable suspicion?

The Hon. DIANA LAIDLAW: As I understand it, evidence suggesting that it is a stolen vehicle. For example, where the vehicle identifiers do not match up. There is pretty good reason then to reasonably suspect that the vehicle has been stolen.

The Hon. T.G. CAMERON: All that the Minister has done is to repeat my question.

The Hon. DIANA LAIDLAW: I gave the honourable member an example.

The Hon. T.G. CAMERON: When this authorised person carries out an inspection, he or she is obviously looking for any indication that the vehicle is stolen. I want to know what the authorised person is looking for, and what information will tell them that the vehicle is stolen.

The Hon. DIANA LAIDLAW: They are looking for vehicles that have been stolen. This whole recommendation originates from a working party set up by the Attorney. The Registrar of Motor Vehicles, the Police Commissioner (or his representative), as well as a range of other people and insurance companies, are involved in making recommendations to the Government. This matter, as I recall, was then subject to recommendations of the Environment, Resources and Development Committee. The whole purpose is to stem the trade in stolen vehicles. Inspectors will be looking for evidence that a vehicle has been stolen. Therefore, if the vehicle identifiers, such as the engine and chassis numbers do not match, or—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: That is a different matter. This is not second level inspection.

The Hon. T.G. Cameron: New vehicles would not be stolen.

The Hon. DIANA LAIDLAW: That is not right. It is possible for engine numbers and identifiers on new vehicles to be changed. They might be stolen from the manufacturer's yard or from where they are being held for sale. That is one reason why new car dealers are involved in the arrangements that we have proposed. These are not complicated inspections: they are simply there to—

The Hon. T.G. Cameron: You are talking about first level inspections?

The Hon. DIANA LAIDLAW: Yes. They are looking at where a vehicle has been stolen. It may be an unusual circumstance—certainly not as regular as vehicles that come from interstate—but there have been such instances and this would address that. Then we have vehicles from interstate, others that are stolen out of driveways, from car parks, railway stations, interchanges and the like. If they are sold they are registered as having been stolen. People would generally know engine numbers and so on; they are registered and, if they are recorded, people can check against them. There is a whole range of measures.

It is a bit like bankcard: if people spend over the limit and do not have a good credit rating, that message is sent out to various dealers. The same sort of checking process can be undertaken here. So, there is a variety of grounds on which a person could be reasonably suspicious that a vehicle has been stolen. If that is the case, they are not empowered to do more than hold that vehicle while they call the police, who are empowered at a much higher level to prove whether property has been stolen and to determine whether a criminal offence has been committed.

The Hon. T. CROTHERS: I am also somewhat concerned by the appearance in the Bill of the word 'reasonable'. My experience as a union officer looking at the constitutions of unions leads me to believe that the legal profession loves the use of words of this type. In my view, 'reasonable' is an elastic word. For a Bill to be effective it has to have some power or teeth, and this is one of the teeth in the Bill. The position is clearly that, if someone wanted to be arbitrarily officious, they had a bad day, they lost on Saturday at the horses or for 101 reasons, the fact that that elastic word is in the Bill—

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: Just a moment, Attorney: I will even proffer a suggestion that may assist you. The wording does endow an inspecting officer with power that can be misused—and arbitrarily so.

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: It certainly does, because what then is the definition of 'reasonable'? I am sure that the Attorney and the Hon. Angus Redford would tell us that many court cases have been fought out to try to determine what constitutes 'reasonable'. In making a citizen's arrest or in self-defence a person may use 'reasonable force', and hundreds of cases have been conducted over that. That is my problem with this. If I may, I was to about to suggest through the shadow Minister and to the Minister that if she cared to put some form of quantum definition in respect of the word 'reasonable'—

The Hon. Diana Laidlaw: What are you suggesting?

The Hon. T. CROTHERS: Put it on the *Hansard* record; you have endeavoured to do that in your last reply, but I think that that was not defining enough. I can see the Attorney shaking his head. I understand why he is doing that, and I understand the difficulty in trying to get a quantum definition. I am not seeking that: I am seeking parameters with respect to the arbitrary power to impound or seize that that word would confer on the inspecting officer. That is my worry.

The Hon. DIANA LAIDLAW: I question what the honourable member and the Opposition generally are suggesting. Do they want me to take out the word 'reasonably' so that any suspicion, whether reasonable or not, is the basis for this vehicle's being held? I would think that

that was unacceptable; therefore, we have provided the word 'reasonably', because, as is well understood in legal terms, there has to be some sound basis for that suspicion. As I have indicated twice already but will repeat, a sound basis for the suspicion would be if the identifiers did not correspond or if checking of the police records indicated that the vehicle had been stolen. Those are the checks that would be taken to provide grounds to reasonably suspect that the vehicle had been stolen.

I would emphasise to the honourable member that, in that instance, if they had that suspicion, having done those checks, they could only hold the car: they do not have the powers of the police officers to impound it. They must immediately inform a member of the Police Force of that suspicion and the reason for it, and seize and detain the vehicle until it can be delivered into the custody of a police officer. The police would then check the grounds and would be the ones who would take the case further. The honourable member mentions the courts: we would always respect the power of the police to make those decisions in terms of checking the grounds for laying a charge. That is the basis.

The Hon. A.J. REDFORD: I might be able to help the Hon. Trevor Crothers. The term 'reasonable' is always a difficult word. To one magistrate or trier of fact what someone does as reasonable might not be reasonable to another.

The Hon. T. Crothers interjecting:

The Hon. A.J. REDFORD: There are some terms that are incapable of definition, and the High Court has said as much in many cases. We are all familiar in this place with the term 'beyond all reasonable doubt'. When courts have tried to interpret what is meant by 'reasonable doubt'—and often juries come out and ask what it is—courts that have tried to explain it have always got themselves into conceptual trouble. The standard direction to a jury (and I know it does not apply specifically in relation to this clause) is, 'It is what you think is reasonable.' The term 'reasonable' in the context of this measure provides some basis upon which the suspicion is to be determined. In other words, if someone comes in of a dubious character—it might be a member of the Australian Democrats (I say that lightly)—you might say, 'I suspect him, because he is a member of the Australian Democrats.'

On any basis you would say that that is an unreasonable suspicion. It might be because he has a criminal record for shoplifting. In that case you might say that, by itself, that is not a reasonable suspicion. You will always get into a grey area, such as where someone who is a notorious car thief comes in with a vehicle. It will always be a matter of balance as to whether an officer in that situation would form a reasonable suspicion based solely upon those facts. It is always something that must be tested in the framework of all the surrounding facts. I think that the term 'reasonable suspicion' helps everybody. It is a term that is used often in drink driving legislation—

The Hon. T. Crothers: Quite often arbitrarily.

The Hon. A.J. REDFORD: Quite often—but it is the sort of issue where there we will always have arguments and where we can always point to inconsistencies, where one trier of fact, magistrate or judge will make a different decision from that of another based on the same set of facts. I do not know that you can legislate that human condition out of us; I think it is impossible, but at least the term 'reasonable' provides some protection so that a lawyer can go to court and say, 'This officer did not have a reasonable suspicion; it was a fanciful one.' If it is without *bona fides* or good faith it would not be a reasonable suspicion.

The Hon. T. Crothers interjecting:

The Hon. A.J. REDFORD: I am sorry; that is the best I can do for you.

The Hon. T.G. CAMERON: I thank the Hon. Angus Redford for his explanation. Certainly, it was much more easily understood than the one I received from the Minister. It still does not satisfy my concerns in this area. In her second reading explanation the Minister said that the Bill proposes that inspectors be provided with the power to seize and detain a motor vehicle where the inspector has reasonable cause to believe that the vehicle is stolen. I thank the Hon. Trevor Crothers for his question, because it relates to the direction in which I was moving. Under the current system, all these checks are conducted at Regency Park both for first and second level identifiers and to remove defective vehicle notices. What is 'reasonable' is what the officers at Regency Park have determined as reasonable.

The Hon. A.J. Redford: It is an objective test.

The Hon. T.G. CAMERON: Well, I went to Regency Park and spoke to the officers concerned. They pointed out that one of the difficulties with their job is what to do when they discover that a vehicle is stolen. They have to deal with a person who has perhaps just paid $10 000 or $20 000 for a vehicle and who, upon arriving at Regency Park, discovers that the vehicle is stolen. These people cannot accept the reasonable cause that the officers at Regency Park have. I know that a police officer who works with the inspectors is stationed at Regency Park on a full-time basis. As I understand it, one reason he is there is in case people become difficult when advised that their vehicle is stolen. In other words, the police office is there if an inspector says, 'I have a reasonable cause to believe that this vehicle is stolen.'

As I understand it, the proposition will not provide for one inspection centre under one department's control but for vehicle inspection stations all over the State. I point out that 'reasonable cause' might differ from one person to another. I thank the Hon. Angus Redford, because in his rather lucid explanation he pointed out that what one person considers to be reasonable another person might consider unreasonable. We are moving from a system where we have one central point that determines whether or not the inspectors have reasonable cause to believe that a vehicle is stolen. If the vehicle is stolen, a police officer is on hand to assist. Does the Minister, the department or the Registrar of Motor Vehicles know what is reasonable? When there are dozens of authorised inspectors working in all sorts of places, they will have to make the decision as to whether or not they have reasonable cause—and I am using the Minister's own words—to seize and detain the vehicle.

Does the Minister, the Department of Transport or the Registrar of Motor Vehicles know what is reasonable, because someone at some stage will have to communicate to these authorised inspectors the limits of their powers. It would seem that we do not know. The Minister stated that these officers will have limited powers. Will the Minister explain specifically what powers the inspectors at Regency Park will have? I assume that they will be the same. Will the Minister also outline specifically how the powers of these inspectors in private enterprise will be limited and how they will differentiate from the inspectors at Regency Park? Finally, how will authorised inspectors in a second-hand motor vehicle yard physically seize and detain a vehicle?

The Hon. DIANA LAIDLAW: They will have the powers that are provided in this provision.

The Hon. T.G. CAMERON: If that is the way the Minister will answer questions I will keep pursuing the matter. What powers will these inspectors have to seize and detain a vehicle? What powers does the inspector have to detain a vehicle if the individual, that is, the person who thought they owned the vehicle, decides to drive it away?

The Hon. DIANA LAIDLAW: Under new section 139AA they must have immediately informed a member of the police, providing the registration number or the car plate and things of suspicion. They have the power to detain: the power to detain is what we are providing in this measure. If a person drives off, as they could drive off today from Regency Park, the police would have already been informed that the inspectors suspect the vehicle has been stolen. If a person drives off while that is happening, the police, as they would today, could hunt for that vehicle. Nothing is new in that sense. This Bill simply transfers the powers that the police already have to do this work to inspectors at Regency Park, to Department of Transport officers and to approved private sector officers.

The honourable member seems to be making this unnecessarily complicated and confused, but this action has been undertaken by the police in the past. The police do not want to do it any more, so they have asked the Department of Transport to do it. The Department of Transport has agreed to do it because in respect of vehicle theft the question has been asked: why should it be done only at Regency Park when it could be done elsewhere in the State? Therefore, we need some grounds upon which it can be undertaken. We are not taking a new or unreasonable step. It should not generate any fear now or in the future for the honourable member, because in the past the police would only have had reasonable suspicion that a vehicle had been stolen and for them to take it further. This Bill simply provides that, where there is a reasonable suspicion by Department of Transport inspectors or by private sector approved inspectors, they will tell the police, who will take it further.

I will not take this subject further, because the honourable member does not seem to appreciate the basis upon which the law works not only in this State but everywhere. In respect of this practice that we seek to address, that is, theft of a vehicle, or arrest for any other offences committed in or outside the State, the ground for taking those actions is a reasonable cause to suspect or a reasonable suspicion. You must have some basis for saying that there is a higher ground than if you simply suspect. That is why I do not know what the honourable member is worried about. Is the honourable member suggesting that we remove the word 'reasonable' so that it would apply if a person merely has a suspicion it could be stolen, or is the honourable member saying that there must be more ground than 'reasonably suspects' to undertake this action? I am not sure what the honourable member is getting at.

The Hon. T.G. CAMERON: The Minister may be correct. I do not properly understand what 'reasonable' means, and I thank her for pointing that out to me so I can go back to it and she can explain exactly what it means. Perhaps I can explain for the Minister's benefit what I am on about. The Bill creates inspectors in the private sector who will have limited powers. The Minister did not answer my question about how their powers will be different from those of the inspectors at Regency Park, but perhaps she might come back to that. I am trying to find out how this will work in practice.

The Hon. Diana Laidlaw: It will work as it works now.

The Hon. T.G. CAMERON: It works at the moment because a police officer is on hand at Regency Park. One of the reasons that he is there is to assist people who are not police officers when they have to seize and detain vehicles. Because the Minister will not tell me, I will ask some specific questions about what powers these inspectors have, and I will come back to what is a reasonable cause later.

How far can one of these inspectors go in seizing a vehicle? Let us assume that an inspector is looking at a computer terminal and he has arrived at a decision that he has reasonable cause to believe that a vehicle outside is stolen. It then becomes a question of what he does about it. Judging from what the Minister said, I assume that the first thing he would do is ring the police. Why would he ring the police? Does he suspect that he will have trouble with the individual who is sitting out there waiting to drive away in a vehicle which he thinks he owns but which is in fact stolen?

The Hon. Diana Laidlaw: Because the Act says they must.

The Hon. T.G. CAMERON: Oh, they must! One cannot tell members of the Police Force that, where an Act says that people must do something, they always do it. I am trying to find out how this will work, because the Minister is proposing a big change. What will this inspector do? He has reasonable cause to believe that the vehicle is stolen. Should he go out and tell the person that the vehicle is stolen and that he has to seize it, and then ring the police, or should he ring the police first and have them on their way, only to go out and tell the person that the vehicle is stolen, and that person accepts the decision and leaves then and there?

How will the procedure work? What will happen, for example, if one of these inspectors gets involved in an altercation with a member of the public? What will happen if there is a fight? What happens if it is proven that the vehicle was not stolen and that there was no reasonable cause to hold the vehicle? What happens if one of these private inspectors detains a vehicle on reasonable cause that it is stolen, only to discover three or four days later that it was not a stolen vehicle? I might be able to put that question to one of our lawyers. Does that individual have the right to sue the inspector for compensation? The lawyers might help the Minister. What happens in that situation?

We do not know whether these authorised inspectors will get special training or whether they will have to pass any kind of certificate or training course. They will sit out there, God knows where at this stage, seizing and detaining vehicles. What will happen? Nothing is set out in the Bill to determine whether a member of the public can take any action against these people. Can they take action against the Department of Transport? All we have is the bare bones of a Bill with a whole lot of measures that will be proposed by administrative action and regulation. As I am attempting to find out how it will work and how it will fit together, it becomes more apparent that no-one knows.

Can the Minister explain what the specific differences are between the powers of these inspectors? I want to know not that inspectors from private enterprise will be limited but how they will be limited. Specifically what powers or authority will they have and how will that differ from the inspections conducted at Regency Park? It could easily happen that a person who knows a vehicle is stolen will not go near Regency Park because he knows that he will be subject to the highest scrutiny. He also knows that, if they do catch him, there will be no jumping into the car and driving away,

because a policeman will tap on the door and say, 'Excuse me, Sir, would you mind getting out of the vehicle? It is stolen.'

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Don't be stupid? Doesn't the Minister believe that there is a police officer at Regency Park?

The Hon. Diana Laidlaw: They are not staying there. That is why we are making these changes.

The Hon. T.G. CAMERON: So, when we transfer these powers to private enterprise, we will remove the police officer. Good one! I am trying to find out, but the Minister does not seem to know—

The Hon. Diana Laidlaw: I do know.

The CHAIRMAN: Order! The honourable member is becoming repetitious. He has asked a very long question and I suggest that the Minister try to answer it.

The Hon. T.G. CAMERON: If she misses bits out, will I be able to ask them again?

The CHAIRMAN: Yes.

The Hon. DIANA LAIDLAW: I will go through this extraordinarily simply for the honourable member. However, it is difficult if a person does not want to listen or understand—and I know that from children. I will go through this slowly. If a person does not want to understand, they will not. That is the basis on which I will answer this question. I thought that the honourable member would wish to understand but, if he does not, I will do this slowly for his benefit. I have indicated that this change will come in because the police no longer wish to undertake this responsibility at Regency Park. I said that I wanted to explain yet the honourable member has gone off to talk to another member. He will not hear the explanation and he will complain that I have not provided it.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I am going through it slowly so that you understand.

The Hon. T.G. Cameron: Well, get to it!

The Hon. DIANA LAIDLAW: Mr Chairman, I do not need to be addressed like that. The Committee has just listened to 15 minutes of questions. I am seeking to go through the answers slowly for the honourable member's benefit.

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order!

Members interjecting:

The CHAIRMAN: Order! Emotions have got far too high in this debate, and that is not necessary. I ask both members to sit back, relax for a minute, have a Mintie. Then the Minister can answer the question and the honourable member can listen to the answer in a reasonably grown-up manner. The Minister for Transport.

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order! I ask the Hon. Mr Cameron not to interject while the answer is being given.

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order! Is the honourable member not listening to me? I am asking him not to interject. I rule that he does not interject. The Minister for Transport.

The Hon. DIANA LAIDLAW: Thank you, Mr Chairman. I was explaining that the whole reason for this change is because the police no longer wish to undertake this power at Regency Park or elsewhere. The police will remain there until the change in the process takes place. After that, they will not be there: they will undertake duties at the request of the Commissioner. They do not want to undertake this responsibility, so the police officer will move. At that time, when this provision has been passed, the police officer will not be at Regency Park. DOT officers and private sector officers as approved will all have the same level of responsibility.

In such instances, if, after making a check, they reasonably suspect that a vehicle has been stolen, they will ring the police. If they reasonably suspect that that vehicle has been stolen, they are hardly likely to tell the individual that that vehicle has been stolen and say, 'Will you just stay here and I will ring the police so that they can come and impound your vehicle.' The honourable member is suggesting that these inspectors would say to the individual: 'You are in possession of stolen property—either unwittingly or you have stolen it yourself—therefore stay here, dear soul, while I ring the police and they will come and arrest you.' I do not think it will happen like that. I suspect that they are sensible individuals who are aware of their responsibilities as inspectors and they will not tell the person who they believe is in possession of a vehicle that they reasonably suspect is stolen that they suspect that vehicle is stolen and they will ring the police. They would quietly ring the police. The police would come, seize and detain that vehicle. It would then be a police responsibility.

I indicate that there are many instances in law where, if a person reasonably suspects that something is wrong, whether it be child abuse or a stolen vehicle, it is mandatory to report it. We are saying that, where the person reasonably suspects that the vehicle has been reported as stolen, the person must take these actions. They are mandatory. This is not a new arrangement. It is a practice in the law in many other areas, based on reasonable suspicion that something is at odds. Most people, whether they be the police, representatives of the RAA, the registrar or the DOT inspectors, have some intelligence and neither they nor I see the difficulty that Mr Hon. Mr Cameron wishes to see.

The Hon. T.G. CAMERON: The Minister did not answer any of my questions in relation to liability.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Weren't you listening?

The Hon. Diana Laidlaw: No-one recalls a question on liability.

The Hon. T.G. CAMERON: I will come to the question of liability in a moment. The Minister said that the way in which this would work is that these inspectors would call the police. The words that the Minister used were—just so the Minister knows I was listening—'The police will come, seize and detain the vehicle.' The question is: why is the Minister giving the inspectors the power to seize and detain a vehicle when the Minister has just outlined that the procedure will be that they will ring the police and they will come, seize and detain the vehicle?

The Hon. DIANA LAIDLAW: The person will seize and detain the vehicle and when the police come they will again seize and detain the vehicle, otherwise they will not have the vehicle—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: The police have to have the vehicle as evidence. They need to have the vehicle.

The Hon. T.G. CAMERON: Just so that I can understand that explanation. The inspector will seize and detain the vehicle, but before he does that he will call the police and they will come, seize and detain it again. My question in relation to liability was—and I am sorry that the Minister

missed it—what happens if an inspector gets involved in an altercation with someone whose vehicle they have just seized and detained if, subsequently, the vehicle is proven not to be stolen? How does the question of liability in this case stand? Who would the individual sue if it was subsequently proven that a vehicle was unreasonably withheld and that person suffered some financial loss or penalty? Would they sue the inspector or the Department of Transport?

The Hon. DIANA LAIDLAW: If there is a reasonable suspicion the Crown would have no liability.

The Hon. T.G. CAMERON: What if there was no reasonable suspicion and there was liability?

The Hon. DIANA LAIDLAW: They could not take those actions.

The Hon. T.G. CAMERON: What if the inspector made a mistake and he unreasonably withheld the vehicle?

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: No, do not dodge the question, Minister. Let us be hypothetical for a moment. Let us assume that the vehicle was seized and there were no reasonable grounds for it—the inspector just made a mistake—sometimes people do. The owner of the vehicle suffered a financial loss and they wished to sue. If the Minister does not know the answer, one of the lawyers may be able to help her. I am just trying to find out who they would sue.

The Hon. DIANA LAIDLAW: If it is improper, the Crown is liable.

The Hon. T.G. CAMERON: Any mistakes, any errors, any faults that these private inspectors make—

The Hon. Diana Laidlaw: Or Government inspectors.

The Hon. T.G. CAMERON: I am only talking about the private ones at this stage. I have not got to the Government ones yet. What the Minister is saying is that any mistakes they make, then the Crown—that is the Government—will be responsible for paying for them. Is that correct?

The Hon. DIANA LAIDLAW: I thought you were talking about inspectors generally. Are you now only talking about government inspectors or private inspectors?

The Hon. T.G. CAMERON: No, I am only talking about private inspectors. The government inspectors seem to be a dying breed.

The Hon. DIANA LAIDLAW: If it is a private inspector the Government would not be liable.

The Hon. T.G. CAMERON: In that case, who would be liable?

The Hon. DIANA LAIDLAW: They would take insurance out for those purposes.

The Hon. T.G. CAMERON: The Minister also stated that these authorised agents and inspectors from the private sector would be subject to a criminal record check and that the Act would require the Commissioner of Police to provide information that may be relevant to the question of whether a particular person is a suitable person to be appointed an authorised agent or inspector. I note in her second reading explanation that the words criminal record check were in italic. Could the Minister outline to us what criminal record check the Commissioner of Police will be conducting in relation to these authorised agents and inspectors.

The Hon. DIANA LAIDLAW: I will ask the Commissioner and provide a reply.

The Hon. T.G. CAMERON: Does that mean that the Minister does not know at this stage?

The Hon. DIANA LAIDLAW: I suspect the Commissioner would not wish me to broadcast through the Parliament the things that he wishes to check in determining whether a person has a record, but I will ask the Commissioner. If he wishes to reply, I will provide that reply.

The Hon. T.G. CAMERON: That raises an interesting question. I will interpret what the Minister has said. The Minister is stating that anyone who applies to become an authorised agent or inspector will be subject to a criminal record check, but the Minister does not know what that criminal record check will be and, if I can interpret what she says, she does not believe anyone else should know either.

The Hon. DIANA LAIDLAW: If you want to be an applicant, you would have to agree to the terms that the Commissioner of Police sets.

Clause passed.

Remaining clauses (8 and 9) and title passed.

Bill read a third time and passed.

ROAD TRAFFIC (INSPECTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 602.)

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Defect notices.'

The Hon. T.G. CAMERON: I move:

Page 1, line 16—leave out paragraph (a) and substitute:

(a) by striking out from the definition of 'inspector' in subsection (1) 'person' and substituting 'public sector employee';

With our amendment we are seeking to ensure that the inspectorial functions for defected vehicles are kept within the Department of Transport and are performed by Public Service employees. For those who may not be aware, vehicles are normally defected by the Police Force. A sticker is placed on the vehicle and, if the driver wants to get that sticker removed, they go down to Regency Park and have the vehicle inspected. As I understand it, they not only inspect the vehicle for the defect that is on it but also conduct other roadworthy checks on the vehicle. For example, I own a vehicle which was defected by the Police Force last week. Apparently, the sound emanating from the muffler was too loud. I would hasten to assure you, Mr Chairman, that I do not normally drive that vehicle—my son does.

A defect notice was placed on the vehicle and, for the sake of the exercise, I decided to take the vehicle to have the defect removed. I was particularly impressed by the roadworthiness inspection that the officers at the department conducted. They not only check to ensure that the problem for which the vehicle was defected has been properly attended to but also perform a safety check on tyres, brakes, steering, suspension, lights, and so on. In other words, the department ensures that when you leave its depot the vehicle you are driving is safe and roadworthy in all regards. The department's officers advised me that the normal practice is as follows: the Department of Transport encourages the Police Force, once it has defected the vehicle, to then cease its inspections and for the complete roadworthy inspection to be undertaken by Regency Park.

In practical terms, vehicles are often defected for minor matters, for example, whether the noise level of a car exceeds 96 decibels, or that the tyres are worn sufficiently to represent, in the opinion of the inspector, a danger to the driver.

If that occurs, then the vehicle defect notice is not removed. When people contact the department to make an appointment to have the notice removed, they are advised—and the notice states it any way—that the vehicle is to undergo a roadworthiness check. As I understand it, if the inspector is not satisfied that the vehicle is roadworthy it remains at the depot, and the notice remains on the vehicle until such time as the vehicle is in a roadworthy condition.

This is a strong flaw in the legislation, but I have an understanding, from answers given by the Minister, about what happens if a vehicle goes to one of these motor vehicle inspection stations—and it is interesting to note that the MTA has been selling the rights to these vehicle inspection stations for 18 months in anticipation of their carrying out yearly inspections. However, I guess they will get all this work—

The Hon. Diana Laidlaw: What sort of inspections?

The Hon. T.G. CAMERON: Annual inspections.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Sorry, not annual inspections—compulsory motor vehicle inspections on change of ownership.

The Hon. Diana Laidlaw: That is quite different from annual inspections.

The Hon. T.G. CAMERON: Yes, it is.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Does the Minister want me to apologise, or something? The Minister was right and I was wrong. Are you happy?

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: I am sorry, I did not hear that; I was not listening.

The CHAIRMAN: The Minister should not be interjecting.

The Hon. T.G. CAMERON: I have been accused of not listening, so I am trying to hear every word the Minister says.

The CHAIRMAN: Do not bother: just get on with your speech.

The Hon. T.G. CAMERON: Members should remember that the police do not have a mobile hoist in order to give a motor vehicle a proper roadworthy inspection. The police defect a motor vehicle for whatever is readily apparent. In the case of motor vehicles owned by young lads, in particular, they are usually defected for excessive noise or because tyres need to be replaced. The Minister stated quite clearly that, under this legislation, the authorised agents or inspectors from the private sector will have the power to inspect a vehicle only for those matters for which it has been defected. We see this as a real flaw in the legislation.

On the one hand the police are being encouraged not to conduct a full roadworthiness inspection on the side of the road, but to defect the vehicle and have the people at Regency Park carry out an inspection. Regency Park has all the necessary equipment to test everything on a car and, judging from the going over the people down there gave my car, they know what they are doing. I see that as a real flaw in the legislation. Based on utterances from the Minister in the past, I was of the view that she had a very firm commitment to do everything possible to upgrade the roadworthiness of vehicles on our roads.

If the Minister was not aware can I sure her that, for many years now, the efforts of the officers employed by the Department of Transport at Regency Park have significantly contributed to the increased roadworthiness of our vehicles and that, according to the information I received from that department, these complete roadworthy checks have taken many vehicles off the roads altogether. In other words, the police would see a vehicle that might not be roadworthy, or in need of repair, defect it and send it to Regency Park for a thorough inspection. My understanding is that these private inspectors will not have that power. That is what the Minister stated in an earlier contribution.

I will seek some clarification of that aspect later when I ask questions. I would have thought that the program of roadworthiness checks undertaken by the department, which have been mentioned in this report, have contributed significantly to removing unroadworthy vehicles from the roads. I cannot see how that will happen under the new system. The Minister has also stated that the Department of Transport's defect system will continue to operate in tandem with these private vehicle inspection stations. In the real world, if a young lad's motor vehicle is defected, I assure members that the last place on earth that lad will take his vehicle is to Regency Park.

He will take it to a private inspector, because they do not have the power to defect it and keep it off the road for any other reason. What will happen is that people will gravitate away from Regency Park to these private vehicle inspection stations. I am interested in the Minister's response as to how on earth that will contribute towards improving the roadworthiness of vehicles on the roads. As to other practical problems, how will these private inspection stations be equipped? Regency Park has the equipment to test noise and brakes—you name it. I guess we can only assume that all these devices and pieces of equipment the department has for testing roadworthiness will be purchased by these private vehicle inspectors.

I would not like to hazard a guess how many hundreds of thousands of dollars it will cost them to purchase this equipment. But the practical problem could well be that if they are not going to give vehicles a thorough roadworthiness inspection and the Department of Transport is, then vehicles will not be taken to Regency Park: they will be taken elsewhere.

The Hon. DIANA LAIDLAW: We do not accept this amendment. Essentially, it is consequential on matters that have already failed in the motor vehicle Bill we debated immediately before this Bill. However, in view of the hour I will be extremely short in my reply, as I appreciate the honourable member has already put off a flight to Melbourne—

The Hon. T.G. Cameron: That's not true. Do not mislead the Council.

The Hon. DIANA LAIDLAW: I was told that the honourable member was leaving at 5 o'clock.

The Hon. T.G. Cameron: I am now leaving at 7 o'clock—

The Hon. DIANA LAIDLAW: Okay. In terms of the concern about costs to the private sector, those costs need not be incurred unless they apply in the first place. As the honourable member knows, as a result of amendments to the previous Bill there is a code of practice that must be met, as well as a service agreement. I can provide the honourable member with some of the relevant parts of a service agreement, because they would be very similar to those that have already been entered into between the PTB and the private sector for the inspection of taxis. Nobody sees much difficulty in this whole practice. In respect of some of the other questions, members will recall that the reason why we have not provided to the private sector all the roadworthiness powers and responsibilities that the honourable member is

now suggesting they should have because of the unequal influence, power or responsibility is that the ERD Committee did not recommend it.

The Hon. T.G. CAMERON: Will the Minister confirm, as she did earlier, that these vehicle inspection stations currently being franchised out by the MTA will not be able to defect a vehicle other than for the specific defect that the police put on the notice?

The Hon. DIANA LAIDLAW: No, they cannot, because it is not provided in the law.

The Hon. T.G. CAMERON: I am trying to clarify this, because I am a bit confused here. The authorised inspectors from the private sector will not have the power to defect a vehicle for reasons other than those for which the Police Force sent the vehicle down there; is that correct?

The Hon. DIANA LAIDLAW: Yes, as I understand it, because we have not provided otherwise in the law.

The Hon. T.G. CAMERON: The fee charged by the Department of Transport to remove a defect notice is $51. I understand that it is the Minister's intention not to set a specific fee for the removal of a defect notice. Is that the case?

The Hon. DIANA LAIDLAW: Yes, that is the case.

The Hon. T.G. CAMERON: Who will set the fee? Will it be the MTA or the inspectors themselves?

The Hon. DIANA LAIDLAW: The MTA is not involved in this.

The Hon. T.G. CAMERON: As I understand it, it is selling the rights to these vehicle inspection stations, and has been doing so for 18 months.

The Hon. DIANA LAIDLAW: There is no basis for it to do so.

The Hon. T.G. CAMERON: Are you suggesting that if it is selling rights to vehicle inspection stations it is operating illegally?

The Hon. DIANA LAIDLAW: No.

The Hon. T.G. CAMERON: If the MTA will not set the rate, how will the fee be set?

The Hon. DIANA LAIDLAW: I understand that it will be set as other fees are set for other mechanical work. I understand that there is a price guide for changing a tyre or fixing brakes. If you do not like the price, you go elsewhere.

The Hon. T.G. CAMERON: The Minister seems to be suggesting that market forces and competition will set the price and that different prices could be set all over Adelaide for the removal of a defect notice. Is that correct?

The Hon. DIANA LAIDLAW: No, the Government's inspection stations will have set prices.

The Hon. T.G. CAMERON: I understand that that is the case; they have already set the fee, and it is $51. I am trying to ascertain whether the MTA will set the fee, each individual authorised inspector will set his or her own fee or his or her employer will set the fee. Who will set it—will it be the employer of the authorised inspector?

The Hon. DIANA LAIDLAW: If it is to be an approved business, the business will set the fees. It will take a guide from the Government's set fee.

The Hon. T.G. CAMERON: If we are going to allow the marketplace to set the fee for the removal of these defect notices will the Minister explain why she does not have proper competition in the marketplace and allow the Department of Transport to compete without a fixed fee, so that it can properly compete with the private sector on all fours?

The Hon. DIANA LAIDLAW: We prefer controlled competition.

The Hon. T.G. CAMERON: That is obvious, with the tendering process with the PTB. In relation to the standards that will be set in the private sector for the removal of defect notices, at the moment the standards are set by the Department of Transport and there is uniformity and consistency of standards, because its officers set them. Defecting vehicles is a very complex area, and a car can be defected for hundreds of reasons. One example—

The CHAIRMAN: The Committee feels that the honourable member is not dealing with the amendment before the Chair. I have let the honourable member be wide and loose in his debate, which would be more appropriate to the second reading stage. I suggest that he deal with this matter so that we can move onto the next amendment, because I do not think that standards have anything to do with this matter and should have been dealt with at the second reading stage, and amendments put on file for debate.

The Hon. SANDRA KANCK: The Democrats do not support the Hon. Terry Cameron's amendments. Having lived 29 years of my life in New South Wales where we had private inspection of cars, I do not have his degree of concern. I believe that my later amendment will probably cover at least some of his concerns.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 1, lines 17 to 23—Leave out all words in these lines.

This is a clerical error, in part. On reconsideration, this section should be placed in a later part of the Bill, and we will do so in amendments that I will move later.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 2, line 1—Insert 'in accordance with the regulations' after 'person'.

This is just to make certain that this process of authorisation has some oversight by this Parliament, because it has to be made by regulation. This is why I believe that this may in some way address some of the Hon. Terry Cameron's concerns, because it is by regulation. It brings it into the Parliament and allows Parliament the opportunity for disallowance if that is so desired.

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

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 2, after line 2—Insert:

(8a) An authorisation issued under subsection (8) may be subject to conditions and may be revoked at any time.

(8b) The Minister may, for the purposes of this section, establish a code of practice to be observed by persons authorised under subsection (8).

(8c) A person who contravenes a code of practice established under subsection (8b) is guilty of an offence.

Penalty: Division 6 fine.

(8d) The Commissioner of Police—

(a) must, on the request of the Minister; and

(b) may, at any other time,

provide the Minister with such information as may be relevant to the question of whether a particular person is a fit and proper person to be authorised under subsection (8).

This amendment inserts a code of conduct. I have referred to that issue in speaking to the earlier motor vehicles legislation. Many of the issues upon which the Hon. Terry Cameron expressed concern will be addressed in the code of conduct and the service agreement because, until they are addressed to the satisfaction of the Department of Transport and the Commissioner of Police, the people will not be so authorised.

The amendment also addresses the issues in relation to the Commissioner of Police as transferred from an earlier part of the Bill to this section.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Formulation of proposals by the Board.'

The Hon. P. HOLLOWAY: The amendments to clause 3 relate to changes to local government boundaries. There had been an omission from the original legislation which set up the boundary reform board of the right of certain property holders to vote. I might refer to an issue that came to my attention recently. The Minister for Health (the member for Adelaide) has distributed in his electorate a letter entitled: 'North Adelaide council boundaries protected'. The letter 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 [and this is in bold type and underlined] the Government refused to agree to this proposal.
>
> Whilst elements of this proposal have been discussed on a number of occasions over the last 20 years, I believe that the vast majority of North Adelaide residents respect the history of North Adelaide and its affiliation within the Adelaide City Council boundaries and would very strongly resist any move to cut off North Adelaide. The Government [again this is in bold and underlined] is resolute in preventing any such moves. I am keen to hear your views about this matter.

First, the statement that the ALP was keen to remove North Adelaide from the Adelaide City Council boundaries is untrue. During debate on the Adelaide City Council legislation, I and other Opposition contributors pointed out that we thought the boundaries of the City of Adelaide should be considered as part of the review of governance. However, it is untrue to say that we had put forward a suggestion along the lines suggested by the Minister for Health in his letter. Since we are debating who can vote in polls on boundary changes, I use this opportunity to make quite clear that the ALP has never advocated that proposal. Certainly, we have advocated that the local government boundaries for the City of Adelaide be reviewed as part of the governance.

One thing that the Minister for Health's letter gives the lie to is that this Government was genuinely interested in reforming the governance of the City of Adelaide. All that the Government wanted to do was put in three of its cronies to run the City of Adelaide for a few years, free of responsibility to the electors of the City of Adelaide. It is interesting that the Minister for Health should say that the Government has refused to consider boundary changes when, at the same time, his Government was proposing that the electors in that area should have no say whatsoever in the appointment of the commissioners. For three years the Minister for Health was happy to say, 'Okay, residents of Adelaide, you have no say whatsoever in council decisions; however, we will keep the boundaries the same.' I will not take up any more of the Committee's time on that matter, but members will understand why I could not let pass the opportunity to set the record straight.

The Hon. A.J. REDFORD: I shall make two comments about the last contribution. I take strong exception to the Government's three nominated commissioners being described as 'Government cronies'. One could never describe those three people as Government cronies, and I think—

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: You referred to them as 'cronies'. I strongly object to that term being applied to those three people and want to go on the record as saying so. The next time I see them I will tell them that. Secondly, the honourable member referred to the Labor Party's not having any objective to excise North Adelaide from the equation. Michael Atkinson MP is on record as saying that he would have agreed to the Bill if that had been the case. He said it on three or four separate occasions, particularly in relation to the Barton Road closure. And I see that the Opposition has taken up his suggestion later in the Bill. So, there are two matters which were quite untrue and incorrect.

The Hon. M.J. ELLIOTT: It is not my intention to prolong this debate but, as the issue has been raised, let me say that I am on the record as suggesting that, if anything, the boundaries of Adelaide should be extended, not contracted. The Minister for Health's letter to his constituency, which suggests that the Democrats were actively pushing for the removal of North Adelaide, is the exact opposite of any change that I would have proposed. He put it out either in ignorance or as a deliberate lie: I do not know which. However, he should get his facts right. It does not reflect well on him that he chose to totally misrepresent the Democrat position. It demonstrates that he was sensitive about the bad mail that he was receiving about what the Government had done by that stage. He decided to deliberately distort the position of other Parties to try to make up some ground. The feedback that I have received is that he is not getting away with it.

The CHAIRMAN: Order! I point out to members that their argument had very little to do with the Bill before the Committee. Such matters are more appropriately dealt with in second reading speeches, in Question Time or in Matters of Importance. It is not helpful with our getting on with the business of this Chamber. In future, I ask members to deal with the Bill before the Chair. I allow members to wander off the subject, but it is better to address the clauses before the Chair.

Clause passed.

Clauses 4 to 8 passed.

Clause 9—'Insertion of ss. 65AAA and 65AAB.'

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

> Page 5, lines 20 to 40 and page 6, lines 1 to 3—Leave out proposed new section 65AAB and insert new section as follows:
>
> Investigation by Ombudsman
>
> 65AAB. (1) The Ombudsman may, on receipt of a complaint, carry out an investigation under this section if it appears to the Ombudsman that a council may have unreasonably excluded members of the public from its meetings under section 62(2), or unreasonably prevented access to documents under section 64(6).
>
> (2) The Ombudsman may, in carrying out an investigation under this section, exercise the powers of the Ombudsman under the Ombudsman Act 1972 as if carrying out an investigation under that Act.
>
> (3) At the conclusion of an investigation under this section, the Ombudsman must prepare a written report on the matter.
>
> (4) The Ombudsman must supply the Minister and the council with a copy of the report.
>
> (5) If the Ombudsman determines that the council has unreasonably excluded members of the public from its meetings under section 62(2) or unreasonably prevented access to documents under section 64(6), the Minister may, on the

recommendation of the Ombudsman, give directions to the council with respect to the exercise of its powers under either or both of those sections.

(6) However, the Minister cannot give a direction under subsection (5) unless the council has been given a reasonable opportunity to make submissions to the Minister in relation to the matter.

(7) A council to which directions are given under this section must comply with those directions.

(8) This section does not limit any other power of investigation under other provisions of this Act, or under another Act.

The intent of this clause is to achieve the Minister's goal; that is, to tackle problems in some councils that are too eager to close their doors to members of the public or too eager to withhold information without adequate justification. I have no argument with the Government that some councils have abused that condition, although my understanding is that, generally speaking, we are talking about history, rather than recent events. Nevertheless, we do not want this problem to persist.

This amendment seeks to do a number of things. In the first instance, if there is a problem of a lack of openness with councils, one tier of government should not interfere in the other tier to sort it out, especially if we can find another mechanism for doing so. There is some concern that this could be used as an excuse for political interference. The intent of my amendment is to spell out clearly what the Ombudsman may do in relation to such problems. A ratepayer may go directly to the Ombudsman or to a member of Parliament or a Minister. If a ratepayer goes to a Minister or a member of Parliament, they can advise that, because the Ombudsman has clear powers under the Local Government Act, that person should go to the Ombudsman, who will then be in a position to make recommendations for action.

Members will note that this amendment makes it plain that, once the Ombudsman has completed an investigation, a report will be supplied to the Minister and the council. The Minister can make directions to the council as to its future behaviour with respect to the exercise of its powers and he or she can make an order to release information. If a council goes against those instructions and becomes a repeat offender, other sections of the Act can be brought to bear so that the Minister can use the full weight of his power.

My concern was that the Minister should not come crashing in at the very beginning, but that is a matter of setting up due process. The way it is structured in this amendment, the Minister does not have to appoint investigators. This State already has an officer who has the role, on behalf of the public, of carrying out inquiries into administrative actions of State and local governments. That office is the Ombudsman, and it is not unreasonable that the Ombudsman should carry out the role as defined in this amendment.

The Hon. P. HOLLOWAY: The Opposition supports this amendment. We believe that the Ombudsman is a person in whom the public of South Australia and the local government community have confidence, and is a person of sufficient status to adjudicate such important matters as those under section 62 of the Local Government Act, that is, those matters relating to what should and should not be secret.

The Hon. Mike Elliott's amendment is similar to an amendment that was moved by my colleague Annette Hurley in another place. We moved that amendment to improve the Government's original proposal. The only difference is that, whereas our amendment allowed the Minister to appoint a person to investigate, this amendment essentially makes that person the Ombudsman. We are happy to accept the amendment moved by the Hon. Mike Elliott on the basis that, first, the Ombudsman is an appropriate person of sufficient status to adjudicate in such important matters. We also believe that it will follow the extension of the Ombudsman's role into other areas. The present Government has extended the Ombudsman's powers to look at health complaints, and so on, so the Government has accepted that the Ombudsman has a key role in many areas.

The Ombudsman is already involved quite heavily in local government issues. He is very familiar with the practices and operations of local government and would therefore be able to perform this task very well. He would bring the status of his position to such considerations. I do not think that anyone would doubt the independence of the Ombudsman. To the degree that these issues are conflicts between the State Government and local government, we believe that the Ombudsman would be ideally suited to undertake this task.

I note that during her speech to conclude the second reading debate the Minister commented that, if the amendment moved by the Hon. Mike Elliott had the effect of affording the Ombudsman the capacity to direct councils, that would be out of step. It is my understanding of the amendments that the Hon. Mike Elliott has moved that they do not do so. The Ombudsman would certainly report in situations where a person made a complaint that a council was being unduly secretive. However, the final say in what happened would be up to the Minister on receipt of a report. I do not believe that the objection that the Minister made in her second reading reply is the case. With those few words, I indicate that the Opposition supports the amendment.

The Hon. DIANA LAIDLAW: I regret that the honourable member has made up his mind on this matter, despite earlier understandings, but also despite not having the benefit of the Government's response to this amendment. However, I accept that at some length last night I indicated that this took away a lot of discretion under certain circumstances for the Minister to initiate these investigations. In effect, this amendment substitutes the Minister's power for that of the Ombudsman, leaving the Minister's only recourse in this situation as the investigatory powers of section 30 of the Local Government Act. As I indicated last night, the Government's legal advice is that there are doubts about whether section 30, as currently worded, could be used where councils unreasonably use the provision.

In cases of such doubt one would have thought that the Legislative Council would have veered on the side of caution, but the Labor Party does not seem to be so inclined or so responsible these days. There is nothing in the current provision passed in another place to prevent complaints being made to the Ombudsman directly. There is no such restriction in these provisions. However, it is considered important that the Minister have the capacity to act on complaints that come directly to him (in this instance)—her possibly at some future stage. The Bill ensures that individuals will have a full range of remedies available to them. This amendment essentially takes away one of those options in terms of investigations and we think that that approach is totally unacceptable.

The Hon. A.J. REDFORD: I have had it explained to me on numerous occasions by members of the Labor Party (and members whom I have grown to respect) that when one does a deal and one shakes one's hand, the deal is done. When someone then goes and unilaterally changes their mind, they are called 'rats'—and that is the term that the Labor Party used. I draw members' attention to what was said by the

member for Napier in the other place on this topic. First, in her second reading contribution the honourable member said:

> I am not sure that that is the case with all the provisions, but the Opposition as usual is happy to be cooperative in achieving meaningful reform to the Local Government Act. There are several provisions in this legislation that the Opposition is happy to support. . .

The honourable member further said:

> I recognise that even the Opposition's amendment requires the Minister for Housing, Urban Development and Local Government Relations to direct this sanction. I understand that some people in local government are not happy with this arrangement. I sympathise with that attitude, because the tendency has been to make local government more autonomous as a tier of government. . . I have a great deal of sympathy for that but believe that it is an inherent contradiction of the way local government operates that it is subordinate to State Government legislation.

The honourable member then goes on and moves her own amendment.

The Hon. Diana Laidlaw: Which the Government accepted.

The Hon. A.J. REDFORD: Yes. I will go through this in a bit of detail because it ought to be on the public record. I understand that in the distant past some councils have continually breached provisions of the legislation. Under the legislation it has been difficult to find an effective way to find a sanction on those councils to bring them into line with the legislation. The honourable member then moved her amendment. Ms Hurley then said:

> My amendment gives the Minister the ability to initiate an investigation if he believes there is a problem and, having conducted that investigation, he is able to give council directions to remedy the problem. I believe that this is a sufficient sanction if the council does not comply with the provisions of the legislation. . . The amendment provides a reasonably efficient halfway point for the Minister to take action, if there is sufficient reason to do so.

I had the discussion and I understood that this was all agreed—and it is on the public record. The Minister said:

> The Government is happy to accept the amendment put forward by the Opposition.

The conduct of the Opposition and the shadow Minister stands to be condemned and it stands to be condemned on the same basis as I initiated my contribution. If it was done in circumstances involving the trade union movement, then the conduct would be described as being that of a rat.

The Hon. M.J. ELLIOTT: We will be here a long time if we go off into the political point scoring. It appears to me that the debate is about what the clause should or should not say. I do not believe that what this clause is doing is in any way inconsistent with what Annette Hurley, the spokesperson in the other place, was seeking to achieve. Certainly, we had no discussions on the issue at that time. My understanding was that the Labor Party was seeking to get the best result that it could find at the time. When this particular amendment was presented to the Labor Party it felt that this satisfied its concerns more satisfactorily than the amendment it had moved. But let us stick to the merits of this amendment one way or the other and not go off political point scoring.

The important point is that, if there is any complaint about councils behaving in a manner contrary to that required under the Local Government Act; in other words, if they are unreasonably excluding members of the public or if they are unreasonably preventing access to documents, then a person who is so aggrieved can seek the assistance of the Ombudsman. Most importantly, the Ombudsman will produce a report and that report will go to the Minister. That report can recommend action and, on the basis of the recommendation for action, the Minister can act. I would have thought that that should have resolved any difficulties the Minister had. If anyone has a problem, all they need to do is refer them directly to the Ombudsman. The Ombudsman will carry out an investigation and will produce a report. What else does a Minister want? Quite plainly, if the Minister gives directions—

The Hon. Diana Laidlaw: The option.

The Hon. M.J. ELLIOTT: What does that mean? What does 'the option' mean? The Minister's option is to set up an inquiry. This amendment guarantees an inquiry straightaway. A person goes to the Ombudsman. If they come to a politician with a complaint, the politician will say, 'Look, I understand what you are saying. There is a clause under the Local Government Act which handles that. You go to the Ombudsman and, if the Ombudsman finds there is a problem, the Minister is then in a position to act.' Even under the Minister's own clauses his intention was to set up an inquiry and it was only after the inquiry that he could act further, anyway.

I think that the Minister is being a little difficult by half. My major concern is the initiation process, which, in this case, is a complaint to the Ombudsman. The Ombudsman has to make a decision *prima facie* whether there is a problem and then proceeds. No politics are involved in that process. Unfortunately, the other way around, a Minister, for other reasons, may decide that he wants to hop into a council and then set up the so-called independent inquiry. There is confidence in the Office of the Ombudsman. The role being asked of the Ombudsman is not an unreasonable one.

The Hon. P. HOLLOWAY: I have to respond first of all to the points that the Hon. Angus Redford made and, secondly, address his abuse. First, in relation to the facts, as I said earlier, the Hon. Michael Elliott's amendment is essentially the same as the amendment moved by the Labor Party in another place, with the exception that the person undertaking the investigation is, in this case, the Ombudsman. In other words, he is the specific person. I ask the question: who better to undertake an investigation than a person of the status of the Ombudsman, a person with experience in looking at matters in relation to local government, which the Ombudsman does? His report came down a fortnight ago and a large part of that deals with matters of local government. Who better to do the job?

That is the essential difference between the amendment which the Hon. Michael Elliott has moved and that which was carried in another place. I totally reject the claim that there was some sort of a deal. Just this afternoon the Hon. Angus Redford asked a question which inferred that the Labor Party wanted to abolish the Legislative Council and not have a review function. In this case we had moved an amendment, which we thought improved the legislation, and the Hon. Michael Elliott has taken it a step further in an attempt to clarify it. We are happy to support it on the basis of the argument that was put forward. There was no deal. For the Hon. Angus Redford to use terms such as 'rat', particularly against my colleagues in another place and particularly Annette Hurley, who is a very reasonable person and who, on many occasions, has negotiated with this Government in a very reasonable way and who deserves better than the sort of abuse, is completely unnecessary.

There was no deal. There should be no deal. It is simply a case of an amendment being put forward in this place to improve upon the legislation as it left the House of Assembly.

If the Legislative Council cannot do that, then perhaps it ought to be abolished.

The Committee divided on the amendment:

AYES (8)

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

NOES (7)

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

PAIRS

Roberts, T. G.	Schaefer, C. V.
Levy, J. A. W.	Davis, L. H.
Cameron, T. G.	Lucas, R. I.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 10 to 25 passed.

Clause 26—'Rebates of rates.'

The Hon. P. HOLLOWAY: This is a new measure that the Minister introduced in another place to provide that councils can offer a rate rebate for up to 10 years. It is envisaged that a council that wished to attract industry to its area could give a 10 year rate holiday, and we would all welcome that. Given that councils would have the power to apply this to existing industries as well, it raises the question of whether such rebates should be reported publicly. Under this amendment, would a council be required to disclose the fact that it had given a rate holiday for 10 years to a particular ratepayer?

The Hon. DIANA LAIDLAW: I am advised that, as part of the current comprehensive view of the Local Government Act, it is proposed that councils report annually on their rating policy, including the rate rebates.

The Hon. P. HOLLOWAY: To whom would they report?

The Hon. DIANA LAIDLAW: They would report publicly in the annual report.

Clause passed.

New clause 27—'Amendment of section 359.'

The Hon. P. HOLLOWAY: I move:

Page 10, after line 16—Insert new clause as follows:

Amendment of section 359—Closure of streets, roads, etc.

27. Section 359 of the principal Act is amended—

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

(2a) The council cannot, except in accordance with this section, pass a resolution under subsection (1) or (2) it if would have the effect of a prescribed street, road or public place being closed (whether wholly or partially) to all vehicles or a class of vehicles—

(a) for a continuous period of more than six months; or

(b) for periods that, in aggregate, exceed six months in any 12 month period.

(2b) If the council proposes to pass a resolution of a kind referred to in subsection (2a), the following provisions apply:

(a) the council must first give notice of the proposal in a newspaper that circulates generally throughout the State, inviting interested persons to make submissions on the proposal within a period, being not less than four weeks, specified in the notice; and

(b) the council must give written notice, personally or by post, to—

(i) each ratepayer who is the owner or occupier of land that abuts the prescribed street, road or public place, being land that is wholly or partially within the council's area; and

(ii) each affected council,

inviting submissions to be made on the proposal within a period, being not less than four weeks, specified in the notice; and

(c) the council must, in deciding whether or not to pass the resolution, take into consideration all submissions made in response to an invitation under paragraph (a) or (b); and

(d) such a resolution cannot be published in the *Gazette* until confirmed by the Minister for Transport; and

(e) the Minister for Transport must consult with the Minister to whom the administration of this Act is committed before confirming such a resolution.;

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

(5) In this section—

'affected council' in relation to the closure of a prescribed street, road or public place, means a council into the area of which, or along the boundary of which, the street, road or public place runs;

'prescribed street, road or public place' means a street, road or public place that runs into, or along the boundary of, the area of a council other than the council proposing the closure.

The proposed new clause seeks to make amendments to section 359 of the Local Government Act, that is, the provision that relates to road closure. My colleague in another place (Michael Atkinson) spoke at great length in pointing out the background of this measure. I will briefly summarise part of it. When this clause was introduced in 1986, it was done on the basis of providing councils with the ability to close roads on a temporary basis. The problem that has arisen is that councils have tended to use this provision for permanent road closures, and Barton Road is an obvious example. There are many other examples of road closure, and I will refer to them later. A far more appropriate means of closing roads is to use the Roads (Opening and Closing) Act—an Act which was specifically drafted for that purpose and which was introduced some four or five years ago.

That Act was specifically designed for road closures rather than section 359 of the Local Government Act. It was envisaged that section 359 would be used by councils to close roads for purposes such as marches, pageants, and the like. It is my understanding that it was never the intention of Parliament at the time for this measure to be used for permanent road closures. My colleague in another place, the member for Spence (Michael Atkinson), even quoted the Minister when she was Opposition spokesperson. When this matter was debated in 1986, the Hon. Diana Laidlaw said:

> A further amendment to section 359 is to close public pathways and walkways on a temporary basis.

The Minister obviously recognised, when the section was placed in the Act in 1986, that it was a temporary measure. Essentially my amendments will require a council, if it wishes to close a road along its boundaries, to undertake a consultation process with ratepayers, and also requires the Minister for Transport to publish a notice in the *Gazette*. The Minister for Transport must consult with the Minister for Housing, Urban Development and Local Government Relations in the administration of this Act. The purpose of my amendments is to prevent councils misusing section 359 to close roads on a permanent basis, particularly those connecting council areas, against the intention of the original Act.

I was speaking with Mr Gordon Howie, a person with a long interest in local government legislation and regulations. He is somewhat of an expert, as members here would know. In just an afternoon, when talking about the use of section 359, Mr Howie produced a five-page list from the *Gazette* since earlier this year where councils had, in his view, misused section 359 to close roads. In many cases councils had not properly passed the required resolution to close roads. In other cases roads had been closed on a permanent rather than temporary basis, which is the matter addressed by this clause.

If members want further details, I refer them to the comments made by the member for Spence when this clause was moved in another place. My colleague set out the argument in much greater detail than I need go into here.

The Hon. DIANA LAIDLAW: The Government does not support this amendment. I commend the honourable member and also the member for Spence for their enthusiasm in pursuing these issues. I indicated that, in a disallowance motion, the provisions relating to road closures by local government are to be rationalised as part of the comprehensive review of the Local Government Act currently under way, and they will be inserted in the Road Traffic Act. We believe that this matter should be dealt with in a comprehensive and not in this piecemeal way, notwithstanding the members' enthusiasm for the issue.

The Hon. M.J. ELLIOTT: I will not be supporting the amendment. While Michael Atkinson may have spoken at great length in the Lower House, he did not spend a second discussing the issue or lobbying me outside this place. Perhaps he had a greater desire to put something in the *Hansard* than to achieve a change right at this time. Had he really wanted it, I am sure that, as he does with other issues, he would have pursued and lobbied with much more vigour than he has on this occasion. The Minister is right: the Local Government Act is under total review and that would be the appropriate time to visit this and many other issues.

The Hon. Diana Laidlaw: I am hoping the Hon. Mr Holloway will be shadow Minister for Transport by then.

The Hon. P. HOLLOWAY: I look forward to the changes coming about as the Minister—

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: No, changes to the Road Traffic Act, as the Minister has indicated. I assure the Minister that the Opposition in this place, and my colleague in another place, will be making sure that the Government keeps to its word.

New clause negatived.

Title passed.

Bill read a third time and passed.

[Sitting suspended from 6.11 to 7.45 p.m.]

SOUTH EASTERN WATER CONSERVATION AND DRAINAGE (CONTRIBUTIONS) AMENDMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Contribution by landholders to cost of board works.'

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

Page 1, lines 17 to 21—Leave out subclause (1) and substitute:

The board may levy contributions from all landholders who own or occupy more than 10 hectares of private land (other than land referred to in subsection (2)) in the Upper South-East Project area.

The Hon. M.J. ELLIOTT: I do not intend to proceed with my amendment, because the Government has already indicated its intention to support the Hon. Ron Roberts's amendment. The amendments that the Hon. Ron Roberts and I have drafted are intended to have exactly the same effect, which is to ensure that this piece of legislation concentrates on one particular scheme, namely, the Upper South-East dry land salinity and drainage scheme. When I gave drafting instructions I saw a choice of either trying to identify that scheme in particular or trying to define it in another way. I opted for the latter and, subsequent to that, the Hon. R.R. Roberts opted for the former. From discussions with the Government, it has no particular problems with either but is quite happy for the scheme to be identified in particular. I thought that that would cause some other problems in the drafting and did not pursue it further.

It is important that we identify the scheme. There was concern in the South-East that, from the way the Bill was originally drafted, it was possible to raise a levy against any landholder of more than 10 hectares in the South-East. As a consequence, people living in the Lower South-East who would be in no way affected by the Upper South-East dry land salinity scheme potentially could have been brought in. I do not say that that was the Government's intention, but it would have been possible as the Bill originally stood. With the Government's agreeing to the amendments it is indicating that its intention is that this Bill apply only to the Upper South-East dry land salinity project.

I hope that in the fullness of time that scheme might be brought in under the Water Resources Act, which legislation we will be debating next year, because the Upper South-East is a catchment. It so happens that it is a catchment that does not have natural streams on it. In the natural state the rainfall largely penetrated to ground water, although some surface flow formed swamps and from time to time some of that used to break through and enter the Coorong. It will be seen as a single catchment, and ultimately this Bill will be absorbed under the Water Resources Act, but some works need to be carried out urgently. I understand that Federal moneys are available, and that creates an urgency that the legislation go through before Christmas. Now that we have made quite plain that the Bill relates only to the Upper South-East dry land salinity project, most of the fears in the South-East will have been allayed.

The Hon. R.R. ROBERTS: In moving my amendment I have taken into consideration the matters raised by local government and other constituents and, almost in its entirety, the Hon. Mike Elliott's contribution covers those submissions. This amendment is designed to ensure that the project that was basically signed off 12 months ago gets up. It is important for the amenity of the people of the South-East that the productive nature of that land in the South-East be maintained. This project will ensure that that land will remain productive. It is my considered view that when this project is completed the value of those lands will increase and, therefore, any costs incurred by the people encompassed by the Upper South-East project will be offset by their having made a very good investment.

This Bill refers to a figure of 10 hectares of land, and my amendment specifies that it applies to the Upper South-East project area. We will move other amendments that explain

precisely what the Upper South-East project means, and that clearly reflects the intention of the project.

One other issue was raised with me late today, with respect to the 10 hectares as being the figure at which we start paying levies. When this project started there was an agreement between the local government associations and the project managers of the South Australian Government about a range of matters, including the contributions to be made by each. There was a problem at that time with the local government's requirement to make its contributions.

I am advised that consultation took place between local government and the project managers and a decision was made that 10 hectares would be the figure. Since those agreements a couple of things have happened. There has been a change to the Local Government Act, and a cap has been put on local government rate revenues. That has left them with somewhat of a dilemma in that they cannot adjust their rates to cover the cost of these matters. Correspondence has transferred between local government and the Minister's office whereupon they have canvassed a number of options to allow this to occur. I put this on the public record, although it is too late to revisit it. Clearly, we have two issues: one is the Upper South-East Drainage Project, where agreements have been made and put into place; and the other is that accommodations were given to local government to allow this 10 hectare proposition to be identified.

They have had changed circumstances—and one understands that. But there are two specific issues: one is those issues surrounding the Local Government Act, and the other is this option. If one reads the Bill one will note that a great deal of flexibility is given to the Minister about who is responsible for paying, especially those people in zones A, B, C and D. I suggest that the Minister make the same considerations when dealing with local government, given that this bridle has been put on them so that they cannot increase their rate revenues. I also point out to the Committee that this scheme runs over six years. I ask both the Minister for Primary Industries and the Minister for Housing, Urban Development and Local Government Relations to work with the local councils in that area to ameliorate the impost over the full six years so that this very important project can go ahead and those people who have commitments to pay can pay at a pace and a rate that they can afford.

The Hon. K.T. GRIFFIN: In 1995 the general ability to raise the levy was made to save having to make amendments each time the board negotiated a project, no matter of what dimension. It also allowed a mechanism to negotiate the payment of maintenance for the new drainage at a future point in time with the land holders. As the Hon. Mr Elliott indicated, this is an important project. Commonwealth funding is available, and it is essential that the Bill pass through Parliament this year. It is on that basis that the Government recognises that it has no option but to support the confining of the levy to the proposed project. The Hon. Ron Roberts will move other amendments, which the Government will support on the basis of their being part of a package which has been discussed by Government with the Opposition and which will not compromise the implementation of the project significantly but which will, nevertheless, detract from the proposals in the Government's Bill.

Amendment carried.

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

Page 2, lines 3 and 4—Leave out 'constructing, altering, removing or maintaining any water management works' and substitute 'carrying out the work involved in the Upper South East Project'.

I think the Hon. Mr Elliott and I were working towards the same conclusion; however, I have sought to do it in a different way. Our sentiments are the same: this is in response to the fact that, in all correspondence I have viewed and from my understanding of the arrangements between the negotiating parties, we were always talking about the construction only. The Bill talks about altering, removing and maintaining the water management works. I submit that maintenance is a separate issue. There is no guarantee from the Federal Government for funding for maintenance.

There is really no guarantee from the State Government for maintenance. I suspect that that has to be negotiated at some future date. This amendment reflects that it is construction. I also point out to the Committee that an amendment to clause 2, page 3, line 11 clearly defines again what 'Upper South-East Project area' means.

The Hon. K.T. GRIFFIN: The Government would have preferred to have left in 'alteration, removal or maintenance of any water management works' but recognises where the numbers are and indicates support for the amendment. There is no doubt that maintenance will be an important feature of the drainage system. It cannot just be constructed and then left to look after itself. Obviously, those who benefit from the drainage system will ultimately have to contribute to its maintenance. For the moment, the important thing is to get construction under way, and it is for that reason that, reluctantly, the Government supports the amendment.

Amendment carried.

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

Page 2, line 16—Leave out ', for example,'.

This is not consequential on other amendments. It is of concern that the clause states that the scheme may provide for something and uses the term 'for example', because the question as to what it provides for is begged because of the use of the expression 'for example'. My preference is that those words be deleted. There is sufficient flexibility in terms of negotiating schemes elsewhere within the Bill, in particular in clause 3, which amends section 50, and provides that the relevant authority may waive or defer payment. There is a great deal of flexibility in that clause and I am not sure that subclause (10) achieves a great deal. I do not like the concept of using 'for example' in a clause that does not really explain sufficiently what it is trying to achieve.

The Hon. K.T. GRIFFIN: The Government opposes the amendment. If we delete the two words 'for example', it is more likely to mean that the scheme may only provide for those matters contained in paragraphs (a) to (e) inclusive, of subclause (10). That is not what the Government wishes to achieve. It desires to have flexibility in the development of the scheme and there may be other options that should be provided for.

The Hon. R.R. ROBERTS: I do not support this amendment, for very much the same reasons as the Attorney-General. I received a submission from SELGA which suggested that we take out 'for example', but also suggested that we add a subparagraph (f) to provide 'or any other matter agreed between the board and the land-holder'. If I were to pursue that, it would read 'by the Minister after consulting with the board and land-holder'. Taking out 'for example' restricts the flexibility of the Minister.

I am trying to achieve three things with this Bill: that the South-East project as agreed gets up and that maximum

flexibility be given to a sympathetic Minister for land-holders in dire circumstances. This Bill is about giving flexibility. By having the expression 'for example' in the Bill, this clause means that all the things in (a), (b, (c), (d) and (e) can be done, but it does not restrict it to that. Therefore, a sympathetic Minister faced with a land-holder in dire circumstances would only be restricted to those options. Leaving the words in the clause means that he can do all those things, but there are other options which may be appropriate in the circumstances. In trying to provide maximum flexibility for the Minister to work with the stakeholders in this project, I do not support the amendment.

The Hon. M.J. ELLIOTT: I point out that this does not concern the Minister's discretion. We are talking about a scheme which has been approved by the Minister. Under clause 3, which amends section 50, it is the relevant authority that has the flexibility to make decisions about waiving or deferring payments. Subclause (10), at best, gives some of the options that may be considered.

Amendment negatived.

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

Page 2, lines 29 and 30—Leave out 'fixed by the Minister' and substitute 'not exceeding the prescribed percentage'.

This deals with percentages for imposts for outstanding debts. The first increment for these imposts is a 5 per cent levy for unpaid accounts. For those who have either overlooked their account or for some other reason have not paid their accounts, another impost will be added. It has been suggested that it should be a prescribed percentage as reflected in the Local Government Act. It is conceivable to assume that a person who has not paid the 5 per cent cannot afford to pay it. If another impost of 5 per cent is added to that, that may be the straw that breaks the camel's back.

My amendment provides that it does not exceed a prescribed limit, and the amendment outlines what a prescribed limit should be. That gives a sympathetic Minister the ability to make it 5 plus 1 per cent, or any other percentage. Other measures in the Bill provide that the Minister can waive all fees. It is fair for a land-holder to know what the maximum impost will be. People trying to adjust their accounts to maintain their long-term viability as a primary producer will know precisely what the calculations are. I ask the Committee to support my amendment.

The Hon. K.T. GRIFFIN: The Government is prepared to support the amendment. It will enable us to achieve the outcome we are seeking from the Bill, and that is to be able to provide some incentive to land-holders to pay, an incentive which is related to the rate of interest for prompt payment and a penalty rate of interest for late payment. The proposal which is in the amendment will ensure that there is a consistency of rate across Government.

Amendment carried.

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

Page 3, after line 6—Insert:

'the prescribed percentage' means a percentage calculated as follows:

$$p = \frac{PBR+3\%}{12}$$

where—

p is the prescribed percentage

PBR is the prime bank rate for that financial year

'prime bank rate', for a particular financial year, means the published indicator rate for prime corporate lending of the Commonwealth Bank of Australia at the commencement of the financial year;

This clause is about providing certainty, and this formula has been accepted in this State for some time. Indeed, it comes out of the Local Government Act. I understand that the Government has already indicated that it does not cause any problems.

The Hon. R.R. ROBERTS: The Opposition supports the amendment.

The Hon. K.T. GRIFFIN: The Government supports the amendment.

Amendment carried.

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

Page 3, after line 11—Insert—

'Upper South East Project' means the scheme described in the Assessment Report, published by the Department of Housing and Urban Development in January 1995, relating to the Upper South East Dryland Salinity and Flood Management Plan developed by the National Resources Council on behalf of the South Australian Government;

'the Upper South East Project area' means those areas of land in the South East that, in the Minister's opinion (which is not reviewable by a court or tribunal)—

(a) have contributed to the problem that the Upper South East project seeks to address; or

(b) will benefit from the Project,

and that are described or delineated by the Minister, after consultation with the Board, by notice in the *Gazette*.

I have given an explanation as to why this measure needs to be included in the Bill. It clearly defines which project we are talking about. The second part of the amendment also explains clearly what it means when it talks about the Upper South East project area; that is:

those areas of land in the South East that, in the Minister's opinion (which is not reviewable by a court or tribunal)—

(a) have contributed to the problem that the Upper South East Project seeks to address; or

(b) will benefit from the project. . .

It is somewhat different from the reverse approach taken by the Hon. Mr Elliott—but it means the same. This amendment is essential to understand the previous amendments and I believe it is consequential.

Amendment carried; clause passed.

Remaining clauses (3 and 4) and title passed.

Bill read a third time and passed.

RSL MEMORIAL HALL TRUST BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 610.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading on the basis that the RSL apparently also supports this measure and, in any case, a select committee will be an appropriate vehicle for receiving submissions and generally assessing the merit of the Bill. We therefore support the establishment of a select committee to sit over the parliamentary break.

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

A quorum having been formed:

Bill read a second time.

The PRESIDENT: As this is a hybrid Bill, it must be referred to a select committee pursuant to Standing Order 268.

Bill referred to a select committee consisting of the Hons K.T. Griffin, P. Holloway, Sandra Kanck, P. Nocella and A.J. Redford.

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

That Standing Order 389 be so far suspended as to enable the Chairperson of the select committee to have a deliberative vote only.

Motion carried.

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

That this Council permits the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the Council; that the select committee have power to send for persons, papers and records; to adjourn from place to place; and to report on 4 February 1997.

Motion carried.

ST JOHN (DISCHARGE OF TRUSTS) BILL

Adjourned debate on second reading.

(Continued from 4 December. Page 729.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. The Bill arises from the desire of the local branch of the Order of St John of Jerusalem to rationalise property holdings where, in reality, such property is for the use of St John's Ambulance Service, a separate entity. This would appear to be a reasonable goal, but one must be mindful of those who have donated money at various times to St John's for its charitable purposes. It may well be that most donors have the ambulance and first aid services in mind when making donations, but this is an issue which can be taken up in deliberations of the select committee which will be set up pursuant to this Bill. The Opposition will not adopt a definite decision on this Bill before considering the outcome of the select committee into the ramifications of the proposals contained in the Bill. We support the second reading, but we indicate that we will await the deliberations of the select committee before making a final decision.

The Hon. K.T. GRIFFIN (Attorney-General): I thank the Leader of the Opposition for her indication of support for the second reading for the purpose of enabling the establishment of a select committee. I will also record my appreciation to the Leader of the Opposition for dealing with the Bill at such short notice. It is desirable that we establish the select committee so that advertisements can be placed and those who wish to make submissions are enabled to do so, so that the matter can be dealt with when the session resumes in February.

Bill read a second time.

The PRESIDENT: Order! I have to rule that this Bill is a hybrid Bill which must be referred to a select committee pursuant to Standing Order 268.

Bill referred to a select committee consisting of the Hons K.T. Griffin, P. Holloway, Sandra Kanck, P. Nocella and A.J. Redford.

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

That Standing Order 389 be so far suspended as to enable the Chairperson of the select committee to have a deliberative vote only.

Motion carried.

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

That this Council permits the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the Council; the select committee have power to send for persons, papers and records; to adjourn from place to place; and to report on 4 February 1997.

Motion carried.

IRRIGATION (CONVERSION TO PRIVATE IRRIGATION DISTRICT) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ELECTRICITY BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

CRIMINAL ASSETS CONFISCATION BILL

Returned from the House of Assembly with the following amendment:

Page 12—After line 16 insert new clause 19 as follows:

Criminal Injuries Compensation Fund

19 (1) Subject to any direction of the court by which the forfeiture is imposed—

(a) money forfeited under this Act or obtained by realisation of other property forfeited under this Act; or

(b) money deriving from the enforcement in the State of an order under a corresponding law registered in the State,

must be applied towards the costs of administering this Act (including salary and other costs associated within the employment of the Administrator) and the balance must be paid into the Criminal Injuries Compensation Fund.

(2) Any money—

(a) paid to the State under the equitable sharing program; or

(b) received by the Commonwealth from a foreign country within the meaning of the Mutual Assistance in Criminal Matters Act 1987 under a treaty or arrangement providing for mutual assistance in criminal matters and paid by the Commonwealth to the State,

must be paid into the Criminal Injuries Compensation Fund.

(3) The purposes for which money may be applied from the Criminal Injuries Compensation Fund include—

(a) the financial support, to an extent determined by the Attorney-General, of programs directed at the treatment and rehabilitation of drug-dependent persons (but the extent of that support cannot exceed the income of the Fund derived from forfeitures related to serious drug offences); and

(b) payments to the Commonwealth or to another State or a Territory of the Commonwealth, under the equitable sharing program.

Consideration in Committee.

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

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

It seeks to insert a new clause 19 which deals with payments from criminal assets which have been confiscated into the criminal injuries compensation fund. Members may remember that this was in erased type in this Council when the Bill was being considered because clause 19 is a money clause.

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

Motion carried.

EQUAL OPPORTUNITY (SEXUAL HARASSMENT) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 738.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of this Bill. To do otherwise would be going against the grain because I have recently introduced—and it has passed this Chamber—a Bill which seeks to set out to do exactly the same thing. I am rather disappointed; I do not believe that the Government Bill goes far enough. I would be happy to have some discussions with the Attorney over the break to see

whether we can come to some agreement on some of the issues that I might like to raise just briefly. First, I am rather disappointed that the recommendations of the Select Committee on Women in Parliament were not taken into effect by this Bill, namely, that sexual harassment can also occur between one member of Parliament to another, one judge to another or, indeed, one local council member to another.

Secondly, I believe the Bill will be unworkable if we have to deal with complaints in-house, as it were. I do not believe it is satisfactory for issues of sexual harassment, with all due respect, to be dealt with by the Speaker and the President. Perhaps if we had a true Westminster system, where the Speaker and President were to leave their political Parties, one might feel that there was a distancing from the political process. We should rethink this position. The clause relating to this section could be amended to ensure that the Equal Opportunity Commissioner of the day would be required to consult with the Speaker, the President or the Chief Justice, as the case may be, so that any issues of independence or privilege could be taken into account in the conduct of any investigation or prosecution.

As I said at the outset, I support very strongly the principles contained in this Bill, which were precisely those contained in my Bill. Therefore, I fail to understand why the House of Assembly could not have dealt with my Bill or, indeed, why the Attorney could not have amended the Bill I introduced. However, that is the prerogative of the Government and I accept that. I would like the Attorney to consider the points I have raised over the Christmas break. I find it quite unacceptable that sensitive sexual harassment issues should be left in-house. We need to take a step back from the political process to deal with these issues. They are very sensitive issues and I believe that, in order to see that justice is not only done but is seen to be done, we must have some different process than is suggested in this Bill. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

ADJOURNMENT

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

That the Council at its rising adjourn until Tuesday 4 February 1997.

This adjournment motion gives me an opportunity to thank people and to call an end to the session—almost. The conference of managers on the Local Government (Miscellaneous Provisions) Amendment Bill is still in progress which, I trust, will be resolved soon. I know that, with the sterling work of our managers from the Legislative Council, the conference will, hopefully, reach an early resolution. On behalf of the Liberal members of the Legislative Council, I thank all staff of the Parliament, but particularly the staff of the Legislative Council, for the support they provide to us. I thank Jan, Trevor and Chris, and particularly Paul (who is leaving today) for the assistance he has provided to all of us. We will miss him, but I know that he will move on to bigger and better things. I am sure our paths will cross again many times in the future. All our best wishes to Paul.

I thank all the table staff, all the attendants, *Hansard* and all the staff of Parliament House for the sterling work they continue to do, particularly in these trying times of ladders, cords, cables, dust and a range of other things. At least there is no asbestos. My good friend the Hon. Ron Roberts and I can at least share that: at least there is no asbestos here, we hope. I have not seen any stickers. Nevertheless, a lot of work has and is occurring. I think we are all appreciating the benefits of the renovations to Parliament House.

I congratulate the Government and the decision that was taken after many years, particularly by the previous Premier (Hon. Dean Brown), and the Minister who originally started it all, the Hon. Graham Ingerson, followed by the Hon. Wayne Matthew. At last people were prepared to bite the bullet and do what we all knew needed to be done. At least we are not like Victoria at the moment. I read on the front page of the *Age* that the Premier has just pulled the plug on the redevelopment of Victoria's Parliament House because the Labor Party did not support a Bill through the Parliament. The renovations have been stopped, the redevelopment authority has been sacked, Mr Bill Baxter, who had a job has lost it and, evidently, it is all off. It went from an $80 million redevelopment to nothing in about two minutes. The much more modest redevelopment of the South Australian Parliament has proceeded and we are delighted.

The Hon. K.T. Griffin: And it is certainly tasteful.

The Hon. R.I. LUCAS: It is very tasteful. We have also appreciated the support of the Labor Party and the Australian Democrats. It is sometimes easy to make political capital of these sorts of issues. The Labor Party has not sought to do so, nor has the Australian Democrats, for which we are eternally grateful. All members and staff of Parliament House are grateful for what is being done and, we trust, it will soon conclude. I thank you, Mr President, for your Presidency, even if you get a bit grumpy on the last night of the session.

Members interjecting:

The Hon. R.I. LUCAS: What, he does not get grumpy on the last night of the session? He gets very grumpy on the last night of the session. Thank you, Mr President, for your tolerance and forbearance in terms of working with the Chamber. We appreciate the way you preside over the Chamber and we thank you for your assistance. I thank the Hon. Carolyn Pickles and the Hon. Michael Elliott for their support, and all members for their assistance. This Chamber has worked exceptionally well in the past two or three weeks. We had a large number of Bills. Admittedly, a number were small but, nevertheless, they are all Bills that must be debated and, on occasions, amended.

With one possible exception, who is no longer with us, I thank all members for their assistance in terms of getting this very busy program through this last week. We have processed a lot of legislation and, as a representative of the Government, I thank members, and particularly the Hon. Carolyn Pickles for her willingness to work with the Government in processing the legislation. I also thank the Hons Jamie Irwin and George Weatherill for their whipping out procedures. The processes work pretty well as a result of the hard work of the two whips in terms of trying to keep the program in order, working and making sure that we get through it all by the end of the session.

I am indebted to the work of the Hon. Jamie Irwin, and I am sure the Hon. Carolyn Pickles would make the same comments about the Hon. George Weatherill. With those remarks, I wish everyone a happy, holy and healthy Christmas, and look forward—after whatever length of time members are able to winkle out of busy programs for a bit of a break—to seeing you again in the February session, whenever we next commence.

The Hon. CAROLYN PICKLES (Leader of the Opposition): On behalf of the Opposition, I also convey my thanks to *Hansard*, the Clerks (Jan and Trevor), and to wish Paul Tierney *bon voyage*. I hope he has a terrific time. He has given me his itinerary today and it sounds absolutely fantastic. I welcome on board Noelene Ryan. It is pleasing for me to see another woman Clerk in this place. I believe that she will be quite an asset to the Chamber, and I hope that she will enjoy her new position. To you, Sir, I convey my thanks for your tolerance, forbearance and good humour. We are very fortunate in this place to have a President who on most occasions displays—

The Hon. A.J. Redford: All occasions.

The Hon. CAROLYN PICKLES: Not today, perhaps—a very good sense of humour. Today I liked your little quip about the kelpie dog; it showed your country flavour. If your forbearance could be carried over to the other Chamber perhaps things might run a bit more smoothly over there. I thank the Government for its forbearance at times, when we have not always had our Bills ready every time it has wanted them, but I believe that we have tried to expedite the passage of legislation in the same way as the Government in this place did when it was in opposition. Thanks must go to the two Whips, the Hon. Jamie Irwin and the Hon. George Weatherill, although we are calling George the Scarlet Pimpernel, because we seek him here, we seek him there. He is rather elusive, but he is here in spirit, I believe.

Having done the job of Whip I know that it is not always easy to track people down, particularly while the renovations are under way. It is rather a long hike to find the facilities these days, but they are to be found somewhere in the catacombs. I must make a point about the renovations. People have been very tolerant about working under some difficult conditions at times, and the workers who have worked on the renovations in this place have been very tolerant of us. It cannot always be easy to be told to be quiet because the Parliament is sitting, but they are always very cheerful and hard working.

Parliament House is looking fantastic these days. The renovations on the House of Assembly side are quite remarkable, and long overdue. From the time I came into this Chamber in the former Government I worked very hard to try to get some renovations done and I did not succeed, so credit must be given where it is due. This Government has gone ahead and made this a far more pleasant place to work in. We look forward to seeing the finished touches, and I hope that, when we have dealt with all the finishing touches to the decor and the furniture, we might start to think about some technology for members, particularly in this Chamber.

An honourable member: And a few more staff.

The Hon. CAROLYN PICKLES: And a few more staff. Are there any more? This is a Christmas shopping list. I thank members on my side of the Chamber for their assistance during the past year. The support of one's own colleagues is obviously desirable, and I thank them for being supportive and for getting the work of the Council done in good time. I also thank the Messengers, because it is not always easy trying to track us down and making sure that we are supplied with all the necessities that make life smooth. I wish all members and staff a very happy Christmas and a very peaceful new year. I believe that the new year may well bring some different things: we may see some different faces in different positions, and we wish those who will not be with us any longer all the best for the future.

The PRESIDENT: I thank members very much for the kind words they have said. Those words about me are only a reflection on yourselves, because this Chamber could quite easily get out of control, but you always do what I ask of you, even if I repeat myself once or twice. So, thank you very much for being such easy people to control. I give particular thanks to Paul Tierney; he has been here for a long time and has proven to be an excellent Assistant Clerk. I hope that he goes on and does something that he enjoys and gets work in Europe, England and wherever he goes and that he has a good time. I do not think he is going alone: I think he is going with an assistant—a bag carrier. I hope that Paul enjoys his travels, because he has been great fun around here. He always has a great sense of humour. I do not know who will look after the footy pools now; it will probably slip into recession now. Noelene has been assisting me and has been an excellent secretary during the period that she worked for me. My thanks to Margaret, Todd, Chris, Trevor, Graham, Ron and John and particularly to Jan, who has been my adviser—and I assure members that better advice is not available in the Parliament. I thank *Hansard* for correcting my mistakes.

The disruption of the building has been significant, and more so at recent times because it is at ground level. I draw members' attention to something which nobody has picked up and about which I thought I would get flak. As you go out the front and look left as you go round the corner you will note that there are no pine trees in the corner. I thought that I would be run over by those people who love to hug trees. But they have disappeared and I think the building is the better for it; we were having problems with those trees in the corner. I thank the Leaders; they have both been most cooperative. The whips have been tremendous.

Finally, I thank Trevor Crothers (the Deputy President), for filling the Chair when I am not here; he does it well. There are times when one needs a little relief, and I thank him for that. I wish you all a very happy and joyous Christmas. May you go home and have fun with your kids, grandchildren, nieces and nephews, those that we know about and those that we do not know about. Do enjoy yourselves, and I look forward to seeing you here early in February, if not beforehand.

Motion carried.

SECOND-HAND DEALERS AND PAWNBROKERS BILL

Returned from the House of Assembly without amendment.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendment.

Consideration in Committee.

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

A quorum having been formed:

The Hon. DIANA LAIDLAW: I move:

That the Council do not insist on its amendment.

The Hon. P. HOLLOWAY: The Opposition believes that we should insist on the amendment.

Motion negatived.

[Sitting suspended from 9.31 to 9.40 p.m.]

MOTOR VEHICLES (INSPECTION) AMENDMENT BILL

Returned from the House of Assembly without amendment.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendment to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Plaza Room at 9.45 p.m. this day, at which it would be represented by the Hons M.J. Elliott, P. Holloway, Diana Laidlaw, A.J. Redford and G. Weatherill.

ROAD TRAFFIC (INSPECTION) AMENDMENT BILL

Returned from the House of Assembly without amendment.

[Sitting suspended from 9.50 to 10.45 p.m.]

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The following recommendation of the conference was reported to the Council:

That the Legislative Council amend its amendment by leaving out proposed new subsection (5) and inserting new subsection (5) as follows:

(5) If the Minister, after taking into account the report of the Ombudsman under this section, believes that the council has unreasonably excluded members of the public from its meetings under section 62(2) or unreasonably prevented access to documents under section 64(6), the Minister may give directions to the council with respect to the future exercise of its powers under either or both of those sections, or to release information that should, in the opinion of the Minister, be available to the public.

Consideration in Committee of the recommendation of the conference.

The Hon. DIANA LAIDLAW: I move:

That the recommendation of the conference be agreed to.

We faced a rather confused situation when the Bill was debated here and left this place. It is worth briefly remarking on the history. We were debating amendments moved by the Hon. Michael Elliott to new section 65AAB of the Local Government Act, specifically investigations by the Ombudsman. The amendments moved by the Hon. Mr Elliott arose from amendments moved earlier in the other place by the member for Napier, which the Minister in good faith accepted. So, these Labor amendments were accepted by the Government, they came to this place, were amended here as a result of amendments moved by the Australian Democrats and were accepted by the Labor Party which insisted on those amendments to their own amendments which earlier had been accepted in good faith by the Government—an extraordinarily confused situation which then ended up in conference.

The conference concerned subsection (5). Rather than dwelling on the past, I suggest that, in good faith, the Minister, with the concurrence of members of the House of Assembly, has agreed to a compromise on the matter that had been passed earlier in this place.

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: I think you have expressed it beautifully and accurately. We now have a little of what the Labor Party first moved, a little of what the Australian Democrats moved in this place and a little of what the conference agreed to. Perhaps it is a win-win-win situation and, on the last day of this part of the session, the best one could hope for in the circumstances, no matter how confusing for any other observer to follow.

As it left this place the Bill provided that the Ombudsman had ultimate sanction on what was being released. The conference has agreed that that sanction should ultimately be with the Minister, because it is the Minister who is accountable to this place and, therefore, to the wider electorate for the conduct of these matters. It is appropriate that the Minister should be so accountable and that it not be the responsibility of the Ombudsman alone. In a new amendment we also have features from an earlier amendment, which was agreed to, such that there is no suggestion that it has retrospective implications. So, if a decision is made about the release of information, it is prospective—not retrospective—that the information is released. In that sense, that fine adjustment is a good one. I can report that the Minister thanked all members of the Committee for considering this matter promptly, doing so with some good spirit in the circumstances. In that vein, I wish all members and you, Mr Chairman, all the best for Christmas and the new year, as I did not have an opportunity to do so earlier.

The Hon. M.J. ELLIOTT: It is worth noting that the issues that went to the conference were issues that were not in the original draft that went out to the community and came quite late into the legislation. However, they were issues which are of interest in the community, that is, where councils choose to hold closed meetings or withhold information against the spirit of the Local Government Act. There have been some concerns in the past about that occurring from time to time. The Democrats' concern with the original Bill as it came in was that the process was highly political. As the Bill has been amended—and, indeed, as it still left the conference—all the initial stages are under the control of the Ombudsman. If a ratepayer is concerned about lack of openness of councils or withholding of information against the spirit of the Local Government Act, he or she can go to the Ombudsman and file a complaint. The Ombudsman can investigate that complaint and make a report.

As it has emerged from the conference, subclause (5) is not exactly as I would like it but it is not too bad. It enables the Minister to make a decision after receiving the report of the Ombudsman, but the Minister's decisions are of two types. They are prospective in terms of giving directions to councils about the future exercise of their powers. If a Minister, after receiving a report, feels that a council has held meetings in a manner that is not acceptable, he can instruct the council not to do so. He can give one retrospective order, namely, an order to release information. If after receiving the report from the Ombudsman the Minister is of the opinion that information should have been released, the Minister can choose to do so. That is not unreasonable, and we now have a process where at least the investigation phase is established and carried out in a totally non-political fashion. The Ombudsman has never been able, under his or her Act, to give orders in terms of action. Those orders can be given now by the Minister, but they are reasonable orders in terms of

what shall be done in future as to behaviour or simply the release of information.

The Hon. P. HOLLOWAY: The Opposition is happy with the compromise reached on this matter. The role of the Ombudsman in questions relating to secrecy in local government is protected. The role of the Minister is protected. There was some concern by the Government that, if the clause had gone through in the form in which it left this place, effectively it would have meant that the Ombudsman was deciding what was happening in relation to the application of the secrecy provisions of local government. That will not be the case. The Government is happy, the Democrats are happy and we are happy. The Bill will leave this place in better shape than it was in previously.

The point we need to make in relation to this matter is that from now on local government will not been able to be as secret as it has been in the past and, as a result of the deliberations of this House, the conference and the deliberations of another place, there is an important change to legislation in South Australia. Councils will now have to think more carefully about when they wish to operate in secret. The public interest is better protected and the public will be more aware of what is happening in local government. That is a good thing and we welcome the compromise.

Motion carried.

SOUTH EASTERN WATER CONSERVATION AND DRAINAGE (CONTRIBUTIONS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

ADJOURNMENT

At 11.11 p.m. the Council adjourned until Tuesday 4 February 1997 at 2.15 p.m.