LEGISLATIVE COUNCIL

Tuesday 25 February 1997

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

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

His Excellency the Governor, by message, intimated his assent to the Bill.

SLATER, Hon. J.W., DEATH

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

That the Legislative Council expresses its deep regret at the recent death of the Hon. John William Slater, former Minister of Recreation and Sport, Minister of Water Resources, and member for Gilles for the House of Assembly, and places on record its appreciation for his distinguished public service.

In moving this condolence motion on behalf of Liberal members in the Chamber, I note that the Hon. John William Slater—or Jack Slater as most of us knew him—was a member of the House of Assembly for almost 20 years, from May 1970 to November 1989. He also served as a shadow Minister and then as Minister of Recreation and Sport and of Water Resources from November 1982 to December 1985, at which time he stood down.

In preparing this condolence motion, I looked through some press clippings relating to Jack Slater's career in the Parliament, and what features is a particular interest in recreation and sport because those were his shadow ministerial and ministerial responsibilities, although I suspect that what comes through is a love of and an interest in matters relating to recreation and sport. I noticed that one clipping made mention of an association of a personal nature with the Harriers club and also water resources—again an issue that was his responsibility. Linking those matters was a bit of controversy at the time about the Aquatic Centre in North Adelaide. Some older members in the Parliament will recall some of the controversy that arose at that time.

My attention was drawn to an article which was written by Randall Ashbourne (again, a name known to many members in this Chamber, although some more so than others) in 1985 under the heading 'The Minister for Not Giving Up' and which traced Jack Slater's career. Jack left school at 14, after completing a couple of years at high school, to work for a year at the Islington railway workshops before becoming a message boy for a motor firm at one pound a week. Jack said, 'I was bloody overpaid. Great opportunities, you know, I could have finished up maybe a clerk.' He then became a bootmaker, following his father into the old Unley firm of Rossiters; and that commenced his lifelong association with the trade union movement and Labor politics.

By the mid 1960s he followed Don Banfield—another leading Labor political figure—as Secretary of the Shoemakers' Union. He completed a history of service to the union after some 25 years. Reward in part for his contribution to the union and the Labor movements came with his Party nomination for the new seat of Gilles in 1970. Those of us with long enough memories will recall the 1975 State election, when the defeat or victory for the Dunstan Government at that time hinged on one seat. Again, for those with long memories, that was the seat of Gilles, which Jack Slater won by only 128 votes over the Liberal candidate.

That Liberal candidate, Lou Ravesi, has since passed away, but he was a well known Adelaide figure and was certainly well-known throughout the Gilles electorate. Those 128 votes in 1975 were the difference between the Dunstan Government's clinging to power or being defeated and Bruce Eastick's becoming the Premier of South Australia.

When one looks at his other comments in some of his interviews, Jack Slater was not overly impressed with the Dunstan decade. I will not go into those, because I do not think it is appropriate. However, Jack Slater certainly spoke frankly in relation to his affection for John Bannon as a leader, as opposed to his views in relation to Don Dunstan during the 1970s.

As I said, Jack Slater was elected in 1970, and it is interesting to look at his maiden speech. I want to refer to only one aspect of that speech. Mr Slater talked a lot about issues of great concern to him: the Housing Trust, and matters of concern to his constituents in Gilles. He talked about the member for Bragg in that speech, but he also talked about his constituency in the electorate of Gilles. Although Jack also talked about recreation and sport matters, I want to share with members the following quotation:

I believe society has changed, not for the better unfortunately, since then, because increasing social injustices and pressures are being directed particularly at the younger generation. Almost daily, by the medium of television, we see an emphasis on violence, with little regard paid to the dignity of human life. People are gunned down with almost callous indifference. This situation is condoned, aided, and abetted by the interests of big business in its search for increasing profits. Is it any wonder the juvenile delinquency and social problems continue to increase?

Jack Slater's comments were made in 1970, but I am sure that in 1997 members of Parliament, not only in South Australia but nationally, have heard persons expressing concern about the impact of violence on television, and the impact of issues such as that on families, family harmony and society generally. On behalf of Liberal members I place on record our tribute to Jack Slater's career of service in the Parliament, the broader community and many of the community organisations that he served; and we express our sympathies to the remaining members of his family.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I have pleasure in seconding the motion on behalf of the Opposition. Jack Slater, as he was known (the name John William would never have occurred to me; he was always 'Jack'), was a product of the trade union and proud of it. Before entering Parliament he was the former secretary of the Boot Trade Employees Union and had a 25 year history in the union. Jack never forgot the trade unions that he came from and always strongly supported the union movement. I guess he was better known when he went to the ministry for his ministerial portfolio of Recreation and Sport. It was an area that Jack loved and he was a keen sportsman, as the Minister has already outlined.

One thing that happens when you leave this place or pass on is that your press clippings are brought out to haunt you. I have been looking through some lovely ones of Jack here, and I remember him quite fondly when I look at them. I wish we could record in *Hansard* one wonderful photograph which shows Jack throwing the javelin. He was practising in the parklands before entering the Fourth World Veterans Athletic

Championship. He was representing Australia at the age of 53, and that is no mean feat for someone of that age. There is another wonderful photo here of Jack sitting on a very small pony with the caption, 'Minister goes for a ride but keeps his feet on the ground'. I guess that typified Jack: he always kept his feet very firmly on the ground.

Jack was also very concerned about young people and as Minister for Recreation and Sport that was an area on which he concentrated very much. He had a great sense of humour. I recall that when Jack had recovered from his first heart operation he was still an inveterate smoker. When he had to go in for his second heart operation he was still smoking, and he said to me, 'I don't know why we need to give up smoking; these doctors talk to me about giving up smoking but I am still a smoker.' Then I believe his doctor took him to a hospital where patients who were inveterate smokers had lost their limbs. That was enough for Jack because, as a keen sportsman, he did not want to give up his walking or his quality of life. So, that was the last time that Jack ever smoked a cigarette.

We are very sorry to hear of Jack's passing. I believe he has passed on early, probably due in part to his ill health in later life. He leaves his wife, Doris, five children and many grandchildren; and the condolences of all the Labor Party go out to his wife Doris and the rest of his family.

The Hon. M.J. ELLIOTT: I want to pass on the condolences of the Democrats. I was not aware that Jack had passed away until this motion was moved today, so I have not had a chance to prepare a speech as I would have liked. I remember Jack as a very genuine and honest fellow and a person who sought to get on well with people regardless of Party, and he will be sadly missed.

The Hon. G. WEATHERILL: I have some very fond memories of Jack Slater. I knew Jack for over 30 years from when he was in the Boot Trade Union. When he left that union after many years, his brother took it over. Jack Slater and his brothers were all very much involved in the trade union movement. I have some very fond memories, as I said. I also remember when Jack became a Minister in the Dunstan Government. At the time I was the President of the Australian Workers Union and Jack was in charge of the EWS Department. I used to have many meetings with him concerning the different disputes arising or needing to be resolved. I used to try to convince Jack not to listen to the director, or any of the senior public servants, but he simply would not buy that from me. So, Jack and I used to have many battles. When I finally came into Parliament we made contact again and we finished up very good friends. We were both involved in the parliamentary bowling team.

As members would know, Jack always had a joke: no matter when you met him he always had another joke to tell you. When we used to travel interstate—and I am sure all interstate members will miss Jack dreadfully—on the Wednesday night members of the different Parties would split up; that is, Liberal members would go one way and Labor members the other and each Party would have its own little function. Each State would have someone who was prepared to get up and represent that State. We used to say, 'Jack, it has to be you.' Jack would say, 'No,' but he was the first one up telling his jokes to everyone, which was really appreciated. Jack will be sadly missed by not only the people of South Australia but also interstate members of Parliament. My deepest condolences go to his family.

The Hon. ANNE LEVY: I add my appreciation of Jack Slater to the comments that have already been made by other members. Jack was a member of this Parliament long before I was. I recall when I came in that he was most helpful to all new members. He was one of the most helpful people around in assisting new members to adapt, to find their way around and to learn the tricks of Parliament. Jack was always available and always helpful to new members. I certainly endorse the remarks made about his sense of humour and his penchant for telling jokes (both clean and dirty) and many a good yarn was swapped with Jack in the parliamentary bar.

Members have spoken of his great interest in sport and recreation, an interest he carried through to become a most successful Minister in that area, but he was also Minister of Water Resources and as Minister of Water Resources he made it a point to know the latest figures on the reservoirs—their capacity and their current holding—every week. At the drop of a hat he would inform the Parliament—and I am sure the slightest perusal of *Hansard* will confirm this—how much water was in each metropolitan reservoir and what the prognosis was for reservoir capacity for the future. It became a standing joke in the Parliament—if anyone wanted any information about reservoirs, just ask the Minister. He did not need a note to inform him; he just knew the figures and updated himself on them every week.

Jack will certainly be missed amongst Labor Party people. I am sure many members share fond memories of evenings spent with Jack and I certainly extend my deepest sympathy to Doris and other members of his family.

Motion carried by members standing in their places in silence.

[Sitting suspended from 2.35 to 2.49 p.m.]

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following Questions on Notice be distributed and printed in *Hansard*: Nos 108 and 127.

TRANSADELAIDE, TICKET WALLETS

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

1. What will be the cost of reflector ticket wallets, as developed by the Morphettville Bus Depot and as stated in the TransAdelaide 1995-96 Annual Report (page 37)?

2. If proved successful, will the ticket wallets be made available to all other passengers using TransAdelaide night services?

The Hon. DIANA LAIDLAW:

1. A limited edition of 5000 'NightGlo' reflective ticket wallets have been produced for TransAdelaide customers. The cost of each ticket wallet to the public is 50¢. This charge will cover the production costs of the wallet and includes the reflective material. Each ticket wallet is individually numbered and these 'lucky numbers' will be used in future TransAdelaide promotions.

2. The 'NightGlo' reflective ticket wallets were launched by me at Morphettville's Open Day on 2 February 1997. On this day, approximately 500 ticket wallets were handed out free of charge to the public.

These 'NightGlo' reflective ticket wallets have been made immediately available for sale to the public at the Passenger Transport Information Centre in Currie Street, Adelaide. Further print runs will depend on demand.

GLENELG TRAM LINE

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

1. Why has the Minister failed to call for public tenders for the operation of the City to Glenelg tram line?

2. Why has the Minister restricted its negotiations to operate the City to Glenelg to Sydney Light Rail?

3.(a) Has the Minister offered the operation of the tram line to TransAdelaide or any other South Australian transport operator?

(b) If not, why not?

The Hon. DIANA LAIDLAW:

1. As the honourable member should be aware the Passenger Transport Act provides that the Passenger Transport Board (PTB), not the Minister, has the responsibility for contracting the operation of passenger transport services, including the operation of the City to Glenelg Tram service.

2. The PTB has never entered into any negotiations with the Sydney Light Rail to operate the City to Glenelg Tramline—nor has any proposal been lodged by that company.

Last year the Sydney Light Rail requested general discussions with a number of parties including myself, the PTB and the Adelaide City Council regarding the future of the Glenelg Tramline, in line with the Government's guidelines on private sector investment in infrastructure.

3. Recently the PTB has awarded contracts to TransAdelaide for both the operation of the Glenelg Tramline, and the operation and maintenance of the associated assets and infrastructure. These contracts are for two years from 12 January 1997, with an option to extend for a further three years.

PAPERS TABLED

The following papers were laid on the table:

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

South Australian Harness Racing Authority—Report, 1995-96
South Australian Thoroughbred Racing Authority—Report, May—July, 1996
Regulations under the following Acts—
Development Act 1993—Marion Regional Centre
Rates and Land Tax Remission Act 1986—Amounts of Remission
Racing Act 1976—Rules—Racing Industry Development Authority—Variations

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

Regulations under the following Acts—
Branding of Pigs Act 1964—Fees
Fisheries Act 1982—Fishery Management Committees
District Council By-laws—Renmark Paringa—
No. 1—Permits and Penalties
No. 2—Dogs
No. 4—Streets
No. 5—Cemeteries
No. 6—Taxis
No. 7—Lock 5 Marina
No. 8—Park Lands
No. 9—Bees
No. 10—Moveable Signs
No. 11—Garbage Containers
No. 12—Libraries
Public Parks Act 1943—Report—Disposal of Park Land, Simcock Street, West Beach and the Henley Oval Annexe

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

Regulation under the following Act—
Liquor Licensing Act 1984—Dry Area—Barmera

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

Regulation under the following Act—
Harbors and Navigation Act 1993—Swan Reach.

VON EINEM CASE

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of the Von Einem case.

Leave granted.

The Hon. K.T. GRIFFIN: Lawyers acting for Bevan Spencer Von Einem, Mr Peter Norman and Mr Mark Griffin (no relation to me), in late 1996 informed me that they were interested in locating certain documents. They believed these documents were in existence at the time of Von Einem's trial for the murder of Richard Kelvin and might be sufficient to clear Von Einem or throw doubt upon the verdict but they had not been disclosed to the defence. Those documents were in two categories, namely: police surveillance records of Von Einem; and a witness statement. I understand that Mr Griffin had become aware of the existence of the documents in 1990.

As Attorney-General, it was my duty to deal with that information and a request to search for it. I arranged for all the boxes of documents, papers and records relating to the investigation and prosecution and the Coroner's inquiry to be brought together in one place in a secure location. That was done voluntarily from police, the Coroner and the Director of Public Prosecutions. Contrary to media reports, there was no raid or seizure by me of those documents, papers and records.

In January 1997, a team of three lawyers and a senior police officer under the supervision of Mrs Iris Stevens, a retired District Court judge, was formed on my instruction to search for the documents. Mr Peter Norman attended a meeting with the team to detail the documents which the defence believed were in existence and which it was considered might be sufficient to clear Von Einem or throw doubt upon the verdict. The team was able readily to locate the documents referred to by Mr Norman. I then requested Mrs Stevens to make an assessment:

> . . . of the probative value of the documents in the light of the defence presented by Mr Von Einem at his trial. In particular whether the existence of the documentation in the light of the fact that some of it was not disclosed to the defence, makes the verdict unsafe and unsatisfactory.

Mrs Stevens was provided with the Crown and defence openings and addresses, the judge's summing up and the judgment on appeal against conviction, and was offered such further material or evidence she considered necessary. In addition to this material, Mrs Stevens perused the transcript, in particular the evidence called by the defence and the unsworn statement of Von Einem as well as some newspaper cuttings. The documents she was asked to assess were surveillance reports of some periods of September, October and November 1982 and July 1983, and a signed statement by a witness.

When the examination of the documents commenced, I had hoped that I would be able to release her report publicly. I regret that on legal advice I am unable to do that. However, I propose to quote verbatim relevant extracts from her report. From the outset, I indicate her conclusion. She states:

> I conclude therefore that the existence of the documentation and any non-disclosure of it to the defence does not make the verdict unsafe or unsatisfactory.

I have met with Mr Norman and Mr Griffin to inform them of Mrs Stevens' findings and that I do not intend to do anything further.

In making this ministerial statement I will necessarily have to relate some of the facts surrounding Richard Kelvin's disappearance and the subsequent discovery of his body. I regret that yet again this case and all the related hype about this investigation will once again hit the headlines and the airwaves and is likely to cause distress yet again to Mr and Mrs Kelvin, their family and friends. I do not think anyone

can really even imagine the effect on relatives of homicide victims of the frequent public revisiting of the cases in which they may be involved, requiring them to yet again relive their personal tragedy. I urge the media and all those with public responsibilities to keep this always in view in determining what should or should not be published. If anyone claims to have information then the police, as the law enforcement agency of the State, are the persons to whom the information should be given, in private and not in public.

I turn now to Mrs Stevens' report. Mrs Stevens sums up the Crown case and the defence case as follows:

Von Einem's trial for the murder of Richard Kelvin commenced in the Supreme Court on 15 October 1984. Briefly put, it was the Crown case that on Sunday 5 June 1983 Von Einem, probably aided by some other person or persons, abducted Richard Kelvin from the street in North Adelaide and took him to some unknown location where he was imprisoned for five weeks. During that time he was drugged and subjected to homosexual assaults. The Crown's case was that Richard Kelvin was heterosexual and disapproved of homosexuals and that he would not have gone with Von Einem for any homosexual purpose. It was the Crown case that the scientific evidence showed that Richard Kelvin was killed a day or two prior to his body being placed where it was found and that his body was placed in the scrub off Air Strip Road probably during the night of 10 July 1983 or the early hours of 11 July 1983.

It was not the Crown case that Von Einem necessarily disposed of the body himself but that scientific evidence about the fibres established that Richard Kelvin was in contact with Von Einem and his home at Paradise shortly before the date of death. In particular, fibres from Von Einem's cardigan and his head hair were found on the clothing of the body. While the Crown case was that the body was placed in the scrub on 10 July 1983, it was not part of the Crown case that Von Einem was necessarily personally involved. It was part of the defence that the body was placed in the scrub on the night of 10 July 1983. The defence called evidence to account for Von Einem's movements on the afternoon and night of 10 July 1983.

The case for the defence was that on 5 June 1983 Von Einem had driven Richard Kelvin from the street in North Adelaide but that it was not an abduction. On the defence case, Richard Kelvin had willingly got into Von Einem's car and the two of them had driven to Von Einem's house. The defence admitted that there had been personal contact between Von Einem and Richard Kelvin, but claimed that the only contact that had occurred was voluntary contact and that it had taken place on Sunday 5 June 1983.

It was the defence case that the fibres found on Richard Kelvin's clothing which matched those taken from Von Einem's house and person were transferred on this occasion. On the defence case Richard Kelvin's abduction took place some time on 5 June 1983 after Von Einem left him in North Terrace. On Von Einem's account that they had left his house at about 8 p.m. and had travelled from Paradise to North Terrace, this necessarily involves them arriving some time after 8.30 p.m.

She also said:

In his address defence counsel nominated the crucial time frame as being from 5 June to 10 July 1983. He told the jury that they could not look at the case as the happening of one night, that it started on 5 June but it did not finish until 10 July.

One set of surveillance reports related to periods in September, October and November 1982, and in relation to these Mrs Stevens says:

I have concluded that there is nothing in them which relates to the subsequent disappearance and murder of Richard Kelvin in June 1983, some 7 to 9 months after the dates of surveillance. There was no issue which arose from the conduct of the defence case on the trial of Von Einem for the murder of Richard Kelvin to which these documents had relevance. These events were clearly outside the time frame of 5 June 1983 to 10 July 1983 which defence counsel considered of significance. The records contain nothing of an implicatory nor an exculpatory nature as far as the disappearance and subsequent murder of Richard Kelvin is concerned. These records would not have assisted the jury to reach its verdict.

The other set of surveillance reports relates periods from 12 July 1983. In respect of these, Mrs Stevens says:

Once it is apparent that the surveillance records cover a period of time subsequent to when on either the Crown or defence case the body must have been placed in the scrub, and that nothing of significance is noted, their probative value is minimal. It is of no relevance whether the period of surveillance is a day or a week after the body was placed in the scrub. In neither case would it provide any exculpatory evidence for Von Einem concerning his whereabouts at the relevant times.

In the final analysis the surveillance records have no probative value as they do not contain any information that could raise the possibility that Von Einem's whereabouts at the time of Richard Kelvin's death or of the placement of his body in the scrub, Von Einem was elsewhere.

I turn now to the statement of a witness who said he saw a boy in Rundle Mall on Sunday 5 June 1983 between 6.30 pm and 7 pm whom he identified as being Richard Kelvin. Mrs Stevens says:

If the evidence is to have probative value it must go to some issue in the trial. There was no issue in the trial as to Richard Kelvin's whereabouts between 6.30 pm and 7 pm on 5 June 1983. The defendant admitted, and the Crown did not challenge the claim, that Richard Kelvin was in his company and remained with him until after 8.30 pm. The issue was not that of the whereabouts of Richard Kelvin about 7 pm; rather, it was whether he had voluntarily accompanied the defendant because of some homosexual purpose or whether he had been abducted by the defendant.

In addition, she referred to the 'inherent unreliability of identification evidence', drawing attention to the fact that courts are obliged to give warnings to the jury on the dangers of convicting a suspect on the basis of identification evidence. In respect of this case, she says:

It is because of the inherent unreliability of this type of evidence that courts are obliged to give warnings to the jury on the dangers of convicting a suspect on the basis of identification evidence. While this is not a circumstance where the prosecution is purporting to rely on identification of an accused, nevertheless the nature and circumstances of the identification go to its probative value. The circumstances [that the witness purports] to identify a person previously unknown to him from a single photograph affects the value of the evidence.

Here she refers to the well-established principles in relation to the use of photographs by police for the purpose of identification. They should use a number of photographs, not just that of a suspect or subject (as happened in the Von Einem case in respect of Richard Kelvin). Mrs Stevens then turns her mind to whether the verdict of guilty of murder is unsafe and unsatisfactory, and says:

It seems therefore that in considering whether the verdict is unsafe or unsatisfactory two issues arise, namely—

(1) some failure has occurred in observing the conditions which are essential to a satisfactory trial; or

(2) there is some feature of the case, namely, the failure to disclose existing documents to the defence, which has resulted in a substantial possibility that either in the conclusion reached or in the manner in which it has been reached the jury may have been mistaken.

And:

The real issue to be addressed in this assessment appears to be whether the verdict is unsafe or unsatisfactory because of circumstances that resulted in a substantial possibility that the jury may have been mistaken.

After discussing the High Court and other decisions in which principles are established, Mrs Stevens says:

Accordingly, the issue to be considered is whether some feature of the case, that is, the non-disclosure of the existence of the documents to the defence, raises a substantial possibility that either in the conclusion reached or in the manner in which it has been reached the jury may have been mistaken.

She concludes, in relation to the surveillance reports:

In my opinion the surveillance reports of September/October/November 1982 were clearly not relevant to any issue in the trial.

The surveillance reports of July 1983 were not relevant to any live issue before the jury.

Then, in relation to the 'witness' statement, she says:

Given the strength of the Crown case, the lack of cogency and credibility of this evidence, the inherent unreliability of identification evidence from a single sighting of someone unknown previously to the witness, and the unsatisfactory method of the identification procedure from a single photograph, I do not consider that the defence was prevented from calling evidence which was capable of raising a substantial possibility of mistake. . . . I do not consider that the failure to disclose the statement to the defence deprived the defence of the opportunity to call an apparently credible exculpatory witness.

In other words, the witness was neither credible nor exculpatory and could not have raised the substantial possibility of a mistake.

Mrs Stevens' report is clear. There is no reason to believe that Von Einem did not receive a fair trial. In any event, that was tested before the Court of Criminal Appeal, and the consideration of the surveillance reports and witness statement give no cause for concern about the trial and its outcome. They do not provide a shred of hope to Von Einem. I propose to do nothing further with the representations. I have satisfied my public duty. Bevan Spencer Von Einem can gain no joy from this material, and doubt has not been cast upon the jury's verdict—guilty beyond reasonable doubt!

FLOODS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a press statement made by the Premier of South Australia on flooding in the Far North.

Leave granted.

MOUNT GAMBIER PRISON

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to read a copy of a ministerial statement made by the Minister for Correctional Services on the Mount Gambier Prison.

Leave granted.

The Hon. R.I. LUCAS: In May last year, the Public Service Association challenged the legality of Government contracts with Group 4, which manages the Mount Gambier Prison. I am pleased to report that the PSA challenge was dismissed by the Full Bench of the Supreme Court last Friday. As most members would be aware, Group 4 Correction Services has been managing Mount Gambier Prison since 1995, and last December also won the contract to transport prisoners around the State and manage them in most courts. The challenge by the PSA not only failed but the court also awarded all costs against the union. The judgment supported the defence that the contracts were lawful and all staff members had been appointed officers of the Crown by the Governor. The PSA now faces a sizeable bill for proceeding with this action.

Since the first moment this Government announced its intentions to outsource the management of Mount Gambier Prison, we have heard nothing but criticism and allegations from the PSA, the Opposition and the Australian Democrats, who have waged a constant campaign of malicious misinformation. This Supreme Court decision vindicates the exhaustive processes undertaken to ensure the outsourcing of Mount Gambier Prison and the movement of prisoners in South Australia resulted in proper and lawful contracts. I trust that all the detractors will now let this matter rest and allow the managers of Mount Gambier Prison to get on with doing the job which they have been contracted to do and which they are doing well.

COMPUTERS, SUBSIDY SCHEME

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to make a ministerial statement on the computer subsidy scheme.

Leave granted.

The Hon. R.I. LUCAS: In the past 24 hours, the shadow education spokesperson has been making a number of claims in relation to the Government's computer subsidy scheme, for example:

'The shadow Minister has been claiming that this is another example of the Olsen Government shifting the cost of educating our children in State schools onto parents,' Ms Pickles said. The Education Minister, Rob Lucas, must know that he is facing a huge backlash from parents and schools over this feeble attempt to fund school computers.

I want to address a number of the claims made in the press statement which have been coming thick and fast over the past 24 hours and correct a number of matters. In the statement made by the shadow Minister yesterday, she claimed:

Over the next five years the Government will commit about $12.5 million to schools to purchase computers.

Whatever the strengths and weaknesses of the shadow Minister, let me assure her that it is not within her ability to announce a Government decision which has not yet been taken. The Government has announced $15 million for the first year of the five year DECSTech 2001 strategy, and of that $15 million there will be $4 million in the first financial year. We have also announced $4 million for the second financial year, which will come together to $8 million in this school calendar year 1997 towards the computer subsidy scheme.

The Government will announce either on budget day this year or at some period perhaps prior to budget day, depending on circumstances, the Government's four year commitment for the four remaining years of the DECSTech 2001 strategy. That is not a recent decision. I announced that last June when we announced the subsidy and the funding for the first year of the DECSTech 2001 strategy. So, the claim by the shadow Minister that the Government will commit $12.5 million over the next five years is wrong by a long way, and she is just not simply—

Members interjecting:

The Hon. R.I. LUCAS: There's no financial decision by Government, but I know what the Minister for Education is thinking. I can assure members that I have not confided in the shadow Minister for Education my innermost and deepest secrets in relation to those issues. I assure members that it will not be $12.5 million.

Members interjecting:

The Hon. R.I. LUCAS: Exactly! I could not be assured that the shadow Minister would keep it confidential if I were confide in her the innermost secrets of the Cabinet. Yesterday, the shadow Minister went on to make a series of claims based on that sum of $12.5 million. I do not need to address all those matters, because if the premise or the assumption is wrong by a long way all the rest of the assumptions are wrong by a long way as well. However, the shadow Minister then went on to say:

The Brown-Olsen Government says it is committed to creating a high tech State, but when it comes to educating our children that commitment falls into a big hole. And what about the ongoing costs involved with school computers—the maintenance, the technical services, curriculum development, teacher training and information technology, and replacement of computers which have an estimated life of about three years? Who will pay for that?

I am not sure whether the shadow Minister has not been paying attention in class, but all these issues have been canvassed publicly over the past eight months. Indeed, last Thursday, in relation to her criticism about teacher training, the Government announced a $5 million scheme for this year and next year to train all our teachers and staff—some 22 000 people within Government schools—in the critical area of information technology.

Again, in relation to her claims about maintenance and technical services, I must say that the contract which the Government has negotiated involves the equivalent of a 24-hour service warranty for the three year period of the purchase or rental of the computers, either for a technician to commence work on repairing the computer or for a replacement machine to be sent from some location to the school that is experiencing a problem.

With regard to the replacement of computers that have an estimated life, again the scheme is predicated on an ongoing replacement over a three year period for our schools. For example, if a school is involved in the rental purchase scheme, that level of commitment would continue for the first three years, and then a new level of commitment would be entered into for the next three years, and it would continue as long as the scheme continued within Government schools. Those aspects have been addressed publicly on a number of occasions.

A press statement today relating to the shadow Minister indicated:

Ms Pickles says 'Principals must also be warned about the alternative rent scheme being offered under the DECSTech scheme. Some schools believe that, instead of buying these units, they can rent them instead.'

That is probably because they can. It continues:

But be warned, the rent scheme is simply a scheme whereby schools pay for the computers over a three year period. At the end of the three years they will own the unit and cannot simply hand it back after that time and the total purchase price remains the same.

Again, my advice is that the claim made by the shadow Minister is wrong. I am advised that, at the end of the three year period, schools have the option of purchasing the computer at its residual price which, I am told, is 5 per cent. If the computers were valued of the order of $2 000, one can quickly work out that, in three years, it is not a very significant amount at all. The residual price is about $100 for a Pentium 133. The alternative option is for schools to hand back computers, which will then be disposed of. If they wish, schools can then enter into a new rental-purchase arrangement or rental scheme. It is not true to claim what the honourable member has claimed will happen at the end of the three-year period. Information provided to schools over the past two or three weeks clearly indicates that, if they so wish, schools are able to hand back the computers at the end of the three-year period.

In making this ministerial statement today and correcting some errors made by the shadow Minister, I place on the record a clarification of an error I made in an interview yesterday morning. I issued a clarification press statement yesterday afternoon. On ABC regional radio yesterday morning, when talking about the subsidy scheme, I correctly indicated that the subsidy relates only to purchases from the department's preferred supplier. The transcript of that interview states:

There is a preferred supplier. The Government has a subsidy arrangement which relates to the preferred supplier.

However, in another part of that interview I gave a misleading impression in relation to the operation of the subsidy scheme. In that section of the interview the transcript states that I said 'No' to a question that schools had to buy from companies recommended by the Government or they would not get a subsidy. That answer was wrong and was intended to be 'No' to the first part of the question that schools would be forced to purchase from the Government's preferred suppliers. I apologise for the confusion caused by my answer to that part of the interview. I issued that correction yesterday afternoon under the heading 'Computer Subsidy Scheme', so that no-one could be under a misapprehension as to the Government's position. The Government's position has been made clear by way of the documentation that has been circulated to schools. That error in that part of the interview was an error made by me and me alone and I accept responsibility for it.

The DECSTech 2001 scheme is a good deal for South Australian parents and South Australian schools. It has already received very strong support from parents, principals and teachers. It is just rank hypocrisy for a representative of a Party that spent $360 000 in a full year as its total budget commitment to computers and the purchase of computers to be criticising a Government that, for the first time, is committing $15 million in the first year of a five year DECSTech 2001 strategy.

QUESTION TIME

COMPUTERS, TENDERING

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

Leave granted.

The Hon. CAROLYN PICKLES: Many South Australian computer companies that have supplied our schools for years are saying that the deal announced by the Minister for schools to purchase from a consortium of preferred suppliers will put them out of business. The Minister has made an explanation in the Parliament today—not entirely to the satisfaction of the suppliers of computers, I am sure. My question to the Minister is: why were tenders not called for the supply of school computers and, given that technology costs are continually falling, how long are the prices now being offered to schools fixed under the deal announced by the Minister?

The Hon. R.I. LUCAS: That is an extraordinary question from the shadow Minister and confirms the concerns of a number of people in relation to some of the statements made by her on the computer subsidy scheme. The shadow Minister has asked why we did not go to tender. The procedure in relation to this particular issue has been completely open. The requests for proposals from computer suppliers was in the public arena for a long time. I do not have the exact period with me in the Parliament this afternoon, but the situation is that the Government has a whole of Government contract with five or six major computer suppliers (some South

Australian based and some interstate based); each department is required to negotiate with those preferred suppliers.

The Department for Education and Children's Services negotiated with the preferred suppliers and the final deal was negotiated with a consortium of three South Australian manufacturers or suppliers: Microbits, Protech and Lodin, as opposed to an interstate supplier. That consortium has presented a first-class deal for Government schools in South Australia. No longer will teachers and administrators within schools spend countless hours trying to work out which particular computer to purchase at what particular price or deal. If they want to purchase from the preferred supplier arrangement the department has negotiated, with the advantage of bulk purchase, service warranty and price and delivery costs included in a Statewide price, they can do so.

If they wish to purchase outside the scheme, they can do that as well. Obviously there would be some recommendations as to the type of computer we would wish them to purchase but, if they do so, as I made clear earlier today, they are not part of the subsidy arrangement that applies to the preferred supplier. There has been a process of allowing companies to submit proposals for the contract. A deal has not been done with a particular manufacturer: it was an open process that allowed companies on the Government preferred supplier contract to submit a proposition for the business, and the successful companies were then chosen from that preferred supplier list.

The negotiated contract is for a period of 14 to 15 months and, at the end of that period (which is early next year), the department will be in a position to negotiate a new deal in relation to pricing, service and delivery for Government schools. I do not think anyone will suggest that a contract period of just over one year is too long to be locking in a price for service, warranty and delivery.

The Hon. P. HOLLOWAY: As a supplementary question, in view of the Minister's answer about preferred suppliers, will he say whether he has sought or received legal advice as to whether the process of three companies joining together to provide a common negotiated price contravenes the Trade Practices Act?

The Hon. R.I. LUCAS: We received considerable legal advice and that is one reason why the announcement was delayed for some time. I will need to take my own advice whether the Trade Practices Act was part of that legal advice and bring back a reply, but I can assure members that Crown Law was involved in providing legal advice all through this particular process.

The Hon. A.J. REDFORD: As a supplementary question: will the Minister advise the Council whether the Opposition has made any positive comment regarding this important initiative?

The Hon. R.I. LUCAS: That is a contradiction in terms: the Opposition never makes any positive comment in relation to Government initiatives—it does not even welcome the $15 million that is being given. All we have heard is knocking and carping criticism from Mike Rann, Carolyn Pickles and the rest of the Labor Party. From Mike Rann down, the Labor Party has a deliberate strategy to oppose, knock, criticise, be negative and denigrate anything that is done. The people of South Australia and the parents of students in Government schools will know that the Labor Party in South Australia clearly opposes this deal that has been negotiated,

The Hon. Carolyn Pickles: I said I supported it—

The Hon. R.I. LUCAS: Well, we haven't heard much about support: could you speak more loudly? I have never heard the shadow Minister supporting anything the Government has done. All the shadow Minister supports are the statements made by the President of the Institute of Teachers when she opposes anything the Government does in relation even to computer subsidy schemes and issues like that. It is disappointing that the Labor Leader, Mike Rann, has obviously issued direct instructions to his shadow Ministers to oppose virtually everything the Government does, even this wonderful good news that parents, teachers and principals have warmly embraced within Government schools.

ROADS, MARKING

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about road markings.

Leave granted.

The Hon. R.R. ROBERTS: First, let me congratulate the Minister and her department on the limited introduction of ladder line white markings on the verges of parts of National Highway 1. I have discussed this matter with a number of road users of National Highway 1 and the Spencer Gulf Cities Association, and this initiative is accepted very warmly by road users. The comment they make to me is that it is nice to see a safety initiative that concentrates on the prevention of road accidents rather than another mechanism for the prosecution of road users. For the benefit of those members unfamiliar with the marking system, it is essentially a series of white, raised markings which delineate the edge of the road in the same way as the common white line that most members would be familiar with. The essential difference and advantage, however, is that when a tyre passes over them they send a not unpleasant resonance through the vehicle and produce a distinctive, audible warning to the driver about their position on the road. The Minister will be pleased to know that the system works on buses, too.

This is obviously a worthwhile system in that it enhances safety and assists drivers in difficult driving conditions, for example, during rain, fog or low visibility or when sunglasses may need to be used. It is also an obvious warning and a wake-up for weary drivers engaged on long journeys and must surely help to save lives. I have no idea of the difference in the costs between the ladder line marking and the conventional marking, and I guess one would have to start by asking what saving one life might be worth. I raised this matter at the Spencer Gulf Cities Association some time ago when it was discussing the black spot funding. I received a letter from the association recently which states:

> Following your comments at the Spencer Gulf Cities Association meeting at Port Lincoln concerning the possible use of 'black spot' funding for the provision of 'rumble hazard lines' on arterial roadways, I have made some inquiries and found that your suggestion would not meet the basic criteria which [have] been established for the funding of black spot roadworks, i.e., it cannot be spent on national highways. However, an indication was received that it is possible there may be other avenues available for the financing of your suggestion. However, those avenues are subject to control by the Department of Transport and obviously the South Australian Minister as part of the State Government's budgetary process.

My questions to the Minister are:

1. Will the Minister instruct her department to provide these sorts of safety markings on all national highways as a priority project, as line marking, road maintenance or new construction take place?

2. Will the Minister introduce this system for all unbroken road markings on all roads, including and especially overtak-

ing areas such as road train passing lanes? I would expect this to take place following appropriate research and trialling.

3. In line with the Spencer Gulf Cities Association's comments, will the Minister investigate funding streams to implement the new marking system as soon as is practicable?

The Hon. DIANA LAIDLAW: It takes only one response from the Leader in this place to encourage such a positive comment from the next questioner from the Opposition. It is heartening to see the impact that the Hon. Mr Lucas has in this place. I acknowledge the Hon. Mr Roberts's question. I remember seeing what is called a rumble strip on national highways in Queensland some years ago and have questioned for some time why the device is not used here, given the distances many people have to travel. It is certainly a very important safety device that is relevant in all weathers and also in cases of fatigue, and the honourable member mentioned the issue of road trains and passing lanes.

I will certainly undertake to find out the cost differences between the applications of line marking as we traditionally know it and this rumble strip. I will also take up the general issue of the application of this strip on our country roads as a road safety initiative. I understand that the rural road safety strategy is currently being considered by the Road Safety Consultative Council and will be referred to me shortly. My representative on the South Australian Black Spot Road Safety Committee is the Hon. Caroline Schaefer. She is familiar with the road device that the honourable member has mentioned and also supports its application on country roads. I will discuss this matter with her for her input into black spot funding.

Members interjecting:

The Hon. DIANA LAIDLAW: No, but for black spot funding programs generally, because it may well be one of the more cost effective initiatives. It can certainly be considered through the rural road safety strategy as well.

MOUNT LOFTY SUMMIT

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

Leave granted.

The Hon. T.G. ROBERTS: I asked a question some time ago about the appearance of a fungal material during the clearance of the Mount Lofty summit for the construction of the observation tower and complex. The problem I raised was not the number of trees and the disturbance of the views from the newly constructed facility but the potential of the fungal disease to spread into other parts of the Mount Lofty Ranges if the removal of the topsoil was done haphazardly. In essence, the reply was that the Government was aware that a fungal disease existed there and was trying to put together a whole range of measures to stop the spread of that fungal material by restricting it to that area and not allowing it to be removed off-site.

However, I have had information from conservationists—and certainly people with a background in forest management—who are still concerned that the measures taken by the Government were not enough and that there is still some potential for the fungal disease to be spread by trucks removing the top soil from the summit. A letter from Colin Hutchinson appeared in the *Mount Barker Courier* of 12 February 1997 and stated:

I am trying to find out what happened to the soil and rock scalped from Mount Lofty summit during recent operations.

There are reports that this material has been dumped in several places round the foot of the mount but I have been unable to find all these. Perhaps your readers can help.

There is a hazard, of course. The cinnamon fungus (*Phytophthora cinnamoni*) is present in summit soil and it can be easily spread by vehicles. Minister Wotton and DENR were concerned enough in 1996 to institute measures on the summit to prevent spread of this soil disease during construction of facilities there.

I remember, particularly, the detailed explanations given last year about how soil would be quarantined at St Michael's before being replaced after construction to assist revegetation.

Where is this soil now? Has it been spread round the district with the spores of dieback disease in it?

It goes on to say that all people who are interested in vegetation, native or exotic, will be most interested in the answer.

The Hon. M.J. Elliott: He is a retired forester, too.

The Hon. T.G. ROBERTS: Yes. Mr Hutchinson's credentials are that he is a retired forester. He took a long look at the problem on the Mount Lofty summit area. He made representation saying that there could possibly be a problem and he certainly is one individual who is convinced that the problem still exists and the potential for spread of the disease into our native vegetation is still a possibility. My questions are:

1. What has been done with the top soil removed from the Mount Lofty site?

2. Does it pose a further risk to the native or exotic vegetation (the question as posed by Mr Hutchinson)?

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

TAXIS

In reply to **Hon. SANDRA KANCK** and **Hon. T.G. CAMERON** (4 December 1996).

The Hon. DIANA LAIDLAW: The Taxi Industry Advisory Panel (TIAP) are exploring all issues associated with the leasing of taxi plates and the involvement of investors in the provision of an efficient and effective taxi service for the Adelaide metropolitan area.

To complement this work the Passenger Transport Board is undertaking a survey of all operators who began or terminated a taxi lease during the period 1 July 1995 to 31 December 1996. The objective of the survey is to obtain a clear understanding of the situation regarding the turnover rate for lease taxi plates. Preliminary information indicates that there is a wide range of reasons as to why lessees have terminated their arrangement.

In the meantime, it must be clearly understood that the lease rate and taxi plate values are not set by the Government. They are based on current market values. Records since 1994 indicate that lease values have not increased significantly in line with plate values and have generally been within the range of $300 to $330 per week.

The Government is committed to ensuring that Adelaide is served with the highest standard of taxi service, and we propose to reach this objective through consultative processes. Accordingly, I consider it is prudent to await the recommendations of TIAP, and the outcome of the other research, before taking any further action.

UNIVERSITY OF SOUTH AUSTRALIA

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education, representing the Minister for Employment, Training and Further Education, questions about university fund cuts.

Leave granted.

The Hon. M.J. ELLIOTT: I have received information today suggesting that the University of South Australia (as with many other universities) is looking at some significant

cutbacks as a consequence of Federal funding cutbacks. Some of the consequences it will consider, which I understand will be considered next Monday, include the potential closure of three campuses, being Whyalla, Underdale and the City East and, if they are not closed, at least the libraries of Whyalla and the City East campuses might be closed. I also further understand that, among a total of $14 million in cutbacks in amounts to various faculties, there is a proposal to reduce the funding for the university's education faculty by some $2 million.

The Minister would be aware that the question of teacher intakes has already been raised in this place on several occasions with the University of Adelaide already halving its intake and there is now the $2 million proposed cutback to the University of South Australia, which has been a major supplier of teachers. That cutback could take effect within a couple of years just when the predicted teacher shortage is also having its effect within the State. Will the Minister for Employment, Training and Further Education—or indeed the Minister for Education in his own capacity—intervene, first, on the basis of equity to protect the Underdale and Whyalla campuses and the libraries, particularly of the Whyalla and Underdale campuses and, secondly, to at least discuss with the university the potential impact of a cutback in teacher education.

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Minister and bring back a reply. As the honourable member will know, the Government shares the community's concern about the issue of teacher education supply at the end of the decade and the early part of the next decade. We have already been very active in terms of our discussions with the University of South Australia. I advise the honourable member of a recent meeting with the representatives of the three universities and Department for Employment, Training and Further Education. We will be taking up the issue at the Ministerial Council meeting next month because of the concerns that many in the community have expressed about the need to maintain our supply of teacher trained graduates by the end of the decade and the early part of the next decade when potentially there is likely to be some national and some State based shortage in South Australia as well.

I am sure the honourable member will be delighted at the pro-active nature of the South Australian Government in relation to this matter and the fact that the South Australian Government is taking action. Now that all members seem to be in the same ballpark as the Government; that is, there was not a shortage last year or this year but the shortage will be at the end of the decade and early next decade, we can now talk sensibly about planning rather than the knee-jerk responses that might have been recommended by some politicians.

I am concerned to hear of the public airing of the comments made by the honourable member. I presume he has a fair degree of evidence to float publicly the notion that the university is contemplating closing down three campuses, being the Underdale campus, the City East campus and the Whyalla campus. Obviously, I am not privy to the internal dealings of the University of South Australia. I am sure all members would view with concern a decision to close down all three campuses, particularly after the decision to close down the Salisbury campus, which was made a few years ago now but which is still being implemented by the University of South Australia. I cannot offer any more detailed comment than that. I will refer the honourable member's questions to the Minister who will obviously need to refer the questions to the University of South Australia for a response.

INFORMATION TECHNOLOGY

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Information and Contract Services, questions concerning recent statements by Government Ministers on information technology.

Leave granted.

The Hon. T.G. CAMERON: In view of the Minister's earlier comments about the failure by the Opposition to recognise any Government announcement, it should be placed on the record that the Leader of the Opposition in this place has already many times publicly supported the concept of DECSTech 2001. We hope that it is 2001 and not 2010.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: Just go and see the Leader of the Opposition and I am sure that you will be provided with it. In the *Advertiser* dated 30 December 1996, the new Finance Minister (Mr Dale Baker) criticised the State Government's focus on information technology, saying that talk of a computer-led recovery was 'bloody nonsense'. That is quite topical, considering the amount of money that the Government has announced it intends spending on computers. Mr Baker went on to say that computer deals were diverting attention from the wider issue of economic reform to help ailing business. I read Mr Baker's comments with a great deal of interest, especially as Mr Baker was an official spokesman. I have had to change this a couple of times. I wrote that he is an official spokesman, but I used the wrong tense and he is now no longer an official spokesman. I am not sure whether he will come back as an official spokesman or whether he is still unofficial.

The Hon. Carolyn Pickles interjecting:

The Hon. T.G. CAMERON: We heard last night that he is resigning this week. One week later, in the same newspaper, the former Premier and now Information and Contract Services Minister (Mr Brown) listed a number of information technology projects that he believed to be the highlights of last year. My questions to the Minister are:

1. Which of the two Ministers should the people of South Australia believe when it comes to information technology policy?

2. Does the Minister believe talk of a computer-led recovery to be 'bloody nonsense'?

3. Is Mr Baker's statement that computer deals are diverting attention from the wider issue of economic reform now Government policy?

4. Considering Mr Baker's comments, can information technology companies which are considering transferring their businesses to South Australia, and we understand from the Premier there are dozens of them, expect any support from this Government?

The Hon. R.I. LUCAS: I am disappointed again. Yet another shadow Minister is trying to spread misinformation and disharmony in the broader community. That is the best the shadow Minister can do after a week of Parliament's not sitting. The interview was conducted in the journalistic equivalent of the silly season of December-January, and it is some two or three months old.

The Hon. Diana Laidlaw: There are no issues in transport.

The Hon. R.I. LUCAS: There are obviously no issues in transport, so the shadow Minister for Transport has nothing to pursue.

Members interjecting:

The Hon. R.I. LUCAS: He has been derailed.

Members interjecting:

The Hon. R.I. LUCAS: There are no questions in transport. I will refer the honourable member's questions to the Minister but, as I said, it is some two or three months ago that this obscure interview was run on the front page of the *Advertiser* during the December-January period. I seem to recall, and I would need to check this, that a clarification was issued by the Minister the next day which indicated that he had been incorrectly reported. Obviously the honourable member can read only the big capitals on the front page but, when it gets to the small print on page 10, it is too difficult for the shadow Minister for Transport. If my memory is correct, I will blow up the little piece in the *Advertiser* to a print size big enough for the shadow Minister to read. I cannot remember the exact words, but the import of the Minister's comment was that he had not been correctly reported, as referred to by the shadow Minister for Transport.

ACTS INTERPRETATION ACT

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question on the Acts Interpretation Act.

Leave granted.

The Hon. R.D. LAWSON: In 1984, the Commonwealth Acts Interpretation Act was amended to allow judges to have regard to explanatory memoranda, second reading speeches of Ministers, the reports of parliamentary committees and other like material when interpreting statutes. In the years that followed, all other States except South Australia have introduced similar measures into their Acts Interpretation Act. In this State, the common law rules continue to apply. Generally speaking, such material may only be referred to by courts interpreting South Australian legislation in limited circumstances.

In the latest edition of his textbook on the subject of statutory interpretation, the leading authority, Professor Denis Pearce, has said that the picture in South Australia is, to his words, 'somewhat confused'. Professor Pearce referred to a decision of the South Australian Supreme Court in 1983 when two judges held that the reports of parliamentary debates were not admissible for any purpose, while another judge, Justice Cox, was of the opinion that such reports could be admissible to discover the mischief the legislation was intended to overcome.

Professor Pearce goes on to say that in two later decisions in the High Court in appeals from South Australian courts, reference was made to South Australian *Hansard* to identify the mischief or purpose intended to be served by the South Australian provision in question. In two cases in the 1990s, Justice Von Doussa in the Federal Court referred to parliamentary debates to discover the mischief which an Act was intended to remedy. On the other hand, in a recent decision of the Full Court of the Federal Court, which related to our Workers Rehabilitation and Compensation Act, the court has refused to have regard to the relevant second reading speech, and that is a piece of legislation that is notoriously difficult to interpret.

There is an increasing tendency in Australia for national legislative schemes to be adopted. The Credit Code is a law of this State as it is a law of every other State. The Credit Code raises many issues of interpretation which the courts will have to resolve. This may give rise to anomalies. Judges in every other Australian State can refer to parliamentary materials for the purpose of interpreting legislation but judges in South Australia cannot. Another anomaly is that a South Australian judge in a South Australian court hearing a case which might deal with Commonwealth law can refer to the Commonwealth *Hansard* in certain circumstances and to Commonwealth reports but, when interpreting a South Australian law, cannot refer to either the explanatory memoranda or second reading speeches of this Parliament. My question to the Attorney is: does he see a need for the Acts Interpretation Act in this State to be amended to overcome the problem which Professor Pearce describes as confusing?

The Hon. K.T. GRIFFIN: The simple answer is 'No,' but that needs some explanation.

Members interjecting:

The Hon. K.T. GRIFFIN: On the basis that the Hon. Robert Lawson has given an explanation which raises some issues, I feel duty bound to respond.

The Hon. R.R. Roberts: Don't feel obliged.

The Hon. K.T. GRIFFIN: I said 'duty'. My predecessor, Hon. Chris Sumner, did try to bring in legislation on at least two occasions to do that. Both the then Opposition and the Australian Democrats combined to reject it, and we did so on principled grounds. The fact is that the Acts interpretation legislation in other States and Territories and at the Commonwealth level promotes laziness. It does promote a position where Ministers, in particular, can have an impact upon the determination of the meaning of legislation or particular words and phrases by what they say, either in an explanatory memorandum or in parliamentary debate.

The Liberal Party in Opposition has always resisted the temptation to make things easier and sloppier in terms of statutory interpretation by resisting the temptation to allow courts to refer to what is said in Parliament because, if you look at it objectively, what the Parliament actually passes and votes upon is what is in the words that, ultimately, are contained in the statute.

Something may be said by a Minister in one House in introducing a Bill which may be modified in the context of what occurs in that House when it is introduced into the other House. How does one reconcile those differences? As members of Parliament, none of us debates what is in an explanatory memorandum or the detail of the explanations of the clauses in a Minister's second reading explanation. We are not arguing about that: we are arguing about the words which actually appear in the statute. They are the words that are passed by the Parliament.

I have always argued as a matter of logic that the moment one starts to allow courts to take into account debates, parliamentary committee reports or explanatory memoranda in determining what Parliament means is the moment when Parliament loses control of the legislative process.

It is an inducement for Ministers, in particular, to make all sorts of claims about what behaviour they seek to cover by the legislative framework which they bring into the Parliament. Having done that, where one does not have control of both Houses and where one ends up with a resolution at the deadlock conference, one then has to ask: what does the court take into account in determining what the meaning of the words resulting from the deadlock conference may mean? So, it is fraught with difficulties.

If members think about it there is a logic to relying upon the common law for the interpretation of statutes rather than some artificial process which introduces a lot of extraneous material in determining what Parliament intended. I know that that may result in some inconsistencies, whether it be in the Credit Act or other Federal legislation, but we ought to be prepared to live with that.

In fact, the courts do take into consideration from time to time what is said in parliamentary debates. I think it happened only recently in our State's Full Court, but they are in a limited context and only when all else fails. So, that is the rationale for the view which the Liberal Party has taken both in Opposition and in Government. I have no intention to introduce legislation that will change the principles to which I have referred.

SCHOOL COMPUTING EQUIPMENT

The Hon. P. HOLLOWAY: In his earlier statements about the purchase of computers in schools the Minister for Education and Children's Services indicated that schools could lease computers from preferred suppliers. My questions are:

1. Under the lease arrangements, who would own the computers?

2. If the companies retain ownership of them, is sales tax payable on the computers?

3. What are the details of the lease arrangements which will apply for leased computers and, in particular, what is the effective interest rate that will apply to schools?

The Hon. R.I. LUCAS: I think the phrase that I used—I would need to check—was 'rental' or 'rental purchase', not 'leasing'. In relation to the effective interest rates and the other aspects of the deal—

The Hon. T.G. Cameron: I do not think you can have a rental purchase with residual.

The Hon. R.I. LUCAS: It is described in schools as a rental purchase agreement from the department. I understand that it is owned by the department, but in respect of the other aspects of the question regarding effective interest rates and detail such as that for which the honourable member has asked, I shall be happy to get advice and bring back a response.

INTOXICATION

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about intoxication and the criminal law.

Leave granted.

The Hon. A.J. REDFORD: The member for Spence, Michael Atkinson, has recently made various statements in relation to intoxication and the criminal law. He has made regular statements on the topic to the print media and on radio talkback programs. In one case the honourable member said:

> Self-induced intoxication ought not by itself save a person on a criminal charge from conviction.

He implied that many people who would have been convicted of criminal offences avoid being convicted—and he has said so on many occasions. Indeed, every example he supplies would give the impression that intoxication is a commonly-used defence and that intoxication prevents people from being able to defend themselves.

Recently, I received a letter on the topic from Mr Michael Abbott QC, a senior and well-respected member of the criminal bar and Chair of the South Australian Bar Association. In that letter he says:

> . . . in relation to criminal offences requiring proof of intent by the prosecution, the defence must show, as a reasonable possibility, that due to the ingestion of alcohol and/or drugs the accused was incapable of forming the necessary intent.

Further, he said:

> In most, if not all, cases in recent years where the suggestion has been made by the defence that, due to self-induced intoxication, the accused was incapable of the necessary intent, such a defence has been rejected by the defence. The plain fact of the matter is, as juries well know, that if you are at the stage of being so intoxicated as to be unable to form the necessary intent to commit a criminal act then you are also at the stage of being unable to walk or talk.

Indeed, in two cases referred to me by the member for Spence, the defence of intoxication was rejected by the jury. The Bar Association has expressed reservations regarding his views because it 'requires a judge to tell a jury that the law is effectively an ass since he or she will be obliged to direct the jury that, notwithstanding the intoxicated state, the law says that such a person has the same perception and comprehension of surrounding circumstances as he or she would have had if sober. . . '. He warns of the risk of substantial distortion of the criminal process before a jury; indeed, its a fiction. According to Mr Abbott the proposals are based on an assumption that juries are gullible (and, I might add, an assumption that also the public is gullible). In the light of this, my questions to the Attorney are:

1. In approximately how many cases in the past four years has the defence of intoxication been raised?

2. In cases where intoxication has been raised as a defence, what percentage of those defences has been successful?

3. Does the Attorney-General agree with the comments made by the member for Spence and, if not, why not?

The Hon. K.T. GRIFFIN: The shadow Attorney-General, Mr Atkinson, has been peddling a line for some time in relation to this issue that we are not prepared to debate his Bill in another place. Let me give him an assurance from the start that we are prepared to debate that Bill and that we shall do it in our time and not in his. The fact is that—

Members interjecting:

The Hon. K.T. GRIFFIN: We have had Bills in here for four months, and the Council will not debate them. So what is different? He has had his Bill in the House of Assembly for a relatively short period of time and he expects everyone to jump. The fact is that the Bill will be debated—

Members interjecting:

The PRESIDENT: I cannot hear the Attorney-General.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts!

The Hon. K.T. GRIFFIN: It will be debated, and then he will find out how defective it is. In fact, I understand that that Bill was introduced by Mr Martyn Evans in 1992.

The Hon. A.J. Redford interjecting:

The Hon. K.T. GRIFFIN: The interesting question is: why didn't the Hon. Mr Sumner deal with it? Why didn't the Labor Party deal with it? It was doing all sorts of deals with Martyn Evans to ensure that he gave it support and, in fact, he ultimately became a Minister. But the Bill was not dealt with by the then Labor Government. It is because there are significant defects in the legislation. Let me just tell—

Members interjecting:

The Hon. K.T. GRIFFIN: Fortunately, the Hon. Mr Ron Roberts's time frame will not be met. Quite obviously, he

does not understand that, at least in the Lower House, there are important issues that must be addressed, and this is not one of them. The fact is that—

Members interjecting:

The Hon. K.T. GRIFFIN: The reason why the matter has not been dealt with as a matter of some urgency and at the urging of Mr Atkinson is that it does not deal with a real and pressing problem. O'Connor's case was in the High Court I think in the early 1980s. The Hon. Mr Sumner was Attorney-General for 11 years from 1982. Throughout that time the issue was being dealt with partly at the Standing Committee of Attorneys-General, where it was difficult to get to the point of some agreement on it. Right through that period of 11 years no legislation was brought into this Parliament to deal with O'Connor's case in the High Court. And it has not been the disaster that everyone was predicting when the High Court made its decision.

In fact, I am not aware—and our researchers are not able to detect—how many intoxication acquittals, if any, there may have been; and, if there were any, they are few and far between. I am not aware of any acquittals on this ground. In fact, a Victorian survey in about 1986 found a handful, but they were all associated with another ground, usually mental illness. The fact is that it is not an issue where there is a range of people getting off in the courts because they are pleading that they were so intoxicated by the consumption of alcohol or a drug that they did not know what they were doing and therefore they ought to be acquitted.

As the Hon. Mr Redford said in his explanatory statement, what the shadow Attorney-General (Mr Atkinson) seems to be thinking is that juries are stupid; that the public may be stupid. In fact, that has never proved to be the case. They can see through a defendant who is seeking to put up the story, 'I was so drunk that I did not know what I was doing,' and they generally find the person guilty of some criminal offence. Ultimately—

The Hon. T.G. Cameron: Generally?

The Hon. K.T. GRIFFIN: We know of no case where this has occurred. The fact is that the Hon. Mr Sumner, my predecessor, did not feel that it was such a pressing issue that he had to rush into the Parliament and do something urgently: for 11 years he did nothing about it. There are a number of significant flaws in the Bill, but the Government will deal with this at the appropriate time.

The Bill stated that an accused person would be deemed to have intended a result where that result would have been reasonably foreseeable by a sober person. That means that an accused will be found guilty of murder, for example, by intending to kill with an actual level of criminal fault that would not suffice for manslaughter.

To take another example, the Bill created, in effect, a crime of negligent rape. The definition of 'intoxication' specifies that the provisions of the Bill apply to any impairment or disorder of mental faculties. That means that one drink would be enough to trigger the effects of the section. That, in turn, means that it will be in the interests of the prosecution to prove that any accused had had at least one drink, because that will be enough to remove the normal fault requirements of any offence.

The definition of 'self-induced intoxication' in effect says that the section applies unless the accused was taking the drug in accordance with the directions of a medical practitioner. That seems to mean that, if a person makes a mistake and takes three pills a day rather than two, the deeming provision would apply. Further, taking anything else would also mean that the deeming provision comes into play. So, taking a Panadol tablet would be legally fatal. Then there are some other issues that need to be addressed.

I return to the point that I was making earlier: this issue is not a matter of pressing public need or interest. It is a furphy that Mr Atkinson has been running, along with the line that I am a lawyers' lawyer and that I deal with lawyers' law. I am quite happy to be described in that context if it means that I am interested in the truth; if it means that I am interested in accuracy; and if it means that I am interested in principle. If Mr Atkinson, when he is dealing with these issues, cannot think about the issues of principle, then he has abdicated his responsibility as the shadow Attorney-General. And the public of South Australia—although he gets on radio and talks about my being a lawyers' lawyer and not concerned about ordinary people—ultimately will see that he does not give a damn about people's rights.

I thought that he and the Labor Party were concerned about protecting individual rights and ensuring that bureaucracy and Government did not ride rampant over the rights of individual citizens. In that respect, I am delighted to be seen differently from Mr Atkinson.

COUNCIL FOR INTERNATIONAL TRADE AND COMMERCE

In reply to **Hon. P. NOCELLA** (6 November 1996).

The Hon. R.I. LUCAS: Cabinet approved the appointment of Mr Nicholas Begakis as Chairperson, Council for International Trade and Commerce SA Inc (CITCSA) from 1 January 1997 for one year. Mr Begakis is highly experienced and well qualified to provide the strategic direction and reinvigorate CITCSA.

SCHOOLS, SPECIAL

In reply to **Hon. CAROLYN PICKLES** (13 November 1996).

The Hon. R.I. LUCAS:

1. The proposed policy change in relation to the provision of additional swimming lessons for students with disabilities was motivated on curriculum grounds and not on cost-saving measures.

Over the past several years, many parents, staff and care-givers have raised issues and concerns regarding the access of students with disabilities to the full range of health and physical education programs, as outlined in the health and physical education curriculum statement, and which are provided for all students in this State.

Their concerns related to the following:

- students being denied access to a full range of health and physical curriculum options. In many instances the only physical education program offered to them was an additional swimming session.
- the travel time to and from the school to the pool, in most cases exceeding the actual duration of the additional swimming lesson.

2 and 3. I have requested a review of the impact of the proposed policy change and therefore at this stage there is no projected saving to the Department.

SCHOOL COMPUTING EQUIPMENT

In reply to **Hon. R.R. ROBERTS** (24 October 1996).

The Hon. R.I. LUCAS:

1. The negotiations for the supply of serviced computers have not been finalised, however it is expected that they will be concluded in the near future. The standard computers that will be included on the contracts being negotiated are both Intel and Apple configurations. The Intel computer will be a Pentium processor with multimedia capability, possibly with a CD-ROM. The Apple computer will also be multi-media capable, such as the 5260 model or equivalent. Whilst the negotiations have taken much longer than expected, every effort is being made to ensure that deliveries will occur as soon as possible.

The details of how the $4 million subsidy available in the DECSTech 2001 project will be distributed to schools have not been finalised as yet. This has also proved a more complex task than first

thought, involving staff from both the Department for Education and Children's Services (DECS) and Treasury. The subsidy for each school will be based on the number of school card students and it is expected that the details will be finalised in the near future.

Schools will be notified of the general information for the purchase of standard computers and the subsidy arrangements through a DECSTech 2001 Principals Update, and of their particular subsidy amount (per computer) by an individual letter to each school. This notification will be issued as soon as all the associated issues have been resolved and details are finalised.

2. Following final approvals, I will table the name of the selected preferred supplier.

TANDANYA

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

Leave granted.

The Hon. ANNE LEVY: The Minister announced last week that there would be an audit of Tandanya. I note that in the past financial year Tandanya did have a deficit but was certainly not the only arts organisations to do so. One can immediately name the Adelaide Festival and State Theatre as also having deficits in that financial year. Tandanya, I understand, attributes its deficit, first, to a drop in its grant. With the State Theatre, it is the only major organisation to have had a cut this financial year. This followed a very large cut that it had the previous year. Tandanya also had fewer retail sales and sales from its art exhibitions, but we all know that the retail industry is not exactly doing well at the moment, and it is no orphan in having a cut in retail sales. The Minister has also withdrawn money for building maintenance and has refused capital grants for the building. I point out that Tandanya has no air-conditioning. How many members from this Chamber visited Tandanya last week, as I did, to see what it is like without air-conditioning?

Members interjecting:

The Hon. ANNE LEVY: Do I continue with that noise?

The PRESIDENT: Order!

The Hon. ANNE LEVY: The Minister states:

> There is no money for capital grants because it is not owned by the National Aboriginal Cultural Institute but by the Aboriginal Lands Trust.

This is playing with words. The Aboriginal Lands Trust is a statutory authority which gets all its income from the Government.

The PRESIDENT: Order! Does the honourable member have much more by way of explanation?

The Hon. ANNE LEVY: No, Mr President.

The PRESIDENT: I will allow you to continue.

The Hon. ANNE LEVY: I will ask my question: why was an audit insisted on for Tandanya when there is no suggestion that there has been any misappropriation of money, and it is not the only arts organisation to have had a deficit last year; why has necessary money been withdrawn from maintenance; and will the Minister undertake to ensure that Tandanya does not remain the only cultural institution without air-conditioning, as this severely hampers its operations?

The Hon. DIANA LAIDLAW: The Labor Government set up Tandanya as a National Aboriginal Cultural Institute, and it set it up without air-conditioning. It was in government longer than—

The Hon. Anne Levy: It was to follow.

The Hon. DIANA LAIDLAW: What a lame and pathetic statement! Not only did you set up Tandanya without air-conditioning but you clearly thought that was an acceptable standard for an Aboriginal organisation, otherwise you would not have done it in the first place. We inherited Tandanya as a funded agency through the Arts Department, and it is owned by the Aboriginal Lands Trust. We also inherited a debt which is just beyond belief, and it is a larger debt than has been encountered by any other Government in this State. We have dealt with the debt, but it has meant that decisions one would wish to make in capital or recurrent terms have not been possible. It also meant that, to get other initiatives going, the Arts Department has had to ask some arts organisations to consider ways and means of dealing better with their budgets. The biggest problem facing Tandanya is the fact that its retail sales last financial year fell by about $250 000.

The Hon. Anne Levy: So did the retail sales of David Jones and Myer.

The Hon. DIANA LAIDLAW: Yes, and Tandanya is still going, isn't it?

The Hon. Anne Levy: So are David Jones and Myer.

The Hon. DIANA LAIDLAW: So, what's your point? They are still going, and Tandanya is still being funded. It is important to put on the record that Tandanya's earned income fell from $687 000 in 1994-95 to $477 000 in 1995-96, and this matter is of major concern to Tandanya and to this Government. In 1995-96—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —assistance from State Government was $550 000. This appears—and I stress the term 'appears'—to be a reduction of $100 000 from the previous year. However, that $100 000 related to debt servicing arrangements that the former Government had established after it had set up that arrangement. This cost had been $90 000 *per annum* reduced to $60 000 *per annum* in 1995-96, and it is now fully retired. Therefore, the net impact of the decision was a reduction in assistance of $10 000 *per annum* after allowance was made for the debt servicing cost. The advice from Tandanya has been misleading in the way it has presented Government funding. I should highlight that, in 1996-97, the grant was $530 000 from State Government sources, plus $5 000 for inflation, and this was a $20 000 reduction directed to building services cost. We have argued that, contrary to advice the Tandanya board has circulated, the building is owned not by the South Australian Government but by the Aboriginal Lands Trust, and public information—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order! I suggest that the Hon. Anne Levy stop yelling from the back benches.

The Hon. DIANA LAIDLAW: —circulated by Tandanya on this count is completely false. Therefore, after some consideration and because of other matters of concern that have been raised with me, I have suggested to the Tandanya board a certain course of action. This matter is important, Mr President; you may seek to wind me up, but this must be put on the record.

The PRESIDENT: Order! The honourable member has had a fair time to answer the question.

The Hon. DIANA LAIDLAW: It is important to note that, after an approach was made to the board, the board has written back to me through Mr Tim O'Loughlin, the Chief Executive Arts, South Australia, in the following terms:

1. The board accepts the Minister's decision to appoint a special purpose auditor.

It should be noted that that was again slightly misleading, because we had put that back to the board to come up with an appointment. This letter goes to say:

The board was disappointed at the leaking of this decision by unknown sources and comments by the Minister to the *Advertiser* newspaper prior to the board meeting at which the matter was to be discussed. The *Advertiser* has certainly not been alerted by me or my office, or the Department for the Arts.

2. The board recommends the appointment of KPMG Peat Marwick as the special purpose auditor under clause 8.1 of the funding agreement.

I can advise that the Government has accepted that suggestion from Tandanya. This audit has been undertaken with the cooperation of Tandanya, and the Government has appointed and is paying for the special purpose auditor that has been nominated by Tandanya.

NETHERBY KINDERGARTEN (VARIATION OF WAITE TRUST) BILL

The Hon. R.I. LUCAS (Minister for Education and Children's Services) obtained leave and introduced a Bill for an Act to allow Netherby Kindergarten to remain on land owned by the University of Adelaide that is subject to the terms of the Peter Waite Trust for the establishment of a public park or garden; and for related purposes. Read a first time.

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

That this Bill be now read a second time.

The purpose of this Bill is to vary the terms of the Peter Waite Trust to permit the Netherby Kindergarten to continue tenure on land owned by the University of Adelaide. In 1945 the University of Adelaide permitted the Netherby Kindergarten to be established on land which was granted in 1914 to the University of Adelaide in a Trust Deed by Mr Peter Waite. This was to be a temporary arrangement as the land on which the preschool was located was not intended to be used for the purpose of a community kindergarten.

In 1987 the university negotiated with the preschool management committee and reached a verbal agreement that the kindergarten would be able to stay on the site until the end of 1994. The then Minister (Hon. Greg Crafter) wrote in January 1988 to the President of the Netherby Kindergarten Management Committee, stating that there would be no initiative on the part of the university to have the preschool quit its present site, and gave an assurance that if the site had to be vacated, every effort would be made to relocate the kindergarten. In 1993 the Children's Services Office approached the university to formalise an agreement to allow the preschool to remain on site for a further ten year period. This request was not agreed to by the University of Adelaide Council on legal advice that upon examination of the undertakings given by the university at the time of accepting the land from Peter Waite in 1914 it was clear that the university had no basis for giving permission for the preschool at all.

The essential terms of the Peter Waite Trust Deed of 1914 are that—

- the university hold the designated section of (eastern) land for the purpose of teaching and studying branches of learning associated with agriculture and husbandry; and
- the university hold the remainder (western) section upon trust to preserve it in perpetuity as a park or garden for the recreation and enjoyment of the public.

During 1994 the University of Adelaide offered an alternative location adjacent to the new child care centre at Waite Institute, but the preschool management committee was not prepared to consider this.

The Netherby Kindergarten has been located at the present site, without any lease arrangement, since 1945, in what is described by the committee as a 'temporary building'. Rebuilding is now urgent and the committee wish to obtain a lease to proceed with this. The university initially proposed a Deed of Indemnity which would allow a lease arrangement to be entered into, conditional upon the Minister for Education and Children's Services protecting the university against any claim for breach of trust. Crown Solicitor advice is that the University of Adelaide has clearly breached the terms of the Trust Deed in allowing the preschool service on its land, and that any proposed lease of any part of land subject to the Waite Trust would continue to be in breach of trust and that it would not be proper to enter into such a lease arrangement or to indemnify the university for such a breach of trust.

The only viable option to allow this important service to young children and their families to proceed, as it has for the past 50 or so years, is to pass a Bill to vary the terms of the trust.

Consultation has taken place between staff of the Department of Education and Children's Services, the local community management committee of the preschool, the University of Adelaide Council and the nearby Urrbrae Agricultural High School. All are in agreement in principle with the service continuing at this location. I would emphasise that this preschool, like all DECS preschool services, offers a high quality educational program to children in the 12 months prior to their admission to school. The preschool is community managed with high parent participation in all areas associated with their children's attendance and program. The continued operation of this preschool is of great benefit to the local community and I would therefore urge adoption of this Bill.

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

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Variation of Waite Trust

This clause varies the terms of the Peter Waite Trust so as to empower the University of Adelaide to grant a lease over the relevant piece of land (delineated in the schedule) for preschool and other related purposes. The lease may be granted to the Minister, the Netherby Kindergarten or to the Minister and the Kindergarten jointly. The fetters on the university's general power under its Act to grant leases are waived by subclauses (3) and (4).

Clause 3: Immunity from liability for breach of trust

This clause gives immunity to the university, the Kindergarten and all other relevant persons from liability for breach of trust arising out of anything done pursuant to this Act or the Kindergarten's previous occupation of the land.

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading and is pleased to expedite the passage of this Bill through the Parliament today. The Minister had the courtesy to inform the Opposition last week that this Bill was intending to come into the Parliament and the Opposition has agreed to expedite it. It seems that, technically, the University of Adelaide should

never have allowed the kindergarten to be established on that site in 1945, but the current staff, parents and children of the kindergarten should not be penalised as a result of a legal oversight that occurred some 50 years ago.

We must be sensitive to the trust established by Mr Peter Waite in 1914, and the Parliament has never lightly disturbed a Trust Deed established for worthy purposes. In this case, however, the valuable role played by the Netherby Kindergarten, the uncertainties relating to any alternative site, and the fact that the kindergarten has operated in the Netherby community for so long—as I indicated, over 50 years—make this a special case. I have no doubt that, under the circumstances, this Parliament is justified in altering the Waite Trust to allow security of tenure for the Netherby Kindergarten, subject, of course, to any submissions that will be put to the select committee which committee, I understand, will be established as a result of this Bill passing the second reading stage.

The Minister has indicated that the Department for Education and Children's Services has had discussions with the local community management committee of the preschool, the University of Adelaide Council and the nearby Urrbrae Agricultural High School and that there is agreement for the service continuing at this location. I am very pleased to support the second reading, and I am quite sure that the select committee process will be expedited.

The Hon. M.J. ELLIOTT: I support the second reading. The Democrats are also prepared to expedite the process. This issue has been coming for a long time. It is quite plain from the Minister's second reading explanation that this issue has been waiting for us to tackle it since 1945 when the University of Adelaide first allowed, on a temporary basis, the Netherby Kindergarten to establish on that site. I have heard no suggestion from anyone that the kindergarten should not continue to remain on that site, and I doubt very much whether we will receive any evidence that will persuade anyone any differently.

I point out that this is the second time within a couple of months that this Chamber has been asked to examine a variation to the Peter Waite Trust. A number of other variations have been to make legal what was not legal under the Deed of Trust, but I also note that, a couple of months ago, we allowed the State Tree Centre to establish on the Peter Waite Trust land at Urrbrae. I believe that that was a gross oversight of this Parliament, because once a purpose is established, even for a temporary use, it is almost impossible to ever remove it.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: That is right. That is exactly my point, and that is exactly why people are so resistant to the wine centre, which was proposed to be established on an area that had been alienated for a long time; it looked like being recovered and immediately a Government again alienates it. The lesson to be learnt from the Netherby Kindergarten issue, and many other such examples, is that once you alienate a piece of public land, or land of a similar nature, the chances of its being recovered are about as close to zero as you can get.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: That is not indeed the argument. As I said, there is no resistance at all to the continuation of that particular kindergarten, but I am sure that, if we went back in history to the time the kindergarten was established, we would find that a fair bit of open space was available onto which it could have been initially established. I am saying that we should at least learn from history that land once alienated from a particular purpose will rarely return to that—

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: That is right. There is always a good reason for alienation at the time you do it.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: And, at the time, the reasons often make perfect sense, but you find later that your decision has had a long-term impact long after the original reason has disappeared. Nevertheless, the Democrats are pleased to expedite the process. I expect that the select committee will not meet for a long time. I should not speculate too much on the committee's likely report other than to say that I would be most surprised if there were not support for the kindergarten's remaining on that site.

The Hon. R.D. LAWSON: I support the second reading. I state an interest in this Bill: both our children attended the Netherby Kindergarten and were greatly enriched by the experience. This kindergarten has operated for many years; it is a fine community organisation and has served the people of the Netherby area very well. Successive committees of the kindergarten have experienced difficulties with the University of Adelaide from time to time, and it is pleasing to see that the Minister has grasped the nettle and introduced this measure that will regularise a situation that has now inured for the best part of half a century.

The Hon. Michael Elliott speaks of alienation of pieces of public land and the fact that, once alienated, they are rarely de-alienated. I am not sure that that comment is really appropriate in the current context. This land was left for undoubted public purposes and has been used for public purposes in connection with this community kindergarten. It seems to me that there has been no alienation from public purposes of this land, which forms part of the Waite Estate. I too do not envisage that there would be opposition to this measure, but it will be for the select committee to advertise and determine by evidence in the usual way whether or not there is any adverse effect from the measure and whether it can be accommodated consistently with the terms of the original trust. I commend the measure.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their indications of support. In particular I thank the Hon. Carolyn Pickles and the Hon. Michael Elliott on behalf of their parties on being prepared to assist with the expediting—

The Hon. M.J. Elliott: As always.

The Hon. R.I. LUCAS: —as always—of the consideration of this Bill and the establishment of the select committee.

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.

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

A quorum having been formed:

Bill referred to a select committee consisting of the Hons M.J. Elliott, R.I. Lucas, Bernice Pfitzner, Carolyn Pickles and G. Weatherill.

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

That Standing Order No. 389 to be so far suspended as to enable the Chairman of the committee to have a deliberative vote only.

Motion carried.

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

That Standing Order No. 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses; unless the committee otherwise resolves, they shall be excluded when the committee is deliberating.

Motion carried.

The Hon. R.I. LUCAS: 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 Tuesday 4 March 1997.

Motion carried.

SELECT COMMITTEE ON RSL MEMORIAL HALL TRUST BILL

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

Report received.

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

That the report be printed.

Motion carried.

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

A quorum having been formed:

Bill recommitted and taken through Committee without amendment.

Bill read a third time and passed.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 926.)

The Hon. M.J. ELLIOTT: I support the second reading of this Bill and I will make only a brief contribution at this stage. The Democrats support a substantial part of this legislation. Several of the amendments we will move are largely about wording and clarification of the meanings of clauses and not opposition to the general intent of clauses. However, we will oppose one clause and seek to insert one new clause. In relation to clause 9, there is some concern about the interpretation of proposed new sections 53(1) and 53A(1) regarding whether or not it is expected that a political Party will on the one nomination paper do all candidates and, if for some reason it fails to nominate a candidate in a particular seat, whether or not a candidate for a particular Party can nominate in that odd seat. I am sure that was not the intention of the Bill—and there might be some argument about whether or not that is its effect—but to make things clear we will move amendments making it plain that, while a political Party may indeed do all the nominations on a single nomination paper, there may be some nominations done separately. So, amendments to clause 9, page 3, line 15 and clause 9, page 4, after line 19 are to that effect.

We will also make another amendment to clause 9, page 3, after line 19, in terms of when those nominations on behalf of a political party should be made. It is proposed within the Bill that it be 48 hours beforehand. I will move an amendment to take that to 24 hours. I do not think there is any need to allow such a long period for this occur. In the days of electronic communications, facsimile machines and so on, 24 hours will certainly be sufficient time. I have certainly had a number of lobbies on that particular matter.

Clause 15 has attracted my attention particularly and I will be opposing it. Clause 15 provides:

The Electoral Commissioner may, if of the opinion that it would not serve the public interest to prosecute an elector for an offence against this section, decline to so prosecute.

This is the Government still trying to get voluntary voting along another route. If you have an Electoral Commissioner who is of a mind that he does not particularly want to prosecute, he will not. I even understand that is the general attitude of the current Electoral Commissioner.

It would become generally known that, if you do not vote, you will not be prosecuted, so do not bother. It is a back door way of getting voluntary voting. I find that totally unacceptable and will be opposing the amendment. It has no useful purpose, other than the purpose which suits the Government, in particular, which has failed to get support in this place for voluntary voting. While we are talking about commissioners, I note that the Opposition intends to move amendments in relation to the way the Commissioner and Deputy Commissioner are appointed, and I support those proposals.

For about the fourth or fifth time of which I am aware I will be moving an amendment effectively seeking to ban the use of how to vote cards. In South Australia, how to vote cards are displayed in the booths and no useful purpose is served by their distribution outside polling booths. Certainly, our Party has considered not using them. Some years ago we conducted experiments to see what happened if we did not use them in terms of running booths where we did and did not supply them and doing comparisons. We learnt quickly that, when other Parties used them and we did not, it has an effect upon the result. As a consequence, we have no problems staffing all the metropolitan booths; although, like other Parties, sometimes the number of country booths becomes a problem. However, I do not think we ever miss any of the big country booths. In fact, looking at some of the other Parties, I think our problems are no greater than theirs.

The Hon. T.G. Cameron: Lots more.

The Hon. M.J. ELLIOTT: I do not think you believe that. There have been a number of elections where we have covered booths that the Labor Party has been incapable of covering. Several times we have covered country booths which the Liberal Party has not covered, and that surprised even us.

The Hon. T.G. Cameron: Two of your people handed out our how to vote cards.

The Hon. M.J. ELLIOTT: Yes. In country areas we often find that whoever is at the booth will hand out cards for other Parties, and they take it in turns buying a beer and going away for a while and handing out each other's cards. I do not think any of the three major Parties are advantaged or disadvantaged these days by the handing out of how to vote cards. The Government might have assumed that it had an advantage, but I do not think that that exists. Certainly, we have not had any problems for some years covering the booths that we need to cover. Recognising that, for what purpose are we doing it? Certainly, for a number of voters it is not much short of harassment.

The fact is that the cards are on display in the booths and it also creates a major headache for the polling officers, who have to account for every ballot paper. Unfortunately, some

people who do not vote screw their ballot paper in among the how to vote cards and throw them in bins inside and outside the building and it becomes a major headache for some hours when they try to reconcile the ballot papers and find that a few are missing. Clearly, they have nuisance value for voters; they have a severe nuisance value, I think, for booth officers; and, with the cards on display, they have really outlived their purpose, and that is before we get to the argument that it is a huge waste of paper and resources generally.

The Hon. T.G. Cameron: As well as money.

The Hon. M.J. ELLIOTT: As well as money. In every regard. Today, there is not a single good purpose for which they can be put, other than using the back of left over cards for notepaper, although sometimes we are left with a bit too much. That is the one useful purpose of a how to vote card.

The Hon. K.T. Griffin: Won't people take them?

The Hon. M.J. ELLIOTT: We always print extras. For probably the fifth time our Party is attempting to move this amendment. There is no doubt that out in the community, when it is discussed, the community substantially—I would say well over 90 per cent—agrees that they should be discontinued. I would like to see someone explain what purpose they serve. I do not think there is one. The last amendments I have on file relate to schedule 2. I will not go into the ins and outs now. I had representations about the precise effect of schedule 2, page 16, lines 1 and 2. The amendments are there.

I understand that the changes were not of philosophy but simply in terms of language—a tidy up. Without going into the debate about the effect of the new words, I indicate that I will move some alternative amendments which change the word 'shall' to 'will'. That is really the style of most of the amendments in schedule 2, and that certainly maintains the provision as it appears in the principal Act. I understand that the Government was not seeking to change that provision but simply to tidy it up.

The Democrats support the Bill. We will move some amendments, most of which have a tidying up effect. We have significant opposition to one clause, which leads towards voluntary voting, and we will move to insert a significant new clause relating to how-to-vote cards. The way in which we are trying to achieve this end is by providing that they cannot be used within 200 metres of a booth. That was not my instruction but, through drafting, for a number of reasons it was felt that was the best way to do it. The effect would be that they would not be used outside polling booths. We will also support several amendments that the Labor Party will move.

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

CRIMINAL LAW CONSOLIDATION (SELF DEFENCE) AMENDMENT BILL

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

ASSOCIATIONS INCORPORATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 February. Page 807.)

The Hon. R.D. LAWSON: I rise to support the second reading of this Bill. The Associations Incorporation Act is and has been for many years a very important provision in this State. Many community organisations have availed themselves of the opportunity to be incorporated under this Act. The range of associations and their financial strength, membership and purposes are very widely divergent.

Many associations are substantial commercial or quasi commercial activities, operating licensed premises, holding real property and having substantial assets. Many have substantial trading activities of a non profit kind. Others, on the other hand, are very small organisations with few members, little in the way of assets, and purposes which are largely social or cultural.

One of the difficulties about the Associations Incorporation Act in recent years is that it has had to recognise the widely divergent nature of associations incorporated under it. The method of differentiating between those organisations which are small on the one hand from those which are substantial on the other has been the adoption of the prescribed association and, by implication, those that are not prescribed. Prescribed associations are those which have gross receipts in the previous financial year that exceed $200 000 or such greater amount as prescribed by regulation. It is my recollection that $200 000 is presently the limit for a prescribed association and that no larger amount has been prescribed by regulation.

The current measures are largely administrative, but they do now set out quite detailed provisions relating to the winding up of associations. I think I am correct in saying that the present Act largely incorporates the provisions of the Corporations Law relating to winding up and dissolution of associations in provisions which begin at section 40A. So, in order to determine the precise regime that applies in relation to the liquidation of an association, it is necessary to consult the Corporations Law.

To some extent the Bill will put in this legislation provisions relating to winding up. One advantage of that measure is that one will be able to look at the Associations Incorporation Act and see within that Act much of the law relating to winding up. However, we will still have a hybrid situation. Section 40A will continue to apply and continue to incorporate Part 5.1 of the Corporations Law into this area of law.

In many respects this is a rather unsatisfactory situation, because some or similar, but not all, provisions of the Corporations Law are replicated in this legislation. So, the number and complexity of the provisions of the Associations Incorporation Act are being expanded by the introduction of a number of sections which presently apply to the Corporations Law in either precisely the same or in some very similar fashion, and others of those provisions are incorporated only by reference. It is not entirely clear from the second reading explanation the precise reasons for many of the provisions, and by way of supporting the second reading there are questions that I wish to put on notice to the Attorney for his reply in due course.

Clause 5 of the Bill will amend section 23A of the principal Act by striking out that provision of the existing law which requires the rules of an incorporated association actually to specify the financial year of the association. It seems to me on the face of it that that is a sensible provision. It enables members to see whether the association has a financial year that ends on 30 June, which is I suppose the commonly accepted financial year, or whether some other

financial year is adopted. There are many reasons why calendar year might be adopted or, in respect of clubs that might have sporting seasons or the like, some other financial year might be adopted. It seems to me perfectly reasonable that they have the opportunity to adopt whichever financial year is appropriate to the activities of the association.

I would have thought it appropriate to have a provision that requires the rules actually to state the financial year. However, as I read clause 5 of this Bill, the requirement to specify a financial year is being removed altogether. I appreciate that the definition section contains a reference to 'financial year', and that definition section (in relation to 'financial year') is itself being amended. I suppose my question really is: why is it necessary or desirable to remove the requirement for the rules to fix a particular financial period rather than have what appears to me to be rather a floating financial year, which enables the association to fix a particular date or year or, in the absence of such fixation, the association's financial year will be deemed to end on 30 June? I would have thought it appropriate for the rules themselves actually to specify the financial year so that members of the association can look at the rules, if necessary search the rules at the registry, and discover for themselves exactly what the financial year of the association is.

The next query I have arises out of clause 7, under which a new section 24A is being inserted. This clause will enable the Supreme Court to vary the rules of an association. It is of some interest to note that that application for variation of the rules must be made by the association itself, and the commission is entitled to appear and be heard in relation to the application. But I note that subsection (2) will require that a meeting of the members of the association be held for the purposes of explaining the purposes of the proposed application. But the new section does not say that the members in general meeting must approve the purposes of the application: they simply have to have explained to them the reason why the association is making the application.

I would have thought that on principle the members of the association ought to approve the application, for it is they who, one would imagine, in most cases, have control over the association. It seems to me a curious provision which requires the association to explain the purposes of a proposed application to the members and seek the views of the members but not actually require that the members vote upon the matter and, in fact, endorse what one imagines will be an application that is being promoted by those in control of the committee of management of the association. So, my questions to the Minister are: what prompted this particular amendment; why is the amendment couched in this way; and why is it not necessary for the members of the organisation to endorse the application?

I turn now to clause 5, which inserts provisions in part 5, which deals, basically, with winding up and the transfer of the activities of associations and their dissolution. I think it is entirely appropriate that new section 40B be inserted to enable an association to go into voluntary administration. It is easy to envisage circumstances where it might be appropriate for an association to choose to go into voluntary administration.

I am somewhat intrigued by new section 41B, which deals with reports to be submitted to liquidators. The new section will provide that, where an incorporated association is wound up by the Supreme Court, the members of the committee of the association, at the date when the winding up order is made or at an earlier date specified by the liquidator, must submit a report to the liquidator in the prescribed form. This is the common report that is made in connection with corporations—it used to be called the report as to the affairs of a company. However, it seems to me somewhat odd that apparently all the members of the committee of an association which is being wound up must submit the report. It is not merely the directors, not merely the office-bearers, but the members of the committee of the association who must submit a report.

I can see circumstances where some members of the committee of an association might decline to submit a report because they may be insufficiently aware of the precise circumstances of the association or its affairs. There might be occasions when there are 20 or 30 members of the committee of an association who might be very reluctant to sign a report as to the affairs because they—or some of them—might have very little to do with the licensed trading operations of the association, or some other aspects. I can see circumstances where members of the committee will simply decline, on the grounds that they are unaware of the full circumstances, to sign the report. So, I ask whether it is envisaged that all members of the committee of the association which is being wound up will be required to subscribe to the report?

I know it is easy enough to say that, if you are a member of a committee of an association such as this, you ought to make it your business to be fully conversant with all the business activities of the association. However, in respect of incorporated associations which are non-profit organisations—and they are quite different in this respect to companies, which are established for the purpose of making a profit—it seems to me to be setting too high a standard to expect of all the members of the committee of an association that they subscribe to the report. However, there may be certain matters which I have overlooked which may make it appropriate that they all submit the report.

Members would be aware of the celebrated situation in Victoria. The National Safety Council of Victoria, a very substantial organisation with many millions of dollars of assets and, regrettably, even more millions of dollars of liability, went into liquidation. It was defrauded by a Mr Fredericks. The members of the committee of the association—I think they were directors of a company limited by guarantee—were numerous. Many of them represented other associations, and many of them were found ultimately by the courts to be liable in some respects for the debts of that association. I think it would be regrettable if the same consequences were visited upon members of committees of associations, especially associations which are not prescribed associations (in other words, small associations).

I think it is reasonable under proposed section 41C for the majority of the members of the committee to make a declaration of solvency, because obviously when a declaration of solvency is made inquiries must be undertaken to ascertain whether or not the body is solvent. I think it is reasonable in those circumstances for a majority of the members of the committee to make that declaration. That provision might be contrasted with proposed section 41B. Under proposed section 41C only a majority of the members must make the declaration, whereas under proposed section 41B it is apparently envisaged that all the members of the committee will have to submit the report under pain of a penalty of $5 000, which is a substantial sum, especially for a voluntary organisation.

Proposed section 41D provides that all members of the committee must verify the statement as to the affairs of the

association. Once again, I query why it is necessary for that verification to be made by all the members of the committee and whether it is too draconian. Proposed section 41E highlights one of the difficulties of hybrid measures of this kind. That section provides:

> A person who contravenes or fails to comply with a provision of the corporations law as it applies to an incorporated association by virtue of this part is guilty of an offence.

The penalty is substantial: $5 000 or imprisonment for one year. Of course, the committee member of the association who looks at this Act will see the various requirements but will not see all the requirements of the corporations law and will be subjected to a penalty under this law for an offence committed under another law.

Another matter that caught my attention arises under proposed section 49AB, which provides that an officer or former officer of an incorporated association, which is basically being wound up or is otherwise under administration, who does not, to the best of his or her ability, fully and truly disclose all the property of the association is guilty of an offence. This is an even more serious offence, attracting up to a $10 000 fine or up to two years imprisonment. That is a draconian provision, as is proposed section 49AB(1)(f). This relates to a person who prevents the production of any document affecting or relating to the affairs of the association. It is interesting to note that this paragraph simply provides 'prevents the production'; it does not say 'knowingly' or 'fraudulently' or otherwise qualify the intervention. It would appear that one could inadvertently prevent the production—and that might, for example, be by quite innocently destroying a document by throwing it in the bin or throwing out the papers of the association relating to old invoices or the like—of a document affecting or relating to the affairs of an association. There ought to be some qualification to that provision so that the mere inadvertent prevention of production does not involve an innocent or perhaps even negligent person in a heavy penalty.

The Hon. J.F. Stefani interjecting:

The Hon. R.D. LAWSON: As the Hon. Julian Stefani points out, proposed section 49AB(1)(c) relates back for a period of five years before the relevant day which, in many cases, will be the day the association is wound up. It is reasonable for that provision to make it an offence to conceal fraudulently or remove any part of the association's property to the value of $100 or more. That is not terribly much in monetary value, but the section has the provision that it must involve some form of fraudulent concealment. Likewise, most subparagraphs in that paragraph deal with matters of fraudulence and concealment or false representation. That predicates an element of dishonesty. It is appropriate for there to be the opportunity for the court to impose heavy fines for dishonest conduct. However, it seems to me that paragraph (f) does not predicate dishonesty at all.

I will turn next to proposed section 49AC which deals with failure to keep proper records. Basically, as I read the section, it provides that if, for example, an incorporated association goes into liquidation or is wound up:

> . . . a member of the committee of the association who failed to take all reasonable steps to secure compliance by the association with the provision throughout that period and any other officer who is in default each commit an offence.

That means that a member, that is, every member of the committee, who fails to take steps to secure compliance with the association is guilty of a serious offence. Usually, the secretary and the treasurer of an association will be the persons responsible for keeping the records of the association. It is not every member of the committee who will be required to keep the proper records. It seems to me to be casting a very heavy onus on members of a committee where they are required to take steps to secure compliance, namely, to ensure that the committee keeps its proper record.

It is true that subsection (2) provides that if a person is charged under this section a defence is available if the person had reasonable grounds to believe and did believe that a competent and reliable person was charged with the duty. Sometimes it is difficult to prove or establish the competence or reliability of people who act voluntarily in relation to the affairs of an association. Often the secretary or treasurer of an incorporated association is not a professionally qualified accountant or bookkeeper. These jobs, as every member of the Chamber would know, are frequently inflicted upon a willing member of the association.

The Hon. M.J. Elliott: Often an unwilling member.

The Hon. R.D. LAWSON: And sometimes an unwilling member, as the Hon. Michael Elliott says. It seems to me to be imposing a very heavy and onerous responsibility on members of committees of associations. We want to encourage people to become involved in community associations: it is a worthwhile social objective to encourage involvement. It seems to me that as a Government we should not seek to impose very high standards and onerous responsibilities on people who are prepared to come forward to play a role in these associations. I appreciate, and no doubt will be reminded, that a general defence is provided by proposed section 58A to the effect:

> . . . if the defendant proves that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

That type of general defence is all very well, but it does not save a person who might be caught by this net from actually having to face the prospect of being charged, to face the ignominy of it, and to incur the expense of having to defend oneself from prosecution under it. However, with those comments, and I will be interested to hear the Minister's response in due course, I support the second reading.

The Hon. M.J. ELLIOTT: I rise to support the second reading and make a brief contribution. I circulated this Bill to a number of people involved in bodies affected by this Act. There is no doubt that the Associations Incorporation Act—and it was obvious by the earlier contribution—places quite onerous responsibilities on people often in quite small organisations, and due to the very nature of their involvement in many cases they are not qualified to do what the Act expects of them. I can only say that having circulated this Bill to a number of people in organisations of that sort the reaction is that this measure does not make things worse than they are in that regard but in a couple of respects is an actual improvement.

That applies particularly in the area of winding up provisions. I sent this Bill to one person who remarked that she welcomed the new section because within the next few months she would be involved in having to deregister several incorporated associations and under the old Act the process was 'horrific' (her word), but now, if the final surplus assets do not exceed $5 000, a simple version is provided. Referring to a new insertion involving section 43A (application for deregistration), she said that it appeared to be eminently

sensible and deserved support. She made the comment, 'Please get it passed quickly.'

Those remarks reflect that quite a few parts of this Act have made things very difficult for smaller organisations, and that in one area, at least, it will make life a little easier. At a later stage we may need to look at whether or not the responsibilities and requirements in relation to small organisations are still more onerous and whether or not we give them adequate protections when they do behave in good faith. With those few words, the Democrats support the second reading.

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

WATER RESOURCES BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 607.)

The Hon. T.G. ROBERTS: The Opposition supports the general principles of introducing this Bill to bring about a protector mechanism: a management structure to achieve sustainable economic development to protect the resource and to try to minimise the conflicts of interest that are starting to emerge over the allocation of this State's most important resource—water. The second reading explanation contains the following passage:

> . . . after a comprehensive program of community consultation . . . tabled the State Water Plan entitled '*Our Water, Our Future*', outlining South Australia's needs for a strategic framework for management of water resources . . .

I suspect that the Water Resources Bill grew out of initiatives taken much earlier than that, probably around 1990, when we were in Government and trying to put together a comprehensive package of measures designed to protect the quality and quantity of water and to have an equitable allocation system and a pricing mechanism built into a framework that has the same intentions as this Government is now trying to achieve. I do not want to get into an argument about whose plan is or was the better. What we have before us is a Bill that needs examination, and that is what the Opposition will do.

I understand that negotiations are still continuing with some principal players in those groups and organisations and with individuals who have an interest in the outcome of the Bill. I will therefore make this contribution today, seek leave to conclude, and then make a further contribution when I am convinced that the Government's final position is clear. I understand that negotiations are continuing among the South Australian Farmers Federation, local government and some interested parties, including back bench members of the Government, to put together a package of amendments to the current Bill to try to bring about a better community and Party consensus over the outcomes in the final Bill. There is no point in the Opposition's putting forward any amendments until the Government has worked its way through the Bill and tabled its amendments; then the Opposition can see some of the more debatable and contentious issues emerging. The majority of the Bill is not contentious. Its single intention is the establishment of a water management system that will achieve the ecologically sustainable development of the State's water resources. One of the principles set out in the second reading explanation is to establish a system that will provide maximum social, economic and environmental benefits for present generations, while allowing the same benefits to be reaped by future generations. That is certainly an easy statement to make, but it is a difficult objective to achieve, given that the Government found it difficult to achieve a consensus over those principles, for a number of reasons.

A number of the meetings I have attended and the telephone calls and letters I have had indicate to me that not only this Bill but also the possibility of proclamation have confused many potential and existing consumers over what the final outcomes will mean to them as users of water in this State. One meeting I attended in Millicent, which departmental and some Government representatives also attended, convinced me that the more questions that were asked and attempted to be answered on the intentions of the Bill, the more confused many people became. I commend the Government on the length of time it has been negotiating or has had the draft out in the community, but I must say that, when the Bill was being debated toward the end of the year, it was quite clear to me that the intentions of the Bill in its final form were not made clear to those people who would be affected by the final intentions of the Act. For those reasons, the Government has continued the negotiating process through December, January and now into February.

So, it has been difficult. The competitive use requirements implied in the principles of ecologically sustainable development included in the Bill have resulted in competitive arguments at public meetings, where the final intentions and outcomes of the Act are unclear. In the South-East in particular, a changed land use program has been operating for a long time. The Mount Lofty Ranges Development Bill was introduced by the previous Government, and the intentions of the ecologically sustainable water catchment programs that were being developed in the Mount Lofty Ranges are being put into place. It was quite clear that the harvest of water for metropolitan users would impact on the potential use of agricultural and horticultural land, even for dwelling settlements for individuals. There was also the Native Vegetation Clearance Act, which would prevent the clearance of any more vegetation in the Mount Lofty Ranges, and for the rest of the State.

All these Bills were a little late but nevertheless were brought in around the time of the Bannon and Arnold Governments, and it was clear that the State's direction in land management was changing and that a new culture was starting to be developed. Soil boards were being set up in pastoral and other regions of the State and it was clear that there was an intention by the Government, the departments and individual land users to try to protect the quality of the land that they were using for agricultural and horticultural purposes and to try to protect the quality and quantity of the water that potentially they would have had at their disposal.

When the Mount Lofty Ranges Plan was being developed it was quite clear in relation to many of the agricultural and horticultural programs in that geographical zone, which included dairy farming, pig farming and, to some extent, poultry farming, where there was the potential to pollute the riparian areas or the harvestable water collecting areas in that region, that unless a lot of money was spent on those projects being self-sustaining and collecting and treating their own waste, then no more licences or developments would be okayed in those areas. That was for good reason, namely, to prevent the Adelaide water being polluted by surface means and by leachates through into the underground water system and finally into the streams and dams.

A lot of investment then moved from the Mount Lofty Ranges out along the River Murray Valley. Murray Bridge was a beneficiary and other areas along the Murray were beneficiaries of changed agricultural and horticultural practices. For the area from Mypolonga down almost to Goolwa the changed methods of growing all sorts of vegetables and stone fruits are starting to reap some benefits, although there could be some pressure on the lower end of the Murray Basin if too much is allowed. However, at the moment one can see the land use changes moving out.

The other area that is now starting to change is the South-East, with many stone fruits being planted down there and many export agricultural and horticultural products being moved down there. The dairy industry is now becoming more integrated with the Victorian systems, which is causing problems other than land use problems. In the main this Bill focuses not on the other problems but on the land use. Large intense dairy farms are now being built. Central pivot operations are starting to take place in more farming areas and other crops for export and domestic use are being planned and put together in the South-East region.

As to the South-East region's underground water supply, it is one of the few areas of the State that is underdeveloped, according to those who put an economic importance on water use. Conservationists and environmentalists would say that you do not have to use every drop of underground water to have an ecologically sustainable environment and you should know the top up or replenishment rates of the underground water supply before you start licensing for those people to take out water.

It would be irresponsible for the department or the Government not to have one eye on replenishment and rebuilding of the underground water supply if they were only licensing to take water out. There is a move towards greater exploitation of the water resources in the South-East. As I said before, it is one of the few areas in the State where the amount of water being taken out of the underground water supply is between one third and one half of the available allocation.

It is a timely Bill which now puts together an integrated approach for water management. The Opposition would have liked to see integrated land management practices put together with a Water Resources Bill so that the Government was looking at not only protecting the water supply but also some of the recommendations being put forward by the soil and drainage boards. That would allow the Government to have a total look at resource use and match land management programs against water use programs. That would provide totally integrated management plans that include soil management, surface water management and underground water management, thereby allowing management plans to be put together in a way that they can be assessed and everyone can be confident that there is a complementary, integrated land management program that suits each geographical area. As a result, we would have complementary agricultural-horticultural programs running side by side and not impacting adversely on another project by, for example, either taking away underground water from one project to the advantage of another or aerial spraying impacting on one agricultural-horticultural project adversely while advantaging another.

I have some sympathy for the Government lamming the Bill into the South-East particularly at a time when the original settlers—the agricultural users, the farmers and graziers who have been in the South-East for five generations—are doing it very hard. The beef export programs are flat, prices are flat and the wool market is flat—although fat lambs are doing reasonably well—and, in the main, those who have been on the land for a very long time are receiving the smallest returns. Those who have picked up the new agricultural-horticultural projects and who have, in the main, moved out of the Mount Lofty Ranges area, or are mirroring some of the activities in the Mount Lofty Ranges, or are picking up new products which are now being flown out of the State and exported direct, seem to be doing quite well because they have picked up niche markets for niche products.

It is those projects that are being earmarked and looked at successfully. Whereas, the traditional farmers thought that the Water Resources Bill would possibly place restrictions on their activities and adversely impact on them, they did not have the working capital to transfer their activities away from beef and wool to some of the newer projects and, in many cases, they did not have the know-how.

They were very nervous about the introduction of the Bill. It still may be a goal that the Government will have to look at, that is, to support and assist some of those farmers to transfer their activities from one industry to another and determine whether the market downturn for beef, for instance, will be permanent or temporary. Experts need to look at that. Will the wool depression continue? Experts need to look at that and advise landowners about the best possible use for their holdings. That should be subject to some sort of investigation by the Government for all sorts of reasons. True, many of the old fifth generation farmers tell us that they have been through these cycles before, that wool and beef will pull out and other industries will go through flat spots and downturns. The wine industry is being heavily invested in now and is attracting much attention and investment, but it has had its ups and downs. In 1986 one of my first decisions as a member of Kym Mayes' backbench committee involved agreeing or disagreeing to a vine pull.

That has certainly faded into the distance in the minds of most people, but $6 million or $7 million was allocated to a vine pull in that year. Today, everyone would be breaking their neck to get some of the varieties that were pulled out. Mr President, as a member of the grazing, farming and wheat growing fraternity, you would know of the problems that some ageing farmers face down there in transferring their capital from grazing to other industries. This is something the Government needs to look at. An article was put together by Chris Oldfield recently highlighting some of the difficulties that beef cattle and sheep farmers had in the Lucindale district where they were facing depressed prices and increased input costs. They had a very cold winter on top of slow growing pastures.

Generally, the South-East is regarded as a very rich and productive area but, once we start looking at some of the problems facing some farmers, I suspect that could be the basis for discussion on the Government benches in respect of coming to terms with some of the insecurities which many traditional farmers have in trying to overcome some of the inbuilt structural difficulties they face and which are bringing about a lot of confusion about the Bill. There are also all these other uncertainties in their lives that make them reluctant to accept the Bill's intentions when, in fact, if the Bill were structured and administered properly, the Government could sell it as a plus to everyone in the State and everyone could feel that there is an intention, as set out in the Bill, as follows:

. . . the establishment of a system for water resources management which will achieve the ecologically sustainable development of the State's water resources, that is, . . . provide the maximum social, economic and environmental benefits for present generations, whilst still allowing those same benefits to be reaped by future generations.

If everyone were comfortable with the intention and objects of the Bill, I am sure we would not have had the slow drawn out processes we have had in selling it to many of the landowners in that geographical region.

In other regions of the State, there is also pressure on our water resources, and on the West Coast there have been arguments about ownership and control of water. In the Clare Valley and other areas such as the Barossa Valley, Southern Vales, and even the Padthaway area, where grapegrowing is going ahead in leaps and bounds, there are difficulties obtaining water of good quality and quantity. It is important that we get the Bill right so that everyone can have confidence that the allocations will be adequate for their needs and requirements. It is up to the Government, the Opposition and the Democrats to ensure that we get water resources legislation with which everyone can feel completely happy.

Administratively, there will be a problem with winning the confidence of the people who will have to administer it, namely, local government. When I conclude my remarks, I will raise some of the issues with which local government has presented me in relation to this Bill. I will also mention some of the problems that the South Australian Farmers Federation has put before me. I will be interested in the amendments that the Government frames in an attempt to solve some of the administrative problems that will confront local government when it becomes the tax collector for the administration of this Bill. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ALICE SPRINGS TO DARWIN RAILWAY BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill provides for the authorisation of an agreement between the South Australian and Northern Territory governments to facilitate the construction of a railway link between Alice Springs and Darwin and the operation of a railway from Darwin linking into the national rail network at Tarcoola.

In November, 1996, the former Premier and the Northern Territory Chief Minister signed an Inter Governmental Agreement recording the extent of the negotiations between the South Australian and Northern Territory Governments at the date of the Agreement, and in particular, agreeing in principle, subject to conditions, the financial contributions to the project to be made by each government. The conditions are set out in the agreement and include the State's financial commitment being subject to the commercial viability of the project. The Agreement also contemplated that both governments would participate in a statutory corporation to be established for the purpose of holding title to the rail corridor and facilitating the management of the project. This agreement is set out in the Schedule to the Bill.

The Northern Territory Parliament has already passed the *AustralAsia Railway Corporation Act 1996* to provide for the establishment of the AustralAsia Railway Corporation. This Corporation will hold the title to the rail corridor, and will facilitate the construction and operation of the railway. South Australian representatives will be appointed to the Corporation on the nomination of the Minister.

This Bill is complementary to the *AustralAsia Railway Corporation Act 1996*. In essence, the Bill ratifies the intergovernmental agreement signed in November 1996, and authorises the Minister to enter into a formal agreement between South Australia, Northern Territory and other appropriate parties to facilitate the development of a railway link between Alice Springs and Darwin.

Clause 6 of the Bill sets out the State's financial commitment to the project and places a limit on the State's expenditure of $100 million in 1996 terms by way of capital grants. The Northern Territory Government will also contribute up to $100 million in 1995 dollars to the project such contribution to be by way of grant or in kind. It is proposed that the remaining $800 million for the $1 billion project will come from the private sector and possibly from the Commonwealth. The Commonwealth is being asked to contribute the Tarcoola to Alice Springs railway track to the project.

Clause 7 of the Bill deals with the State's involvement in the AustralAsia Railway Corporation. This clause requires the State's nominees to the Corporation to report annually to the Minister on the activities of the Corporation and on the progress of the project. The Minister must then table copies of the report in Parliament.

The development of the Alice Springs to Darwin rail link will be of immense national significance. In South Australia alone, the South Australian Development Council has forecast that the project will be worth at least $1 billion to the local economy both in terms of freight traffic captured by South Australia and in terms of expenditure on the construction of the railway, ranking it as a significant milestone in the State's development. This legislation will facilitate the State's involvement in the project.

I commend this Bill to honourable members.

Explanation of Clauses

Clause I.: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Definitions

This clause defines the authorised project by reference to the definition contained in clause 1.1 of the preliminary agreement. The preliminary agreement is set out in the schedule to the Bill.

Clause 4: Ratification of preliminary agreement

This clause provides for ratification of the preliminary agreement, entered into in November 1996, between representatives of the South Australian and Northern Territory Governments.

Clause 5: Authorisation of legally enforceable agreement

This clause authorises the Minister to enter into a legally enforceable agreement, on behalf of the State, with an appropriate representative of the Northern Territory Government facilitating implementation of the authorised project.

Clause 6: Extent of financial commitment

This clause limits the extent of the expenditure to which the South Australian Government can be contractually committed to $100 million.

Clause 7: Statutory corporation

This clause requires the nominees of the South Australian Government on the proposed statutory corporation to report annually to the Minister on the activities of the corporation and progress with the authorised project. The Minister is required to have copies of the report laid before both Houses of Parliament as soon as practicable after receiving it.

Schedule

The Schedule sets out the terms of the preliminary agreement that is to be ratified by the new Act.

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

ADJOURNMENT

At 6.3 p.m. the Council adjourned until Wednesday 26 February at 2.15 p.m.