LEGISLATIVE COUNCIL

Tuesday 4 March 1997

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

PAPERS TABLED

The following papers were laid on the table:

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

Regulations under the following Acts—
Housing and Urban Development (Administrative Arrangements Act 1995—MFP Industrial Premises Corporation
Public Corporations Act 1993—MFP Industrial Premises Corporation

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

Regulations under the following Acts—
Building Work Contractors Act 1995—Exemptions
Land and Business (Sale and Conveyancing) Act 1994—Transfer to MFP

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

Regulations under the following Acts—
Motor Vehicles Act 1959—Bike Rack
Road Traffic Act 1961—Bike Rack.

JUVENILE JUSTICE STATISTICS

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.T. GRIFFIN: I have been advised by the Chairperson of the Juvenile Justice Advisory Committee, Judge Terry Worthington, that there is an error in the statistics contained in that committee's 1996 annual report. I seek leave to table a copy of Judge Worthington's letter to me informing me of this matter, together with a copy of a letter to Judge Worthington from the police representative on the committee, Inspector G. Rowett.

Leave granted.

The Hon. K.T. GRIFFIN: According to the attached correspondence a number of informal cautions were not included in the statistics which the South Australian Police provided for the report. A new extract of the data has now been made available by SAPOL which indicates that informal cautions had been underenumerated by 417. These cases have now been incorporated into the appropriate statistical tables in the report, and the text based on those tables has been corrected. I now seek leave to table the corrected versions of pages 3 and 4 and tables 3.1, 3.2, 3.3, 3.4 and 4.1 of the Juvenile Justice Advisory Committee's annual report for the year ended 30 June 1996.

Leave granted.

The Hon. K.T. GRIFFIN: The corrections will be incorporated into the annual report before it is sent to the printer. The version which will be available for public distribution will therefore be correct in all respects.

It is worth noting that the addition of these extra informal cautions does not alter the fact (as initially reported) that the number of matters dealt with in this way has declined compared with the previous year. However, the magnitude of that decrease is now smaller than previously reported. In 1995-96 we now know that there were 4 215 informal cautions administered, which is 712 fewer than the 4 927 administered in 1994-95. This represents a decrease of 14.5 per cent. By contrast, the uncorrected figures suggest a decrease of 22.9 per cent.

The overall number of matters dealt with by police during 1995-96 was 14 138, which is still 783 or 5.2 per cent fewer than in the previous year. This means that even with the data corrections the number of young people dealt with by police has still declined over the past 12 months. Finally, I would like to draw members' attention to one other minor correction. On page 7 of the report, in the last paragraph, there is a reference to 750 fewer mandates serviced by FACS in 1995-96 compared with 1994-95. This should read '750 more'. I seek leave to table a corrected copy of page 7.

Leave granted.

SELECT COMMITTEE ON PRE-SCHOOL, PRIMARY AND SECONDARY EDUCATION IN SOUTH AUSTRALIA

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

That the Hon. P. Nocella be substituted in the place of the Hon. P. Holloway, resigned, on the committee.

Motion carried.

QUESTION TIME

SCHOOL COMPUTING EQUIPMENT

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before directing a question to the Minister for Education and Children's Services on the subject of the computer tender panel.

Leave granted.

The Hon. CAROLYN PICKLES: Last week the Minister for Information and Contract Services told Parliament that it was up to the Department for Education and Children's Services to select school computers from a list of five preferred companies established by the Department of Information Industries. The Opposition has learnt that the Government had contracted to establish two computer supplier lists in 1995. The first list, which was based on contract 264 of 1995, specifically said:

It should be noted that PCs required by the Education and Children's Services Department for curriculum use are not mandated to be supplied under this panel contract.

Why did the Government invite proposals for the supply of school computers from the contract list that specifically excluded school computers?

The Hon. R.I. LUCAS: The Government's policy decision was that the whole of Government contract, which was brought down in July 1996 for a two-year period to July 1998 (I will have to check those dates), required that Government departments negotiating for the purchase of computers needed to negotiate or to purchase from the whole of Government preferred supplier list. I think, and I will check the precise numbers, five preferred suppliers were nominated after an open tender process for the whole of Government. The Government's position was that the Department for Education and Children's Services, given that its was such a large contract, was required to negotiate with one or all of the preferred suppliers from the preferred supplier list from the Government's whole of Government preferred supplier tender.

The Hon. R.R. ROBERTS: I seek leave to ask the Minister for Education and Children's Services a question on the subject of computer tendering.

Leave granted.

The Hon. R.R. ROBERTS: Because tender 264/95 for the supply of desktop computers specifically excluded the supply of curriculum computers to schools, companies in the tender process sought advice from the Supply Board and were told to tender for contract GITC 369/95, known as version No. 2. We were advised that suppliers on version 2 were then excluded from the bidding process for the supply of school computers, when DECSTech decided to request bids only from those companies listed as preferred suppliers under contract 264/95. Why did the Minister deny all those companies that tendered and registered on contract GITC 369/95 the opportunity to supply computers to schools, and do those companies now have a legal claim for breach of contract?

The Hon. R.I. LUCAS: I have indicated to the Leader of the Opposition the Government's position on this matter, that is, that the Government took a decision that there would have to be, from the Education Department, a preferred supplier arrangement negotiated with the whole of Government preferred supplier list of five companies, which I said I would check. That was the Government's decision, and the Department for Education and Children Services operated within the context of the Government's decision.

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 tender rejection.

Leave granted.

The Hon. CAROLYN PICKLES: The Opposition has a leaked copy of a briefing to the Chief Executive Officer of the Department for Education and Children's Services which is dated July 1996 and which details how all five companies on the Government's panel of vendors to supply computers to the Government have been invited to submit proposals to become the preferred supplier of computers to schools.

The submission details how the companies were ranked for performance, quality and pricing and recommended Southmark Computer Systems as the preferred supplier for both curriculum and administrative desktop computers. The companies that have since been announced as preferred suppliers were individually ranked as third, fourth and fifth out of five after the second round for best offers. Why did the Government reject the recommendation of the DECSTech evaluation panel that Southmark Computer Systems be selected as the DECS preferred supplier of desktop computers?

The Hon. R.I. LUCAS: In the last six months of last year there were continuing negotiations with the Department of Information Industries. The evaluation of the computer contract needed to take into account not only the needs of the Education Department in relation to service, supply and cost, and issues of direct concern to schools, but also a requirement from the Government in relation to industry development proposals for any contract, particularly of this size. When both evaluations were done on the needs of service, cost and supply, delivery of supply and continuity of supply, along with the industrial development evaluation that needed to be done by the Department of Information Industries, the recommendation was that the consortium—

Members interjecting:

The Hon. R.I. LUCAS: We had a number of legal opinions—submission was that which came out at the top ranking.

The Hon. R.R. ROBERTS: My question is directed to the Minister for Education. After requests for best and final offers and the selection by the evaluation team of SouthMark Computer System's bid as the best tender to supply school commuters, who authorised a third round of tenders, and who gave approval for the three losing tenderers to join together as a consortium to submit a further proposal?

The Hon. R.I. LUCAS: My understanding—and I will certainly take advice on this—is that there was not a third round of tenders. Therefore, I do not understand the assumption behind the honourable member's question.

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about computer contract probity.

Leave granted.

The Hon. L.H. Davis: You must actually be having strategy meetings.

The Hon. T.G. ROBERTS: I am not sure with whom the honourable member met; he was probably on his own. The Opposition has a minute which was leaked to it and which states that the evaluation for the bids for the preferred supplier for school computers was undertaken by officers from Information Technology Services and DECS with the support of one consultant. My questions are:

1. Was an auditor appointed to ensure the probity of the process to select the preferred suppliers for school computers?

2. Did the probity auditor approve the formation of a consortium by three of the companies that had already lodged individual losing bids?

3. What security arrangements were in place to protect the information contained in the second round best and final bids won by Southmark Computer Systems?

4. Can the Minister guarantee that the unsuccessful bidders from the first two rounds were not aware of the details of Southmark's winning bid, as perhaps occurred in other contracts?

The Hon. R.I. LUCAS: There was no probity auditor in relation to the Government contract for the purchase of computer supplies. As regards whether tenderers were aware of the bids of other tenderers, no suggestion has been made to me. If the honourable member wants to make a claim or ask any questions, I would be very happy to investigate—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: Nothing has been raised with me. No allegation or claim has been made to me of any such problem or anomaly in relation to the tendering process.

GOODWOOD ORPHANAGE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education a question about the Goodwood Orphanage site.

Leave granted.

The Hon. M.J. ELLIOTT: There is a great deal of concern around Adelaide about the loss of open space, and one of those areas which is more highly profiled at this stage is the Goodwood Orphanage site which currently is owned by the Education Department. I understand that the Govern-

ment has an agreement, although it has not signed a final contract, under which a Bible college will establish on that site and construct a shared auditorium for use by the Government. The concern of local residents is not only that the construction of that college will take up a fair part of the open space on the site but also that inevitably there will be a need for a significant increase in car parking, which will then take up even more of the site.

I understand that in this district some 2 per cent of the area is currently considered to be open space (in fact, I think the figure may be less than that), and I note that these days most new developments are required to provide 12½ per cent open space. The complaint made to me is that the State Government, by allowing development on open space, is doing something which private developers have not been allowed to do in new developments for a significant amount of time.

I understand that, whilst there has not been a final signed agreement for the sale of the land, the Unley council has made an offer—in fact, I have seen any number of references to this in writing—to match the price of the land, that being $1.25 million. I have a copy of the plans which have been prepared for this site in terms of what it could become and note that on the plans there is a significant amount of wetlands. I understand that the last part of Brownhill Creek, which runs right through the middle of this site, is not completely concreted and underground.

The addition of this wetland will help solve a problem that the people along the Patawalonga are having in that they cannot find enough space in Adelaide to put wetlands to clean up the Patawalonga to the standard that they would like to see it. Has the Government signed a binding contract in relation to the development of a Bible college? If not, why will the Minister not consider selling the land to the Unley council for the same price which I believe the Government has been offered by the Bible college?

The Hon. R.I. LUCAS: The Government is committed to the sale to Tabor College of a small portion of The Orphanage site and will continue with that process. We have accepted a downpayment of $125 000 and the conclusion of that agreement, subject to final legal advice, will be in April this year. I must admit that I was stunned by the hypocrisy of the mayor of Unley and the Unley administration in relation to this whole issue.

An honourable member interjecting:

The Hon. R.I. LUCAS: There is a rumour that he wants to be a candidate. The easiest thing for the mayor to do to make the public record clear would be to either confirm or deny those rumours that he is contemplating running for State Parliament in the coming election, because then at least it would be clear what particular agenda the mayor and the administration of Unley are running not only on this issue but other issues as well. There is nothing to prevent the mayor of Unley running for Parliament if he wants to. Let him come out into the open and indicate his intentions so that the constituents of the Unley area can make their judgment. What we have at the moment is the mayor of Unley spending ratepayers' money on a development on land which is not owned by the City of Unley and which is not even declared surplus by the State Government.

It is a bit like the mayor of Unley coming into the Hon. Terry Roberts' backyard and saying, 'Here is my development plan for your backyard. It does not matter that you have not declared it surplus or that it is not on the market yet, but I have a development planned for your backyard even though I do not own the land and you have not indicated that you intend to sell it.'

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: That is not true. The Hon. Mr Elliott in another case has accepted information given to him, and I suggest that he should not just accept information given to him without checking it through a third party, because it leaves him exposed if he passes on information given to him without checking it. The honourable member should not just accept information given to him because he will leave himself exposed.

An honourable member interjecting:

The Hon. R.I. LUCAS: I have discussed their plans and their wishes with them, but the Government has not taken the decision to put this on the market and to sell it, and the Unley council and the mayor know that. As I said, it is a bit like the mayor coming into someone's backyard. Here he is—and we do not know whether or not he is running for State Parliament—spending ratepayers' money on a development plan for a piece of land which he does not own and which has not been put on the market.

An honourable member interjecting:

The Hon. R.I. LUCAS: That is exactly the point. One of the major concerns of the residents of Unley who live around The Orphanage is overflow parking. One of the reasons for asking members to look at the hypocrisy of the mayor of Unley in relation to this issue is that as a result of his alternative development proposal for The Orphanage—funded at ratepayers' expense, I might add—more cars will be forced onto the streets of Unley. More cars will be forced into Mitchell Street—

The Hon. Diana Laidlaw: Has he told the residents that?

The Hon. R.I. LUCAS: No, he has not told the residents yet—and all those streets feeding into Mitchell Street.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: One does not know which electorate he might be running for: he has not indicated yet whether he is standing, but he ought to put that rumour to rest. The residents in those streets will have more problems with car parking as a result of the Unley mayor's proposal because of overflow parking being forced into the streets of Unley. The other issue in relation to the hypocrisy of the Unley mayor is that he has been criticising the Government for the past three to six months about the fact that the Government is reducing two playing areas to one playing area and that therefore the children of Unley do not have enough play space—and I will not enter into the fact that Unley borders onto the South Parklands; that is another issue—in which to kick their footballs and soccer balls or to play cricket.

Yet the Unley mayor's own development proposal also reduces the two play spaces to one play space, because he includes in one play space where the children play cricket (so he says), soccer and a variety of other sports a wetlands development where none of that can occur. This then forces cars back onto Mitchell Street, and all the streets that feed into Mitchell Street, to the inconvenience of residents bordering The Orphanage. The hypocrisy of the Unley mayor is stark and stunning and exposed for everyone to see in relation to this particular—

The Hon. L.H. Davis: Even the Democrats could not support that.

The Hon. R.I. LUCAS: That is right: even the Democrats would not be able to support that. I will obtain further details, but I understand that a survey has been done of one of the

play spaces that borders Goodwood Road where the development is about to occur. The information from the Unley mayor is that many Unley residents, families and children use this particular play space for sports and recreational interests. I understand that, over the past two weeks or so, a survey has been carried out of the numbers of visitors (males, females, children and dogs) frequenting this piece of open space. The survey was carried out on approximately 80 separate occasions over the past two weeks.

I am relying on memory—and I will certainly bring the information into the Chamber for the benefit of members and the Hon. Mr Elliott—but I think the survey revealed that about seven males, two females, three or four children and two dogs have been seen on this piece of open space in the past two weeks on about 80 separate occasions when it has been—

The Hon. Diana Laidlaw: Was it the mayor?

The Hon. R.I. LUCAS: I do not know whether or not it was the mayor.

The Hon. L.H. Davis: It sounds like the Australian Democrats' membership.

The Hon. R.I. LUCAS: It might be the Australian Democrats' membership; it might be the mayor. I do not know who it was, but it was certainly not significant numbers of Unley and nearby residents. The hypocrisy of the Unley mayor is stunning and, as I said, before we further explore these issues, either in this Chamber or elsewhere, let him stand up and indicate what he intends to do. Is he standing for State Parliament? If he is, then we will at least know from where he is coming, and the residents or the constituents can make their judgments as to how he is currently spending ratepayers' money on bits of land he does not own.

BASIC SKILLS TEST

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about basic skills testing.

Leave granted.

The Hon. BERNICE PFITZNER: It is with great pleasure that we note the $3 million in grants to help students with learning difficulties. Further, of the total of $3 million, $1 million will be allocated on the basis of the BST results and the other $2 million will be allocated to all schools with students in year R2 to provide for special plans, known as the 'Early Assistance Action Plan'. We congratulate the Minister on this initiative, as we all know that the earlier disabilities are identified the earlier an intervention can be put in place and the better the prognosis for the child.

It has always been the contention that it is all well and good that we identify the disability, but so often we do not have sufficient funds to put in place a program for intervention; now this $3 million has been put into an early intervention program known as the Early Assistance Action Plan.

The Hon. T.G. Roberts: Will that be enough?

The Hon. BERNICE PFITZNER: It is better than nothing. We also note that the formula for funding is as follows: year 5 skill band 1—literacy and numeracy—$262 per student; year 5 skill band 2—literacy and numeracy—$206; year 3 skill band 1—literacy and numeracy—$187 per student. We note that some schools can obtain cash grants as high as $16 000. We also note that the August 1996 BST results for literacy showed that 20 per cent of year 3 students were in the 'lowest skill band level' and that 12 per cent of year 5 students were in the 'second lowest skill band level'. It is to be commended that the BST, after identifying the disabilities, now moves on to remedy these disabilities, rather than just leaving these students to soldier on on their own. If it were not for the BST the identification would not be possible and, therefore, the intervention would possibly be left too late to the point where we find students in their teens having trouble filling in a job application for employment. However, in spite of this good news, there are some concerns, and I address them to the Minister. My questions are:

1. What are the criteria that put a student in either band 1 or band 2, and how valid are they?

2. Of the 20 per cent of year 3 students and of the 12 per cent of year 5 students, what was the breakdown in terms of numeracy and literacy?

3. Will the Early Assistance Action Plan have in place a method of identifying the false positives and false negatives and, if so, can the BST be adjusted so that these false outcomes are minimised?

The PRESIDENT: Before the Minister answers the question, I point out that the question debated the subject. I do not think that questions need to be put in that form: they need to contain facts or someone else's opinion. When members debate the subject, the Minister need not answer the question.

The Hon. R.I. LUCAS: I thank the honourable member for her question and for her continuing interest in early intervention in children's services and in school education. I will bring back more detailed information but, broadly, in response to the first question, the categorisation as skill band level 1 or 2 is done essentially on the basis of performance, with a particular cut-off point categorising the distinction between skill band level 1 and 2. One change we made to the 1996 test as opposed to the 1995 test is that we now have one common scale or continuum measuring progress from year 3 to year 5. We will be able to measure the relative improvement in performance of students in the system as they move from year 3 to year 5.

In year 3 we are funding those students (about 20 per cent in literacy—and I will get the figures for numeracy) who are in skill band level 1, the lowest of the skill band levels. In year 5 we are funding skill band levels 1 and 2. From memory, about 4 per cent of students were in skill band level 1. We need to remember that that is the same as skill band level 1 in year 3, so they are obviously performing at a low level. About 8 per cent of students performed at skill band level 2, giving a total of 12 per cent in skill band levels 1 and 2 in year 5 literacy. Again, I shall get the figures for the honourable member for numeracy performance; they were broadly similar. In relation to the false positives and the false negatives, I know that that is of particular interest to the honourable member. I will endeavour to see what information I can get for the honourable member and provide her with a further response.

RETAILERS, SMALL

In reply to **Hon. T.G. CAMERON** (14 November 1996).

The Hon. R.I. LUCAS: The Chairperson of the Small Retailers Association (SRA) had sent the former Premier a copy of the results of the SRA survey when released. These were then referred to the Premier in his previous capacity as the Minister for Industry, Manufacturing, Small Business and Regional Development for information and consideration for action. Premier Olsen is aware of the concerns small retailers have about their futures in Shopping Centres and has already taken measures to ensure that these concerns are addressed.

At the time the SRA survey was being distributed, the government was conducting a Parliamentary Inquiry into Retail Shop Tenancies. In examining both the evidence presented by small retailers at this forum and the results of the SRA survey, it is clear that the Parliamentary Committee's terms of reference covered matters that were of greatest concern to SRA members. These included:

- the rights and obligations of parties at the end of a lease;
- allegations of harsh and unreasonable rental terms; and
- rights and obligations of parties on relocations and refits.

The Parliamentary Committee recommended that a number of amendments be made to the Retail Shop Leases Act 1995 to address issues of concern that had been raised by small retailers.

In addition to the Parliamentary Inquiry, on behalf of the Small Business Advisory Council, the EDA conducted an independent review of the Retail Shop Leases Act 1995 and its implications for small retailers. The SRA was consulted throughout the investigation.

While EDA's investigation determined that there were cases where landlords had exercised their market power to the disadvantage of the small retailer, it was acknowledged that the retail industry is a high risk industry and that the small retailer should enter it with a complete understanding of the risks involved and their rights and obligations throughout the term and at the expiration of a lease. EDA recommended that the government encourage retail industry associations to promote themselves and the services they provide more widely in an effort to increase the small business retailers' awareness of the operating environment of the retail industry. In addition, prior to prospective small retailers establishing a business, at every opportunity the government, through agencies such as The Business Centre, will encourage persons to seek financial, legal and other professional advice from a number of industry and other associations like the SRA.

Given that detailed inquiries into the small retail industry have recently been undertaken and action has been taken to address small retailers' concerns, at this stage it is not deemed necessary that the government conduct yet another inquiry into the industry. The government has a number of programs and initiatives directed towards assisting small business and is continually assessing these to ensure they meet the needs of small business.

There is currently legislation before the Parliament in relation to retail shop leases and a small working group representative of small retailers and retail property owners is meeting to develop a code of practice to govern what occurs at the end of a retail shop lease.

COMPUTERS, YEAR 2000 PROBLEM

In reply to **Hon. R.D. LAWSON** (4 December 1996).

The Hon. R.I. LUCAS:

1. In October 1996, Cabinet's IT Sub-Committee endorsed a comprehensive strategy prepared by the Department of Information Industries, now the Department of Information Technology Services (DITS), which includes the following:

- Each agency is required to nominate a senior project manager as a Year 2000 contact person. DITS will facilitate regular information forums and briefings through those agency contacts, as well as through Chief Executive Officers and Information executives.

  DITS has been confirming agency project managers and is preparing an ongoing program of forums and seminars. This program is supported by major companies. The initial awareness session for IT managers, held in December 1996, included presentations by five companies with a significant involvement in Information Technology in South Australia.
- Agencies are required to report at nominated milestones on the planning and implementation of their Year 2000 programs, according to guidelines and standards promulgated by DITS.

  The methodology described in the guidelines has already been presented to IT managers throughout the South Australian public sector on two occasions. It involves taking an inventory of all systems that could be affected, preparing an impact study and making specific decisions about how each system will be treated—repaired, replaced or retired as appropriate. It also requires rigorous testing of all systems.

  The initial release of the guidelines has been prepared and will shortly be issued to all agencies. The first returns from agencies, setting out their inventories of the software and systems which might be impacted by the Year 2000 issue, will be processed in the first quarter of 1997.

  These guidelines encourage the use of local private sector services for correction and testing, and the involvement of experienced service providers in the initial inventory and assessment phases.

  Some agencies have already completed their inventories and are moving on to further impact analysis and planning.
- A central agencies program is being established involving DITS, Department of Treasury and Finance, Crown Solicitor's Office, Auditor-General's Department, and Department of the Premier and Cabinet, with a focus on the financial and legal issues involved in preparing for the millennium change.

  DITS is bringing together the other departments in this central group and is preparing issues papers. The central agencies program will include confirmation of the Year 2000 compliance warranties from the State's major suppliers, including the whole of government applications such as Masterpiece and Concept.
- The IT industry will be invited to register details of their services and competencies in the area of Year 2000 preparation, including their local activities, with the Department of Information Technology Services. This information will be made available to agencies and will be used in the central planning to ensure that the work required by the public sector can be carried out in a way which supports the State's economic development.

2. As part of the government's overall strategy for the Year 2000 it has been recognised that there are opportunities as well as risks and potential costs. There are opportunities for a share of the work which will be required around the world to amend and replace computer systems which are subject to year 2000 problems. There are also opportunities for South Australian companies to gain a competitive advantage by being recognised as being compliant with Year 2000 technical requirements, and prepared to warranty and support their products.

In October 1996, Cabinet's IT Sub-Committee agreed that an Information Industries program be initiated to assist local IT&T companies with Year 2000 preparations, and with marketing of their compliance in this area. This program will be established by the Economic Development Authority.

POLICE FORCE

In reply to **Hon. G. WEATHERILL** (28 November 1996).

The Hon. R.I. LUCAS:

1. There has been no explicit change to the entry criteria during the past three years.

The selection criteria specifies the need for:

- Good personal character—honesty, dependability, high motivation and a sensitivity to social needs;
- Medical standards relating to hearing, speech, eyesight, height/weight desirability;
- Minimum age requirement of eighteen years;
- Australia citizenship;
- Possession of current drivers licence;
- Typing and computer skills;
- Current first aid certificate;
- South Australian Year 12 or equivalent.

A Standing Recruit Selection Panel consists of:

- Officer in Charge, Human Resource Development Branch;
- Officer in Charge, Personnel Section;
- Senior Police Psychologist.

It has been established in order to broaden the expertise available, to broaden management participation in the selection process and to increase the objectivity and fairness of selections.

2. The South Australia Police is committed to equal opportunity practices in relation to the recruitment of women.

In accordance with the recommendations of the Royal Commission into Aboriginal Deaths in Custody, the South Australia Police is attempting to achieve a greater representation of Aboriginal and Torres Strait Islander people as employees.

Year 12 secondary school level generally satisfies the South Australia Police educational requirements. However, in a competitive employment market, applicants with tertiary qualifications are often found to be more selectable.

3. No.

4. The South Australia Police Force selects its recruit applicants on a medically established height/weight index. There is no minimum or maximum height requirement as this would breach Equal Opportunity Act principles. There is no conscious attempt to recruit 'larger than average size' persons, as this would breach Equal Opportunity Act principles.

Consequently, given the operational fitness requirements of operational policing, medically acceptable weight ranges are applied to both genders.

MOTOR VEHICLE STAMP DUTY

In reply to **Hon. T.G. CAMERON** (4 February).

The Hon. R.I. LUCAS: Any consideration given to the lowering of the rates of stamp duty on motor vehicles in South Australia would need to be considered in the context of the Budget. Members would be very conscious of the very serious financial situation the Government is managing as a result of past difficulties, including the State Bank situation.

These financial problems will not disappear overnight. The road to recovery needs to be structured and targeted rather than provided in a random fashion. The managed sale of certain government assets is an integral part of the debt reduction strategy which is restoring the State's budgetary position so that well directed relief can be implemented.

A prime example of this targeted tax reform is the recent action by the Government to extend the stamp duty First Home Owners Scheme. This initiative is delivering stamp duty relief to those persons who are seeking to enter the home owners' market for the first time. This initiative will give a much needed boost to the housing market in the next twelve months. The cost is expected to be in the order of $3.8 million.

Revenue from stamp duty on applications to register motor vehicles in the 1995-96 financial year was approximately $90 million. A reduction in the rate of duty to 3 per cent would come at a cost to the revenue of around $20 million. Due to the magnitude of the levels of debt which our Government has inherited, we are not in a position to make such a reduction.

Members will, however, be very pleased to know that the taxation relief measures that the Government has already implemented, which includes pay-roll tax relief for exporters, significant pay-roll tax and WorkCover relief for employers taking on young unemployed people, land tax relief on development land and the first home concession, have prudently and carefully targeted areas which will assist in the State's recovery.

If the member has any suggestions for a tax to replace the $20 million loss the Government would be pleased to receive his advice for consideration.

SCHOOL COMPUTING EQUIPMENT

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about DECSTech 2001 computer costs.

Leave granted.

The Hon. T.G. ROBERTS: On Friday I was contacted by people responsible for administration in schools in relation to buying computer equipment. I have also been given information on some of the deals that have been offered to schools by preferred suppliers, including a Pentium computer. The cost for that computer package has been given as $1 961. In Saturday's media there are advertisements from three local computer suppliers offering equivalent or superior Pentium computers at cheaper prices (after removing sales tax) than those obtained by the Government from the preferred suppliers. I know that the Minister has already said that a subsidy will apply to those who want to avail themselves of it and that those who want to shop will take the risk.

The information being supplied by schools is that the variations in prices are considerable. A Pentium computer has been quoted at $1 961 from the consortium. One school parent who is partly responsible for suggestions and getting quotes—people perhaps do it differently in the country from what they do in the city—received offers: one at $1 550 and another at $1 650. That was from country suppliers, and I suggest that city-based suppliers could do it more cheaply. My questions are:

1. What is included in the pricing agreement between the DECSTech 2001 Foundation and the three preferred suppliers?

2. Does the price to schools include any items other than warranty costs, such as the payment of DECSTech Foundation costs or the supply of equipment to non-school sites?

3. Why is there such a large variation in price in such a similar product range?

The Hon. R.I. LUCAS: I have substantially answered most of those questions, but if there is any further information I can provide I shall endeavour to do so. This question was raised by either the Hon. Carolyn Pickles or the Hon. Michael Elliott last week. We have a whole of State Government contract with one common price in terms of the computer, associated infrastructure, delivery cost—whether it be the city, Ceduna or Mount Gambier—together with a three year warranty. In addition, part of the contract required an AS9000 quality control standard, which I understand most if not all the smaller suppliers and manufacturers are unable to meet. A range of other attractions such as that are part of the Government-negotiated contract for the next 14 months.

I must admit that some of the claims such as that this particular dealer will now sell a Pentium for $1 000 or half the price with twice the warranty and with whistles and bells on it intrigued me, because in the first two weeks of the Government deal we have been flooded with responses from schools—4 500 computers in the first two weeks. Over 350 schools have been beating our door down trying to get a part of the deal. The real people out there—parents, teachers, principals, the community—are clapping their hands in glee at what the Government has done for the first time. It is really only the Labor Party and the Democrats who continue to fight the good fight in their terms so that anything the Government does has to be wrong even though we are the first Government to offer a particular deal to schools. Three hundred and fifty schools are beating our door down—

Members interjecting:

The Hon. R.I. LUCAS: If it were not value for money they would not be beating our door down. If these $1 000 computers exist, with twice the warranty and whatever else, they would all be going to that particular supplier. They would be saying to the Government, because we are not forcing them—

An honourable member: But they don't get the subsidy then.

The Hon. R.I. LUCAS: But if they can get it for $1 000, as claimed by the Leader of the Opposition and other Labor members, it does not matter what the subsidy is: it is a better deal, if it has better warranty and service. If this supplier can supply it—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Because it does not exist for the whole State; it is not a reality. We are interested in Ceduna, Mount Gambier and regional schools, whereas the Labor Party could not give a continental fig about the whole of the State: it is only interested in small parts of the metropolitan area. At least this Government and this Minister are prepared to support country schools and country communities in relation to providing a computer deal at the one cost. If these great deals exist, let the Leader of the Opposition and the Leader of the Australian Democrats circulate their contact's prices at $1 000 a computer and a better service and warranty to all the schools in South Australia and let the schools purchase those computers. We will continue to be flooded

with our deal, because our deal is a reality: it has been negotiated. The Department for Information Industries and the Department for Education and Children's Services—

The Hon. R.R. Roberts: It has been rorted.

The Hon. Carolyn Pickles: It has been rorted.

The Hon. R.I. LUCAS: The Hon. Ron Roberts and the Hon. Carolyn Pickles say that it has been rorted, and it ought to be placed on the public record that they have made an accusation that this deal has been rorted. The Hon. Ron Roberts and the Hon. Carolyn Pickles both claimed by way of interjection that this deal was rorted.

If theirs is such a terrific deal, let the Labor Party and the Democrats offer it to the schools. When it is compared with the Government's offer, we will see whose door is knocked down in the flood of inquiries from schools, teachers and parents when they want to order their computers. Almost 50 per cent of the total number of computers has been ordered in the first two weeks of this offer—4 500 out of just over 10 000 computers have already been placed on order by 350 schools. It is a good deal for all schools in South Australia, not just isolated pockets, and it shows that this Government is interested in all schools, not just some of them.

The Hon. M.J. ELLIOTT: By way of supplementary question, I ask: if a country school can get a computer for $1 600, why cannot it get the $800 subsidy that the Government is offering for other deals?

The Hon. R.I. LUCAS: As I said last week, part of the agreement to get this fantastic deal, in relation to which we are now being flooded by schools, is that there be a subsidy arrangement for the preferred supplier agreement.

WOMADELAIDE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before directing a question to the Minister for the Arts on the subject of Womadelaide 97.

Leave granted.

The Hon. R.D. LAWSON: Womadelaide, which was held in Adelaide last weekend, was warmly commented upon by reviewers in the print media and in radio reports. The *Australian's* reviewer, Lynden Barber, said in today's paper that:

> . . . there were so many exceptional musical performances it's hard to know where to start effusing, but a good place would be the three-day festival itself, a model of efficiency and inspired artistic direction in a glorious arboreal setting.

The *Advertiser* described it as 'boffo biz'. My questions to the Minister are as follows:

1. Does the Minister agree with this assessment of Womadelaide 97?

2. Are there benefits derived from Womadelaide wider than the undoubted enjoyment derived by those who were fortunate enough to attend that festival?

The Hon. DIANA LAIDLAW: I, too, read the article by Lynden Barber, referred to by the honourable member in his question, and I would commend, as the honourable member has, the *Advertiser* for its excellent coverage through reviews and comments on the performances over the entire weekend. As an aside, I saw some of the *Advertiser* journalists on Saturday, and they worked hard with management to ensure that the reviews from the night before of *Midnight Oil* and others were in Saturday morning's paper so that people attending the festival could read those reviews while still in Adelaide over the weekend.

The organisers of Womadelaide 97 have told me that they, too, consider it is to be an outstanding success, with record attendances of 60 000 people. Approximately 55 000 people attended the event in 1995. There were record box office receipts, $150 000 over target and, artistically, it was outstanding. I was particularly pleased not only with the new music I heard from overseas but also with the fact that so many South Australian artists and musicians were involved in this program. In all 106 musicians were involved: from *Dya Singh*, eight; *Fruit*, six; *Andrea Reiniets*, five; *The Borderers*, eight; *Before You Were Blonde*, 30; *Slack Taxi*, 10; *Knee High Puppets*, 15; *Ria Willing*, six; Paul Kelly; Sheela Langeberg; *Glen Ash*, six; and in the workshops, 12.

It is important to recognise that technically the South Australian stage and sound crews demonstrated again, as they have at past Festivals and Fringes, how exceptionally good they are at staging such major events and how efficiently and effectively they do so to everyone's enjoyment. It is also important to look at the number of people who are employed during such an event. Approximately 200 people worked on the show for the weekend, plus the food and craft stalls, 300 people in all. I know that Optus, as the chief sponsor, and the many others, were particularly delighted, and it looks very promising for Optus Vision to fund further WOMAD events, because we have the licence to do so for at least the next two years. With Optus Vision as a generous and enthusiastic sponsor, the future looks good, and I commend everyone involved.

SCHOOL COMPUTING EQUIPMENT

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

Leave granted.

The Hon. P. HOLLOWAY: The DECSTech target is for schools to have one computer for every five children by the year 2001. Costings prepared by a company supplying computers to schools show that, based on an average life of three years for school computers, it will cost schools with 300 students $31 200 a year, for 600 students, $62 400 a year, and for 900 students, $93 600 a year to replace equipment to comply with that objective. These estimates do not include ongoing costs of software, communication charges and management of the system. My questions are:

1. How will schools finance the ongoing costs of replacing computers under the DECSTech 2001 scheme?

2. Does the Minister recommend that schools increase school fees to meet these costs?

The Hon. R.I. LUCAS: Given that Mr Holloway comes from the Party that put the State Bank disaster on us, I will not accept his figures and calculations. I cast some grave doubt over his calculations and I certainly would not accept them as being fact.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: It is not insulting, it is fact. The Hon. Mr Holloway comes from the Party that inflicted the State Bank disaster on the State of South Australia, and one should not accept any figures from the Labor Party without having them checked. I cannot accept the Hon. Mr Holloway's figures until I have had an opportunity to look at them myself. The broad answer to the honourable member's question is that, for the first time, parents of South Australia will actually have some assistance in helping to

meet this objective for the year 2001. So far, parents have had the lonely load themselves of having to meet the total cost of computer purchase within schools. Whether or not the Hon. Mr Holloway's figures are right, whatever the cost, under Labor Governments parents had to pay the total cost themselves. For the first time we have a Liberal Government prepared to put it—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No wonder the Hon. Mr Holloway is getting off the education select committee, if he is going to make comments like that. Mr Holloway is the bloke who agrees with Mike Rann that Tim Marcus Clark was the best thing in South Australia since sliced bread. So, for the first time, parents will have some assistance. A Government—

An honourable member interjecting:

The Hon. R.I. LUCAS: Exactly—thankfully, a Liberal Government—will give them some help. We are giving them $15 million this year, and we will announce our final commitment in the last four years of the DECSTech 2001 strategy. If we compare the future under a Liberal Government with that under Labor, we will see that much less pressure will be placed on school fees. If Labor—heaven forbid—was likely to be re-elected and we returned to the Labor policies of, 'You do it all yourselves as parents with no help from the Government,' as I said last week, the attitude will be, 'You can count on your fingers; don't worry about computers in schools.' Enormous pressure will be placed on school fees should a Labor Government be elected, with the sorts of policies that the Labor Government is talking about. Clearly, it is supporting a strategy that would have resulted in either significantly more expenditure on computers or, alternatively, fewer computers being able to be purchased, because Labor has been critical of the deal that the Liberal Government has managed to negotiate to the great benefit and joy of over 350 schools in South Australia in the first two weeks.

WORKCOVER

In reply to **Hon. T. CROTHERS** (27 November 1996).

The Hon. K.T. GRIFFIN:

1. WorkCover exists to perform a broad range of functions which includes, but is not limited to, those identified by the honourable member, i.e., to assist injured workers and their employers in times of stress brought about by injuries received at work.

The WorkCover Corporation's primary objects are listed in the WorkCover Corporation Act, section 12 and its functions are set out in section 13. These objects and functions include a significant role in the administration of the Occupational Health, Safety and Welfare Act to promote the prevention or reduction of workplace injury and disease.

In performing its functions, the corporation must balance the interests of workers and employers by providing fair compensation while minimising the costs to employers.

2. Questions of medical treatment are determined by the treating general practitioner or medical specialist. The Workers Rehabilitation and Compensation Act provides that the corporation (or Claims Agent, Exempt Employer or Self Managed Employer) may challenge the cost, necessity or appropriateness of a particular treatment.

The decision as to whether the treatment was unnecessary or inappropriate would normally be based on independent medical opinion sought from another medical expert.

If the corporation determines that a medical service was inappropriate or unnecessary, the charge for the service may be reduced or disallowed. In such circumstances, the service provider has a right to have the decision reviewed by the Workers Compensation Tribunal.

3. I am advised that the issues raised by the honourable member are not representative of a widespread practice. Accordingly, the Minister does not consider it necessary or appropriate to refer the matter to the Parliamentary Committee.

ADELAIDE CITY COUNCIL

In reply to **Hon. A.J. REDFORD** (4 February).

The Hon. K.T. GRIFFIN:

There is general agreement among all three political parties, the Adelaide City Council and the wider community that changes are needed to the governance of the city council.

How and when those changes occur will be the subject of a process of wide consultation with all interested parties.

The Minister for Local Government has already commenced that consultation process, and has met with representatives of the Adelaide City Council, the Local Government Association, the Hon. Mike Elliott MLC, and the Member for Napier to consider alternatives to the review of the governance of the council.

MUSIC BUSINESS ADELAIDE

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for the Arts a question about Music Business Adelaide.

Leave granted.

The Hon. Anne Levy: Another Dorothy Dixer!

The Hon. A.J. REDFORD: If your name is Dorothy, I have never seen you at any of these functions!

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: Last Thursday night I was honoured to attend the launch of Music Business Adelaide. I was pleased to listen to the introduction of the Minister who opened Music Business Adelaide by Mr Phil Tripp, the Executive Director of the Australasian network.

An honourable member interjecting:

The Hon. A.J. REDFORD: If you stop interrupting, you may learn something. He is well respected throughout the contemporary music industry as the Executive Director of the Australasian Network. It was pleasing to hear someone interstate praise someone in South Australia in such a fulsome manner. He described the Minister as being the best Minister in Australia, and that every other State in Australia—and if the honourable member opposite went to those functions she would hear these things—was envious. In fact, the praise was so fulsome that even the Minister became a little embarrassed.

It was pleasing to see that universally from all people who attended from other States and overseas, if one single thread ran through it, it was that the Minister in South Australia is leading the way in the area of contemporary music. The level of excitement at the launch was palpable. Unfortunately, I had to go to a launch of a new CD by that well known group Col Cannon, but I understand the evening went on to be pleasant. My questions in relation to Music Business Adelaide are:

1. Could the Minister—

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: As I said, if you went to something, if you dusted off your Beatles records and listened to something recent, you might learn something.

The Hon. Anne Levy: Were you at WOMAD?

The Hon. A.J. REDFORD: The answer is 'Yes.'

Members interjecting:

The PRESIDENT: Order! Members will come to order or they will all be singing!

The Hon. A.J. REDFORD: Could the Minister explain what precisely Music Business Adelaide is and what it means—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: Are you really so disinterested in this?

The PRESIDENT: Order! The Hon. Terry Cameron will be singing solo in a minute if he likes.

The Hon. A.J. REDFORD: My questions are:

1. Could the Minister explain what Music Business Adelaide is and what it means to those involved in the contemporary music industry in Adelaide and South Australia?

2. Does the Minister have any comments about the success of Music Business Adelaide?

3. Will the Minister tell this place who was responsible for putting together this wonderful initiative that seems to be the subject of so much denigration from members opposite?

The Hon. DIANA LAIDLAW: As the honourable member suggested, it is quite clear that Labor Party members seem either very jealous or out of touch in terms of contemporary music, because they cannot seem to accept, and they certainly never attend, any of these functions, whether it is SAMIA Awards or other things. Music Business Adelaide certainly should receive bipartisan support from this Parliament, and it would be good to see some support from the Hon. Anne Levy in this area. Music Business Adelaide is a showcase for our local music, and it is one of the important initiatives which has been introduced to Adelaide before it has been introduced or seen anywhere else in Australia and which I have no doubt they will be copied by other State. It was introduced through Warwick Cheatle as my Contemporary Music Adviser and with the support of many people in the industry who have helped him—people involved with SAMIA, Ausmusic and the like.

As the Hon. Angus Redford said, it was absolutely fantastic both with Phil Tripp and the support for dB Music Magazine, Arna Eyers-White and the music index and the support that that second edition of this initiative will ensure—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW:—in terms of networking for our musicians in this State but also to see that Music Business Adelaide was the focus for the Australian Record Industry Association (ARIA) to come to Adelaide to coincide with the WOMAD event. This is the first time that ARIA has had a board meeting outside Sydney. That is a compliment to Warwick Cheatle, to the Music Industry Association in this State and particularly to our musicians, song writers and technicians, because of the quality of their work and the fact that so many of our musicians are at the forefront of what is happening in new music in Australia.

Music Business Adelaide not only provided workshopping with a lot of people from all the major records companies who are responsible for artists and for artists and repertoire (A&R) but it also worked at workshops at Carclew to help with a whole range of questions and business arrangements for our musicians, songwriters, managers and the like.

There was an International Managers Forum conference, which was attended by 30 local music managers in South Australia. They have resolved to establish a South Australian branch of the International Managers Forum, which is a fantastic initiative. I am particularly pleased that, following a showcase of eight South Australian musicians as individuals or in bands, before ARIA representatives and major industry A&R managers, at least three South Australian bands appear to have signed or are on the verge of signing recording contracts. That is absolutely outstanding.

It should be recognised that it is fantastic that all these influential people in the music industry have come west to Adelaide, and this is their first time ever out of Sydney. Our musicians did not have to incur all the expense of going east to be heard, to obtain appointments and to seek support.

I compliment Warwick Cheatle, SAMIA, Arna Eyers-White, Emily Heysen from Ausmusic, and Sue Hill and Anna O'Connor from The Workshop, for a stunning contribution to South Australian contemporary music. I have heard that the musicians and managers in Victoria and Queensland are already looking to pinch the idea and have had discussions with ARIA representatives in the other States.

The advice I have is that key industry decision makers came to look at the Adelaide market and raved about what they found. Daren Clark, the Director of Ocean Records, has supported the Government and the contemporary music consultant and said that they had done an incredible job. He said, 'I must take my hat off to them. Bringing the industry together outside Sydney or Melbourne is near impossible.' But the industry has come together for the common good in South Australia, and that was certainly seen on the weekend.

IMMIGRATION

The Hon. P. NOCELLA: I seek leave to give a brief explanation before asking the Minister for Education and Children's Services, representing Minister for Multicultural and Ethnic Affairs, a question about the 'Immigration SA' initiative.

Leave granted.

The Hon. P. NOCELLA: The *Advertiser* of 31 January this year published an article announcing that a State Government delegation will go to Europe in March for the purpose of attracting skilled migrants to South Australia. This, we understand, is part of a larger promotional initiative aimed at increasing the number of skilled migrants who have been coming to South Australia at a rate far lower than the State's rate of population should indicate when taken proportionately—a rate far lower than the proportional rate of the Eastern States and Western Australia.

While I agree with the need to adopt concrete measures to reverse the negative trend, I am mindful of the fact that, while we may well be successful in attracting these migrants to South Australia, the ultimate measure of our success is being able to keep them here. In his 1991 book *Flows of Immigrants to South Australia, Tasmania and Western Australia*, Professor Peter Dawkins investigates the reasons for South Australia's receiving disproportionately fewer immigrants. He concludes, amongst other things, that the methods available to Government to influence movement are related mainly to the creation of additional employment opportunities. It is therefore vital that skilled migrant attraction activity be accurately targeted to individuals who can enter South Australia's work force smoothly without delay of bureaucratic impediments—for example, non-recognition of overseas qualifications—and most importantly with the certainty of continued employment. Therefore, in order to obtain a better understanding of this initiative, my questions are:

1. Who are the people who make up this delegation?

2. What qualification and experience does each of them have which would make them relevant to this particular undertaking?

3. What is the duration of the trip, the class of travel and the itinerary?

4. What activities will be undertaken by the participants?

5. What is the cost of this trip?

6. What are the measurable anticipated outcomes?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Minister and bring back a reply, but I am sure all members will be delighted at the Government's and Minister's far-reaching and far-sighted Immigration SA program which has been outlined recently.

MINISTER'S REMARKS

The Hon. ANNE LEVY: I seek leave to make a personal explanation.

Leave granted.

The Hon. ANNE LEVY: The Minister, in her reply to the Hon. Angus Redford, said that she wished she had seen me at contemporary music functions—implying that I do not attend such functions. I have attended every single function bar one to which I have been invited. I have seen the Minister at many of those functions and she has had the courtesy to acknowledge my presence. I am sorry if she cannot remember doing so at this moment.

Last Thursday evening I was not able to attend the function to which she referred, even though I wished to do so, because I had been invited to another WOMAD related function which was occurring the same evening.

The Hon. Diana Laidlaw: I attended both.

The Hon. ANNE LEVY: As I do not have a ministerial car and driver enabling me to move rapidly from one place to another, and because parking was not readily available at either, I was not able—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The Minister will not interject in a personal explanation. I ask the member to keep her explanation relevant to the subject.

The Hon. ANNE LEVY: I am explaining, Mr President, why I was not able to be present at two functions last Thursday evening, although I was invited to both of them. Without the ministerial car and driver which the Minister have available to her, it was not possible for me to go to both of them. I can assure you, Mr President, that I have attended every other contemporary music function to which I have received an invitation.

COLES, MEMBER FOR

The Hon. M.J. ELLIOTT: I seek leave to make a personal explanation.

Leave granted.

The Hon. M.J. ELLIOTT: Last Wednesday during debate in this place I made some observations in relation to a trip made to the United States by a member of the other place, Joan Hall. Having received further information on the Thursday, I wrote to her on Friday and in that letter I said that I unreservedly apologised for the comments I made in relation to her trip to the United States and that I accepted full responsibility for not checking some information as thoroughly as I might.

NETHERBY KINDERGARTEN (VARIATION OF WAITE TRUST) BILL

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I bring up the report of the select committee, together with minutes of proceedings and evidence, and move:

That the report be printed.

Motion carried.

Bill recommitted.

Bill taken through Committee without amendment.

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

That this Bill be now read a third time.

The Hon. ANNE LEVY: I wish to say a few remarks at the third reading of this Bill. I am very glad indeed that this matter has finally been resolved and that Netherby Kindergarten will have legal right to the land on which it stands. This will enable it to borrow money from a bank and upgrade its premises, which it has wanted to do for many years but, because it did not have title to the land, no bank would provide it with any loan to undertake the work it wished to undertake. I know this is a fact which goes back many years. A good friend of mine was president of the kindergarten council many years ago when this matter of upgrading the premises first arose. His daughter, who was then attending the kindergarten, is now aged 35, so this question has certainly been going on for a long time.

I can recall hours of discussion on the university council when this matter was raised and suggestions from, I am afraid to say, quite a number of university council members that the kindergarten should be kicked off the land seeing it did not have the right legally to be there and that the university had no option but to kick it off. As a member of the university council, I suggested that one way round the problem was by means of legislation. I suggested that nine years ago on the university council. It has obviously taken nine years for it to wend its way through the university's bureaucracy and then through the State Government's bureaucracy and finally for a Bill to come into this parliament. I can only say that after so many years I am delighted that this matter is finally being resolved and that Netherby Kindergarten will be able to legally continue to provide the excellent pre-school education which it has provided for so many children for so many years. I support the third reading.

Bill read a third time and passed.

GAS BILL

Second reading.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): 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 repeals the Gas Act 1988. The proposed new Act is to provide for the regulation of distribution networks including liquefied petroleum gas reticulation networks and safety and technical standards to be complied with in relation to both gas infrastructure and gas installations. The Bill is introduced as part of the Government's commitment to gas sector reform to ensure competition in the sector against a national background of legislative and other reforms for the creation of a national gas market to provide greater customer choice and improved services. South Australia supports these national changes and the Government welcomes the

onset of national competition with the potential benefits that this offers.

In order to make energy regulation more consistent and its administration more efficient in South Australia there is a substantial similarity with the Electricity Act 1996.

A fundamental element of this Bill is the creation of a Technical Regulator. Currently the Gas Company, as the only reticulator and retailer of gas, has been largely responsible for the technical standards and ensuring compliance with safety aspects relating to gas use in the State.

While the Gas Company has been doing a commendable job in this area, under the reform initiatives agreed to by CoAG, the current structure in South Australia whereby the Gas Company provides gas and undertakes regulation activities is no longer appropriate.

The introduction of free and fair trade in a national gas market will require a Regulator independent of the gas industry whose role it will be to monitor and ensure compliance with a number of safety and technical aspects relating to gas transport and use in the State including gas quality, reliability of supply, metering and billing accuracy.

The Technical Regulator and the Office of Energy Policy will now have those responsibilities.

The Bill provides for the licensing of participants in the supply of gas. Under the existing Act the only licence required is to carry on the business of supplying reticulated gas as the licensed gas supplier currently owns and operates the reticulation network and sells gas to the consumer.

As a precursor to providing access to infrastructure or infrastructure services to increase competition and to ensure adequate distribution system safety it is necessary to deal separately with the functions of selling gas and the operation of distribution networks.

As a consequence the Bill provides for a new category of licence to carry on the operation of a distribution system. The fee for such a licence is related to the cost of government regulation by the Technical Regulator of the gas safety and technical standards of the distribution system, including the administration of the licensing system.

The impacts from the licensing and technical regulation provisions in the Bill are not anti-competitive. The benefits from the legislation of establishing proper standards of safety, reliability and quality in the gas supply industry and a uniform standard of safety for the gas fitting work do, as a whole, outweigh the costs involved.

Those benefits include the cost savings to the community due to:

- reducing the possibilities of fires or fatalities as a result of substandard work;
- ensuring maintenance of reasonable commercial standards for security, reliability of supply, and quality of energy supplied to consumers;
- the monitoring of industry participants to ensure they observe appropriate levels of performance with respect to the safety and technical measures expected by gas consumers.

The Bill contains provisions with respect to a Pricing Regulator who will fix a range of prices for non-contestable customers—provisions that are transitional until all customers are contestable.

These provisions are designed to prevent the possibility of unsubstantiated price increases to non-contestable customers. The advent of third party access and competition will lead to the provisions' removal.

There is no intention to impose maximum pricing on LPG which is highly a competitive market and is fully contestable.

The Bill provides for consumer protection to be structured into licence conditions by way of supply terms and conditions to apply to such customers, and for appropriate consultation with the Commissioner for Consumer Affairs on such matters.

Provision is made for other protection measures for users of gas in South Australia. Gas, by its nature, has capacity to cause injury and death. Unsafe installations can cause property damage. It is critical that safety standards are appropriate in the gas industry and are enforced.

Complementing this is the requirement in the Bill for the reporting of accidents involving gas. The information gained from such reporting will be used to identify problems, and take corrective actions to reduce costs associated with inappropriate standards which result in a large degree of rework. The benefits of such reporting will also be useful in any benchmarking exercise against other regulators.

In continuing to strengthen the current provisions for safety, this Bill introduces a certificate of compliance program relating to gas installations.

These measures will, as the name suggests, provide for the certification by a gas contractor of gas fitting work performed. The certificates will indicate the work done and by whom, and detail the tests performed to ensure the gas safety of the work. This will facilitate the identification of responsibility for faulty work, as well as protect gas contractors from wrongful accusations where a fault is said to stem from their work but in fact does not.

The Bill will also ensure that gas contractors will, in the carrying out of gas fitting work, meet appropriate standards.

The Bill confers on authorised officers the necessary powers to carry out the tasks committed to them.

The Bill provides for the approval and labelling of gas appliances which is in line with the practice of most countries who have appliance import or export arrangements with Australia. This uniform national scheme, which has operated for over 40 years, is industry self-regulating and recognises overseas approval schemes through inter-country Mutual Recognition Agreements.

The safety and technical provisions in the Bill will protect consumers through a reduction in gas-related accidents and reduce costs to consumers and insurance premiums for manufacturers and retailers. The provisions are not anti-competitive in nature and will apply to all market and industry participants in the gas sector.

The reforms contained in the Bill and other measures outlined are intended to foster and encourage major changes in the South Australian gas supply industry. They are designed to protect and promote the interests of the public and the general economy. I commend the Bill to the honourable members.

Explanation of Clauses

PART 1—PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Objects

The objects of this proposed Act are—

- to promote efficiency and competition in the gas supply industry; and
- to promote the establishment and maintenance of a safe and efficient system of gas distribution and supply; and
- to establish and enforce proper standards of safety, reliability and quality in the gas supply industry; and
- to establish and enforce proper safety and technical standards for gas installations and appliances; and
- to protect the interests of consumers of gas.

Clause 4: Interpretation

This clause contains definitions of words and phrases used in the proposed Act, including distribution system, gas appliance and gas installation.

Clause 5: Crown bound

The proposed Act will bind the Crown.

Clause 6: Environment protection and other statutory requirements not affected

This proposed Act is in addition to and does not derogate from the provisions of the *Environment Protection Act 1993* or any other Act.

PART 2—ADMINISTRATION

DIVISION 1—TECHNICAL REGULATOR

Clause 7: Technical Regulator

There is to be a *Technical Regulator* to be appointed by the Governor.

Clause 8: Functions

The Technical Regulator has the following functions:

- the administration of the licensing system for gas entities; and
- the monitoring and regulation of safety and technical standards in the gas supply industry; and
- the monitoring and regulation of safety and technical standards with respect to gas installations and gas appliances; and
- the establishment and monitoring of standards in respect of services provided by gas entities to consumers; and
- any other functions assigned to the Technical Regulator under this proposed Act.

The Technical Regulator must, in performing any functions of a discretionary nature, endeavour to act in a fair and even-handed manner taking proper account of the interests of participants in the gas supply industry and the interests of consumers of gas.

Clause 9: Delegation

The Technical Regulator may delegate powers to a person or body of persons that is (in the Technical Regulator's opinion) competent to exercise the relevant powers. Such a delegation does not prevent the Technical Regulator from acting in any matter.

Clause 10: Technical Regulator's power to require information

The Technical Regulator may require a person to give the Regulator information in the person's possession that the Regulator reasonably requires for administrative purposes. A person guilty of failing to provide information within the time stated in the notice may be liable to a fine of $10 000.

Clause 11: Obligation to preserve confidentiality

The Technical Regulator is under an obligation to preserve the confidentiality of any information gained in the course of administering the proposed Act that could affect the competitive position of a gas entity or other person or that is commercially sensitive for some other reason. The clause makes it clear that nothing prevents the disclosure of information between persons engaged in the administration of the legislation including the Pricing Regulator and persons assisting the Pricing Regulator.

Clause 12: Executive committees

Regulations may be made to establish an executive committee to exercise specified powers and functions of the Technical Regulator.

Clause 13: Advisory committees

The Minister or the Technical Regulator may establish an advisory committee to advise the Minister or the Technical Regulator (or both) on specified aspects of the administration of this proposed Act.

Clause 14: Annual report

The Technical Regulator must deliver to the Minister a report on the Technical Regulator's operations in respect of each financial year and the Minister must cause a copy of the report to be laid before both Houses of Parliament.

DIVISION 2—PRICING REGULATOR

Clause 15: Pricing Regulator

There is to be a *Pricing Regulator* who is to be a Minister of the Crown appointed by the Governor.

Clause 16: Functions

The Pricing Regulator has the gas price fixing functions assigned to the Pricing Regulator under proposed Part 3.

Clause 17: Pricing Regulator's power to require information

The Pricing Regulator may require a person to give the Regulator information in the person's possession that the Regulator reasonably requires for administrative purposes. A person guilty of failing to provide information within the time stated in the notice may be liable to a fine of $10 000.

Clause 18: Obligation to preserve confidentiality

The Pricing Regulator is under an obligation to preserve the confidentiality of information that could affect the competitive position of a gas entity or other person or that is commercially sensitive for some other reason. The clause makes it clear that nothing prevents the disclosure of information between persons engaged in the administration of the legislation including the Technical Regulator and persons assisting the Technical Regulator.

PART 3—GAS SUPPLY INDUSTRY

DIVISION 1—LICENSING OF GAS ENTITIES

Clause 19: Requirement for licence

A person who carries on operations in the gas supply industry for which a licence is required without holding a licence authorising the relevant operations is guilty of an offence. (Penalty: $50 000).

Clause 20: Application for licence

An application for the issue or renewal of a licence must be made to the Technical Regulator.

Clause 21: Consideration of application for issue of licence

The Technical Regulator has, subject to this proposed provision and the regulations, discretion to issue licences on being satisfied as to the suitability of the applicant to hold a particular licence. Examples of the matters that the Technical Regulator may consider are the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings and the financial, technical and human resources available to the applicant.

Clause 22: Authority conferred by licence

A licence authorises the person named in the licence to carry on operations in the gas supply industry in accordance with the terms and conditions of the licence. The operations authorised by a licence need not be all of the same character but may consist of a combination of different operations for which a licence is required.

Clause 23: Licence term and renewal

A licence is granted for a term (not exceeding 10 years) stated in the licence and is, subject to the conditions of the licence, renewable.

Clause 24: Licence fees and returns

A person is not entitled to the issue or renewal of a licence unless the person first pays to the Technical Regulator the annual licence fee or the first instalment of the annual licence fee. (Annual licence fees may, in some cases, be payable in instalments.)

The holder of a licence issued for a term of 2 years or more must—

- in each year lodge with the Technical Regulator, before the date prescribed for that purpose, an annual return containing the information required by the Technical Regulator by condition of the licence or by written notice; and
- in each year pay to the Technical Regulator, before the date prescribed for that purpose, the annual licence fee, or the first instalment of the annual licence fee.

Clause 25: Licence conditions

A licence held by a gas entity will be subject to—

- conditions determined by the Technical Regulator requiring compliance with specified standards or codes or other safety or technical requirements; and
- conditions determined by the Technical Regulator requiring the entity to produce and implement plans and procedures relating to safety and technical matters and to conduct compliance audits; and
- conditions relating to the financial or other capacity of the entity to continue operations for the term of the licence; and
- any other conditions determined by Technical Regulator.

Clause 26: Licences authorising retailing

A licence authorising a gas entity to carry on retailing of gas may confer on the entity an exclusive right to sell and supply gas to non-contestable consumers from a specified distribution system and be subject to conditions (in addition to any imposed under proposed section 25) requiring—

- standard contractual terms and conditions to apply to the sale and supply of gas to non-contestable consumers or consumers of a prescribed class; and
- the entity to comply with specified minimum standards of service in respect of non-contestable consumers or consumers of a prescribed class and requiring monitoring and reporting of levels of compliance with those standards; and
- a specified process to be followed to resolve disputes between the entity and consumers as to the sale and supply of gas.

The Technical Regulator must, on the grant of a exclusive retailing rights, and before determining, varying or revoking conditions under, consult with and have regard to the advice of the Commissioner for Consumer Affairs and any advisory committee established under proposed Part 2 for that purpose.

Clause 27: Offence to contravene licence conditions

There is a penalty of $50 000 if a gas entity contravenes a condition of its licence.

Clause 28: Notice of licence decisions

The Technical Regulator must give an applicant for the issue or renewal of a licence written notice of any decision on the application or affecting the terms or conditions of the licence.

Clause 29: Variation of licence

The Technical Regulator may vary the terms or conditions of a gas entity's licence by written notice to the entity.

Clause 30: Transfer of licence

A licence may be transferred with the Technical Regulator's agreement (with or without conditions imposed).

Clause 31: Surrender of licence

A gas entity may surrender its licence.

Clause 32: Register of licences

The Technical Regulator must keep a register of the licences issued to gas entities under this proposed Act.

DIVISION 2—GAS PRICING

Clause 33: Gas pricing

The Pricing Regulator may, from time to time fix a maximum price, or a range of maximum prices, for the sale of gas to non-contestable consumers. Such a notice may be limited in application, or have varying application, according to factors specified in the notice.

The Pricing Regulator may, from time to time, publish principles and guidelines that he or she will observe or take into account in fixing prices.

A gas entity must not charge a price for the sale of gas to non-contestable consumers that exceeds an applicable maximum price fixed by the Pricing Regulator. (Penalty: $50 000.)

DIVISION 3—STANDARD TERMS AND CONDITIONS FOR RETAILING OF GAS

Clause 34: Standard terms and conditions for retailing of gas

A gas entity may, from time to time, fix standard terms and conditions governing the supply of gas by the entity to non-contestable consumers or consumers of a prescribed class. These standard terms and conditions are contractually binding.

DIVISION 4—PROTECTION OF PROPERTY IN GAS INFRASTRUCTURE

Clause 35: Gas infrastructure does not merge with land

In the absence of agreement in writing to the contrary, the ownership of a pipe or equipment is not affected by the fact that it has been laid or installed as gas infrastructure in or under land.

Clause 36: Seizure and dismantling of gas infrastructure

Gas infrastructure cannot be seized and dismantled system in execution of a judgment. However, this proposed section does not prevent the sale of a distribution system as a going concern in execution of a judgment.

DIVISION 5—TEMPORARY GAS RATIONING

Clause 37: Temporary gas rationing

If for any reason the volume of gas available for supply through a distribution system is insufficient to meet the requirements of all consumers who draw gas from that system—

- the Minister may, by notice in writing to the gas entity by which the system is operated, give directions to ensure the most efficient and appropriate use of the available gas; and
- the Minister may, by notice published in such manner as may be appropriate in the circumstances, direct consumers not to draw gas from the system except for the purposes (if any) allowed by the directions.

Such a direction will operate for a period (not exceeding 30 days) specified in the notice by which the direction is given. No civil liability arises from compliance with a direction under this proposed section but a person who fails to comply with such a direction is guilty of an offence.

(Maximum penalty: If the person is a gas entity—$50 000. In any other case—$2 500. Expiation fee (if the person is not a gas entity): $210.)

DIVISION 6—SUSPENSION OR CANCELLATION OF LICENCES

Clause 38: Suspension or cancellation of licences

The Technical Regulator may, if satisfied that the holder of a licence—

- obtained the licence improperly; or
- the holder of a licence has been guilty of a material contravention of a requirement imposed by or under this proposed Act or any other Act in connection with the operations authorised by the licence; or
- the holder of a licence has ceased to carry on operations authorised by the licence; or
- there has been any act or default such that the holder of a licence would no longer be entitled to the issue of such a licence,

suspend or cancel the licence.

DIVISION 7—TECHNICAL REGULATOR'S POWERS TO TAKE OVER OPERATIONS

Clause 39: Power to take over operations

If a gas entity contravenes this proposed Act, or a gas entity's licence ceases, or is to cease, to be in force without renewal and it is necessary to take over the entity's operations (or some of them) to ensure an adequate supply of gas to consumers, the Governor may make a proclamation authorising the Technical Regulator to take over the entity's operations or a specified part of the entity's operations.

Clause 40: Appointment of operator

When such a proclamation is made, the Technical Regulator must appoint a suitable person (the operator) (who may, but need not, be a gas entity) to take over the relevant operations on agreed terms and conditions. It is an offence for a person to obstruct the operator in carrying out his or her responsibilities or not to comply with the operator's reasonable directions (penalty: $50 000).

DIVISION 8—DISPUTES

Clause 41: Disputes

If a dispute arises as to the activities of a gas entity, a party to the dispute may ask the Technical Regulator (who has a discretion whether to mediate or to decline to mediate) to mediate in the dispute. This proposed section is not intended to provide an exclusive method of dispute resolution.

PART 4—GAS ENTITIES' POWERS AND DUTIES

DIVISION 1—GAS OFFICERS

Clause 42: Appointment of gas officers

A gas entity may (subject to the conditions of the entity's licence) appoint a person to be a gas officer to exercise powers under this proposed Act subject to the conditions of appointment and any directions given to the gas officer by the entity.

Clause 43: Conditions of appointment

A gas officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position on the conditions stated in the instrument of appointment.

Clause 44: Gas officer's identity card

Each gas officer must be issued with an identity card in a form approved by the Technical Regulator.

Clause 45: Production of identity card

A gas officer must produce his or her card for inspection before exercising any of his or her powers.

DIVISION 2—POWERS AND DUTIES RELATING TO GAS INFRASTRUCTURE

Clause 46: Acquisition of land

A gas entity may acquire land in accordance with the *Land Acquisition Act 1969*. However, a gas entity may only acquire land by compulsory process under the *Land Acquisition Act 1969* if the acquisition is authorised in writing by the Minister.

Clause 47: Power to carry out work on public land

Subject to this proposed section, a gas entity may—

- install gas infrastructure on public land; or
- operate, maintain, repair, alter, add to, remove or replace gas infrastructure on public land; or
- carry out other work on public land for the generation, distribution or supply of gas.

Clause 48: Power to enter for purposes related to gas entity's infrastructure

A gas officer for a gas entity may, at any reasonable time, enter and remain on land—

- to carry out preliminary investigations in connection with the installation of gas infrastructure; or
- where gas infrastructure is situated—to inspect, operate, maintain, repair, alter, add to, remove or replace the infrastructure or to carry out work for the protection of the infrastructure or the protection of public safety.

A gas officer must be accompanied by a member of the police force when entering a place under a warrant and, if it is practicable to do so, when entering a place by force in an emergency.

DIVISION 3—POWERS RELATING TO GAS INSTALLATIONS

Clause 49: Entry to inspect, etc., gas installations

A gas officer for a gas entity may, at any reasonable time, enter and remain in a place to which gas is, or is to be, supplied by the entity—

- to inspect gas installations in the place to ensure that it is safe to connect or reconnect gas supply; or
- to take action to prevent or minimise a gas hazard; or
- to investigate suspected theft of gas.

If in the opinion of a gas officer a gas installation is unsafe, he or she may disconnect the gas supply to the place in which the installation is situated until the installation is made safe to his or her satisfaction. A gas officer must, if it is practicable to do so, be accompanied by a member of the police force when entering a place by force in an emergency.

Clause 50: Entry to read meters, etc.

A gas officer for a gas entity may, at any reasonable time, enter and remain in a place to which gas is, or is to be, supplied by the entity—

- to read, or check the accuracy of, a meter for recording consumption of gas; or
- to install, repair or replace meters, control apparatus and other gas installations in the place.

Clause 51: Entry to disconnect supply

A gas officer who has proper authority to disconnect a gas supply to a place may, at any reasonable time, enter and remain in the place to disconnect the gas supply.

Clause 52: Disconnection of supply if entry refused

If a gas officer seeks to enter a place under this proposed Division and entry is refused or obstructed, the gas entity may, by written notice to the occupier of the place, ask for consent to entry stating the reason and the date and time of the proposed entry. If entry is again refused or obstructed, the entity may disconnect the gas supply to the place. The gas entity must restore the gas supply if the occupier consents to the proposed entry and pays the appropriate reconnection fee and it is safe to restore the supply.

DIVISION 4—POWERS AND DUTIES IN EMERGENCIES

Clause 53: Gas entity may cut off gas supply to avert danger

A gas entity may, without incurring any liability, cut off the supply of gas to any region, area, land or place if it is, in the entity's opinion, necessary to do so to avert danger to person or property.

Clause 54: Emergency legislation not affected

Nothing in this proposed Act affects the exercise of any power, or the obligation of an electricity entity to comply with any direction, order or requirement, under the *Emergency Powers Act 1941*, *Essential Services Act 1981*, *State Disaster Act 1980* or the *State Emergency Service Act 1987*.

PART 5—SAFETY AND TECHNICAL ISSUES

DIVISION 1—GAS INFRASTRUCTURE, GAS INSTALLATIONS AND GAS FITTING WORK

Clause 55: Responsibility of owner or operator of gas infrastructure or gas installation

It is an offence if a person who owns or operates gas infrastructure or a gas installation does not take steps to ensure that the infrastructure or installation complies with (and is operated in accordance with) the technical and safety requirements or that the infrastructure or installation is safe and safely operated. (Penalty: $50 000.)

Clause 56: Certain gas fitting work

A person who carries out work on a gas installation or proposed gas installation must ensure that—

- the work is carried out as required under the regulations; and
- examinations and tests are carried out as required under the regulations; and
- the requirements of the regulations as to notification and certificates of compliance are complied with.

(Penalty: $5 000. Expiation fee: $315.)

Clause 57: Power to require rectification, etc., in relation to gas infrastructure or gas installations

The Technical Regulator may give a direction requiring rectification, the temporary disconnection of the gas supply while rectification work is carried out or the disconnection and removal of gas infrastructure or a gas installation if it is unsafe or does not comply with this proposed Act. Failure to comply sith such a direction may result in necessary action being taken to rectify the situation and a fine of $10 000.

Clause 58: Reporting of accidents

If an accident happens that involves gas caused by the operation or condition of gas infrastructure or a gas installation, the accident must be reported as required under the regulations and the infrastructure or installation must not be altered or interfered with unnecessarily by any person so as to prevent a proper investigation of the accident. (Maximum penalty: $2 500. Expiation fee: $210.)

DIVISION 2—GAS APPLIANCES

Clause 59: Interpretation

This clause contains words and phrases used in this proposed Division. The Technical Regulator may, by public notice—

- declare a specified class of gas appliances for the purposes of this proposed Division;
- vary or revoke a declaration previously made under this proposed subsection.

Clause 60: Approval and labelling of gas appliances

A trader must not sell a gas appliance of a declared class unless—

- it is of a kind approved by a declared body or the Technical Regulator; and
- it is labelled, under the authority of the declared body or the Technical Regulator, to indicate that approval.

(Penalty: $5 000. Expiation fee: $315.)

This proposed section does not apply to the sale of second-hand goods.

Clause 61: Prohibition of sale or use of unsafe gas appliances

If, in the Technical Regulator's opinion, a gas appliance of a particular class is or is likely to become unsafe in use, the Regulator may prohibit the sale or use (or both sale and use) of gas appliances of the relevant class.

If, in the Technical Regulator's opinion, a gas appliance of a particular class is, or is likely to become unsafe in use, the Regulator may require traders who have sold the appliance in the State—

- to take specified action to recall the appliance from use; and
- to take specified action to render the appliance safe; or
- if it is not practicable to render the appliance safe or the trader chooses not to do so—to refund the purchase price on return of the appliance.

A person must not contravene or fail to comply with a prohibition or requirement under this proposed section. (Penalty: $10 000.)

PART 6—ENFORCEMENT

DIVISION 1—APPOINTMENT OF AUTHORISED OFFICERS

Clause 62: Appointment of authorised officers

The Technical Regulator may appoint suitable persons as authorised officers subject to control and direction by the Technical Regulator.

Clause 63: Conditions of appointment

An authorised officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position on the conditions stated in the instrument of appointment.

Clause 64: Authorised officer's identity card

Each authorised officer must be given an identity card.

Clause 65: Production of identity card

An authorised officer must, before exercising a power in relation to another person, produce the officer's identity card for inspection by the other person.

DIVISION 2—AUTHORISED OFFICERS' POWERS

Clause 66: Power of entry

An authorised officer may, as reasonably required for the purposes of the enforcement of this proposed Act, enter and remain in any place, accompanied or alone.

Clause 67: General investigative powers of authorised officers

An authorised officer who enters a place under this proposed Part may exercise any one or more of the following powers:

- investigate whether operations are being carried on for which a licence is required;
- examine and test gas infrastructure, gas installation or gas appliance for safety and other compliance with this proposed Act;
- investigate a suspected gas accident;
- investigate a suspected interference with gas infrastructure or a gas installation;
- investigate a suspected theft or diversion of gas;
- take photographs or make films or other records of activities in the place;
- take possession of any object that may be evidence of an offence against this proposed Act.

Clause 68: Disconnection of gas supply

If an authorised officer finds that gas is being supplied or consumed contrary to this proposed Act, the authorised officer may disconnect the gas supply. If a gas supply has been so disconnected, a person must not reconnect the gas supply, or have it reconnected, without the approval of an authorised officer.

Clause 69: Power to make gas infrastructure or gas installation safe

If an authorised officer finds that gas infrastructure or a gas installation is unsafe, the officer may—

- disconnect the gas supply or give a direction requiring the disconnection of the gas supply;
- give a direction requiring the carrying out of the work necessary to make the infrastructure or installation safe before the gas supply is reconnected.

Failure to comply with such a direction or to reconnect the gas supply without authority will attract a penalty of $10 000.

Clause 70: Power to require information

An authorised officer may require a person to provide information or produce documents in the person's possession relevant to the enforcement of this proposed Act. Failure, without reasonable excuse, to comply with a requirement under this proposed section may lead to a fine of $10 000. However, a person is not required to give information or produce a document if the answer to the question or the contents of the document would tend to incriminate the person of an offence.

PART 7—REVIEW OF DECISIONS AND APPEALS

Clause 71: Review of decisions by Technical Regulator

An application may be made to the Technical Regulator—

- by an applicant for the issue, renewal or variation of a licence for review of a decision of the Technical Regulator to refuse to issue, renew or vary the licence; or
- by a gas entity for review of a decision of the Technical Regulator to suspend or cancel the entity's licence or to vary the terms or conditions of the entity's licence; or
- by a person to whom a direction has been given under this proposed Act by the Technical Regulator or an authorised officer for review of the decision to give the direction; or
- by a person affected by the decision for review of a decision of an authorised officer or a gas officer to disconnect a gas supply.

The administrative details of implementing such an appeal are set out.

Clause 72: Stay of operation

The Technical Regulator may stay the operation of a decision that is subject to review or appeal under this proposed Part unless to do so would create a danger to person or property or to allow a danger to person or property to continue.

Clause 73: Powers of Technical Regulator on review

The Technical Regulator may confirm, amend or substitute a different decision on reviewing a disputed decision. Written notice of the decision and the reasons for the decision must be given to the applicant.

Clause 74: Appeal

A person who is dissatisfied with a decision of the Technical Regulator on a review may appeal against the decision to the

Administrative and Disciplinary Division of the District Court for a fresh hearing of the matter.

Clause 75: Stay of operation

The Court may stay the operation of a decision that is subject to appeal unless to do so would create a danger to person or property or to allow a danger to person or property to continue.

Clause 76: Powers of Court on appeal

On an appeal, the Court may—

- confirm the decision under appeal; or
- amend the decision; or
- set aside the decision and substitute another decision; or
- set aside the decision and return the issue to the primary decision maker with directions the Court considers appropriate.

No appeal lies from the decision of the Court on an appeal.

PART 8—MISCELLANEOUS

Clause 77: Power of exemption

The Technical Regulator may grant an exemption from this proposed Act, or specified provisions of this proposed Act, on terms and conditions the Regulator considers appropriate.

Clause 78: Obligation to comply with conditions of exemption

A person in whose favour an exemption is given must comply with the conditions of the exemption. (Penalty: $10 000.)

Clause 79: Application and issue of warrant

Application may be made to a magistrate for a warrant to enter a place specified in the application and the magistrate may issue one if satisfied that there are reasonable grounds for doing so.

Clause 80: Urgent situations

Applications may be made to a magistrate for a warrant by telephone, facsimile or other prescribed means if the urgency of the situation requires it.

Clause 81: Unlawful interference with distribution system or gas installation

A person must not, without proper authority—

- attach a gas installation or other thing, or make any connection, to a distribution system; or
- disconnect or interfere with a supply of gas from a distribution system; or
- damage or interfere with gas infrastructure or a gas installation in any other way.

(Penalty: $10 000 or imprisonment for 2 years.)

Clause 82: Unlawful abstraction or diversion of gas

A person must not, without proper authority—

- abstract or divert gas from a distribution system; or
- interfere with a meter or other device for measuring the consumption of gas supplied by a gas entity.

(Penalty: $10 000 or imprisonment for 2 years.)

Clause 83: Notice of work that may affect gas infrastructure

A person who proposes to do work near gas infrastructure must give the appropriate gas entity at least 7 days' notice of the proposed work if—

- there is a risk of equipment or a structure coming into dangerous proximity to gas infrastructure; or
- the work may interfere with gas infrastructure in some other way.

(Penalty: $2 500. Expiation fee: $210.)

If the work is required in an emergency situation, notice must be given of the work as soon as practicable.

Clause 84: Impersonation of officials, etc.

A person must not impersonate an authorised officer, a gas officer or anyone else with powers under this proposed Act. (Penalty: $5 000.)

Clause 85: Obstruction

A person must not, without reasonable excuse, obstruct an authorised officer, a gas officer, or anyone else engaged in the administration of this proposed Act or the exercise of powers under this proposed Act. Neither may a person use abusive or intimidator language to, or engage in offensive or intimidator behaviour towards, an authorised officer, a gas officer, or anyone else engaged in the administration of this proposed Act or the exercise of powers under this proposed Act. (Penalty: $5 000.)

Clause 86: False or misleading information

A person must not make a statement that is false or misleading in a material particular in any information furnished under this proposed Act. The penalty if the person made the statement knowing that it was false or misleading is $10 000. In any other case, the penalty is $5 000.

Clause 87: Statutory declarations

A person may be required to verify information given under the proposed Act by statutory declaration.

Clause 88: General defence

It is a defence to a charge of an offence against this Act 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;
- that the act or omission constituting the offence was reasonably necessary in the circumstances in order to avert, eliminate or minimise danger to person or property.

Clause 89: Offences by bodies corporate

If a body corporate is guilty of an offence against this proposed Act, each director of the body corporate is, subject to the general defences, guilty of an offence and liable to the same penalty as may be imposed for the principal offence.

Clause 90: Continuing offence

Provision is made for ongoing penalties for offences that continue.

Clause 91: Recovery of profits from contravention

If a gas entity profits from contravention of this proposed Act, the Technical Regulator may recover an amount equal to the profit from the entity on application to a court convicting the entity of an offence in respect of the contravention or by action in a court of competent jurisdiction.

Clause 92: Immunity from personal liability for Technical Regulator, authorised officer, etc.

No personal liability attaches to the Technical Regulator, a delegate of the Technical Regulator, an authorised officer or any officer or employee of the Crown engaged in the administration or enforcement of this proposed Act for an act or omission in good faith in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under this proposed Act. Instead, any such liability lies against the Crown.

Clause 93: Evidence

This clause provides for evidentiary matters in any proceedings.

Clause 94: Service

The usual provision for service of notices or other documents is made in this clause.

Clause 95: Regulations

The Governor may make regulations for the purposes of this proposed Act.

SCHEDULE—REPEAL AND TRANSITIONAL PROVISIONS

The *Gas Act 1988* is repealed and there is a transitional provision dealing with licensed suppliers of gas under the repealed Act and licences under the proposed Act.

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

WATER RESOURCES BILL

Adjourned debate on second reading.

(Continued from 27 February. Page 1028.)

The Hon. A.J. REDFORD: Last Thursday I made general remarks concerning the Water Resources Bill in which I indicated that I would be supporting the second reading of this Bill and that I would be moving some amendments. On that occasion I said that I would largely confine my remarks to the South-East and I explained:

(a) The importance of the South-East to the State economy and the enormous economic potential of the South-East of the State. I indicated that in terms of horticulture and irrigation the water resources of the South-East are at least as important as those of the Murray River.

(b) That as important as the underground water is to the South-East, the drainage of the South-East is just as important and without at the very least the installation of the South Eastern Water Conservation and Drainage Board as the catchment water management board for the South-East any hope of integrated and world best management of the resource is doomed to failure.

(c) The national context in which this Bill is being considered, including the COAG principles, the Hilmer Report, the 1992 Industry Commission report and the Coalition's environment policy. I pointed out that none of

these documents considered anything like a water resource as unique as the South-East in anything other than general terms. I inform this Council that unless ministerial discretion is confined specifically to environmental issues, the object of forming a water market is doomed to fail for obvious reasons.

(d) The Government's consultation process referring to the September 1995 draft paper and the Towards a New Water Resources Act Paper issued in March 1996. I pointed out that both these papers made only a passing reference to the South Eastern Water Conservation Act and the Groundwater (Border Agreement) Act and expressed my very strong view that the Parliament and the Government must acknowledge and not simply pay lip-service to the legitimate expectation of landowners who are currently not irrigators. I also expressed my concern that the March 1996 paper failed to address the issue of the transferability of water allocations across the Victorian-South Australian border, or at least between and within zones in South Australia in areas covered by the Groundwater (Border Agreement) Act.

(e) My severe reservations concerning the Bill as they affect the South-East, particularly in the context of the intention as expressed by the Minister in the latter half of last year to proclaim the rest of the South-East under old legislation. I expressed my concern at the fact that the proposed management model must avoid the problems experienced under existing management regimes and that land-holders were extremely concerned at this also. I said that, in the case of the South-East, free access to underground water has become the intrinsic part of the value of land and, further, that access is unique to the South-East and should be preserved.

In that regard, I pointed out that land in managed areas was worth half that in unmanaged areas and thus up to half the value of land in unproclaimed areas arises because of free and unfettered access to water or at least potential access to water. I expressed my view that inappropriate allocation policies or policies which have been adopted in proclaimed areas or areas covered by the Groundwater (Border Agreement) Act have the potential to reduce land values by up to 50 per cent in the South-East.

Finally, I pointed out that the consultation process had been a great cause of concern, alarm and distress to the people of the South-East and that the consultation process involving the potential proclamation of the rest of the South-East under existing legislation has been counterproductive. In support of that I pointed out that orders for centre pivot irrigation units for January 1997 are already 600 per cent greater than for this time last year, presumably so that landowners can protect the capital value of their land.

I propose to cover this Bill extensively in what remains of this contribution, although some matters will be left to the Committee stage of the Bill. First, I want to deal with constituent concerns and public meetings. As I said last Thursday, no reasonable assurances have been given to land-holders regarding what future management of their resource entails in real or practical terms. Their fears arise from their neighbours' or other land-holders' experiences in managed areas. They have a real and, in my view, well-founded fear at the prospect of unfettered management as envisaged in this Bill.

I can say with great confidence that, as a result of meetings I have attended, telephone conversations I have had and letters I have received from constituents in the light of claims that public consultation has shown broad support for this Bill, I believe it is my duty to outline my experiences over the past few months. Those experiences clearly demonstrate a real fear and, in my opinion, a distorted view as to what constitutes public consultation in some quarters. I acknowledge that a series of meetings were held in the South-East prior to August 1996. The meetings which the Government says constitute a consultation concern two specific issues: first, the issue as to whether or not the unproclaimed areas in the South-East ought to be proclaimed and what might happen; and, secondly, issues concerning the Bill.

I am informed that representatives from the Minister's department had meetings at Lucindale on 2 May 1996 with the South-Eastern Drainage Board; at Millicent on 14 May 1996; at Penola on 28 May 1996; at Port MacDonnell on 3 June 1996; at Bordertown on 5 June 1996; and at Naracoorte on 6 June 1996. Following the release of a draft Bill, a meeting was organised by the South-East Water Resources Forum at Naracoorte on Monday 12 August 1996 at the Naracoorte town hall. Attendees at that meeting were briefed on the structure proposed under this Bill, including the establishment of the Water Resources Management Board and the establishment of management plans.

Attendees were assured that nothing would happen unless the community in the South-East agreed to the appointment of a local board or agreed with the water management plan. That, of course, begged the question as to who would determine whether or not the community had agreed and the extent to which an agreement must be reached before a management plan is implemented. During the course of that meeting a number of issues were raised. Some examples included why water allocations in the Upper South-East proclaimed area are made in irrigation equivalents rather than in megalitres. The answer given by the head of water resources was that it would 'put flood irrigators out of business'.

I must say that that approach would seem at odds with the stated intention of ensuring an economic use of water. Further, the then Chair of the South-Eastern Drainage Board said that, in his view, conflict existed between the South-Eastern Drainage Board and the Water Resources Management Board. There was a call for a review of the Groundwater (Border) Agreement Act, particularly in regard to permissible annual volumes of water use. The South-East Potato Growers Association was also critical of a number of aspects, and a number of questions were raised in relation to the issue of forests and their affect on recharge of the water resource.

Elements from the local government sector indicated that community participation has been a farce and that the Bill did not reflect community consultation. Concerns were expressed by representatives from the SA Farmers Federation at the lack of integrated management in the Bill. Concern was expressed about the fact that soil conservation boards had no role to play. It is my view that assurances given at that meeting are dependent entirely upon the department and the Minister in a personal capacity. We must remember that, at most, the average tenure of a Minister is about three to five years. Following that meeting I expressed my concerns to the department's officers.

I was told that there had been an extensive consultation process. In the meantime I received a number of telephone calls asking me why public servants were ringing land-holders making inquiries as to their current irrigation activities or plans. The Hon. Terry Roberts asked a question on Government plans to proclaim under existing legislation. On 2 December, following that question, I was invited to a public meeting at Penola where the issue of the Water Resources Bill was discussed. I spoke at the meeting in

general terms and the meeting was then open for discussion. In response to a degree of criticism, I pointed out to the meeting that I had been advised by the Minister and the department that extensive consultation had taken place.

I said that I was somewhat surprised at some of the comments and criticisms that were being made. I then invited people to explain to me what they believe had occurred in so far as consultation was concerned. On reflection, I must say that I felt that I had opened Pandora's box. A well driller from Mount Gambier indicated that people were reluctant to talk at a meeting in Mount Gambier which he had attended, and that the officials from the department had told everyone that there was nothing to worry about as everything would be fixed up after the legislation was passed. He said that most of the people walked out of the meeting either not understanding a word that had been said by the departmental officials or that they had been too scared to say anything.

Another primary producer said that he had attended the Penola meeting where the departmental officials gave out a substantial amount of technical data which, he said, no-one could understand. He indicated that they did not say how the Bill was to be applied to people in the South-East, nor was there any detail relating to water licences or how they would be allocated. Another person who attended the Penola meeting in May said that the department gave only technical details concerning the extent of the water resource and the current use. Another person who attended the same meeting indicated that he felt embarrassed when he raised a question and that people felt intimidated.

Following that, strong views to the effect that water should be shared equally and that there should be a level playing field at the start of any allocation of water were expressed to me at that meeting. There was strong concern at the fact that the South-Eastern Drainage Board allowed millions of gallons of fresh water to be sent to the sea, yet there was a potential for restriction of use of water. Other views were that the effect of pines on the recharge of underground water had been ignored. Questions at public meetings on this were ignored, it was claimed. A number of people indicated that they wanted to pursue more extensive farming (which I assumed to be horticulture activity) and that they were precluded from doing so because they could not get water.

Concern was raised that there would be a lack of investment because there is a lack of certainty, particularly in the short term. A representative from the South-East Local Government Association indicated that the Bill failed to translate integrated management into the legislation, despite an initial objective to do so. Concerns were expressed that the Bill seemed to focus on revenue raising. Local government was concerned about its role in the collection of levies without any other role at all. Local government also pointed out that a similar process of consultation in the development of water strategies in New Zealand took some three years—which I observe is some two years more than it took in this case.

At the end of the meeting the following motion was passed:

> That the Water Resources Bill not be enacted before September 1997 in any event. That in the interim there be a broad process of discussion and consultation with landowners.

The motion was carried unanimously and the Minister was advised accordingly. I might say that the motion cuts across some of the demands being placed upon the State Government by the COAG agreement, and I would not suggest that we adopt that motion because of those very significant factors. Following the meeting at Penola I had a number of discussions with the Minister.

Press reports appeared in the South-East media and, early in the New Year, I was approached by a number of people to attend meetings in the South-East to discuss further the Water Resources Bill. Meetings were arranged first at Millicent by the Millicent Agriculture Bureau and, secondly, at Naracoorte by the Naracoorte District Council. I express my gratitude to the people who organised these meetings. Various members of Parliament were invited to the Millicent meeting, and in attendance were the Hon. Jamie Irwin and the Hon. Terry Roberts, shadow Minister for the Environment and Natural Resources.

A number of other people were invited, and at Millicent Dr John Rowles from the Mount Gambier office of the Department of Environment and Natural Resources attended. In excess of 70 people attended on a day in which there were severe fire bans, blustery winds and a temperature in excess of 40°. During the course of the meeting there were numerous fire alarms. Notwithstanding the consternation that must have been felt by all those who attended they remained, and this gave a fair indication of just how important this issue was to them.

Sentiments expressed at both meetings included comments that water allocations to date had been grossly unfair. Examples were given of people who had recently purchased land not knowing that the water licence pertaining to that land had lapsed. A number of complaints were expressed from people from the Lucindale area. Comments were also made that, in some zones on the Victorian side of the border, there were so many centre pivots and bores and irrigation projects going on that the relevant zone resembled an oil field. Extreme concern was expressed at the fact that there was little consultation with the community in relation to the allocation of water under the Groundwater (Border Agreement) Act. Others expressed the sentiment that most people had had a bad experience at some stage with the allocation procedures in the proclaimed areas. Concerns were expressed that those bodies responsible for allocation in the past were dominated by irrigators. Mr Bruce Rodda expressed concerns that the water transfer system was deficient. I will come to detail those issues later in this contribution.

Further criticism was made in that there appeared to be no accounting in the current management for primary producers involved in practices which enhance recharge; in fact, there was no incentive to engage in that. In addition, those people who are outside areas which are currently proclaimed said that the process of public consultation had not been sufficient. One of the biggest issues raised at the meeting was the view that water should be allocated to every piece of land. Mr David Botting, currently Chairman of the Lower South-East Water Resources Committee, was in attendance. He criticised the suggestion that water be allocated to land or that there be allocations based on land holdings. Notwithstanding his views, the concern was high. I specifically recall one landowner stating that he had first sold land in the Fleurieu Peninsula for the purpose of buying land in the Upper South-East. When greater pressure was brought to bear on the aquifer in the Upper South-East, he sold that land and purchased land near Millicent. He said that his primary reason for embarking upon these expensive transactions was to ensure that at some stage in the future he had a right to access to water.

That evening I, with the Hon. Jamie Irwin, attended a meeting at the Naracoorte District Council where in excess

of 40 land-holders attended. Again, officials from the department also attended. At that meeting the Director of Water Resources, Peter Hoey, informed the meeting of his view that, whilst the consultation had been extensive, following his experiences at Millicent he felt that the consultation could have been better. He also indicated that it was becoming increasingly apparent to him that the Groundwater (Border Agreement) Act needed to be reviewed. The Secretary of the South-East Local Government Association, Mr Graham Pfitzner, was also severely critical of the legislation from a local government perspective.

An emerging issue at that meeting was the strong view that South-East water should be controlled by South-East producers rather than through a board appointed solely on the basis of expertise. Mr Ron Pridham set out his experiences and, indeed, I will recount them in some detail later in this contribution. Following these meetings I am convinced that the process of consultation failed miserably to provide appropriate assurances to land-holders—land-holders who have a significant investment and land-holders who have showed a sustained commitment to long-term care of those resources; indeed, land-holders who often have a long-term view regarding their land, their families and their future well beyond that of Governments, public officials and other private enterprises.

I propose to highlight some of the matters raised in correspondence I have received. I do so for two reasons: first, it supports my assertion that there is public concern; secondly, it puts on the public record those matters so that, if those matters are not appropriately considered by authorities after this legislation is passed, they cannot say that they were unaware of the sentiments of South-East landowners. I would ask members to take that into account when assessing my views on this issue.

In June 1996 I sent to 80 people in the South-East a copy of the draft Water Resources Bill and accompanying explanatory material seeking their comments. To be fair, the initial response to that material was almost negligible. I suspect that the reason for that was the inability of the recipients to understand what has been described in other quarters as an extremely complex piece of legislation. However, an early response raised a couple of issues. First, there was a response from a correspondent who asked who had the responsibility for providing water meters and who was responsible for the cost. Secondly, he said that there should be some mechanism in the Act to ensure the relevant local government body is informed of any reduction in water licences or quotas to ensure that land assessments are similarly reduced, thereby reducing council rates. Thirdly, he felt that there should be a provision for periodic review to ascertain whether any reduction in water quota has had the desired effect and whether or not there should be some mechanism to reinstate the quota. He also said that there was a question as to whether or not there should be some compensation paid by the Government if there were to be a reduction of the quota.

In July 1996 I received my first letter expressing grave concerns about how the water resources were to be allocated. It was indicated under the present proposal that anyone who is using water to irrigate or has shown an intent to irrigate will be allocated a licence. He said that that would encourage the wasteful use of water by people irrigating solely for the purpose of gaining a licence, thereby 'denying present and future generations of land-holders the right to access the resource when the resource is fully allocated'. It was at this stage that a proposal was put to me that a quota of water be allocated to every hectare of irrigable land in the Lower South-East. It was suggested that a land-holder who had a guaranteed right to water is less likely to waste the water.

I received letters from Mr Bill Williams, the representative for the Mid and Lower South-East of South Australia on the Advisory Board of Agriculture, expressing grave reservations about the rule of allocation. In November I received a letter from Mr Tom Rymill, a solicitor in Mount Gambier, who made a number of comments. In summary, he pointed out that there was no public or Government infrastructure set up to provide the water and that one of the principal difficulties with the proposed law is that 'it divested land-holders of their common law rights and appropriated all water rights and ownership to the State, which is the equivalent of socialisation'. He expressed major difficulties with the licensing system, in that licences are issued on a first come first served basis and that once they are allocated anyone who at a later date wishes to commence irrigating cannot do so or can do so only by paying a large cost to buy one, with the unfortunate result of congregating the added productivity of irrigation into the hands of a few lucky people and denying future generations and land-holders opportunities to improve their farming practice by use of irrigation. He also asserted that the allocation of water use licences is based on a fallacy: that water available in one part of a zone can become available in any other part of the zone. He went on and suggested an alternative scheme. I have provided a copy of that suggestion to the Minister and his department.

I also received a submission from Mr Ian Ridgway, who said that there was general dissatisfaction with the past operation of the South-East water advisory committees. As a former member he said that there was opposition to the existence of the border water sharing agreement and that water licences should 'not be sold but rather leased'. He said that there should be an allocation for every farm and advised that there is strong support for board membership to be half elected and half appointed. He also said that we should follow the New Zealand system which covers all natural resources so that there is only one Minister responsible for all water resource and drainage issues.

A further letter from Mr Ken Grundy pointed out that there was unanimous support for certain policies and the belief that the allocation of water management should be kept at a local level with people accountable to local users. He indicated that every acre should have an entitlement to water. Another letter from Mr Peter Varcoe indicated that each land title should have a permanent water entitlement and that the only right to devolve that entitlement would be a right to lease for a period of no longer than five years.

I received a letter from Mr Dean Galpin, who also attended the meeting at Millicent. He owns lands immediately to the east of Penola. He indicated to me that he had been endeavouring to move into horticulture for a number of years now but has been unable to do so because he has been unable to obtain water. What particularly annoyed him is that there appears to be a number of grape growers who have managed to secure water licences during the period of time in which he has been seeking one. He says that his real concern is that no consideration seems to be taken in relation to high use areas such as Coonawarra in comparison to low areas of use some distance away. Indeed, that highlights a real and potential failure of a system which is not integrated and which ignores land use issues. Mr Galpin also believes that areas drawn on the map in the border area do not take into account the geology and quantity of water available.

I received correspondence from Mr Bruce Fraser of Keith. His view is that the licensing regime in the proclaimed area should not be interfered with. However, he was of the view that the area presently not proclaimed should be proclaimed and that irrigation licences be granted on the basis of area and the availability of underground irrigation water. He said that the South-East Water Conservation and Drainage Board is an appropriate body to undertake the task. He suggested an expanded membership of the board which should include sufficient landowner representation to ensure that the interests of all land-holders would receive a fair hearing. Mr Fraser also recommends that there be some control over the methods of irrigation used in order to improve water quality.

I received additional correspondence from Mr Bill Williams in regard to the proposed proclamation. It was his view that there were no existing problems in the unproclaimed area and that the process was being rushed. He could not understand why it had to come in so quickly. I received a telephone call from Mr Roger Everhard who said that the current system within the border agreement had a number of flaws. He is a real estate agent who is involved in the transfer of water licences. He indicated that no stamp duty is currently being paid on the transfer of water licences.

Following a ministerial statement and advertisements placed in all print media in the South-East, I received a number of calls from people. I also received a call from a primary producer at Mundulla. He indicated that in his view the current committees are dominated by irrigators. He suggested that the drainage board take over the management of underground water. A primary producer from Beachport indicated support for allocation of water initially on the basis of land-holding. He said that all the public meetings involving consultation, except one, took place in areas that had already been proclaimed. However, he was concerned about the process leading up to the appointment of the South-East Drainage Board in that it could be delayed significantly and he did not think that should occur.

I received other calls from primary producers at Naracoorte. They expressed dissatisfaction in relation to the proclaimed area near the Riddoch Highway. They indicated that they had twice applied for a water licence and had been refused on both occasions. They stated that the value of their property had decreased as a consequence and that they had been approached by people who would like to pick up their property cheaply and then transfer a water licence onto it. They were concerned about the establishment of local committees, which was referred to in the Minister's statement, and indicated support for the appointment of the South-East Drainage Board.

A further facsimile transmission came from a primary producer at Millicent, who indicated that he had some concerns with the ministerial statement because, whilst the Bill allowed for allocation on an area basis, it did not ensure it. He indicated that he would prefer that this was made a requirement under the Bill. He said that there were three options in relation to that point: (a) placing a provision in the Act; (b) placing it in the regulations; or (c) being handled by consultation. Despite the options, he expressed his strong support for the suggestion that rights to underground water should be allocated according to land-holding areas and acknowledged that some areas or regions would have more or less water to allocate per hectare than others. I assume that land use factors and localised water factors led him to that view.

He gave the example of the Murrumbidgee River in New South Wales, where each property along the river was allocated water rights even though they were not all taken up in the first instance. He further indicated that to proclaim the South-East and then allow allocations to take place on a first-come, first-served basis would be inequitable and would cause a hasty rush to drill bores, perhaps with less than adequate planning.

I received another transmission in relation to the ministerial statement. It indicated that in 1984 the allocation policy promoted in the Upper South-East, based solely on financial commitment, placed much greater stress on groundwater than the landowner allocation, which 'is a long-accepted entitlement'. The fax went on to say that the aggregation of property and water licence sales will place greater alienation on:

> . . . personnel who have done no wrong. Foreign interests purchasing land and water interstate rules out rank and file landowners competing in million dollar transactions.

It supported the appointment of the South-East Water Conservation and Drainage Board.

I also received a letter from a solicitor, Mr Westley of Naracoorte. He indicated that he is a joint owner of land which has a water licence enabling the withdrawal of 18 irrigation equivalents per annum. In addition, there is a man-made water catchment on the property covering 280 acres, which enables the Westleys to irrigate up to 400 acres per annum. Water salinity tests of the groundwater show a very low salinity level. Mr Westley stated that he had been told that the proposed Bill would require surface water catchments to be licensed in a similar manner to underground water and he expressed concern that he may not be able to obtain a licence in regard to his investment. It is a man-made water catchment area and not a natural swamp. He expressed concern that the Bill may well affect his position. In that regard, I advise that clause 8(2) allows the Government to declare that part of the State as a surface water prescribed area. Mr Westley has made a significant investment and is very concerned about his position in that regard.

I also received further advice that the department is having difficulty finding people to fill positions on the Upper South-East water resources committee and that they have had no success in finding a female to be appointed to that position. I also had a telephone conversation with Mr Tony Bishop, a former Chair of the Upper South-East water resources committee. Whilst I will not go through in detail the concerns that he expressed, he indicated that he resigned in sheer frustration because too often the department rejected or did not adopt policies that the committee resolved to follow. Mr Bishop indicated that the South-East Drainage Board would be an appropriate body to manage water in the South-East provided there was an expansion of grower representatives. He indicated that other people have walked away from the water resources committee because of frustration.

Mr Bishop stated that the Groundwater (Border Agreement) Act did not serve any useful purpose. He said that people in that strip are treated differently from people outside the strip. He said that the lines within that area did not represent anything. He said that the committee wanted lines drawn along resource lines rather than hundred lines. He gave an example of a zone in Victoria where most of it is in a national park and where one-twentieth of the water resource is being used. He indicated that that did not make a lot of sense. He also expressed concern about the public consultation process. He said that in a number of cases people were

quite irate but did not say anything and did not get any specific answers to their questions in a form that they could understand.

In addition, I have been told of a ludicrous situation which occurred recently in Bordertown where sprinklers were operating in an industrial area. The reason they were in operation was to maintain lawn areas and the like that they are being required to plant through the planning process in the establishment of their enterprises. The company was approached by a public servant who indicated that they now had to obtain a water licence and that there would be a cost in doing so. This again demonstrates the problem that can arise in the absence of an integrated approach to water management.

Other queries that I received from constituents included whether or not the Minister had a policy in relation to avoiding windfall profits in regard to water allocations. Another complaint was that there was no requirement for a development application for irrigation. I also received queries on the effect of capital gains tax on licences and their transferability and how that would be applied. Another query was whether or not licences issued under the Groundwater (Border Agreement) Act attached to the land or the business, and there are tax ramifications associated with that.

Since August 1996 there has been significant debate regarding the proposed proclamation of the remainder of the South-East under existing legislation. The Minister was advised in October last by the Director of Water Resources that community consultation had commenced and, through advice at public meetings, the proclamation was likely to occur. The Minister was informed that no adverse comments had been received. The Minister was informed that the aim of the proclamation was to enable proactive management of the groundwater resources of the confined and unconfined aquifers rather than waiting to proclaim when the resource is under threat. The Minister was further informed that:

> Over the past several weeks, staff from the department have been collecting data in the form of land use and surveys as a necessary precursor to issuing initial licences once the area is proclaimed.

Later, in answer to a question asked by the Hon. Terry Roberts concerning water resource management, the Minister answered in part:

> Proclamation will only be recommended after all options for effective management of the available groundwater resources have been considered.

I have a number of comments to make about the matters raised in relation to the proclamation. First, for a public servant to advise the Minister that 'no adverse comments have been received' is simply wrong. I have been advised by numerous landowners on numerous occasions that they are critical and that there have been adverse comments. I have received numerous telephone calls. Unless there is a massive conspiracy from Lucindale to Port MacDonnell, I cannot say anything but that the advice to the Minister from the Director is simply wrong.

Many people have said that they get the distinct impression that the process of proclamation was undertaken simply to ram water management through without any proper consultation. I do not necessarily adopt any position on that. However, in the light of that sort of advice, I cannot but be concerned that the Minister will not have available to him all options for effective management of the available groundwater resources once this legislation comes into effect.

In relation to the comment that staff from the department have been in the field collecting data, I have to say that I have received many phone calls from many landowners who have expressed alarm, distress and concern about that process. It was done by telephone and landowners were asked what the current state of their enterprise was and whether they were involved in irrigation or about to be involved in irrigation. It was not done in writing and, according to them, it was not announced publicly that the field data collection was under way. A number of people who telephoned said that they were advised when telephoned by departmental officials that the area had already been proclaimed. It is an entirely unsatisfactory way in which to deal with this very important process that has the potential of causing great financial dislocation to a number of land-holders. In fact, it is my view that greater detail should be provided to affected land-holders as to precisely how the Minister proposes to administer the proclaimed areas.

I reluctantly accept that the Minister probably has no alternative at this stage but to proclaim. However, the Minister has no alternative, not because of any long or short-term management requirement other than the speculation surrounding proclamation and the uncertainty which it has caused and which is leading to a phenomenon similar to a gold rush, in other words, a water rush.

Speculation and rumour associated with proclamation has led to a large number of people placing orders for irrigation equipment in order to obtain a licence and thus protect the value of their land. I am informed by one constituent that one dealer in Mount Gambier who sold 30 centre pivots last year has some 30 centre pivots on order for the month of January 1997 alone.

To demonstrate just what management can do to ordinary people, I want to give an example. Members must bear in mind that, as a Liberal, I have no brief for management for management's sake. I have been handed a series of documents involving the trials and tribulations of a Mr and Mrs Pridham and their son, Paul, concerning their endeavours to secure a water entitlement to enable them to expand their enterprise in a proclaimed area. The area relates to Frances and is part of the Naracoorte Ranges proclaimed wells area, which was proclaimed on 1 April 1986—April Fools' day.

At the time of proclamation, the Pridhams were not irrigating and did not intend to do so in the short-term. They were unable to point to irrigation activity in the critical year of 1985-86. They were not able to point to a financial commitment to irrigation for the period of 12 months leading up to March 1986. However, in May 1986 they did write to the EWS Department stating that, whilst they were unable to afford to put in irrigation at that stage, as their son grew older and their financial position improved, they wanted to put in at least 60 hectares of irrigation to maintain sufficient income for two families in the future—hardly a big ask for the South-East.

In July 1986, they were advised that their intention to irrigate had been noted and were told that it was difficult to predict future licensing policies. When they formalised their irrigation plans, they were invited to lodge an application to withdraw underground water and advised that that would be considered; they did not receive that letter. In July 1994 they lodged an application for a licence to take water proposing 40 hectares of clover and lucerne to be irrigated by spray for the purpose of production of small seed, hay and stock. In September 1994, they were advised that, unfortunately, groundwater was fully allocated throughout the area.

As a consequence, they were not to be given an allocation, but they were invited to purchase an allocation from a neighbour, who perhaps had not purchased his initial

allocation in the first place. They appealed to the Water Resources Appeal Tribunal. It was first listed for hearing on 7 October 1994. It was adjourned to 1 December 1994 and, at the insistence of the tribunal, was again adjourned to 30 March 1995. That is a whole potato growing season.

Next, at the instance of the tribunal, the application was further adjourned to Friday 19 May 1995—and that is getting very close to potato planting season. That was some seven months after their initial appeal had been lodged, which is effectively a full year's production. Such is life in the bureaucrat fast lane! The final decision was delivered in November 1995—some 16 months after the initial application. On any analysis based on any policy that this Government would promulgate, that time delay was entirely unacceptable.

In looking at the reasons for the decision that was made, the Water Resources Appeals Tribunal, comprising industrial management Mr Hardy and members Holmes, Turner and Milne, found that almost all the water had been allocated in 1986 in a period shortly after the proclamation. The reasons are lengthy and go through a discourse on whether certain correspondence was received by Mr and Mrs Pridham.

Despite that, because all the water had been fully allocated, they were not entitled to any water and there appeared, based on the decision made by the tribunal, no opportunity whatsoever for them to obtain water following the full allocation of all the water in the zone eight years earlier. That was in spite of assurances given to them at the time of proclamation and despite assurances given to them following proclamation that they could lodge an application at a later time.

Thus, it was with some degree of cynicism that Mr Pridham read a letter sent to him by the Minister in June 1996 in which he was advised that there was:

> . . . a very important and exciting new approach to water resources management in South Australia.

It is not surprising that they viewed those words with some degree of scepticism. They wrote to the Minister pointing out that their application for a licence was crucial to their farming survival and that they had leased a water licence for four years and had undertaken a large capital investment program. They pointed out that the current system of allocating water denied them natural justice. They gave the following reasons:

(a) water they desperately needed was not being used by people who held licences;

(b) people who received licences for $110 are now leasing them for $1 500 *per annum* or selling them for high prices, said to be as high as $40 000—not a bad profit;

(c) despite early correspondence indicating that they would need water, they were never advised that there was a possibility that all water would be allocated;

(d) they have been told that some people had initially received licences with no development requirements;

(e) they were extremely annoyed at the fact that, whilst they were denied a water licence, they were required to pay a levy to drain water in other regions to assist farmers in those regions with salinity problems;

(f) they get no information about when, if ever, water is likely to be available to them, on whether or not they are on a waiting list and, if they are, where they are on that waiting list.

On any analysis, one would have to have enormous sympathy for their position. Indeed, if the proclamation of water resources in the South-East or the implementation of this legislation is not carried properly, literally hundreds of people will be in the same position as that of Mr and Mrs Pridham.

In relation to their queries, Mr and Mrs Pridham received a further response. The Minister advised them that on occasions licensees do not use their whole water allocation for legitimate land management and seasonal reasons. It was pointed out that the system where people sell or lease allocations was established with the support of community based water resource committees. I digress to comment that the water resources committees as established could hardly be described as community based. They are comprised of landowners who are predominantly involved in horticultural activities and who already have irrigation licences.

The Minister went on and said that the salinity drainage levy was unrelated to the issue of water licensing, and Mr and Mrs Pridham were further advised that there was no available water to allocate to them in their area. I again digress and say that I understand the Pridham family's anger and annoyance. In a subsequent letter the Minister said:

> Within the objects of the Act, it is difficult to see how an equitable poll could be developed to distinguish well established and new entrants to farming in making allocations for water.

That might well be the case under the old Water Resources Act 1990. I sincerely hope that an equitable policy, distinguishing between well established and new entrants, will be enabled and adopted under this new legislation because, if it is not, I will lead the charge in terms of criticism. The Minister in a subsequent response went to say:

> Regarding your suggestion that water should be allocated to people in proportion to the size of their land, such a suggestion has been considered in the past. However, the idea does not take into account the fact that the suitability of land for irrigation is highly variable. Little purpose would be served by allocating water to people who either do not want or are not in a position to make use of the allocation.

I must say that I take strong issue with that sentiment. However, I am heartened by recent discussions with the Minister. I am heartened, too, by his recent ministerial statement in which he said:

> If a local catchment water management board can develop a policy of allocation in proportion to the size of the land he would have no objection to that.

However, the sense of anger on the part of the Pridhams continues when they say articles in the local newspaper, where BRL Hardy, in announcing a new winery at Padthaway, talks about planting approximately 400 hectares of grapes in recent times. Given the lack of real information they receive, is it any wonder that the Pridhams believe that a big person is being favoured over the small family farm? It might well be that the proponents of development see that to be in the best interests of the South-East as a whole. However, they overlook the very social fabric of the South-East and the very important role played by small family farms in terms of their economic contribution, their social contribution to their communities and, finally, their commitment to the future and to the long-term environmental protection of their resources.

I sincerely hope that the sort of bureaucratic indifference and ignorance to which the Pridhams were subjected is not repeated. No member of Parliament can have anything but sympathy for their plight. It is clear that they found themselves in that predicament because of two principal factors, the first of which was bureaucratic indifference.

As all members of Parliament would know and have appreciated from time to time, there is nothing worse than bureaucratic indifference. It is one of the reasons why most people on the Liberal side of politics are on that side of

politics: we have a great suspicion of large bureaucracies which have a singular inability to understand the plight of small people in developing and implementing broadbrush policies.

The Hon. T.G. Roberts: Private sector indifference never occurs, does it!

The Hon. A.J. REDFORD: That is a matter for them. The second is the self-interest of large and smaller irrigators. In that regard, self-interest prevails to the detriment of the smaller producer who, in my view, has a legitimate and rightful expectation of access to water on an equitable basis, particularly having regard to the fact that they paid significantly higher prices for their land based on the assumption that there would be equity. I am pleased that the Minister, when these concerns have been brought to his attention, has listened and, given his constraints, responded positively.

The amendments that I will be moving are a compromise. I understand the constraints under which the Minister is operating and the difficulty in providing a prescriptive water management scheme protecting landowners through the legislative process. I hope that the comments which I outlined earlier will be taken into account during any public consultation process. I am happy to provide copies of my notes and correspondence to the appropriate authority when it comes to develop a water management plan for the South-East.

In that regard, I note that the Minister issued a statement following the public meeting at Naracoorte to which I referred earlier in this contribution. He made a number of important statements so far as the South-East is concerned. I think it is important that I read into *Hansard* some of those important statements. In that statement he said:

> The main feature of the new Bill is that it provides for all water management to be undertaken in accordance with management plans drawn up by, and for, the communities of each particular region. . . It does not mean there will have to be a new board set up for underground water management. It does not mean that people will be paying a levy either on the land they own or on a water licence they own. Rather, boards or levies or both could be introduced in the South-East under the new Bill subject to community support. The new Bill does mean that people in the South-East will be consulted with renewed vigour to prepare water allocation plans for the licensed areas of the South-East.

I applaud those sentiments. He goes on to say that for the first time in South Australia's history users in unproclaimed areas will have protection from unreasonable use by their neighbours which is affecting their own use of the water. Again, that is to be applauded. In relation to an allocation policy, he said:

> What was suggested at recent public meetings was a form of allocation policy for proclaimed areas that would see all landowners receive an allocation, regardless of present or intended use. The allocation received will be part of the total water available and would reflect the amount of land owned. There were lots of variations on how such an allocation policy should work but this was the basic thrust of the suggestion.

I agree that that is an accurate summation of the thrust of the public meetings. If I could appropriately achieve it through the legislative process by making an amendment to this Bill, I would be moving amendments to reflect that sentiment. The difficulties in doing so from a technical and practical point of view cannot be underestimated. The Minister went on and said:

> The new Bill allows any type of allocation policy to be provided for in a water allocation plan. The only restriction is that the allocation policy must only allocate the water that can be safely extracted from the resource. . .

Whilst I generally agree with the sentiments expressed, my real concern is that the past has demonstrated, in relation to the managed areas, that the position of land-holders who are currently not irrigating has diminished and that their views have not been heeded. I would hope that in any future consultation process they will be protected. Indeed, if they are ignored, as they have been in the past by successive Governments, I will be extremely angry and outspoken on the issue.

Obviously, if a full consultation process occurs, all land-holders in the South-East are consulted—not just existing users and irrigators—and an appropriate policy is developed which has the broad support of all land-holders of all interests, I will have nothing to complain about. However, if that significant group is ignored, I will have a lot to say. In other words, I will be monitoring the consultation process very closely.

I am mindful of the fact that, as a member of Parliament and not being part of the Executive arm of Government, my powers are limited. Indeed, I will bring this Parliament's attention to any failure properly to consult. I cannot put that issue strongly enough, particularly having regard to the statements from the various departmental officers that the consultation process in the South-East to date has been positive: my personal experience has been precisely the opposite.

I am also mindful of a document circulated by the Minister entitled 'The Water Resources Bill in the South-East: Questions and Answers'. Of particular importance to the issues raised by landowners in the South-East is the following (quotation 8):

> Why don't you allocate some water to all landowners in the South-East? The existing legislation which applies in the South-East (the Water Resources Act 1990) does not allow for this type of allocation policy. The new Bill is flexible. It allows any allocation policy to be implemented provided it had the support of the local community and the Government. Any new policy must receive wide consultation. The Bill guarantees that.
>
> Note: If the entire water available in the South-East was distributed evenly, this would provide, on average, only approximately 500 kilolitres per hectare, which is about one-tenth of what is required to irrigate lucerne or potatoes in the South-East. About 480 hectares land-holding would be required under this method to enable a land-holder to run a single centre pivot of 40 hectares.

I appreciate that in coming to that conclusion the author looked at the entire water available in the South-East and the whole of the land. I understand that the calculation does not take into account an estimate of existing water use. On the other hand, I also suspect that forest land and other non-irrigable land has not been excluded. I will be most interested to hear what the distribution might be, taking into account those two factors.

I appreciate also that water cannot be allocated evenly over the South-East because of two factors, including high demand in the immediate vicinity and also the fact that there are parts of the South-East where underground water is difficult to obtain. But I will say this: the response of land-holders when I have put to them that they would be entitled to run a centre pivot of 40 hectares if they owned 480 hectares has been well and positively received by both small and large landowners alike.

I have based the amendments I propose moving (and I will speak to them during the Committee stage) on a number of assurances given to me, both in writing and privately, by the Minister in relation to how he proposes to deal with the area in terms of management in the interim period between the passing of this legislation and the establishment of a catchment water management board. I understand that the Minister is generally supportive of the fact, subject to public consultation, that the South-East Water Conservation and Drainage Board is an appropriate management structure.

I now turn to the Groundwater (Border Agreement) Act 1985, and I mention this because a number of people are affected by this Act and have made complaints. In introducing that Act, the then Minister for Water Resources (the late Jack Slater) said that the purpose of the Bill was to approve and ratify an agreement made between the States of South Australia and Victoria which provided for a coordinated management strategy for the underground water resources in the vicinity of the Victorian and South Australian borders. During the course of his contribution Mr Slater said:

> For South Australia, the proposal will make available in the order of 137 000 megalitres per annum for agricultural, industrial and urban purposes in addition to the present use of 35 000 megalitres.

It is important for members to understand that this statement was made on 24 October 1985. Any person reading that would have felt that there was no great pressure on the water resource. The statements are not dissimilar to those now being made by the department, which is saying that there are currently 800 000 megalitres available in the unproclaimed area of the South-East of which only 250 000 is currently being used. It is those people who are intending to irrigate at some stage in the future who might feel well heartened by that figure. Indeed, the Hon. Peter Arnold, the then member for Chaffey, said:

> The amount of water available to South Australia will be 137 000 megalitres per annum. Utilisation at this stage is nowhere near that amount.

The then member for Mount Gambier (Hon. Harold Allison) made a significant contribution to the debate. He noted the fact that there was plenty of water available. However, he said:

> I express my displeasure regarding what I regard to be eccentric decisions taken by the EWS Department.

He then outlined three clear eccentric decisions taken by that department and, based on his explanation, I would have to support his description. It is interesting to note that, despite contributions from five Lower House members and two Upper House members, the question of an equitable allocation of water in that area was not raised at any stage. I suspect the reason for that is that all members felt that the issue of full allocation of water resources in that area would not arise for some time and did not merit immediate attention.

The first annual report to 30 June 1986 of the Border Groundwater Agreement Review Committee said that there was perhaps an under estimation of the available groundwater and revised the available groundwater upwards quite significantly. I advise members that I have only been able to obtain copies of the annual reports for the financial years ending 1986, 1988, 1994 and 1995. As such, I am unable to say when various areas were fully allocated. For members who do not understand this legislation or who are not familiar with it, it is important to understand that the area on both sides of the border is divided into 22 zones: 11 on either side of the border. I will not bore members with the figures relating to individual zones, but some things do concern me significantly. I will give members but one example.

In the 1994 annual report in zone 3A on the South Australian side it is stated that the permissible annual volume is 24 000 megalitres. The number of licensed extractions is 161. I do not know whether they are separate individuals or whether they relate to specific water licences. However, the licensed amount was 19 825 megalitres. One would assume that that meant that there were 5 000 megalitres available for distribution to landowners. Of interest, though, is when one looks at the following year's annual report (1995 annual report), the permissible annual volume is the same—24 000 megalitres for zone 3A. However, it had been fully allocated. Perhaps that is a reflection of the increased activity in terms of grape production in the Coonawarra region.

However, what astounds me is that, despite an increase of 4 000 megalitres, the number of licensed extractions exactly and precisely remains the same. One can clearly draw the conclusion that any additional water has been given to those already in the irrigation field to the exclusion of new players. If that is the case, then I find it reprehensible, inequitable, unfair and it warrants some degree of close questioning on the part of the Minister. In fact, despite an increase in licensed annual volume of some 20 000 megalitres, the number of licensed extractions remains exactly the same. Again, will the Minister explain why that has occurred and whether people who have applied for licences in areas where permissible annual volumes are not fully allocated have not been allowed to enter into the irrigation scheme?

I have received a number of submissions from various groups. I have received submissions from the Local Government Association, the South Eastern Water Conservation and Drainage Board, the South Australian Farmers Federation, the South-East Local Government Association and the Law Society. In relation to each of the submissions, I understand that they have all been addressed and seriously considered by the Minister and I will not go through all of them. However, I will draw members' attention to a couple of them.

First, Michael McCourt, the then Chair of the South Eastern Water Conservation and Drainage Board (who, I might add, is universally accepted as having done an excellent job in that capacity) said:

> The South Eastern Water Conservation and Drainage Board reiterates its concern that no consideration has been given to provisions of the South Eastern Water Conservation and Drainage Act. As a result, there are numerous conflicts between the South Eastern Water Conservation and Drainage Act and the proposed Water Resources Bill.

I must say that the Minister, I believe, has addressed some of the technical aspects in relation to those conflicts. However, he does point out that, given the Minister for Primary Industries is responsible for the South Eastern Water Conservation and Drainage Act and the Minister for the Environment and Natural Resources is responsible for the Water Resources Bill, conflicts, if not resolved, are a potential embarrassment to the Government of the day, whatever its political persuasion.

I agree wholeheartedly with that sentiment. I know the Minister has indicated that it is his intention, subject to public consultation, to appoint the drainage board, as I said earlier. However, I will be moving amendments to that Act to ensure that there is a majority of elected representatives on that board so that any management of the water in the South-East is driven by local interests. His submission also says that there will be duplication, and I agree. I will not labour the point, but it goes back to the simple issue that there ought to be a proper and integrated management system. We ought to, as he points out, look at soil conservation and native vegetation issues. It does not occur in this Bill and we all must be disappointed by that.

A further submission made to the Minister by the South-East Natural Resources Consultative Committee makes precisely the same point. It comprised key players in soil conservation boards, Animal and Plant Control Commission, water resources committees, the drainage board, Farmers Federation, local government, the South-East Economic Development Board, PISA, Mines and Energy and DENR. In that contribution they said:

The South-East Natural Resources Consultative Committee have indicated their concern at the undefined nature surrounding the allocation of uncommitted water. The proposed amendments do not adequately outline any specific procedure or method. The committee recommends all efforts be made to ensure these concepts are appropriately defined prior to the release of the draft Bill.

Unfortunately, that does not appear to have occurred and this failure has led to a not inconsiderable contribution in this place by myself.

A submission by the Farmers Federation also strongly suggests that the legislation should be addressed concurrently with soil, pest control and pastoral management legislation. The South-East Local Government Association in July 1996 said:

The provision of a Bill to cover for total natural resource management is favoured by member councils in preference to a Bill dealing with water resources only.

A lengthy submission was made and I will not go through it in detail other than to acknowledge that it comprised some 18 pages and was provided to the director on 29 July 1996. Last Thursday I received a submission from the Law Society. It dealt with a number of issues of a technical nature and, in that regard, I will be asking the Minister a series of questions arising from that submission. I understand that submission has been provided to all interested parties.

I have a series of questions directed to the Minister. Some do not need to be responded to for the purposes of the Committee stage because they are complex, but I raise those questions so the issues can be drawn to the Minister's attention. They are as follows:

1. Is there any mechanism in this Bill to ensure that relevant local government bodies are informed of any reduction in water licences or quotas, and what steps does the Minister say exist to ensure that land assessments are similarly reduced for the purpose of determining council and other property based rates?

2. What is the Bill's or the Government's intention in relation to the payment of compensation should there be a reduction in a water quota?

3. Is there any provision for a periodic review to determine whether or not a reduction in the water quota has had the desired effect and whether or not a quota should be reinstated?

4. Does the Minister agree with the assertion that the Bill's policy of protecting those who currently use water, or have plans to use water, might encourage wasteful use of water by people solely for the purpose of gaining a licence, and what steps does the Minister propose to protect the water resource in the light of that?

5. In relation to queries I have had that this Bill divests land-holders of their common law rights, will the Minister explain what the current provision is in so far as ownership of water is concerned and what common law rights are affected by this or past legislation?

6. Does the Minister agree with Mr Rymill's assertion that the allocation of water use licences in the border agreement area is based on a fallacy that water available in one part of a zone can or is available to land-holders in another part of a zone?

7. Will the Minister explain in brief terms how the New Zealand system of management differs from this Bill?

8. I refer the Minister to the issues raised concerning Mr Westley of Naracoorte who is a joint owner of land and who has constructed a man-made water catchment on his property. What does the Minister intend to do in relation to Mr Westley's property and will the Minister require him to obtain a licence? Does the Minister intend to declare that part of the State as surface water? What guarantees or assurances can the Minister give that Mr Westley's investment has been protected?

9. What reasons, if any, did Mr Tony Bishop, former Chair of the Upper South-East Water Resource Committee, give for his resignation?

10. What is the position concerning the development of factories or meatworks and other industries using undergroundwater? Will they have to apply for a licence? In relation to future developments, what liaison will occur between those who are responsible for allocating water and councils who ultimately determine development applications?

11. Does the Minister have any policy regarding avoiding windfall profits at the expense of other land-holders in relation to water allocations?

12. Is the Minister considering requiring a development application for irrigation purposes and any legislative amendments in relation to that issue?

13. What assurances can the Minister give that other land-holders in unproclaimed areas in the South-East do not suffer the same fate as Mr and Mrs Pridham and their son? How confident is the Minister, in so as far as the South-East is concerned, that all water will not be allocated within a short period of time following the promulgation of this legislation?

14. In so far as the proclaimed areas of the South-East are concerned, who have been the members of water resource committees since their establishment? Of those members, who have had water licences allocated to them? Will the Minister provide full details of all transactions pertaining to water licences held by persons who are or have been members of those relevant water resource committees?

15. Is the Minister able to advise how much water will be allocated to all land-holders in the unproclaimed area in the South-East, taking into account the urban and forest areas not having water allocations and also allocations to existing users? If he is able to, will he please do so?

16. Will the Minister explain when the 137 000 megalitres per annum in the Border Agreement was fully allocated in respect of each zone? Were land-holders advised of the state of water allocations throughout that period?

17. Who was responsible for the allocation of water within the groundwater border agreement area? Did that person or persons allocate water to themselves and, if so, what did they pay for it? Will the Minister advise whether any such person sold their water allocations and, if so, for how much and on what dates?

18. In relation to the Border Agreement 1994 Annual Report, why was the licensed amount of 19 825 megalitres increased to 24 000 megalitres? Who applied? Whose application was rejected? Who ultimately received those allocations?

19. Why does the Act compensate for some losses and not others; for example, a direction to move a dam but not to modify one (I refer to section 146(3)); an action of the board that results in stopping or reducing the flow of water in a watercourse or lake from which a person draws water but not an action that affects the flow from a well; or a loss suffered by a private individual but not by a council or controlling authority?

20. Why do the transition provisions allow arbitrary amendments to existing licenses by the adoption by the Minister of a 'management policy' as a water allocation plan? Which water resources committees currently have a management policy? Which management policies is the Minister

considering for adoption as a water allocation plan? In particular, is the Minister considering adopting the management plan for the Willunga Basin and, if so, would this have the effect of reducing the amount of water currently lawfully being used by a considerable number of licensees in the McLaren Vale area, such as almond and fruit growers, while increasing the amounts available to many users who do not currently use the proposed allocation, such as the number of grape growers?

I digress to say that I have a great deal of sympathy for the current policies adopted in Willunga, despite some submissions I have received. Further to question 20: if so, does the Minister agree that depriving existing users on a selective basis of the water needed to carry on their existing businesses is unfair and would not be possible under the existing Act? Is it not correct that the Bill would not give those whose water allocation was affected a right of appeal against the change to their licence?

21. Why does the Bill allow variation of licence, including water allocation, on a transfer?

22. Why has the limitation period for commencing proceedings for offences been extended beyond the usual two-year period to five years, as set out in clause 154(1)(b)?

As members would be aware, I have engaged in a long consultation process with the Minister. I acknowledge the assistance of his Chief of Staff, Scott Ashby, and also Megan Dyson of the Crown Solicitor's office. They have been most helpful. I do not pretend that the amendments I propose to file will address all my concerns. From a practical point of view, it is extremely difficult to address all the concerns. Certainly, many of my concerns should be taken into account by any catchment water management board and, in the case of the South-East, the South-Eastern Drainage Board in developing a management plan.

In addition, the Hon. Michael Elliott has moved some 10 pages of amendments. I apologise to the honourable member in that I have not had the chance to consider those amendments in detail. Some issues raised by him are similar to those that I have raised, and the Committee debate, I hope, will lead to the most appropriate resolution. The most significant amendments I move relate to clause 34. I will not go through them any detail, but I am very concerned that clause 34(2) provides that, unless a water allocation plan provides that water will be allocated without payment, all allocations obtained from the Minister must be sold by public auction or tender or by private contract.

I have enormous concern about a provision such as that. I say that in the context of the South-East. I say that in the context that much of the land value in the South-East is predicated on free access to underground water. In the minds of the land-holders in the South-East that water is theirs. Effectively in their minds this section enables the State to take property from landowners without appropriate compensation. It also indicates a policy direction that could obviate a catchment authority's duty to provide a fair plan. I also propose amendments to clause 77 concerning the appointment of bodies to act as catchment management boards to ensure that there is an appropriate level of parliamentary supervision.

I am also concerned that water plans effectively enable the Executive arm of Government to impose a tax on landowners. Whilst this sort of activity occurs every day of the week, it is very open-ended. I hope that by amending clause 95 I will allow a level of supervision by the Parliament of this process, which is effectively a tax. I know that in some quarters people seek to distinguish between a tax and a levy; however, to a person who is paying it, the distinction seems largely academic. It seems to me that there ought to be supervision and that supervision ought to be confined to the appropriate constitutional body, namely, the House of Assembly.

Therefore, I propose to give the Economic and Finance Committee the power to consider any levies raised under any water plan and give the House of Assembly, which is the appropriate body, power to disallow levies. One would imagine that that might occur only in extreme circumstances; however, it does protect an important principle that this Parliament and, in particular, the House of Assembly should not completely delegate its authority, in so as far as taxes are concerned, to the Executive arm of Government. I have also moved amendments to the South-Eastern Water Conservation and Drainage Act.

I accept that that Act is not part of this legislation. I understand that the Minister may be making some statement concerning changes to that Act and, depending on that announcement, I may not proceed with that amendment. I also point out that the responsibility for the South-Eastern Water Conservation and Drainage Act is not the province of the Minister for the Environment and Natural Resources but the Minister for Primary Industries. Until the last few days I fully intended to move an amendment to the effect that a parliamentary committee be established to investigate the administration of the Groundwater (Border Agreement) Act. However, the Minister has assured me that he has already implemented an inquiry and a review of the management of that legislation and, indeed, the whole of the legislation itself. He has indicated to me that he has spoken to his colleague in the Victorian Government, Mr McNamara, who has indicated his willingness to participate in that process. In the light of those assurances I have resolved from moving amendments to that Act. I await with a great deal of interest the result of that.

In closing, I advise that my concerns boil down to five or six factors. First, the consultation process appeared not to work. Concerns expressed to me did not seem to arise from the material put by the Minister. Indeed, it was only after the Bill was introduced into this place that there was some acknowledgment of those concerns. One would hope that in a Bill which establishes a consultation process lessons can be learnt from that. Secondly, the Bill is deficient in that it fails to address an integrated management process. I understand and acknowledge the difficulties that the Government may well have in meeting the Hilmer and the COAG timetables. It may well be that to have developed an integrated process would have meant that we were in breach of our obligations to the Federal Government. However, it is still disappointing.

Thirdly, my concerns relate to the Government's and successive Governments' failure in the past to supervise properly allocation policies which have a significant effect on ordinary land-holders, and to be more specific at an earlier stage in relation to the South-East on how allocation policies might be implemented. Fourthly, I have concerns about the absence of proper parliamentary supervision and the fact that there is appointed management in favour of elected management, management which affects the ordinary lives of ordinary people. In summary, I express my concerns about the Groundwater (Border Agreement) Act and I welcome the Minister's response. I am also concerned about the process that was adopted in leading to proclamation under the existing legislation. I look forward to the Committee stages of this Bill.

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

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

New clauses 2A and 2B.

The Hon. P. HOLLOWAY: I move:

Amendment of s.4—Interpretation

2A. Section 4 of the principal Act is amended by inserting after the definition of 'bribery' in subsection (1) the following definition:

'Committee' means the Electoral Commissioner Parliamentary Committee established in the schedule;.

Substitution of s. 5

2B. Section 5 of the principal Act is repealed and the following section is substituted:

Appointment of Electoral Commissioner and Deputy Electoral Commissioner

5. (1) There will be—

(a) an Electoral Commissioner; and

(b) a Deputy Electoral Commissioner.

(2) The Electoral Commissioner and Deputy Electoral Commissioner will each be appointed by the Governor on the recommendation of the Committee.

(3) The Governor must not make an appointment under this section unless the Committee's recommendation has been approved by resolution of both Houses of Parliament.

(4) Neither the Electoral Commissioner nor the Deputy Electoral Commissioner may, without the consent of the Minister, engage in any remunerative employment outside the functions and duties of their respective offices.

This amendment is the first part of a series of amendments which aim to establish a committee to appoint the Electoral Commissioner and his Deputy. As I indicated during my second reading contribution, I move this amendment to bring the position of Electoral Commissioner into line with what the Government has already established for the Ombudsman and in its election policy it also promised to establish this procedure for the Auditor-General. I understand that the Minister has circulated a number of amendments. I accept that they have the same thrust as my amendments, but there is a slightly different format. I indicate at this stage that I am happy to accept the amendments which will be moved by the Attorney. They substantially adopt the procedures which were in my amendments; however, as I am sure the Attorney will point out when he moves them shortly, they do appear to have some administrative advantages. I will not say much more at this stage, other than to indicate that we believe that the Electoral Commissioner has a very important role in our community. We believe it is appropriate that the Electoral Commissioner should be appointed by a Parliamentary committee rather than by the Government or the Cabinet of the day. We believe that this amendment will give recognition to that fact. Consequently, when this Bill leaves the Committee stages, we look forward to the adoption of the principles we have set out, in that the Electoral Commissioner will henceforth be appointed by a committee and that this committee will also have the function of providing some oversight of the Act so that if future changes are needed to the Electoral Act it will be done through the vehicle of a bipartisan or tripartisan committee.

The Hon. K.T. GRIFFIN: I apologise to the Committee for the lateness of the amendments which I have now circulated. I refer to my amendments and indicate the broad thrust of what we are trying to do. The Hon. Paul Holloway proposes an Electoral Commissioner Parliamentary Committee, and that is the reason for the amendment that he is now moving which I will oppose on the basis that it is superfluous if, generally, the Committee accepts my proposition. The Hon. Paul Holloway wants to establish the Electoral Commissioner Parliamentary Committee. That would be another parliamentary committee in addition to the Ombudsman Parliamentary Committee which we established last year to make a recommendation to the Governor for the appointment of the Ombudsman. This was as a result of Liberal Party policy at the last State election to ensure that statutory office holders identified in the policy, of which the first to be dealt with was the Ombudsman, should be more closely linked to Parliament. We do not resile from that in any way.

When I responded at the second reading stage to the Hon. Paul Holloway's observations about the Electoral Commissioner and the Liberal Party policy, I indicated that I would give further consideration to that issue. What we intended as a Government, which I indicated at the second reading stage, was that we would give the Ombudsman Parliamentary Committee an opportunity to work. It has not yet been appointed but I have tried to gee up things to ensure that it is appointed before we rise at Easter. We would like to give that an opportunity to see how everyone works together. It is important that, if we have a parliamentary committee, every member of the committee and every Party in the Parliament enter into the spirit of what is being proposed and is now law in relation to the Ombudsman to ensure that we do not play political games about the appointment of statutory officers.

It works in New Zealand in relation to the Ombudsman and it works in the provinces of Canada. I think that in Alberta and in one or two other provinces in Canada the Ombudsman is appointed. It is the Ombudsman which is the focus of legislation in other jurisdictions. We are broadening that to include the Electoral Commissioner, and I am currently having discussions with the Treasurer in relation to the Auditor-General, although I note that there is a private member's Bill on the Notice Paper in relation to that.

Our policy was to bring Parliament more into the appointment process and to give a greater measure of independence and some measure of accountability to the office, and to ensure that, on the day-to-day issues that are related to the functions of the Ombudsman and the Electoral Commissioner, a committee of Parliament will monitor and be a sounding board for the activities of the Ombudsman. If this provision is passed by Parliament, it will also include the Electoral Commissioner.

Obviously, the Electoral Commissioner will continue to be responsible for the Electoral Commission and the State Electoral Office. The Electoral Commissioner will continue to have a dual role: on the one hand as an independent statutory officer; but on the other in relation to the administration of an Act of Parliament committed to the Attorney-General and a department which ultimately is responsible to the Attorney-General. I do not think there will be any difficulty with that. The Electoral Commissioner has always been able to act independently and to communicate with all political Parties, and I do not think that anyone has been able to criticise any Electoral Commissioner for the way in which he has discharged the functions of his office.

I am proposing that, instead of yet another committee, we have one committee, the Statutory Officers Committee, that will have responsibility in relation to the Ombudsman and the Electoral Commissioner. As a result, we will have to reframe the Ombudsman Parliamentary Committee. Instead of accepting what the Hon. Paul Holloway is proposing, I

suggest that the Committee accept what I am proposing so that the one committee will perform responsibilities in relation to both offices and, one would expect at some time in the future, the Auditor-General. That is the framework. It is only for that reason that I suggest that the amendment moved by the Hon. Paul Holloway is no longer necessary because the amendment that I am proposing is to the Parliamentary Committees Act. If the Council accepts the proposal and the House of Assembly also accepts it, the Statutory Officers Committee will be found there.

The Hon. T. CROTHERS: Any decision of the committee that the Attorney-General's amendment proposes to enlarge to embrace the points that were raised by the Hon. Mr Holloway and the Hon. Mr Elliott, because it is a committee of Parliament, will ultimately come back to Parliament. It is Parliament that will have the final say in respect of any recommendation of that committee. Am I correct in saying that?

The Hon. K.T. GRIFFIN: That is not quite correct because it is the Governor who makes the appointment. An amendment that I will move later provides—and the honourable member will be forgiven for not having read it because it has only just been circulated—that the Governor may on a recommendation made by resolution of both Houses of Parliament appoint a person to be the Electoral Commissioner and a person to be the Deputy Electoral Commissioner. The appointment is made by the Governor. We will retain the basic provisions of the Constitution Act and those same provisions relate to the Ombudsman. The honourable member may remember that the Auditor-General is appointed by the Governor, but not presently on the recommendation of a resolution of both Houses of Parliament.

I envisage that the committee will act in a confidential way and, if there is a vacancy in the office of Electoral Commissioner, it will call applications, short list candidates, interview, and make a recommendation, but on the basis that it is an internal recommendation so that it will come as one recommendation, agreed by the Parties in Parliament, to both Houses of Parliament. It will then approved by both Houses and go to the Governor as a recommendation. That is out in the public arena, so we have to be fairly sure that the decision of the committee will be endorsed but, with representatives of the Parties on the committee, that is likely to follow as a matter of course.

The Hon. T. CROTHERS: The use of the word 'may' in respect of the Governor appears to give the Governor, in law, some discretion in the matter, so that the committee is not totally the fettering mechanism for the appointment. My concern is with the decision-making processes of the committee, which is a committee of Parliament. I am no Rhodes scholar or an Einstein, but when one looks at the mathematical formulation of such a committee, one could say that the Government of the day, in a numerical sense, would have the capacity to ensure that the committee was numerically weighted in its favour. Given that fact and the way in which the Attorney-General has done the algebraic formula for the composition of the committee, I again raise this point. The Attorney-General has answered me but not quite as directly as I would like.

I understand the question about confidentiality. When one talks to me about matters confidential, I am somewhat reminded of Johnson's remark to Boswell, when he said, 'Oh patriotism, what foul deeds are done in thy name.' I want to see the retention of all the best facets of our Westminster system of Government. I understand that the appointment may be made by the Governor on the recommendation of the committee, but at the end of the day, will any conclusion that that committee draws in respect of the matters that are before it, whether they be electoral matters or matters of the duties of the Ombudsman, come back to Parliament? I understand what the later amendment provides. Is that a finite proposition, that it will come back for ratification to the Parliament?

The Hon. K.T. GRIFFIN: If it relates to an appointment—and I presume that is what we are talking about—to fill the office of Electoral Commissioner, all I can say is that, if one looks at the functions of the committee, one sees that it is to inquire into, consider and report on a suitable person for appointment to an office, under an Act, vacancies in which are to be filled by appointment on the recommendation of both Houses. So, the committee makes a recommendation to the Parliament.

However, the point I am making is that, if we want people to apply and not have everything, warts and all, dragged through the public arena, it will be in the interests of the Parliament, and thus the Parties, to ensure that matters are dealt with confidentially and responsibly, and that, when a person is recommended to the House, which then becomes a matter of public knowledge, we will have to ensure that that is done responsibly. It will come to the Parliament, the Parliament will resolve and the Governor will then appoint.

The Hon. T. CROTHERS: I am assuming that if a committee came up with a single individual that individual would be approached by the spokesperson of the committee.

The Hon. K.T. GRIFFIN: It is a new process so far as we are concerned. We hope that we do not have to fill too many vacancies.

The Hon. T. CROTHERS: As long as the Parliament still has control of the committee.

The Hon. K.T. GRIFFIN: It is still in the control of the committee.

The Hon. M.J. ELLIOTT: It is pleasing to see that the Government is picking up the amendments—albeit in a further amended form—regarding appointments of the Electoral Commissioner and the Deputy Electoral Commissioner. I also note the comments made by the Attorney-General on the position of Auditor-General. Quite plainly, that is a position that really should be seen as an office of the Parliament which is chosen by the Parliament itself through a similar process. The Attorney-General has effectively confirmed that that is something which should happen in the near future. I also note that it was the Government's policy at the last election, and it is a very good policy, on which I would congratulate it. We will treat many of these amendments later as consequential.

I note that the committee will not only be involved with appointments but could also, on my reading, report on matters relating to performance and functions of that office, meaning that there is a little more work than simply the appointments themselves. I do not know exactly what the load would be. There has been some discussion lately about the proliferation of select committees but, that aside, there are quite a few standing committees of the Parliament as well.

If this committee is to have not only the responsibility for two officers—and potentially a third one—but also the performance of the officers themselves, there is some value in considering whether there is a place for having deputies on committees. I would not recommend that as a matter of course in a lot of other standing committees, but this may be a committee on which this could work. When one recognises the level of committee work that is going on at this stage, one

understands that this might be worth consideration. That does not need resolution now, but I pose that simply as a suggestion. I am pleased to see that the Government has picked up these amendments.

The Hon. P. HOLLOWAY: I seek leave to withdraw my amendment. As I indicated, we will be supporting the Attorney's amendments.

Leave granted; amendment withdrawn.

The Hon. K.T. GRIFFIN: In the light of the issue raised by the Hon. Michael Elliott, I respond by saying that I remain to be convinced of the desirability of having deputies. I would not expect the work of this committee to be particularly onerous, but there will be work to be done. For consistency of approach, it would be desirable to retain a fixed membership if at all possible rather than having different people attending for different purposes.

It may be that if a deputy attends a committee for the purpose of dealing with issues raised by the Auditor-General or by the Ombudsman the member will appear for another officer. It opens it up to a lot of criticism and the potential for inconsistency of approach. As I said, I remain to be persuaded of the desirability of that course of action.

The Hon. M.J. ELLIOTT: There is a question mark after it at this stage.

The Hon. K.T. GRIFFIN: I am just responding in answer to the question mark. I move:

New clause, page 1, after line 14—Insert:

Substitution of s. 5

2A. Section 5 of the principal Act is repealed and the following section is substituted:

Appointment of Electoral Commissioner and Deputy Electoral Commissioner

5. (1) The Governor may—

(a) on a recommendation made by resolution of both Houses of Parliament, appoint a person to be the Electoral Commissioner; and

(b) appoint a person to be the Deputy Electoral Commissioner.

(2) On a vacancy occurring in the office of Electoral Commissioner, the matter of inquiring into and reporting on a suitable person for appointment to the vacant office is referred by force of this subsection to the Statutory Officers Committee established under the Parliamentary Committees Act 1991.

(3) Neither the Electoral Commissioner nor the Deputy Electoral Commissioner may, without the consent of the Minister, engage in any remunerative employment outside the functions and duties of their respective offices.

Amendment carried; new clause inserted.

Clauses 3 to 8 passed.

Clause 9—'Substitution of section 53.'

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

Page 3, line 15—Leave out 'all of the'.

There was some question in the minds of several people who read the Bill as it stood as to whether the effect might be that a party would need to nominate all its candidates in a certain way and would not be able to nominate single candidates individually. I do not know whether this was the intention of the Bill. The deletion of the words 'all of the' does not take anything away from the Bill but certainly removes ambiguity that some felt was there.

The Hon. K.T. GRIFFIN: I did not think it was necessary but it certainly does not detract from the Bill. I never envisaged that it would be a requirement that all the nominations, without exception, should be lodged in this form. However, I am happy to accept the amendment.

The Hon. P. HOLLOWAY: I indicate that the Opposition accepts the amendment.

Amendment carried.

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

Page 3, line 19—Leave out '48' and insert '24'.

I have had discussions with a number of people who are involved in the practicalities of lodgement, and they had expressed concern about the 48 hours and argued that 24 hours was quite sufficient to carry out the job at hand. Electronic communications, and so on, mean that information can be moved very quickly and that 24 hours is sufficient; indeed, at that stage during an election campaign 48 hours becomes of nuisance value.

The Hon. K.T. GRIFFIN: I indicate opposition to the amendment. The Electoral Commissioner does not have to go behind the nomination, but he tells me that he would be silly not to. He actually checks every aspect of a nomination, and it goes out to returning officers for that to be done. If 47 candidates are nominated, plus the seven, eight or so candidates on the Legislative Council ticket, the Electoral Commissioner advises me that 48 hours gives a measure of comfort which 24 hours does not, particularly if some error is found in the nomination.

If, for example, it was 24 hours, an error was found and you could not find a candidate or something else was required from a political Party, and you ran out of time, there would be all hell to pay. That is why we felt that 48 hours was a preferable time frame to 24 hours. In the Federal legislation it is 48 hours and not 24 hours. There is a consistency in 48 hours. If you have 24 hours, it will always raise the question in the minds of Party officers, although it should not, 'What is the appropriate time frame?'

The Hon. P. HOLLOWAY: I am inclined to support the amendment moved by the Hon. Mike Elliott. We thought that 24 hours should have been sufficient, so we will support it at this stage. If it is necessary to reconsider it, I guess that we can look at it again. At this stage I indicate that we will support the amendment.

The Hon. K.T. GRIFFIN: I can indicate that it will come back because, in our view, in the hectic pressure of an election campaign, checking nominations is not the only responsibility of the Electoral Commission or returning officers. I do not want to see anything go wrong with a new system. I strongly urge members to carefully consider the practical consequences of 24 hours. If it is lodged at midday today, there are 24 hours before nominations close, I just do not think that is adequate or reasonable in the circumstances. I can indicate that it will come back.

Amendment carried.

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

Page 4, after line 19—Insert new subclause—

(10) A person who is endorsed by a registered political Party as a candidate for election but is not nominated under subsection (1) may be nominated as a single candidate for election under section 53A.

This amendment tackles the same issue as my first amendment and clarifies the fact that single candidates separately may be nominated under section 53A whilst most candidates for a Party might be nominated under section 53.

The Hon. K.T. GRIFFIN: I do not think it is necessary, but I will not oppose it.

Amendment carried; clause as amended passed.

Clauses 10 to 14 passed.

Clause 15—'Compulsory voting.'

The Hon. M.J. ELLIOTT: I oppose this clause, which I do not believe is necessary. As I understand it, a substantial number of people who do not vote already are not prosecuted, and for good reason. I do not think that inserting 'public interest'—whatever that means—in these circumstances takes

us anywhere other than increasing the likelihood that people will not be prosecuted, and that is just a further step along the line, as I see it, towards voluntary voting, which our Party has vigorously opposed.

The Hon. K.T. GRIFFIN: I know that the Hon. Michael Elliott and others believe that there is something sinister in the shadows, but I suggest that he is starting at shadows and without any real justification. I indicated at the second reading stage that it is appropriate, because of distance or some other reason, having gone through the 'please explain' process with no adequate reason having been given, that the Electoral Commissioner should be able to exercise a discretion not to prosecute. It is as simple as that. He still will have a common law responsibility in relation to prosecutions. He cannot thumb his nose at the law, but he can exercise a discretion.

The exercise of a discretion is something which the Electoral Commissioner, as an independent statutory office holder, could be expected to undertake with a degree of responsibility, if not complete responsibility. I think it is unwise for this clause to be opposed, because I think it is an important part of the discretions which the Electoral Commissioner already can exercise. He can determine whether or not he will take action in relation to other prosecutions in terms of a case to answer.

It may be obvious in this case—it usually is—that a person has not given a sufficient reason or has not responded to a 'please explain' as to why he or she did not vote. However, it may be that in those circumstances it is still unwise to prosecute because the person is in the middle of the bush, or for some other reason it is inappropriate to prosecute. I ask the Committee not to start at shadows and really to look at this as a power being exercised by an independent statutory office holder.

The Hon. P. HOLLOWAY: The Opposition also will oppose this clause. In answer to what the Attorney has just said, I believe that the Electoral Commissioner already has a significant amount of discretion under section 85 of the Electoral Act which covers compulsory voting. Subsection (8) provides:

An elector has a valid and sufficient reason for failing to vote at an election if—

(a) the elector was ineligible to vote at the election;
(b) the elector was absent from the State on polling day;
(c) the elector had a conscientious objection based on religious grounds to voting at the election; or
(d) there is some other proper reason for the elector's failure to vote.

The Hon. K.T. GRIFFIN: Reason not to vote—that is the issue. If you cannot satisfy any of those, then prosecution is the next step.

The Hon. P. HOLLOWAY: If an elector does not have a proper reason for not voting, I think they ought to be prosecuted. That is the Opposition's position, and we intend to stick to that. It is quite clear that there are within the Act grounds under which people can provide excuses. I guess every case is different, and I am sure that the Electoral Commissioner has a difficult job in determining those. However, we believe that there is sufficient discretion already. If we go ahead with this amendment to the Act and provide full discretion on the grounds as provided in this Bill, we could get a situation where we effectively get voluntary voting.

The amendment refers to 'public interest'. What is in the public interest? We know that the Electoral Commissioner is an independent officer and, as the Attorney pointed out in his second reading speech, that he will exercise his responsibilities under the Act, including whether or not a prosecution should be launched. But the Commissioner is nevertheless subject to the financial constraints of the Government of the day. He must operate his office within a budget, and I am sure that it is a very tight budget at the moment.

Given that the financial return from the prosecution of people for failure to vote is not high, particularly since the Government has kept the fine particularly low (it has not indexed it in line with other fees), who is to say that that is not interpreted as being in the public interest not to prosecute anybody? We believe that the Act is sufficient as it stands. After all, it has worked in the past, so why do we need to change it? For that reason the Opposition will oppose this clause.

The Hon. M.J. ELLIOTT: I echo the sentiments of the Hon. Paul Holloway. I, too, was going to make the point that there is already a discretion, I believe, in subsection (8)(d). That discretion is as much as one would give so long as one believed in the concept of compulsory voting.

The Hon. T. CROTHERS: I support the remarks made by the Hon. Mr Elliott and the Hon. Paul Holloway. It has been my experience as someone who has been close up to matters legal over a number of years that, where something is duplicated in an Act, it paves the way for it to be a Caribbean legal fiesta, if you like, in respect of whether or not the court should have charge of any particular Act of the Parliament in respect of trying to elucidate a legal opinion on it. The fourth point which was alluded to by my colleague the Hon. Paul Holloway concerns the fact that this provision is already catered for elsewhere. The fourth provision is as wide as we need it because, whilst it sets out three criteria which are specific, it then goes to the generalities of the matter in point four of the criteria which simply say that it is at the electoral officer's discretion—any other matter.

We cannot get it much more general than that. As I said—and it bears repeating—where an Act of this Parliament repeats itself or has two sections that can have a differentiation of interpretation, then it is best left to having a single section of the Act deal with what the Parliament's intentions are in respect of the way in which Parliamentary draftspeople have embraced the intentions of Parliament in the wordings of the Act. To have a second provision—and I know the Attorney said we must not look at shadows—conjures up the old phantom or two regarding why it needs to be there in the first place, the second or even the third place. Why do we need to reinforce something that is already in the present Act? As I have said, the fourth criterion laid down in the present Act is a 'John amend all' provision which confers the absolute discretion that is required on the electoral officer of the day, in this case Mr Andrew Becker, whom I have met on other occasions. I wonder why the Attorney would even think of saying that we are jumping in shadows. What are we to think when what we are seeing is almost a mirror image of that which is already contained in the Act?

The Hon. K.T. GRIFFIN: I do not want to unnecessarily prolong the debate, but I come back to the point I made. Sure, there are a variety of reasons for which a person does not vote specified in the Act but, if none of the reasons are satisfied, the Electoral Commissioner prosecutes and there may still be good reasons why he should not prosecute but they are not covered by the provisions of the Act. That is the reason for the discretion.

The Committee divided on the clause:

AYES (9)

Davis, L. H. Griffin, K. T. (teller)

AYES (cont.)

Irwin, J. C.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Pfitzner, B. S. L.	Schaefer, C. V.
Stefani, J. F.	

NOES (10)

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

PAIRS

Redford, A. J.	Cameron, T. G.

Majority of 1 for the Noes.

Clause thus negatived.

Clause 16—'Preliminary scrutiny.'

The Hon. P. HOLLOWAY: I move:

Page 7, lines 24 to 28—Leave out all words in the clause after 'amended' in line 24 and insert:

(a) by striking out subparagraph (ia) of subsection (1)(a);

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

(1a) However, if a ballot paper for a House of Assembly election and a ballot paper for a Legislative Council election are contained in the same envelope, and the ballot paper for the Legislative Council election is to be accepted for further scrutiny but not the ballot paper for the House of Assembly election, the returning officer must—

(a) withdraw the ballot paper for the Legislative Council election from the envelope, and without unfolding it or allowing any other person to do so, place it in the locked and sealed ballot box reserved for declaration ballot papers accepted for further scrutiny; and

(b) note on the envelope that the ballot paper for the Legislative Council election has been accepted for further scrutiny; and

(c) place the envelope still containing the disallowed ballot paper for the House of Assembly election with the other envelopes containing disallowed declaration ballot papers.

Clause 16 amends section 91 of the Act which relates to preliminary scrutiny. Under the current Electoral Act, the eligibility of a declaration vote is determined by the Returning Officer's being satisfied that the name and address appearing on the envelope containing the ballot paper is the same as the person's address listed on the electoral roll. That is a very restrictive provision. The Government's amendment attempts to relax that provision so that if someone is eligible to vote within a particular electorate they should have their vote recorded whether or not their present address is the same as that listed on the electoral roll.

The Opposition supports that because it is in line with the Commonwealth Electoral Act and with commonsense. However, we believe that the wording of the amendment provides a problem. In practical terms, in assessing a ballot paper the Returning Officer will look at the outside of an envelope. Section 91 of the Act provides that the Returning Officer, when in receipt of a declaration ballot paper, must be satisfied that the person is entitled to vote at the election. The Returning Officer will, of course, be looking at the qualification of the elector to vote in a Lower House seat. If a person has moved address, so that they are no longer within the same electorate, then that person would no longer be eligible to vote for that House of Assembly seat. However, if the person is still living within the State, he or she should be able to vote for the Legislative Council; his or her vote should still count.

We believe it was the intention of this amendment of section 91 that that should be the case; however, the Returning Officer, who must examine a voter's eligibility on the basis of an envelope, might be faced with the problem of discarding a House of Assembly vote but retaining a Legislative Council vote. My amendment sets out a clear procedure whereby a Legislative Council vote is retained even though a House of Assembly vote must be rejected because the person is not eligible to vote within the electorate. I hope that explanation is clear; it is a rather complex area. The thrust of my amendment is in line with the Commonwealth Electoral Act where votes for the Senate are counted and brought into scrutiny even if votes for the House of Representatives must be discarded through ineligibility.

The Hon. K.T. GRIFFIN: Because we have only just received the honourable member's amendment this afternoon and it involves some technical issues it is difficult to identify which is the proper course to follow. My present advice is that the provision in the Bill is required whether or not the Hon. Paul Holloway's amendment in relation to subparagraph (ia) is carried, because that is the authority for taking a step. I would suggest—and I undertake to get this issue finalised in the House of Assembly—that we leave in clause 16 as it stands and that we add the Hon. Paul Holloway's paragraph (b) so that it is kept as a live issue. I will undertake to have it examined properly with a little more time on our hands before the matter is finally resolved in the Legislative Council.

The Hon. P. HOLLOWAY: I can understand the Attorney's reaction to the amendment because that was exactly the question I asked Parliamentary Counsel. I was informed that the reason for striking out that paragraph was to remove all qualifications as to a voter's address. The present procedures are, I am told, sufficient to achieve the objective. However, I accept that it is a very complicated matter and, in the circumstances, I am happy to agree to the course of action proposed by the Attorney. I believe it is important that we resolve this issue because it is important and may affect the eligibility of some thousands of votes.

The Hon. K.T. GRIFFIN: I suggest that the proper course then is for the honourable member to withdraw his amendment designated paragraph (a) and proceed only with paragraph (b). I will undertake to have the issue further examined. I will support paragraph (b) for the moment. I will undertake to have it examined, but some important issues need to be resolved and I think we can resolve them without too many problems.

The Hon. P. HOLLOWAY: I therefore seek leave to withdraw paragraph (a) of my amendment.

Leave granted.

The Hon. T. CROTHERS: I believe that is a very prudent and wise course proffered by the Attorney and his advisers. It seems to me that if that course is not followed then an elector, so disenfranchised, would have redress through the State's courts. That is, an elector changes residence and therefore their Lower House vote is struck out but the criteria with respect to enfranchisement is somewhat different for the electorate in respect of their voting rights in the Upper House. This course seems to me very prudent, and might save us all some heartburn legalistically, if an elector found out that he or she was disenfranchised in that manner and then subsequently decided to challenge the issue in the courts.

The Hon. M.J. ELLIOTT: I indicate sympathy for the amendment moved by the Hon. Paul Holloway. I am not sure whether there might be a slight technical flaw with the way that some of this works but I agree absolutely with the

sentiment.

The Hon. K.T. GRIFFIN: We have sorted it out. I will move it in this form, and I undertake to give it further consideration.

Amendment carried; clause as amended passed.

Clause 17—'Bribery.'

The Hon. R.D. LAWSON: This clause amends section 109 of the principal Act in relation to bribery. The existing provision in the Act provides that a person who offers or solicits an electoral bribe shall be guilty of an indictable offence. The section goes on to provide that 'bribe' does not include a declaration of public policy or a promise of public action. I will not call it a 'definition', but that exclusion from the concept of bribery has been omitted in the Bill. Is there a reason for that?

The Hon. K.T. GRIFFIN: We are only amending subsection (1). The penalties have been increased to seven years to be consistent with the public offence provisions of the Criminal Law Consolidation Act.

Clause passed.

Clause 18 passed.

Clause 19—'Substitution of ss. 112 and 113.'

The Hon. P. HOLLOWAY: I move:

Page 9, lines 1 to 15—Leave out these lines.

As I outlined in my second reading contribution, the Opposition intends to oppose these new sections to the misleading advertising provisions. In essence, the new sections allow the Electoral Commissioner to take out an injunction against election material that is deemed to be misleading. The dilemma with this is that the whole provision could become something of a lawyers' feast. We believe that the nature of political advertising is fundamentally different from other sorts of advertising. After all, political Parties are offering themselves for Government for four years into the future. The truth of the promises that those Parties make is not easily tested during an election campaign. We could well recount hundreds of broken promises that have been made by this Government and, I must say, other Governments of all persuasions in the past.

We believe that it is very difficult to apply the tests that one might have for advertising a car or some other consumer products to election material. It is our view that this measure will not be particularly helpful. We may see tens of thousands of dollars diverted into lawyers' pockets as they haggle over legal definitions. We believe that the electorate is ultimately capable of judging whether political advertising is misleading. However, let me indicate at this stage that the Opposition will live with whatever outcome we reach. If this measure succeeds, we will comply with it; however, I hope that it does not add to greater costs at elections as they are already reaching extremely high levels and are almost a threat to democracy itself. It would be must unfortunate if we were to add another measure which could become a bottomless pit for lawyers and into which funds could pour without any commensurate benefit to the public. Our fear is that this measure will not necessarily provide any benefit to the public but that it could be extremely costly to the political process. With those few comments I indicate that we oppose the measure.

The Hon. M.J. ELLIOTT: I indicate the Democrats' support for this clause, and we will not support the amendment.

The Hon. K.T. GRIFFIN: It is important to recognise that it will not be a lawyers' feast: it is only the Electoral Commissioner who has this responsibility. I am as sensitive as anyone to the sorts of issues that can arise during an election campaign. I agree that we ought as much as possible to keep the courts out of the election period, because they will have a different approach to the issues from those who might be involved in the cut and thrust of a hectic political campaign. On the other hand, the Electoral Commissioner is being given the authority to take action, and it has to go to the Supreme Court, which has to be satisfied beyond reasonable doubt. The burden of proof is not the civil burden of proof: it is the criminal burden. We have sought to relate that to the criminal provisions—the provisions which will presumably take effect after an election where there has been an offence. It is not a matter of proving on the balance of probabilities that this has occurred: it is a matter of proving it beyond reasonable doubt. That is a much higher hurdle to overcome. It is really reserved for the extreme cases. I suggest that, in the light of our experiences with electioneering, the provisions in the Bill are not unreasonable.

The Hon. T. CROTHERS: In his contribution the Hon. Paul Holloway said that the costs and associated costs of elections are a threat to the processes of democracy itself. At first blush the Attorney-General's answer seems to be reasonable, commonsense and pragmatic, because he said this provision relates to the electoral officer of the State of the day, whomever he or she may be. As a citizen of this State, one problem I might have with that is that the electoral officer's reaction may well and on most occasions be triggered by a complaint lodged with him or his office in respect of the matters which this clause encompasses. The Electoral Commissioner can act in a unilateral fashion, or his actions can be driven by complaints lodged by individual electors of the State of South Australia.

I know it is stretching a long bow, but we have only to look at what is held up from time to time as the doyen of democracies—the United States—by members on the Government benches to see what shape and form elections and their processes can assume when money and vested interests are at stake. Of course, the problem I have with the Attorney's answer is that, although the electoral officer of the State has the power to initiate the action, what happens if he or she also reacts to complaints lodged? The mind boggles. One could have a number of people lodging a number of complaints designed to force the Government and its political opponents to expend money in defending those actions. This could be money that they seek to spend on not only the current election but on future elections.

That is the problem I have with this. It is subject to some abuse and, I guess, that abuse can flow right through the system. For that reason I am surprised that the Democrats support the Attorney-General's position, because I would have thought that the Party most open to that type of abuse would be the smaller political Party or, indeed, the individual who seeks to put his or her hat in the electoral ring. I would be interested to hear the Attorney's comments because, if a whole plethora of people put in complaints about an abuse of media or air time, the people who have been complained about might well be constrained to defend that position. Given the time constraints that occur within elections, there might not be the time for any individual or Party to mount a proper defence.

The Hon. K.T. GRIFFIN: With respect, I do not agree with the honourable member. If one looks at the substance of the provisions that are objected to by the Hon. Paul Holloway, one finds that they relate to the power of the Electoral Commissioner. Anyone can complain at any time

to the Electoral Commissioner because there is power for the Electoral Commissioner to prosecute after the event, and the complaints will keep rolling in whether or not subsections (4) and (5) of proposed section 113 are in the legislation. The fact that they are included in the Bill gives authority to the Electoral Commissioner only, not any citizen at large, who has to be satisfied that an electoral advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent.

Before it gets to court, the Electoral Commissioner can make a request to the *Advertiser* to withdraw the advertisement, to publish a retraction or, if it is appropriate, to issue proceedings for an injunction. The Supreme Court must be satisfied beyond reasonable doubt. It is a big hurdle, and I do not think that although there might be a temptation to use the provision in the heat of an election campaign there will be many, if any, applications by the Electoral Commissioner.

Amendment negatived; clause passed.

Clauses 20 and 21 passed.

[Sitting suspended from 6 to 7.45 p.m.]

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

A quorum having been formed:

New clause 21A—'Prohibition of canvassing near polling booths.'

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

Page 10, after line 12—Insert new clause as follows:

21A. Section 125 of the principal Act is amended by striking out from subsection (1) '6 metres, or such lesser distance as may be fixed in a particular case by the presiding officer,' and substituting '200 metres'.

I flagged this amendment during the second reading stage. The Democrats have a long-term view that the handing out of how to vote cards on polling day no longer serves any practical purpose. Cards are displayed in booths and are available for voters, as they should be. The waste of the physical resources of the paper, the harassment of voters and so on cannot be justified in terms of doing anything about the quality of the voting process. I made the comment that unilaterally no one Party will stop handing out how to vote cards, so it really will take a collective decision of this Parliament. It is a question not of if it will happen but when.

The Hon. K.T. GRIFFIN: The Government opposes the amendment. I suppose there is a measure of self interest shown by the Hon. Michael Elliott, because there probably are not enough Democrats to attend the polling booths to hand out how-to-vote cards. The fact is that it is part of the election environment. All the polling indicates that some people still go into a polling booth not having made up their mind. Whilst there is something stuck up in front of you telling you how you may vote if you want to vote for a particular Party, many people still rely on the how-to-vote card—whether they take it on the day or beforehand, but mostly when they take it on the day. From the Liberal Party's point of view and the Government's perspective, we oppose the amendment. We think it is an important part of the electoral scene that ought to be retained.

The Hon. P. HOLLOWAY: The Opposition also opposes the amendment. There has been a long democratic tradition in this country that how-to-vote cards should be handed out on polling day. You can argue the merits of that but, nonetheless, it is up to the voters when they get into the polling booth how they choose to vote. Handing out how-to-vote cards is one way of helping voters to be fully informed about which way they want to vote.

We are unusual in this State in that how-to-vote cards are displayed in the polling booth. One amendment to be addressed in this Bill is that, because there are so many candidates, particularly for the Legislative Council, it is often hard to find the how-to-vote card. Indeed, we have to amend the Electoral Act to make the cards smaller so that they fit in the space provided within a polling booth. That is one of the problems that, unfortunately, was probably not foreseen when the change was originally made to the Electoral Act to allow how-to-vote cards to be displayed in booths. Nonetheless, we believe that the tradition should continue. If any Party believes that people do not need how-to-vote cards, they could stop handing them out and see what happens. We oppose the amendment.

The Hon. M.J. ELLIOTT: I noticed the flippant comment of the Attorney-General. I must say that, as the only Party with a growing membership, we are not having problems covering booths other than in the more remote country areas. In fact, there are some country areas where we have covered booths that the Liberal Party has not. We do not see that as a significant problem. In fact, like some of the other Parties, sometimes it is one way of mobilising people and getting them involved. Also, I am aware that returning officers sometimes have a difficulty trying to account for all the polling papers. Occasionally a voter will throw the polling paper in the bin with the how-to-vote cards. You will see returning officers or polling officers outside the booth: they go through the bins not just inside the booth but also outside, sorting their way through because they cannot find a couple of ballot papers and they are supposed to account for all of them. I assure members that it is a significant problem for polling officers going through bin after bin of this waste paper trying to find in among it the stray ballot paper.

I do not know whether the Attorney has taken any advice from the Electoral Office on this matter, but it is a real and significant problem for returning officers. The argument that it is part of our tradition, and so on, is a nonsense argument. The fact is that, as I said, the how-to-vote cards are displayed in the booths and voters, generally speaking, are not necessarily aware of that, so they tend to wander in with this handful of cards (which has been stuffed in their hands) trying to sort their way through them, and then lay the cards out in front of them without ever lifting their eyes to see that everything is displayed before them. If voters were made aware that the information was on display, they would not need the other cards to be placed in their hand.

The Hon. T. CROTHERS: I support the Hon. Paul Holloway and the Attorney in their opposition to this amendment. If someone is standing 200 metres, away that will raise all sorts of other problems that the mover is endeavouring to resolve. For example, one that immediately springs to my mind is the question of the mixed booth, that is, a booth where voters from adjacent seats can vote. It is difficult enough at times when you are standing outside at the requisite distance and people approach you asking for explanations. They see that you have a Liberal Party badge, a Democrat badge or a Labor Party badge in your lapel, and they ask you for advice on what they are supposed to do. As long as you do not tell them how to vote, I guess you can tell them what the booth is for.

The other point about the 200 metres provision is that it might well be in the wrong Bill. I know that Australia is trying very hard through its Sports Institutes in respect of the

oncoming Sydney Olympics in the year 2000. Were this amendment to be carried, we might well increase the chances of Australia's carrying off a sprint medal in the 200 metres. However, apart from that I cannot think of any other useful purpose that it might serve in respect of having it inserted in place of what is the current regulation relative to the matter.

The Hon. K.T. GRIFFIN: There are occasions when polling officers will need to go through the rubbish bins if there is a ballot paper missing, but the Electoral Commissioner informs me that it is not a big issue. If we are to change the law to stop people handing out cards so that we stop the polling officers from having to go through rubbish bins—

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: Well, that was the tenor of what the honourable member was saying—I do not think that is a particularly effective way of legislating. I talked about tradition; it is part of the colour of the election process, and it is a useful one for electors. The research indicates that a substantial percentage of people still have not made up their mind when they get into the polling booth and they make it up as they are marking their ballot paper. A number of those undoubtedly will find some use in the how-to-vote cards that they have. I know it is up in front of them, but people sometimes prefer to have it next to their ballot paper rather than up in front of them on the screen.

The Hon. T.G. Roberts: Some of them find a use for them when they go home.

The Hon. K.T. GRIFFIN: Some of them find a use for them when they go home. I always know which way I will vote, so I have only one. The fact is that it is of benefit to electors and, whilst members of all political Parties from time to time say, 'Let us get rid of how-to-vote cards at polling booths', I think everyone finally recognises that there is some benefit from it and not just a fear that someone will gain an advantage if it is given up.

New clause negatived.

Clause 22—Prohibition of advocacy of forms of voting inconsistent with Act.'

The Hon. P. HOLLOWAY: I move:

Page 10, lines 16 to 18—Leaves out these lines and insert:

(1) A person must not publicly advocate—

(a) that a person who is entitled to vote at an election should abstain from voting at the election; or

(b) that a voter should mark a ballot paper otherwise than in the manner set out in section 76(1) or (2); or

(c) that a voter should refrain from marking a ballot paper issued to the voter for the purpose of voting.

Maximum penalty: $2 500.

This amendment restores the provision to that which exists presently in the Act, with the one change that the penalty would be indexed in line with other penalties. I have moved this amendment because the Government has removed one of the provisions which says that a person must not publicly advocate that a person who is entitled to vote at an election should abstain from voting at the election. We believe that offence should remain and that it should attract a substantial penalty. The Attorney's explanation during the second reading debate was that that section could be deleted as it was unnecessary because it was covered under section 267 of the Criminal Law Consolidation Act. Under that Act the penalty for a breach of this provision is the same as that for the principal offence.

In relation to not voting, the principal offence is a $10 expiation fine or a $50 fee. Someone could advocate that people break the law by not voting at an election and, if the amendment is carried, they will incur a minor penalty for doing so. We believe that the provision should remain as it was in the original Act.

The Hon. M.J. ELLIOTT: While we have had debates about voluntary and compulsory voting in the past, the Democrats have always made it quite plain that we support compulsory attendance at the polls and not necessarily compulsory voting. On my reading of it, the Government in its amendments has now made it possible for a person to get marked off the roll but not support any candidate because they do not want to do so. It is outrageous that a person could be fined for campaigning against all the candidates. It is valid for a person to attend the poll and not vote. On my understanding of the effect of what the Government is doing, I will not support the Hon. Paul Holloway's amendment.

The Hon. K.T. GRIFFIN: The origins of the Government's amendment are the Muldowney and Langer cases in the High Court. There were two cases, I think last year, where the High Court decided that it was legal to do what the Hon. Paul Holloway wants to do and what is in the present Act. However, it raised the philosophical question about why the law should make it an offence to advocate to do something which is legal. In those circumstances, I and the Government thought about it and we concluded that, certainly in relation to paragraph (c) of the amendment, because there is already a provision under section 61(2) which provides that each ballot paper must contain a clearly legible statement that 'You are not legally obliged to mark the ballot paper,' we did not think it was appropriate to retain in the law an offence which made it an offence to advocate something which other provisions in the Act allow. That is the essence of it.

As to paragraph (a), as I have already indicated, the Criminal Law Consolidation Act covers the aiding, abetting and encouraging the commission of offences, and I would suggest that that Act is right—that the penalty for encouraging an offence should be the same as for the substantive offence. That is really the essence of it. We have taken a view that the issues relating to how you mark your ballot paper, that is, preferential style, should remain, but the other two paragraphs in the present Act are irrelevant.

The Hon. P. HOLLOWAY: Paragraph (c) of my amendment, which goes part towards restoring the provision as it presently exists within the Act, is somewhat less important. We are not really concerned with that. The Opposition is more concerned with restoring paragraph (a), that is, to increase the penalty for an offence against the provision that a person must not publicly advocate that a person who is entitled to vote at an election should abstain from voting at the election. We believe that, if this paragraph is deleted, even though that will remain an offence, the penalty will be very minor. One could envisage a situation where certain people associated with the Liberal Party—which we know is opposed to compulsory voting—could advocate that people not vote at an election knowing that only a minor fine was involved.

We believe that the fines should remain, and that is what this issue is about. The Opposition moves the amendment to ensure that the penalty remains substantial as it has been in the past. We would not have any particular concern if paragraph (c) was deleted, but we believe that paragraph (a) should remain.

The Hon. K.T. GRIFFIN: It really flies in the face of precedent and reason to propose a major fine for someone advocating something that attracts a much lower penalty if a person actually does it. The fact is that if any political Party, or any member of a political Party, advocated abstention from

voting knowing that it was an offence to do that, and that by advocating that someone should abstain from voting another citizen may well be attracted to the proposition and thereby incur a penalty, which is a $50 fine or a $20 expiation fee, it would be the height of irresponsibility. It does not matter whether the fine is $50, $500 or $5 000, the fact is that it is a criminal offence.

For every other area of the criminal law, if you aid and abet and encourage the commission of an offence, what you get for that, if you are convicted, is a penalty no greater than the penalty for the offence in respect of which you have aided, abetted and encouraged commission. That seems to me to be proper in principle. It still remains an offence under the amendments that have been passed. We have not sought to remove the penalty for compulsory voting in the context of this Bill: we have tried on other occasions, but the penalty remains. Aiding and abetting and encouraging the commission of an offence remains a criminal offence, and that is the proper relationship between the two.

The Hon. P. HOLLOWAY: An offence under this provision of the Bill that the Government is putting forward incurs a substantial fine, namely, a $2 500 maximum penalty for a person publicly advocating that a voter should mark a ballot paper otherwise than in the manner set out in the legislation. We all know about the Langer case and what happened in Commonwealth law, and the problems that could arise. However, I would suggest that, if it is good enough to have a maximum penalty of $2 500 for advocating that someone should mark their ballot paper otherwise than in the manner set out in the Act, a fine is also necessary for someone advocating that a person who is entitled to vote not do so. If you compare those two offences, you find they are of a similar nature and therefore should incur a similar penalty.

The Hon. K.T. GRIFFIN: The honourable member misses the point: the law requires that you mark the ballot paper in preferential style. It is not an offence if you do not, because the ballot paper is marked that you are not legally obliged to mark the ballot paper. However, the essence of our system—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: That was put in at the request of the Hon. Ian Gilfillan when the Act was last before the Parliament in 1985. He wanted to make sure that there was a clear indication that you were not compelled to vote: you were compelled to attend at the polling booth. We have had this argument about what the law requires you to do, but the fact of the matter is that you do not have to fill out the ballot paper, and it is marked that you are not legally obliged to mark the ballot paper. However, if you do mark the ballot paper, you should mark it '1, 2, 3, 4', in order of preference.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: That is right. I am not arguing with that. And it is not an offence not to mark it. However, the point that the Hon. Mr Holloway is making, as I understand it, is that, because we are providing that you should not publicly advocate that a voter should mark a ballot paper otherwise than in the manner set out in section 76, that is, in preferential style, that you cannot go out into the public arena and say, 'Vote just 1' but that you have to say, 'Vote 1, 2, 3, 4', then it is not an offence to do anything other than to publicly advocate that method of voting.

The Hon. T.G. Cameron: Would it be an offence to advocate, 'Vote 1 Fred Bloggs'?

The Hon. K.T. GRIFFIN: I will reflect upon that for a moment. There is a question mark about whether you can say, 'Vote Joe Bloggs 1.' Probably that is not a problem. However, if you say, 'You do not have to vote for any other candidates but Bloggs 1', or—

The Hon. T.G. Cameron: What happens if you advocate, 'Vote 1 Fred Bloggs'?

The Hon. K.T. GRIFFIN: What I am saying is—

The Hon. T.G. Cameron: It sounds, from what you are saying, that you are in breach of the Act.

The Hon. K.T. GRIFFIN: No. What I am saying—

The Hon. T.G. Cameron: You are stepping back from that now?

The Hon. K.T. GRIFFIN: Yes, I am stepping back. And I am suggesting that that is not the issue: the issue is if you say, 'You do not have to mark the ballot paper otherwise than putting a '1'.' This came in in 1985, I believe, when there was a big debate about preferential voting and optional preferential voting. The agreement of the Parliament was that in some circumstances you can count a valid vote, as I recollect it. This was to complement the voting ticket because, if you lodge a voting ticket with a full elaboration of your preferences and someone marks the ballot paper '1', then that is a valid vote, if the person whose name is identified as getting the No 1 has lodged a voting ticket. The big argument was then about optional preferential voting, about advocacy of anything other than the full preferential voting, and this was part of the arrangement at the time that all Parties, as I recollect, agreed to as an appropriate compromise. So, what I am saying in answer to the Hon. Mr Holloway is that there is a different rationale for paragraph (b) in respect of which there is not another offence to which it relates from that for paragraph (a).

The Hon. M.J. ELLIOTT: I do not want to prolong this debate, but the point that has to be made is that a person, in advocating that a paper be marked otherwise than in the manner set out in sections 76(1) or (2), could be knowingly misleading people to have an invalid vote, and that is quite different from—

The Hon. T.G. Cameron: Or unwittingly.

The Hon. M.J. ELLIOTT: Or unwittingly. However, they could do it with intent, and that is quite a different thing from advocating that people abstain from voting where the message is quite a clear one and cannot be misunderstood. So, I think that you need something such as this subclause in the Government's Bill, because that would stop people from knowingly misleading people as to the way they should fill in their ballot paper and so waste their vote because they trusted that message. That is quite a different thing from a person who simply campaigns on the message, 'Do not vote for any of them, as none of them are any good.' At least that is a clear message that—

The Hon. T.G. Cameron: You are saying one is better than the other?

The Hon. M.J. ELLIOTT: In campaigning with 'None of them are any good', the message is clear enough and people will choose whether or not to agree with it, but that is quite different from the case where a person may knowingly distribute literature purporting to be something and encouraging people to vote in a certain way which as a consequence causes those people to cast invalid votes because they trusted the literature that was given to them. That is the difference.

Amendment negatived; clause passed.

Clauses 23 and 24 passed.

New clause 24A—'Insertion of Part 13 Division 5.'

The Hon. P. HOLLOWAY: I move.

Page 10, after line 31—Insert new clause as follows:

24A. The following Division is inserted after section 130 of the principal Act:

DIVISION 5—BANK ACCOUNTS

Prohibition against establishment of certain bank accounts

130A.(1) A person is guilty of an offence if, without written authorisation from a political party, the person establishes a bank account in the name of the party or a name suggesting that the account is established on behalf of the party.

Maximum penalty: $2 500.

(2) A person is guilty of an offence if, without the written authorisation of a candidate or prospective candidate for election, the person establishes a bank account in the name of the candidate or a name suggesting that the account is established on behalf of the candidate.

Maximum penalty: $2 500.

This amendment makes it an offence for a person without written authorisation from a political party or a prospective candidate to establish a bank account in the name of that party or that candidate. This amendment arises because several years ago an account called the 'Dean Brown Campaign Fund' was established. Members might remember when the matter of a Mr Abdo Nassar donating $5 000 to the Dean Brown Campaign Fund was raised in the Legislative Council. When the then Premier was asked about this in Parliament he denied any knowledge of receiving this cheque. It later came to light in the newspaper when Mr Ted Chapman, the former member for the seat of Alexandra, claimed:

It was a campaign fund that I identified as the Dean Brown Campaign Fund. It was I who was raising the money and paying the accounts at that time for my mission (which was) to get him into the Parliament. So it had bugger all to do with the Dean Brown or the Liberal Party or anybody else except those of us who were mounting a campaign to ensure that he got into Parliament and hopefully that he would become the Leader and ultimately the Premier.

Of course, he ultimately did. When the then Premier was asked about this matter during Question Time, he denied any knowledge of the account. We all know that the Commonwealth has recently passed laws in relation to campaign funding and campaign disclosure. To a considerable extent those Commonwealth laws cover political parties and candidates within the State sphere as well. Political expenditure, gifts, donations, etc. by political parties must be declared, but there still appears to be a gap within those Commonwealth electoral laws. We believe that they could be corrected only by an amendment to the State Electoral Act. That is why I am moving this amendment. It does make it an offence for someone to set up an account in the name of that person without their permission. Presumably, one would set up an account in the name of a Party or a candidate in order to solicit donations for political purposes. I cannot think of too many reasons why you would set up an account in the name of a candidate unless you wanted to use that name to justify raising money for that person.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: As my colleague says, it does leave a loophole in that the person may know nothing about the account. In the case I mentioned the then Premier claimed—and I have no reason to doubt it—that he did not know the account even existed. There is somewhat of a loophole in our disclosure laws, and I hope that my amendment will close that loophole in some small way so that these accounts cannot be set up in the name of the Party or the candidate. If people set up accounts in other names, they can still do so. The only thing is that, if anyone writes out a cheque to a particular fund that had nothing to do with a candidate or a Party, they would certainly know that the person to whom they were supposedly giving the money may not be aware of the account. The Opposition believes that this amendment gives us one means of closing a potential loophole within the disclosure laws of this country.

The Hon. K.T. GRIFFIN: It does not do anything of the sort and it is a bit of a nonsense. I can understand the honourable member wanting to make political capital out of it, but the Bill before us relates to an Act that deals with the electoral system and not with campaign funding. Something like this should be done under campaign funding legislation. If any event, I do not think it would be effective in doing anything. What if there were an account called the 'victory account'? Everyone who donated to it might realise that it is related to a Liberal victory or a Labor victory. How would that be dealt with?

The Hon. T.G. Cameron: It would not be covered by the amendment.

The Hon. K.T. GRIFFIN: It would be. It provides that there must be written authorisation from a political Party and that the person must establish a bank account in the name of the Party or a name suggesting that the account is established on behalf of the Party. It might be the 'victory account', and everybody would know that it would be working for a Liberal victory. It is a nonsense. In any event, these days a person cannot open any old bank account because Commonwealth laws require that person to produce identification and, in the case of an individual, 100 points have to be produced—passport, drivers licence—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: You do. You have to identify who are you when you open the bank account.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: Someone has to, to identify the account.

Members interjecting:

The Hon. K.T. GRIFFIN: They do. I disagree with what the honourable member is doing, but I can understand the political point that the Opposition is trying to make. Let us put that to one side, because in reality it is a nonsense and it should not play any part in a Bill and an Act dealing with the electoral system.

The Hon. M.J. ELLIOTT: I agree with the sentiment of this amendment 100 per cent. At the same time, I do not believe that it will have any effect whatsoever and I do not think that it will close off loopholes even a little bit. There are gigantic loopholes and the Catch Tim case would never be closed off by this sort of provision, and it is that sort of funnelling of money that is of greater interest. Whilst I have indicated that I agree with the sentiment of this, I do not see there is much point in voting for an amendment which, at the end of the day, will have absolutely no effect whatsoever.

It is most unfortunate that, while the intent of the law is clearly understood, there are people in politics who think the intent of the law does not matter, that it is the letter of the law that matters, and that is what sets the example for behaviour in our community generally. The Liberal Party brought itself into great disrepute by its behaviour in channelling funding through certain routes. This smart attitude that if it is legal, even when one knows that it is against the clear intent of the law, reflects badly on Governments and on politicians and it sets an incredibly bad example in the community. Those who lead the community should set examples, not say that the intent of the law counts for nothing.

New clause negatived.

Clauses 25 to 27 passed.

Schedule 1 passed.

Schedule 2.

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

Page 15, lines 8 and 9—Leave out these lines (ie: all words relating to section 5).

This amendment relates to the scheme of the Statutory Officers Committee.

Amendment carried.

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

Page 16, lines 1 and 2—Leave out all entries relating to section 14 and insert the following entries:

Section 14(3)—Strike out 'shall' and substitute 'will'.

Section 14(4)(a)—Strike out 'shall' and substitute 'will'.

Section 14(4)(b)—Strike out 'shall' and substitute 'will'.

It is not my intention to change what is the Government's intention. In fact, my amendments are similar in style to those amendments which are made throughout schedule 2 where 'shall', in this case, is replaced by 'will' and, in other cases, by 'must'. Some people were concerned about the interpretation of the wording as it stood. I was not too upset, but my amendments ensure that the Government's intent remains intact.

The Hon. K.T. GRIFFIN: I do not support the amendments, which are unnecessary if the schedule stays as printed. I am not persuaded by the Hon. Mr Elliott that there is any problem with the amendments proposed in the schedule to section 14. They appear to me to be a general tidying up of language into a more modern style, but if the honourable member has a particular problem with it he might identify it so that we can work through it.

The Hon. M.J. ELLIOTT: I ran out of a meeting to come here without my files and as a consequence I do not have the notes which specifically refer to this. It was not a huge problem but I recall a concern about the interpretations of a district where it is taken to be as it existed at the previous election, and whether or not it would be taken that in so doing the people on the roll at that time would be the people who would be then voting. That is my recollection of the concern. As I said, without my notes I cannot take the matter any further.

The Hon. P. HOLLOWAY: The Opposition does not have any problem with the original provision in the Bill, so it sees no need to change it. If there were a problem with it, we would look at the Hon. Mr Elliott's amendment but, as we do not perceive a problem, on that basis we support the provision in its current form.

The Hon. K.T. GRIFFIN: The essence of what is contained in the redraft reflects what is in the existing provision but in a different form. I will undertake to have it looked at again before it is resolved in the House of Assembly, but it is a statute provision which is generally promoted on the basis that it does not change the substantive law. When in Opposition, I have looked through schedules and checked many of them, and on some occasions I have disagreed with the redrafting. It is possible that something does slip through on occasions, but on this occasion I do not think that has occurred.

Amendment negatived; schedule as amended passed.

Schedule 3.

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

Schedule 3, page 29—Strike out Schedule 3 and insert—

SCHEDULE 3

Consequential Amendments

Amendment of Freedom of Information Act 1991

1. The Freedom of Information Act 1991 is amended by inserting after clause 6 of Schedule 1 the following clause:

Electoral rolls

6A. (1) A document is an exempt document if it is an electoral roll.

(2) The part of an electoral roll that sets out the particulars of an elector is not an exempt document in relation to that elector.

(3) In this clause—

'electoral roll' has the same meaning as in the Electoral Act 1985.

Amendment of Ombudsman Act 1972

2. The Ombudsman Act 1972 is amended—

(a) by striking out the definition of 'Committee' in section 3(1);

(b) by striking out subsections (1) and (la) of section 6 and substituting the following subsections:

(1) The Governor may, on a recommendation made by resolution of both Houses of Parliament, appoint a person to be the Ombudsman.

(la) On a vacancy occurring in the office of the Ombudsman, the matter of inquiring into and reporting on a suitable person for appointment to the vacant office is referred by force of this subsection to the Statutory Officers Committee established under the Parliamentary Committees Act 1991;

(d) by striking out the Schedule.

Amendment of Parliamentary Committees Act 1991

3. The Parliamentary Committees Act 1991 is amended—

(a) by inserting after paragraph (g) of the definition of 'Committee' in section 3 the following paragraph:

(h) the Statutory Officers Committee;;

(b) by inserting after Part 5B the following Part:

PART 5C

STATUTORY OFFICERS COMMITTEE

DIVISION 1—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEE

Establishment of Committee

15G. The Statutory Officers Committee is established as a committee of the Parliament.

Membership of Committee

15H. (1) The Committee consists of six members of whom—

(a) three must be members of the House of Assembly appointed by the House of Assembly (of whom at least one must be appointed from the group led by the Leader of the Opposition and at least one must be appointed from the group led by the Leader of the Government); and

(b) three must be members of the Legislative Council appointed by the Legislative Council (of whom at least one must be appointed from the group led by the Leader of the Opposition and at least one must be appointed from the group led by the Leader of the Government).

(2) The members of the Committee are not entitled to remuneration for their work as members of the Committee.

DIVISION 2—FUNCTIONS OF STATUTORY OFFICERS COMMITTEE

Functions of Committee

15I. (1) The functions of the Statutory Officers Committee are—

(a) to inquire into, consider and report—

(i) on a suitable person for appointment to an office under an Act vacancies in which are to be filled by appointment on the recommendation of both Houses: and

(ii) on other matters relating to the performance of the functions of that office; and

(iii) on any other matter referred to the Committee by the Minister responsible for the administration of any such Act; and

(b) to perform other functions assigned to the Committee under this or any other Act or by resolution of both Houses.

(2) Matters disclosed to or considered by the Committee for the purposes of determining a suitable person for appointment to a statutory office must not be made the subject of public disclosure or comment.

(3) In considering matters relating to the performance of functions of a statutory office, the Committee must not engage in a review of any particular decision of a person occupying the office.

Essentially, proposed new schedule 3 reflects the amendments regarding my proposal to establish a Statutory Officers Committee. In addition, it seeks to amend the Ombudsman Act and the Parliamentary Committees Act, which are consequential upon the establishment of a Statutory Officers Committee under the Parliamentary Committees Act.

Schedule negatived; new schedule inserted.

Long title.

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

Page 1, line 7—After '1991' insert ', the Ombudsman Act 1972 and the Parliamentary Committees Act 1991'.

This amendment is consequential.

Amendment carried; title as amended passed.

Bill read a third time and passed.

LEGAL PRACTITIONERS (MEMBERSHIP OF BOARD AND TRIBUNAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 February. Page 1020.)

The Hon. M.J. ELLIOTT: The Democrats support the second reading of the Bill. We have taken the opportunity over the past couple of weeks to consult with groups with an interest, such as the Law Society, and there have been no indications of any difficulty. Therefore, we support the speedy passing of this legislation.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indication of support of this Bill. As members have pointed out, it is not essential that members of the Legal Practitioners Conduct Board or members of the Legal Practitioners Disciplinary Tribunal hold a practising certificate. The main concern is that members of these bodies be experienced lawyers with a record beyond reproach. The members of the tribunal and the board should reflect the standard of professionalism and conduct society expects of the legal profession. This means that the tribunal and board members should display the highest possible integrity.

In relation to clause 6, I agree that continuing the hearing in the manner proposed will not disadvantage the lawyer before the tribunal. The same number of tribunal members, namely two, must agree with the decisions. The amendment will prevent practitioners from frustrating the tribunal by drawing out their disciplinary hearings. I thank members for their indications of support for this Bill.

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

WATER RESOURCES BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1054.)

The Hon. T.G. CAMERON: I was not going to speak on this Bill, but I decided to make a few brief comments following the speech of the Hon. Angus Redford. The other day, I was leaving the Chamber when the Hon. Angus Redford started his speech on the Bill, and I stayed to listen for a few moments and then found myself listening to his entire speech, which was quite long. Not only did I think his speech was well researched and informative but also I congratulate him on the courage he displayed in presenting the speech to this Council. At times, he made comments with which I am sure politicians and bureaucrats were uncomfortable. I mentioned that it was an extremely lengthy speech, but it is probably the best speech I have heard in this Council since I have been here. I congratulate the Hon. Angus Redford on not only the longest but probably the best preselection speech I have ever heard. Could it be that the honourable member is girding his loins for a tilt at a seat in the South-East when a vacancy arises? If he is, then I suggest that all voters in the South-East take the time and the trouble to have a look at his speech. The Hon. Angus Redford also made some references to the bureaucratic indifference he had encountered, and he is to be congratulated for doing that, as well.

The Hon. R.R. ROBERTS: Over a long period there has been a great deal of consultation on this Bill. My colleague the Hon. Terry Roberts has engaged in a great deal of consultation throughout the State, especially in the South-East. He, along with the Minister, has been making a genuine attempt to consult widely. The problem is that the consultation process has been quite long and involved. At the end of the last session, when this matter was transported to this place from another House—and the Hon. Terry Roberts was undergoing a medical procedure at the time, the Bill was being handled by my colleague Paul Holloway and I was in charge of the Council at the time—I remember quite clearly a discussion between the Hon. Paul Holloway and the Hon. Michael Elliott. Given the nature and complexity of this Bill, it was agreed that we should not deal with the Bill at that time. Subsequent events have proved that to be a wise decision.

I was in the South-East, and I picked up a copy of the *Border Watch*, in which I saw an article that purported to represent the Hon. Angus Redford. That article stated that he had knocked off the Bill so that further consultation could take place. This was somewhat of a surprise to me, because there were discussions between the Australian Labor Party and the Democrats. To my knowledge, the only contribution the Liberals made to the debate was to pass the Bill unanimously in the Lower House.

So, I was a bit bemused that the Hon. Angus Redford would be quoted in the paper and not put in a disclaimer about having knocked it off. In fact, when I was approached by a member of the press concerning this matter, I suggested that the report was not accurate because in my opinion I did not think that the Hon. Angus Redford could knock the crust off a cold custard let alone hold up the Bill. I have been approached by a number of people in respect of this matter, and a lot of people in local government have expressed concerns to me, and people involved in primary industry—

The Hon. Diana Laidlaw: What is 'a lot'?

The Hon. R.R. ROBERTS: The whole lot of them are concerned. They have had too much bad experience with you. Local government knows your form. It still remembers the debate and what you tried to do to the Adelaide City Council in that disgraceful act. The Local Government Association knows that the Labor Party will consult and take its views into account, as we did with the South-East drainage legislation last year. Mr President, that leads me onto the entwining of those two pieces of legislation.

The ACTING PRESIDENT (Hon. Caroline Schaefer): The Hon. Ron Roberts should know that the President has vacated the Chair and that I am not a Mr!

The Hon. T.G. Cameron: John Howard says you are. He has scrapped 'Chairperson' and put it back to 'Chairman'.

The ACTING PRESIDENT: He is not politically correct.

The Hon. R.R. ROBERTS: Well, Madam Acting President, it is certainly quite clear to me that you are in control of the Chair as in the true definition of 'Chairman'. That aside, I return to the important matters of concern to local government and primary producers, and not only those in the South-East—this is not just a South-East Bill because it affects everybody in South Australia. The number of amendments being put forward by the Government and the Democrats, and soon by my colleague the Hon. Terry Roberts, indicate that the consultation process, whilst it has been long and arduous, has probably left something to be desired. However, I am sure that members will work their way through the Committee stage.

Some of the key issues of concern that have been expressed to me have included the lack of an integrated approach to water resources management and the associated environment management issues and commitments between interested parties, bodies and agencies to work cooperatively to achieve the objects of section 6 of the Act. These issues were addressed in the Hon. Angus Redford's contribution, and I thought it was a sensible proposition that there needs to be cooperation in all areas of animal and plant control. It seems obvious that the South-East Drainage Board and the water resources boards should be put together and not necessarily be treated independently. Obviously, this point has been taken up by members of local government and primary producers across South Australia.

The number of provisions in this Bill related to permits, licences, authorisations and notices, along with the usual practice of regulation, will make the Bill in its present form a bureaucratic nightmare. One can only feel sorry for those people who will have to administer this legislation and try to pull it altogether. Also, we have another problem with the number of plans that are required for the operation of this piece of legislation. We have a State plan, a board plan, committee plans, well plans and local plans, if and when councils choose to establish them. I am advised that the consultation for each of these plans is an exhaustive exercise on their own, but put together it then creates a long, exhaustive process which is fraught with the danger of long and sometimes tenuous negotiation with the propensity to slow the process right down. The State plan is integral to the process, but this Bill does not provide enough checks and balances to provide feedback and recommend changes. Given that this is the main plan, the provisions ought to allow input from key groups. That is a sensible proposition which has been put to me by my constituents.

It is suggested that the reduction of water allocation provisions in clause 37 requires no formal consultation with plans or with councils whose communities could well be affected by this provision. Also of concern is clause 45, which outlines the functions of the Minister. It requires the collection of a great deal of information related to water resources management, but there is no provision for the kind of information required and the disclosure of the information. Quite clearly, the Bill requires that information needs to be available but gives no real direction as to how that information can be used or what processes need to take place for the disclosure of that information. In the opinion of my constituents, the functions of the Water Resources Council need a great deal of amending. The amendments ought to allow the council to respond to the State plan, assess and monitor its success and recommend changes to the Minister.

It is also recommended that the Water Resources Council play a primary role in community education, but that is not addressed in this Bill. One can easily see the concerns being expressed whereby with water resources—an important commodity in our State—an education program ought to be automatic, and in fact it should have been addressed by the legislation. Of further concern is that the catchment provisions need amending to emphasise the need to ensure that significant experience is available in key areas such as the management of water and natural resources, conservation and eco systems and local government.

In addition, these boards should ensure that the members are aware of the local circumstances in relation to water resources management. That issues goes back again to the very important and pertinent point raised by the Hon. Angus Redford regarding the need for collation of the information provided by a number of boards. It also takes up the other very important issue of local input, because it is the local councils and the people living in those areas who have a very important contribution to make in the management of this precious resource in our State.

The issues relating to the board's responsibility for infrastructure are somewhat interesting. The Government is advocating that boards assign their responsibilities at will to the owners or occupiers of land without any form of agreement. According to my constituents, this is not acceptable and would probably need amendment. I understand the reason for the concern in that we are talking about the very important responsibilities provided to boards. The assignment of those responsibilities to someone else at will and without any formal agreement leaves a situation where, if anything goes wrong, there will be challenges and there is no natural course that can be taken to overcome those problems, and that could result in delays in the settlement of a dispute.

Water resources planning committees need to be set up to work effectively in the local area and should reflect local knowledge, and consideration should be given to the number of members (at least a minimum of those members on the boards) and how these people will be selected. Again, this point has been put by the Hon. Angus Redford and my colleague the Hon. Terry Roberts; that is, the need for local input into this very important area.

Clause 85 has no reference to Development Act issues and therefore does not acknowledge the role of councils as development authorities. This area is of particular concern to me as the Opposition spokesman on rural affairs, because far too many things that we are doing in this State which discounts the role of local government. By way of example, I suggest that the development of aquaculture in some areas pays scant regard to the role played by local government. Of course, when these issues become of concern to the community, it is to local government that people first take their concerns and gripes.

The levy provisions are the most contentious from a local government perspective and, quite legitimately, it is being asked whether local government is becoming a collection agency for the State and whether we are to continue to see attempts by the State to legislate for councils to deal with the community uproar when the State Government continues to use and apply user pay principles? This provision is rejected by local government authorities and requires further thought.

The levies in respect of these allocations are of particular concern to South-East councils. I well remember the repre-

sentations made to councils, to me and I am sure to Government members. I am sure that the Hon. Angus Redford, with his interest in the matter, was approached about the South-East Drainage Boards and how those levies were being collected. In fact, it was the Millicent council which wrote to us, suggesting that we ought not go down the track of the collection of those levies from the South-East Drainage Boards until we saw what was happening with the Water Resources Board. I can understand that concern, and I am certain that their representations have been put to Government. One hopes that in Committee all those matters can be drawn together and the concerns being expressed by local government and other constituents in South Australia will be looked at and handled appropriately.

An additional issue, which has not be addressed in the Bill, is however of concern to local government in particular, that is, the proposition by many metropolitan councils to require statutory stormwater easements. This issue is not adequately addressed in the Local Government Act and needs to be fully explored in the Bill. I know that the LGA is considering submissions from councils in this regard. In respect of stormwater easements, I can understand the concern of local government when we have storms. They do not occur only in the metropolitan area: we have had extensive flooding in Port Pirie and to a greater extent in the Far North of the State. However, I do not think this issue will cause such a problem up there.

Local government is facing these concerns on a daily basis, and they are expressing their views to me. I assume that these matters have also been addressed with the Minister, and I hope that in Committee we will not only address the concerns of local government people and the LGA but also will take into account the central issue of the local component and the local information that is available. To a far greater extent we should take into account the role played by local government, which, after all, is involved in the planning, waste disposal and drainage matters. All those matters come back to local government, and we cannot undermine its importance and involvement as it works with its communities on the establishment and operation of this Bill. I support the second reading.

The Hon. J.C. IRWIN: I support the second reading and this legislation in general. I commence my contribution with a declaration of interest: I own a farm above the proclaimed water area of Keith, and I have lived in the South-East since 1962. I admit that I am an Upper South-Easterner and, other than football trips and an odd social trip, I have not had a lot to do with what I call the Lower South-East—from Naracoorte to the south—where water is an every-day issue, whether it be in the summer or in the winter. It has been said before but I need to say it again and to remind myself that this is not a South-East Bill: it is a Bill for the management of water throughout the whole State.

As stated so eloquently by my colleague the Hon. Angus Redford, and others, not only is the South-East a very productive part of the State but also it is different in the sense that, as I have put it to some, most of my friends from the Lower South-East are either first generation or third generation, as some of them might be, and have lived with a lot of water both above and under ground, and frogs have been coming out of their ears ever since I have known them. Generally speaking, I believe that they would be very conscious of the value of that water and the fact that it must be preserved in quality and quantity. However, they have never really had to think very much about how that would be achieved.

It certainly came as a surprise to me—and I do not say that this as an accurate comment at all because I have not researched the statistics of it—when the local member (Hon. Dale Baker) said publicly that within 10 or 15 years something will definitely need to be done about the underground water because it will no longer be flowing and no longer available as it is now. Obviously, I have heard that comment made before, and it may involve not 10 or 15 years but 20 years or five years. My point is that what the Hon. Dale Baker, in his capacity as the local member, and the technologists in the area have been saying is now coming home to people: they really must do something about the quantity and quality of their underground water.

I will not revisit every measure in the Bill that has been raised most eloquently and adequately by my colleague the Hon. Angus Redford. It was my privilege to listen to his contribution and to have worked with him over the past few months in an attempt to come to grips with this whole issue: the spirit and the letter of the various draft legislation, the final legislation which was passed in the House of Assembly and which was introduced in this place by the Minister for Transport, as well as another lengthy period of consultation that occurred.

I commend the tenacity of the Hon. Angus Redford, pursuing as he did a number of issues, including matters of principles which apply not only to the South-East but to any part of the State. There are many proclaimed areas in the State, and I am talking not just about the Murray River and rivers that are used for water but also about underground water. Indeed, I live above underground water, and there are in South Australia many proclaimed areas the water in which must be looked after. I commend the Hon. Angus Redford for his tenacious contribution which was made last Thursday and today and which covered almost everything that I would have wanted to cover. I do not want to go over that ground.

I also commend the contribution of the Hon. Terry Roberts. I attended a meeting in the South-East with him and the Hon. Angus Redford. The Hon. Terry Roberts, in his usual way, has thought through this issue thoroughly and has obviously received the same sort of lobbying as that received by others of us who are concerned with this Bill. He also—as does Angus Redford—comes from the Lower South-East, around Millicent, so they have friends, acquaintances and their own history and family to give them good advice on the way that the community there feels about the matter.

I feel for Minister Wotton, or for any Minister who has to go through the sometimes painful exercise of never ending consultation, when you think you have done everything that you can in the consultation process. In our experience here, it is quite often not until the very last minute when certain things hit the fan and the reality comes close that people concentrate their mind on what we are trying to do for them. I do not see this issue at all politically. Sure, some political games can be played with it, but I do not see it being a Liberal-Labor-Democrat issue at all: I see it being for the benefit of the people of the State—our children, our grandchildren, industry and a whole lot of other things.

So, I would say that the democratic principles are alive and well through this process, because there has been a strict consultation process, technically and then politically. The legislation was passed in one House and it came before another House, where there has been a much wider debate, not through the fault of Assembly members and their not

raising a lot of issues in debate in the other place or in the Party room but because of the way this issue has unfolded. Many of the hard yards, if you like, in trying to achieve satisfactory decisions have occurred when the legislation was before the Upper House.

I do not see this as being a hard political issue. The democratic system is alive and well, whereby people can consult all the major Parties right up to the last minute and, hopefully, there will be a good outcome. Only time will tell. In another sense, there is a lot in this legislation that is covered by the ministerial statement made by the Hon. David Wotton after the Minister for Transport had spoken. There had to be a mechanism, either in Committee or in a ministerial statement, to cover a number of issues, and I am reasonably satisfied with the way they have been covered. However, I feel for the Minister, the Hon. David Wotton, who is directly responsible for this legislation because of the frustrations, and I also feel for his officers, who had have to put up with it all. However, I am very hopeful that the end result will be good.

I attended two meetings in the South-East, one at Millicent and one at Naracoorte, as covered by the Hon. Angus Redford. I remember saying in my first contribution in this place that one day, inevitably, I would lose touch with the so-called grassroots of farming and rural communities—or even city communities—and after 11 years that has happened. However, it was very refreshing for me to go back into the areas that I knew reasonably well and not only to speak with but to hear the contributions made at public meetings by my friends, many of whom I admire not only for their ability to farm but for the way in which they raised certain issues and the sorts of simple points that they made.

There is no doubting the importance of water resources in the South-East. They have been fundamental to the development of major industries which have contributed to the region's economic growth over many years, for example, pulp and paper mills, horticultural developments of different types and, in recent years, viticultural developments which have helped to bring international recognition and a healthy tourist industry to the region. In turn, regional growth is important to the prosperity of South Australia as a whole.

Legislation in South Australia has covered underground water continuously since 1959. Padthaway was the second area in South Australia to be controlled under the legislation. My farm is only miles away from Padthaway. I have watched the area develop from one where limitless amounts of water were thundered onto the ground to one where vast expanses of vineyards now prevail. When I was on the Tatiara council for 10 years, it was part of the Tatiara council area. I remember that the first vineyards to be established there were owned by Lindeman. In the late 1970s, the council celebrated its centenary, and Padthaway grapes were crushed for us by Lindeman, put into red wine bottles that proudly bore our insignia and sold to many people. At the end of one year, the common comment was that the wine would be best used as soldering fluid. It was not very good to drink but it was very good for soldering. Many things have happened since then, and those who have recently tried Padthaway wines would know that they are at the very top of the tree.

The importance of underground water in the South-East is reflected in the fact that other areas followed Padthaway's lead in this respect. Until the present day, about 40 per cent of the South-East is a proclaimed area for drilling bores and taking underground water. As I said, I live over a proclaimed area; my farm is there. I have no right to irrigate because I did not want to irrigate. I did not anticipate any need for irrigation, but at one stage I needed to install a quite hefty bore so that stock water could be pumped to most of the farm. Apart from a week's delay, I did not have any problem obtaining a licence to do that. There was a little hold up, but it works well for stock irrigation. However, the downsides are that with four neighbours around me each taking out about 200 000 gallons an hour, the watertable does diminish somewhat in the middle of summer. I have had to deepen my bores for stock water, which is a cost and an inconvenience.

Proclamation of underground water areas means that all uses of the proclaimed resource require a licence, although current policy excludes stock and domestic users from the need to hold a licence. In turn, this allows the Government to share the water amongst users, thereby avoiding disputes over access to water, which is not something that the common law provides for. The common law simply states that any land-holder or occupier can take as much underground water from a bore on their land as they like whether there is a reasonable amount, an unreasonable amount or even a maliciously unreasonable amount.

Like its predecessors, the new Water Resources Bill will also allow for the control of underground water and for the sharing of access amongst competing users, thereby overcoming the shortfalls of the common law. The main feature of the new Bill is that it provides for all water management to be undertaken in accordance with management plans drawn up by and for the communities of each region. The Bill does not mean that licences will be taken away or that you will have to apply for a new licence if you already have one. It does not mean that a new board will have to be set up for underground water management. Further, it does not mean that people will pay a levy either on the land they own or on a water licence they own: rather, under the new Bill the boards or levies or both can, subject to community support, be introduced in the South-East. The new Bill means that people in the South-East will be consulted with renewed vigour to prepare water allocation plans for the licensed areas of the South-East.

The Bill also means that for the first time in South Australia's history underground water users in unproclaimed areas will have protection from unreasonable use by their neighbours which affects their own use of the water. In proclaimed areas, control over unreasonable use will continue to be achieved through the licensing system. The new Bill also means that we will all have a general duty to look after springs, wetlands or creeks that occur on our property. There is a similar provision in the Soil Conservation and Land Care Act which relates to looking after land generally. They are the only changes that the passage of the Bill will bring about in the South-East. Any other changes that may occur under the Bill can happen only after full consultation with the community.

The three or four problems that I had about the consultation process were addressed to a great extent by the ministerial statement to which I referred earlier. One of those problems concerned water management boards and whether the South-East Drainage Board could take over the management of underground water. As far as I am concerned, that has been addressed adequately and, if that is what the area wants, it can probably have that.

The water consultative committees concern me. I am not sure whether this has been spoken of by other members in the context of this legislation, but in my area there was a voluntary reduction by irrigators of 30 per cent of their water use because their water quality was decreasing and the

watertable was lowering. The fact that it was a voluntary reduction means to me that it was reduced as a result of the growers or irrigators getting together, not as a result of the consultative committee making a decision. The growers decided that, if they wanted a long-term irrigation prospect and because of the recharge problems, they would reduce by 30 per cent.

In the Padthaway area the local irrigators got together and I understand that they decided not to use the big spray irrigators, that is, the water pistols not the centre pivots, for a number of reasons including evaporation, because it was inefficient use of water and because their watertable was coming under extreme pressure as well. It was decided that the vignerons, particularly, should use drip irrigation. Until now the consultative committee has not been able to use a big stick to make land-holders who have licences toe the line with respect to their use of water.

That raises one point that I have made in the consultation process about metres. On more than one occasion, neighbours of mine have told me that they think some of their neighbours are using a lot more water than they should under the lucerne equivalent allocation method, and there are probably other equivalent methods in other parts of the State. I think that this is still the biggest lucerne seed production area in Australia, and a lucerne equivalent measurement is used. It is double-dutch to me—I do not know what that means—and the only measurement in which I am interested is metering the water as it comes out of the bore. There is a cost to that and in the long-term, when this legislation is fully up and running, I hope metres will be an everyday part of the costs that must be borne by irrigators, and any levy system, if you like, will help pay for that infrastructure, either privately or publicly on the metre system. I believe that the only way to meter how much water has been put out is through a modern device which, hopefully, can do that accurately.

The Hon. Angus Redford referred at some length to the South Australia-Victoria water agreement and said that that agreement should be reviewed. I am pleased that the Minister has acknowledged that that agreement will be reviewed by the Minister (the Hon. David Wotton) in South Australia and the Victorian Minister for Water Resources.

The major point of principle for me was the whole discussion about the method of allocating water which has been adequately covered in the debate so far. I will not repeat that, except to say I am satisfied that after this legislation is passed the allocation methodology can be worked out by each community in the Murray-Mallee, the Upper or Lower South-East, the Mid-North or wherever. That method of allocation will follow a strong public consultation process. Having been through that now, everyone is well aware of the pitfalls of the public consultation process, but I am interested in how that consultation will take place with the present owners or occupiers and the future users of the country. In relation to the number of pine forests and vineyards that are in the Lower South-East, the number of blue gums being planted—with the possibility of a woodchip mill being erected to process the blue gums—fruit production, or whatever it may be, we must find a democratic way in which the wishes of the community can be determined by a method of voting. I have not been a part of any discussion about that, but I believe that we need to work out some method of formalising the consultation process so that, in the end, it is not a matter of someone judging what the consultation process requires, but rather it must be quantified and qualified by a polling procedure.

Finally, I want to comment on the levy system and collection, which matter has been addressed by a number of speakers, including the Hon. Ron Roberts on behalf of local government. I am pleased that this Bill provides for an economic impact statement to go with any collection of levies or levy raising. I am tired of Ministers, on behalf of Governments, making decisions about levies. As a result of my experience in local government and in relation to local government rates, I know that generally local government gets as much out of each dollar as it possibly can. There is not much room for any more. If there is no proper consultation or coordination of how money is taken out of the public pocket and put into some authority set up to manage any project that needs levies, then it is not good enough that they simply can be imposed by the Government without a very heavy consultation period with the people who fork out the money to pay the piper.

It cannot be done just at the whim of one Minister, one Premier or one Government without due regard being given to the ability of people to pay the levy. During the consultation process, I cited the example of my property and my experience with the South-East Drainage Board. My farm, together with many others, must make a capital payment towards the building of a new drain. It will cost up to $26 million to drain surface water from the Marcollet watercourse west to south of the Coorong and into the sea. Some of the water will go up through the property known as Didicoolum Jip Jip Water Hole into the wetlands. Hopefully, it will then find its way out. When someone makes a decision about this water, it will make its way out through the wetlands into the Coorong.

As a lay person, I have no doubt that the Coorong is dying. It does not get flushed out and filled up properly by the Murray because not enough water gets there. The Coorong was always fed by Salt Creek and other creeks which fed into it, and I am a strong advocate of that happening again. In order to finance this $25 million or $26 million drain, my property is required to contribute $9 000 over a three or four year period. I have an off-farm income. I have often said in this Council recently that for various reasons and due to various circumstances my farm operates at a net loss. When I pay my manager, there is no gain at all for me. That is due either to bad management or just because things to do with various commodities are not good at the moment.

The Hon. A.J. Redford interjecting:

The Hon. J.C. IRWIN: No. Land prices are probably starting to hold their own a little at the moment, but as everyone knows the South-East is in a difficult position in respect of wool and beef, and it is not as great an area for crops as are the West Coast and the Mid North. However, the point I make is that $9 000 would be difficult for my neighbours to find over three or four years when they probably have a negative income. They do not have the same size property as I, but they are probably better farmers. They will struggle, and their properties contribute nothing to the surface water that finds its way into the Marcollet watercourse and out to sea.

I understand the general principle: if you throw a pebble into a pond the rings go further out, so everyone probably contributes one way or another to the whole ecology and well-being of an area. However, when their property is 40km or much farther away, it is pretty hard for them to understand why they should contribute anything in dollar terms to something that has nothing to do with them. As an aside, that brings me to the argument about the dog fence. Where I live,

there are two levies for a dog fence: one is for a local dog fence, which is situated on the Victorian border and is in a state of terrible disrepair, and the other is for the major dog fence farther north. The principle of having everyone contribute is fair enough, but the number of things to which people have to contribute add up.

I will end on that note, but I hope that in any consideration of the levy system and its method of collection high regard is paid to the economic impact statement. If that economic statement concludes that the local people cannot afford the levy, there should not be one. There is no point in doing the research and coming up with a statement that says, 'Negative: don't go ahead,' if someone says, 'I'm not going to take any notice of that. We'll just do it. We've done the statement. That's all we have to do.' That would not be good enough, because some people are finding it very difficult. Similarly with the Hon. Caroline Schaefer regarding the Eyre Peninsula, I have just finished chairing a task force that looked at the plight of the Murray Mallee. That task force was called for by those people, and I chaired it for six months. A large tract of land in that area has been declared an underground water table, which hopefully will be well and truly utilised.

I am well aware of the plight of people in rural communities, even though there have been two good wheat seasons for some of the State. There is always the hard luck story such as where two-thirds of the Mallee was frosted out this year and they got no grain at all. There is a lot of good but also some difficulties. However, perhaps I am concentrating a little too much on that economic area. I support the second reading and make no apologies to the Minister for the pain he has had to endure in piloting this legislation through the Parliament. I assure him that all the consultation in which I have been involved, whether from the Opposition or his own Party, has been very genuine and I hope that the end product has been worth all the hard work, as I am sure it will be. I support the second reading.

The Hon. DIANA LAIDLAW (Minister for Transport): I thank all members for their support for this important piece of legislation and for their well considered contributions. The Hon. Terry Roberts made some general comments about the response to this Bill from the South-East and referred in particular to the present downturn in traditional rural industries and to insecurities and uncertainties about the future as being some of the reasons for anxiety and confusion in relation to this Bill. He was right in putting forward those propositions. The honourable member recognised the important step this Bill takes to integrate the management of water resources. Although the Bill in itself does not provide for the management of land use, it certainly provides the means for looking at the recommendations put forward by drainage boards, in particular soil boards. The Bill requires the catchment management boards to take the recommendations from the drainage soil boards into account when preparing their water management plans. The honourable member discussed the pros and cons of legislation that is prescriptive and legislation that is flexible. The Government has chosen the latter path.

This is enabling legislation providing the flexibility necessary for the wide range of water resource management issues in South Australia. The Local Government Association was consulted at great length over this Bill. Every council in South Australia was given the opportunity to become involved and many took up the offer. As the honourable member mentioned, matters of particular concern to local government were the levy collection provisions and membership of both the Water Resources Council and the catchment water management boards. In relation to the collection of the levy, there are some concerns over the administrative feasibility of the scheme proposed.

No amendments to the Bill are necessary to address any administrative issues relating to the collection of the levy. Ample provisions are already specified in the Bill itself. The department will provide to councils in electronic form the necessary rating information and provide the rating officer with training and additional information. Based on the department's experience with the Catchment Water Management Act, these measures will be more than sufficient. Besides raising the levy, the Bill provides other opportunities for councils to become involved, if they so wish, in integrated water resources management. Local government bodies should see their involvement as an opportunity and not a threat.

The South Australian Farmers' Federation has been very helpful throughout the process. During the consultation phase the Farmers' Federation suggested a number of amendments, many of which were taken up by the Government during earlier drafts of the Bill and some of which will be the subject of amendments to be moved in Committee in this Chamber. The Farmers' Federation has now indicated that, should these amendments be accepted in this Chamber, the new Bill will have the federation's support with one or two minor exceptions.

The honourable member mentioned the issue of native title with respect to water and asked what provisions had been made in the Bill. The Bill does not attempt to restrict any of the classes of activity specified in the Commonwealth Native Title Act 1993 as constituting native title rights, that is, fishing, hunting, gathering, or spiritual or cultural activities. The Bill does not restrict access to water for domestic purposes. For the purpose of not offending the provisions of the Commonwealth Native Title Act and the Racial Discrimination Act, a subclause in clause 7 states that any occupier of land or any person simply passing through land in a proclaimed area, such as a person or persons exercising native title rights, may take such water as they require for drinking or cooking purposes.

The honourable member also mentioned the difficulties of policing the licensing system. This is, indeed, a problem throughout the State, and resources are the key to solving it. Policing regulations require a combination of both Government resources and local pressure, or self regulation. To date, we have relied almost entirely on the department's field officers. The new legislation devolves management responsibilities to local boards, and I am confident that boards will take a very dim view of licence infringements and demand from the Government the necessary corrective action.

With regard to competing water users, I agree with the honourable member that this is of concern in some of the intensely used and less regulated areas of the State. In the past, the Government has intervened to share access to water by proclaiming the water resources of the area and placing them under a licensing regime. The Bill maintains that option and improves on it, with a very distinct statement of rights that replaces the old common law which the Government considers to be too vague. For the first time, we will be able to recognise the rights of underground water users. The honourable member mentioned his concern that the applicants for licences would need to 'take an interest in three or four

sections, or layers, of the decision making processes'. This is not actually the case. The Bill provides that, in this decision making process, it will operate exactly as it does under the existing system for applications for water licences—a single application is made to the Minister and a single response given granting or refusing the licence.

My colleague the Hon. Angus Redford, through his clear understanding of the importance of the water resources in the South-East to the wealth of that region and this State in general, has made a major contribution to the drafting of this Bill. In his speech the honourable member provided us with a range of statistics, all of which point to the importance of careful water resources management in the South-East. The honourable member has described a number of nationally important inquiries and intergovernmental agreements which advocate strongly the need for tradeable water rights which lie within a legally enforceable allocation system. The allocation system provides a certainty necessary for investors in an economy which is dependent upon water, but the resources will be protected against over use and abuse, and their share of resource will be sustained in future years. The Hon. Jamie Irwin highlighted this point, too, in support of the Hon. Angus Redford, saying that it may not be seen by some people as a major concern but, if an action is not taken now, it will become a major problem.

I also indicate that tradeable water rights provides individual users with choice, and I know this to be so. I do not have any direct interest arising from this Bill or any conflict of interest but, with other members of family, I lease some land for growing vines in the Barossa Valley. Access to underground water and how much we are able to use has not been an issue for us, but it has determined the acreage of vines we have planted, notwithstanding the stunning soil and the temptation to plant more. If we wish to use that soil and we wish to plant more, we buy the water rights. So, in the Barossa Valley, I know it is not an issue. This same proposition is now being extended to the South-East, perhaps because the Barossa had smaller areas and allotments of land, and perhaps there have been traders rather than pastoralists there for generations and assumed rights so that the issues have been seen differently.

The Hon. A.J. Redford: Or access to water—

The Hon. DIANA LAIDLAW: That may well be so, but as I say, in terms of tradeable water rights, I know it works well where it has been in place. I know that, within a community, it is well understood why these provisions are in place. I can understand that there may well be some anxiety. In the Barossa, in terms of land planning and titles, there was much anxiety when change was proposed, but notwithstanding those anxieties, with time and better understanding, and some of the heat out of the issue, many of these things work much more easily than ever suggested may be the case. I just wanted to work through some of those issues to say that I know what is proposed in this Bill works well in other places and in a place as special as the Barossa Valley.

Those people with water rights which exceed their needs are able, if they so choose, to sell to others who are seeking more access to the resources than they have currently. As the honourable member stated, 'It helps to ensure that water is used by those who value it most.' Naturally, there are constraints to trade in water rights, and these need to be laid down clearly in the allocation policy for each particular water resource. For example, it would be foolish to allow water rights to be traded into an area where the permissible annual volume, sometimes called the safe annual yield, has already been reached.

We cannot allow more water to be pumped from a river or aquifer than is available from such sources. Allocation systems must not only maximise the value of the use of water but they must protect the sustainability of the resource over the long term. If they do not, then the land values that have been talked about in this place are not sustainable in themselves.

Water allocation systems are extremely important where the resource is under stress. In the upper South-East there are a number of areas where this is the case. In Padthaway, for example, where salinities are generally rising, the irrigators have got together a fund to investigate the remedies to this problem. In the hundred of Stirling, west of Bordertown, irrigators have realised that their water resources are over-allocated and they are cooperating to voluntarily reduce the individual allocation by 30 per cent. These are examples of communities working together to solve their own problems.

This Bill provides the legal framework for an allocation system, but it does not devise the system itself. How rights to access and use the water resources of a region are to be distributed is mainly a matter for the people of that region. The Bill devolves responsibility to a regional board to work through all the options with the community, thoroughly and openly, and then to recommend to the Minister the most suitable allocation system for that region. The Government believes that the regional communities of South Australia are ready and willing to take on these responsibilities.

More than people in any other State in the Commonwealth, South Australians value water and, if they do not, they should. Because we have so little good quality, easily accessible water, we know its value. If we do not, again I suggest we should. I believe that one of the great advantages of this Bill is that it involves local people in local decisions about their future prosperity, that prosperity being determined through access to quality water.

The Hon. Mr Redford has rightly pointed out the linkage between property values and access to water. It is a fact that in areas that require a carefully managed water allocation system, land with an allocation is more valuable than land without. The difference, of course, is the economic value that water can add to that particular piece of land. This varies, but in areas such as the Coonawarra and the Barossa Valley water allocation is extremely valuable. Nothing in the Bill changes this fact. Scarce resources such as water are valuable, especially when prices rise—for example, with wine grapes. Tradeable water rights provide individuals with the freedom to choose whether a water investment is the best way to maximise the value of their land. This decision will depend on individual circumstances, and I canvass those points in relation to my own personal circumstances in the Barossa Valley.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: It is God's own country and it is beautiful and, if you do not delay me too long with this reply, you will certainly have an invitation. What this Bill and previous water resource legislation does is to provide for an orderly and legally enforceable system of water allocations: without this we would have total chaos, abuse of the resources and considerable tension within the community. This Bill differs from its predecessors in that it recognises a clear role for the community in deciding how water should be allocated. The honourable member raised the matter of the Groundwater (Border Agreement) Act. I understand that the

Minister for the Environment and Natural Resources (Hon. David Wotton) has written to the Victorian Minister seeking a thorough review of this agreement. If there are problems, they should be clarified and resolved quickly and clearly.

The honourable member has brought to our attention concerns of some members of the South-East and he has commented on the adequacy of the consultation process over this Bill. The Government would argue that, in some instances, the consultation process will be seen by some members of the community as inadequate, but that will often depend on a person's agenda or their interests in various matters. It is true that in any consultation process—however it is deemed to be performed and over whatever length of time—may not meet the interests of all people within a community.

In the case of this Bill, there has been a lengthy and complex consultation process spanning some 18 months dealing with Government and key stakeholder groups in the community. This has resulted in a far better piece of legislation than was originally released for consultation. Therefore, I and particularly the Government and the Minister thank all who have been involved in this process of consultation to ensure that the Bill is a better piece of legislation today. Throughout this time the Government, through consultation, has endeavoured to reflect community concerns and positive ideas in terms of presentation of this Bill.

In regard to the honourable member's 22 questions asked earlier today, I have asked officers working with the Minister for the Environment and Natural Resources to expedite those replies, and that has been agreed by the Minister. I do not have those replies now, but I realise that not only the honourable member but other members in this place would appreciate answers to those questions. I also understand that some of those questions are exceedingly complex, and the honourable member indicated that it would not be easy to gain all the information and reply promptly. He suggested that within a short time—and not necessarily even within the period of debate of this Bill in this place—such answers would be welcome, and I give such an undertaking.

The Hon. Ron Roberts made a colourful response, not necessarily well researched and not necessarily his own thoughts on this Bill. I make those comments not from advice that I received from the Minister's office but from my own understanding of the Hon. Mr Roberts' enthusiasm for debate in this place.

The Hon. T.G. Roberts: Unnecessarily cutting!

The Hon. DIANA LAIDLAW: But possibly truthful, and very likely to be truthful. From comments I have received from the Minister's office, the Government through this Bill has taken the first major steps towards integration of natural resource management in this State.

This Bill will bring about significant advances in the area of integrated management. That seems to be at least a newfound concern of the honourable member. As to the question of local government collecting the levy, this will be discussed in Committee. However, I am somewhat disappointed in local government's position and its lack of support for the catchment management initiative. This should not be looked at as a collection of State funds but, rather, as a valuable contribution to the collection of community funds for a community-based catchment board. The board has very clear—

Members interjecting:

The Hon. DIANA LAIDLAW: You say it is offloading, but why should we as a Government or as the Parliament—and the Australian Democrats are always saying they want the most resources to go back into productivity and development—be setting up a second administrative system and using scarce resources which should go into the community for water resource management, simply to employ more people and set up more structures for the collection of a levy? The hypocrisy of the honourable member does not defy his logic but it does defy the logic of the majority of us. The Bill has clear provisions about the consistency between the various plans that may be prepared under its provisions. In fact, there is not the plethora of plans suggested by the Hon. Ron Roberts. There is a clear hierarchy of plans and clear provisions as to the role of each type of plan and clear provisions—

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: I suspect you have not read any of it and you are just picking numbers from the air and doing as you are told. There are key provisions also in terms of requiring consistency between plans. The Hon. Ron Roberts will be pleased to note—if he would just listen for a moment—that many of the matters raised by him have already been addressed in the amendments to be moved by the Government. If he had sought advice from the shadow Minister, he would appreciate that. This will become clearer to the honourable member if he continues to take an interest in the Bill during the Committee stage. The Hon. Ron Roberts raised the issue of retrospective stormwater drainage easements.

The issue was raised by the Local Government Association and those councils most affected by existing drains very early in the consultations on the Bill. At that stage it was made clear to the LGA that retrospective statutory easements are not a water resources management issue. The question goes to the power of local councils in a much more general sense—in particular, councils' power to enter land and acquire land. These matters are properly addressed in local government legislation, so we do not address them in this Bill. More particularly, they will be addressed in the local government lands legislation review.

Members interjecting:

The Hon. DIANA LAIDLAW: If you want to participate in that review, that is where those matters should be addressed, and I suggest that the honourable member may care to do so in terms of local government lands legislation.

Members interjecting:

The Hon. DIANA LAIDLAW: We have already said that we are undertaking that this year in terms of local government lands legislation, but I can have that clarified for the honourable member. I draw the attention of honourable members to the review of the question of statutory easements, which was specifically examined by the review consortium, jointly funded by the State Government and the Local Government Research Foundation, including local government representatives.

While I have not had the opportunity to answer all of the Hon. Mr Redford's comprehensive questions, I know that he understands that their complexity does not allow me to do so during the course of the second reading debate. I thank honourable members generally, even if some have come late to this issue, for their contributions to the Bill, recognising that community consultation and input has been appreciated and welcomed throughout this process, and we acknowledge that the Bill is better for that process.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. DIANA LAIDLAW: By way of explanation, I have just summed up the second reading debate on the understanding that the Hon. Mike Elliot had already spoken. However, he has not done so. I understand that he may wish to make a short contribution during the Committee stage or in terms of an explanation in outlining the overview to his amendments, Also, of course, he will have plenty of opportunity to speak when moving his amendments. The Hon. Mike Elliot knows my enthusiasm for always expediting these measures, and he is once again very understanding on this issue. I am sorry if I have a different style but, in the circumstances, I thank the honourable member for being rather pleasant about it, because I understand that he would have wished to make a second reading contribution.

Clause passed.

Progress reported; Committee to sit again.

ADJOURNMENT

At 10 p.m. the Council adjourned until Wednesday 5 March at 2.15 p.m.