LEGISLATIVE COUNCIL

Thursday 29 July 1999

The PRESIDENT (Hon. J.C. Irwin) took the Chair at 11 a.m. and read prayers.

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

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

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

Motion carried.

STATUTES AMENDMENT (MAGISTRATES COURT APPEALS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Magistrates Court Act 1991 and the Supreme Court Act 1935. Read a first time.

The Hon. K.T. GRIFFIN: 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.

The purpose of this Bill is to make sure that all appeals from the Magistrates Court are dealt with at the appropriate level. It ensures that the resources of the Full Supreme Court are not called in aid unnecessarily, but are available in cases which properly require the Full Court's consideration.

This is indeed already largely the case in appeals in civil and summary criminal matters. Those appeals already go from the magistrate to a single judge of the Supreme Court. However, in criminal appeals from a magistrate in minor indictable matters, the appellant (who may be the police or the defendant) presently has a choice as to whether to appeal to a single judge of the Supreme Court, or to the Full Supreme Court. In practice, it has been far more common for the appellant to elect to appeal to a single judge, but the option to go directly to the Full Court has been available.

In all appeals from the Magistrates Court to a single judge, whether civil or criminal, the judge can refer the appeal for hearing and determination by the Full Court, if he or she thinks fit. This means that where an appeal raises a complex legal issue, for example, it may be referred to the Full Court. There is also a further right of appeal from the single judge to the Full Court, but in summary matters, this is only by leave of either the judge or the Full Court.

The Government considers that there is generally no need for appeals to go directly from the Magistrates Court to the Full Supreme Court. They should ordinarily be dealt with by a single judge, as indeed they most often are. This is simple, sensible, and conservative of resources. However, the single judge should always be able to refer appropriate matters to be determined by the Full Court. The Bill will therefore amend the Magistrates Court Act to provide that all appeals from that Court lie to a single judge of the Supreme Court, who may in his or her discretion refer the matter to the Full Court.

The Government also considers that the further right of appeal from the single judge to the Full Court should remain in all cases, but should be by leave. That leave could appropriately be granted by either the single judge or the Full Court. By limiting the appeal to cases of leave, it is hoped to ensure that matters reaching the Full Court are those which raise issues properly deserving of the Full Court's attention. Accordingly, the Bill amends the Supreme Court Act to make the further appeal available by leave only. That is, matters reaching the Full Court from the Magistrates Court will be filtered, either by a single judge or by the Full Court itself, to see that they are appropriate for Full Court consideration.

This reasoning reflects the reality that few of the cases coming before the Magistrates Court justify the immediate consideration of the Full Supreme Court on appeal, while at the same time providing a sufficient mechanism of access to the Full Court for those cases which do.

I commend this Bill to honourable members.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

These clauses are formal.

PART 2

AMENDMENT OF MAGISTRATES COURT ACT 1991

Clause 4: Amendment of s. 42—Appeals

Section 42(2)*(b)* of the *Magistrates Court Act 1991* currently provides that an appeal in a criminal action (other than one relating to an industrial offence) lies to the Supreme Court. Subsection (3) provides that if such an appeal relates to a minor indictable offence the appeal is to the Full Court unless the appellant elects to have it heard by a single Judge.

The amendment removes subsection (3) and provides that all such appeals are to the Supreme Court constituted of a single Judge. The amendment also empowers the Judge to refer the appeal for hearing and determination by the Full Court.

Clause 5: Amendment of s. 43—Cases stated

Section 43(2)*(b)* of the Act currently provides that the Court may reserve a question of law arising in a criminal action (other than one relating to an industrial offence) for determination by the Supreme Court and, in the case of a question arising from proceedings related to a minor indictable offence, the question is to be determined by the Full Court unless the parties agree to refer it to a single Judge.

The amendment alters paragraph *(b)* and provides that all such reservations of questions of law are to be determined by the Supreme Court constituted of a single Judge unless referred by the Judge to the Full Court.

PART 3

AMENDMENT OF SUPREME COURT ACT 1935

Clause 6: Amendment of s. 50—Appeals against decisions of judges and masters

Section 50(1) of the *Supreme Court Act 1935* provides for an appeal to the Full Court against a judgment, order, direction or decision of a judge. Subclause (3) of the proviso deals with the circumstances in which leave of the judge or of the Full Court is required for the appeal. Paragraph *(a)* is altered so that such leave is required in all appeals from an order of a judge made on appeal from the Magistrates Court.

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

THE CARRIERS ACT REPEAL BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to repeal The Carriers Act 1891. Read a first time.

The Hon. K.T. GRIFFIN: 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.

In 1995 the Council of Australian Governments ('COAG') entered into three intergovernmental agreements to facilitate the implementation of national competition policy objectives. One of these agreements was the *Competition Principles Agreement*. As part of their obligations under this agreement, State governments undertook to review all existing legislation that restricts competition. The Office of Consumer and Business Affairs ('OCBA') has reviewed the *Carriers Act 1891* (SA) as part of this process.

The guiding principle is that legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and that
- the objects of the legislation can only be achieved by restricting competition.

A review panel consisting of staff of the Office of Consumer and Business Affairs was formed in September 1998 to undertake this Review.

The *Carriers Act 1891* provides a framework for limiting the liability of common carriers, stagecoach proprietors and mail contractors (collectively known as 'carriers') for the carriage of a limited number of goods specified in the Act, including, for example, paintings, pictures, glass, lace, furs, maps, title deeds, engravings and stamps.

Common carriers are considered by the common law to be those who hold themselves out as ready, without discrimination, to carry the goods of all persons who choose to employ them or send goods to be carried.

Common carriers must be distinguished from private carriers, to whom the Act does not apply. If a carrier reserves the right to choose from among those who send goods to be carried, then they are generally a private carrier and not a common carrier, and this appears to be the norm in the goods carriage industry in South Australia.

Court decisions have over time limited those who could be considered common carriers. For example, warehouse operators, wharfingers, stevedores and furniture removers have all been held to be private carriers.

The Act provides that carriers shall bear no liability for the loss of or damage to certain types of goods, where the value of these goods is greater than $20, unless their value has been declared to the carrier.

The Review Panel found no evidence that the provisions limiting the liability of common carriers have been relied upon in recent times.

The Review Panel therefore concluded that the Act is no longer relevant, and further, that the objectives of the legislation in protecting common carriers seem to be in conflict with today's emphasis on consumer protection. The Act offers a protection to common carriers that is unnecessary in a marketplace in which they are able to limit their liability contractually or insure themselves against risk.

The Review Panel also noted in its Final Report that both Queensland and Tasmania have repealed, or are in the process of repealing, equivalent legislation.

In light of the changes which have occurred in the market which render the content of the Act obsolete and the reality that there are few, if any, common carriers still operating in this State, the Review Panel recommended the repeal of the Act. This recommendation met with support from a broad range of industry participants including the South Australian Country Carriers Association, Transport SA and the South Australian Road Transport Association.

Since coming to office, one of the key objectives of this Government has been to undertake a comprehensive micro-economic reform program to ensure competitive market outcomes for both consumers and businesses. As a necessary part of this reform, it is sensible to repeal outdated and irrelevant legislation.

Accordingly, the Government has accepted the conclusions and recommendations made in the Final Report of the Review Panel, and this Bill will repeal the *Carriers Act 1891*.

I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Repeal

This clause repeals *The Carriers Act 1891*.

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

STATUTES AMENDMENT (TRUSTS) BILL

In Committee.

Clauses 1 to 4 passed.

Clause 5.

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

Page 2—

Lines 4 to 12—Leave out subsection (1) and insert:

(1) The trustees of a trust established wholly or partly for charitable purposes must, in the administration of the trust estate, have regard to information, representations or advice that is relevant and is given or made to the trustees in writing by a person referred to in subsection (2).

Line 13—Insert after 'advice' ', or make representations,'

I did indicate in my reply at the second reading stage that there had been quite extensive consultation with various groups that had an interest in this Bill. As a result of that consultation, a number of amendments are being proposed. Those amendments also have been the subject of consultation. I cannot say that everyone agrees with all the amendments because two quite distinct interests are represented—charities, on the one hand, and trustee companies and other trustees on the other hand—but I can say that they have met with a general level of agreement, which, I think, will auger well for the implementation of the legislation.

In respect of the two amendments which I move, the first substitutes the phrase 'have regard to' for the present 'take into account'. The purpose of this change is to make clearer that the trustee is not automatically obliged to do what the advice or information suggests or proposes and to make the wording consistent with that used in section 9 of the Trustee Act which lists the matters to which a trustee must have regard in exercising the power of investment.

The trustee is to consider the submission on its merits. Of course, the trustee may sometimes have proper reasons for declining the advice or not acting on the information. It will depend on the circumstances of the case. The aim of the provision is to give the interested person a right to make submissions to the trustee and to require the trustee to properly consider whatever is put. This amendment also removes the requirement that advice tendered to the trustee must be the advice of an expert. This reflects the concern of the Law Society that there could be difficulty in establishing who is an expert in the given case. The Government does not want to see disputes between charities and trustees over whether a particular submission may or may not be made based on technical questions of expertise; rather, the submission should be considered on its merits.

The second amendment makes clearer that the properly interested person may not only supply information and advice but may also make representations to the trustee; that is, point out particular matters and urge certain action. Again, as I have already indicated, the trustee is not bound to do as asked but must give it consideration.

The Hon. CAROLYN PICKLES: The Opposition indicates that it supports the amendments and thanks the Attorney for sending us early advice of the amendments.

Amendments carried; clause as amended passed.

Clause 6.

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

Page 2, lines 26 to 30—Leave out subsection (1) and insert the following subsection:

(1) The Supreme Court may, on the application of a person referred to in subsection (1c), make—

(a) an order removing one or more of the trustees of a trust; or

(b) an order replacing one or more of the trustees of a trust; or

(c) an order appointing a trustee or trustees, or an additional trustee or trustees, of a trust; or

(d) any other order that in its opinion is necessary or desirable.

Page 3—

Line 7—After 'charitable purposes' insert:

The following persons may apply for an order in addition to those referred to in the other paragraphs of this subsection:

Lines 20 and 21—Leave out subsection (1d).

The first amendment broadens the power of the court to make whatever orders are necessary to do justice between the parties, whether or not an order is made removing or appointing a trustee. This addresses the society's concern that it should be possible to make orders for a new trustee to

charge fees. It also permits the making of orders which reflect a settlement reached by the parties, which may not be in terms of any of the orders originally sought. The third amendment removes the requirement that an order be ancillary to an order under subsection (1). The second amendment clarifies the persons who may apply for an order, in addition to those referred to in the other paragraphs of the subsection. It is to clarify that it did not exclude applications being made, for example, by the Attorney-General. That issue was raised by the Hon. Robert Lawson.

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

Amendments carried; clause as amended passed.

Clauses 7 and 8 passed.

Clause 9.

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

Page 4, after line 36—Insert new paragraphs as follows:

(ab) by striking out paragraph (b) of subsection (2) and substituting the following paragraph:

(b) may be charged only against—

(i) income received by the company on account of the trust;

(ii) subject to the terms of the instrument under which the company administers the trust—that component of the capital assets of the trust representing the capital growth of those assets during the period in respect of which the administration fee is charged.

(ac) by inserting the following subsection after subsection (2):

(2a) Where a trustee company charges an administration fee in respect of a particular period against both income and capital assets under subsection (2)(b), it must, at the request of a person with a proper interest, inform the person of the proportion of the fee charged against each and the method used to determine that proportion.

Page 5, lines 1 to 5—Leave out paragraph (b) and insert paragraph as follows:

(b) by inserting the following subsection after subsection (3):

(4) Subject to subsection (5), where—

(a) a trustee company invests money comprising the whole or part of a perpetual trust in a common fund; and

(b) the company charges a management fee under section 15 in respect of that investment,

the company must not charge a fee under this section in respect of the trust or that part of it.

(5) Subject to the terms of the instrument under which the company administers the trust, the company may charge a fee under this section for reasonable administrative action by the company in administering the trust, or the part of it referred to in subsection (4), if the administrative action is not related to the investment or management of the trust, or that part of it, in the common fund.

(6) A trustee company must, at the request of a person with a proper interest, provide that person with a detailed statement of the administration fees charged by the company under this section in the circumstances referred to in subsection (5) and the administrative action for which each of those fees was charged.

I have moved the amendments together even though they deal with different issues: I do not think they are contentious. The first amendment inserts new paragraphs, as foreshadowed in my second reading reply. It has been requested by both charities and trustees. It permits a trustee who is able to manage the fund so as to achieve real capital growth to be paid its fees wholly or partly from that capital growth as an alternative to taking the fees from income. It will make more money available to the charitable purpose in the present day but without eroding the real value of the capital. However, if the capital value does not grow in real terms but merely remains static or decreases, fees must be paid from income only.

The second amendment addresses the concern of the Law Society and some trustees that there could be cases in which, although a trust fund is placed in a common fund and a management fee is charged under section 15, additional work is entailed in identifying or selecting among potential beneficiaries. This amendment permits a reasonable charge to be made for work which is over and above that involved in managing the trust moneys.

However, the charge can only reflect the work done, and an account of what work has been done and how the charge has been calculated must be provided on request. This would form a basis for a properly interested person to apply to the court under section 22 of the Trustee Companies Act for a reduction of fees if it appeared that charges were excessive.

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

Amendments carried; clause as amended passed.

Clause 10.

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

Page 5, lines 12 to 17—Leave out subsection (3a) and insert subsection as follows:

(3a) A trustee company must limit the amount of money comprising the whole or part of an estate that it invests in a common fund established or managed by it to an amount that a prudent trustee of that estate would invest in the fund.

This amendment recasts the clause in light of submissions to the effect that there would be difficulty in establishing that one form of investment was 'clearly preferable' to another. It requires that moneys be invested in the common fund only where a reasonably prudent trustee would have so invested them. This is in keeping with the 'prudent person' test which prevails generally in trustee investments but places an onus on the trustee to establish that others would have done as he or she did. Thus, it militates against any temptation to invest funds in a common fund for the benefit of the common fund investors generally, or the fund manager, if such temptation there be. In the event of a challenge, the trustee will have to establish that a prudent and objective trustee would have done as he or she did.

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

Amendment carried; clause as amended passed.

Clause 11 passed.

Clause 12.

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

Page 6, lines 13 to 20—Leave out clause 12 and insert new clause as follows:

12. Section 19 of the principal Act is amended—

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

(2a) Where the whole or part of an estate is invested in a common fund established by a trustee company, the company must, on request in writing by a person with a proper interest in the matter, provide to that person as soon as practicable and without charge—

(a) for the purpose of inspection, copying or retention by that person—copies of accounts, auditor's report and other documents laid before the company at its last annual general meeting pursuant to the Corporations Law;

(b) a written statement of—

(i) the classes of investments in which the common fund is for the time being invested and the proportion of the fund invested in each of those classes; and

(ii) the trustee company's investment strategy for the fund.

Maximum penalty: $1 250.;

(b) by inserting after 'subsection (2)' in subsection (3) 'or (2a)'.

This amendment adds to the information which is required to be supplied to properly interested persons. It reflects comment received from the charities. It will enable properly

interested persons to find out not only the rationale for investing moneys in the common fund but also details of the investment strategy of the common fund and the classes of investments in which fund moneys are invested.

For example, the common fund may be structured to invest in shares which return fully franked dividends which may be beneficial to ordinary investors but of no benefit to a charity, which is exempt from tax. The charity is entitled to know this because it may be a matter on which submissions should be made to the trustee.

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

The Hon. T.G. CAMERON: I support the amendment.

Amendment carried; new clause inserted.

New clause 12A.

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

Amendment of Schedule 1—Trustee Companies

12A. Schedule 1 of the principal Act is amended—

(a) by striking out 'Austrust Limited'

(b) by inserting 'Tower Trust Limited' after 'Perpetual Trustees S.A. Limited'.

Schedule 1 of the Bill lists those companies which are trustee companies. It has come to the Government's attention that Austrust Limited listed in the schedule has changed its name to Tower Trust Limited. This amendment reflects that change.

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

Amendment carried; new clause inserted.

Clause 13 and title passed.

Bill read a third time and passed.

FEDERAL COURTS (STATE JURISDICTION) BILL

Adjourned debate on second reading.

(Continued from 6 July. Page 1545.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. I understand that this Bill is designed to provide that certain decisions of the Federal Court of Australia or the Family Court of Australia have effect as decisions of the Supreme Court. The Bill will protect and preserve past decisions made by the Federal Court which are currently in doubt. In June earlier this year the High Court handed down its decision regarding cross vesting. In the decision it was determined that the States are unable to confer State jurisdictions on Federal courts and that the Commonwealth is unable to confer or consent to the conferral of State jurisdictions on Federal courts. This Bill addresses the problems caused by that decision and validates the many decisions made under those schemes as well as clarifying the cases currently before the courts. I have noted the Attorney's amendment, which is of a minor nature and is supported.

The Hon. IAN GILFILLAN: The Democrats support the second reading of the Bill. We recognise the serious nature of last month's High Court decision, which has effectively ended the scheme of cross vesting State jurisdiction in Australian courts. The decision is a matter of regret. Whatever the correct interpretation of the Australian Constitution, it is readily apparent that the cross vesting scheme was intended to deliver and did deliver more affordable access to justice. It did this by eliminating the need for litigants to have State and Federal matters dealt with in separate courts. If this is unconstitutional, as the High Court has now held, the Constitution needs to be changed. I for one would welcome a referendum to remove this anomaly. However, in the short term we must look for a solution to a problem which has in effect invalidated all decisions of the Federal Court in matters of State jurisdiction made under the cross vesting scheme.

It has also left cases currently pending in a state of confusion. I hope the Federal Court (State Jurisdiction) Bill is the appropriate mechanism to address the situation. In part 2 the Bill seeks to create rights and obligations based in effect upon what was the purported exercise of State powers by Federal Courts. The exercise of such powers has now been held to be invalid; therefore, I fear that these clauses are doomed to failure if they are subjected to a High Court challenge and could be judged to be unconstitutional.

However, I certainly do not have an alternative suggestion, and I welcome the Attorney's assurance that the Standing Committee of Attorneys-General is seeking a long-term alternative to these arrangements. Despite my doubts, the Democrats are prepared to support the Bill on the basis that it is worth a try; the consequences of doing nothing would be much worse. If nothing else, this episode gives added impetus to the Australian Democrats' policy of constitutional reform to be wider than merely replacing our Head of State.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their support for the Bill. I will deal first with the Hon. Mr Gilfillan's observations. The Standing Committee of Attorneys met last week, and one hot item on the agenda was this. It is obvious that a lot more work has to be done in respect of long-term solutions. A lot of work has been done over the past two or three years as this potential problem became more evident, but to some extent one is limited in what one can do until we actually have a judgment from the High Court which begins to define the scope of the problem as the High Court sees it. This Bill is a reflection of our immediate need to legislate to deal with decisions which have been taken and matters which are current within the Federal Court and the Federal Family Court.

All the Solicitors-General and Attorneys-General believe that this will resolve the problem, but I have seen speculation in the press that even this might be subject to challenge. I guess we would never do anything if we always had a fear that it might be subject to challenge in the High Court. This is one way in which we can help to provide a settling effect on the very nervous business community in particular and also among citizens, particularly those with interests in cases within the Family Court. We will provide a settling effect for them and some assurance that governments are endeavouring to resolve some of the immediate problems. If the High Court determines that even this is constitutionally invalid, we will go back to the drawing board.

There are a number of possibilities for a long-term solution. One is a constitutional amendment, but the cost of doing that is about $55 million, which is in the vicinity of the cost of conducting most Commonwealth referendums anyway. That is a pretty extraordinary cost, and it may be that even a constitutional amendment does not resolve it as we would want, because ultimately that is subject to interpretation by the High Court. There may be other ways; for example, State courts could be vested with more extensive Federal jurisdiction. That is certainly an option, because they are not currently limited in the scope of their jurisdiction in the way that the High Court is limited by the Constitution. Solicitors-General, our own policy officer and Attorneys-

General are examining those issues to determine the longer term solution to this issue. I think that deals with the Hon. Mr Gilfillan's issues as far as possible.

In the second reading explanation I indicated that consideration was being given to the need for further consequential amendments to the legislation dealing with national cross vesting schemes and that, as a result, amendments may be moved in the Committee stage. The Bill as introduced does not make general consequential amendments to all the legislation affected by the High Court decision. The only consequential amendment made is to remove section 22 of the Competition Policy Reform (South Australia) Act. Section 22 provides that State courts do not have jurisdiction in relation to matters under the Competition Code. The removal of this restriction will allow for State courts to deal with matters that arise under the code that previously had to be dealt with by the Federal Court.

I understand that the Bill introduced in Western Australia amended the general cross-vesting legislation, the corporations law and the legislation associated with the Commonwealth-State cooperative schemes such as the agriculture and veterinary scheme, the competition policy scheme and the gas pipelines scheme. The New South Wales Bill did not make consequential amendments but included a very broad regulation making power. It appears that the regulations could be used to modify the provisions of Acts relating to cross-vesting.

However, I understand that the Queensland Bill did not include the consequential amendments and that the Tasmanian Bill does not currently include the consequential amendments. At this stage, I do not propose to move any additional consequential amendments. My view is that amendments to scheme legislation should not occur without the necessary approvals required under a scheme. For example, amendments to the Corporations (South Australia) Act would need to be considered and approved by the Ministerial Council on Corporations.

Therefore, I will liaise with my ministerial colleagues with a view to finalising any consequential amendments that may be required as a result of the High Court decision so they can be brought to Parliament at a later stage. I also take this opportunity to inform members that a minor drafting amendment will be moved in Committee.

Bill read a second time.

In Committee.

Clause 1.

The Hon. IAN GILFILLAN: Is the Attorney in a position to say what, if any, extra cost as a result of this determination will fall on the South Australian Supreme Court system? Maybe he can expand to indicate whether, if there is an estimate, it will be accommodated in addition to the budget.

The Hon. K.T. GRIFFIN: It is not clear what additional costs to the States will flow from the decision. It has been difficult to get a handle on how many cases are involved. A number of corporations law matters had been initiated in the Supreme Court well before the High Court decision because practitioners anticipated that there would be a problem and they did not want to have to revisit their cases in the Federal Court if they could avoid that problem by initiating action in the State Supreme Court. Undoubtedly, there will be some additional workload. The matter has been discussed with the Chief Justice, but there is no clear indication as to what the extra workload will be. Once this Bill is passed we may get a better understanding of how much additional work there is.

It does not appear to be so significant at the moment that we have to become overly concerned about additional delays that might be caused as a result of the additional costs that might be incurred. I can give no definitive amount in relation to the work that might come across from the Federal Court.

The Hon. IAN GILFILLAN: I thank the Attorney. Maybe the Attorney could indicate whether, on finding that there was clearly an indication of an increased cost and it was approximately quantified, the Supreme Court or the court structure generally would be expected to take it out of its existing budget or the Government would cover that extra cost.

The Hon. K.T. GRIFFIN: I cannot give a clear answer about that, because we do not know how much work is involved, but I indicate that I meet on a fairly regular basis with the Chief Justice—on a monthly basis and more frequently if necessary—and our respective officers are very much attuned to the need to monitor this. It is impossible to say what will or will not be the case. If it is just a small workload, no supplementation might be requested. If it is a large volume of cases which ultimately have the effect of causing significant extensions to the time it takes for matters to get onto trial, that is another matter and we will have to look at it at the time. I will not pre-empt it by saying 'Yes' or 'No' to the question raised by the honourable member. I simply want to indicate that we are conscious of the consequences of a significant number of matters coming across to the State Supreme Court and we will look carefully at whether or not there is any significant disadvantage to the State system as a result of it.

Clause passed.

Clauses 2 to 13 passed.

Clause 14.

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

Page 7, line 29—Leave out 'Appeal Division of that Court' and insert 'Full Court of the Family Court of Australia'.

This amendment is of a minor drafting nature. The model Bill prepared through the Standing Committee of Attorneys-General originally referred throughout to the Appeal Division of the Family Court of Australia. However, the Family Court advised that the proper title was the Full Court of the Family Court of Australia. The necessary amendments were made to the rest of the Bill. However, the reference in clause 14 was not changed. This amendment replaces the reference to the Appeal Division with a reference to the Full Court of the Family Court of Australia.

Amendment carried; clause as amended passed.

Clause 15, schedule and title passed.

Bill read a third time and passed.

ASER (RESTRUCTURE) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 July. Page 1646.)

The Hon. IAN GILFILLAN: In speaking to the Bill, I restrict my observations to a particular concern of mine regarding the integrity and sanctity of the parklands. Whatever the merits of the ASER project as a development for South Australia—we cannot reverse and rewrite history—it is a classic case of proponents looking about, seeing open space which happens to be parklands, and regarding it as the most convenient and, in almost all cases, the cheapest venue on which to establish the development. It continues to be the

pattern of the biggest threat to our having reasonable parklands as we move into the next millennium.

The other aspect that I would like to mention in relation to the proposal for the extension to the Convention Centre is the way that particular program and project has been promoted. When making an observation about it, I reflected with some appreciation on the efforts to dress up the river front and construct a walkway so that people could enjoy easier access across the lake. However, as is so often the case, there is a downside, and the enormous increase of the footprint of the Convention Centre, although part of it goes over existing railway tracks (again trespassing on parklands but unlikely to be restored as parklands), is a large intrusion north of the area that will be affected by the extension.

I repeat, as I will on any occasion that I have the chance, that we have to be eternally alert, vigilant, to the often heavily disguised intrusion onto parklands. They are limited. They are not growing. There is no natural expansion of the parklands area. However, there is an unnatural and much deplored diminution of the parklands in steady erosion, and I urge all members to be aware of that in any decisions that are made in this place and in their private or representative capacities outside this place. Once they are gone, they are gone.

The sort of developments that ASER has duplicated have accounted for the loss of large areas of parklands with what are quite often significant, important and, in several cases, beautiful developments. One has only to look at the north side of North Terrace to the east of this building to understand that. However, the facts are the facts. Those areas were parklands, they were taken over because it was convenient at the time, and they will never return to parklands. With those observations, I am content to see whatever this Council does with the Bill, which is more in the hands of my colleague the Hon. Mike Elliott.

The Hon. R.I. LUCAS (Treasurer): I thank members for their contribution to the second reading debate. Before addressing some of the questions that the Hon. Mr Elliott put when this matter was last debated, I will make some brief comments about the contribution from the Hon. Mr Gilfillan. Whilst I understand and acknowledge the passion that the honourable member has for the parklands, I can assure him that the Government's view is similar in many respects. We might not be quite as far down the track as the Hon. Mr Gilfillan in terms of opposition to virtually every activity within the parklands, but the Government acknowledges the wonderful amenity that we in Adelaide have in our parklands. The Government would not consciously seek to do anything that would significantly diminish or deteriorate that wonderful amenity, which is enjoyed by all Adelaidians and tourists to South Australia.

I have some brief comments to make about the Riverbank proposal and the Adelaide Convention Centre, having been one of the Ministers involved in the Government's consideration of that proposal. I hope that, when the Hon. Mr Gilfillan sees the final project and the Riverbank Master Plan completed, although the master plan will take much longer than the extension to the Convention Centre, he will acknowledge that the development will do wonders for the Riverbank precinct within which we sit, that is, the area bounded by Morphett Road, North Terrace, King William Road and the River Torrens.

For too long this city has turned its back on the frontage of the River Torrens. Most other cities throughout Australia and the world which have a river like the Torrens coursing its way through, turn towards the river, embrace it, and encourage residents to enjoy the river frontage. During the 1970s, for a number of reasons unbeknown to me, with the ASER development and with a number of other developments, we consciously turned our back on the river, and one of the guiding principles of the Riverbank Precinct Master Plan is to reverse that. We hope that the master plan will guide this Government and future Governments to undertake projects that will encourage residents of Adelaide and South Australia and tourists to South Australia to go down to the Riverbank precinct and enjoy the pleasures of the river and what that offers, in a way that is different from many other cities throughout Australia. The master plan does not envisage a concrete jungle *a la* South Bank in Melbourne, although I think that is a wonderfully exciting part of Melbourne and I certainly enjoy it.

The Hon. M.J. Elliott: It just doesn't say much for Melbourne.

The Hon. R.I. LUCAS: The Hon. Mr Elliott might not enjoy it as much as I do, but I think it is an exciting part of Melbourne. In the Government's judgment, the Riverbank plan will be a quantum improvement on what we in South Australia have known and enjoyed, namely, the green of the frontage of the River Torrens and the trees. The Riverbank Master Plan has proposals to extend that area in front of Festival Theatre, to remove much of that concrete of the Plaza over structure and to ensure that the grassed area with its trees that we enjoy—

The Hon. T.G. Roberts: Ross River Boulevard.

The Hon. R.I. LUCAS: I thought we might call it Terry Roberts Avenue. There are proposals in the Riverbank plan to extend the grassed areas and the trees into some of the areas that are currently covered by concrete in the Plaza.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Fairies or ferries?

The Hon. T. Crothers: Fairies.

The Hon. R.I. LUCAS: No, we are not. Given that the Hon. Mr Gilfillan has raised this issue, I point out that the Government will be shown to have been conscious of the views that he represents and that, in this wonderfully exciting Riverbank development, the first component of which is the extension of the Adelaide Convention Centre, many more South Australians and tourists to South Australia will be encouraged to enjoy the Riverbank precinct. We hope they will be attracted down there by the eating areas where they can have a cup of coffee and so enjoy the Riverbank precinct in a much greater way than they have in the past.

The Hon. Mr Elliott asked a series of questions in his second reading contribution and I now place on the record my response. I provided the honourable member with a copy of this reply earlier. The ASER Restructure Act 1997 currently contemplates only the ASER Services Corporation operating within the ASER site as it is defined by the Act. The site is roughly the area bounded by Station Road, Festival Drive, Montefiore Road and North Terrace. The common area or Adelaide Plaza (as it is also known) lies within the ASER site, and the Act makes the corporation responsible for the security of persons and property in the common area.

Prior to the restructure Act coming into effect on 30 June 1998, the Convention Centre arranged the security for the common area and, because it was cost-effective and convenient to both parties, extended the service to include the Festival Plaza by agreement with the Festival Centre. The security service consists of security patrols engaged under a

contract with a security firm. Since 30 June 1998, the ASER Services Corporation has continued to arrange the same service for the Festival Centre and the ASER complex. However, there was some question as to whether the corporation's ability to provide the security service in respect of areas outside the ASER site could be challenged. The legislation has been drafted to ensure that the corporation is able to continue to provide this service.

The delineation of the ASER site made in the ASER Restructure Act 1997 was based on the definition used in the Adelaide Railway Station Development Act 1994. However, some parts of the ASER complex were built outside of the ASER site as defined by these Acts. These outside facilities include the western footbridge from the Adelaide Plaza over Festival Drive, the steps from this bridge down to the Torrens bank and parts of the Festival Drive footpath. This is a similar situation to that described previously. Historically, the Convention Centre maintained these facilities and now the corporation has that responsibility. This is to the benefit of the owners of the land on which these facilities lie and would not and could not be undertaken without the landowner's consent. The legislation simply ensures that the corporation is able to continue to maintain these facilities.

Further, the Riverbank precinct master plan initiatives and extension of the Adelaide Convention Centre are likely to have a significant interface with the ASER complex, and proposals have been put forward to relocate some of the corporation's shared facilities to areas outside the ASER site. Without the legislation the corporation will not be legally competent to enter into any agreement with its neighbours to effect this proposal should it be deemed appropriate. Additionally, the members of the ASER Service Corporation have effected a joint policy of insurance, so that in the case of substantial damage or destruction to their buildings they need only deal with a single insurer. This guarantees that the reinstatement of the structures is not delayed by conflicts between separate insurers. The corporation needs to insure structures and facilities that are part of the development but outside the site, and the legislation ensures that they can do this.

There is nothing sinister in the power that the legislation confers on the corporation. Section 20B will merely give the corporation the legal capacity to perform such functions: it does not provide it with any special power to force other parties to award it such services. The corporation must always act in accord with all other relevant laws and property rights. The corporation will be able to provide security and administer facilities only in areas adjacent to the site by agreement with the occupiers of those adjacent sites. In fact, the Act limits those activities in which the corporation can engage beyond the site. These activities or functions must be associated with the use and enjoyment of the site, can be performed only in areas adjacent to the site and each activity must be approved unanimously by the members of the corporation. With that, I thank honourable members for their contribution to the second reading and I look forward to the passage of the Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2.

The Hon. M.J. ELLIOTT: The Treasurer in his response talked about the boundaries of the ASER site. I have not been involved in the ASER legislation previously, so I was surprised at the delineation he gave. As I recall, I think Montefiore Road was one of the four boundary roads mentioned. Does that mean that the ASER site does extend to what we know as the Morphett Street bridge?

The Hon. R.I. LUCAS: I do not have my adviser with me this morning. The advice I have is that the site is roughly the area bounded by Station Road, Festival Drive, Montefiore Road and North Terrace. So on that reading, I think what the honourable member is—

The Hon. Diana Laidlaw: It must be a dogleg because TransAdelaide owns a lot of the rail land reserve and the station.

The Hon. R.I. LUCAS: Whatever it is, we are not changing the site in relation to this. I am happy to take it on notice. If the honourable member would like to delay the Committee stage, I can seek advice on it. However, we are not seeking to change it. The advice I have is that the boundary is Montefiore Road, Festival Drive, North Terrace and Station Road.

The Hon. M.J. ELLIOTT: I presume that the new development currently being proposed for the Torrens precinct or whatever it is called—

The Hon. R.I. Lucas: Riverbank.

The Hon. M.J. ELLIOTT: Yes, Riverbank. I presume that that will all be covered by this legislation. Therefore, I would not mind a chance to obtain a little more clarification. It is not a matter of supporting or opposing the Bill, but at this stage it is an opportunity to obtain some clarification about the site to which this Bill relates and gain a very clear understanding of the boundaries and the development that is likely to be included within the site. I do not want to cause a delay, but it is an opportunity—

The Hon. R.I. Lucas: Does the honourable member have the ASER Act in front of him?

The Hon. M.J. ELLIOTT: No, I have the ASER Restructure Act, which is not the principal Act. In fact, I am not sure what the principal Act is. The Bill before us is an amendment to the ASER Restructure Act 1997. However, I presume ASER was established under another Act that I cannot—

The Hon. R.I. Lucas: The Adelaide Railway Station Development Act 1994. If the honourable member has a copy of that, he will see that that is the definition from which we are working, so it might be covered in there.

The Hon. M.J. ELLIOTT: Yes. While we have this opportunity, as it relates to the development within the precinct, I want to get a clear understanding of precisely what that development might be. I do not want to cause undue delay, but it is an opportunity at least to put it on the record in this place by way of question. I apologise to the Treasurer, because I had not intended to follow this path. However, it is something that I think is worthwhile, particularly in light of some of the issues raised by the Hon. Ian Gilfillan. It is not a question of being opposed to the development but an opportunity to obtain a clear picture of what it will become.

The Hon. R.I. LUCAS: The honourable member may well find the answer in the Adelaide Railway Station Development Act 1984, because my advice is that the definition about which we are talking is outlined in that Act. I do not intend to delay the Committee stage, but I am happy to defer consideration, if that is required, and return to it later. In relation to the honourable member's question, the Riverbank precinct is tangentially related to this piece of legislation. The Riverbank precinct—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Yes. The 'Riverbank precinct' is our working title for the area bounded by North Terrace, Morphett Road, the Torrens River and King William Road. We are not legislating it, so we are not putting anything in statute. It is just the Government's working title for that area bounded by those three roads and the Torrens River.

The Hon. M.J. Elliott: So any new structure will probably go within the area bounded by the relevant legislation.

The Hon. R.I. LUCAS: Obviously, the Adelaide Convention Centre is part of the ASER project and that is the relationship. However, the Riverbank precinct takes in a whole variety of other potential projects; that is, what we might do with the river frontage, the Festival Centre and Parliament House. There are a variety of separate projects which may or may not be contemplated—for example, the bridge over the Torrens River from Adelaide Oval to south of the Torrens River. There are a number of possible projects that this Government, or future Governments, might pick up which are not formally part of the ASER development at all.

The ASER development is a sub-component of the broader Riverbank proposal. The boundaries of the ASER development are specifically defined in legislation. The Riverbank precinct is just the Government's working title for the area. It is not legislated for or defined—and it will not be. It is just a working title for a number of projects within the Morphett Road, North Terrace, King William Road and Torrens River boundary. It is just that one of the projects within the Riverbank precinct was the Adelaide Convention Centre and, obviously, that has flow-on implications in relation to the ASER development.

The Hon. M.J. ELLIOTT: I just have a feeling and expectation that, in terms of structures, other than the potential footbridge that has been proposed across the river, any other building work that is likely to happen is most likely to happen within the ASER site itself.

The Hon. R.I. LUCAS: The Festival Centre—there is an $18 million project there, and that is actually outside the ASER site.

Progress reported; Committee to sit again.

LOCAL GOVERNMENT BILL

In Committee.

(Continued from 27 July. Page 1681.)

Clause 51.

The Hon. IAN GILFILLAN: I move:

Page 49—

Line 7—Leave out 'appointed' and insert:

appointed[1.]

After line 11—Insert:

[1.] An appointment may occur under section 10 of this Act or section 8 of the Local Government (Elections) Act 1999.

These amendments clarify that it is only in two sets of exceptional circumstances that a principal member would be appointed rather than chosen by members of the council.

The Hon. DIANA LAIDLAW: The Government accepts both amendments.

The Hon. A.J. REDFORD: I am wondering what those two circumstances are.

The Hon. IAN GILFILLAN: The clause relates to 'principal member of council' and the intention is that:

(1) A council may be constituted—

(a) on the basis that the principal member is to be appointed or elected to represent as a representative of the area as a whole (in which case the principal member is to be called a mayor); or

(b) on the basis that the principal member is to be chosen by the members of the council from amongst their own number (in which case the principal member may be called chairperson (the title used in this Act), or have another title, as the council decides).

So subclause (1) explains how a mayor or a chair can be appointed principal member. In relation to both paragraphs (a) and (b), I have moved an addendum, a footnote, which refers that appointment to section 10 of this Act or section 8 of the Local Government (Elections) Act, which allows for a principal member to be appointed under certain circumstances.

The Hon. A.J. REDFORD: What are those circumstances?

The Hon. IAN GILFILLAN: I cannot clearly recall, except that I think it is where there has been an amalgamation or some sort of extraordinary circumstance.

The Hon. DIANA LAIDLAW: All the information that the honourable member is seeking is on file before him, in the Bill (page 13). The circumstances relate to when a council is first created and the first members can be appointed.

The Hon. A.J. REDFORD: I appreciate the way in which the Minister wants to deal with this. I am entitled to ask the questions, and it was a simple answer. The churlish comments about its being available for me to read are taken on board. If the Minister wants to play that game, that is fine: I can be difficult all afternoon if the Minister wants me to be.

The Hon. Diana Laidlaw: You will not be.

The Hon. A.J. REDFORD: The way the Minister is going, I will be.

The CHAIRMAN: Order!

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: I appreciate that. I did say in my contribution on clause 1 that my view has always been that chairs or mayors of councils should be elected from amongst their own, similar to the way in which we deal with positions in the Executive arm of Government in this place or, indeed, in the Parliament. Briefly, the reason I say that is that we have seen occasions when councils have become dysfunctional and where, indeed, the directly elected mayor has lost the confidence of the majority of members of the balance of the council. We have seen two recent examples of that: the Port Lincoln council and also the City of Adelaide. I have always been of the view that there should not be direct elections of mayors but that they should come from amongst their number. I appreciate that I do not have the numbers or the support in relation to that view, but it is appropriate that I go on record as saying that. I also think that we need to monitor it carefully.

I know that the Minister has attempted to address that issue by having some form of circuit breaker, but I would prefer one that is available to the Parliament: that is, if the chair or the mayor loses the confidence of the council, it can simply and easily replace the mayor. Unfortunately, with direct elections of mayors, that is not possible. I sincerely hope that we do not have a recurrence of the problems at Port Lincoln and in the City of Adelaide, but I suspect that we will, because it is the very nature of the political process in which we are involved.

The Hon. IAN GILFILLAN: By way of clarification, I was on the right track and I have confirmed that with an adviser in the gallery. My amendment is aimed to ensure that

the appointment of a principal member would occur only under two quite tightly confined opportunities. I have referred back to clause 10, and that is quite clearly defined. I do not have section 8 of the Local Government (Elections) Act before me, but that is the purpose of the amendment: instead of using the general word 'appointed', which does not carry any particular restriction, this amendment and subsequent amendments define the range in which the appointment can be made to clause 10 of this Bill and section 8 of the Local Government (Elections) Act.

Amendments carried; clause as amended passed.

Clause 52.

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

Page 49, lines 36 and 37—Leave out paragraph (a) and insert:
(a) if the area of the council is not divided into wards—be appointed, or elected by the electors for the area, as representatives of the area as a whole; or
Page 50, lines 3 to 5—Leave out subclause (3).

The Hon. DIANA LAIDLAW: The Government opposes the amendments. They remove the capacity for councils to have a combination of area and ward councillors. The Government's position is that councils should be allowed flexibility and to rely on the regular council review of composition and representation required by the Bill and the capacity for electors to make submissions proposing changes.

The Hon. IAN GILFILLAN: I move:

Page 49, line 36—Leave out 'appointed' and insert:
appointed[1]

While we are dealing with the Hon. Terry Roberts' amendments it is appropriate to indicate that a much more substantial amendment of mine will attempt to deal with this interesting challenge of what should be a mix of the methods to elect councillors. I will not go through with members what is in the Bill, because I am sure that they understand what is there. I oppose it on the basis that I believe that subclause (3) is too proscriptive on a council.

The Democrats strongly support election at large as a principle, but we believe that it should be the right of a council to make a determination as to how it is elected, and that it should be able to make a decision as to the mixture. It could elect all its members by election at large as many councils do, by proportional representation, or by wards if that is what it prefers.

The Democrats feel—and I particularly feel very strongly about this—that we must move away from first past the post in single member type electorate structures, and the best way to ensure as far as one can that that is avoided is to have at least three members representing each ward, if there is in fact a decision to have elections in wards, because a constituency that has to elect three members is provided a degree of proportional representation through the way that the formula works out.

Because that is our intention I will oppose the Labor amendment. I have an amendment to implement what I have just outlined and, if that is unsuccessful, I will oppose subclause (3), which I think is quite an arrogant instruction by this Parliament to local government as to how it should constitute the members who are elected to councils.

The Hon. A.J. REDFORD: This is an appropriate point to go on the record and put my point of view, which is probably different from everybody else's. It seems to me that if we are not to have wards imposed on councils it will inevitably lead to the participation of political Parties—the Liberal Party, the ALP, the Australian Democrats and SA First—into the local government process. As I have said on many occasions, when one looks at councils with a population in excess of 100 000 the easiest way to exclude independents or people who cannot or will not be endorsed by a political Party is to have no wards. If you removed wards from the Tea Tree Gully Council the size of the electorate would be bigger than a Federal electorate, and the only way one might be elected to such a council is with the endorsement of a political Party. This Bill will inevitably lead to the participation in local government of formal political Parties. Unfortunately, my view has not prevailed.

I know that the Labor Party becomes involved in that process more formally than does the Liberal Party, although that is not to say that members of the Liberal Party do not stand for council. One of the great traditions of local government in South Australia—as opposed to what goes on in New South Wales—is that the political Parties are not directly involved; in fact, in a lot of cases being endorsed by a political Party has been a negative. When we get rid of awards and do that in the context of larger councils which we established a few years ago, it inevitably will lead to the participation of political Parties in the electoral process. That is unfortunate, and it is sad. However, I recognise the inevitable direction of the Australian Democrats with their amendments, the Hon. Terry Roberts with the ALP amendments or the Government with its recognition that councils if they want to can remove awards. In my view it will inevitably lead to the participation of political Parties. It is unfortunate and sad.

The Hon. T.G. ROBERTS: I suspect that, as the strengthening of local government occurs, the more powers and responsibilities will be handed to local government by State Governments. It is inevitable that Party practitioners and people with Party political views will enter the field of elections, anyway. As the handballing of power and responsibility goes down to local government, assistance will be provided by the major Parties.

As the Hon. Angus Redford said, he knows of members of the Labor Party who have run for local government, just as I know members of the Liberal Party who have run for local government. The fear that both of us probably have is that Party politics of a different nature is played in relation to that. There is no problem with people holding membership tickets in any of the major or even the minor Parties that are running for office, because it will provide a mixture of political views. Let us hope that logic melts into efficient, effective local government when people get around a table. That is the important thing.

We hope that a certain maturity would enter into this, and with our amendment we will attract those sorts of people who will be able to provide leadership and make sound contributions at a local government level in a mature way that does not get tied up in petty Party politics where the lowest common denominator stuff does occur. We do not have the hardlined, hard-nosed ticket running of, say, Victoria which culminated in the Richmond tactics and strategies, and the Melbourne City Council tactics and strategies. We still have a fairly mature approach to Party participation. It is covert rather than overt at this stage. However, I suspect that, as time goes on, it will get a little more public, and more pressure will be placed on local governments by individuals to be supported by Parties. I do not see anything wrong with that, as long as it is safe and does not get out of hand.

The hypocrisy of what has preceded us to this point is where conservatives do control governments. They like to say that no Party political programs are running through their

contributions into local government. On the basis that they are conservative by nature, in my view, that is an alignment with a political Party. It may not be official, but in philosophical terms it is real.

I just hope that the debate, as advanced by the Hon. Angus Redford but perhaps not by the Hon. Mr Gilfillan, might take place in the community at large and make local government a more interesting field for candidates, because those people who volunteer their time and energy are starting to get a little tired. I have made contributions to this Council before about the long hours that people spend and the dedication they must apply to diligently do their job at a local government level with little or no reward or recognition. We need the sorts of challenges that will be required by the adoption of our amendment.

The Hon. A.J. REDFORD: I appreciate that this is a type of Don Quixote performance on my part, and I am also very grateful for the contribution and candour of the Hon. Terry Roberts, because I think this is the first time I have heard an acknowledgment from someone from his side of politics that the involvement of political Parties in the local government electoral process is inevitable. Today (apart from me) we are aiding and abetting that without any whimper or statement of protest. Ordinary practitioners in local government will be horrified when they understand the ramifications of what we are doing today. I recognise the numbers. To clarify, because the honourable member might have misunderstood what I said, I have no problem with, and indeed I would encourage, ordinary members of the Labor Party, SA First, the Australian Democrats and the Liberal Party standing for local office. We need the best people we can get.

What I am scared of and what the honourable member acknowledges as likely is that candidates will stand under the banner of their respective Parties because, given the size of the electorates, particularly where you have a council-wide electorate as opposed to a ward-sized electorate, you will inevitably have political Parties formally involved in endorsing candidates for local government. The ALP may have sufficient funds and resources to add that responsibility onto it; I have to say the Liberal Party does not, but inevitably this is what we are doing today. I must go on the record as saying that and express my utter dismay and disappointment that this is where local government is headed.

The Hon. T.G. ROBERTS: I have been misrepresented, I suspect. I do not want to hold up the debate. Big is not beautiful at local government level. If people believe there is a machine behind a candidate, sometimes that works against them, as many people know in local government. You do not want to be associated with a slick, fast-moving, heavy machine. What the honourable member said is not what I put to the Committee in this amendment. Additionally, candidates who become members—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: It went before that. Candidates who become members then have to be re-elected. They have to be quite good in terms of delivering at local government level because they are under the spotlight. They may get up on one occasion, but they still have to deliver into local government what local government needs and wants and what the electors want, because they are under scrutiny. They are probably more scrutinised over their delivery than are we or Federal members.

The Hon. DIANA LAIDLAW: The Government does not support the Hon. Ian Gilfillan's amendment, just as I indicated earlier that we do not support the Hon. Terry Roberts' amendment. To ease the mind of the Hon. Angus Redford so he does not think that he is standing alone waving the white flag, the provision in this Bill is no different from the provision in the current Act.

The Hon. A.J. REDFORD: The current Act was drafted well before we went through the recent round of council amalgamations, where we reduced the number of councils from about 140 down to about 80, with the likelihood that that number will be further reduced. I accept what the Minister says and that it is no different, but in the context of the local government landscape it is significantly different.

The Hon. DIANA LAIDLAW: Some 52 of 68 councils in South Australia have wards, and that—

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: It is interesting that something pleases you. That happened after the amalgamation process. There can be doom and gloom from the Hon. Mr Redford, but I think the facts speak for themselves.

The Hon. Terry Roberts' amendments negatived; the Hon. Ian Gilfillan's amendments carried.

The Hon. IAN GILFILLAN: I move:

Page 50, lines 3 to 5—Leave out subclause (3) and insert new subclause as follows:

(3) If the area of a council is divided into wards, there must be at least three councillors to represent each ward.

My amendment leaves out subclause (3) on page 50 and inserts a new subclause. I indicated earlier in the Committee stage that I believe that the Bill, as currently drafted, is too proscriptive. The current draft of subclause (3) provides:

If the area of a council is divided into wards, the total number of councillors who may hold office under subsection 2(a) (if any), cannot exceed one-half of the total number of councillors who may hold office under subsection (2)(b).

The interpretation is that there is a prescribed limit on the number of councillors who can be elected, at large, compared with those elected in a ward system. We believe that councils themselves are the mature and responsible body to decide those sorts of matters without their having the prescription of the Act. However, again I repeat that, because I think it is a basic tenet of democracy to have a proportional representation as the method of selection (the choice of election by ward), my amendment would determine that there would need to be at least three members chosen to be elected in each ward. In our view that gives an opportunity for minority groups to have a good chance of having members elected whereas if is it one, or even—

The Hon. T.G. Cameron: Do you have a minority group in mind?

The Hon. IAN GILFILLAN: I will come to that; SA First may well be targeting its cut. Either one or two very substantially reduces the opportunity for minority groups to get elected. That is the purpose of the amendment, but I would like to reflect on both the original contribution by the Hon. Angus Redford and interjections by the Hon. Terry Cameron regarding the effectiveness of groups. Somewhat to my surprise, many councils in South Australia chose the election at large, in other words, proportional representation.

There is absolutely no evidence that any of the formalised political Parties have emerged either as being identified or as taking any active interest. However, certain people who have shared interests—they may have interests in an area or a particular bent on environment or small business—can work as a group to cooperate. That is surely what this Parliament would like to see happen in local government. I have no concerns at all that by encouraging an election at large in

proportional representation we will encourage something we supposedly dislike, in other words, the involvement of political Parties. It is a strange irony that virtually all of us are here representing political Parties. So, what is so horrific and devastating about political Parties being involved?

However, I emphasise that nothing either my amendment or the encouragement of election at large does will do anything to encourage political Parties into a local government system. It is a cultural issue. If the culture of the community says that we want to have political Parties involved in local government, they will go in whatever system of election is in operation. There is historical political Party representation in other States. We have not been tempted to follow that path, and anything we do here today will not make any difference to that.

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

Page 50, lines 3 to 5—Leave out subclause (3).

The Hon. DIANA LAIDLAW: The Government is opposed to the Hon. Terry Roberts' amendment. We believe it is consequential on the defeat of an earlier amendment, but it is clear that he wants to treat it separately. I have already indicated that the Government does not support the amendment moved by the Hon. Ian Gilfillan. I think that in his argument in support of his amendment he in fact argued his way out of it by saying that councils are mature and responsible enough to decide for themselves the way in which they should progress these matters. We could agree entirely and believe that the stipulated position that the Democrats have presented by saying that 'if an area of a council is divided into wards there must be at least three councillors to represent each ward' removes the flexibility for councils and certainly takes away the capacity of electors to make submissions on proposed changes to such matters.

The Hon. T.G. CAMERON: SA First supports the Democrats' amendment.

The Hon. T.G. ROBERTS: We oppose the Democrats' amendment. In terms of contribution, I agree with the Minister: the honourable member actually outlined a good cause for minorities to survive in a big dirty campaign within a local election, but he then talked himself and me out of it by saying that whatever culture existed Party politics would be involved. Of course, that is a mature understanding of what already exists. I am sure that the Democrats will survive in a culture where like minds want to elect people who have similar interests by doing deals with other major Parties and other interest groups within the community. It is all part of the democratic processes. I am sure that whatever is left, whether the provisions of the original Bill or any of the amendments, the Democrats will continue to involve themselves in local government with or without the support of the amendment framed by the honourable member.

The Hon. IAN GILFILLAN: It looks as if my amendment has not been thoroughly thought through by the Opposition—that is the most complimentary remark I can make about it. I do not intend to extend the business of the Committee: we have a lot to get through. My anticipation is that my amendment will be lost. I appreciate the Hon. Terry Cameron's support: I think he has had the wisdom to see through it. But we will not have the numbers. I indicate that, in the event of my losing my amendment, we will support the ALP's amendment to delete clause 3 in its entirety.

The Committee divided on the Hon. I. Gilfillan's amendment:

AYES (11)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I. (teller)
Holloway, P.	Kanck, S. M.
Pickles, C. A.	Roberts, T. G.
Weatherill, G.	Xenophon, N.
Zollo, C.	

NOES (8)

Davis, L. H.	Griffin, K. T.
Laidlaw, D. V. (teller)	Lawson, R. D.
Lucas, R. I.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.

PAIR(S)

Roberts, R. R.	Dawkins, J. S. L.

Majority of 3 for the Ayes.

The Hon. I. Gilfillan's amendment thus carried.

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

AYES (6)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I. (teller)
Kanck, S. M.	Xenophon, N.

NOES (14)

Davis, L. H.	Griffin, K. T.
Holloway, P.	Laidlaw, D. V. (teller)
Lawson, R. D.	Lucas, R. I.
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Roberts, T. G.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	Zollo, C.

Majority of 8 for the Noes.

Amendment thus negatived.

Clause as amended passed.

Clauses 53 and 54 passed.

Clause 55.

The CHAIRMAN: There is an indicated amendment from the Hon. Mr Gilfillan which is identical to that of the Hon. Mr Roberts but different from the Hon. Mr Cameron's.

The Hon. IAN GILFILLAN: I move:

Page 52—
Line 26—Leave out '270' and insert:
62 or 74
Line 29—Leave out 'or 270' and insert:
, 62 or 74

It is probably of interest to the Committee to realise that these amendments are forward consequential on a later substantial amendment to clauses 62, 74, 266 and 271 relating to the disciplinary proceedings in regard to councillors who may be accused of dishonest or some other unacceptable behaviour. I am not sure, Mr Chairman, whether you will give us some advice because the clause provides:

If a person—
(a) at the time of election or appointment to the office of a member of a council is disqualified to hold that office (see section 270 of this Act. . .

If we are successful in later amendments, that is no longer a significant number: the number becomes 62 or 74. The dilemma, as I see it, is that, if we move this amendment now and it is successful (which it may well be on the numbers) and later down the track we deal with a substantive amendment and are not successful, we will have to revisit it. We need your advice, Mr Chairman. Do you invite us now to debate the major issue, which will then be determined by this relatively minor amendment?

The Hon. DIANA LAIDLAW: I may be able to help. I appreciate the dilemma of the Hon. Mr Gilfillan but, since his amendments were placed on file (with identical amendments from the Labor Party), the Hon. Mr Cameron has moved amendments to this clause and equally to the substantive clause 62. The Government will be supporting Mr Cameron's amendments. We will be voting against the Hon. Mr Gilfillan's amendments, so he need not worry about them being passed and there being a dilemma later.

The Hon. IAN GILFILLAN: In fact, that was extremely helpful, as one would expect from the Minister. It probably means that we will not waste time debating the substantive issue now, but I will still continue with my amendments because they are linked to an argument which I will put later. I indicate that I will not call for a division if I lose on the voices.

The Hon. T.G. CAMERON: SA First opposes the amendments. I move:

Page 52, line 26—Leave out 'section 270' and insert: sections 62 or 270

The Hon. T.G. ROBERTS: The Labor Party supports the Democrats' amendments because they are identical to ours and, if the Democrats' amendments are defeated, we will withdraw our amendments.

The Hon. T.G. Cameron's amendment carried.

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

Page 52, line 29—Leave out 'or 270' and insert: ', 62 or 270'.

Amendment carried.

Progress reported; Committee to sit again.

[Sitting suspended from 1.3 to 2.15 p.m.]

PAPERS TABLED

The following papers were laid on the table:

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

Response by the Deputy Premier, Minister for Primary Industries, Natural Resources and Regional Development, Hon. R. Kerin MP, to the Environment, Resources and Development Committee Report into Fish Stock of Inland Waters.

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

Committee Appointed to Examine and Report on Abortions Notified in South Australia—Report, 1998.

POLICE, PUBLIC CONFIDENCE

The Hon. R.R. ROBERTS: I seek leave to make a personal explanation on a matter that I referred to in Parliament yesterday. I had the name wrong and I wish to correct the record.

Leave granted.

The Hon. R.R. ROBERTS: Yesterday in a contribution I made in this Council I advised of an issue that took place around or near the St Agnes Police Station involving a suspected criminal, and I said:

Members ought to be aware that Colin Pearce had featured a couple of days earlier on *Australia's Most Wanted*.

I have been advised by people today that, although the briefing note that I received had 'Colin Pearce' on it, the person's name is Stuart Pearce. So, to all those Colin Pearces who are out hiding in the bush somewhere I sincerely apologise.

QUESTION TIME

TRANSADELAIDE EMPLOYEES

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Transport a question about TransAdelaide.

Leave granted.

The Hon. CAROLYN PICKLES: On two occasions this week I asked the Attorney and the Minister for Transport questions about the impact of the Federal Court's ruling on outsourcing. The ruling comes at a crucial point of time when the Government is negotiating the competitive tendering of its passenger transport services. I have in my possession a letter signed by Ms Sue Filby, General Manager of TransAdelaide, which has been sent to all full-time bus drivers. It is headed 'Incentive Payment for Wage Realignment and Payment Out of Long Service Leave', and it is dated 27 July. Contained in the letter is a proposal to realign wages, code word for reduced wages, as part of the tender process. Ms Filby says in part:

Cabinet has approved for TransAdelaide to offer an incentive payment to full-time bus drivers, employed under a certified agreement, to voluntarily realign their rate of pay to the existing Certified Agreement rate.

According to the union, in an urgent notice sent to its members, the wage cuts range between $21.40 and $86.45 a week in return for an incentive payment. Ms Filby continues:

I am aware that many drivers read the *Financial Review* article on Monday 19 July 1999 entitled 'Court rules workers can't lose from outsourcing'. The Federal court ruling has prompted much discussion and we, like many other employers, are seeking legal advice as to what it may mean for us. Given the legal complexities of the matter, I doubt if anyone is going to be able to provide a definite answer in the short term. All indicators are that the competitive tendering process will continue.

My questions are:

1. Is it appropriate for TransAdelaide to negotiate with workers to reduce their wages at a time when the Federal Court has made a very clear ruling, as acknowledged by the General Manager herself?

2. How can the Minister claim, as she often does, that she has an arms-length relationship with TransAdelaide, particularly when it comes to wage negotiations, when clearly she took this issue to Cabinet for approval? When exactly was approval given?

3. Does this proposal mean that only those workers who agree to the wage realignment will be guaranteed employment in the future?

The Hon. DIANA LAIDLAW: I understand that the honourable member has asked for a briefing on the tendering process, and it is quite clear from her questions today that she urgently needs one. The situation is that, if TransAdelaide does not win the bids, there will be no jobs for TransAdelaide workers no matter what pay they may be on in terms of their awards and agreements. As I indicated to the honourable member yesterday, it is a matter for the work force, TransAdelaide and the union to determine wages and conditions.

TransAdelaide will not be offering wages and conditions, and the Government, in terms of its contracting, would only respect wages and conditions that have been registered in the Industrial Commission. I said all that yesterday to the honourable member. If the honourable member recognised the processes, she would know that award wages, conditions and agreements have to be accepted by the union for them to

be registered. If the honourable member was asking the questions on behalf of the union, one would hope that both she and the union were better informed: but, if she is asking on behalf of the union, it is required to be involved as part of the Industrial Commission process—

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —in registering awards and agreements. In terms of approval of incentive payments, the honourable member was not involved during the earlier two rounds of tenders, so I respect the fact that she may not know. On both occasions an incentive payment was offered on a voluntary basis to any person within TransAdelaide who sought to voluntarily realign their wages and conditions.

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: It was completely a decision of the work force. At Lonsdale, for instance, a large number of people chose to do so; at St Agnes few did. There was no requirement to do so. Many of the work force stayed on the same wages and conditions they had previously had. So, you can hardly suggest that it was not a voluntary decision. We have continued on this occasion—

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: Yes, a voluntary choice on behalf of the workers in TransAdelaide. As I say, not all of them did so. If it had been compulsory or if there had been a forced or intimidatory situation, as the honourable member seems to be suggesting, you would not have a situation where, in the workplace, there were some who chose to realign their wages, but they did so with a substantial up-front incentive payment. Others did not gain that incentive payment because they stayed on the same wages and conditions. When they did voluntarily realign, they did so on the basis of an agreement that the work force at that depot had voted by an absolute majority, and the unions had then supported it before the Industrial Commission.

I know that the Australian Rail, Tram and Bus Industry Union has just reaffiliated with the ALP. I know that the honourable member feels that she has some allegiance to that union. I know that the union and the ALP are trying to support—

Members interjecting:

The Hon. DIANA LAIDLAW: That's right. They are trying to stir up political trouble.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: It would be helpful to the workers if the honourable member knew the facts before she came in here with inflammatory questions.

WINE EQUALISATION TAX

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about the wine equalisation tax.

Leave granted.

The Hon. P. HOLLOWAY: Monday's *Advertiser*—

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —reported that the Federal Government—

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order! I have called 'order' three times.

The Hon. P. HOLLOWAY: —and the Democrats have disagreed over the fine print of the proposed wine equalisation tax. According to the *Advertiser* article, while the Democrats believe the agreement offers a full exemption for the first $300 000 in cellar door sales, the Federal Treasurer has stated that the exemption is merely a rebate of 15 per cent, which will be offered through the States. My questions are:

1. Is the Treasurer aware of the comments of his Federal counterpart that the cellar door exemption agreed upon under the GST is no longer a full exemption but a rebate?

2. What is the Treasurer's understanding of this State's obligations under the GST agreement as it relates to the WET and in particular cellar door sales?

3. Will he indicate the cost to the South Australian wine industry if the full exemption for cellar door sales is not honoured by the Federal Government?

The Hon. R.I. LUCAS: I saw the report in the *Advertiser*, and I know nothing more than the honourable member does in relation to the accuracy or otherwise of that press report. I have not been provided with any detail from the Commonwealth Government or the national Australian Democrats as to the state of their current discussions. I have asked Treasury officers to try to get further information from the Commonwealth Treasury. At this stage we have not been able to obtain any detail as to the state of the agreement and its interpretation between the Commonwealth Government and the Australian Democrats. As soon as we are in a position to ascertain the detail of the agreement we will share that information, first with the wine industry because it is vitally interested, and also with the Parliament.

In relation to our obligations, my understanding is that we have no obligations until we agree to something. At this stage we do not have a firm proposal or details of a proposal with which we can agree, and until we have that we are not in a position to agree or to have any obligations in relation to this issue. I cannot throw much more light on it than that. We will continue to seek information from the Commonwealth Treasury. Until we receive that information we are not in a position to assist the public discussion of this issue at all.

ABORIGINES, YOUTH APPREHENSION PROTOCOLS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about the policy in respect of Aboriginal youth apprehension protocols.

Leave granted.

The Hon. T.G. ROBERTS: I refer to a report released by the Attorney-General's Department from the Office of Crime Statistics which was put together by Justine Doherty. The executive summary describes the protocols in which the police go about their business in relation to apprehensions. Within report 2, there is a heading 'Police apprehensions: extent of Aboriginal involvement in police apprehensions' and another heading 'Types of action taken'. The summary describes it in broad terms as follows:

> . . . the offence profiles for Aboriginal and non-Aboriginal young people apprehended by police were relatively similar, with property offences featuring as the major offence in over half the cases of both groups (62.8 per cent of Aboriginal and 52.8 per cent of non-Aboriginal apprehensions). Larceny and receiving was the most dominant property offence sub-grouping and accounted for similar proportions of both Aboriginal and non-Aboriginal apprehensions.

The report goes on, under a heading 'Type of action taken', to state:

> Aboriginal young people were substantially more likely than their non-Aboriginal counterparts to be referred to the Youth Court (66.4 per cent compared with 43.2 per cent respectively). At the pre-court diversion level, proportions referred to a family conference were relatively similar (17.5 per cent of Aboriginal and 18.3 per cent of non-Aboriginal) but a much lower proportion of Aboriginal than non-Aboriginal apprehensions resulted in a formal caution (13.4 per cent compared with 35.9 per cent respectively).

The summary sentence states that it seems that Aboriginal youth have a greater likelihood of being directed straight to court rather than being given the option of a police caution. I know that other methods are being experimented with in relation to dealing with young Aboriginal people and Aboriginal people generally in courts, and the Opposition supports the direction being taken, in particular the way in which Aboriginal assistance is being provided to offenders in the Port Adelaide District Court. It appears that there are some differences and variations in the protocols for cautioning young Aboriginal offenders.

Although members on both sides of the Houses would prefer to discuss the positive side of providing employment opportunities for young Aboriginal people and young people generally, my questions are:

1. Given the referral to the Youth Court rates and formal caution rates of Aboriginal youth, are the police given instructions to treat Aboriginal youth in a different manner from non-Aboriginal youth?

2. Will the Attorney-General inquire into the reasons for the inequalities that appear to exist and provide an appropriate report to this Council on completion of that investigation or inquiry?

The Hon. K.T. GRIFFIN: The disproportionate representation of Aboriginal young people as well as Aboriginal adult offenders in the criminal justice system is of concern to the Government. One of the difficulties is that we do not have adequate research upon which to base any attempts to resolve those situations. The report from which the honourable member quoted is one of, I think, a total of five studies that the Office of Crime Statistics is undertaking, all directed towards identifying more effectively the causes for Aboriginal young people to be in the criminal justice system.

I get a bit annoyed when we baldly and blandly talk about over-representation in the criminal justice system, because all that it tells us is that the number of Aboriginal people in the system proportionate to the number of Aboriginal people in the population is a higher proportion than for non-Aboriginal people, but it does not tell us whether that is as a result of a greater number of serious offenders amongst Aboriginal people than amongst non-Aboriginal people, and it does not tell us very much about the reasons why.

I have always been anxious to ensure that we get proper information and that we undertake as much research as is necessary to really obtain the facts because, unless you have the facts, you can suppose a particular remedy might be appropriate but it is then a matter of trial and error. It may in any event be a matter of trial and error, but less so if there is a proper research base on which to make judgments about Aboriginal young offenders as well as adult offenders in the criminal justice system.

I would not be prepared to commit to a study at this stage because there are still several other studies in this suite of five being undertaken by the Office of Crime Statistics, and I would like to see what the outcome of those might be before making any commitment as to where we should be going. I put the honourable member's mind at rest if he has any concerns that we might be ignoring the problem.

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: The honourable member indicates that he is not suggesting that. We are alert to the problem, so in the juvenile justice system we have an Aboriginal youth justice coordinator and we have Aboriginal police aides, and there are more of those than before. Judicial officers, including magistrates, have been out to the Pitjantjatjara lands and other areas of the State to meet with Aboriginal people. Only in the past couple of weeks an adult Aboriginal court day was held at Port Adelaide during which the Aboriginal community participated with the magistrate and court staff on issues relating to offending. The first Aboriginal court day at Port Adelaide occurred about a month ago and, on that occasion, of 16 Aboriginal offenders, 15 turned up, which is a much higher proportion than has occurred in the past.

One of the difficulties that is encountered with both Aboriginal adult offenders and Aboriginal young offenders is that frequently they do not understand the system. One of the objectives of the Aboriginal court day is to ensure that there are people who can help them to understand the process, ensure they get to court and ensure that they understand what to do as a result of the penalty. The corrections office remains open during the afternoon and a court official or members of the wider family group will take an offender across to the corrections office if a bond has to be entered into or if some other undertaking has to be recorded, and they help to explain it to the offender. Then they help to monitor and assist in ensuring that that Aboriginal offender complies with the court order. That is a very innovative approach and it is one to be encouraged.

As for the situation with Aboriginal people and drugs, I can advise that a lot of work is being done through the Liquor and Gaming Commissioner, who has real concerns about what is happening in some of the outback areas of the State with respect to Aboriginal people and their access to alcohol. A lot of other areas, for example, domestic violence, can impact on young people as much as on adult people. There are a whole range of programs that we hope will have a beneficial impact on Aboriginal communities, Aboriginal individuals and families to try to arrest the trend towards disproportionate representation in the criminal justice system.

Nothing will work overnight and it requires not just Governments but the broader community to be doing things. It also requires involvement, consultation and cooperation with Aboriginal people, including the families of offenders, and that is very much the position in relation to children as it is with adults. If the honourable member has some ideas that he would like us to consider, I invite him to make them known, because the Government does not profess to have all the answers to these sorts of problems, although I hope it has some. It is a community issue. It is not just an issue for Aboriginal people, Government or police.

DONAGHEY, Mr L.

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question regarding the shooting by police of a young man at Novar Gardens on Saturday night.

Leave granted.

The Hon. SANDRA KANCK: The tragic circumstances of Luke Donaghey's death on Saturday night raise a series of questions regarding the adequacy of emergency mental health services in South Australia. I have previously highlighted the severe constraints that the Assessment and Crisis Intervention Service (ACIS), the front-line provider of emergency psychiatric care, operates under. Four ACIS teams operate in metropolitan Adelaide. They are comprised of registered psychiatric nurses and social workers and have access to psychiatric doctors. The teams are understaffed and overworked, so they are unable to cope with the spiralling number of crisis calls.

In November last year the Human Services Minister acknowledged that there had been a 65 per cent increase in the number of emergency call-outs. This enormous increase has not been matched by an increase in funding; indeed, the mental health budget barely held its own this financial year. The lack of resources may have contributed to Saturday night's tragedy. Newspaper reports indicate that two years ago when that same young man suffered a psychotic episode an ACIS team and a police unit attended and Mr Donaghey was taken to hospital without any fuss. On Saturday night the police attended without the assistance of an ACIS team. It is unclear why the police did not have the benefit of an ACIS team.

We do know that the police spoke to Luke's parents before entering the house, hence we can assume that they were aware of his condition. We need to know why the officers entered the house without the assistance of an ACIS team. My questions to the Minister are:

1. Is ACIS routinely involved when police are confronted with situations involving people suffering from psychotic episodes or other forms of mental illness?

2. Is ACIS adequately resourced to provide routine assistance to police?

3. Was an ACIS team requested to attend the Donaghey home on Saturday night?

4. Had a request for an ACIS team been made, would one have been available?

The Hon. DIANA LAIDLAW: I note that the honourable member has reached some considerable conclusions in her explanation about the circumstances of this most unfortunate event—the death of a young man. I would urge—and I suspect the Attorney-General would, too—that, because it is the subject of a police commissioner's inquiry and also a coronial inquiry, we do not reach such conclusions without the benefit of the findings from those investigations. The other—

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: Yes, but the honourable member has reached some conclusions that may not be valid and certainly may reflect on those inquiries, and I am not sure that that is what the honourable member necessarily wishes to do. With those general remarks, I certainly will pass the specific questions to the Minister and bring back a reply.

STATE ECONOMY

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Treasurer a question about financial matters in the South Australian economy.

Leave granted.

The Hon. A.J. Redford interjecting:

The Hon. L.H. DAVIS: It is. Mr Terry Plane writes what masquerades as a political column in the Messenger Press. In this week's *City Messenger* of 28 July Mr Plane managed to ignore current political issues and reach back 20 years to the problems of the Bank of Adelaide and its takeover by the ANZ. Plane quotes from a paper 'More Bread, Fewer Circuses' written by one Michael Dalvean, who Plane describes as an independent economist. Plane quotes from Dalvean who uses no less an authority than Labor MP Peter Duncan and who claimed that there had been a most extraordinary cover up on the Bank of Adelaide failure, and that the merger with ANZ was 'a nice little deal that had been done by the old boy network'.

As a result of this, I was intrigued to reach out for this paper 'More Bread, Fewer Circuses' by Michael Dalvean and I fell laughing of my trapeze. This paper relied on by Plane for his column was full of errors and incorrect assertions. For example, Dalvean, after saying that the Tonkin Government had come to power in September 1979, states:

> By late 1979, the bank—

that is, the Bank of Adelaide—

> was in crisis.

That is totally wrong. The bank was in crisis back in May 1979 in the days of the Corcoran Government, and the Reserve Bank moved quite properly to prevent a run on the bank, whose viability had been threatened by massive write downs on property held by its fully owned subsidiary FCA.

It is matter of record that both Labor Premier Des Corcoran and his successor, Liberal Premier David Tonkin, with the benefit of confidential briefings by the Reserve Bank, the Federal Government, and other parties, accepted that there was no other option but the ANZ merger. There simply was not, as alleged by Plane, Dalvean and Duncan, a cover-up by the old boy network. Plane then further quoted Dalvean as follows:

> South Australian banks have had lower credit ratings than interstate banks for the last 20 years. Banks with lower credit ratings must pay more for borrowed funds to compensate lenders for the risk. This increased cost of funds is passed on to the bank's customers.

Again, Mr Dalvean is wrong in the sense that if you go to the only South Australian based bank, the Adelaide Bank, the interest rates on borrowings are no more than the major banks. The fact is that their credit rating is no worse than banks of similar size; and that size is a function of credit.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: Exactly. It has the same rating as the Bank of Queensland, which is a similar size, and it has a better rating than the Bank of Bendigo. There is a fundamental misunderstanding, in fact, that 70 per cent of the Adelaide Bank's funds are in retail markets. In fact, the business in the Adelaide Bank is growing. It is increasing its share in its core markets, which is principally housing; 80 per cent of assets are in housing mortgages. Finally, Plane introduces his own objectivity into the column by concluding:

> The shrouded history of the water management outsourcing contract and the $34 million paid to power assets privatisation consultants—just as examples that spring to mind—show we are not heeding the lessons of even our own recent past.

My questions to the Leader of the Government in the Council and the Treasurer, the Hon. Robert Lucas, are:

1. Has the Treasurer read this week's Plane column and the Dalvean article 'More Bread, Fewer Circuses', and does he have any comment on the bread and circuses article?

2. Does he have any comment on the Plane—

The PRESIDENT: Order! The Hon Mr Davis cannot ask for a comment. He must ask a question.

The Hon. L.H. DAVIS: I am sorry; I will rephrase that. Secondly, will the Treasurer advise the Council as to what was the level of fees paid by the Labor Party in respect of consultants when they were in power and, in particular, with respect to fees paid for ETSA?

The Hon. R.I. LUCAS: I must admit I looked forward to this week's edition of the *Messenger*. I waited at home for it to be thrown over the fence because I felt sure that this week's edition would have an article from Terry Plane highlighting the momentous political events in the last week, unprecedented in Australian political history, I would have thought, where a former Deputy Leader had taken his own Party to the Supreme Court on very significant allegations in relation to branch stacking and, whilst I am sure he would have had to be cautious about what he said in relation to any legal case, there was certainly plenty of capacity to have commented on the implications of that for pre-selections and other manoeuvrings within the Australian Labor Party at the moment. So I was very anxious to see this week's edition of the *Messenger*. I must admit that I was amazed when there was not a word in relation to that. But we did have this story from Mr Dalvean and—

The Hon. A.J. Redford: It was run by the *Australian* on Wednesday morning.

The Hon. R.I. LUCAS: Yes.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The Hon. Mr Redford improperly interjects, Mr President, but he does make an important interjection that there are some sections of the media—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: I suspect that if this had been within the Liberal Party the approach to this issue may well have involved more column centimetres or more seconds or minutes of television or radio coverage, should the circumstances have been within the Liberal Party in South Australia. I recall a number of articles when the Liberal Party was being tackled over the issue of branch stacking by an interest group associated with the Shooters Party, and the potential legal action and advice that was going on at that time. There was certainly a lot of media attention being devoted to that.

I must admit that, having read the story from go to whoa, the aspect that I was amazed about was the concluding sentence, to which the Hon. Mr Davis has referred. The essence of the More Bread, Fewer Circuses article by Mr Dalvean and the essence of the article, as I read it, by Mr Plane was that Governments had to get better in terms of asking the difficult questions and finding out what was going on in their departments and agencies—that is, the State Bank and other statutory authorities within the overall responsibility and accountability of Government. If there was a point, that would seem to have been the point that was being made. Indeed, Mr Dalvean in his concluding paragraph says:

> The lesson to be learned from all the economic folly that South Australians have been forced to endure is that the Government and corporate sector must be subject to high levels of scrutiny in their use of public funds and involvement in public policy.

Mr Plane in his penultimate paragraph quotes exactly that same sentence from Mr Dalvean and indicates his obvious support for that. He goes on in his final paragraph as follows:

> The shrouded history of the water management outsourcing contract and the $34 million paid to power assets privatisation consultants—just as examples that spring to mind—show we are not heeding the lessons of even our own recent past.

I want to quickly turn to the second issue for which I have responsibility, and that is the employment of private sector expertise in the form of the legal, accounting and commercial banking consultants that we have had in terms of advice for the disaggregation of the electricity industry and the privatisation process. For the life of me I cannot understand how Mr Plane, having quoted the lessons of the State Bank, jumps to saying that the employment of private sector consultants is an example that we have not learnt the lessons.

As Mr Plane points out, although he did not want to criticise Mr Bannon and the Government, his criticism of the State Bank situation, I guess in a velvet glove, was that they had not asked the questions, had not got involved and had not sought independent advice in terms of what was going on within the State Bank.

The Hon. T.G. Cameron: You seem to be implying that Terry Plane is biased.

The Hon. R.I. LUCAS: What the Government—

Members interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Cameron makes an independent interjection, and at this stage I will not comment: I will leave his comment on the record. In relation to the electricity businesses, the Government has sought the best commercial, legal and accounting advice that is available to it to go into every last balance sheet item and every last management process of our electricity businesses in South Australia to ensure independent advice to the Government of the day about the operations of the businesses.

As an example, the advice that the Government was getting from one of its generators was to spend $150 million to $200 million on the repowering of Torrens Island; that we should spend $40 million to $50 million on a part share of a Riverlink interconnector to New South Wales; and that we should mothball the Playford Power Station.

Having had that expert advice provided to us, the Government took clear decisions based on that advice that meant that we did not spend the money on Torrens Island or the interconnector, and that we challenged the advice in relation to Playford. Through the expenditure of a relatively small amount of additional moneys we have prolonged the life of the Playford Power Station. I would have thought that what the Government has done in relation to electricity businesses was the direct opposite to what the Labor Government did in relation to the State Bank. We have got ourselves involved in the detail and sought advice independent of the businesses, the Government departments and ministerial offices advising Ministers.

We have sought independent advice and, yes, it has cost us and the taxpayers' money. For that we have been criticised by independent media commentators and the Opposition, but we have done the very opposite to what Mr Plain is complaining of. Therefore, there is no substance in the claim he makes in his last paragraph that our expenditure on private expertise in relation to consulting advice shows that we have not heeded the lessons of the recent past. I would challenge Terry Plain to justify that throw-away line at the end of his column.

An honourable member interjecting:

The Hon. R.I. LUCAS: I might be inviting a personal attack, but I am prepared to have this debated on the substance of the facts. The column is substantially about the events of 20 years ago. In the last paragraph Mr Plain seeks to link it with criticism of the Government about the cost of

private expertise in relation to electricity. I challenge Mr Plain to justify that criticism, because it is the direct opposite of the sort of argument that he has sought to develop. If the Government does not get its advice from independent advisers and relies on Government businesses or departments, that is exactly the basis on which Mr Plain criticised the Bannon Government—albeit gently—in relation to its hands-off approach to the State Bank during the late 1980s.

I will need to do a bit more research in respect of the Hon. Mr Davis's last question. I am relying on memory here, but I recall that in the last few years before Labor's being thrown out of office in 1983 it spent some $29 million on private sector expertise or consultancies in the electricity industry at a time when the electricity businesses were not being disaggregated. There was no disaggregation.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway says that it spent it on technical expertise. There was no national electricity market, no disaggregating the business into seven or eight new businesses or privatisation process, all of which the Government has been spending money on in preparing these businesses for the market. All Mr Holloway was doing at the time was running the businesses—

The PRESIDENT: Order, Mr Davis!

The Hon. R.I. LUCAS: All the Labor Party was doing at the time was managing a monopoly business with no competition in the market here in South Australia, and it still managed to spend almost $30 million (in late 1980 early 1990 dollars) on consultancies. My recollection of the broader cost is that about $150 million was spent on consultancies public sector wide in the last few years before Labor was thrown out of office in 1993, but I will do some further research on that as well.

The Hon. P. HOLLOWAY: By way of supplementary question, while the Treasurer is finding information on past expenditure in ETSA for technical consultancy, will he also provide the figure for technical expenditure within the ETSA organisation over the past year, in addition to the consultancies on financial advice?

The Hon. R.I. LUCAS: The honourable member is obviously struggling at the moment. I will certainly see what information I can provide on technical advice in the past year, but it will not deflect us from the import of the question of the Hon. Mr Davis which was that, at a time when the Labor Party was managing a monopoly business in South Australia, it still managed to spend almost $30 million on ETSA consultancies when it did not have any of the challenges that our electricity businesses have as we end this decade.

Members interjecting:

The PRESIDENT: Order!

GAMBLING

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer a question on the Productivity Commission's report on gambling and State gambling taxes.

An honourable member interjecting:

The PRESIDENT: Order! It is very hard to hear the question, the Hon. Mr Roberts.

Leave granted.

The Hon. NICK XENOPHON: The Productivity Commission's draft report on Australia's gambling industry indicates that one-third of the industry's profit and, by extension, one-third of the State Government's gambling taxes come from the 330 000 Australians who have a significant gambling problem. In South Australian terms, that would involve some 26 000 South Australians, making up one-third of gambling industry losses of about $700 million per annum. My questions are:

1. Does the Treasurer accept, at least in broad terms, the finding that a significant number of South Australians—about 26 000 people—make up one-third of gambling losses?

2. If the Treasurer does not accept that proposition, will he indicate the extent to which he disagrees with it?

3. Assuming that the Productivity Commission's findings are generally accurate, does the Treasurer consider it unacceptable that some 26 000 South Australians with a significant gambling problem contribute to one-third of gambling revenue and, if so, what measures does the Government propose to reduce that flow of revenue from vulnerable addicted problem gamblers?

The Hon. R.I. LUCAS: The first thing I am trying to do is track down this mercurial phantom the Hon. Mr Xenophon in relation to the figures he quotes. We talked a little about it yesterday. I must admit that I am still trying to do further work. I have tracked down a number of the statements that the Hon. Mr Xenophon has made. The figure today has gone up another 1 000. Since last week the 25 000 problem gamblers has gone to 26 000 problem gamblers—in the space of a week. There has been no further research by the Productivity Commission.

The Hon. T.G. Cameron: That is how serious the problem is.

The Hon. R.I. LUCAS: It is growing: the Hon. Mr Xenophon obviously has an inflator. On a weekly basis he adds 1 000 people. Last week he was quoting 25 000, although in one area he talked about 125 000—I think he had probably multiplied the number of gamblers by the number of people who have been affected. He says that we have 125 000 South Australians significantly affected by gambling. I presume he has multiplied the problem gamblers by the people they know and come up with the figure of 125 000. All the other quotes last week related to 25 000 problem gamblers in South Australia, but today it is 26 000. We are trying to track down these figures. I have asked—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: I would be happy if you could help me. We looked yesterday at the figure of 1.55 per cent figure regarding severe problem gamblers, which had a severe caveat on it in the Productivity Commission. The honourable member would know, even though he has not been quoting it in his public statements, that the Productivity Commission believed there might have been a sampling error in relation to that.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: You might have said it once publicly, but on every other occasion you have forgotten to say it. We have been trying to work out where the honourable member's 25 000 figure came from and now we have to work out where the 26 000 figure comes from. The closest my staff could come to it was that the Hon. Mr Xenophon could have used the 1.55 per cent figure—even though it has been heavily qualified by the Productivity Commission—and multiplied it by the total population in South Australia in June 1998, which was about 1.487 million people. That gives us a figure of 23 000, and one of my staff members suggested that Mr Xenophon has rounded it up to an even figure of

25 000. It has gone up to 26 000 since last week, so we need to work out where that has come from, so I will talk to the Hon. Mr Xenophon about that.

I have been advised that the Productivity Commission has said that, even if we used this 1.55 per cent figure, which it heavily qualifies and suggests is probably a sampling error, we should not use a total population that includes all children, that is, everybody under the age of 18. The Productivity Commission warns people that they should use only the total adult population, which is much less than 1.5 million people. In fact, it is 1.1 million. My staff advise me that, if they take 1.55 per cent of 1.1 million, they come up with only 17 500 problem gamblers in South Australia—

The Hon. Nick Xenophon: You are misquoting.

The Hon. R.I. LUCAS: We are trying to track down the honourable member's figures, because they have changed. It was 25 000 last week, it is 26 000 this week. It goes up 1 000 a week.

The Hon. Nick Xenophon: You are being mischievous.

The Hon. R.I. LUCAS: Is your figure different this week from last week?

The Hon. Nick Xenophon: Read the report.

The Hon. R.I. LUCAS: Let the record show that the Hon. Mr Xenophon cannot deny—

The Hon. R.R. Roberts: Have you read the report?

The Hon. R.I. LUCAS: Yes, I have. I have read the report that he has. The Hon. Mr Xenophon cannot deny that he has inflated the figure he stated last week by 1 000. Will the Hon. Mr Xenophon say why the figure this week is 1 000 higher than last week? Will he first concede that it is 1 000 higher? Why is it 1 000 higher this week when there has not been a different Productivity Commission report? Can he indicate how he or his staff have calculated—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: No, the Hon. Mr Xenophon has asked me a genuine question about the number of problem gamblers. I want to know how he has calculated these figures and why they have changed from week to week. If he wants the Government to respond to the issue of the number of problem gamblers and if he is extrapolating that to the sort of social problems that we all concede eventuate from the very small number of South Australians who are problem gamblers, we need to get some sort of agreement on the numbers that we are talking about. That is all that I am saying. Let us get some agreement. Let us not take an extremist view and take the highest percentage of the highest number of people—

The Hon. Diana Laidlaw: And the kids.

The Hon. R.I. LUCAS: Throw the kids in with the figures as well, if that is what has been done.

The Hon. A.J. Redford: And the cattle.

The Hon. R.I. LUCAS: No, to be fair, he has not thrown in the cattle. We want to have a rational debate about what is a serious problem, and I said that yesterday. Let me not decry the fact that, whatever the number is, it is a serious problem for the small number of South Australians who have that problem. Let us not have the extremist views that are being put by extremists such as the Hon. Mr Xenophon on the issue of gambling. Let us have a rational debate.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: The Productivity Commission stated that the 1.55 per cent figure is probably due to a sampling error. I am asking the Hon. Mr Xenophon to provide me with the information as to how the figure increases from 25 000 to 26 000 in a week. That is all I am asking. If he gives me that information, we can have a sensible discussion about it. As one member of the Government, I am more than happy to enter into a sensible and reasonable discussion as to what the Government is prepared to do in relation to this issue. Let us have a sensible, rational debate. Let us not have a debate that is inflamed by figures used by members of Parliament such as the Hon. Mr Xenophon to scare the community into thinking that the extent of the problem might be much greater than the facts indicate.

All I can work from is the Productivity Commission draft report. I am indebted to the Hon. Mr Xenophon for sending me another copy of that report, which I have been reading over the past couple of days. I am happy to enter into debate with the Hon. Mr Xenophon and to talk about the sort of issues at which the Government may well look. We canvassed some of these issues yesterday.

As I have indicated, in terms of the quantum of money, the Government in relation to its own budget has to decide, if it wants to devote more money to this area, from where it will obtain that money. Again I will seek advice from the Hon. Mr Xenophon. Due to the fact that he wants to see more money allocated to this area, will he please advise the Government in which areas he wants to cut expenditure or those areas where further revenue can be raised to enable us to transfer that money to this area? I am sure the honourable member will be open enough about this to accept that we have to obtain that money from elsewhere if we are to put more money into assisting problem gamblers.

A challenge for him, as well as providing justification for the figures, is to help us—we are quite happy to receive advice from everywhere—decide where the cutbacks should occur or where we can raise additional revenue in other areas. That is a challenge for the Government. We need to look at that. We are prepared to tackle those issues, but let us do it on the basis of facts and rational and sensible debate conducted within reason by people who are prepared to tackle the issues and who are not trying to scare the community by inflating figures.

HACC FUNDING

In reply to **Hon. T. CROTHERS** (9 February).

The Hon. R.D. LAWSON: In addition to the answer given on 9 February 1999, the following information is furnished:

1. This question relates to clients which the *Advertiser* reported as being 'turned away' from the Northern Domiciliary Care Service, in an article which appeared on 20 January 1999.

A new assessment service has been established in the northern region. This service, which is known as Support-Link, opened its doors in February and provides a single point of contact for older people in the northern suburbs needing referral to aged care and home support services. The Northern Domiciliary Care Service has not, in fact, closed the intake of clients. Clients initially seeking support and assistance are now being referred to the Support-Link service for initial assessment and then referred to appropriate agencies in the area, including to Northern Domiciliary Care.

The Government has been aware of the increasing demand for home based services across the State and especially in the Northern Metropolitan area. The Annual Home and Community Care (HACC) Plan has identified this area as a priority over the past three years and there have been increases in funding in the region each year. The Northern Metro region is a priority area again in this current year.

The Northern Domiciliary Care Service has received an increase of $420 600 (a 12 per cent increase) over that period. The total increase in funding to the northern metropolitan HACC services in the last two years has been $1.865 million.

The Commonwealth and State Governments contribute growth funding to the HACC Program each year. In 1998-99 about $1.14 million is available for new and extended services. It is expected that some of the new money will be available for service development in the current funding round.

Support Link will play an important role in contributing information about the level of assessed need for home based care services. This information will assist the Department of Human Services in future planning processes.

There have been other developments in the northern metropolitan area designed to improve the range and nature of services for older people. The GP Homelink Program, run through Helping Hand, offers a rapid response service for older people presenting to General Practitioners, and for whom a range of home help and other support services might prevent a stay in hospital. As well, the northern area is home to one of the coordinated care trials, Care 21, which provides for older people. This trial, which is run in conjunction with the Commonwealth, is assisting about 460 older people by arranging individualised packages of care for people with complex care needs.

2 to 5. Since the Commonwealth Government announced in its 1996 Budget that the maintenance of growth levels in the HACC Program between 1996 and 2000 would depend upon the collection of user fees at a rate equivalent to 20 per cent of the base of the program, the relative proportion of HACC funds generated from fees in the HACC Program in this State is nearer 6 per cent.

As is well known, a number of HACC funded agencies in South Australia collect fees from people using their services. The Royal District Nursing Service in South Australia has decided to charge user fees from 1 July 1999.

The issue of fee collection is a matter for individual agencies. They are in a much better position than any Government or the central administration, to develop an approach to fee collection which is appropriate for their customers. The Government insists that any fees recovered be used for service delivery within the HACC Program, that concessional arrangements are made for pensioners, appropriate measures are out in place for people who are unable to afford fee and grievance procedures are established.

With respect to fees charged by Northern Domiciliary Care, no decision has yet been made about whether and at what level fees may be charged in the future.

ROADS, OUTBACK

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

Leave granted.

The Hon. CAROLINE SCHAEFER: In June this year there was considerable concern in the northern areas of South Australia because funding was to be cut back and possibly two road gangs and some special projects cancelled. The Minister intervened at that time and was able to preserve all but 22 of those jobs—and they appeared to be at some risk, as did much of the road improvement program. I understand that the road maintenance program was preserved in those outback areas but that some of the extra upgrading of roads was to be cancelled, and indeed 22 jobs were to be lost. Will the Minister give an update in respect of where that road funding and those jobs are at this stage?

The Hon. DIANA LAIDLAW: I thank the honourable member for her question and also for her assistance in providing me with feedback from the pastoral industry in particular in the Far North area. It is an important area of road activity and economic activity for the State, and we as a Government have devoted a considerable increase in funds over the past five years to the upgrading of the Strzelecki and Birdsville Tracks in particular. There was a need to intervene in some funding decisions by Transport SA in this year's budget because at jeopardy were 22 jobs, as the honourable member said, and the disbanding of two road gangs.

I did intervene because, as the first Minister to visit the Far North road gangs for some 25 years, I came to respect the fact that it is very hard to recruit and maintain a work force that is prepared to live in extremes of conditions—summer and winter temperatures—away from family for extended lengths of time and work at close quarters on a road gang and in isolation. It is hard to recruit such people. To see them lost because of the juggling of funds within Transport SA was something that I was not prepared to accept. I also believe very strongly that the only real evidence pastoralists, work forces, mothers and kids who live along those tracks see of Government support and use of their taxes and service delivery is in the roads. To see the loss of those road gangs was something that I found unacceptable in a political and service sense.

So there has been a rethink and, to the credit of Transport SA, there has been a rejuggling of funds, priorities and programs, and also some additional funds found to support the reinstatement of the two road gangs. So there will be the four that continue, in addition to the seven road maintenance teams. There are 60 jobs in all involved in the maintenance and upgrading of roads in the northern areas of South Australia.

We had provided initially in the budget $11 million; we have found another $3.54 million; so $14.5 million in all this financial year. With the two gangs confirmed, making four, this will ensure that we are able to upgrade the Merty Merty to Cameron Corner road and the Marla to Welbourn Hill section of the Oodnadatta Track, and in future those roads will be safer, more reliable and certainly less likely to close in wet weather, which is an important consideration, too, if those roads have to be closed for some extended period of time. So I want to thank my colleagues for bringing certain matters to my attention. I thank the pastoralists and others for being understanding as we have worked through the issues in the last few weeks, and also Transport SA for rejuggling funds, and particularly the work force for whom this has not necessarily been a very easy time.

SHOP TRADING HOURS

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, a question on retail shopping hours.

Leave granted.

The Hon. G. WEATHERILL: The June extension of shopping hours was met by newspaper headlines such as 'Shoppers don't buy extended trading', 'Retail ignores first night extended hours' and 'A cool reception for shopping hours'. It is apparent that the June extension of the shopping hours has not caught the public's interest. My question to the Premier is: has the Government any evidence of the current shopping hours regime being in the best interests of the public, and can the Government demonstrate how the public interest is better served by extended shopping hours, rather than the previous hours?

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

COMMONWEALTH-STATE FINANCIAL RELATIONS

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of a ministerial statement made by the Premier today on the subject of Commonwealth-State financial relations.

Leave granted.

ASSOCIATIONS LAW

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question on

the topic of legal developments on the law relating to associations.

Leave granted.

The Hon. A.J. REDFORD: Mr President, you would no doubt be aware that a cursory glance at the members' register of interests reveals all of us as members of various associations, whether they be sporting clubs (such as Terry Roberts and the Millicent Golf Club), trotting clubs (such as Ron Roberts and the Port Pirie Trotting Club), interest groups (such as Nick Xenophon and the Plaintiff Lawyers Association) and industry groups (such as John Dawkins and the Farmers' Federation). From time to time problems can arise in relation to the internal management of these associations and, indeed, Mr President, most associations can usually, with reasonable management, deal with internal difficulties that arise without lasting rancour, commonly dealt with in a mature and dignified way.

In my experience, changes in management mostly occur by agreement or tradition or an acceptance of the rules and without recourse to any outside assistance. However, some associations lack the maturity to deal with their problems internally and occasionally they seek recourse through the courts. Over the past week we have seen one example of that, a decision to look at the internal affairs of one association which could not manage its internal affairs. Indeed, we saw a member taking its administration to court.

Following the court decision, a Mr Ian Hunter of the Australian Labor Party said:

> I think all political parties will be watching this case very closely. If the rules. . . are justiciable it has wide ramifications. . .

That was agreed with by Senator Bolkus, who said that it could undermine the internal workings of every political party. In the light of those comments, and having regard to the fact that there is a considerable body of law relating to unincorporated associations or incorporated associations, and that extends to political Parties, my questions to the Attorney are:

1. Is the interim injunction reported in the *Advertiser* as being granted by Justice Mullighan in the internal affairs of an association, that is, the ALP, a new development or a cause for concern, as thought by Ian Hunter?

2. What ramifications are there, other than acting lawfully, for associations, including political parties?

The Hon. K.T. GRIFFIN: I do not intend to get into the specific issues before the courts at the present time. The matter is *sub judice* and I think it is appropriate to let that take its course. But I was intrigued by the observations of Senator Bolkus, who unfortunately I happened to see on television on a late night news service, indicating quite firmly that this would have some serious ramifications, if the courts got involved in the internal affairs of organisations. He is a lawyer and I would have thought that he had some experience of courts becoming involved in the internal affairs of organisations. One has only to look at the sporting arena to recognise that there is constant litigation there about the way in which the affairs of those organisations might be carried on.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: There is a whole range—Rugby League, Australian Rules Football, and the courts get involved because there is money at the end of it, and because frequently there are contractual issues involved. But, in the end, there are property issues and money issues involved, and, whether it is with sport, whether it is with political organisations, whether it is any other organisation, if in the end the affairs of the organisation are being conducted in a way which is either inconsistent with the organisation's rules or is harsh and oppressive, or is likely to have an adverse impact upon some member of the organisation in a material respect, that is, that there is a pecuniary benefit at the end of it, then the courts will become involved.

With political parties there is the issue for many people of pre-selection. It does not matter what political persuasion you might be or what political party it is, pre-selection is the threshold to remunerated employment in the political environment, and if the rules are not complied with or some other behaviour is alleged to prevent a person from embarking upon that career path in a way which is suggested as being unfair then the courts will be involved.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: Well, the courts will be involved. So, it was somewhat surprising to hear people attempting to raise some concerns about litigation involving, on this particular occasion, the Australian Labor Party, when in fact it is not an abnormal occurrence that courts become involved in those sorts of activities. I do not see it as being the threshold of any significant intrusion into the affairs of organisations beyond the involvement that the courts presently take in relation to those sorts of disputes.

I think it will continue wherever there is someone who claims disadvantage in relation to the way in which an organisation is alleged to have behaved. There will always be an opportunity to take the matter to court and there will always be at least the prospect of litigation. It does not matter whether it is this year, in 10 years' time or 30 years ago: there has been a consistent theme that the courts ultimately will get involved if there is an issue of either justice or natural justice involved.

That is an attempt to put people's minds at rest. The court does not appear to be becoming adventurous. There is nothing unusual in the way in which a court operates in these circumstances. There might be something unusual in the fact situation upon which the court becomes involved, but that is a different matter: that goes to the merits of the case and I will not touch upon that.

POLICE, DIRECTIONS

The Hon. K.T. GRIFFIN (Minister for Justice): I seek leave to table directions from the Minister for Justice to the Commissioner of Police pursuant to section 6 of the Police Act 1998 in relation to the Operations Intelligence Division, dated 1 July 1999; directions from the Minister for Justice to the Commissioner of Police pursuant to section 6 of the Police Act 1998 in relation to the Anti-Corruption Branch made on 1 July 1999; and directions to the Commissioner of Police pursuant to section 6 of the Police Act 1998 in relation to the Anti-Corruption Branch dated 29 July 1999. I seek leave also in conjunction with that to table a ministerial statement made by the Minister for Police, Correctional Services and Emergency Services in another place in relation to those directions.

Leave granted.

ADOPTION

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement on an adoption matter made by the Minister for Human Services in another place.

Leave granted.

DENTAL PRACTICES

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement on allegations of inappropriate practices by dentists employed by the South Australian Dental Service made by the Minister for Human Services in another place.

Leave granted.

PIGGERIES

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement on the EPA licence fees for piggeries made by the Hon. Dorothy Kotz, Minister for Environment and Heritage, in another place.

Leave granted.

TOURISM COMMISSION

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement on issues raised by the member for Lee made by the Hon. Joan Hall, Minister for Tourism, in another place.

Leave granted.

PRESIDENT, RULING

The PRESIDENT: Before calling on the business of the day, I want to make a statement to the Council. Last evening in this Council I made a ruling in response to a point of order in the debate on the Constitution (Citizenship) Amendment Bill. The point of order was raised by the Hon. Carmel Zollo in response to remarks made by the Hon. Angus Redford. The relevant remarks (quoting from *Hansard*) were:

> I wish to raise one more issue before I conclude. I find it absolutely extraordinary—although consistent with Multinational Mike's international ethnic politics—that he would arrange for the Hon. Carmel Zollo (because she would not have worked this one out for herself) to move amendments which required—

I point out that the Hon. Angus Redford never did say that the Hon. Carmel Zollo had moved an amendment.

Referring back to *Hansard*, the Hon. Carmel Zollo stated in her point of order:

> I have not moved any amendments.

At this point, several interjections ensued and further comments were made on the issue. Because of this ongoing debate on 'moving amendments' or 'not moving amendments', which may or may not have been the subject of the Committee stage of this particular legislation, a further point of order from the Hon. Terry Cameron was made supporting the Hon. Carmel Zollo. Following that, I first advised members 'that members should not pre-empt the Committee stage'. Subsequently, after further discussion, I ruled:

> My advice is that members should not refer to amendments prior to the discussion of amendments in Committee. I must say that that is new to me because members have been referring to amendments for all the years I have been in this place, both in their second reading contributions and in reply to second reading contributions. However, I must rule that it is out of order and it will be out of order from here on in. Members cannot refer to an amendment by another honourable member.

I have now reflected on yesterday's events and have received further advice. The advice is that last evening's continued bickering and points of order exacerbated the situation and, as a consequence, was in conflict with Standing Orders and Westminster practice and procedure.

First, Standing Orders state that members cannot anticipate debate. This should be linked with the normal procedure of the passage of a Bill through its different stages in the Chamber. The second reading is to discuss the overall objects of the Bill. However, for some years now members have been allowed and have become accustomed to foreshadowing amendments they intend moving in Committee.

Nevertheless, debate on such amendments should be confined to the Committee stage of any Bill after the amendments have been properly moved and during which there is no time limit on debate. The mere circulation of amendments gives amendments no official standing whatsoever. In fact, quite often members have erroneously stated in their second readings, 'I wish to withdraw my amendment', which is incorrect because they have not even moved the said amendment.

The discussion continued on 'the alleged moving or not moving of amendments' for some time and it became necessary for me to rule as I did. However, in my view, it does not change the long standing practice in this Chamber of members foreshadowing their amendments to legislation before the Council. Obviously, if the Chair does not constrain debate to the particular matter before the Chamber at the time, or the particular stage of the legislation, this Council will become unworkable.

I therefore ask members to abide by the normal practices of the Westminster system, especially in relation to legislation. If any honourable member in future takes a point of order on another honourable member debating a 'proposed' amendment in the second reading, I will have to seriously consider upholding the point of order.

The Hon. CARMEL ZOLLO: I raise a point of order, Mr President, in light of your explanation, for which I thank you. At this time I have an amendment on file dated 20 July 1999 in relation to this Bill. My instructions to Parliamentary Counsel—

Members interjecting:

The PRESIDENT: Order! The honourable member is making her point.

The Hon. CARMEL ZOLLO: It would be nice, wouldn't it. My instructions to Parliamentary Counsel were that it was to replace all previous amendments prepared for me in relation to that Bill. When such instructions are given, can you, Sir, rule on the status of the previous amendments? All of us in here often file many amendments until the time we move them. Can you, Mr President, rule on the status of previous amendments in relation to this Bill and any other Bills?

The PRESIDENT: I reiterate what I have already said in my statement: amendments have no status whatsoever until they are moved, whether or not they are on file. To be fair to members, I can circulate my statement, but it will certainly be available for members to read in *Hansard* later this afternoon or tomorrow. I further advise that staff at the table refer to the date at the top of the amendment. Sometimes members do not wish to retain earlier options as well as any later versions that they might place on file. In the past two

days a huge volume of amendments have been filed or substituted. There are many amendments on file in respect of the Local Government Bill. The table recognises the most recent copy of an amendment, unless we are advised otherwise.

The Hon. T.G. CAMERON: I seek leave to make a personal explanation on your ruling, Mr President.

Leave granted.

The Hon. T.G. CAMERON: During the points of order that were taken yesterday, if my memory serves me correctly (I have not read *Hansard*), I think the Hon. Carmel Zollo tried on two occasions, Mr President, to get you to rule on a point of order, which you did not do. Her point of order—

The PRESIDENT: If the honourable member reads *Hansard*—

The Hon. T.G. CAMERON: I will do that, but I am making my personal explanation at the moment, if you do not mind.

The PRESIDENT: What is the personal explanation?

The Hon. T.G. CAMERON: If I can proceed, I will make it.

The PRESIDENT: I am asking the honourable member to proceed.

The Hon. T.G. CAMERON: I will do that, okay? On two occasions the Hon. Carmel Zollo raised a point of order, and my understanding of her point of order was that the Hon. Angus Redford had misled the Council by claiming that she had moved an amendment. I took a point of order in support of her point of order, because I felt that you had not ruled on her point of order, and it was my understanding that, if a member of the Council rises and asks for a ruling on a point of order, it is incumbent upon the Chair to do so. That is why I took a point of order yesterday. Nobody was more surprised than I when you made your ruling, Sir, because it seemed to me that you were making a ruling that had nothing to do with the honourable member's point of order.

The PRESIDENT: The honourable member will return to his personal explanation.

The Hon. T.G. CAMERON: I am in the middle of it, Mr President.

An honourable member interjecting:

The Hon. T.G. CAMERON: I am making a personal explanation of what I did yesterday. If that happens to traverse into a point of order, I am sure that you, Sir, will have no hesitation in sitting me down. I believe that your ruling yesterday, Mr President, did not relate to the Hon. Carmel Zollo's points of order or mine.

The PRESIDENT: If the honourable member looks at *Hansard* he will see that the Hon. Carmel Zollo interjected and said that she had not moved an amendment. Soon after that she said:

> I rise on a point of order, Mr President: I would like the honourable member to withdraw that comment. I have not moved any amendments in this place.

In my statement I quoted the Hon. Angus Redford, who said that the Hon. Mike Rann would arrange for the Hon. Carmel Zollo to move the required amendments.

An honourable member interjecting:

The PRESIDENT: Order! I did not need to make a ruling. If the honourable member looks at the transcript, he will see that on two occasions the Hon. Mr Redford withdrew, which the Hon. Carmel Zollo was asking him to do, even though her assumption was wrong. The Hon. Angus Redford withdrew twice, and that is on the record.

LOCAL GOVERNMENT BILL

In Committee.

(Continued from 27 July. Page 1681.)

Clause 55 as amended passed.

Clause 56.

The Hon. T.G. ROBERTS: I indicate that the Labor Party will not proceed with its amendments up to clause 74, on the basis of the preceding debate. To simplify matters and make progress easier, we will support the Hon. Mr Cameron's amendments to that point.

Clause passed.

Clauses 57 to 61 passed.

Clause 62.

The Hon. IAN GILFILLAN: I move:

Page 57 after line 6—Insert:

Maximum penalty: $10 000 or imprisonment for two years.

I am conscious that we need to facilitate progress as best we can by simplifying the procedure. My opinion is that there appears to be substantial support for the amendments to be moved by the Hon. Terry Cameron; therefore, I am unlikely to be successful with my amendment. So that I have an opportunity to speak to it and not be ruled out of order, I have moved it. I have had a chance with my research staff to look at the Hon. Mr Cameron's amendment. The Bill describes two types of offences to which council members and members of committees and subsidiaries may be liable. They are dealt with separately, one lot in clause 62 and the other in clause 74. The lot in clause 62 are offences of failing to act honestly, failing to act with reasonable care and diligence, making improper use of information to gain an advantage and so on. Clause 74 is concerned only with failing to declare a conflict of interest.

Although the Bill treats these two areas as distinct and different offences, the Democrats take a similar attitude to all of them: we seek to ensure that all these offences are dealt with only as criminal offences needing to be proved beyond reasonable doubt. The Government's position in amendments on file is that all these offences should be dealt with as civil matters needing to be proved on the balance of probabilities, although this would not prevent criminal charges being laid in a serious case by relying on different provisions in the Criminal Law Consolidation Act—the offence of abuse of public office.

Although we disagree with the Government, we recognise that it has had a consistent position. The Democrats and the Labor position on this is also consistent in the treatment of the various offences. But the series of amendments now being put forward by the Hon. Terry Cameron are not consistent, in my opinion. I am sure that the Hon. Terry Cameron will have an opportunity to explain, but for some reason he is giving quite different treatment to the offences in clause 62 as opposed to the offences in clause 74. Under the Hon. Terry Cameron's amendment, failing to declare a conflict of interest will need to be proved only on the balance of probabilities, but failing to act honestly and with reasonable care and diligence, making improper use of information for personal gain and so on will need to be proved beyond reasonable doubt. If the Hon. Mr Cameron is assuming that offences of one type will always be more or less serious than offences of

another type, I invite him to explain to the Committee why he makes that assumption.

The Hon. T.G. Cameron interjecting:

The Hon. IAN GILFILLAN: Well, he can explain why he has not made that assumption. It is an open and free world to communicate in Committee. Our position is that offences of all these types need to be assessed on their merits by a court assessing all the circumstances of the occasion. For the Parliament to say that some offences should be assessed beyond reasonable doubt and some on the balance of probabilities is to set up, in my view, a false and unnecessary dichotomy, the practical effect of which will be that, when an offence is alleged, lawyers on both sides will try to juggle the facts or attempt to do deals to get the offence dealt with under one set of provisions rather than the other.

This is not in the interests of justice nor in the public interest: it ought to be up to the court to deal with all these types of offences in a consistent manner with a consistent set of provisions, including a consistent burden of proof. To my mind, that ought to be a criminal standard of proof, because I do not want to discourage people from volunteering to serve in local government by leaving them open to be prosecuted under the lower civil burden of proof. My feeling is that it is onerous on people who offer to serve in council to be vulnerable to actions which could be entered into more readily on the lower level of culpability and offence and ability to be proven, whereas no-one in my opinion who offers to serve in any sphere or category should be free from prosecution for a criminal offence. Who does want to protect anyone from what could be argued in a court as a criminal offence? Certainly, we do not.

The background philosophy of a series of Democrats amendments that I have on file is that we believe we limit the number of occasions and the areas in which a councillor is likely to be taken to court, and that would be on the basis that there was a substantial case that a criminal act had occurred and that they would not be liable to be taken to court on a civil matter, which would be entered into on a much lighter degree of evidence and for a minor matter. So, having made that position clear, I believe it would be to the advantage of the Committee if I followed the lead of the Hon. Terry Roberts and indicated that I will not be moving any of the amendments that relate to that matter to save the time of the Committee. Having moved that amendment, I indicate that I will not be moving my further amendments to clause 62.

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

Page 57—

After line 12—Insert:

Maximum penalty: $10 000 or imprisonment for two years.

After line 15—Insert:

Maximum penalty: $10 000 or imprisonment for two years.

(5) If a person is convicted of an offence against this section, the court by which the person is convicted may, if it thinks that action under this subsection is warranted, in addition to (or in substitution of) any penalty that may be imposed under a preceding subsection, by order do one or more of the following:

(a) require the person to attend a specified course of training or instruction, or to take other steps;

(b) suspend the person from any office under this Act for a period not exceeding two months;

(c) disqualify the person from any office under this Act;

(d) disqualify the person from becoming a member of a council, a committee of a council or a subsidiary of a council for a period not exceeding five years.

(6) If a person is disqualified under subsection (5)(c), the office immediately becomes vacant but proceedings for a supplementary election to fill the vacancy (if required) must not be commenced until the period for appealing against the conviction of an offence against this section has expired or, if there is an appeal, until the appeal has been determined.

(7) The provisions of this section extend—

(a) to committees and to members of committees established by councils as if—

(i) a committee were a council; and

(ii) a member of a committee were a member of a council; and

(b) to subsidiaries and to board members of subsidiaries as if—

(i) a subsidiary were a council; and

(ii) a board member of a subsidiary were a member of a council.

I thank the Liberal Party and the Australian Labor Party for supporting the amendments standing in my name. The Local Government Bill is probably one of the most complicated, if not the longest, Bill that I have ever had to deal with, and the two most difficult issues with which I have had to grapple in my considerations in relation to this Bill were this issue and the question of the Adelaide City Council land bank.

When I looked at all the amendments, it was quite clear that the Liberal Party, the Labor Party and the Democrats had all submitted a slightly different position. None of those positions coincided with the position that the Local Government Association put.

I will place on the record my appreciation to a number of people for the assistance they gave me not only with the Bill but in particular with this clause. I express my appreciation to Richard Dennis from Parliamentary Counsel, who was able in about 15 minutes to get me to understand all this. I think I had spent about five hours on it before I spoke to him. I also express my appreciation to the Local Government Association for providing its legal advisers to brief me, in particular Mr Michael Kelledy from Norman Waterhouse. I also had discussions with Ian Gilfillan, Pat Conlon, Terry Roberts and a whole range of country councils as well as some representatives from city councils.

It seemed that the Government was proposing to extend the scope and include clause 62. However, at the same time it wanted to change the burden of proof from beyond reasonable doubt to the balance of probabilities. It was in trying to ascertain the precise difference between those aspects and the impact they would have on local government that I received assistance from Michael Kelledy from Norman Waterhouse, so I thank him for the written opinions with which he supplied me.

It seems that the Government, in attempting to broaden the scope of offences for which people can be taken to court in local government, at the same time was introducing new penalties and wanted to introduce a new burden of proof. The amendments that stand in the name of SA First *in toto* probably do not have the support of the Liberal Party, the Labor Party, the Democrats or the Local Government Association, but that is probably a fair comment to make of everybody's amendments.

There being a disturbance in the gallery:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! We will have no comments from the gallery.

The Hon. T.G. CAMERON: That applies to all the amendments that stand in the name of all Parties. The Local Government Association expressed concern about widening the scope of offences that could be dealt with. It has also expressed a concern about lowering the hurdle or lowering the burden of proof from beyond reasonable doubt to a balance of probability. The Local Government Association has also expressed concern about extending clauses 62 and 74

to apply to council subsidiaries, committees, etc. I am concerned about the unilateral extension of these clauses to every council committee. Following negotiations with a number of people, we could not see how we could either limit or exclude them. Some of these committees or subsidiaries are only of a very minor nature. Others often run very extensive businesses or look after large budgets.

In trying to weigh up the various positions and trying to take into account the submissions that were put to me by the Local Government Association, the amendment standing in my name, as the Hon. Ian Gilfillan stated, separates clause 62 from clause 74 and supports the creation of a separate jurisdiction in the District Court. I will now separate the two clauses. Under the test of beyond reasonable doubt, I believe it would be extremely difficult to gain a successful prosecution under clauses 62(1) and 62(2). Any prosecutions that come forward under clauses 62(3) and 62(4) might well be dealt with under the Criminal Law Consolidation Act.

To say that I am absolutely convinced on the position that I have put forward would not be correct. I am not absolutely convinced that my position is correct but neither am I convinced that the position being put forward by any other Party is correct, so I thank the Liberal and Labor Parties for supporting my amendments. I take the point that the Hon. Ian Gilfillan made that it sets not only a different test that is a lower level of proof but it deals with it in a different way. I do not know whether or not what the Minister is proposing with a separate jurisdiction will work. It seems to me that the point being made by the Local Government Association is that people who work in local government, particularly those who work on committees and subsidiaries, are nearly always volunteers and the LGA felt that the position being put forward by the Government might dissuade volunteers from serving in local government and that is something that I would be anxious to avoid.

Another amendment that will be caught up in this proposal is the question of criminal compensation, and I am not sure from what the Hon. Terry Roberts said whether that amendment is being withdrawn, but I indicate that at this stage I will not support that amendment. I note in the original proposition put forward by the Minister that under clause 267 or clause 271 the Minister can act as a gatekeeper. I am not sure why the Minister would want to place himself in that position but I understand that there is a concern that, if there is not some kind of vetting proposal, it could trigger off a whole range of minor applications to go to the courts. At this stage I will support that proposition, but it would not surprise me if in a year or two we are back here looking at this entire measure again.

I believe that the position that I have put forward will allow a whole range of minor offences on conflict of interest matters under section 74 to be dealt with in a different jurisdiction under a different test and there will be the flexibility for providing minor penalties. I am not suggesting to the Committee that my amendments have resolved everyone's concerns in relation to this, nor am I absolutely convinced that the model that I have put forward will work better than others, but on balance I believe that it offers more opportunity to work better than the other models and goes some way towards meeting the LGA's concern that, if we make these tests too tough, people will not volunteer to serve in local government, and that would be a tragedy.

The Hon. A.J. REDFORD: I cannot say how disappointed I am in the last two contributions because there is an absolute, total and utter misunderstanding of how this Bill has been put together and an utter and complete misunderstanding of how the criminal law operates and of the sort of impositions that the honourable member seeks to place on courts in relation to dealing with these things. Let me explain how this Bill was put together and how the structure was originally intended to work. The first thing is that the District Court was given a disciplinary jurisdiction in terms of the application of civil penalties for people who make breaches. The Minister can shake her head but this is fundamental—

The Hon. Diana Laidlaw: I know what is in the Bill but the Government will accept Mr Cameron's amendment.

The Hon. A.J. REDFORD: I think the Government is foolish and wrong and, if the Government is not prepared to listen to me, I suggest that the Government should speak to the Attorney-General and the Crown Solicitor's Office.

The Hon. Diana Laidlaw: The Government includes the Attorney-General.

The Hon. A.J. REDFORD: I will take that as an assurance from the Minister that the Attorney-General has full support for this and has been fully apprised of this. The original scheme was that, because of the number of disciplinary matters that arose in which some council officers and some elected council members had been prosecuted, which had caused enormous problems in terms of proof, it was felt that a general disciplinary approach with penalties not leading to any criminal sanctions or convictions should be placed in chapter 13 of the Bill. That necessarily meant that a matter did not have to be proved beyond a reasonable doubt.

In order to prevent vindictive pursuits on the part of councils against individual members or small groups of members, there was also a suggested amendment that a prosecution or disciplinary proceedings should not occur without the approval of the Attorney-General. That was to act as a gatekeeper to ensure that these processes are not used to advance the political cause of a particular group, and I can name some instances if the member is interested. One needs only to go back a couple of years to see what happened in the Stirling Council. These amendments seek to bring a criminal charge or a criminal sanction in relation to a number of concepts. First, clause 62(1) provides:

> A member of a council must at all times act honestly in the performance and discharge of official functions and duties.

I can understand that you might be able to justify criminal sanction being associated with that; indeed the Federal corporations and securities legislation has brought in similar provisions. However, clause 62(2) provides:

> A member of a council must at all times act with reasonable care and diligence in the performance and discharge of official functions and duties.

Quite frankly, no member of Parliament, let alone a volunteer council worker or an elected council member, should be the subject of a criminal prosecution because someone thought they had not operated with reasonable care and diligence. If my local elected councillor decides to have eight weeks at Beachport crayfishing and someone who has a vendetta against him says, 'Well, eight weeks crayfishing at Beachport as an elected member of council, that is criminal conduct. We will smear his name, and we will put him through the criminal courts because that is not reasonable care and diligence.' I will not sit quietly in this Parliament and accept this amendment and the Government's meek acceptance in order to the get the Bill through quickly to keep our Lower House colleagues happy. I then go on—

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: The Minister can respond later and respond to what I am saying. Clause 62(3) provides:

A member or former member. . . must not, whether within or outside the State,—

whatever 'outside the State' might mean—

make improper use of information. . .

What is meant by the term 'improper' in terms of how you explain that to a fact finder? Given the penalties—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: Let me finish the point. The honourable member might interject and say, 'Ask your own colleagues', but I spent 10 years scratching around the courts because someone in Parliament came up with this concept of 'improper'—

The Hon. T.G. Cameron: This Bill has been floating around for months—

The Hon. A.J. REDFORD: I appreciate that—

The Hon. T.G. Cameron: The honourable member is so busy that he has not discussed it with his own colleagues.

The Hon. A.J. REDFORD: Yes, I have discussed it, but what I did not—

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order!

The Hon. A.J. REDFORD: —discuss with my colleagues was the honourable member's amendment which came to my attention only when it was filed on 28 July. If the honourable member had been following what I was saying, he would know that I said that it was never intended that this clause would impose criminal sanctions and, if you are going to impose criminal sanctions, have a good look at where you are imposing them. You are imposing them on improper conduct.

The High Court on four separate occasions, the full bench of our Supreme Court on three separate occasions, the Federal Court on innumerable occasions, the honourable member's former colleagues in Opposition and my colleagues in Government in the Federal Parliament have constantly said that the use of the term 'improper' in a criminal context is outrageous and ridiculous. To expose our 500 or 600 volunteer council members to the prospect of prosecution and the prospect of two years' imprisonment because someone says 'I think you are acting improperly' is stupid legislation, whether or not it has the agreement of the Minister.

To bring in legislation on the run without thinking through the issues carefully and without getting advice not just from those who might be practitioners within the area of local government but from practitioners who have to deal with criminal prosecutions is not a fair approach to this legislation. How on earth can we expect people to put their hand up and say, 'Yes, I will be a member of council', if when they go along to a training session a lawyer says 'Well, you had better not go crayfishing for more than a couple of weeks because that might be deemed to be failing to act with reasonable care' or 'If you happen to tell grandma over Christmas dinner that the council is thinking of allowing a change in plan in a certain suburb and grandma then goes and buys a block of land in that suburb, that might then lead you to a criminal prosecution'? It is just stupid and unfair beyond reason.

The reality is that the original framework within this Bill was to say, 'Look, we do not approve of that sort of conduct, we do not want that sort of conduct and, if it happens, it will be hard to prove but, if we can prove it on the balance of probabilities, the District Court has a number of things it can do.' One only needs to look at clause 270 of the Bill which provides that you can reprimand people, you can ask them to go to training, or you can—in extreme cases I would imagine—fine them or suspend them. What this seeks to do is impose a criminal sanction and a criminal conviction and all the taint of dishonesty and corruption.

If there is dishonesty and corruption, a substantial number of provisions are set out in the Criminal Law Consolidation Act that enable the Director of Public Prosecutions to deal with it, and I have confidence in the Director of Public Prosecutions to this extent: he will not get caught up in local petty politics or in some local vendetta to get someone. However, I have some real concerns that this will expose ordinary hardworking people, who put their hand up for local government, to this situation. As I said, given the way that local government is structured today, they are all retired people or farmers, as I think the Hon. Terry Roberts interjected, and we might finish up with no-one wanting to stand for local government.

The provisions are hard enough as it is, particularly in small rural councils where you might get decisions being made on a constant basis and, if you have a large extended family in your council, every decision you make has either a positive or negative effect on your family. I can tell members from personal experience that your family usually tells you straight afterwards if it is negative, or praises you if it is positive. It is one thing to say, 'Well, look, if you do that and you do that with disregard for normal standards, you will be subject to disciplinary proceedings', but it is entirely another thing to say, 'Well, we will subject you to criminal prosecution.'

I would urge everyone to take a deep breath and remember that in its initial drafting of the Bill the Government sat down and very carefully thought through the framework. If members are going to change the framework and apply criminal sanctions, I would like to know how they will ensure that this is not abused when they use the term 'reasonable care and diligence'. Is Don Ferguson, for argument's sake, expected not to go crayfishing from now on because that is not reasonable care and diligence, or that Mayor Hood is not expected to look after his crops for a reasonable period?

We are dealing with hardworking volunteers and we need to be very careful about what we do. If I moved an amendment to the Constitution Act that a member of Parliament must at all times act with reasonable care and diligence in the performance and discharge of his or her official functions and duties and, if not, they will be subject to a $10 000 fine and a two year period of imprisonment, what support would I get in this place, let alone in the Lower House? Yet here we are on between $70 000 and, in some cases, $130 000 a year and we are not subject to any of these standards or this sort of criminal prosecution and we are attempting to impose it on volunteers. It is stupid.

The Hon. DIANA LAIDLAW: I will not rise to the bait in terms of the Hon. Mr Redford's emotional and I think rather petulant contribution to this clause. He suggests that the Government, which includes the Attorney-General, has now acted without the support or knowledge of the Attorney-General. I can say that that is not so and never would be the case, and to suggest otherwise is silly. I also say that there is a precedent for this provision. I believe the honourable member was in this place in 1995 when the Government amended the South Australian Housing Trust Act. That legislation includes the same provisions that are incorporated in the Hon. Mr Cameron's amendments which, after much deliberation and care, the Government supports. We are not

rushing into this. We would not compromise after two years of work—

The Hon. T.G. Cameron: The honourable member must have been absent during that debate.

The Hon. A.J. Redford: Your amendments came on 28 July, Terry.

The Hon. DIANA LAIDLAW: That does not mean that the honourable member's amendments or the Government's support for those amendments deserved the speech that we just heard from the Hon. Mr Redford, and that is—

The Hon. A.J. Redford: Why don't you direct your comments to the argument, Minister?

The Hon. DIANA LAIDLAW: I am. I am indicating to you that there is precedent for the measures which the Hon. Mr Cameron has moved by amendment and which the Government is supporting. You suggested that the Government was meek, that we had rolled over and were simply rushing through this Bill to get it through this place and the next. Never would this Government put at risk this Bill or our respect for the operation of councils and councillors by acting in the manner which the honourable member suggested a few moments ago.

There is a change to what is proposed in the Bill, but that is not unreasonable and it is not unusual in terms of the course of debate in this place. The Hon. Mr Redford himself from time to time has introduced amendments, not always giving us all the courtesy of many hours and days of consideration and we have been prepared to look at those measures as a Party and in this place as well. It is a member's prerogative to do that. There is no Standing Order to say that a member has to provide 48 hours or four weeks. That is not the way this place works. I strongly indicate the Government's support for the amendments and suggest that we continue to progress this Bill. It is what we all wish. We do not need the sideshows.

The Hon. T. CROTHERS: I was not intending to enter this debate, but I want to make the following observations as a lay person. The Liberal Party has four qualified lawyers in this House, one of whom is a QC, and the Labor Party has four qualified lawyers in another place. Seven out of eight of those qualified legal practitioners are supporting the Cameron amendment. Why is it that time after time we see the Hon. Mr Redford as being the lone dissenting legal voice in respect of matters of law where the Opposition and the Government have got some agreement? Why is that so? I am reminded of the person in respect of lawyers who said of the Jewish people, 'If you get two Jewish people together you will have three or more political parties.' Likewise is it so with barristers. If the art of practising law was such an accurate and precise matter, and you did not have different opinions among different barristers, or indeed amongst the judiciary, where we can see minority and majority opinions, such as 4:3 and 5:2, and all the rest of it, being carried, if there was not such a diversity of opinion, I suggest that this State could be served by one legally qualified person only, much the same as economists.

But I ask myself the question: why is it that time after time the Hon. Mr Redford is the lone dissenting voice out of eight other qualified lawyers in this place and in the other place relative to amendments that the Government has got agreement with the Opposition on? Of course, like the Hon. Mr Redford, all these other legally qualified practitioners would have only seen the Hon. Mr Cameron's amendment on the 28th, which I assume is when it was lodged, and they have no objection. I conclude my remarks on that.

The Hon. A.J. REDFORD: I make a couple of points. The first point the Minister made, and the only point of any substance other than attacking me and calling me petulant and saying that I had sufficient notice, is that somehow I allowed some similar amendment to the Housing Trust legislation go through in 1995. I have to say that I had not seen that legislation and it was not an area that I took a great deal of interest in, and if I did allow it to go through without making any comment then perhaps I might not have. The fact of the matter is that the substantive arguments that I have put should be addressed, and they have not been addressed either by the Minister or indeed by the contribution that we heard a few minutes ago by the Hon. Trevor Crothers.

Secondly, the Hon. Trevor Crothers indicated that time after time I have been out of step with seven out of eight lawyers. I do not recall that being the case. There are occasions when we might be divided equally or there might be a small group, but I do not recall on previous—

The Hon. Ian Gilfillan interjecting:

The Hon. A.J. REDFORD: The honourable member interjects: I am grateful for some small degree of support. But I would challenge the Hon. Trevor Crothers to perhaps provide me with a list of the 'time after time' that he refers to when I have been one out of eight. Finally, if I can say this: with the greatest of respect, and I appreciate the way we deal with legislation here, these amendments have been filed only in the past few days. Of these eight lawyers that the Hon. Trevor Crothers refers to, four of them are in the Lower House and, indeed, one has been sitting in the gallery, and as I made my contribution kept nodding his head, and I assume—

The CHAIRMAN: The honourable member should not refer to anyone in the gallery.

The Hon. A.J. REDFORD: I apologise for that, but I would be interested to hear what he says about it in another place, if it gets to that point. But the reality is that it is all well and good as a member of Parliament to walk in here and deal with a substantive issue; what I find disgraceful is when the Minister turns around and says, 'Well, that was a petulant performance, everybody else agrees, and the member ought to sit down and shut up.' That is effectively what she said. One would be eternally optimistic, I suppose, if one were to hope that an argument could be developed on the substantive issue that I raised, that is, how you marry the concept of criminal charges, criminal conviction, with concepts of impropriety and reasonable care and diligence. I would then be happy to sit and listen.

But that is not the way this debate seems to be wanting to proceed. It seems to want to proceed on the basis of attacking me because I raise an issue. I must say that as a member of Parliament it is my right and indeed it is my duty. I must say that I was not aware of these amendments, and I must say that I well recall spending two hours with the Minister in another place and his staff talking about the disciplinary structure, and we did consider whether or not criminal liability ought to be imposed in relation to the concepts set out in clause 62. There was debate involving the Minister and myself. Peter Lewis was there and you were there, Mr Chairman.

It was agreed that in relation to these general concepts it would be better to deal with them in a disciplinary process rather than a criminal process and that the only criminal liability ought to be imposed in relation to failure of disclosure of interests, because they were measurable, clear standards that could be proved, and everybody looking at it could determine one way or another whether there had been a

breach, and that there were not some sort of general and nebulous requirements such as diligence and the like imposed in conjunction with a criminal sanction. That was my recollection of a lengthy meeting that took place in the State Administration Centre some months ago over a period of two days.

The Hon. Mr Gilfillan's amendment carried; the Hon. Mr Cameron's amendments carried.

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

Page 57, after line 15—Insert:

Maximum penalty: $10 000 or imprisonment for two years.

(5) If a person is convicted of an offence against this section, the court by which the person is convicted may, if it thinks that action under this subsection is warranted, in addition to (or in substitution of) any penalty that may be imposed under a preceding subsection, by order do one or more of the following:

(a) require the person to attend a specified course of training or instruction, or to take other steps;

(b) suspend the person from any office under this Act for a period not exceeding two months;

(c) disqualify the person from any office under this Act;

(d) disqualify the person from becoming a member of a council, a committee of a council or a subsidiary of a council for a period not exceeding five years.

(6) If a person is disqualified under subsection (5)(c), the office immediately becomes vacant but proceedings for a supplementary election to fill the vacancy (if required) must not be commenced until the period for appealing against the conviction of an offence against this section has expired or, if there is an appeal, until the appeal has been determined.

(7) The provision of this section extend—

(a) to committees and to members of committees established by councils as if—

(i) a committee were a council; and

(ii) a member of a committee were a member of a council; and

(b) to subsidiaries and to board members of subsidiaries as if—

(i) a subsidiary were a council; and

(ii) a board member of a subsidiary were a member of a council.

The Hon. IAN GILFILLAN: The Democrats support the amendment. It is identical to one we have on file.

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

Amendment carried; clause as amended passed.

Clause 63.

The Hon. IAN GILFILLAN: I move:

Page 57, lines 22 and 23—Leave out subclause (4).

This amendment is consistent with a previous amendment to delete the principle and regulations clauses, and I do not want to go over that argument again. Subclause (4) provides:

A code of conduct must be consistent with any principle or requirement prescribed by the regulations and include any mandatory provisions prescribed by the regulations.

Members will know that I have consistently moved for the removal of those conditions right through the debate, and this is no exception.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. I note that there are identical Democrats and Labor amendments and they seek to remove the power to make regulations regarding codes of conduct. Regulations would only be made if it proved to be necessary or helpful to local government in framing the codes of conduct.

One can envisage that guidelines will be produced by the Local Government Association, and possibly even by the Government, if local government wanted that. Codes of conduct that could be used as a guideline for this purpose are widely available in the community. If local government wants to make use of the regulating power that is in the Bill, we believe that that should be an option for a council to exercise. I am not saying that it is going to be used but it is an option for local government to exercise if it wishes.

The Hon. T.G. CAMERON: SA First will be supporting the Democrats' amendment.

Amendment carried; clause as amended passed.

Clause 64 passed.

Clause 65.

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

Page 58, line 5—After 'primary return' insert:
in accordance with schedule 2A

On advice, I will be refiling amendments to clauses 65 to 69. There are no mirrored amendments by any other members.

The Hon. DIANA LAIDLAW: The Government is prepared to accept these amendments. We were a bit surprised that the honourable member was not going to move them. Now that he is, we will accept them.

Amendment carried; clause as amended passed.

Clause 66.

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

Page 58, line 8—After 'ordinary return' insert:
in accordance with schedule 2A

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

Amendment carried; clause as amended passed.

Clause 67.

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

Page 58, line 10—Leave out subclause (1).

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

Amendment carried.

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

Page 58, line 13—Leave out 'member of his or her family' and insert:
person related to the member within the meaning of schedule 2A.

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

Amendment carried; clause as amended passed.

Clause 68.

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

Page 58, line 16—After 'Division' insert:
and schedule 2A

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

Amendment carried; clause as amended passed.

Clause 69.

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

Page 58, line 25—After 'this Division' insert:
and schedule 2A

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

Amendment carried; clause as amended passed.

Clause 70.

The Hon. DIANA LAIDLAW: I move:

Page 58, after line 32—Insert:

(3) However, an application to inspect the register or to obtain a copy of the register (other than by a member of the council) must be made in writing to the chief executive officer.

(4) The chief executive officer must keep a record of the name and address of a person who makes an application under subsection (3), and of the date on which the application is made.

(5) A member of the council is entitled at any reasonable time to inspect a record kept under subsection (4).

This amendment requires that persons wishing to inspect the members' register of interest must apply in writing to the CEO, who must keep a record of the name and address of applicants, which is available for members to inspect.

The Hon. IAN GILFILLAN: I am absolutely stunned by this amendment. It is a police state come into local government. An elector, a member of the public, seeking public information about a council or councillors who are representing them and for whom they will be or have been asked to vote, will have their names recorded as if it is a petty offence. I hope that other members will realise the implication of this, in particular the SA First Leader, the Hon. Terry Cameron, who, I believe, leads a Party that prides itself on representing human freedoms and basic rights.

This provision requires that any person who goes into a council office to ask for details of the register—a public register of the interests of a councillor—have their name and contact details recorded, for what could be all time, but for what earthly purpose other than some form of follow-up, and I will not use the word 'vindictiveness'? I would ask the Minister, who I hope has been properly briefed on this, what on earth is the human rights justification for demanding that a person who asks to have access to what is publicly available information, kept in the interests of open government, have their details recorded? It certainly does not apply to anyone who wants details of members of this place. What is the justification?

The Hon. DIANA LAIDLAW: There are a variety of reasons for the Government's moving this amendment. The first relates to the fact that making the register of interests publicly available is a new provision for local government in South Australia. Sometimes steps forward are made in leaps and bounds and sometimes it is slower; nevertheless, it is progress. The Government thinks that the fact that this register of interests is available to the public is an important principle, but on behalf of a wide range of councils, particularly in small communities where there is either some misgiving or nervousness about this measure—and they are close communities—the Local Government Association has asked that this provision be put in place as outlined in the amendment I have moved.

It is not an unusual provision. The Hon. Mr Gilfillan asked for an explanation, and I am trying to provide it. The honourable member should be aware that, in other States that have these provisions for public access to a register of pecuniary and general interests of members of local government, they also have this provision, so it is not as if South Australia is pulling back from what is the practice in other States. Mr Gilfillan should consider it an important step forward that this Bill provides for the register to be public in the future.

The Hon. T.G. CAMERON: Following on from what the Hon. Ian Gilfillan said, I would like some questions answered. Are members of the public required to lodge an application in writing to either the Speaker or the President if they want to look at a member of Parliament's register?

The Hon. DIANA LAIDLAW: It is not required, but it is not entirely relevant. This provision is included in the Local Government Acts of other States. This provision to make the register public is an important step forward for local government. We must have some care for the sensitivities of smaller communities and sometimes more conservative communities in country areas, and with respect to volunteers—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: This is where I would argue strongly with the Hon. Mr Gilfillan. On the one hand he talks about the important principle of volunteerism and how he wants to make local government easily accessible for volunteers, respecting all the burdens on them and how they must travel widely, give their time for nothing and spend time away from families. It is fine to argue on that level, but many of those people come from small communities. They have agreed with the Government as a matter of principle that the register of their interests should be made public, but they have asked for this as a small step forward (which may not be a step that we see as valid in the longer term) that can accommodate the whole of the local government community—not just the bigger, more impersonal councils but also local government across South Australia. The LGA has asked for this amendment.

The Hon. T.G. CAMERON: I refer to subclause (4), which provides that the chief executive officer must keep a record of the name and address of any person who makes an application under subsection (3) and of the date upon which the application is made. I follow up on the Hon. Mr Gilfillan's point about why councils would need to keep this record. If an application has to be made in writing, councils have a written record of the application. It would seem to me that subclause (4) requires the CEO to keep a further record of the name and address of that person. Subclause (3) makes no mention of what information is required in the application, so I am not sure how this application form will be drafted. When the application is lodged, do they have to provide their name and address, etc.?

In relation to subclause (4), if the chief executive officer is to keep a record of the name and address of every poor soul who dares to come forward to check up on a councillor's register of interests, I would ask who will have access to that record. There is no bar on who will have access to that record, so does that mean that a councillor could go to his CEO and make that request? If members understand the relationship between councillors and CEOs, they will know that CEOs are always keen to keep their councillors on side. I wonder what a CEO would say to a councillor who said, 'I want to look at your public record,' with the full knowledge that he is not on it, but he just wants to know who is checking up on all the other councillors. The Hon. Ian Gilfillan has put his finger on a potential problem, and unless I get some satisfactory answers in relation to those points I shall join him in opposing this provision.

The Hon. DIANA LAIDLAW: There is probably a point on both sides here. I accept that subclause (3) provides that there must be an application in writing, and perhaps it is overdoing it to require that a record be kept—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: That's right. I would like to make a proposal on the spot. If the honourable member thinks it is reasonable that an application be made in writing to the chief executive officer, we could delete subclause (4), so that subclause (5) would become subclause (4) and would provide that a member of the council is entitled at any reasonable time to inspect an application under subsection (3).

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I know that the honourable member has left the Labor Party, but it might have a view, too.

The Hon. T.G. CAMERON: I understand that if the Minister wanted to she could just crunch the numbers on this.

The Hon. DIANA Laidlaw: No, I can't.

The Hon. T.G. CAMERON: The Labor Party has advised me that it will support the Government. Perhaps I should not have told the Minister that, but I appreciate her genuine attempt to try to resolve this. I have a real concern about subclause (4). Nothing in subclause (4) would prevent a councillor from going to a chief executive officer and saying, 'Give us a look at all the applications from people who want to look at the public register'.

The Hon. DIANA LAIDLAW: Essentially I agree, but I would like to hear what the Labor Party says.

The Hon. T.G. ROBERTS: I have listened to the Minister's proposal to change the existing position, and we would support that. We were supporting the original position. I understand where the Hon. Mr Gilfillan is coming from. It seems to me that you are damned if you do and damned if you do not; what do you do if you do not regulate? Would it allow the vexatious and frivolous to make inquiry and use that information? There has to be some disciplinary process so that if somebody has access they have a responsibility. In small rural areas, by having to make an application, people at least have to be identified so the silent campaigns against individual members do not run.

In the light of the honourable member's criticism, if you regulate you then have to make sure that it is not too onerous and that it is not seen as a vendetta against those who dare to make an application to determine exactly the status of their elected member. We can support the Government's position, as changed and altered. It can be put before another place and brought back.

The Hon. IAN GILFILLAN: If the Government withdraws its amendment, we can revisit clause 70 later if there has been some rethinking. The point I make and have made previously is that this Bill and the Democrats' approach to it is very much a recognition of the maturity and responsibility of local government. We cannot have it both ways. If you are to get the freedom from us, the Democrats, to make the decisions and take the responsibility, you have to take the burden of the same responsibilities that any responsible tier of government would take. It does not matter whether there is a written list as far as availability to the public is concerned. The argument that, unless this is in place, councillors are exposed to a whole lot of ridicule and exposure is a nonsense, because even with the amendments in place anyone who wants to can get the information. They are not protecting a thing for the councillors. That argument falls flat on its face as soon as it is put up.

It has absolutely no significance to protecting the privacy or otherwise of a councillor. It simply chronicles in detail those citizens who sought the information which in any tier of government is becoming more and more abundantly available, so we have openness and transparency and the expectation of honest performance by councillors or members of Parliaments. We can play with the words of the amendment and it will not make any difference. The original wording in the Bill must have been subject to a lot of conversation and a whole lot of nervous councillors saying, 'My God, people will know what I have on my register of private interests'. The amendment is not protecting them at all. It is a worthless amendment.

The Hon. DIANA LAIDLAW: I move to amend my amendment as follows:

Delete proposed new subclause (4).

Proposed new subclause (5) would then become proposed new subclause (4), which provides:

(4) A member of the council is entitled at any reasonable time to inspect an application made under subsection (3).

Amendment to amendment carried; amendment as amended carried; clause as amended passed.

Clauses 71 to 73 passed.

Clause 74.

The Hon. IAN GILFILLAN: I move:

Page 60, after line 27—Insert 'Maximum penalty: $10 000 or imprisonment for two years.'

Page 61, after line 3—Insert 'Maximum penalty: $10 000 or imprisonment for two years.

My amendment to clause 74 refers to members' disclosed interests. The first subclause indicates the substance of the clause: a member of a council who has an interest in a matter before the council must disclose the interest to the council. My first two amendments deal with penalties.

The Hon. DIANA LAIDLAW: The Government opposes the amendments. I respect the fact that the Hon. Ian Gilfillan and the Hon. Terry Roberts have identical amendments, but they are inconsequential or irrelevant now, because the Committee has voted for a different disciplinary jurisdiction arrangement. I therefore oppose the amendments.

The Hon. T.G. CAMERON: SA First opposes the amendments for the reasons outlined by the Minister.

The Hon. IAN GILFILLAN: Does the actual quantum of the penalty have a bearing on the Minister's statement? Is she just referring to the fact that there has been a previous decision which has a bearing on the latter part of my amendment?

The Hon. DIANA LAIDLAW: I am told 'No.'

The Hon. Ian Gilfillan: You are told that it does not have any bearing?

The Hon. DIANA LAIDLAW: It does not. I am getting a vigorous nod. That means that my answer to you is 'No, it does not have a bearing.'

The Hon. Ian Gilfillan: It does not have a bearing?

The Hon. DIANA LAIDLAW: That is right—no bearing.

The Hon. Ian Gilfillan: So you will be voting for my amendments?

The Hon. DIANA LAIDLAW: I am voting against your amendments and so is Mr Terry Cameron.

Amendments negatived.

The Hon. IAN GILFILLAN: I do not believe that my further amendment on file is significant to the current state of play, so I do not intend to move it. That is somewhat disappointing, because I have a hand note that is very precious to me that the LGA supports my version, which is always very comforting.

The Hon. T.G. ROBERTS: I will not proceed with my amendment.

Clause passed.

Clause 75 passed.

Clause 76.

The Hon. DIANA LAIDLAW: I move:

Page 63—

Line 4—Leave out 'will' and insert ' is entitled to'.

Line 21—After 'regulations' insert '(unless the member declines to accept payment of an allowance).

This is the first of three related amendments and clarifies that members are entitled to receive an annual allowance rather than be paid an allowance. This enables a member to decline to be paid if they so wish. It is made in accordance with

recommendations of the ministerial working party on elected members' allowances and benefits, which had representation from the LGA.

Amendments carried; clause as amended passed.

Clause 77.

The Hon. DIANA LAIDLAW: I move:

Page 63, line 31—Leave out 'will' and insert:
is entitled to

The explanation that I gave to the amendments to clause 76 apply to this amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 64, lines 2 and 3—Leave out '(either specifically or under a policy established by the council for the purposes of this section)' and insert:
under a policy established by the council for the purposes of this section

The wording of this amendment is a little obscure. It concerns the issue of 'reimbursement of expenses of a kind prescribed for the purposes of this paragraph and approved by the council (either specifically or under a policy established by the council for the purposes of this section).' I want to amend it so that it refers to a policy established by the council for the purposes of this section. It is our conviction that a council should have a policy for reimbursement of expenses. It should not be a specific determination either made *ad hoc* or by some other means of determination. A clear policy should be established and it should be available for the public to inspect from time to time, and that is the subject of my next amendment.

So that members are clear of the intention of the amendment, I point out that it is a safeguard so that the public can feel confident that the reimbursement of expenses complies with a predictable and publicly known policy, rather than the other option which might be at odds with or certainly varies from a policy to which the public has had access. If the Committee is clear on that point, I suggest that I will make my decision to proceed with the second on the success or otherwise of the first.

The Hon. DIANA LAIDLAW: The Government opposes this amendment. We do not see it as necessary. It seeks to take out choice for councils, and this is what I find a bit confusing about the Hon. Mr Gilfillan. One moment he is championing freedom of choice for councils with no imposts, but the next moment he is defining exactly what he wants with no options for councils. The Government is providing that the reimbursements can be made specifically in relation to certain items or under a policy. By taking out the words in brackets, the Hon. Mr Gilfillan is saying that it can only be the way he wants it, and that is under a policy. He takes away the options for councils to approve a different form of reimbursement of expenses on occasions. In terms of the maturity argument that the Hon. Mr Gilfillan says he champions, his amendment seems to be at odds with the policies of a grown-up council, which should be entitled to make some decisions for itself and not just follow what Mr Gilfillan thinks he wants.

The Hon. T.G. CAMERON: I am attracted by the argument that has been outlined by the Hon. Ian Gilfillan but on this occasion I will not support his amendment, and I will provide him with an explanation as to why. Let me first address the response by the Minister to the honourable member's explanation in support of his amendment. It would be possible for a council to develop a flexible policy with which it could remunerate its employees. Not only am I attracted to the comment made by the Hon. Ian Gilfillan but I also advise that my office has been contacted by a number of councillors who have expressed concern about how the reimbursement of expenses policies are working in their councils.

Whilst I have not pursued any of those complaints, they include things like, the CEO plays favourites, the council has no policy, and some people get reimbursed for expenses that others do not. I have been queried about whether taxi fares or takeaway food are allowable expenses for reimbursement. I indicate to the honourable member that I will support the Government on this occasion, but I place on the record that, if I continue to receive complaints from councillors about reimbursement of expenses, on the next occasion this amendment comes forward I will support it, because the only way to clarify it so that all councillors, staff and the public know exactly what a council's policy is is to have one in writing and made available to the public.

The Hon. IAN GILFILLAN: I want to disabuse the Minister of some of the eloquence which she attributes to me in speeches about freedom and wide-ranging blessings on councillors. I do not recall making such a speech. It might have been one that I could have made with great eloquence, but I did not make it. I do not think that my amendment in any way dents the clearly expressed intention of the Democrats to offer local councils the widest freedom possible to be controllers of their own destiny.

At the same time it is important for us to limit the areas where there is an unnecessary opportunity for a council to fall into bad odour with its electors through not complying with a proper and appropriate process. If a council is obliged to develop a policy for the reimbursement of expenses, surely it is reasonable to require that council to comply with that. From that point of view, it is interesting to observe that the LGA did not oppose this move of mine. It did not see anything too horrendous, restrictive or bothersome in it.

The Hon. Diana Laidlaw interjecting:

The Hon. IAN GILFILLAN: No, I am being 100 per cent accurate, which is an example to a lot of people in this place. I said that the LGA does not oppose it. There is a difference between not opposing and supporting something. I will not extend my argument any further and I was prompted to respond only because I was getting more and more flattered as the Minister kept expanding the scope of my oration on the matter of local government.

Amendment negatived.

The Hon. IAN GILFILLAN: I move:

Page 64, after line 5—Insert:
(3) A person is entitled to inspect (without charge) a policy of a council under subsection (1)(b) at the principal office of the council during ordinary office hours.
(4) A person is entitled, on payment of a fee fixed by the council, to a copy of a policy under subsection (1)(b).

I made a mistake in interpreting my second amendment, because it is not dependent on the first one. It is aimed at enabling the public to have access to this policy.

The Hon. T.G. Cameron: Isn't it consequential?

The Hon. IAN GILFILLAN: No, I do not believe it is.

The Hon. DIANA LAIDLAW: The Government accepts it.

Amendment carried; clause as amended passed.

Clauses 78 to 80 passed.

Clause 81.

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

Page 66—

Line 6—Leave out 'Ordinary' and insert:
Subject to this section, ordinary
Lines 8 and 9—Leave out subclause (2).

The amendments ensure that, if any councillor needs meetings to be held after 5 p.m., they must be as in the current Act.

The Hon. T.G. CAMERON: I support the Labor Party's amendments. I was originally going to support the Government's amendment but, following a submission put to me last night by Pat Conlon that that might disadvantage a particular person, particularly if we had a mix of country and city councillors, I have changed my mind. The point was made to me that it would be possible for those councillors to insist that the meeting be held during the day, which could disfranchise someone. I do accept the argument that he put to me that we ought to keep local government as accessible as possible.

The Hon. DIANA LAIDLAW: It is my understanding that the LGA would prefer the position in the Bill but, when this matter was raised in the other place, the Government, if the numbers were there—and it would appear to me now that that is the case—decided that it would accept the position put in the amendments. We certainly do not strongly oppose going back to the provision as it stands in the current Act. So, we will go along with it.

Amendments carried.

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

Page 66, lines 19 and 20—Leave out subclause (7) and insert:
(7) In the case of a municipal council, ordinary meetings of the council may not be held before 5 p.m. unless the council resolves otherwise by a resolution supported unanimously by all members of the council.
(8) A resolution under subsection (7) does not operate in relation to a meeting held after the conclusion of the general election next held following the making of the resolution.

The Hon. IAN GILFILLAN: The Democrats support the amendment.

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

Amendment carried; clause as amended passed.

Clause 82 passed.

Clause 83.

The Hon. IAN GILFILLAN: I move:

Page 67, lines 34 and 35—Leave out subclause (9).

Subclause (9) provides:

Neither the validity of a meeting, nor the validity of anything done at a meeting, is affected by failure to give a notice of the meeting to a member of council.

I think that further discussion on this matter will be generated when the Government moves its amendment. I am very concerned that such an emphatic and blanket clause should remain in a Bill such as this because, in my view, it leaves it open to the occasion where, for some reason or another, proper process of notice of a meeting has not been complied with. To virtually rule out the scope for a justified reasonable challenge to that meeting with such a subclause is, in our view, unfair and unjust.

The Hon. DIANA LAIDLAW: I move:

Page 67, lines 34 and 35—Leave out subclause (9) and insert:
(9) The fact that a notice of a meeting has not been given to a member of a council in accordance with this section does not, of itself, invalidate the holding of the meeting or a resolution or decision passed or made at the meeting but the District Court may, on the application of the Minister or a member of the council, annul a resolution or decision passed or made at the meeting and make such ancillary or consequential orders as it thinks fit if satisfied that such action is warranted in the circumstances of the particular case.

The Government accepts that we could do better than we have in the wording of subclause (9) and therefore I have moved the amendment to clarify what we are seeking. What we propose does not remove subclause (9) completely, as the Democrats would wish. We believe that the Democrats' amendment goes a little bit too far—in fact, far too far—in exposing all decisions to challenge on the basis of administrative error.

We believe that the Government amendment to this provision gives appropriate protections and that it clarifies the point that the failure to properly give notice of a council meeting does not, in itself, invalidate the meeting or decisions made at it but, if the circumstances warranted, a court can annul decisions of the meeting on application by the Minister or a member of the council. There is a mirroring amendment to clause 87 for committee meetings.

The Hon. IAN GILFILLAN: The Government's amendment restricts the application to the Minister or a member of the council. If one were to consider the usefulness of the Government's amendment, it seems to me to be quite unfair that the only application to be considered is to be lodged either by the Minister or a member of the council. For that reason, quite clearly, I do not believe it covers the same area of concern that I have addressed in moving my amendment. I indicate that I am not persuaded by the Government's argument that it goes far enough and I will be opposing the Government's amendment and obviously supporting my own.

The Hon. T.G. ROBERTS: The Labor Party will be supporting the Government's amendment.

The Hon. Diana Laidlaw's amendment carried; clause as amended passed.

Clause 84.

The Hon. IAN GILFILLAN: I move:

Page 68—
Line 18—Leave out 'as soon as practicable' and insert:
immediately
Line 21—Leave out 'as soon as practicable' and insert:
immediately

This clause relates to public notice of council meetings. My first amendment relates to line 18 and the provision of documentation and, for the purpose of the Committee's understanding of my amendment, subclause (5) provides:

The chief executive officer must also ensure that a reasonable number of copies of any document or report supplied to members of the council for consideration at a meeting of the council are available for inspection by members of the public—
(a) in the case of a document or report supplied to members of the council before the meeting—at the principal office of the council as soon as practicable after the time when the document or report is supplied to members of the council;

My amendment seeks to replace the words 'as soon as practicable' with 'immediately'. If the document is prepared and it is a public document to go to council for consideration by council, that document should be available to the public immediately. My amendment is designed to delete 'as soon as practicable' and insert 'immediately'. I will get in early with this: I have a memo which states 'The LGA okay with this, tick.'

The Hon. DIANA LAIDLAW: My understanding is that 'The LGA okay. . . tick' does not mean that it is actually enthusiastic. Is that right?

The Hon. IAN GILFILLAN: Far be it from me to presume to be spokesperson for the level of cheerfulness of the LGA.

The Hon. DIANA LAIDLAW: My understanding is that it is a half-hearted tick and not a full bodied tick, and the

Government will oppose the amendment. We do not think it would improve the provision by substituting 'as soon as practicable' with 'immediately', because the fact is that if it was challenged a court would make allowances for the time that is physically necessary to make meeting papers available.

The Hon. T.G. ROBERTS: We will be supporting the Government's position on the basis that it is—

The Hon. DIANA LAIDLAW: Do you think it was a half-hearted tick?

The Hon. T.G. ROBERTS: I will be patronising and say that it may be a tick and that the Hon. Mr Gilfillan may be right but, in terms of practical application of presentation of documents, 'as soon as practicable' is reasonable. If 'as soon as practicable' becomes unreasonable, those people who are trying to secure the documents will certainly tell those officers in no uncertain terms what they think. 'Immediately' can bring the weight of righteousness down on the side of those who are making demands, and it may put unnecessary pressure on staff to produce, in some cases, large documents in photocopy form that may not be able to be produced immediately. I come down on the side of reasonableness in terms of the Government's position.

Amendments negatived; clause passed.

Clause 85 passed.

Clause 86.

The Hon. DIANA LAIDLAW: I move:

Page 69, line 15—After 'Each member' insert:
(including the presiding member)

This amendment relates to procedures at meetings. The Government supports the principle of removing distinctions between the voting rights of the mayor and the chairperson, but it prefers an alternative which would allow for deadlocks to be broken, given both a deliberative vote and, in the event of an equality of votes, a casting vote. I understand that this is still a matter of some discussion between the Local Government Association and the Government and members generally but, at this stage, the Government believes it should be supported. I understand there is support from SA First on this matter, and I thank the Hon. Terry Cameron for that.

The Hon. T.G. CAMERON: SA First accepts the argument for consistency between country and city councils—that is, mayors and chairpersons. Once one accepts the need for consistency, it then becomes a question that, if you gave them only a deliberative vote, you could get deadlocks on the council, and I am not prepared to see that happen. If you do give the mayor or the chairperson both a deliberative and a casting vote, the mayor or the chairperson can always exercise their deliberative vote and, if that ties a matter, then not declare a casting vote and declare the matter lost. SA First will be supporting the Government's position.

The Hon. T.G. ROBERTS: The Labor Party understands that a poll is being conducted at the moment amongst councils. I wonder whether the Minister has the results of the poll?

The Hon. T.G. Cameron: They are available. We all got a copy.

The Hon. T.G. ROBERTS: Did we? The honourable member behind me says he has a copy. I do not. A poll was conducted. Does the Minister have the results?

The Hon. DIANA LAIDLAW: I have some advice that has been provided to me dated the 27th in terms of voting entitlement of mayor and chair. Did you ask whether I had received it or did you want me to read it out?

The Hon. T.G. ROBERTS: My understanding is there is no certainty in the result in relation to a recommendation, so I indicate that we will be opposing the amendments of both the Democrats and the Government.

The Hon. DIANA LAIDLAW: This information makes it clear that they do not like the Democrats or the Democrat amendment. I am not sure that they get a tick on this one. The Hon. Mr Stefani has kindly indicated that he will provide the Hon. Mr Roberts with a copy.

The Hon. T.G. ROBERTS: I am surprised that the Democrats are not loved because I know that the honourable member attends many LGA meetings.

The Hon. IAN GILFILLAN: It is no surprise to members here and possibly some who may listen occasionally to words from the gallery that my decisions and those of the Democrats are not totally motivated by what might be a populist response from the LGA. If it were, I would find life a very tortuous exercise indeed. I do have some rather alarming news, and I am glad that the Minister is sitting down: I am advised that the Government's proposal is even less popular than the Democrats' proposal when it comes to the LGA. It will have to be a brave Parliament. We will have to sail through antagonist waters to reach a result. I have heard some discussion from people who have presided in positions of mayoralty and chairpersonship in councils. They make a valid point which I am sure you would appreciate, Mr Chairman.

The chair of a meeting does need to exercise an independent role. I regard that as important but I do not believe that it is impossible for a person to exercise an independent role as a chair and yet make a decision on a matter and be able to express their opinion on that matter in a proper voting capacity. I may be corrected, but I understand that you, Mr Chairman, have the right to exercise a deliberative vote if you decide to do so, unless I misread Standing Orders. Am I correct?

The CHAIRMAN: Only on the second or third reading of a Bill.

The Hon. IAN GILFILLAN: That is enough. That is pretty effective. The point is that, if it is good enough for us, I believe it is good enough for councils in respect of fulfilling both roles. You can chair effectively and independently and you should be able to have the right to exercise a vote. After all is said and done, the presiding people in councils are elected to represent the people. They are not elected to be mute, opinionless chairs. I believe they are entitled to exercise a vote; and, as to the great dilemma about a tied vote, the simple and reasonable procedure is that a tied vote is a lost vote. There is precedent for that in many other areas. You do not have to have this casting vote which then means that a person has two votes or, as I suspect the local government community may like, the only time a presiding person should vote is when there is an equality of votes from the body of the council. I am convinced that my amendment is the most rational and sensible approach to it, but I have heard from the Hon. Terry Roberts that he intends to support the Government's amendment.

The Hon. T.G. Roberts interjecting:

The Hon. IAN GILFILLAN: Have I misheard you?

The Hon. T.G. Roberts interjecting:

The Hon. IAN GILFILLAN: You are opposing them both. This is significant, and I want to recap for the record. We now have the Government moving to amend its own Bill. I have moved a brilliant and very effective amendment which appears to have very little support, but the Opposition is

going to support the Government's original position with, I would suggest, fat hope of success.

The Committee divided on the amendment:

AYES (10)

Cameron, T.G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Laidlaw, D. V. (teller)
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.

NOES (9)

Elliott, M. J.	Gilfillan, I.(teller)
Holloway, P.	Kanck, S.
Roberts, R. R.	Roberts, T. G.
Weatherill, G.	Xenophon, N.
Zollo, C.	

PAIR(S)

Stefani, J. F.	Pickles, C. A.

Majority of 1 for the Ayes.

Amendment thus carried.

The Hon. IAN GILFILLAN: I move:

Page 69, lines 17 to 22—Leave out subclauses (6) and (7) and insert:

(6) The member presiding at a meeting of a council has a deliberative vote on a question arising for decision at the meeting but does not have, in the event of an equality of votes, a casting vote.

I believe I put the case for this amendment earlier; I will not go through it again.

The Hon. DIANA LAIDLAW: I move:

Page 69, lines 17 to 22—Leave out subclauses (6) and (7) and insert:

(6) In the event of an equality of votes on a question arising for decision at a meeting of a council, the member presiding at the meeting has a second or casting vote.

This is essentially consequential on the last division, which the Government won with the support of SA First and the Hon. Mr Crothers.

The Hon. IAN GILFILLAN: With due respect, I rather suspect that that is not logically correct. I understand that the amendment just passed was to line 15. The Minister has argued that her amendment to lines 17 to 22 is consequential on the amendment to line 15; I do not believe that to be the case. I believe the issue before the Committee at this point is totally separate from the amendment to line 15. Without confusing the issue, it may have been wise for me to support that earlier amendment. I do not think that was of great significance to the main issue now before us as to whether presiding members should have a deliberative and casting vote (which is the Government's amendment), just a deliberative vote (which is my amendment) or, as the Opposition intends, just a casting vote. With due respect to the Minister, I do not believe her amendment is consequential: I think it is a different issue.

The Hon. DIANA LAIDLAW: Perhaps technically what the honourable member says is right, but I moved my first amendment on which we divided in order to facilitate this one. Perhaps, as the honourable member just acknowledged, he should not have voted against me and caused a division and all the rest, because he needed that earlier amendment to move his present amendment.

The Hon. Ian Gilfillan: That's quite true; we will not go over that.

The Hon. DIANA LAIDLAW: Therefore, the arguments I gave in moving my first amendment are the same, because I only moved the first amendment to be in a position to move this one now. The Government supports the principle of removing distinctions between the voting rights of a mayor and chairperson but prefers the alternative which would allow for deadlocks to be broken by a deliberative vote and, in the event of an equality of votes, a casting vote. The Hons Messrs Cameron and Crothers supported the earlier amendment for the reasons I have just given for moving the amendment before us at the present time.

The Hon. T. CROTHERS: I enter the debate by supporting the Government proposition. I do so having been the presiding officer of different organisations for about 12 or 14 years, including the nine years when I was President of the State Branch of the Liquor Trades Union and one year legally and one year *de facto* President of the Australian Labor Party in this State and President of various different subbranches.

I am well aware of the necessity for a provision which does not discriminate against any presiding officer, whether he or she be a president or a chairperson of an organisation, and the provision must be to have a mechanism there to break a deadlock. I have been talking about this matter with my honourable colleague, the representative of the SA First Party in this Council (the Hon. Mr Cameron), who had asked me for advice, knowing of the experience I had had in presiding over organisations. However, even though you make the provision to break a nexus, that does not mean that the nexus must be broken, because the person with a casting vote in the event of a tie can abstain from casting that vote.

As any person knows, as regards the rules of any organisation that is set up, a vote is determined in the negative either by voting against or by a tied vote. A tied vote ensures that a proposition is decided in the negative.The provision enables the deadlock to be broken, should the person with the two votes—that is, the deliberative vote and then the casting vote—determine that they want that equality of votes. By abstaining from using their casting vote, they can maintain the fact that there is a tied vote, and the matter would still then be decided in the negative. I congratulate the Minister on this amendment. It is the most comprehensive way of all to ensure that matters are acted upon with respect to any body—politic or otherwise—that requires such a nexus to be capable of being broken.

The Hon. I. Gilfillan's amendment negatived; the Hon. Diana Laidlaw's amendment carried; clause as amended passed.

Clause 87.

The Hon. DIANA LAIDLAW: I move:

Page 70—

Line 13—Leave out 'give each member of a council committee' and insert:

ensure that each member of a council committee is given.

Line 20—Leave out 'give each member of a council committee' and insert:

ensure that each member of a council committee is given

Line 25—Leave out paragraph (c).

Line 30—Leave out all words in this line and insert:

ensure that each member of the committee at the time that notice of a meeting is given is supplied with a

Page 71, lines 20 and 21—Leave out subclause (13) and insert:

(13) The chief executive officer must ensure that a record of all notices of meetings given under this section is maintained.

These amendments ensure that the CEO can make appropriate arrangements for notice of the calling and timing of 'community' committee meetings that are different from ordinary committee meetings of council, and the accountability still rests with the CEO. This removes the need to make regulations that vary the notice provisions for certain types

of committees. This has arisen from consideration of the implementation plan. Related amendments ensure that the CEOs can make appropriate arrangements for notice of the calling and timing of 'community' committee meetings.

The Hon. IAN GILFILLAN: This has been adequately described by the Minister and I support the amendments.

The Hon. T.G. CAMERON: SA First supports the amendments.

Amendments carried.

The Hon. IAN GILFILLAN: The amendment that I have on file is identical to amendments that we dealt with previously in clause 83. I was unsuccessful there, as I recall, so I will not move my amendment.

The Hon. L.H. Davis interjecting:

The Hon. IAN GILFILLAN: If you curtail the interjections we will get along much more quickly. As this is virtually the same issue, I will not move my amendment; the Government's amendment can be supported and carried without further debate.

Amendment carried; clause as amended passed.

Clause 88.

The Hon. DIANA LAIDLAW: I move:

Page 71, line 27—Leave out 'give notice' and insert 'ensure that notice is given'.

This amendment is related to the amendments that have just been moved in terms of the CEO's making appropriate arrangements for the calling and timing of 'community' committee meetings.

Amendment carried.

The Hon. IAN GILFILLAN: I previously lost a similar amendment and do not intend to move my next amendment on file, although I put on the record that the LGA does not oppose it.

Clause as amended passed.

Clause 89 passed.

Clause 90.

The Hon. IAN GILFILLAN: I move:

Page 73, lines 6 to 35, page 74, lines 1 to 13—Leave out subclauses (2) and (3) and insert:

(2) A council or council committee may order that the public be excluded from attendance at so much of a meeting as is necessary to receive, discuss or consider in confidence any information or matter listed in subsection (3).

(3) The following information and matters are listed for the purposes of subsection (2):

(a) a personnel matter concerning a particular member of the staff of the council;

(b) the personal hardship of any resident or ratepayer;

(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, or prejudice the commercial position of the council;

(d) commercial information of a confidential nature that would, if disclosed—

(i) prejudice the commercial position of the person who supplied it; or

(ii) confer a commercial advantage on a third party; or

(iii) reveal a trade secret;

(e) matters affecting the security of the council, members or employees of the council, or council property;

(f) information that would, if disclosed, prejudice the maintenance of law;

(g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;

(h) advice concerning litigation (or potential litigation), or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege;

(i) information that must be considered in confidence in order to provide protection to the environment;

(j) tenders for the supply of goods, the provision of services or the carrying out of works:

(k) information relating to the health or financial position of a person, or information relevant to the safety of a person;

(l) information relevant to the review of a determination of a council under the Freedom of Information Act 1991.

(3a) A council or council committee may also order that the public be excluded from attendance at so much of its meeting as is necessary to consider a motion to close another part of the meeting under subsection (2)[1].

In this case, the consideration of the motion must not include any consideration of the information or matter to be discussed in the other part of the meeting (other than consideration of whether the information or matter falls within the ambit of subsection (3)).

(3b) In considering whether an order should be made under subsection (2), it is irrelevant that discussion of a matter in public may—

(a) cause embarrassment to the council or council committee concerned, or to members or employees of the council; or

(b) cause a loss of confidence in the council or council committee.

(3c) Members of the public must be given a reasonable opportunity to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

It is interesting that the Government and the Democrats have come closer on this. The amendment deals with meetings to be held in public except in special circumstances and, as honourable members would know, this is a matter of great contention. The media, especially the Messenger press, often get very concerned with what they believe to be unreasonable closure of meetings. I think, generally speaking, there is this accusation, whether or not justified, that councils quite frequently take the easy option to close out the public to deal with their business. It is reasonable to acknowledge that, as a council acts as both a Cabinet and an open forum of Parliament, there will be times when it is reasonable for the public to be excluded and for the council to make its deliberations *in camera*.

But, it is also important for the public to be reassured that those occasions will be relatively rare and only under particular circumstances which are clearly spelled out in legislation, so that it will not be just on the whim of a council on the spur of the moment. In a way, imitation is the sincerest form of flattery. The fact that the Government has virtually adopted my amendment word for word I found gratifying, but it popped in a couple of extras which make it different and, therefore, it is important that the Committee see the surreptitious nature of the changes to the wording. I do not intend to go through it, but proposed new subclause (2) in my amendment provides:

A council or council committee may order that the public be excluded from attendance at so much of a meeting as is necessary to receive, discuss or consider in confidence any information or matter listed in subsection (3).

Proposed new subclause (3) contains a series of paragraphs such as:

(a) a personnel matter concerning a particular member of the staff. . .

(b) the personal hardship of any resident or ratepayer;. . .

(d) commercial information of a confidential nature. . .

(h) advice concerning litigation. . .

(j) tenders for the supply of goods. . .

All of that has been recognised as being sensible and reasonable by the Government, but it has inserted its own version of proposed new paragraph (h), which provides:

legal advice or advice from a person employed or engaged by the council to provide specialist professional advice;

I would like the Committee to ponder on the phrase 'specialist professional advice'. That can be extremely broad. It could be just professional plumbing advice, for example.

The Hon. T.G. Roberts interjecting:

The Hon. IAN GILFILLAN: I do not know; possibly some other plumbers. The Government's amendment also provides:

(j) information provided by public official or authority (not being an employee of the council or a person engaged by the council) with a request or direction by that public official or authority that it be treated as confidential;

Why? What public interest could be served in that? This is virtually leaving the council open to close its meeting on the request or direction of a public official or authority. Finally, proposed new paragraph (n) provides:

(n) information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Plan Amendment Report relating to the amendment is released for public consultation under that Act;

Again, I believe that to be far too broad. The argument which has been put up in support of that is the very few occasions when there is an environmental hazard, such as a control on clearing native vegetation or some measure which, if it got out that this was about to come in, would precipitate a lot of action which would frustrate the intention of the decision of the council. I point out that I do have a particular clause in mind which does cover that specifically. Proposed new paragraph (i) of my amendment provides:

information that must be considered in confidence in order to provide protection to the environment;

This deals with the only case that could be argued for proposed new paragraph (m) of the Government's amendment. The Government and the Democrats are very close in this matter but, unfortunately, the three that I have identified that the Government has slipped in will leave the council open again to the same accusation that it has used a convenient and a comfortable reason to close a meeting. For that reason, I argue that the amendments that I have just moved are more satisfactory, and they are based on what has been in the Local Government Act of New South Wales since 1997. I take the liberty of indicating that I have had some discussion with Messenger Newspapers to see what its consideration was of the matter.

The Hon. DIANA LAIDLAW: I move:

Page 73, lines 6 to 35 and page 74, lines 1 to 13—Leave out subclauses (2) and (3) and insert:

(2) A council or council committee may order that the public be excluded from attendance at so much of a meeting as is necessary to receive, discuss or consider in confidence any information or matter listed in subsection (3).

(3) The following information and matters are listed for the purposes of subsection (2):

(a) a personnel matter concerning a particular member of the staff of the council;
(b) the personal hardship of any resident or ratepayer;
(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, or prejudice the commercial position of the council;
(d) commercial information of a confidential nature that would, if disclosed—
  (i) prejudice the commercial position of the person who supplied it; or
  (ii) confer a commercial advantage on a third party; or
  (iii) reveal a trade secret;
(e) matters affecting the security of the council, members or employees of the council, or council property;
(f) information that would, if disclosed, prejudice the maintenance of law;
(g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
(h) legal advice, or advice from a person employed or engaged by the council to provide specialist professional advice;
(i) information relating to actual or possible litigation involving the council or an employee of the council;
(j) information provided by a public official or authority (not being an employee of the council, or a person engaged by the council) with a request or direction by that public official or authority that it be treated as confidential;
(k) tenders for the supply of goods, the provision of services or the carrying out of works;
(l) information relating to the health or financial position of a person, or information relevant to the safety of a person;
(m) information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Plan Amendment Report relating to the amendment is released for public consultation under that Act;
(n) information relevant to the review of a determination of a council under the Freedom of Information Act 1991.

(3a) A council or council committee may also order that the public be excluded from attendance at so much of its meeting as is necessary to consider a motion to close another part of the meeting under subsection (2)[1].

[1]In this case, the consideration of the motion must not include any consideration of the information or matter to be discussed in the other part of the meeting (other than consideration of whether the information or matter falls within the ambit of subsection (3)).

(3b) In considering whether an order should be made under subsection (2), it is irrelevant that discussion of a matter in public may—

(a) cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
(b) cause a loss of confidence in the council or council committee.

I would like Mr Cameron to listen to me very closely on this matter. I want to explain this because the Hon. Mr Gilfillan said that the Government had been surreptitious and had sneaked in three provisions. The three provisions were inserted into the Act only two years ago, and the same three provisions are incorporated in the Bill before us. There has been nothing sneaky and nothing surreptitious, and I want to make that very clear. The Hon. Mr Gilfillan has introduced a simplified version of what is in the current Act and in the Bill, and we have accepted that simplified version in the amendments that we have introduced. However, we believe that the provisions that this Parliament passed two years ago, with the support of the LGA—a big tick, I think—are in the Bill. There is nothing surreptitious.

We are simply carrying on what we introduced as a Parliament two years ago and now have in the Bill before us. These measures have been the subject of a lot of discussion, and we have included those same points in the amendments which we have on file and which have been embraced within the simplified form of amendments that the Hon. Mr Gilfillan has introduced. I cannot explain it any better than that, and I hope that I have convinced members of the Committee.

The Hon. T.G. ROBERTS: The Labor Party will support the Government's amendments, but not on the basis that we do not like the simplified version, because I think that the simplified package was explained well and will be easy to follow by those who read the Bill. However, there are some matters in the Democrats' amendments and in the Government's amendments that leave it open for councils to close their meetings for any omnibus reason.

The real problem is that, for every reason that is written into the Bill, the first time a meeting is closed and the reason is tested and read against the Bill, there will be a reason that is not put down and prescribed, and that is where the arguments lie. It is not what is written down that worries me but rather what is not written, because the argument will continue. There will always be a provision to hang the reason on. The Government's amendments are more prescriptive than the Democrats', but I am sure that, on the Democrats' list of reasons for closing, someone somewhere will be able to hang a hat.

The Hon. T.G. CAMERON: SA First will support the Labor Party's support of the Government's position on this issue. I know from long experience how difficult the Hon. Terry Roberts is to convince on some things. If the Minister's explanation is good enough for him, it is good enough for me.

The Committee divided on the Hon. Mr Gilfillan's amendment:

AYES (3)

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

NOES (16)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P.
Laidlaw, D. V. (teller)	Lawson, R. D.
Redford, A. J.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Stefani, J. F.	Weatherill, G.
Xenophon, N.	Zollo, C.

Majority of 13 for the Noes.

The Hon. Mr Gilfillan's amendment thus negatived; the Hon. Diana Laidlaw's amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 74, line—14 After 'subsection (2)' insert:
or (3a)

This amendment is consequential on earlier amendments.

Amendment carried; clause as amended passed.

Progress reported; Committee to sit again.

[Sitting suspended from 6.5 to 7.45 p.m.]

ASER (RESTRUCTURE) (MISCELLANEOUS) AMENDMENT BILL

In Committee (resumed on motion).

(Continued from page 1780.)

Clause 1.

The Hon. R.I. LUCAS: When we were last discussing this the Hon. Mr Elliott asked some questions about the precise delineation of the site of the ASER project. During the afternoon we obtained some further information and I have provided a copy of a map to the honourable member. His first question related to a query about the Montefiore Road being the western boundary of the ASER project and whether that was correct as I had indicated. The map shows that that is the case; that is, the ASER project goes through to Montefiore Road, or Morphett Bridge as it would be known evidently on that particular section.

The Hon. Mr Elliott has raised some questions in subsequent discussions. On the map that I provided to him there was a very small section, which, I have now been advised, is 30 metres long and about three metres wide rather than one metre wide. I am advised that that was a part of the northern car park which had been built and, in essence, it was hanging over the edge of the defined ASER site.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Something like that, I guess. It existed, but it was not within the ASER site. When the Act was debated some time ago there was an agreement to allow a change to the definition of the site. That one change under section 5 of the Act could be made by way of regulation. The amendment to the Act allowed, by way of regulation, the three metre by 30 metre section of the northern car park to be added to the ASER site. I am now advised that there were two regulations: one picked up by the Hon. Mr Elliott dated February; and one picked up by my office dated June or July. Both refer to the same provision. It was done first in February 1998 and redone in further regulations in June or July of that year. There are not two separate pieces of land, I am advised: the one piece of land has been added and it could be added only because of an amendment to the Act which allowed that to be the case.

I am told that the ASER site is as we now describe it. That is it: no more land can be added to the ASER site by way of regulation. The only way land could be added to the ASER site is by way of amendment to the Act, which was the way this particular land was originally added, albeit by way of an amendment which then allowed a regulation to be issued to sort out the northern car park site. So, if any member had any concern that the Government could add, by way of regulation, further areas to the ASER site, I am advised that that is not now possible.

However, if the Government wished, it could reduce the size of the ASER site by way of regulation down to nothing. It is possible, by regulation, to reduce the area covered by the ASER site, but it is not now possible to increase further the ASER site by way of regulation if a Government chose to do so, and we have no intention of doing so. The Government can do so only by way of an amendment to the legislation. I hope I have clarified for the honourable member the precise definition of the site. In fact, this legislation is not seeking to change the definition of the site, as I think the Hon. Mr Elliott acknowledged in our earlier exchange today. If the honourable member wishes to raise further issues I am happy either to further report progress or to take his queries on notice and correspond with the honourable member on any issue about which he might have concerns.

The Hon. M.J. ELLIOTT: I expected that an officer would be present because I wanted to explore a little issues relating to the site, particularly in relation to expansions that have been proposed for the Exhibition Hall as part of the Riverbank project. As I understand, it is intended that the Exhibition Hall will be extended from its current position out over the railway lines and the northern car park: is that correct?

The Hon. R.I. Lucas: Yes. When the honourable member says 'Exhibition Hall', does he mean the Convention Centre, as we are calling it?

The Hon. M.J. ELLIOTT: The Exhibition Hall is part of the Convention Centre.

The Hon. R.I. Lucas: Yes.

The Hon. M.J. ELLIOTT: There has been some discussion about the possibility of relocating the interstate terminal into Adelaide. One would imagine that that would have also been included in that ASER site development area. That seems to be the most logical place for it to be located. Can the Minister tell me whether or not that would be the case?

The Hon. R.I. LUCAS: The answer to the question is obviously 'Yes'. The Riverbank master plan development—and I would be happy to provide the honourable member with a copy of the Riverbank master plan guidelines that have been developed—does mention the possibility. Again, it is one of these projects to bring Keswick into the city, if I can summarise it in that way.

However, that is not an insignificant project in terms of cost. The Government has not yet concluded the decision in relation to that. The design of the Adelaide Convention Centre extension, however, is being done to leave open the possibility of that decision, should this Government or some future Government decide that it wished to do that. It is the intention of the designers of the Adelaide Convention Centre extension to leave that particular option open, should a Government decide that it wanted to do that.

The Hon. M.J. ELLIOTT: I guess the city most comparable to Adelaide in terms of reliance on the motor car until now has probably been Perth. A few years ago some totally new rail routes were constructed in Perth. They are certainly trying to get people back onto public transport. The station precinct is a major part of any transport hub that you might want to develop. Whilst you are saying that allowances are being made for the interstate station, are allowances made for the possibility that rail traffic at some time in the future, as Adelaide's population grows, will be able to be catered for within this site and not be squeezed out?

The Hon. R.I. LUCAS: I would really have to take some advice from the Minister for Transport and her department in relation to that. We need to acknowledge that there is some overlap, but we should also acknowledge what this Bill is seeking to do. It really is seeking to define what we have known to be the ASER site—the Casino, the hotel and the Riverside building shared areas—and who pays for what, in order to enable Funds SA to move down a path of sale of those properties.

I acknowledge, as we have discussed today, that there are obviously overlaps with the Government's intentions for the whole Riverbank area, which is a much broader description than just the ASER site, and that does include the Festival Centre, the Convention Centre and the potential options for the future of the Keswick terminal, and I would imagine that it also includes the sort of traffic or rail issues that the member is canvassing. I indicate to the member that, frankly, it is not an area within my expertise in terms of future rail planning.

However, I can tell the member that the Minister for Transport (Hon. Diana Laidlaw) has worked with me on the Riverbank Cabinet Committee, which I have convened. She has been an active supporter of keeping the transport options open within this precinct. She has kept a weather eye on the Keswick option but also on options in relation to rail, bus drop-off in this tourist precinct, taxis and traffic flows down North Terrace and past this region, as well as traffic flows through the region.

The Minister for Transport and Urban Planning has been an active member of the Government's planning consideration of this, so I can only indicate to the member that perhaps I would be happy to have the Minister for Transport have a discussion with him in relation to the transport view of the overall Riverbank Precinct Plan and any particular questions that he might have.

The Hon. M.J. ELLIOTT: I appreciate that. I will ask one more question and it might be one that has to be covered within those same discussions. There is still, if you like, land which is currently covered by the ASER legislation and which has not been committed for development, and that is the land immediately to the west of the Exhibition Hall and the proposed extensions to the Exhibition Hall and Convention Centre. Are there any proposals for development there? I know that the Investigator Science Centre has been trying to get a site within the city, and it has gone very quiet, and that tends to suggest that something is happening. Is it being contemplated as a potential participant within the redevelopment?

The Hon. R.I. LUCAS: As convenor of the committee, I have had no suggestion that the Investigator Science Centre would be located in the area to the west of the Exhibition Hall-Convention Centre expansion that we are talking about. I am happy to advise the member that in terms of the Convention Centre extension there is a requirement for some of that area to the west of the existing footprint of the Exhibition Hall, and therefore also the Convention Centre extension, for service delivery options. There are also some transport options in terms of links off North Terrace into the car park—I think the northern car park off North Terrace, although I am going by memory.

The Hon. M.J. Elliott: Do you mean something like buses linking in?

The Hon. R.I. LUCAS: No, cars as well: there are traffic options. I think there is also provision for a pedestrian walk-through. In one of the discussions we considered students from the University of South Australia and how they could safely and easily link from North Terrace through to the Riverbank precinct and to all the wonderful eating and entertainment areas we are going to have down there.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: McDonald's, at least. There will be eating areas down there. I know that the Hon. Mr Brindal, who was a member of the committee as well, raised the issue of pedestrian access from North Terrace through that area. Part of the area that the honourable member is talking about to the west of the footprint of the Exhibition Building and Convention Centre extension is taken up by various options such as that, and certainly the notion of building something, in essence a greenfield site for the Investigator Science Centre, has not been canvassed with me. It would involve some problems with car parking and transport options, which the committee has been looking at in terms of that site.

Clause passed.

Remaining clauses (2 to 12) and title passed.

Bill read a third time and passed.

INDUSTRIAL AND EMPLOYEE RELATIONS (WORKPLACE RELATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 July. Page 1718.)

The Hon. R.R. ROBERTS: I give a very clear indication that I am totally opposed to the Bill. It is my belief that it ought not to be read a second time but ought to be dispatched straight to the rubbish bin. When I first saw the contribution by the Minister in charge of the Bill, the Hon. Dr Armitage, I had had some opportunity to look at the provisions of the Bill. I started to read the second reading speech: the Minister said:

> This Bill is logical, well considered, contemporary and an evolutionary step for workplace relations in South Australia.

I immediately thought I had read the wrong Bill. The Bill does not do any of those things. To get some idea of where we are on this matter, if we are to talk about changing the industrial relations system which has served us so well in this State and, indeed, this country, we really have to look at how it evolved, what contemporary measures it had to adjust to over the period of its existence and at what success it had. Perhaps we could even consider the judgment of others to see whether, indeed, we have a fair and equitable scheme. We need to consider some of the principles involved in the Industrial Relations Commission wherein people could seek relief, judgment or, indeed, some comment on the way they were conducting their activity.

The other day I received a contribution from the Adelaide Diocese Justice and Peace Commission in which there was comment on the history of the commission. I shall quote it, because a fairly well respected commentator made this statement:

> Australia also has a long and proud tradition of settling industrial disputes and promoting cooperation by its almost unique system of arbitration and conciliation. Over the years, this system has helped to defend the rights of workers and promote their wellbeing while at the same time taking into account the needs and future of the whole community.

That was said by Pope John Paul in an address to industrial workers in Seven Hills in New South Wales in November 1986. There have been substantial changes to the industrial relations system which on a world stage showed clearly—and by many comparisons by many scholars—that, in terms of lost days and disputes registered, our history was equal to the best and no worse than any other system in the world. Why would we want to change a system which was developed in South Australia over many years and which has proved its worth by those world comparisons? If we look at what the Bill provides, we see that it cannot do anything that the Industrial Relations Commission in South Australia cannot do: in other words, are the changes necessary?

The Industrial Relations Commission was established so that fair-minded people could go to the commission with an independent umpire and put their arguments, based on commonsense and in an environment which was not legalistic. Now, once there was a principle that arguments had to be on the balance of probabilities, they had to take in the standards of equity, good conscience and substantial merit. It was designed so that it would not involve lawyers. Fair-minded people could approach the commission and in fact get wage justice and equity within industry. As I said, that standard has been well met.

The Bill proposes that we change the functions of the Industrial Relations Commission and that we do certain things. This Bill says that we ought to have workplace relations so that there can be agreements between employers and employees. I worked in BHAS for about 30 years, and about 30 years ago I worked under an industrial agreement between BHAS and the work force of South Australia. It was an industrial agreement bargained on the job that we registered in the Industrial Relations Commission. However, the Hon. Dr Armitage has come up with a unique proposition for an industrial agreement. I am sorry, Dr Armitage, but at the very least you are 30 years behind the times. So, that standard is already being met, because workers can have industrial agreements. This Bill promotes what members opposite think is something new and unique in mediation. In fact, mediation is not new, either, because it has been there since the industrial commission started.

If they like, employees and employers can seek the assistance of the commission to come in and mediate between the parties. In fact, in an industrial agreement negotiation only a few months ago in Port Pirie, Commissioner Hampton's help was sought and he came up and conducted the mediation. The parties considered their positions, compromised, were conciliated by Commissioner Hampton and they have come up with an agreement. There is another thing which Dr Armitage says is new and unique and which has been going on and demonstrated for everybody to see. Most of the things he is promoting are capable of being done in the Industrial Commission.

I do not know who put this together. I do not think it was Dr Armitage; it may well have been the script writer for *Nightmare on Elm Street* whom Dr Armitage got to write this while he was still in the mood. This is an attack on the trade union movement and the work force in particular. It does nothing the commission cannot do. It seeks to strip the rights of workers to have conditions registered in agreements which can be mediated, conciliated or arbitrated, and it seeks to reduce the number of conditions that can go into an award. That defies the history of industrial relations in most of these enterprises. When an industrial matter was put before the commission the commission was able to look at it and, if it assisted in the running of the enterprise and the industrial relations system and both parties agreed, it was able to be established.

The opponents of my position would say, 'You don't need to have all these things in an award or an agreement; if you have trust and confidence you do not need to put it in there.' I submit that if you have trust and confidence you do not mind putting it in there and having it open to public scrutiny as to whether it is fair, just and equitable: you put it in. In a couple of hundred years of industrial relations we have not been able to develop a better scheme than when you get an agreement to write it down. That gives you protections so that, when the people change, and memories fade and everybody forgets, it is there for everybody to see.

This proposal also purports to seek agreements so that employees can get more. I have news for Dr Armitage again. The Industrial Commission prescribes only minimum standards: it does not say an employer has to pay more, but that it must pay the minimum standards. There is nothing to stop any employer paying more than the minimum or award rate. What it does provide is some justice on the basis of comparative wage justice, that is, equal work for equal pay, where people can look at the different awards and say, 'He is doing that standard award; he deserves equal pay—the minimum rate.'

Let us dispel another myth about over award payments. It was not the trade union movement that had the grand idea of over award payments: it was the employers. After the Second World War, when there was a shortage of labour, there was an award rate—hard fought for by the trade union movement—but employers who wanted to filch key workers

from their competitors came out and offered the over award payments, to such an extent that in many instances it became the general rate of pay.

On the basis of equal pay for equal work and comparative wage justice, industry rates came in. That meant that the going rate for workers doing plumbing work in one area or another was fixed at a reasonable community rate. Again, the employer was never restricted to paying only that rate. So, this business about it providing flexibility is just hogwash. That provision is already available to the commission.

I have given a commitment that I will not go on too long tonight, although this subject is one of my passions. I understand that there is an agreement that, regardless of any debates we put up tonight, we will go to the second reading, so I will not prevail here all night. I want to apply to this proposal some of the standards that are required by employees and employers to go to the commission. In other words, would the principles by which it operates stand the scrutiny of the commission? My submission is that it would not. Will it avoid legal wrangles? Of course it will not because, if you limit the number of matters you can discuss and a dispute arises, two possibilities exist. First, there will be a dispute on the job and, secondly, if you cannot sort it out in the Industrial Commission, where do you go? You go back to the old common law. Employers like that, because they have all the resources to go into the courts and pay lawyers, but a sacked worker has few resources.

Again, it is a move to give advantage to one side of the industrial equation at the expense of the others. Is it open and is it honest? If you ask that question, the answer has to be 'No'. It is not even honest in its prescriptions. I will not go through each clause, but in the objectives of the Act, in an attempt to try to put through by subterfuge a proposition for junior rates of pay, the Minister proposes to change the objectives of the Act. Everybody knows that, when the commission starts to look at that, the first thing a judge will do is go to the objectives of the Act. It provides that the new objective is to encourage young workers, to provide jobs for young workers. It sets it right up for an argument about union rates. The problem with that is that, if you give to junior workers, you give that advantage at the expense of older workers. However, the commission is now charged to treat all workers equally and fairly, and give them proper wage justice. They are the sorts of things that this Bill proposes to do.

Is it evenhanded? It certainly is not evenhanded; that is my overwhelming criticism. All it does is make the strong stronger and the weak weaker. The Bill proposes to have the authority for union deductions renewable every year. It also proposes that someone who wants to resign from the union owing money ought to be able to do so, in effect, allowing them to break their contract. Despite the rules of the union, when the member signs up, he signs up under those rules. We should remember that the rules of every union are scrutinised in fine detail by the Arbitration Commission to ensure that they are fair, just and equitable before the union can get registration. However, this Government comes in and says, 'Forget all that. We want to change the rules and give advantage to other people.'

Let us compare that with all other employee and payroll deductions. I have not yet been given one that has to have an authority every year. Let us look at the other side of the equation. Just a few short years ago, every employee had the right to receive his pay in cash. That meant they had pay clerks, people to hand out money and they had to move the money around. With the advent of new technology, employers said, 'Let's have electronic banking.' As part of award and agreement negotiations—and I was involved in some of them—they said, 'If you go to electronic banking, we'll do the union deductions.' However, they did not put that in the award, because they are too smart.

What happened? In comes electronic banking, the union deductions take place and everybody is happy. But at the first whiff of grapeshot in the industrial scene, the employers say, 'We will stop taking out union deductions.' What about electronic banking? Why do we not have to give an authority every year to have our pay paid by electronic banking? The banks are now exploiting everybody with excessive charges and access fees. But, no, we do not want to interfere because that is on the employers' and not the workers' side of the equation. That is a clear example—and only one example of many examples—of how the process is not evenhanded.

In relation to the rights of union officials to inspect books and workplaces—and the inspectors obviously have access to do all that—it is proposed to allow the Ombudsman to have the same status as an inspector, but a union official does not receive any. He has to have someone from a union, identified by the employer, who in most cases is opposed to that power. The principal players in the industrial scene are treated differently.

When the Ombudsman came into the industrial relations system in South Australia he was to be a token, but the amendments moved by me on behalf of the trade unions and supported by the Democrats virtually said, 'Well, if you are going to have someone who will compete against the union official, he should at least be a proper Ombudsman and not a token.' So what has happened? A fair assessment is that the Ombudsman in the role he has played, limited though it has been in the past, has done a reasonably good job. These people opposite propose to give him more powers, make him look good but reduce the powers of the union official so that he cannot act or give representation. They want to stop union officials from viewing the books to see that everybody is being treated fairly. They only want union officials to look at the union member: that inhibits his right to impress on those people in the work force that they can get relief from a trade union, and it stops them from competing.

When the Hon. Trevor Crothers was a union official I am sure that he attracted many members. When he was able to go in and inspect the books of enterprises that were exploiting workers in the Liquor Trades Union, he was able to reveal that situation and elicit the support of other members in those industries to support the trade union. These people do not want that. They talk about freedom of association, but they want to slant the field. There is no even playing field: they want to slant it away from the trade union movement and inhibit its genuine operations. Is that fair? We do not have to look at anything other than unfair dismissals to find out whether it is fair. This is the most ludicrous proposition you have ever seen. This is fairytale stuff.

Members opposite are saying that in a big enterprise it is wrong to dismiss employees unfairly, unjustly or unreasonably, but if a kid is just starting in the work force they expect that kid to have the same bargaining power as that of an employer, given that he cannot actually compare award conditions, as they will now be secret, with what is being offered to him. They restrict the amount of matters he could negotiate if he knew what they were. All they really do is make the situation even more unfair in that they say that when that kid is 15 years old he can be sacked unfairly,

unjustly and unreasonably. If there are only 15 other workers in the enterprise it is all right for the Hon. Dr Armitage and the Liberal Government to sack them unfairly, unjustly and unreasonably.

Surely in a modern society it ought not to be a matter based on the age or conditions—whether or not you are a casual or whether or not there are 15 employees: surely decency alone should dictate that you treat them fairly. That is not really a hard test—fair, just and reasonable. The employers are saying that that is too high a hurdle. I do not know what they want. Do they want it legislated that they can abuse junior workers?

We have here a situation where, for example, a young female employee could turn up to a small business, be harassed sexually and be sacked because she does not cooperate. Unless she is prepared to go through the indignity of a sexual harassment case, this Bill makes it impossible to pursue the claim. Not only does it say that that is all right: it says that you cannot pursue the claim—you cannot bring a case. And, if you could, although you have been sacked and have lost your job, you would have to put down $100, just in case it is too easy for you to pursue justice. Everyone ought to have access to justice and the fair and even-handedness of the Industrial Commission.

Does it provide safeguards for standards and awards? Again, we talk about minimum wages and the comparisons. The Minister proposes that one will still have the award to go to, but that the Government will make it so hard to get into an award that no-one will want to be in it. Instead of having those awards (which everyone agreed were to be for two years), after about 50 years of evolution they say that we will have enterprise agreements or individual contracts which will be for five years and which will be secret so that one cannot see whether they are good or bad. Then it says, 'We will rely on the awards.' If no-one is under the awards, who will actually pursue the conditions of the award to ensure that the standards are maintained? Is there an automatic adjustment every year? No, there is not. That task, according to the Government, must be left to the trade unions. They cannot compete on everything. We put every obstacle in their way, but they will be the watchdogs for the community standard but only every five years if they want to talk about that in an enterprise agreement.

As I said, we ask ourselves the question: does it meet the standards required by the commission itself? Is it equitable? Does it act in good conscience? Is there substantial merit in this proposition? The answer to all three questions is 'No.' Time does not permit to go through every clause to point that out. We ask ourselves: does it give everyone a fair go? No, it does not. Does it provide protection from exploitation? The examples I gave on unfair dismissals clearly blow that one right out the water.

Actually, it worsens the bargaining power of employees. It restricts the ability to give proper representation to *bona fide* trade unionists. It actually takes away the rights for representation by an employee. It does that in this way: the Employee Ombudsman can go into the workplace at the invitation of any person, be he a trade unionist or a non-unionist who seeks some representation. But, a trade unionist, competing for the hearts and minds and the fees—because you cannot run trade unions on fresh air—cannot go in there. This Bill prevents him from going in and offering his services on an even playing field.

Let me ask one more question: is it more efficient than the present system? Certainly, it is not. The Government now wants to put another layer in the system to hold up the resolution of disputes. The Government proposes that we have this new, wonderful thing that it has discovered called mediation—which in fact has been in the system all the time. The commission can be brought in on the motion of an employee or employer. However, this Bill wants to set up a private little club of recognised mediators who, at the end of the day, will not be able to settle the dispute if there is not agreement. What do they then do? They seek relief from the Industrial Commission. Well, why the hell did we not start there in the first place? The Industrial Commission, in the case of a dispute, has acted in the public interest. That is another issue: Peter Reith does not want the commission to get involved of its own motion. It should not get involved unless there is a dispute.

In the past, the commission has been able to intervene in the public interest to avoid a dispute. If a dispute takes place now, the commission can come in on mediation and it can hold what is called a voluntary conference where conciliation takes place, which is only another name for mediation. At its conclusion, the commission can outline its recommendations. What happens then concerns what our friend the QC was scoffing about when he was talking about keeping lawyers out, and he wonders why I agree with that principle.

There has been some sad history for the trade union movement in this because, when a conciliator would come up with a proposal, the lawyers would pick it apart and say, 'Whilst it will resolve the dispute, we could go to arbitration and apply the principles of the law.' They were never supposed to be used in the commission but, when there was an oversupply of lawyers and an under supply of legal work—the work that they did not usually want to do—they brought those techniques into the Industrial Commission and messed the whole thing up.

Once a matter goes to arbitration, the strict principles of the law are more closely followed, but there is a distinct difference from the common law, which uses the principle of proof beyond all reasonable doubt, while the commission has the flexibility and the sense to do it on the balance of probabilities, so in that way arbitration can be achieved. This proposition about mediation is rubbish. Anyone who has been around the Industrial Commission or involved in industrial negotiations and disputes knows that it is just an extra layer that will cost taxpayers extra money and prove no purpose beyond that which the commission can already do.

We have something that is unjust, unreasonable, unfair and not even-handed. It discriminates. It does not provide a situation where equal pay for equal work can be compared, so it has implications for female workers. The equal pay for equal work principle has been an enormous task for feminists and women workers in the past and, now that they cannot see what is going on in other industries and they cannot look at community standards and make judgments, their job will become worse. Because they do not have the experience of a trade union to support them, they are expected to bargain with their employer on their own. It is wide open for the same problems that outworkers have always had in that, if they have no representation and no bargaining power, the end result has always been exploitation, and that is what this prescribes. If it is unjust, unfair, inequitable and not even-handed, then it is un-Australian. If it is un-Australian, it is un-South Australian and, if it is un-South Australian, it should be dispatched to the rubbish bin. I am opposed to the proposition.

The Hon. T. CROTHERS: My parliamentary colleagues Ron Roberts, who has just spoken, and Michael Elliott, who spoke the other night, in their excellent contributions dealt with the specifics, point by point, of the changes that are being sought by the present Liberal Government to the industrial relations legislation. Apart from injecting some specifics into my contribution at the outset, I shall be more generic in the manner in which I intend to present my contribution for consideration by members of this Parliament.

I have been Secretary of what was then the third or fourth largest union in this State, the Liquor Trades Union. So I can claim, as none of the practitioners on the other side of the fence can, to have a very good first-hand working knowledge of the coal face of industry and many of the scurrilous things that are done to people who are employed in industries such as ours was, where there were quite a number of small employers, and it was the smaller employers with whom we had the most trouble. The Minister who is handling the Bill in another place, Dr Armitage, is probably a member of the Australian Medical Association, the most powerful union in this nation.

It is one of the few unions that I know that sets its own wages and conditions. And yet this man presents this industrial relations Bill to us at this time—and, to my knowledge, this is at least the third time that we have visited the whole of the industrial relations legislation in its entirety since this Liberal Party took office some 5½ years ago. I said at the time, when warning people who were prone to support the Government in respect of some change, that this was but the thin end of the wedge at that time and that this matter would be revisited time and again until the workers were left without anyone capable of representing them in their day-to-day employment.

I note, however, that most of the tertiary educated people in this nation are members of some association or other: the surgeons have their colleges; the doctors have the AMA or the General Practitioners Society; and the lawyers have the Law Society. Without exception, they all see the value of belonging to an organisation that can represent them.

Ever since recorded history, humankind has realised the advantage of working together. Starting with Neanderthal man, there was the family group, which then progressed into the village, into the small town and kept on moving up the scale, with the recognition going back many thousands of years that humans are best served when they act collectively. Nothing has changed in that respect.

It has often been said that the Conservative Party in Britain is the Anglican Church at prayer. I want members to bear that in mind and understand that when I give a potted history of the settlement and the evolution of industrial relations in this State. It has been said that, when Sir Robert Menzies reformed the Opposition Party at Albury in 1943, he chose the name of the Party well. He did not call it the Conservative Party, or the Tory Party, if you like: he called it the Liberal Party. Whatever one thinks of Sir Robert Menzies and Sir Thomas Playford in this State, and however one differs from them ideologically, they were both great leaders of the people in their State and this nation in their time.

Sir Robert Menzies called the reformed Opposition group the Liberal Party simply because he was a Liberal: he was an Asquithian Liberal. The Liberal Party of Asquith (for those who know their history), or the Whigs, as they were then called, prior to the emergence of the Labour Party into the parliamentary system in about the 1900s in Britain, was the Party that was left of centre. The Conservative Party was the Party of the landed gentry, the Anglican Church and the preservation of the *status quo* for the aristocracy and those people who earned a living by keeping the working class poor and by ripping them off when and where they could.

One only has to look at the conditions in the coal mines in Britain in the nineteenth century. One only has to look at the conditions where seven year old children were hanged in the 1850s simply because they were hungry and they had stolen a loaf of bread to sustain the life forces within their body. That is the type of Party that the Tory Party, or the high church Party, or the Party well to the right of centre, was in the UK.

It was for all those reasons that Sir Robert Menzies named his Party the Liberal Party: it was the Party that was left of centre. And Sir Thomas Playford was the man who was there when the Liberal and Country League was founded in this State. If one looks at the activities of those two men, one will see that they were never anti-union to the extent that this present Howard-Reith Government has proved to be during its short time in office.

What we are witnessing with this Bill is the Liberal Party in this State trying, in so far as it believes it can get away with it, to mirror image the draconian, ideological, Reithian industrial adventures that are currently occurring in the Federal Parliament of this nation. I think it demeans the inheritors of the Menzies' tradition and the Playford tradition in this State, or anywhere else, to now turn out not to be Liberals after all but to be Conservatives, as are Peter Reith and John Howard. Gone are the days of Asquithian Liberalism in many areas of the Liberal Party today and we find that in their place there is the hard-nose right wing conservatism of the high Tory Party that existed in the United Kingdom from around about the time of Horace Walpole and onwards.

The Hon. Sandra Kanck: Could you get them under the Trade Practices Act for calling themselves Liberals?

The Hon. T. CROTHERS: If you do not shut up I will get you under the Trade Practices Act. Having said that, I, along with my parliamentary colleague from SA First, will be supporting the Bill at its second reading stage. Thereafter in the Committee stage, I shall not support one skerrick of any clause, because this Bill is aimed at further eroding the capacity of unions to defend the uneducated and the unlettered people who are members of unions in our society. It is aimed at further eroding away that power, just as the last two visitations of this Bill in this Chamber did. It is being done bit by bit and step by step—it is like an industrial Chinese water torture.

This Government of the poor man's Liberals are the arch Tories of the English speaking political world. This Government has eroded away the capacity of unions to defend their members. This at a time of enormous change and uncertainty and of permanent unemployment everywhere of anywhere from 5 to 20 per cent. This at a time when the trade union movement is more needed than indeed it ever has been since the time of its formative conception going back to the Tolpuddle Martyrs. Going back to the days of Chartists and agrarian societies that were formed to protect farm labourers in the United Kingdom and Europe. Yet this Government is hell-bent on further reducing the powers of the unions in respect of defending their members. Let me remind this House that all dictators have done that: Joseph Stalin abolished the *bone fide* unions when he took over from Lenin in Russia; Adolf Hitler did the same when he assumed the chancellorship of Germany in 1934; and now we see the same

thing occurring in the English speaking world irrespective of where you live.

I make no apology for being a supporter of unions. I will continue always to be so because that is the only hope that the ordinary working man and woman of the street and of this nation has. My father once said to me, 'Son, God must have loved the little fellow.' I looked at him with my little eyes shining and said, 'Why is that dad?' He said, 'Because he made so bloody many of us.' My father was right then as indeed he is now. Yet this is what this Government would seek to do, that is, take away the only capacity that the ordinary worker has in respect of defending himself from the many injustices that are perpetuated on them by industry today, particularly small industry.

I issue a warning to Dr Armitage. I understand that he had a visitation today in which he was told by a couple of non-government members that he should withdraw the Bill because he did not have the numbers to get it up in this Council, and he has not. If he should do that and if he should then try to revisit us with an amended form of the Bill, which is basically shamanism with smart words missing, then I hope that my colleagues again treat it with the contempt that it justly deserves. If, on the other hand, the Minister wants to go away and talk to the representatives of the workers and then come back with the Bill in an amended form that they can accept, and they tell me they can accept it, then I will support that, but nothing less than that.

I said that I would revisit the history of the settlement of South Australia and the way in which industrial relations evolved in this State. It was my privilege, in my capacity as a union official, to know some of the people who were representative of that class of industrialist who operated in this State and who, unfortunately, are all but gone now. What we have in their place are the decimal point kings who look only at the bottom line on all occasions. If that means laying off 100 people so as their ever burgeoning and increasing profits continue to grow they will do it, but there is no wage freeze on those executives who do that. They are paid exorbitant sums of money and this Government and its Federal colleagues do nothing about it.

I say this to all members: it seems to me that what this is all about is ideology. I have no doubt whatsoever about that. I have no doubt whatsoever that the Federal Parliament is now made up of the arch priests of conservatism. No liberalism is left. I want to tell members, before I go to the generics of the matter, that, as a union official, I had occasion to deal with Sir Roland Jacobs, who was the chairman of the SA Brewing Company, with various members of the Cooper family, with Don Laidlaw from Adelaide Brighton Cement and with old Sir Arthur Barrett from Barrett Malting—South Australian employers of the old school. I mentioned this the other day to a colleague and he said, 'Yes, but they were a bit patronising.' They may well have been patronising but their employees were right up there in respect of their wages and conditions and in respect of some form of proper insurance through higher wages and better conditions than many workers were in other States.

Having said that, I want to go back to a precied history of the settlement of this State because it is germane to my contribution. South Australia, as we know, was the only State, apart from some of the Territories, that never received any transported convicts in respect of settlement. The only reason Cook came out here was that the English were using Virginia in the South Carolinas and part of the West Indies as a place to transport the unwanted—the seven year olds who stole a loaf to stop themselves from starving—rather than hanging them. When the Americans won the War of Independence with the 13 colonies of course that finished. One reason why Cook was sent to Terra Australis was, in part, to find a dumping ground for the convicts who were lying rotting in the hulks, because the prisons were full to overflowing in the Thames estuary and everywhere else. South Australia was the exception to that rule. South Australia never had any convicts transported into its population from which this State has risen from the loins of that original settlement.

I want to talk now about the Salesian Lutherans. They were a radical group of Lutherans. They did not conform to the State religion of the King of Prussia, so they had to look for somewhere where their reformed, unusual, radical religion would be acceptable. They chose South Australia, and they chose wisely. They are the communities we now know of in the Barossa Valley and, indeed, in parts of Victoria, where people migrated from the Barossa Valley into those areas.

We have seen, because of the copper mining, a lot of Cousin Jacks and Welsh miners coming to settle in this State. Those people embraced a religion which had been established in the late 1700s in the United Kingdom by the Wesley brothers, who rode hundreds of thousands of miles on horseback around Wales, Cornwall and around the industrial coal mines in Yorkshire, preaching their evangelical type of Christianity, which we later came to know as Methodism. The Attorney-General, who is handling this Bill, is of Welsh extraction and is a Methodist. I am sure his ancestors who worked down the mines may well be wondering why he is handling this Bill which will have such a detrimental impact on the ordinary poor worker.

So, a lot of Methodists settled here via the Cousin Jack miners and the Welsh miners. Many other miners from the industrial coalfields of Scotland, Yorkshire and the north-east of England also came here. So, the history of this State was a history of religious freedom not based on the Anglican Church, the Tory Party at prayer, but based on people who had developed their own religious beliefs and who sought a place where they could freely practise that religion, and that was South Australia.

Out of the ruck of that, settlement emerged, I think, with the first recorded copper strike at Burra in about 1850. The newly emerging Labor Party used to hold the seat of Wallaroo, and it even used to hold Tanunda. In fact, I think the Labor Party member there was shot in 1917 and a statue to his memory there has now been tucked into the back streets of Tanunda because there was a wave of generational change. But, because of that particular beginning of this State, we had these employers such as I have named—the Coopers, Sir Roland Jacobs, Don Laidlaw and Sir Arthur Barrett—who treated their employees with the type of respect and kindness that John Wesley had infused into his followers when he and his brother rode, as I said, hundreds of thousands of miles on horseback to preach their form of evangelical religion.

So, because of that, this State had a proud record of being the first in the whole of the nation in respect of radical reform, and I refer to the age pension and votes for women. The history of this Parliament from 1870, when we sat as an independent Legislature, with our own sovereign rights up until 1901, is littered with the agents of reform. Who could forget Cameron Kingston in that lot—a squireen's son from the County of Cork, a member of the ascendancy class of Ireland, but a true liberal reformer nonetheless? He went on, of course, to make his mark in the Federal Parliament.

So out of that ruck of radical evangelism came the type of industrial relations that existed in this State up to and including the time of Sir Thomas Playford. You never saw Sir Robert Menzies or Sir Thomas Playford trying to get rid of the unions. I know that still in the Liberal Party in this State are some Liberals—though few in number—of the Asquithian mould, such as Menzies and Playford were. Now we see all of that changed. South Australia possessed a proud and the best industrial record of any State in Australia for many years. We had the least number of strikes of any State.

Now, because of driven arch conservative ideological adventurism by the Prime Minister, John Howard, and the current Minister for Industrial Affairs, Peter Reith, and others, we see that that is about to change as our State conservative colleagues here, who are members of the Liberal Party, seek to water down the only defence that is left to employees in the work force in South Australia and elsewhere relative to the scandalous abuses that are from time to time inflicted upon them.

Sir Robert Menzies and Sir Thomas Playford, both great men, would turn in their graves at the ideological turn that this current Liberal Party has taken towards conservatism. Menzies, may be the shrewdest and best Prime Minister we ever had, did not call the reformed opposition group, set up in Albury, 'Liberal' for nothing. I told you: the Liberal Party in the United Kingdom prior to the formation of the Labour Party in that country was the left of centre Party.

As I also said, my two colleagues who have spoken previously, the Hon. Ron Roberts and the Hon. Mike Elliott, canvassed the specifics of the contents of the Bill. I can assure the Council of this: in the words of the French Foreign Legion, who were taken out to Mexico to defend the imposed French Emperor, Maximillian, 'Ils ne passeront pas,' which in English means 'They shall not pass,' and neither will this horrendous Bill introduced in another place by Dr Armitage, himself probably a member of the most powerful union in this nation.

I condemn the Bill and, if I could use much more profane language without offending you, Sir, I would condemn it even more boldly. I condemn the Bill for what it is trying to do. It will set industrial relations in South Australia back 30 years, because there will not always be a position where the boot is on the employer's foot because of high unemployment. That will not change and what you are encouraging is a culture of 'us versus them'. When the turn of the workers comes, look out.

Those who forget the lessons of the Bastille and the oppressed workers such as we have seen in South America and elsewhere—even in Russia—and in Germany after the Versailles Treaty, and those who forget the lessons of history are doomed to see them repeat themselves. When they do, the storming of the Bastille will look simply like a birthday party. If that is the path that this State Government wants to take South Australia down, and if that is the path that the high Tory arch priests wish to take this nation down, so be it and so on their heads be it. The Bill must be roundly condemned by any thinking person who believes that society should have checks and balances interlaced through it. The Bill certainly does not do that.

In fact, it further diminishes the checks and balances that already exist in this society relative to workers getting protection. At a time when jobs are becoming more and more casual, people certainly need the sort of protection of unions that are not further weakened as they have been over the past five years by the attacks on them by the Tories in the Liberal Party. Those people certainly need the trade union movement to be strong enough to be able to protect them when wrong is being done. I condemn this Armitage Bill. I condemn Peter Reith and his high Tory ideology. This Bill ought to be consigned to the industrial wastepaper basket of this State's industrial history, and in such a pre-emptory fashion that it shall not be revisited again, such as it has been three times in the past 5½ years of this Liberal Government. Though I will support the second reading, I condemn the Bill on its content in its totality.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

LOCAL GOVERNMENT BILL

In Committee (resumed on motion).

(Continued from page 1784.)

Clause 91.

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

Page 76, lines 13 to 17—Leave out subclause (10).

The Hon. DIANA LAIDLAW: I move:

Page 76, line 16—After 'publication' insert:
under this section

It is my understanding that the Labor Party filed an amendment which the Hon. Terry Roberts has just moved but upon consideration, particularly with the advice of the Attorney-General, it was considered that the Government should move an alternative amendment, which I have now moved. The amendment restricts the protection against defamation for the innocent publication of defamatory material which could occur as a result of making records of meetings available. It would relate also to transcripts or records of meetings required to be published under this clause. We are seeking to address the same issue that the Labor Party is seeking to address but, on advice from the Attorney's office, it is considered that my amendment more adequately addresses the Labor Party's concerns.

The Hon. IAN GILFILLAN: I am not sure I have a copy of the Minister's amendment.

The Hon. DIANA LAIDLAW: It addresses the same issue but in a form that the Attorney-General's office considered was more adequate.

The Hon. IAN GILFILLAN: It may be that this is just a bit soon after dinner, but I do not understand how the Minister's amendment does the same as the Labor Party's amendment only on a different track; I would need that explained to me a little more. I understand that the Labor Party's amendment seeks to open up the opportunity for an action for defamation against a council, whereas a clause in the Bill protects a council against action for defamation. It provides that no action for defamation lies against a council in respect of the accurate publication under this section of any information, statement or document in whatever form or the accurate publication of a transcript, recording or other record of a meeting of a council or a council committee. The ALP's amendment is to get rid of that altogether, whereas the Government's is to insert after the word 'publication' the words 'under this section' so that paragraph (b) would read:

No action for defamation lies against the council in respect of the accurate publication under this section of a transcript, recording. . .

It is certainly beyond me how those two provisions do the same thing. It might be appropriate to indicate that I have a

later amendment to offer a right of reply, because I believe that there is good reason to protect councils from defamation on the basis that it should be a free and open forum and should not be too tightly circumscribed by the threat and worry of what might happen in legal action. I am sympathetic to that, but it is important that a person who feels that they have been misrepresented and perhaps even legally defamed has the opportunity to right the record. So, in a later amendment I imitate what we do in this Chamber by offering the opportunity for a right of reply. I believe that that addresses the problem of a person who may feel aggrieved and not able to take a defamation action. They should be able to get satisfaction by having a statement included in the minutes and by having the opportunity for a right of reply.

The Hon. DIANA LAIDLAW: The Government will support the Hon. Ian Gilfillan's amendment to clause 92 to provide for a right of reply. In the meantime, with respect to the clause we are addressing at the present time (clause 91, 'Minutes and release of documents') we believe that, if something is unwittingly included in the minutes that an individual would consider to be defamatory against the council, there should be some protections. So, rather than deleting section 91(10), as the Labor Party wishes to, which takes out all reference to protections, if there is some defamatory reference in the minutes, the Government would wish that that section remain in the Bill but we would simply qualify it in terms of how the defamatory actions could be taken or the council could be protected in such circumstances. However, it does not mean that the Hon. Ian Gilfillan's concern for right of reply is reduced or eliminated. We will accept the member's amendments on that clause.

The Hon. IAN GILFILLAN: I indicate that I will be opposing the ALP's amendment because subclause (10) should remain in there. As a matter of politeness, I will support the Government's amendment, although I do not have the faintest idea what it does.

The Hon. T.G. Roberts' amendment negatived; the Hon. Diana Laidlaw's amendment carried; clause as amended passed.

Clause 92.

The Hon. IAN GILFILLAN: I move:

Page 77, lines 10 and 11—Leave out subclause (4) and insert:

(4) Before a council adopts, alters or substitutes a code of practice under this section it must—

(a) make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection or purchase at the council's principal office; and

(b) follow the relevant steps set out in its public consultation policy.

The amendment deals with the code of practice at meetings. Members will recognise that this is consistent with a stream of amendments that I have moved (most of them successfully) to ensure that things such as principles are not left to regulations but are to be spelt out in the Act or not referred to at all. This is consistent with that. I have a replacement subclause (4). Just so that it makes some sense, subclause (1) provides:

A council must prepare and adopt a code of practice relating to the principles, policies, procedures and practices that the council will apply for the purposes of the operation of parts 3 and 4.

Those are the previous parts 3 and 4 of this Bill, relating to public access and keeping minutes. I would imagine that for most members my replacement subclause (4) is simply commonsense, to make sure that the public is informed of any changes and that there is some consistency in the way the policy is dealt with by the council.

The Hon. DIANA LAIDLAW: It will take a little bit of tolerance to argue this. I have been advised that the Government does not accept that subclause (4) should be removed. However, we are prepared to accept the Hon. Ian Gilfillan's substitute for subclause (4) if he is prepared to move it as a new subclause (4a). So, rather than delete subclause (4), if the honourable member is prepared to amend his amendment not to delete subclause (4) but move what he would wish to see provided, namely, public consultation, we could accept that as a new subclause (4a), its being renumbered as subclause (5) in the future.

The Hon. Ian Gilfillan interjecting:

The Hon. DIANA LAIDLAW: We would support your amendment as long as you did not seek to delete subclause (4). If I were you I would take what I was offered.

The Hon. IAN GILFILLAN: I am not prepared to accept the wording currently in subclause (4) because I profoundly object to a principle being included in a regulation. I have consistently said so right through the Bill and there is no reason why I should barter that away now. It is totally against the ethics of legislation. If there is a principle, the principle should be clearly displayed in the Act or forget it. Regulations are implementation procedures. They are not the venue for determining principles.

The Hon. DIANA LAIDLAW: The honourable member need not get excited about this. Subclause (4) is already in the Act. There have not been regulations to date, but it is seen as a matter that we should retain. However, if the honourable member wishes to see this public consultation process we are prepared to accommodate that. I would have thought that what I offered was exceedingly reasonable; otherwise I will oppose it completely as I cannot accommodate it.

The Hon. IAN GILFILLAN: I would like to withdraw my amendment for the total deletion of subclause (4), so that it stays. However, I move:

That the words 'be consistent with any principle or requirement prescribed by the regulations and' be deleted.

An amended subclause (4) would then provide:

A code of practice must include any mandatory provision prescribed by the regulations.

I do not have a problem with regulations describing provisions which match what is required in the Act. It is the principles to which I am objecting.

The Hon. DIANA LAIDLAW: I am prepared to accept that measure. In fact, I think it is clearer.

The Hon. T.G. CAMERON: SA First will support the Democrats position.

Amendment carried.

The CHAIRMAN: I ask the Hon. Mr Gilfillan what he proposes to do with his amendment that is on file.

The Hon. IAN GILFILLAN: I accept the excellent advice that the Minister gave that it become subclause (4a). I move:

After line 11—Insert new subclause (4a).

Amendment carried; clause as amended passed.

Clause 93.

The Hon. DIANA LAIDLAW: I move:

Page 78, line 32—Leave out 'electors present' and insert: persons present and lawfully voting

This is a drafting amendment.

Amendment carried; clause as amended passed.

Heading.

The Hon. IAN GILFILLAN: I move:

Page 80, line 2—Leave out 'MATTER' and insert:
MATTERS

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

Amendment carried; heading as amended passed.

New clause 93A.

The Hon. DIANA LAIDLAW: I move:

Page 80, after line 2—Insert:

Investigation by Ombudsman

93A. (1) The Ombudsman may, on receipt of a complaint, carry out an investigation under this section if it appears to the Ombudsman that a council may have unreasonably excluded members of the public from its meetings under Part 3 or unreasonably prevented access to documents under Part 4.

(2) The Ombudsman may, in carrying out an investigation under this section, exercise the powers of the Ombudsman under the Ombudsman Act 1972 as if carrying out an investigation under that Act.

(3) At the conclusion of an investigation under this section, the Ombudsman must prepare a written report on the matter.

(4) The Ombudsman must supply the Minister and the council with a copy of the report.

(5) If the Minister, after taking into account the report of the Ombudsman under this section, believes that the council has unreasonably excluded members of the public from its meetings under Part 3 or unreasonably prevented access to documents under Part 4, the Minister may give directions to the council with respect to the future exercise of its powers under either or both of those sections, or to release information that should, in the opinion of the Minister, be available to the public.

(6) The Minister must, before taking action under subsection (5), give the council a reasonable opportunity to make submissions to the Minister in relation to the matter.

(7) A council must comply with a direction under subsection (5).

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

I note that the Labor Party has an identical amendment on file. This reinserts specific procedures in terms of complaints to the Ombudsman and the Minister regarding confidentiality. This provision is currently provided for in the Local Government Act 1934.

The Hon. T.G. ROBERTS: The Opposition supports the Government's amendment.

The Hon. DIANA LAIDLAW: I pay credit to the Labor Party on this matter because it was raised in the House of Assembly and the Government has considered it since that time. Therefore, the Government has an amendment, as does the Labor Party. Although the Hon. Terry Roberts has not moved his amendment, I note that the matter was raised by his colleagues in the other place.

The Hon. T.G. ROBERTS: Thank you, Minister.

Amendment carried; clause inserted.

Clause 94 passed.

New clause 94A.

The Hon. IAN GILFILLAN: I move:

Page 80, after line 6—Insert:

Right of reply

94A. (1) A person who has been referred to during the proceedings at a meeting of a council or council committee by name, or in another way so as to be readily identified, may make a submission in writing to the council or council committee—

(a) claiming that he or she has been adversely affected in reputation or in respect of dealings or associations with others, or injured in profession, occupation or trade or in the holding of an office, or in respect of financial credit or other status, or that his or her privacy has been unreasonably invaded; and

(b) requesting that he or she be permitted to make a response that is incorporated into the minutes of the proceedings of the council or council committee (as the case may be).

(2) Unless otherwise determined by the council or council committee, a submission under subsection (1) will be considered by the council or council committee on a confidential basis under Part 3.

(3) In considering a submission under subsection (1), the council or council committee—

(a) may appoint a member of the council or council committee to confer with the person who made the submission and then to report back to the council or council committee; and

(b) may confer with the person who made the reference to which the submission relates; but

(c) may not judge the truth of any statement made by a member of the council or council committee.

(4) Subject to subsection (5), the council or council committee may then, if it considers it appropriate and equitable to do so, resolve that a response be incorporated into the minutes of the proceedings of the council or council committee (as the case may be).

(5) A response incorporated into minutes under subsection (4)—

(a) must be succinct and strictly relevant to the question in issue; and

(b) must not contain anything offensive in character; and

(c) must not contain any matter the publication of which would have the effect of—

(i) unreasonably adversely affecting or injuring a person, or unreasonably invading a person's privacy, in the manner referred to in subsection (1)(a); or

(ii) unreasonably aggravating any situation or circumstance; and

(d) must not contain any matter the publication of which might prejudice—

(i) the investigation of an alleged criminal offence; or

(ii) the fair trial of any current or pending criminal proceedings; or

(iii) the conduct of any civil proceedings in a court or tribunal.

(6) A council or council committee may at any time cease to consider a submission under this section if of the opinion that—

(a) the submission is trivial, frivolous, vexatious or offensive in character; or

(b) the submission is not made in good faith; or

(c) there is some other good reason why not to grant a request to incorporate a response in relation to the matter into the minutes of the proceedings of the council or council committee.

This amendment provides a right of reply to a person who has been referred to during the proceedings of a meeting of a council or council committee by name or in another way so as to be readily identified and who claims that he or she has been adversely affected in reputation or in respect of dealings or associations with others or injured in a profession, occupation or trade. As I argued earlier, this arises from the Democrats' proposal to balance the fact that councils are immune from defamation actions and, were this clause not included in the Bill and eventually in the Act, an allegedly defamed or a seriously impugned person would have virtually no redress. This measure is based on the procedure that is in place in the Legislative Council.

The Hon. T.G. ROBERTS: The Opposition opposes the new clause.

The Hon. DIANA LAIDLAW: The Government supports the amendment. I note that it is almost identical to what Parliament has accepted in terms of Standing Orders for the Legislative Council.

Amendment carried; new clause inserted.

Clause 95 passed.

Clause 96.

The Hon. IAN GILFILLAN: I believe that we should remove the injunction on a council that CEOs must be employed on contract. Many of them obviously will be, but we feel that it is inappropriate that that should be spelt out in this Act as a compulsion on a council. We believe that it

should be the choice of the council as to how it employs its chief executive officer.

The Hon. DIANA LAIDLAW: The Government believes that it is important to include in this Bill the terms and conditions of appointment for a chief executive officer. Specifically, clause 96 provides for the terms and conditions of appointment of CEOs to councils, including a fixed term not exceeding five years, and there must be a performance-based contract. The requirement for contracts is expected to make some difference to the adherence to appropriate public service management practice and, over time, help councils to strengthen their administrative arrangements, performance agreements and management generally. The current appointments are protected, and we believe that this provision reflects good practice in the current Act and should be extended to future arrangements.

The Hon. T.G. CAMERON: It is my understanding that the current Act provides the flexibility for councils to employ CEOs under fixed term performance-based contracts for up to five years. In discussions I have had with the Local Government Association, and perhaps up to 20 country councils, it was put to me, particularly by the country councils, that they wished to retain that flexibility. What is appropriate for big city councils, such as the Marion Council or the Port Adelaide Enfield Council, when they go out searching for a CEO is quite different from what applies in the country. It was put to me by a number of country councils that they preferred to retain the flexibility of being able to employ people under the current conditions of the Act under which they operate. However, I suspect that, over a period of time, more and more councils will move to fixed term performance-based contracts. But in view of the request that was made to me by those country councils, I will be voting against the Government's position.

Clause negatived.

Clause 97.

The Hon. IAN GILFILLAN: I move:

Page 81—
Line 30—Leave out 'the performance standards specified in the' and insert:
any performance standards specified by the council or in any contract
Line 32—Leave out 'the contract' and insert:
any contract
Line 34—Leave out 'the contract' and insert:
any contract

These three amendments are consequential on the successful outcome of that last amendment. It is a question of wording. So what would have been 'the contract', because it would have been obligatory, becomes more general so that it covers any contract, if in fact a contract is entered into. I do not intend to go any further into that unless members have questions.

The Hon. T.G. ROBERTS: The Labor Party indicates that it has a similar position to the Democrats. We will not proceed with our amendments but instead support their position.

The Hon. DIANA LAIDLAW: I accept that they are consequential on the earlier vote which I lost on clause 96.

Amendments carried; clause as amended passed.

Clauses 98 to 103 passed.

Clause 104.

The Hon. IAN GILFILLAN: I argued similarly with the previous amendment that there should not be this compulsion in the legislation regarding how councils employ their senior executive officers, which is dealt with in this clause. It provides that a senior executive officer must be employed under a contract. We believe that it should be at the choice and decision of the council, and therefore I oppose the clause.

The Hon. DIANA LAIDLAW: The Government would argue strongly for the retention of this provision. This Bill essentially has come about after some considerable consultation with a wide range of councils in differing stages of amalgamation and growth performance relating to the range of councils and the tasks, budgets and the like, and it was considered that it was important not only to retain provisions in terms of the contracts for chief executive officers but also for senior executive officers. I am not sure how SA First and others will vote on this. Certainly they did not accept my arguments for chief executive officers, but they may think that they are valid for senior executive officers.

The Hon. T.G. CAMERON: Does the Government's Bill make it mandatory for the councils to provide fixed term performance based contracts for employees who receive remuneration exceeding $100 000 a year, or does it merely give them the option of doing that?

The Hon. DIANA LAIDLAW: It is a mandatory provision.

The Hon. T.G. CAMERON: SA First opposes the clause.

The Hon. T.G. ROBERTS: The Labor Party opposes the clause.

Clause negatived.

Clauses 105 and 106 passed.

Clause 107.

The Hon. IAN GILFILLAN: I move:

Page 86, line 34—Leave out 'long service leave and sick'.

This is an industrial matter covering the consequences in respect of the transfer of rights which may have accrued. The amendment will allow any other entitlements relevant to an award or enterprise agreement to be covered. If those words remained the effect of that clause is restricted to long service and sick leave.

The Hon. DIANA LAIDLAW: Before SA First speaks on this clause, I indicate that the Local Government Association advises that the amendment moved by the Hon. Ian Gilfillan is inconsistent with the current award, and therefore should not be supported.

The Hon. T.G. CAMERON: SA First will be opposing the Democrat amendment. I used to look after one of the awards to which the Local Government Association refers when I was an industrial advocate with the Australian Workers Union. For the life of me I cannot work out what leaving out the words 'long service leave' and 'sick leave' would achieve. I am not sure to what other leave it would apply. Most of the other leave entitlements that operate in both the awards that the AWU and ASU operate, such as bereavement leave, maternity leave, and so on, would automatically apply. In any case—

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. CAMERON: I understand that; I took that as read. However, for the life of me I cannot work out to what leave it would apply.

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. CAMERON: I racked my mind to see whether I could work out what the honourable member might be referring to. Most of the entitlements I came up with, such as a maternity, bereavement and study leave, jury service, and so on, are all transferable rights to which people would become entitled under the award. Long service leave and sick

leave have long had, as I understand it, portability within local government. I received no representations from either the ASU or the AWU in relation to this matter and, to be quite frank, I am not sure that it is not a matter best left to the unions and the Local Government Association to sort out.

The Hon. T.G. ROBERTS: The Labor Party will be supporting the Democrats' position on this. I am not aware of an award variation that did not involve some argument in the appropriate places. If it is to be done by enterprise bargaining there can be some flexibility on wording matters. But if long service leave and sick leave are left in and it narrows the options for other considerations due to be negotiated for enterprise bargaining, then I support the honourable member's position. To be on the safe side, even with an explanation from the Minister, we would be supporting the Democrats. I do not think it is an insidious clause at all for anyone who has to renegotiate those awards and conditions that prevail. I cannot see it being a hindrance. Obviously the Minister sees it as a help.

The Hon. IAN GILFILLAN: I cannot say for sure because I do not have it in front of me but the actual amendment should have read:

Leave out 'long service leave' and 'sick leave'.

The drafting terminates at the word 'sick'. The intention was to leave it open so that any other benefits or entitlements would be able to be embraced by this.

I was approached by the ASU specifically to move this amendment, and it seemed a reasonable argument. I do not claim to be an expert in the award, but I believe that by leaving those words in it definitely restricts it to those two areas, whereas if they are deleted, even if there are no other rights, it does not do any damage. It does leave the way open. If there are other benefits and entitlements, they can be embraced by the clause which otherwise they would not be.

The CHAIRMAN: The Chair's advice is to leave it as you have it, ending with the word 'sick'. It would then read:

. . . for the purpose of calculating present and accruing rights to leave be taken to constitute a single period of service.

The Hon. DIANA LAIDLAW: If you adjust the amendment before us, it changes the whole context of the arguments. I suspect, with due respect, that we are not distant by any means. We all want the same objective, but the way in which it has been worded is inconsistent with the current award. If you now suggest that you want to add the word 'leave', it changes the whole context. It would be best to leave it as it is and we could almost forget the debate we have had.

The Hon. IAN GILFILLAN: As I read this particular clause, it provides:

If an employee leaves the service of council and within 13 weeks of having done so, enters the service of another council without having commenced other remunerated employment within that intervening period, the periods of service will for the purpose of calculating present and accruing rights to long service leave and sick leave be taken to constitute a single continuous period of service.

That means to me that that assumption of 'taken to constitute a single continuous period of service' will only apply to long service leave and sick leave. The ASU approached me and asked whether I would consider an amendment which would leave it open to other entitlements or relevant matters under an Act, award or enterprise agreement, and that would require deleting the words to 'long service leave and sick leave' so that it would read:

. . . the periods of service will, for the purpose of calculating present and accruing rights, be taken to constitute a single continuous period of service.

That seems to me to be reasonable.

The Hon. DIANA LAIDLAW: I think it is potentially quite dangerous to start juggling with the words because they reflect what is in the current award. If we start fiddling now, we may unwittingly be doing something that may not be in the interests of the employees that the honourable member indicates he is representing in his arguments tonight. What he is arguing is made more complex because he now wishes to amend the amendment before us. I think it would be wiser at this stage to leave it as it is.

I would certainly bow to the experience of the Hon. Terry Cameron who has worked with these awards and with the unions concerned over a long time and pass the clause in this form. If we find that unwittingly we have done something wrong—and I suspect that that is not so because this Bill has been through at least two years of negotiation with the LGA and other parties—we can reconsider the matter then. However, it would be quite dangerous at 9.50 tonight to start fiddling with what could have ramifications for award provisions, particularly leave provisions, and leave such matters simply to continuous periods of service. In some awards this is very advantageous for some individuals and terrible for others.

The Hon. IAN GILFILLAN: I realise that I do not have the numbers, but *Hansard* contains the justification that I believe is fair for my amendment. The Minister has indicated some sympathy with assessing it in another forum or later and so, as far as I am concerned, I will let the debate rest at this stage.

The Hon. T.G. ROBERTS: I cannot see what is the problem. If it is to be addressed in another place, that is fine.

The Hon. DIANA LAIDLAW: It has already been passed down there and it cannot be brought up as a new matter below. It would have to be assessed later on, as I understand it. It has already passed the Lower House, and if it passes here it cannot be returned to the Lower House to amend. You do not have the numbers, anyway. You could seek to recommit the clause if you wish tomorrow, but you cannot do it in another place.

The Hon. IAN GILFILLAN: I wish the amendment to be put, and with your indulgence, in what I understood to be an error of wording—

The Hon. DIANA LAIDLAW: It is not an error of wording.

The Hon. IAN GILFILLAN: With the consent of the Committee, I move:

Leave out the words 'long service leave and sick leave'.

The Hon. T.G. ROBERTS: The Labor Party will sink with the Democrats.

Amendment negatived; clause passed.

Clause 108.

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

Page 88, after line—Insert:

and

(h) that there is no unlawful discrimination against employees or persons seeking employment in the administration of the council on the ground of sex, sexuality, marital status, pregnancy, race, physical or intellectual impairment, age or any other ground and that there is no other form of unjustifiable discrimination exercised against employees or persons seeking employment.

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

Amendment carried; clause as amended passed.

Heading.

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

Page 89, line 2—Leave out 'AND CODE OF CONDUCT'.

The Hon. IAN GILFILLAN: This is sort of an advance guard motion, which is consequential on the Labor Party being successful in moving that clause 111 be opposed. It is probably reasonable to signal that the Democrats will not support the ALP in opposing in totality clause 111. We will seek to leave out subclause (5), which is one of the regulations dealing with principle and requirements that we traditionally seek to remove. I am of the view that with that deleted the actual code of conduct is not too onerous. I will not go into a detailed analysis of the value of codes of conduct, but we will not be opposing the whole of clause 111. Therefore, it may be worth other members of the Committee considering their position on clause 111 before voting on this amendment that the Hon. Terry Roberts has moved. I am sure that is how the honourable member feels about it, too.

The Hon. DIANA LAIDLAW: The Government does not support the Hon. Terry Roberts's amendment. We believe that the introduction of a code of practice in relation to employees is important in substance, and that is now reflected in the heading. Therefore, we would certainly not wish the heading to be amended.

The Hon. T.G. CAMERON: SA First will support the Democrats' position in relation to clause 111, if that is of any assistance to the Minister.

The Hon. T.G. ROBERTS: I therefore seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

Heading passed.

Clauses 109 and 110 passed.

Clause 111.

The Hon. IAN GILFILLAN: I move:

Page 89, lines 22 and 23—Leave out subclause (5).

This is the regular procedure of moving the deletion of clauses which require principles to be included in regulations.

The Hon. DIANA LAIDLAW: I find it very difficult to understand the logic—if there is any at all—whereby the Labor Party would wish to reject this whole clause but would support the Democrats in leaving out this division. If it wants to delete the whole clause, why would it not vote with us on this occasion and then vote against the whole clause? Why does it not vote with us to keep it in the clause and then on principle vote against the whole clause?

The Hon. T.G. ROBERTS: I thought we had been travelling together, but we seem to have parted the ways on this one. We agree with the principle the Democrats have espoused in relation to regulations.

The Hon. A.J. Redford: You oppose the subclause as well, don't you?

The Hon. T.G. ROBERTS: Yes.

The Hon. A.J. Redford: So, you want to get rid of subclause (5) as the middle ground but you would prefer to get rid of the whole lot.

The Hon. T.G. ROBERTS: We do not have the numbers to do that.

The Hon. A.J. REDFORD: I want to ask the honourable member a question so that I understand the ALP's position.

The Hon. Ian Gilfillan: I thought you were the spokesman for the Opposition.

The Hon. A.J. REDFORD: I might not be, but let us explore it. My understanding of the ALP's position is that it does not want clause 111, which imposes an obligation for codes of conduct, but it recognises that it may not have the numbers, so it will get rid of subclause (5) which provides that we can set codes of conduct principles by way of regulation. Why does the ALP say it wants codes of conduct for members of Parliament but not for employees of councils? I must ask the same question of the Government: why do we seem to oppose codes of conduct for members of Parliament yet get quite excited about it when we impose them on others? I see some extensive hypocrisy on both sides in relation to this issue, but maybe I have missed the point.

The Hon. DIANA LAIDLAW: When we were looking at a similar provision under a code of practice in clause 92(4), the Hon. Mr Gilfillan may remember that, rather than delete the whole provision, he agreed to accept the Government's argument that this was necessary in part but moved to delete some words. So, what he did—

The Hon. Ian Gilfillan: It was because you were being so hard to get on with; that's why.

The Hon. DIANA LAIDLAW: I want that on the record, because that is not my nature. The Committee agreed to pass clause 92(4) which provided that a code of practice must include any mandatory provision prescribed by regulations, and we took out the words 'be consistent with any principle or requirement prescribed by the regulations and.' Would the honourable member be prepared to adopt a consistent stand in moving his amendment but in an amended form? In respect of clause 111, he could move to delete the words 'be consistent with any principle or requirement prescribed by the regulations and'.

The Hon. IAN GILFILLAN: The Minister has a short memory. The only reason I even considered that was that she refused to consider my replacement clause 4 without this concession. The Minister does not have the bargaining power in this one. I have absolutely no intention of backing away from what is a strongly held Democrat position: codes of conduct should be those determined by the council responsible.

The Hon. DIANA LAIDLAW: I am coming from a position of principle, because I was asking the Democrats to be consistent.

Amendment carried; clause as amended passed.

Clause 112.

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

Page 90, after line 2—Insert:

(2) A council may only make a declaration under subsection (1) with respect to officers who are, in the opinion of the council, exercising signification statutory discretions.

The Hon. DIANA LAIDLAW: I have been advised that the Government wishes to oppose this amendment. It creates problems in terms of definitions. It is preferable to leave the decision with councils and to ensure that non-statutory guidelines are available to assist councils to decide when it is appropriate to oppose the requirement.

The Hon. IAN GILFILLAN: It is wonderful to hear the consistency of the Government on this matter. It is now freely allowing the council to have right of determination of this, and we agree with the Government's position 100 per cent. Therefore, the Democrats will oppose the ALP's amendment, because, although it may be good advice, the fact is that we entrust the council to take its own good counsel on this and determine who should or should not be required to fill in the register of interests.

Amendment negatived; clause passed.

Clauses 113 to 116 passed.

Clause 117.

The Hon. IAN GILFILLAN: I move:

Page 90, line 31—After 'division applies' insert:
(other than the Chief Executive Officer)

The chief executive officer is required to maintain a register of interests, including himself or herself. Subclause (2) contains the anomaly that, if a person to whom this division applies fails to submit a return to the chief executive officer, and that person is the chief executive officer, he or she would be reporting to himself or herself.

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

The Hon. T.G. CAMERON: SA First supports the amendment.

Amendment carried; clause as amended passed.

Clause 118 passed.

Clause 119.

The Hon. IAN GILFILLAN: I move:

Page 91, after line 8—Insert:
(2) A person is entitled to inspect (without charge) that part of the register that relates to the chief executive officer.
(3) A person is entitled, on payment of a fee fixed by the council, to a copy of that part of the register that relates to the chief executive officer.

This amendment relates to public access to the register. Clause 119 reads:

The chief executive officer must, at the request of a member of the council, permit the member to inspect the register.

This virtually means that the public is not permitted to know, and that is not acceptable. My amendment does place the CEO on the same footing as elected members in regard to register of interests. It is reasonable to expect that the LGA would oppose this measure. I move it because I believe that CEOs of councils play an extraordinary influential role not only in the day-to-day workings of the council but also in its decision making and under those circumstances it is important that they are able to be scrutinised to an equivalent footing as elected members.

The Hon. T.G. CAMERON: SA First will oppose the amendment moved by the Hon. Ian Gilfillan. I do not accept that a CEO is the same as a councillor. I accept that they can exercise an enormous amount of influence on councillors, and there are times when CEOs run the show, but I do not accept that the CEO register should be available to the public. I accept the arguments put to me by the Local Government Association that, provided that the register is accessible by all of the elected councillors, that acts as a sufficient check to ensure that the CEO acts properly. I am not sure that I like the precedent of establishing a register for employees in this situation and I would be a little concerned as to where this might flow.

The Hon. DIANA LAIDLAW: The Government supports all the very good arguments put by SA First in opposing the amendment.

The Hon. T.G. ROBERTS: The Opposition will not support the amendments, for the reasons outlined by the Hon. Terry Cameron.

Amendment negatived; clause passed.

Clause 120.

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

Page 91, after line 15—Insert:
(2) Despite any other provision of this Act, any part of the minutes of a meeting of a council, council committee or subsidiary that contains information disclosed under subsection (1)(b) is not available for public inspection under this Act.

The Hon. IAN GILFILLAN: I indicate that I do have some concerns about this amendment. It appears to me that it would prevent or restrict public access to any council minutes if such record disclosed an employee's interests. It could be argued that it is too secretive. If the council is discussing employees' affairs, why not hear about it? If it were to be sensitive enough to the point that the meeting could be closed on the basis covered in clause 90, that is the avenue where I think it could have been implemented. I must indicate that the Democrats, although not strongly, do not support the amendment.

Amendment carried; clause as amended passed.

Clauses 121 to 128 passed.

Clause 129.

The Hon. IAN GILFILLAN: I move:

Page 99, after line 17—Insert:
(9) If an auditor is removed from office under subsection (5)(f)—
(a) the council must inform the auditor and the Auditor-General in writing of the reasons for the removal; and
(b) the auditor must, if the Auditor-General so determines, complete an audit commenced before the date of removal (at a rate of remuneration determined by the Auditor-General).

This amendment was sought or encouraged by the accountancy profession, partly to protect against unwarranted dismissal of an auditor in the pursuit of his or her professional duty. The amendment inserts subclause (9) after subclause (8) of clause 5 which provides:

The office of auditor becomes vacant if. . .

Then there are conditions about what happens between a council and an auditor. My proposed subclause (9) provides:

If an auditor is removed from office under subsection (5)(f). . .

Subsection (5)(f) provides:

the auditor is removed from office by the council for reasonable cause.

If an auditor is removed from office, my proposed subclause (9) provides:

(a) the council must inform the auditor and the Auditor-General in writing of the reasons for the removal; and
(b) the auditor must, if the Auditor-General so determines, complete an audit commenced before the date of removal (at a rate of remuneration determined by the Auditor-General).

The Hon. T.G. CAMERON: SA First will be opposing the amendment moved by the Hon. Ian Gilfillan. I think it is overly bureaucratic, and I am still smarting from the last reference to the Auditor-General when he spent $350 000 preparing the Port Adelaide Flower Farm report. I am not sure I want to send anything back to the Auditor-General.

The Hon. DIANA LAIDLAW: The Government is fully persuaded by SA First's arguments.

The Hon. T.G. ROBERTS: The Labor Party will be opposing the amendment.

Amendment negatived; clause passed.

Clause 130.

The Hon. IAN GILFILLAN: I move:

Page 99, line 22—Leave out 'and principles'.

It is quite clear that it is appropriate for standards to be prescribed in regulations, but not principles.

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

Amendment carried; clause as amended passed.

Clauses 131 and 132 passed.

Clause 133.

The Hon. IAN GILFILLAN: I move:

Page 102, after line 8—Insert:

(1a) A council may make a document available in electronic form for the purposes of subsection (1)(a).

(1b) A council must ensure that any document available for inspection under subsection (1)(a) is also available for inspection on the Internet within a reasonable time after being available at the principal office of the council.

(1c) However, subsection (1)(b) does not apply to any document of a prescribed kind.

This amendment allows local government to embrace modern technology by inserting additional subclauses concerning technology into the clause dealing with access to documents. The rate of expansion in percentage terms of the population who are becoming familiar with using the Internet to acquire and exchange information is astounding. It is clearly the technology that will be predominant in a very short time—indeed, it is very nearly predominant now. It is important that I signal to the Committee that an amendment that I will move to the statutes legislation which allows for the adaptation and transfer of some of these matters will provide for a 12 month period of grace. If that is successful, councils will have a reasonable cushion time in which to comply with this measure.

The Hon. DIANA LAIDLAW: I move:

Page 102, after line 8—Insert:

(1a) A council may make a document available in electronic form for the purposes of subsection (1)(a).

(1b) A council should also, so far as is reasonably practicable, make the following documents available for inspection on the Internet within a reasonable time after they are available at the principal office of the council:

(a) agendas for meetings of the council or council committees;

(b) minutes of meetings of the council or council committees;

(c) codes of conduct or codes of practice adopted by the council under this Act or the Local Government (Elections) Act 1999;

(d) the council's contract and tenders policies, public consultation policy, rating policy and order-making policies;

(e) a list of fees and charges imposed by the council under this Act;

(f) bylaws made by the council;

(g) procedures for the review of decisions established by the council under Part 2 of Chapter 13.

I respect what the Democrats are trying to achieve with this amendment. It provides that documents for inspection be made available in electronic form and that all documents which must be available for inspection must also be available on the Internet except for those of a prescribed kind, and that there is to be a phase-in period of one year for this purpose.

The Government is of the view that the class of documents captured by the amendment moved by the Australian Democrats is too broad. When one considers the debates that we have had in this place yesterday and tonight, there is some irony here, a sense of *deja vu*, because in our amendment we have defined the documents in the Bill that must be available on the Internet; we have not left them as exceptions to be prescribed by regulation. It is very clear what we are seeking from councils in terms of the availability of material on the Internet.

The Hon. T.G. CAMERON: SA First supports the Minister's amendment. Whilst I have sympathy for the amendment moved by the Hon. Ian Gilfillan, I think it goes too far and I prefer the Government's amendment, because it does not make it mandatory for councils to act within one year. When one considers that the South Australian Parliament has only just gone onto the Internet, I do accept the Government's arguments that the Democrats' clause is too inclusive, and I accept the position put to me by the Local Government Association that it will move to the Internet: it just does not want to be compelled to do it in the way that is set out by the Hon. Ian Gilfillan. So, I support the Government's amendment.

The Hon. T.G. ROBERTS: As we move forward into the technological age, I think it would have been hard to get wording that was suitable because of the changing nature of technology. I think that the Democrats' amendment does put the wood on the councils perhaps to act a little in advance of where they may stand now. So, I agree with the Government's slightly more cautious approach. However, I think that the intention of the Democrats will probably be reached eventually.

The Hon. IAN GILFILLAN: I take some consolation in the fact that I do not believe that the Government's amendment would have come about unless we had been pushing the way forward. It may well be that the councils surprise us and that they are ahead of the game and leave the Government's amendment far behind. I think it is unfortunate that it is qualified in (1b) of the Government's amendment, which provides:

A council should also, as far as it is reasonably practicable, make the following documents available—

So, really, it is a gentle nudge rather than a requirement. I think that the list is deficient at least in so far as: charter for subsidiaries, management plans for community land, resolutions of councils, record of delegations, annual reports and annual budgets, all of which could reasonably be included in the Government's list. However, I think that the initiative is there. Although it appears as though I am short of one or two numbers to get my amendment up, I am happy to see that the Committee is supporting the initiative, even with the deficiencies that I have outlined. I hope that the council community will recognise very quickly the advantage of this. I hope, too, that the public will use it and that the efficiency in the demand will mean that our encouragement tonight will be shown to have borne fruit and that the councils take off on their own initiative.

The Hon. I. Gilfillan's amendment negatived; the Hon. Diana Laidlaw's amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 102, line 12—After 'this Act' insert:
or the Local Government (Elections) Act 1999

This is a technical correction which is consequential on including in schedule 4 the record of campaign donations referred to in the Local Government (Elections) Bill. It clarifies various positions.

Amendment carried; clause as amended passed.

Clause 134 passed.

Clause 135.

The Hon. DIANA LAIDLAW: I move:

Page 104, line 6—Leave out 'a bank' and insert:
'an'

Again, this is a technical amendment consequential upon the recent enactment of the Financial Sector Reform (South Australia) Act 1999, which came into operation on 1 July 1999. References to various financial bodies are being updated in all legislation and it is necessary to make a similar amendment to this clause in this Bill.

Amendment carried; clause as amended passed.

Clauses 136 to 142 passed.

Clause 143.

The Hon. IAN GILFILLAN: I move:

Page 109, line 17—After 'civil liabilities' insert:
'at least'

This amendment is just an insurance on insurance. It allows the councils to cover adequately. As the clause currently stands, the council must take out and maintain insurance to cover its civil liabilities to the extent prescribed by the regulations. Regulations are not necessarily kept up frequently enough to be relied upon, and I am seeking to have the words 'at least' included so that the councils are free by the authority of the Act to cover their liabilities to the extent that they consider to be prudent.

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

Amendment carried; clause as amended passed.

Clauses 144 to 147 passed.

Clause 148.

The Hon. IAN GILFILLAN: I move:

Page 111, line 32—After '(as the case may be)' insert:
', except any such land occupied by a subsidiary that is involved in a significant business activity'

This amendment is in regard to rateability of land. Clause 148(2) provides:

The following is not rateable:

Paragraph (g) provides—remembering that this is land which is not rateable:

land occupied by a subsidiary where the land is situated in the area of the council that established the subsidiary or a constituent council (as the case may be);

I am seeking to include 'except any such land occupied by a subsidiary that is involved in a significant business activity'. This is in the cause of some degree of neutrality in the competitive principles. I can only guess that it could possibly be challenged down the track by the ACCC: if a subsidiary is competing in an open market with another company that is on rateable land and the subsidiary is allowed by the council to operate on a non-rated property, it could be challenged.

Apart from that, it is just related to the principle of fairness regarding the operations. The council would still have a discretion to grant a rebate under clause 160. Although the Government has an amendment to schedule 2 that it claims addresses this issue, I still believe that my amendment is important, because it removes the prohibition on rating subsidiaries. It still gives a council a discretion and therefore more autonomy, but it quite clearly sends a signal that subsidiaries are not automatically rates exempt.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. The Hon. Ian Gilfillan is seeking to ensure that these business subsidiaries pay rates. He is making it mandatory to do so. He has alluded—

The Hon. Ian Gilfillan: I am sorry?

The Hon. DIANA LAIDLAW: I said 'mandatory'; that they would not be exempt from paying rates.

The Hon. Ian Gilfillan interjecting:

The Hon. DIANA LAIDLAW: That is my advice in terms of the impact of this amendment.

The Hon. IAN GILFILLAN: My amendment provides:

, except any such land occupied by a subsidiary that is involved in the significant business activity

The Hon. DIANA LAIDLAW: Yes, but for those it would be mandatory. We say that that is not acceptable; that to lump all of those business subsidiaries in those circumstances into one bucket and say that it is mandatory to pay rates is not acceptable. We believe that the individual circumstances in each instance should be taken into account, and that is what we are seeking to do with our amendments to schedule 2. The amendments take into account the individual circumstances applying at any one time to any of these business subsidiaries.

In part we accept some of the concerns the honourable member is expressing, but we would not wish to make it mandatory in such instances for these subsidiaries to pay rates. We will seek to accommodate a sort of halfway ground in terms of the matters raised by the Hon. Ian Gilfillan by moving our amendments to schedule 2. We believe that it is better business practice.

The Hon. T.G. CAMERON: SA First supports the Government's position.

Amendment negatived; clause passed.

Clauses 149 to 151 passed.

Clause 152.

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

Page 113—lines 28 to 32, page 114—lines 1 to 4—Leave out subclause (1) and insert:

(1) A rate must be based on the value of land[1] subject to the rate, except if another provision of this Act specifically allows for a different basis.

[1]See Division 6 for provisions concerning the valuation of land for the purposes of rating.

This amendment maintains our Party's policy in relation to rating values based on the value of the property.

The Hon. DIANA LAIDLAW: The Government opposes this amendment and the related amendments the honourable member has to this clause. The rating system set out in the Bill aims to give additional flexibility to councils in setting their rating structures to meet what they see as the equity needs of their communities. Councils have been seeking more flexibility in rating matters. I respect that the Labor Party set a policy at State Council and that the honourable member is reflecting that policy. However, irrespective of that policy, councils have been seeking more flexibility in these rating matters, and what is set out in the Bill provides that flexibility.

The provisions of clauses 152 and 153 provide options for councils—for instance, the general rate may be based on the value of land or a fixed charge combined with a rate based on the value of the land, or it may be based entirely on a fixed charge. The proposed amendment certainly would remove a third of these options, that is, it would be based entirely on a fixed charge. The fixed charge can be seen as broadly representative of each property's contribution to the costs of a core set of common services and benefits that are made available to the common area.

The Hon. IAN GILFILLAN: The Democrats oppose the amendments, not because of any objection to the formula and the principles that are spelled out in them so much as supporting the independence and the capacity for councils to make as far as possible their own decisions. I am hopeful, and I feel sure, that many councils will deliberate on the amendments, maybe not in this particular form but these issues, and I hope that many of them will come to reflect in their rating policy what has been sought to be included by way of amendment into the Act by the ALP. But because we believe it should be a choice that the councils make themselves we cannot support the amendments.

The Hon. T.G. CAMERON: I will be opposing the amendments moved by the Hon. Terry Roberts, based on the flexibility of councils argument.

Amendment negatived; clause passed.

Clause 153.

The Hon. DIANA LAIDLAW: I move:

Page 114, line 19—Leave out 'the' and insert 'two'.

It is a drafting correction.

Amendment carried; clause as amended passed.

Clause 154 passed.

Clause 155.

The Hon. IAN GILFILLAN: I move:

Page 116, line 15—Delete the words, 'under or with the approval of the Minister,'.

It is consistent with a theme which I have attempted to put through the Bill of removing what I see to be unnecessary intrusion or determination by the Minister and leaving those relevant decisions to be made by the council. In this case, it is with respect to separate rates. Clause (2) provides:

A separate rate may be based on—
(a) the value of land subject to the rate; or—

and this is the paragraph I am amending—

(b) under or with the approval of the Minister, a proportional measure or other proportional basis related to the relevant land or the area, or to the estimated benefit to the occupiers of the land in the part of the area subject to the rate.

Quite simply, my amendment would relieve the council of the obligation to have to get the approval of the Minister to make a decision to have a separate rate on that basis.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. The Bill provides for ministerial approval only if a council intends to use a basis other than land value for a separate rate, so it is not broad ranging; it applies only in a particular circumstance. It also provides a check against possible excessive use of separate rates based on various measures which may not have community support.

The Hon. T.G. ROBERTS: The Labor Party will be supporting the amendment.

The Hon. T.G. CAMERON: SA First will be opposing the amendment.

Amendment negatived.

The Hon. IAN GILFILLAN: As my next indicated amendment is consequential, I will not proceed with it. The amendment defeated was supported by the LGA and by the Institute of Rate Administrators. I am sure that information would not have affected the deliberations of the Committee but it means that not only am I disappointed on my own but also the LGA and the Institute of Rate Administrators are disappointed.

Clause passed.

Clauses 156 to 167 passed.

Clause 168.

The Hon. DIANA LAIDLAW: I move:

Page 126—
Line 6—After 'made' insert:
, or caused to be made,
Line 7—After 'council' insert:
, or by a firm or consortium of valuers engaged by the council
Line 11—Leave out 'of the Valuer-General'.
Lines 15 and 16—Leave out 'of a valuer employed or engaged by the council'.

The amendments reflect the administrative changes being made in the Department for Administrative and Information Services to implement the separation of the regulator and service provider roles in its valuation activity and the likelihood of further contracting out to the private sector of some of Valuation SA's service provision on the basis of the competitive tender. The wording reflects the wording of section 11(1) of the Valuation of Land Act 1971. It reflects wording that has been in the relevant principal Act since 1971. It just was not necessarily picked up earlier and what is in the Bill is being upgraded to current practice.

The Hon. IAN GILFILLAN: My understanding of these amendments is that they are to get more consistency in valuations and I do not see any reason to oppose the amendments.

Amendments carried.

The Hon. DIANA LAIDLAW: I move:

Page 126, lines 17 and 18—Leave out 'made by the Valuer-General and valuations made by a valuer employed or engaged by the council' and insert:
under subsection (2)(a) and (b).

It is consequential to the Government's amendment to lines 6 and 7 of this clause.

The Hon. IAN GILFILLAN: I move:

Page 126, lines 17 to 23—Leave out paragraphs (b) and (c).

I must say that what we are going through is a pretty complicated mangling of the clause. Paragraphs (b) and (c) deal with what would control a council if it adopted a combination of valuations and its option to choose, as I read paragraph (c):

all land within a particular land use category declared by the regulations as a permissible differentiating factor must be subject to valuations adopted under subsection (2)(a) or to valuations adopted under subsection (2)(b), and not to a combination of both.

It is probably difficult for members of the Committee to get a grasp of all the commutations that come from this clause and the amendments that we are dealing with, and I am no exception to that. But I believe that my amendments offer the councils, again, more option, discretion and autonomy in choosing in their own wisdom whether to use private valuers for part or a particular part of their valuation. In some ways, in the Bill the Government—and the Government is not seeking to amend this in its amendments—is implying that some valuers may be untrustworthy or incompetent. I think that it is for councils to make that evaluation. They will very quickly learn; in fact, they may be more astute at picking the right people to do the job.

In moving my first amendment to leave out paragraphs (b) and (c), that is the intention of it. I feel that it is probably fair to indicate that the advice I have had is that the LGA supports the deletion of paragraph (c) but has required the retention of (b) but to have it amended. That probably does not clarify the issue particularly: it just indicates in the state of fairness what is the LGA's opinion.

In my opinion, my amendments are consistent with the Democrats' constant theme of 'where possible, we have been prepared to leave the councils to have the discretion and the autonomy'.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. The removal of these clauses leaves no assurance of consistency of valuations used for local government rating. Councils could potentially pick and choose which properties to value without any safeguards or overall standards and accountability. It is an important matter of public policy principle with regard to ensuring a fair and equitable public taxation base, as we have provided in the Bill, and we believe that that equitable public taxation base would be threatened. The Government amendments which I

have already moved to this clause ensure that the Valuer-General does not have a *de facto* monopoly in this matter.

The Hon. Ian Gilfillan's amendment negatived; the Hon. Diana Laidlaw's amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 126, page 19—After 'guidelines' insert:
', policies'.

The Government believes that this amendment better reflects the intended role of the Valuer-General in assuring overall consistency of approach in making evaluations for local government rating purposes. It is a bit of clarification.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 126, after line 25—Insert:
(4a) Subsection (3)(c) does not apply in a case where the land use category attributed to a particular piece of land is changed following the declaration of a rate or rates for a particular financial year.

This new clause is designed to address a technical problem which could potentially arise from the application of the requirement in clause 168(3)(c) that all properties within a land use category must be valued by the same valuation source.

Amendment carried; clause as amended passed.

Clauses 169 to 171 passed.

Clause 172.

The Hon. IAN GILFILLAN: I move:

Page 129, line 19—Leave out 'its' and insert:
the council's

I believe that the amendments to lines 19, 21 and 24 are all connected with the intention of this amendment to remove the obligation of councils to undergo this comparative council rating process, which they were dreading. I think there will be great sighs of relief across the local government community to hear that the Government supports the Democrats' amendments and that they will no longer be required to comply with the rather onerous, enormously time consuming method required in order to reflect the consideration of issues of consistency and comparability across council areas in the imposition of rates on various sectors of the business and wider community. I am very pleased to hear that these amendments appear to have the numbers.

The Hon. DIANA LAIDLAW: I accept the amendment. However, I do not accept the other amendments.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 129—
Line 19—Leave out 'council areas' and insert:
its area
Line 21—Leave out 'its' and insert:
the council's
Line 24—Leave out 'it' and insert:
the council

The Hon. DIANA LAIDLAW: The Government vigorously opposes the amendment moved by the Hon. Mr Gilfillan to the second part of line 19. The intention of the clause is to require councils to look beyond their own area, consider relevant comparisons and justify the level and impact of their rating structure. The provision does not require all councils to have the same rates. That has never been suggested, it is not the Government's intention, and it is certainly not provided for in the Bill. The Bill merely requires councils to think about these issues in a broader context.

The Bill also aims to address commonly expressed concerns from businesses and other ratepayers when they query why rates for a particular type or value of property can vary so markedly between council areas. All members of Parliament would have this matter drawn to their attention from time to time—why a business in the same line of practice and maybe bordering a council boundary would have such dramatically different rates? If councils look beyond their area and consider issues that are broader than those that apply just within their own area, the procedure will be more transparent in terms of the way in which rates are considered in this State, and it will certainly answer many queries from businesses across boundaries in the future. It would be better practice overall.

The Hon. IAN GILFILLAN: An opinion is held not just by me but by the LGA and the rate assessors regarding the obligation under the Bill that a council must, for each financial year, adopt a rating policy, and that the rating policy must indicate the relationship between a council's strategic management plans, its budgets and its rate structure. That is okay. It must also reflect its consideration of issues of consistency and comparability across council areas—arguably the whole State—in the imposition of rates on various sectors of the business and wider community. That will require an enormous amount of work and research, because each council will vary from year to year, which means that each council will have to update the data of every other council. To what purpose? For one thing, there is no guarantee that there are directly comparable sets of data.

There will be a quite wide divergence between the criteria that will evolve with different councils. Apart from the academic exercise of having a vast amount of paper or Internet material—which only a very rare breed of student would even bother to look at—it would have absolutely no practical purpose and it would be an enormous cost and a drain on the time of the staff of the council. It is a pointless measure, and I hope that the Committee will support my amendment.

My amendment is to take out the obligation to have the comparison between council areas and replace it with the words 'its area', which means that a council itself can quite properly reflect on the issues of consistency and comparability and the imposition of rates on various sectors of business in the wider community. That is fair enough, but to impose the obligation as the Bill and the Government want, they have to get data from every other council and prepare this great document—

The Hon. Diana Laidlaw: Where does it say 'every other council'?

The Hon. IAN GILFILLAN: 'Across council areas'.

The Hon. Diana Laidlaw: That is not every other council.

The Hon. IAN GILFILLAN: Certainly that is the interpretation placed on it not only by us but also the Local Government Association and the rate assessors, but if the Government is prepared—

The Hon. T.G. Cameron interjecting:

The Hon. IAN GILFILLAN: I am interested in trying to find the facts. If the Government can assure me and put on the record that this is only an obligation, that is in divergence to all the discussion and information I have had on the Bill up to date.

The Hon. DIANA LAIDLAW: I have a bright idea—'adjoining council areas'. That is essentially what we mean, rather than 'across country areas'. The Adelaide City Council

is a prime example. It has to, and if it did not I would be aghast as a ratepayer—and I declare an interest. If it did not have some idea of what was happening across its boundary areas to business rates and the like, it would not be diligent in its duty in setting the rates for business to attract business back to the city. It is only sound common practice, and it would do it without us requiring that it do it. Maybe it does not and we should be comfortable that they are.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: No, you would hope it would, but why should we believe that the Adelaide City Council would—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: But why should you believe that the Adelaide City Council would do so?

The Hon. A.J. REDFORD: 'Adjoining' will not work. To give an example, if you have 'adjoining' you have Mount Gambier Council comparing its rates with Grant Council—they are two totally different councils with totally different rating systems and totally different demands. That will not be of any use to anybody either. Let the honourable member move something that is different from the Lower House and we will pick it up between now and next Tuesday when we have time to think about it. If we try to do it now on the run we will never get it right.

The Hon. IAN GILFILLAN: I appreciate the efforts at helpfulness by the Minister but, frankly, if there is a sense of responsibility by a council to achieve its best results both for its own motivation and for pressure from constituents like the Minister, they will want to compare and assess performances, and that will be taken as a very sensible part of the consideration in the policy. As it is drafted in the Bill, it is a 'must'. It is actually an injunction that the council 'must', and I do not believe that is appropriate.

The Hon. T.G. CAMERON: The Hon. Ian Gilfillan is drawing a very long bow if he argues that the wording in the current Act requires councils to check rating policies, and so on, right across the State. Councils are not staffed by complete morons. One would have thought that they would look at councils in their area or in their vicinity and compare like with like.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I am not quite sure what the Hon. Angus Redford is referring to. I think the honourable member draws a long bow when he argues that the wording in the clause means that the councils must look at all councils in the State and make relevant comparisons. I cannot see that in the clause.

The Hon. T.G. ROBERTS: There is no penalty if they do not. We will join with the Government in this. I think there will be a practical realisation for those people servicing their councils to come up with a reasonable application of the clause.

The Hon. IAN GILFILLAN: I am not happy to see this so glibly drifted through. There has been no explanation from anyone of a meaning for the words 'across council areas' other than the expectation that that embraces council areas in the State of South Australia. It is not defined; it is not restricted; it has no qualifying aspects to it. If a dutiful council is to comply with the injunction of this Act, it is obliged each year in its policy to reflect its considerations of issues of consistency and comparability across every council in South Australia. There is no other grammatical interpretation. There may be wishes and understandings and may be it will be better and may be it will be changed in practical effect.

My amendment would put in proper wording what I understand the Hon. Terry Cameron and both the Government and the Opposition would like to have: that the council is obliged only to do the assessment in its own area. If it is not the case that it be other than its own area, then the Bill should be more specific; that it may be one or two other councils of similar character. What are the adjoining councils for Kangaroo Island? It is a shame on this Committee if we slip this through with the naive hope that somewhere this will be tidied up.

The Hon. T.G. Cameron interjecting:

The Hon. IAN GILFILLAN: No, my amendment is quite clear. It means that paragraph (b) would apply only to the area of the council itself. Subclause (2) would provide:

> The policy must— . . .
> (b) reflect its consideration of issues of consistency and comparability across its area in the imposition of rates—

The Hon. T.G. Cameron: What is 'its area'?

The Hon. IAN GILFILLAN: 'Its area' is the area of the council—

> on various sectors of the business and wider community;

That seems to be a reasonable requirement of a council. Anything other than that means that the council will be obliged to do the consideration of other councils.

The Hon. T.G. Cameron: Neighbours and other people are doing it. That doesn't mean that they have to exhaustively analyse every council's rating process.

The Hon. IAN GILFILLAN: If the Hon. Terry Cameron wants it to be neighbours, it should be amended to read 'neighbouring councils'. We are here to construct legislation that is intelligible, interpretable and accurate. If no-one here knows what the meaning of council areas is—

The Hon. Diana Laidlaw: We all do except for you.

The Hon. IAN GILFILLAN: I would like someone to explain it to me. I beg the Minister to let someone else who supports the Government's position—either the Hon. Terry Roberts or the Hon. Terry Cameron—to explain to me what they understand by the meaning of the words 'council areas'.

The Hon. R.R. ROBERTS: What we are really talking about is a question of due diligence for councils in adjoining areas to avoid community disruption. A council should exercise due diligence in looking at what an abutting council does. The boundary line between two councils could embrace land of similar use, so if on one side a property is rated at $100 a year and a similar property on the other side is rated at $200 a year, there would be disruption between the communities. They would not be worried about the boundary line. It is a question of due diligence for councils to make a sensible assessment of rates in those areas so that is avoided. The Minister put a sensible proposition 15 to 20 minutes ago to refer to adjoining or abutting councils. It requires due diligence. I do not think that there is a huge penalty if they do not do it but there is a requirement that they provide due diligence. I would have thought that was a sensible thing to do.

The Hon. DIANA LAIDLAW: It is getting late and that can be the only justification for the quality of the debate, but that is not a reflection on the contribution of the Hon. Mr Roberts, which I appreciated because of its commonsense.

The Hon. Ian Gilfillan: Who are you reflecting on?

The Hon. DIANA LAIDLAW: You. There are 21 of us arguing against you. The honourable member is well

outnumbered. Everyone understands that, when you make policy decisions, you deal with numbers in general terms. No penalty is required here. I would have thought it was good practice and, under this Bill, we are asking councils to exercise good practice in terms of preparing and publishing a policy for their constituents. If I had a business, Adelaide City Council could tell me that it had considered rating in Unley, Prospect or Walkerville. Why would it not do so and put up something five times higher and lose most of the businesses in Adelaide? We are putting good practice into this Bill. What is happening at Paringa is not relevant to the Adelaide City Council. It would not waste its time on it and nor would we ask it. I do not think that we should spend more time on this provision.

The Hon. IAN GILFILLAN: Can the Minister explain what she means by the words 'council areas'?

The Hon. DIANA LAIDLAW: I just did.

The Hon. IAN GILFILLAN: It might be appropriate in calmer times and more tranquil waters to put in at least the words 'relevant council areas' because, with due respect to the Minister, as it is currently drafted it does not oblige a council to do what she would like it to do, and the wording should be framed to have some intelligence.

The Hon. DIANA LAIDLAW: I have always been a reasonable, accommodating individual. Although I do not know why I should, I suggest that I amend the measure, as follows:

Before 'reflect', insert 'in so far as may be relevant'

The Hon. IAN GILFILLAN: I am not sure that I would even qualify this as a compromise. I think it is quite a reasonable wording and gives some sense to the paragraph. It will be up to a council pretty much to determine the relevance, and I think that is a sensible rewording of that paragraph, and therefore I seek leave to withdraw my amendment to page 129, line 19.

Leave granted; amendment withdrawn.

The Hon. Diana Laidlaw's amendment carried.

The Hon. DIANA LAIDLAW: The Government will accept the Hon. Mr Gilfillan's other two amendments.

The Hon. Ian Gilfillan's amendments to lines 21 and 24 carried.

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

Page 129, after line 32—Insert:

(iva) issue of equity arising from circumstances where ratepayers provide or maintain infrastructure that might otherwise be provided or maintained by the council;

The Hon. DIANA LAIDLAW: The Government accepts this amendment.

The Hon. IAN GILFILLAN: I move:

Page 129, after line 32—Insert:

(iva) issues of equity arising from circumstances where ratepayers provide or maintain infrastructure that might otherwise be provided or maintained by the council, with particular reference to situations involving retirement villages;

This amendment is very similar to the Hon. Terry Cameron's amendment except for the addition of 'with particular reference to situations involving retirement villages'. The issue of both amendments is that there is a requirement for a council to be conscious of circumstances where ratepayers provide or maintain infrastructure that might otherwise be provided or maintained by a council. Quite clearly, retirement villages almost exclusively, although certainly not entirely, come under the circumstances in which that would apply. However, I believe it is an improvement on the amendment to have that recognition that my amendment has regarding retirement villages.

The Hon. DIANA LAIDLAW: The Government does not accept the Democrats amendment. The concerns expressed by the Hon. Mr Gilfillan are not really fairly applied to the amendments to be moved by the Hon. Mr Cameron because, in addition to the amendment before us, the Hon. Mr Cameron is proposing a linked amendment to the Statutes Repeal and Amendment (Local Government) Bill, which will address the very concerns about retirement villages and other things expressed by the Hon. Mr Gilfillan. The issue is addressed but in another and, we believe, better way.

The Hon. T.G. ROBERTS: Would it be possible to accept both these amendments?

The CHAIRMAN: There is slightly different wording at the end of the lines.

The Hon. DIANA LAIDLAW: I will explain: the words that are contained in the Hon. Mr Gilfillan's amendments specifically, with particular reference to situations involving retirement villages, are addressed by the Hon. Mr Cameron in his amendments to the Statutes Repeal and Amendment (Local Government) Bill.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Clause 31. I appreciate the Hon. Terry Roberts' concern. The concerns are addressed; we are not ignoring them. We just think that it is a better way in terms of statute and law.

The Hon. T.G. ROBERTS: It would be difficult to accept both those amendments, because they are almost a mirror image, except that we would be accepting the addition of the extra words. The Minister is saying that the extra words will be accommodated at a later date. With a show of faith, the Opposition will support the Government's position given that the matter is addressed at a later stage.

The Hon. T.G. CAMERON: The amendment to clause 31, page 25, after line 40 requires the councils, in respect of each of the first three financial years for which the council has a rating policy, to prepare and publish a report in accordance with the requirements I have set out in that provision. In addition, councils must ensure that a copy of the report is submitted to the Presiding Member of both Houses of Parliament in order that it can be tabled. They must also keep a copy of it for at least 12 months following its publication.

The Hon. Terry Cameron's amendment carried.

The CHAIRMAN: Is it the wish of the Committee to consider the Hon. Mr Gilfillan's amendment with the extra words?

The Hon. IAN GILFILLAN: I am not sure whether the Committee speaks with one voice but it is certainly pretty quick on the draw. I have had an informal discussion with the Hon. Terry Roberts. It is not a competitive game but it seems to me that—and I have had no chance to study it—the Hon. Terry Cameron may well be moving constructive amendments to another Bill, and I accept that that has been thought through. I cannot see any damage or mischief that would be done by including the last paragraph of my amendment in the amendment of the Hon. Terry Cameron.

It is beyond my understanding to see that that would be counterproductive or cause any injury to the purpose we have all agreed we want to see achieved. I would like, if it were possible (and I am in the Chair's hands), to see whether we can test the Committee by moving an amendment to the Hon. Mr Cameron's amendment. I move:

That the words 'with particular reference to situations involving retirement villages' be added after the word 'council'.

The CHAIRMAN: The Hon. Mr Gilfillan is moving to add the words 'with particular reference to situations involving retirement villages' to the words of Mr Cameron's amendment.

The Hon. DIANA LAIDLAW: It is not necessary.

The CHAIRMAN: It may not be, but members of the Committee have the right to move what they like.

Amendment negatived; the Hon. Mr Gilfillan's amendment negatived; clause as amended passed.

Clauses 173 to 181 passed.

Clause 182.

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

Page 136, line 24—Leave out '5 per cent' and insert '2 per cent'.

I want to outline some of the history behind this amendment. I first tripped across this matter a few years ago following an unfortunate experience I had with the Adelaide City Council in the payment of my rates. For one reason or another, the payment of my rates turned up at the Adelaide City Council a fortnight after I had posted it and it was one day after the cut off date. I received rude if not brusque treatment from the council as I tried to explain what had happened.

Anyway, I thank the Adelaide City Council for sparking my interest in this matter. When I looked at it, I could see that the position was inequitable as far as people who could not pay their rates on time was concerned. If one looked at what kind of interest rates people were paying on late payment of rates in the 1996-97 period, they were up in the 18 to 19 per cent bracket. The reason for that was the following. We fixed an annual rate. If you were late you got hit with a 5 per cent penalty. Thereafter, the interest accrued at the prime bank rate plus 3 per cent. It accrued monthly, and it compounded. That meant that people who could not afford to pay their rates on time were being hit with interest rates of somewhere between 18 and 19 per cent.

Further questions I asked the Government showed that councils were collecting over $3 million in fines from unpaid council rates. Further questions I asked showed that the late payment of council rates was concentrated in the northern, southern and western suburbs of Adelaide. In other words, people who lived in lower socioeconomic areas were paying penalty interest at the rate of between 18 and 19 per cent when home loan bank rates were running at 7.5 to 8 per cent.

I made a number of representations to the Minister, Mark Brindal, in relation to this inequitable situation. An argument put to me at one stage against the proposal to lower the interest rate was, 'Hang on a minute, we can't do that; we will let all the developers off scot-free.' In the Government's quest to pursue the developers, it meant that it was hitting ordinary wage earners with interest rates of between 18 and 19 per cent. Notwithstanding that, the treatment that some councils were meting out to people who were late in the payment of their rates was nothing short of disgraceful.

I made that point clear to the Local Government Association. I think I wrote to a number of councils on behalf of constituents who in my opinion had very good reasons for having their fines waived. On not one occasion did a council accept either representations I made to them or that were made by constituents. Because of their high-handed approach in the way that they dealt with these claims, in my opinion, they can only thank themselves for the amendment I have moved.

They brought it upon themselves. In the end, I got so exasperated with the way councils were treating people who had not paid their rates on time that I decided I would forward all copies of correspondence to the Minister, Mark Brindal. As I indicated earlier, I approached Mark Brindal on this issue a number of times and I thank him for the hearing he gave me. It was a sympathetic hearing and, if one looks at the Bill introduced by the Government in its original form, one can see that the Minister must have listened to the point I made to him because, in his original Bill he had decided to introduce quarterly billing and change the rate from the prime bank rate, which is currently 7.2 per cent to the cash advance debenture rate, which is currently 5.75 per cent. Unfortunately, however, that still meant that the real interest rates on outstanding council rates could have been up around 12 per cent or 13 per cent.

The amendment standing in my name provides for the cash advance debenture rate of 5.75 per cent to be used. It lowers that initial fine of 5 per cent to 2 per cent. My amendment still incorporates the 3 per cent which would come on top of the cash advance debenture rate. If one does a calculation on what the proposal is that I am putting forward, that is, a 2 per cent fine plus interest plus the CADR, based on quarterly instalments, it would mean that at the end of the year the total penalty that would have accrued to the individual would have been $53.47, based on a rate notice of $1 000. Some people might jump in and say, 'Wait a minute, that is only 5.34 per cent.' Let me quickly point out that that is not the case, because this is based on quarterly instalments.

I did calculations on a whole range of options. If one was to look at a single instalment using the provisions of the current Act, the penalty at the end of the year would have been $133.11. If you did your calculations based on quarterly instalments using the provisions of the current Act, at the end of the year the penalty would have been $91.20. If you used a single instalment using the provisions of the Bill, unamended, the penalty would have been $120.95. If you operated on the basis of quarterly instalments using the provisions of the Bill unamended, the total penalty would have been $85.22. Based on a single instalment with a 2 per cent fine plus the CADR the total annual penalty would have been $86.94. However, the option that I have placed before the Committee for consideration would involve a penalty at the end of the year of only $53.47, which would provide some much needed relief for those people who are having trouble paying their rates.

I would like to briefly address the argument, which is the only argument I have heard against this proposal, that this might provide a windfall for developers in that the interest rates that they would be required to pay under this scheme would be less than what they would be required to pay people they borrowed money from. That argument is a nonsense because we are still retaining a 2 per cent fine plus an interest rate 3 per cent above the cash advance debenture rate and, in any case, there is a whole range of other options in the Bill if developers decide to sit on land and refuse to pay their rates. I commend the amendment to the Committee.

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

The Hon. T. CROTHERS: Independent Labour supports the Cameron amendment.

Amendment carried.

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

Page 136, lines 26 and 27—Leave out 'and interest) is payable' and insert:

but excluding interest from any previous month) accrues

This amendment relates to the penalty on rates not paid by the due date. It has the effect of prohibiting the imposition of interest on interest already imposed. Interest may be charged on the amount of rates in arrears and a fine imposed on that amount, but interest may not be charged on any interest imposed each month after the due date.

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

Amendment carried; clause as amended passed.

Clauses 183 to 206 passed.

Progress reported; Committee to sit again.

STATUTES AMENDMENT AND REPEAL (JUSTICE PORTFOLIO) BILL

Returned from the House of Assembly without amendment.

MINING (PRIVATE MINES) AMENDMENT BILL

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

[Sitting suspended from 12.4 to 10 a.m. Friday].

LOCAL GOVERNMENT BILL

In Committee.

Clause 207.

The CHAIRMAN: I hope members are refreshed from the breakfast break. We are considering clause 207.

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

Page 153, lines 15 to 34—Leave out subclauses (2), (3), (4) and (5) and insert:

(2) However, before the Council grants or renews a lease or licence over land in the Adelaide Park Lands for a term of 21 years or more, the Council must submit copies of the lease or licence to the Presiding Members of both Houses of Parliament.

(3) The Presiding Members of the Houses of Parliament must, within six sitting days after receiving a copy of a lease or licence under subsection (2), lay the copy before their respective Houses.

(4) A House of Parliament may resolve to disallow the grant or renewal of a lease or licence pursuant to a notice of motion given in the House within 14 sitting days after a copy of the lease or licence is laid before the House under subsection (3).

(5) The Council may only grant or renew the lease or licence if—

(a) no notice of motion for disallowance of its grant or renewal is given in either House of Parliament within 14 sitting days after a copy of the lease or licence is laid before the Houses; or

(b) neither House of Parliament passes a resolution disallowing its grant or renewal on the basis of a motion of which notice was given within 14 sitting days after a copy of the lease or licence was laid before the House under subsection (3).

The Hon. DIANA LAIDLAW: The Government accepts the amendment to the provisions related to leases and licences over land in the Adelaide parklands.

The Hon. IAN GILFILLAN: This amendment would remove the Environment, Resources and Development Committee's sole power to veto a lease of 21 years or more and gives it to either House of Parliament. Is that the intention of the amendment? In the Bill the Environment, Resources and Development Committee is the gate and, if it does not object, then the matter does not get considered by Parliament. Although it seems a moot point, the advice I am getting is that we will support the ALP's amendment.

Amendment carried; clause as amended passed.

Clause 208.

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

Page 154, after line 3—Insert:

'Capital City Committee' means the committee of that name established under the City of Adelaide Act 1998;

When I first examined the original Bill, I was opposed to this legislation. It appeared to me to be very similar to an ambit claim lodged by a trade union. I remind the Committee that I prepared a few ambit claims when I worked for a trade union for nearly 10 years. I thought the proposal was ill-conceived. The original Bill proposed a land bank—an unfortunate title which I will seek with an amendment to change to 'land trust'. I indicated my opposition to the Government: that I could not support the Bill in its current form. However, I do not take the view that it is South Australia's first role to reject automatically Government legislation. Rather, one should start from an objective position and attempt to familiarise oneself with the arguments, both for and against, before arriving at a final decision. It might be a long and tortuous path but, in the end, you get better results.

In my quest to understand fully the ramifications of the Bill, I engaged in an extensive round of consultations with all the main stakeholders. These included three meetings with the Adelaide City Council, plus correspondence, and I met with Jane Lomax-Smith, Jude Munro and Michael Harbison. There were also a range of meetings with and volumes of correspondence from the Local Government Association. I also had numerous meetings with the Minister, officers from the local government office and ministerial assistants.

At this stage, I want to congratulate Minister Brindal not only for his open and extensive consultation process with councils but also for the open and extensive consultation process that he conducted with me and my office. I visited numerous country councils, all of which praised the Minister's willingness to consult, listen and act accordingly. I also record my appreciation to the Minister for his frankness. He and his staff are always available for discussion or to sort out problems.

It is not every day that I return to my office to find a Government Minister standing at the door, waiting to discuss some Government legislation with me. It is not very often—a first, I think—to find a Government Minister sitting in the Hon. Trevor Crothers' office, having a coffee, chatting and explaining his Bill.

I also want to record my appreciation to Paul Butler, whom I know I and my staff have driven to exasperation over the past few weeks. Whilst we had differences of opinion (and I know at times I can express my differences of opinion somewhat forcefully), at all times he maintained his cool and conducted himself with a professionalism that I have come to respect. I suggest that some other Government Ministers could take a leaf out of Mark Brindal's book.

I am also indebted to Steve Condous, a person whom I consider to be of integrity, and a person whom I respect and trust. Steve Condous made himself available at his home at 8.30 a.m. last Saturday morning to discuss the parklands proposal with me. I think I left his home at about 10.15 a.m. to meet with Jane Lomax-Smith and Jude Munro of the Adelaide City Council. Steve Condous's influence on my final decision was critical.

Steve Condous loves Adelaide with a passion and that is obvious to anybody who listens to him talk about this city and State. That applies doubly for his beloved parklands. Here is a man who will speak out, even against his own Party. I

understand that Steve Condous might well have been the architect of the entire proposal. Steve may well confirm that I questioned him intensely over every aspect of the Bill. It became clear to me during that discussion that Steve Condous's motivation on this issue was his love of the parklands and his lack of faith in both Labor and Liberal Governments to protect the parklands. He cited site after site that had been taken from the parklands by both Labor and Liberal Governments. Steve's objective was to protect his precious parklands forever and to ensure that from this day on the parklands would not lose any more land and that the parklands would continue to grow. He convinced me on this point.

I also consulted the Australian Labor Party, Nick Xenophon and Ian Gilfillan from the Australian Democrats—someone else who has a passionate love of the parklands but who has arrived at a different conclusion from Steve Condous. I also had a brief discussion with the North Adelaide Society and numerous members of the public. I also consulted with Michael Armitage. I thank them all for their patience with me on this controversial issue.

At this stage, I will briefly run through my amendments and then continue with the reasons why I am supporting the Government on this piece of legislation. The first amendment of any note in my amendments on this issue relates to the credits. The Government originally proposed 1.1 for 1. I thought that was an ambit claim. My amendment would provide that, for every two units, or two hectares or acres of land, that is put into the land trust (I shall now refer to it as the land trust and not the land bank), one acre can be taken out, so the ratio of land that must be added to open space in the parklands increases to 2:1 before any land can be removed.

I also have a provision which clarifies the intent and recognises the way in which the Crown could add open space to the parklands. My amendments require that, before adding land to the amount of the parklands open space, the Crown and the council must consult with each other. If there is a dispute, it must go to the Capital City Committee. It does not have an arbitrary power, but it would attempt to sort it out. My amendments would also make clear that the land trust provisions do not in themselves provide any right for the council to develop any land or override any legislation concerning development in the parklands. I have also included amendments to ensure that the land trust will be administered by the Adelaide City Council with a degree of autonomy. The Adelaide City Council is the group charged with the care and maintenance of the parklands, so it is only appropriate that it administer the fund and be held responsible for it. There are mechanisms to ensure that there is transparency and openness. In addition, my amendments will also ensure that the amount of money going into the fund will be increased considerably.

I believe that much of the opposition to the land trust proposal can be attributed to the poorly conceived original Bill and to the ineptitude surrounding the way in which it was announced and supported. SA First will be supporting this Bill with its amendments because it believes it is a positive and progressive step forward in protecting the parklands. Why do I say that when there is so much heat surrounding the issue? Despite all the fallacious arguments and misconceptions that are around, I should point out that we are not amending the Development Act—that will stay exactly the same. What we are doing with this Bill is ensuring that the total land currently in the parklands cannot be eroded away any further. Sure, development can or may take place on the parklands under this Bill—but it can at the moment; and it has been able to for 137 years.

This Bill ensures that, if any development does take place, it can do so only if further conditions are met, that is, two hectares must be returned for every one hectare taken for development. I remind people who oppose this legislation that, on all the land that has been removed from the Adelaide parklands, I cannot recall any occasion when land was returned. That means that for the first time since 1837 the size of the parklands will grow. I fear that, if this Bill does not go through, in 10, 20, 30 or 50 years successive Labor and Liberal Governments will have further alienated land from the parklands—as has been the case over the past 130 years.

I make that point because that has been the situation under the current legislation, irrespective of who is in office. Whether a Labor or Liberal Government was in office, we would continue to see the parklands eroded. Only a Democrat Government would ensure that no development ever took place on the parklands and, while the probability of that is increasing, I suspect that it might not be for a little while yet. How can anyone argue that this legislation will make it easier for Governments to conduct development on the parklands? I will briefly read into the *Hansard*—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: Well, I will run through some of the developments that both Labor and Liberal Governments have undertaken over the past 130 years. I will read into the *Hansard*—

The Hon. M.J. Elliott interjecting:

The CHAIRMAN: Order, the Hon. Mr Elliott!

The Hon. T.G. CAMERON: I am patient; I will wait for the Hon. Mike Elliott to finish his argument with the Hon. Di Laidlaw.

Members interjecting:

The Hon. T.G. CAMERON: Are we all finished?

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: I do not go on as long as the honourable member, and I do not have arguments across the floor. I shall continue. I will read into *Hansard* an opinion from Brian Hayes QC which, I argue, supports the contention that I have put to the Committee, as follows:

> This detailed analysis of the part of the Bill dealing with the APL and the two amendments shows, in my opinion, that the amendments could be said to provide more protection to the parklands than the Bill by endeavouring to ensure that the current area of the APL available for the use and enjoyment of the public will not be diminished and, in fact, will gradually increase—

the operative word there is 'gradually' because Brian Hayes was commenting on the original proposal of 1.1 for one—

> albeit in relatively small amounts.

I am pleased to say that those amounts will be significantly increased under my amendments. It continues:

> Furthermore, the establishment of the Adelaide Parklands Fund will contribute to the betterment of the parklands. Finally, there is nothing in the amendments which could possibly be construed as either promoting or encouraging development on the parklands development because such development is regulated and controlled by the Development Act and the provisions of the Adelaide Development Plan, and there is nothing in the amendment which changes that or derogates from that legislation. Those provisions will continue to govern the ability of individuals, the council and the Government to undertake development on the parklands.

The Hon. Sandra Kanck interjecting:

The Hon. T.G. CAMERON: The Hon. Sandra Kanck wants to know what the question was. I do not have the

questions in front of me, but they effectively asked for Brian Hayes to comment on the Bill as to whether or not it made it easier or more difficult for development on the parklands. It can be seen quite clearly that we are not changing the Development Act. We are amending the Local Government Act and we are putting additional layers of protection in it. In future, after this legislation is passed, if any Government wants to subsume some of the parklands, they will have to give land back. I note the Hon. Michael Elliott's interjection that both Labor and Liberal have been the same on this issue. At least if the Bill is passed any future Labor or Liberal Government will not be able to alienate the parklands without having to put land back.

One amendment that I took up with the Adelaide City Council relates to the condition of the land if it were handed back. I am pleased to say that, if my amendment is carried, it can be completely rehabilitated to open parklands only. Since receiving that opinion, I have had amendments drafted to tighten up the like with like provision and to have the Adelaide City Council controlling and administering the fund. Brian Hayes arrived at his opinion without knowledge of my amendments, which are much tougher than those in the original Bill.

It is a nonsense for anybody to argue that this will make it easier for development to take place than it has in the past, and it is based on fear rather than anything else. I refer also to an article in this morning's paper which suggested that we are going to turn the parklands into office blocks. What a load of nonsense! That is just scaremongering at its worst. The Adelaide City Council and the Lord Mayor know that under this Bill, for there to be any development in the parklands involving a lease of more than 21 years, such a lease would require passage through both Houses of Parliament. Basically the Lord Mayor is saying that both Houses of Parliament will sanction office development in the parklands, and that is a nonsense. I would like someone to show me where the Bill makes it any easier than it is at present to place any development in the parklands.

An honourable member interjecting:

The Hon. T.G. CAMERON: That is a nonsense; it must come back to Parliament. Development is governed by the Development Act and we are not changing that. In fact, a perusal of the Development Act is interesting. Section 35(2), which refers to special provisions, states:

> Subject to subsection (1), a development that is assessed by a relevant authority [a relevant authority being a council or the Development Commission] as being seriously at variance with the relevant development plan must not be granted consent.

I am not aware that we are moving any amendments to the Development Act. All we are doing is placing a couple of other obstacles in the way.

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: Is the Hon. Paul Holloway proposing that we abolish the major development legislation? This condition ensures that the council or Development Commission must not be at variance with the relevant development plan. If development is to proceed, a lease of more than 21 years is required, and I cannot imagine any developer proceeding without a long-term lease. What happens if a lease is more than 21 years? Approval of both Houses of Parliament must be sought. That is exactly the same situation that exists at the moment. It can be clearly seen that Parliament will have to approve development in exactly the same way as it does now.

Let me give some examples of development that has occurred under both Labor and Liberal Governments: Thebarton Police Barracks, Adelaide High School, Festival Theatre, ASER complex, Round the Square restaurant, Tennis Centre Memorial Drive, Adelaide Oval, Adelaide Bowling Club, Adelaide Oval Bowling Club, the Wine Centre, the new Convention Centre, the Adelaide Exhibition Centre, the Hyatt Hotel, the Veale Gardens Restaurant (that is, Pavilion on The Park), and the Adelaide Aquatic Centre. Surely not everyone is arguing that they are all bad development. What is wrong with the Adelaide Festival Theatre and the Adelaide Aquatic Centre?

I can recall growing up in the western suburbs. There were no swimming pools down there for us kids to go and swim in. We had to go and swim in the Port River. Thank God that was 40 years ago: I would not like to be swimming in the Port River today. But I swam in the Port River between the ages of five and 15: there were no swimming pools down there. Now we have the Adelaide Aquatic Centre. I occasionally go there, and it gives me a great deal of joy to see all the working-class kids from Athol Park, Mansfield Park, Woodville, and so on, streaming up Torrens Road, up Ovingham hill and into that Aquatic Centre. It is a marvellous facility. It does not look out of place, and it provides sporting and entertainment facilities for all those working-class kids on the western side of Adelaide. I would ask anyone to point out to me any other public swimming pools that exist down that way. So, the argument that all development on the parklands that has occurred is no good, I submit, is a nonsense.

At this stage, I want to turn to correspondence that I have received from the Adelaide City Council. There are some questions that I want to put to the Minister. The first question is as follows:

> If the legislation is to be amended, the clause on the parliamentary process of agreement for council leases longer than 21 years should also apply to State Government development on the parklands.

There is the argument that there are more checks and balances.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Yes, it's a question.

The Hon. Diana Laidlaw: Can you repeat the question, please?

The Hon. T.G. CAMERON: This correspondence is dated 27 July and they have asked—

The Hon. Diana Laidlaw: From whom?

The Hon. T.G. CAMERON: From the office of the Lord Mayor. It is a concern of the Adelaide City Council that, if the legislation is to be amended, the clause on the parliamentary process of agreement for council leases longer than 21 years should also apply to State Government development on the parklands. So, I am seeking the Minister's response on that. They further state:

> We think there should be some change to the legislation to assure 'like for like' development to prevent, for instance, several open lot car parks being traded for a portion of prime parkland. . .

They are concerned that the current 200 hectares of alienated land, some of which is railway reserve or open lot car parking, might be credited for the development of buildings. They also state:

> We would take land that is returned to parklands to be rehabilitated so that it is suitable for public use and enjoyment as open space.

I think I have probably already answered that question. They have also expressed a concern that any development on the

parklands should be subject to the council's development plan or the Parklands Management Plan, both of which must have Government input and agreement.

I am at a bit of a loss to understand the concern being expressed by the Adelaide City Council, and I must confess to being somewhat surprised when I heard that a unanimous vote was taken by the council against the proposal. My information tells me that the vote was 4:3. However, for some reason that is a mystery to me, that was turned into a unanimous vote, and I do wonder why a 4:3 vote was turned into a unanimous vote. I guess down the track that we may well find out what was behind that mysterious set of events.

It appears to me that most of the questions raised in the Adelaide City Council's correspondence dated 27 July 1999 have been satisfied. However, it appeared to me that the Adelaide City Council wanted some kind of veto right over any further development taking place, and I am not prepared to support giving the Adelaide City Council a veto right over development in the parklands. After the last saga over this Bill, I am not sure that I would trust the Adelaide City Council with a veto right—I suspect it would be abused. What I will support is the Bill with the amendments that I have tabled. These amendments satisfy most of the Adelaide City Council's objections, although I concede not all. However, I am not prepared to support any proposition which would give the Adelaide City Council and its councillors, subject as they are to petitions, a veto over development in the parklands.

SA First will support this Bill because it changes nothing at all in the Development Act and places additional conditions on development and will ensure that no more land (in total) can be alienated from the parklands; that is, that the parklands may well increase in size and a fund will be created which will help beautify the parklands. I feel comfortable with the knowledge that a 21-year or more lease will require the ratification of both Houses of Parliament.

The following is an example of some of the emotion that has been swirling around on this issue. I received a telephone call from one irate constituent who told me that I would be ashamed of myself if I supported this legislation and that my children would be ashamed of me. I have no hesitation in saying that, if this Bill goes through, I will be able to look my three sons in the eye, proud of the fact that, after 160 years, finally we have protected our parklands, and one hopes that before I go I will be able to say to my children, 'Back when this Bill was passed there was X amount of acres in the parklands and now there is X plus Y.' If, in the future, development of any significance is to take place in the parklands where a lease of 21 years or more is required, that will require the passage of legislation in both Houses of Parliament.

I have conducted an exhaustive study of the issue and, having familiarised myself with all the facts and pushing aside all the nonsense, lies and misinformation being peddled about this proposal, I have now moved from a position of opposition to a position of being an enthusiastic supporter of the Bill. My amendment, if this Bill is passed, will see the land increased from 1.1 to 2, which will significantly increase the amount to be contributed towards the fund and make the Adelaide City Council solely responsible for the fund, which can be used only for the beautification and maintenance of the parkland. One of my amendments also strengthens the clause to ensure that land returned will be returned as open space parklands. I enthusiastically support the Bill.

The CHAIRMAN: I make the obvious observation that the Hon. Mr Cameron has used clause 208 of the Adelaide parkland section of this legislation to canvass his amendments. With the concurrence of the Committee, I propose that any other honourable member wishing to canvass the amendments that have been foreshadowed and are on file from the Hon. Mr Cameron should do so now and that perhaps we might spend some time on this particular point.

The Hon. T. CROTHERS: For the benefit of *Hansard*, I am an Independent Labour (spelt with a 'u') member. I will be supporting the Government's proposition in the Cameron amended form (if the honourable member's amendment is carried) in respect of what will become a 'land trust'. I think that the connotative regard in which the general public holds banks at this time, to say the least, is that they are on the nose. I think that 'trust' is a much more connotative and better word to describe the proposition that the Government is aiming at, that is, to reinvigorate the parklands into perpetual hands for the public's use in such a way that the public can have total trust that the parklands now, for the first time in 160 years, really are theirs in perpetuity.

I did not have to think much about this matter, because I understood full well that many councils are, of course, awash with councillors and aldermen who are architects or who dabble in real estate, and so forth.

The Hon. T.G. Cameron: Developers.

The Hon. T. CROTHERS: Developers. I understand, of course, that one reason why this amendment could well be opposed is that those type of people see that holdings they may have in particular council areas could diminish in value. That is perhaps one fear that exists. I do not think that will be the case but, if it is, then, in the interests of the people, I am more than happy to support the principal thrust of what the Government intends in respect of this clause as amended by the SA First representative (Hon. Mr Cameron).

The Hon. DIANA LAIDLAW: Mr Chairman, thank you for your ruling earlier about using this clause for general canvassing of what will become the land trust proposal. I have on file amendments that are identical to the Hon. Mr Cameron's, but I will not be moving them: I will be supporting the amendments moved by the Hon. Mr Cameron as we proceed through Committee. I agree that the change of wording from 'land bank' to 'land trust' is highly appropriate. I only wish that we had thought of it first, because—

The Hon. T. Crothers: We are pretty smart over here.

The Hon. DIANA LAIDLAW: You are smart over there, and one benefit of the Legislative Council is that we do listen to each other and we do take up good ideas that are proposed by others, and that is good. The land trust is an important initiative in its own right but the change of wording from 'bank' to 'trust' is, as the Hon. Trevor Crothers suggests, an important perception as well as principle. I have been a North Adelaide resident and ratepayer for 26 years and been a passionate supporter and user of the parklands. I am very keen to support this initiative because I have seen a growing public distrust in terms of the care, control and operation of the parklands across Governments of various persuasions at various times.

When the ASER development was introduced by the former Government, I voted against it for the same principled reasons that I would adopt here, that is, that it is highly important to make sure—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Not just parklands. I voted against that. I believe that this proposal is timely as we

move into the next millennium in terms of the knowledge that there will be never less parkland than we have now and that there will more than likely be considerably more parklands for the enjoyment and enrichment of future generations. There is no better present to the community at large and cause for celebration in moving into the next century millennium than the provisions in this Bill as it is to be amended.

I have a number of responses to the Hon. Mr Cameron in terms of the most recent letter that he received from the Lord Mayor. The first question related to why the provision in this Bill in terms of a council lease of no longer than 21 years should not also apply to the Government. The parklands are actually Crown land. If it is owned by the Crown, there is no reason for the Crown to have a licence or lease over Crown land. It is under charge to the Adelaide City Council in terms of care and control; therefore, it is entirely appropriate that there be a lease arrangement as outlined in the Bill, but it would be most inappropriate for the Crown—in fact, possibly legally impossible—to have a lease over land that it actually owns.

The safeguards of the Crown ownership of this land are strengthened by this Bill. In particular, subclause (4) provides that the provision does not in itself confer a right on the Crown, an agency or instrumentality of the Crown to remove land from the land trust. In terms of the Government's actions, no development can take place unless there are land credits, and certainly it would require special legislation to proceed to develop or for resumption under the Crown Lands Act. There are those safeguards, but the best aspect of this Bill is that it clearly outlines for the first time since European settlement exactly the responsibilities of all parties in terms of this precious area of land. I think the transparency that is provided and the accountability that is required in terms of ownership, management, care and control is a highly important development.

I do not always believe what is in the *Advertiser*, so I will not get highly excited about the comments attributed to the Lord Mayor or Councillor Moran in today's edition, because at times I have found that the *Advertiser* unwittingly or wittingly has sought to leave out major statements that I have made or changed them to suit its own purposes with respect to headlines, so I would like to give the Lord Mayor and Councillor Moran the benefit of the doubt. Nevertheless, I will respond to what is here.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I do not know; I have not had an opportunity this morning to speak with them to see whether they have been truly reported but, when I read the comments attributed to Dr Lomax-Smith as Lord Mayor, it did remind me that she must have had the same public relations and media person as she had at the time of the Wingfield debate. It was a very excited and emotional response that does not reflect her intelligence. This Bill does not provide risk to the parklands in terms of their being sold, and in her heart I suspect Dr Lomax-Smith knows that, but it does make a good story and I suspect that any statement she made was qualified. I have outlined already the reasons why it cannot be sold. In terms of any emotional response, my understanding is that no land has ever been sold for the purpose that she now suggests this legislation would enable. In terms of Councillor Moran, I note she says that the Government has about 400 hectares of alienated land, but I suspect that she means Government reserve, such as North Terrace institutions, railway land—

The Hon. T.G. Cameron: Adelaide High School.

The Hon. DIANA LAIDLAW: Yes, Adelaide High School, and institutions which are highly appreciated and valued by the community and which were put aside as Government reserves centuries ago. They are important assets to the community, but I will not dwell on the way in which that has been presented either by Councillor Moran or the *Advertiser* in putting a poor reflection on this initiative. It is interesting to note in today's *Advertiser* an article headed 'ALP split on mining' in respect of the Yumbarra Conservation Park near Ceduna in the State's Far West. The Australian Workers Union State Secretary states:

> I think the Party—

that is, the Labor Party—

> is quite happy to support the testing—

that is, the exploration of the potential to mine—

> and perhaps the mining—

Members interjecting:

The Hon. DIANA LAIDLAW: I will read it in full because the Labor Party opposite has got a bit excited.

An honourable member: Relevance!

Members interjecting:

The Hon. DIANA LAIDLAW: There is complete relevance in terms of this debate and the development of something that is deemed national park.

The CHAIRMAN: Order! I remind honourable members that every member has a chance to contribute at any time for as long as they like, as many times as they like, during the Committee stage. It would be better if they made a contribution to everyone rather than across the Chamber and to each other. I would appreciate it if members would come to order and allow the Minister to continue.

The Hon. DIANA LAIDLAW: I will not dwell on this point for long, but it is highly relevant. The *Advertiser* report states:

> 'I think the Party—

that is, the Labor Party—

> is quite happy to support the testing and perhaps the mining—

in Yumbarra—

> if the Government would set aside an equal amount of national parks somewhere else,' Mr Sneath said.

The relevance of that quote is that not only is it a contradiction of Party policy, as the Hon.Mr Cameron says, but also the proposal before us now in terms of the land bank is not just the return of an equal amount of parklands but it doubles the amount of parklands that must be returned. If the Labor Party is canvassing the Yumbarra conservation proposal—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: As to the Yumbarra issue, it is relevant that it has been aired in the Labor Party now but only in terms of returning an equal amount of national parks, whereas the proposal before us says that, if there is any development, double that amount must be returned to parklands. The principle is the same, but the Bill before us is more positive than has even been canvassed by the Labor Party in terms of exploration and the mining of national parks. Without dwelling on this matter, I indicate that Mr Hayes' comments are a valuable and considered contribution in terms of the emotionalism that the parklands always seem to generate and the emotionalism that this Bill has generated for various reasons. I repeat, as the Hon. Mr Cameron did in his contribution, Mr Hayes's final paragraph:

> Finally, there is nothing—

and I stress 'nothing'—

in the amendments—

and that is the earlier amending Bill—

which could possibly be construed as either promoting or encouraging development on the Parklands Development because such development is regulated and controlled by the Development Act and the provisions of the Adelaide Development Plan and there is nothing—

and, again, I stress 'nothing'—

in the amendment which changes that or derogates from that legislation.

Since that opinion was provided the Hon. Mr Cameron has moved amendments which strengthen those absolutes in terms of this Bill. The absolutes mean that development is not being encouraged, but where development might take place there are very clear requirements of either the council or the Government in the future in terms of the return of land to the parklands for the future enjoyment of our city and the parklands. That is an important initiative, because the parklands are one of the treasures of living in Adelaide and distinguish our city from other cities around the world and also make a major contribution to the quality of life that we prize in this State.

The Hon. IAN GILFILLAN: Mr Chairman, as you may well have noted, the Democrats oppose this clause; in fact, we oppose the land bank or land trust proposal in its entirety. I respect that all members do genuinely have a concern and care for the parklands, and I believe that that will increase as we are made more and more aware of the world uniqueness and the growing push to have the parklands listed as a world heritage item. It is reasonable to say that this has excited interest even in the ranks of the current Government. I will come to some of the more specific details shortly.

Whether or not this measure facilitates the actual technicality of the Government alienating land, it does create or reinforce a totally false premise, namely, that if the Government has some land which had previously been alienated for whatever purpose—rail, school, waterworks, gaol, police—and returns that to the parklands, it then is seen and itself is convinced that it has done a noble gesture for which it will be rewarded. Although the proportion of that reward has been adjusted down from the minuscule 1.1 to 1, it is an interesting numerical factor to ponder on. But, whether or not those details are arbitrary, the fact is that in the mind of the Government, the Parliament, the public and the media the Government has the moral right to put development on a portion of the parklands upon which at this stage there is no development. That is the unarguable result of this measure.

It does not matter whether it is tinkered about with, whether various other aspects are emphasised, whether there is a land change name or whether the actual formula changes. The really dangerous aspect of preservation of the parklands has not been the love that people express over and again for the parklands but the acceptance from time to time that there is an irresistible debate in favour of a certain development going on in the parklands for various so-called reasons at the time—the Grand Prix, the ASER development, the National Wine Centre, the proposal to develop quite substantially the offices at Victoria Park and the Lloyds commercial leisure centre. All of them, at the time, have the flavour and the initiative that, 'This has to go ahead; this will not really damage the parklands.'

Until we reverse that mind set completely it does not matter what we pass today: the parklands will be under constant pressure or threat of erosion. Make no mistake: whatever we pass today will not stop a Government of the future acquiring land for whatever project it wants, provided it can get it through this Parliament. It has never been frustrated by this Parliament, either Labor or Liberal. Every time they have come up with a project they have bowled it through. Unless the Government is persuaded otherwise by general public revulsion at the continuing erosion, what we do today will not be a safeguard. There is no guarantee. The Crown Lands Act empowers the Minister, virtually without any consultation with this Parliament, to acquire land for the Government's projects. These are the threats to the parklands which will not be changed a jot by what we do with this amendment.

This amendment and this clause—and this is the danger—enshrine the mental attitude that a Government is entitled to develop. The 2:1 provision has no condition as to what that development will eventually be, and it may or may not comply with the Development Act and the City of Adelaide Plan at the time. I hope there will be a lot of restrictions, because it looks as if this measure will get through this Parliament in some form or another, but the self deceit that the promoters are putting up that this is really a defence, protection and sanctimonious enshrining of the value of the parklands is sophistry. It is self-deception.

If the Government is so strongly motivated to return alienated land, why does it not do it? Why does it need some credit before it does it? Where is the sincerity of a Government wanting to enhance the parklands and determine that it will return only a certain amount of the alienated land in exchange for another area which it will be able to use for whatever project it wants, later down the track?

The Hon. Diana Laidlaw: It does not require them to use it.

The Hon. IAN GILFILLAN: It does not require them to use it, but the fact is that if they have this lovely credit in the land bank there is a strong incentive to land the next flavour of the month development, such as the Investigator Science Centre, waiting in the wings for the Government to make a goody-two-shoes of itself by returning land it said it would return, and therefore it will be able to take part of the parklands for that type of project. We have heard that office blocks would never be built on the parklands. One has a conveniently short term memory. We in the Adelaide Parklands Preservation Association negotiated with the Australian Equestrian Association, which was being offered by the Adelaide City Council of the day the opportunity to set up its national offices in Victoria Park—on the parklands. What sort of centre do you think there is at the National Wine Centre? There is the national office conglomeration for the whole of Australia on the parklands.

Do you believe that offices will not be established in the Lloyd Leisure Centre? People have a very convenient way of trimming their acknowledgment of what is likely to take place when it suits the argument of the moment. At the moment, we are in a glory of euphoria. The promoters of this proposal see themselves as the saviours of the parklands. The sad fact is that it is another substantial blow to our eventually getting the total alienated area back as parklands. That is the reason why, regardless of what amendments are passed, the Democrats will strongly oppose the clause; it should not be entertained. It should not be considered as a measure by a Parliament that professes to care for and want to enhance its parklands.

I had questions passed to me by the Adelaide City Council, and I understand that they may have been given to

the Minister for Local Government's research officer for consideration. If that is the case, I want to read them into *Hansard* so that an answer can be given. The definition of 'land bank' or 'land trust' is:

> land forming part of Adelaide parklands that is available for unrestricted public use and enjoyment.

Clause 208(4) provides:

> The Crown, or an agency or instrumentality of the Crown, may only take action to remove land from the land bank to the extent that the Crown holds credit units equal to or exceeding the number of square metres of land to be so removed.

If one inserts the definition into that subclause, it will provide:

> The Crown may take action to remove land forming part of the Adelaide parklands that is available for unrestricted public use and enjoyment.

The questions asked are:

> Does this mean that the Crown may take action to remove land from the Adelaide parklands? If it does so, will that land then become freehold?

We had part of an answer to that extent. The questions continue:

> This would be different from the Memorial Drive Tennis Centre, for instance, where the land is leased and eventually the land would be returned to parklands, or does it mean that the Government will remove unrestricted parklands and make it restricted parklands?

Further:

> If the Crown chooses to develop land arising from the operation of the land bank or land trust, will it always be subject to a lease with the Adelaide City Council? If it is subject to a lease with the Adelaide City Council, how will this be achieved if no credits exist in the land bank for this purpose?

Clause 208(3) provides:

> The council may only grant a lease or licence over land that forms part of the Adelaide parklands. . . to the extent that the council holds credit units. . .

Subclause (4) provides that the Crown may only take action to remove land from the land bank to the extent that it holds credits. However, the Adelaide parklands are vested in the Adelaide City Council. The Crown has no powers under this legislation to remove land from the parklands. It could only do so under the provisions of the Crown Lands Act or a separate piece of legislation. Therefore, it is argued that subclause (4), as a relates to credit units, is inoperable. There is no compulsion on the Crown to create credit units or to return alienated land to the parklands, and the question is:

> Does the Government agree with this? Is this true?

The Minister may be in a position to put into *Hansard* answers to those questions from the Adelaide City Council. I want to make a couple of comments regarding the fund. The formula, which has been set out in the Bill, stipulates that, if the total anticipated development cost exceeds $5 000, the actual contribution to the fund will be $50, plus $25 for each $1 000 over $5 000 and, where the total anticipated development cost is not exactly divisible into multiples of $1 000, any remainder is to be treated as though it were a further multiple of $1 000, up to a maximum prescribed amount of $150 000.

My understanding is that that means that $150 000 would be the maximum contributed by a developer on the land being developed as a consequence of this Bill. Unless I have it wrong, even at that maximum of $150 000, I would estimate that that covers a development of approximately $6 million. If my sum is even approximately correct, it means that the sort of development envisaged in this legislation is not just fountains, seats and pagodas. An office block may be involved, but it is envisaged that a lot of money will be spent on these developments.

As we know historically, when a development is placed on a portion of the parklands, it is almost impossible to get it off, and the more expensive and prestigious the development happens to be the more difficult it is. The Minister reflected quite accurately, but I think somewhat divisively, that we look at the area of alienated parklands east of where we are where the university and public buildings are, worth millions of dollars. They are on alienated parklands. There is no hope. No-one in their wildest dreams expects that area to be returned.

The Hon. Diana Laidlaw: I thought that was your policy. Didn't you say when speaking earlier that your goal was the return of all alienated land?

The Hon. IAN GILFILLAN: Yes, it certainly was.

The Hon. Diana Laidlaw: Do you want to qualify that now?

The Hon. IAN GILFILLAN: Anyone in their right mind would realise that the areas that are possible for return are not currently hosting substantial and irreplaceable assets of the city—they are there.

The Hon. Diana Laidlaw: So you're not asking us to return that to parkland?

The Hon. IAN GILFILLAN: The issue of returning the north side of North Terrace on the eastern end is a quite fatuous suggestion. However, its value is to point out how Governments can ride roughshod, take over parklands and put their developments on it, and it is lost forever. So, once this little trade goes on—a Government, not necessarily this Government (let us give this Government the credit that somewhat naively and maybe not very intelligently it believes that this measure is protective of the parklands), but perhaps a succeeding Government—maybe of a different political persuasion—enjoying a lovely credit of 50 or 60 acres, and with a reasonably compliant City Council and control over this Parliament, could put the next generation of substantial civic buildings on the credited land. They are then gone forever, too. That really highlights the downside of this.

This is a dangerous measure. It does not go any way towards addressing the real challenge that we must address, namely, a mindset change as to how we deal with the parklands. I hope this Government can actually prove its worth by being more sincere in its return of alienated parklands than the false promises that devastated so many people's expectations for the Hackney bus depot. That was promised by Bannon and reinforced by the Liberal Opposition at that time. But what happens? When they get into the position they contaminate it with development.

The Hon. M.J. ELLIOTT: Olsen criticised the Government for not returning it.

The Hon. IAN GILFILLAN: That is exactly right. We will strenuously oppose the Bill when it comes to that point. We will look as closely as we can at what appear to be genuine efforts to improve the Bill by amendment. I show appreciation to the Hon. Terry Cameron for having given it so much thought. I believe that the Hon. Nick Xenophon is still giving it earnest thought. So, there is a remarkable degree of goodwill to the parklands in this place. It has to be harvested in action, and sadly I believe that this measure, even with the improvements that may be successful with these amendments, is counterproductive.

The Hon. T.G. ROBERTS: The Labor Party also opposes the land bank proposal, if only for the reasons

outlined in the honourable member's contribution on behalf of the Democrats. The land bank itself is not a bad proposal.

The Hon. T.G. Cameron: Land trust.

The Hon. T.G. ROBERTS: The amendment says 'land trust'; the Bill says 'land bank'. The proposal for land banks generally has grown from other countries that have felt the pressures of development and have felt the political pressures of communities making demands on them for open space and for lungs within their communities to breathe. So, quality of life within inner metropolitan areas and, in some other cases, broad hectares is returned or at least maintained in terms of air quality. The Government appears to have latched onto the idea of a land bank in relation to the management of the parklands. When I first heard of it, I thought that in all the other cases where land banks have been set up, properly managed and appropriately applied they are a very good idea.

As a member of the Environment, Resources and Development Committee, I have talked, over the years, with the Democrats and we have been making suggestions and proposals that, perhaps, in the outer area of Adelaide, where we should be looking at a second generation of parklands, it would be a good idea for Governments to start looking at land banks in relation to some developments that are starting to appear, particularly in the Hills zone and further south near Happy Valley. Land banks would be an appropriate way in which we could manage.

When I heard about the application of a land bank for the parklands, I could not envisage what it might involve without its being rorted—a bit like the banks are doing at the moment whereby they lower interest rates and then apply huge fees to maximise their profits. I drew that analogy in my mind and I thought that I had better get further detail; like the Hon. Mr Cameron, I had better find out what the proposal was. The more I read and tried to understand the proposal, the less I understood in relation to changing what already exists. It appears to be someone's misunderstanding of how a land bank ought to operate and then applying it to a circumstance within the Local Government Act that may pick up some beneficial brownie points. I am not saying that is the case: it may be that someone has genuinely tried to adopt a different form of proposal to a new application and has genuinely tried to make it work.

But, like the Hon. Mr Gilfillan—to whom I pay tribute for his longstanding, constant and consistent protection of the parklands—I have doubts as to whether the land bank proposal will add anything to what we already have. I do not have the confidence that the Hon. Mr Cameron has in relation to its being a mechanism for protection. In fact, both the Hon. Mr Cameron and the Minister made contributions about the emotion within this debate outside the House, yet they brought the emotion of the debate inside the House. I think the Hon. Mr Gilfillan's contribution was quite measured—and, hopefully, mine will be as well.

We need to point out to the public who might see it as a mechanism for protection that it offers no more protection to the parklands than the existing situation. The people who are relying on the Development Act for the protective mechanism by which further alienation will not take place are putting misplaced faith in the Development Act. Already we have declarations of major projects by this Government in other places, for example, Pelican Point. We have the major projects declarations being able to bypass the environmental impact statement process and we have major projects that are being declared at this time being taken out into the community, the financial benefits of those projects being advertised widely. The general rule of thumb is that the losers are those who have an interest in protecting unique areas of our environment in this State.

I do not support the clause in the Bill. As I speak, as a result of negotiations between the Adelaide City Council, the Hon. Nick Xenophon and the Minister, a new amendment is being put together. The Committee will look at that as a compromise mechanism for all Parties, because I believe that all the people in this place and in another place have the interests of the parklands at heart. It is only a matter of degree.

My position within the Labor Party is that, where parklands have been alienated and there are applications for further developments to continue the use of the existing developments—such as schools, hospitals or other facilities—and if the public has free and unfettered access to those developments and by public demand those alienated sections of the parklands continue to be alienated, it should be considered that such developments have general support if they are passed by both Houses of Parliament. However, I do not think that the idea of alienating fresh parklands and reinstating other sections has any merit at all.

If part of the parklands is being returned to parklands, I cannot see why any fresh arguments should be put for new developments on unalienated parklands, unless the proposal passes through both Houses of Parliament. I understand that an amendment is being suggested that the Adelaide City Council be consulted and that it make some contribution to the impact of that project. That will bring all the players into place, and hopefully those of us who have been given the responsibility for the protection of the parklands for this and future generations will make our assessments on returning parklands to their original state. If we have to assess any further alienation, we should do so in the interests of all parties, not just in the interests of a few people who may get some financial benefit out of the projects that are being proposed.

It was irresponsible and mischievous for the Minister to mention Yumbarra in this debate. In fact, I can use Yumbarra as an illustration against the Government and perhaps other members in this place. It was dedicated as a national park on the basis that future generations would benefit from that, but it is now up for grabs and political pressure is being applied.

The Hon. M.J. Elliott: You only tick what you don't want.

The Hon. T.G. ROBERTS: That is right. Political pressure is being applied to change the status of that national park. I do not want to draw an analogy between that park and the parklands, although others might, because I do not think it is particularly relevant to this debate. But, because the Minister made her point in a negative sense, I have to make mine in a positive sense by saying that, if declarations are made by one generation of legislators and then changed by another generation, the value of the declaration that was made in the first instance is devalued. Confidence is lost by those people who set out to do the best for the people of their State. In this case, all South Australians, particularly Adelaidians, enjoy the benefits of the parklands. However, those decisions end up being devalued by the changes that can be made in Acts at a later date.

With respect to this clause, we will vote against the section. I think that the amendment of the Hon. Mr Cameron does give some added value in relation to the 1.1, or the 1 to 1, 1 to 2 or 1 to 1.1. The benefits are increased in the honourable member's amendment, and we will certainly look

at the finally drafted amendment that will be put, hopefully very soon, before we continue voting on this clause.

The Hon. P. HOLLOWAY: I oppose this land bank measure that has been put forward by the Government. There are probably few measures that will have as profound an impact on the future of our city as those affecting the parklands. The parklands are the most unique feature of Adelaide: they define the city in a way that makes it unique from every other city in the world. That fact is even recognised in this Bill. We have already passed clause 205, which provides:

> The Adelaide parklands are classified as community land and the classification is irrevocable.

Having incorporated that in the Bill, we are now moving on to revoke the irrevocable. I believe that any change affecting the parklands has to be done with caution. I am not an absolutist like the Hon. Ian Gilfillan. In the past, I have supported measures that have allowed development on the parklands and I suspect that, in the future, if there are special circumstances, I may do it again. For example, this Parliament supported, and I supported, the National Wine Centre project. However, given some of the financial details that have emerged afterwards, I am not sure whether that was a particularly wise thing to do. Nevertheless, there are some projects that are deemed by this Parliament to be worthy of development on the parklands. If there had been no development on the parklands, such as we have here on North Terrace, such as Adelaide Oval and so forth, I do not think that Adelaide would be half as attractive a city as it is today. But the point is that, if there is to be any further alienation, it should be done in a manner as has been the case in the past. It should be done by this Parliament.

What I fear most about this measure is that it takes the matter out of the hands of this Parliament. I remember the first speech I made when I entered Parliament in 1989, where I lamented the fact that we in this Parliament seem to be continually wanting to hand our powers over to non-elected bodies. In effect, we are here setting up a structure that allows a loophole (and I will say more about that in a moment) where development can occur without having to go through Parliament.

This debate is one of the most emotional debates we have had on this Bill. But should it not be that way? Every time we are debating development on the parklands, should there not be an emotional and spirited debate within this Parliament about the virtue of such a measure? That should occur every time. In opposing this amendment, I am saying that we should do that forever into the future. If ever there is to be any proposal for development, it should be debated and decided by this Parliament. We should not, instead, set up a structure that allows some development manoeuvring to take place through the back door. Once control is loosened by this Parliament, it is inevitable that development will accelerate, and I think that that is the great concern with this amendment before us.

I think that this is a bank that not even John Laws would endorse! It deposits dud cheques and you withdraw gold bars. That is really one of the problems that can happen under this Bill. In fact, one of the classical laws of economics says that bad money drives out good, and I think that, with respect to this bank (although I see that there is a proposal to change its name), bad land will drive out good, and I think that that is one of the real fears of this part of the Bill that is before us.

The essential thing is that any decision on parkland development should come before this Parliament as it has done traditionally. The problem with the bank is that land in the parklands is not equal. One cannot say that land along the Torrens River at the weir is equivalent, say, to some degraded land in the west parklands next to the railway line. Let me show how this bank might work by using a hypothetical proposition. Suppose we decided to shift the western parklands' fence line along the railway line by moving it in by half a metre. That area must be two or three kilometres long. That could mean that 1 500 square metres of land goes into the bank. We could make sure that it is not degraded by mowing it and controlling the weeds, and consequently we have an extra 1 500 square meters of land that could go into that bank. Then we decide, okay, we can now use—even under Terry Cameron's proposal of two for one—750 square metres of land next to the weir alongside the Torrens Lake for some development.

That is the sort of thing that is a possibility under this measure. However, we should address one of the misconceptions that the Hon. Terry Cameron made earlier; that is, because the Development Act is in place, we have protection against that happening. Of course we do not because, under the Development Act, there is a provision for major projects or Crown developments. What could happen is that, if the Crown wants some major development, it can use this land bank proposal to justify the fact that it is meeting some obligation to increase effective parkland. It can also circumvent the Development Act through the major projects provisions. That is the real loophole in this measure.

The best protection we can have for the parklands is by having every development proposal come before Parliament as it has always done in the past. Let us debate it in Parliament every time—as we did with the National Wine Centre and other projects—and assess it on its merits. Let us not put it away and allow it to be judged under some hypothetical formula, which, in due course, we may find to be flawed. Let us not put it in the hands of bureaucrats within the Development Assessment Commission or Government departments who want to put up Crown projects. Heavens above, they do not have a good track record, do they? They have not really done all that well in terms of some of their projects, for example, West Beach.

Surely the best protection that the people of this State can have for their parklands is to ensure that we do as we have always done in the past, that is, bring it to Parliament. Let us knock out this measure and leave things as they are. Let us leave Parliament to be the final arbiter of any development in the parklands.

The Hon. M.J. ELLIOTT: I have been a supporter of transferable development rights for a long time, and to some extent this scheme is somewhat like a transferable development right scheme. However, in my view, if you are to have a transferable development right, you are trying to ensure that development does not happen in one place by encouraging developers to put it in a more desirable location. The scheme that we have before us effectively is saying, 'We do not want development in the parklands, but it can go in the parklands.' It does not actually say where in the parklands we do not want it, nor where in the parklands we do want it. It just simply says that for every bit of development, if you like, which is removed from one part of the parklands, development will go somewhere else.

However, the point needs to be made—and I think the Hon. Paul Holloway touched on this—that we are not even talking about like for like. Probably 100, 200 hectares of land held by the State Government might be described as low level development, that is, it is not of high density or intensity. It is land, which, at this stage, one could reasonably resume at a very low level of cost. However, this says nothing about the intensity of development, plot ratio or those sorts of things that we might see in terms of what is being removed and what is coming in.

That is significant in a number of ways: first, obviously, the higher the development, if it is intended to have multistorey developments (and we have already had some of that in the ASER development), not only does that impinge on the parklands because of its very scale but it guarantees that it will become permanent. This trade-off scheme is essentially saying, 'Take a couple of hundred hectares of land of very low intensity development'—development that we could actually afford to remove over time; in fact, much of it is severely under-utilised—'and at this stage it is recoverable but, under the land bank scheme, part of that land will become land that, once developed, will never be recoverable.' That is another failure.

It is not just a question of failing to remove development from the parklands: in any sort of development transfer scheme, you should be trying to take land from where you do not want it and putting it where you do want it. In fact, the transfer is happening within the parklands and it does not even say where in the parklands—that basically is up to the Government to decide. Worse than that, the alienation that will happen under this process will go from what is, I would argue, a temporary to a permanent alienation.

Even if you intended to have a transfer scheme, a one to two, whilst better than what the Government is offering, is incredibly generous if one looks at the density of development that has occurred on much of the land held by the State Government at present and the sort of density of development that we would see on anything that is picked up under this land bank scheme.

The Hon. Ian Gilfillan: Like another ASER.

The Hon. M.J. ELLIOTT: That is right, like an another ASER. It is true that, over time, there has been a gradual invasion of the parklands, but I think that even the current Government was starting to hit a bit of a brick wall. When one looks at what the Government has done in the past five years or so, one sees that it had really gone as far as it could get away with for some time. But this scheme, as far as I am concerned, creates a lively expectation of a right to develop. It does not establish a right to develop but it creates a lively expectation. We know that other buildings are already in the queue.The Investigator Science Centre wants land (and it has wanted it for a long time) on the other side of Morphett Bridge. The centre lobbied hard and extensively for perhaps two years that I am aware of, and it has suddenly gone quiet: it has said nothing for four or five months.

The Hon. DIANA LAIDLAW: It has no money. It's a rather sobering thought.

The Hon. M.J. ELLIOTT: There is another possibility: that the Government said, 'Right now we have pushed our luck as far as we can, but when we have this land bank scheme we'll be able to announce that we are returning to the parklands this land over here and, at that stage, you're in business.'

The Hon. T.G. Cameron: It's a good story, Mike.

The Hon. Diana Laidlaw: You must stay awake all night dreaming up these possibilities.

The Hon. M.J. ELLIOTT: I could not possibly have dreamt up the Wine Centre. Geniuses in the Minister's Government dreamt that up. I would not, in my wildest dreams, have thought that anyone would have had the gall to put something like the Wine Centre in the parklands. I would not have thought in my wildest dreams that anyone would have had the gall to put that private tennis centre in the parklands. I do not need to dream: you guys do that all by yourselves. You come up with propositions that no-one else would have half the nerve to suggest.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I also learnt from history, and I do not forget. If the Government wonders why people are cynical about it, it is because of its behaviour: the Government creates the grounds for cynicism. Unfortunately, with this Government, the cynicism is well based. This part of the legislation relating to a land bank will not achieve the stated goals: it will merely create a lively expectation of a right to develop. It will guarantee that low level development, land that is capable of being recovered, will be replaced by high density development—land that will never be recovered. The long-term impact (and history will judge us on this) will be that, as a consequence of this proposal, more permanent alienation of the parklands will occur.

The Hon. T. CROTHERS: I want to rebut what my parliamentary colleague the Hon. Paul Holloway said directly and what the Hon. Mr Elliott said by inference in his contribution just now indicating that the establishment of the land trust would lead to all sorts of abuses in respect of the green belt around Adelaide and its environs. They made the point that if this land trust thing gets up, then we have established an algebraic formula for Governments to abuse with respect to the further alienation of massive parts of the green belt around Adelaide. That is just not true, and let me demonstrate why it is not true.

The Hon. Mr Holloway said that debate should occur in this place and that it should be an emotional debate in respect of any development in the Adelaide parklands. He implied that that could not happen because of this formula that will be set up should the land bank cum trust (if the Cameron amendment is carried) clause is passed. That is not true. That is what Wednesdays are for in this Parliament. I ask myself, 'Do not the last two speakers believe in the art of good governance?' This Parliament stands sovereign supreme, irrespective of any Act of Parliament, should the Government abuse the powers that the Parliament bestows upon it, and it can revisit the matter and can revisit it in a retrospective fashion by the introduction of a private member's Bill on any Wednesday of any sitting week of this Parliament.

It is arrant nonsense for the last two speakers to suggest that, because we confer this on the Government now, that for all time removes the sovereign powers of this Parliament. What absolute emotional nonsense! If that is the type of emotional debate in which the Hon. Mr Holloway, aided and abetted by the Hon. Mr Elliott, wants this Parliament to engage, let us at least be honest to the galleries. This does not mean, if this measure is carried (and I will be supporting the Government on it), that Parliament has abrogated any of its power. That is what private members' day is for.

Any member can introduce a Bill at any time, setting aside any other Act of Parliament, making it retrospective if that is deemed necessary, up to and including this particular land bank/trust scheme, if the Parliament believes that the

Government has abused the trust that the Parliament has bestowed on it. I have no problems whatsoever with that. I understand that, and I am sure that the last two speakers before me understand it, too, but it is good politics, particularly when you have the galleries full, to be able to get up and suggest that an untruth is in fact a truth. It is not the truth.

Everyone here knows that what I have just said is the truth: that Parliament still has the sovereign right to ensure that no Government, either now or in the future, can abuse the algebraic equation that this Parliament hopefully will confer on it by the setting up of the land trust. It is an arrant distortion of the truth at best, and a lie at worst, for any member to make that allegation. I am still supporting the Government in the interests of good governance—

The Hon. M.J. Elliott: We thought we had persuaded you!

The Hon. T. CROTHERS: You would persuade me if you told the truth. I am always persuaded by truth, not by emotional half-truths. I have a very logically ordered mind. I am sorry that some of my colleagues do not have the same logically ordered mind. I shall name no names, Mr Chairman, because you would ensure that I was pulled up for being unparliamentary, and I do not intend to demean your stewardship of the Chair by being so unparliamentary; so, I name no names. I want to say that, for heaven's sake, if we are going to have a debate in this Parliament on the Adelaide parklands or any other issue, let it be based on fact, not on emotional half-truths and not on a total misunderstanding by the speakers—I am being kind to them—of what parliamentary procedure and the Standing Orders of this Parliament are all about.

The Hon. M.J. Elliott: I am still learning—

The Hon. T. CROTHERS: You will always be learning because you are a slow learner. That is your problem: your capacity to absorb has been greatly diminished.

The Hon. M.J. Elliott: It is terrible, isn't it?

The Hon. T. CROTHERS: It is terrible for the Democrats but it is bloody good for me because the rebuttal is very easy. It is terrible for the Democrats—

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: When you had your last meeting to elect a Leader it was in the phone box down the road. I am supporting the Government. I reiterate: it is an absolute furphy that the last two speakers have made that the Parliament has surrendered its sovereign rights over the executive wing or arm of government—any government—in respect of this matter. It can be revisited any Wednesday by any private member. If you have the numbers you will get up. If you do not have the numbers, you will not. That is what Parliament is all about.

The Hon. Carolyn Pickles interjecting:

The Hon. T. CROTHERS: Hello! Who said that? I thought you were away today, Carolyn: I have not seen you for two days. That is what Parliament is all about: it is all about the fact that two and two is four. Two and two is never three or five in this place. Logic does prevail. I conclude my unemotional, factual and honest contribution on that note.

The Hon. DIANA LAIDLAW: The Hon. Mr Gilfillan asked a number of questions on behalf of the Adelaide City Council, the first being: does this mean that the Crown may take action to remove land from the Adelaide parklands? That has always been the case and this Bill does not change that. The strength of the Bill in this respect is that it provides strong protocols in terms of such action, plus the other measures we have talked about exhaustively, and I will not go through them again now. A further question was: is it true that there is no compulsion on the Crown to create credit units or to return alienated land to parklands? Yes, it is true. This Bill does not change what could be current practice, so I do not know what the fuss is about. I repeat: one of the strengths of this is the protocols up front. The nervousness expressed by honourable members about past practices is addressed positively in the way in which we address issues of care, control and development of the parklands. The Bill does not advocate development and I make that clear. It provides, if there is development, this strong framework for future transparent practice.

The Hon. NICK XENOPHON: Is the Government prepared to accept an amendment to the Crown Lands Act which requires the Crown, in any proposal to resume land from the land trust, to do so only if it has sufficient credits to its standing?

The Hon. DIANA LAIDLAW: Is this a completely different matter from the amendment you have on file?

The Hon. NICK XENOPHON: It is a different matter.

The Hon. DIANA LAIDLAW: The Crown Lands Act is not committed to me and it would be inappropriate that I would be prepared on the run to open another Act and put the Government in the position of supporting an amendment in such circumstances: I would not do so. You could raise that matter separately by private member's Bill if you wanted to advance it. It is not critical to this measure and certainly I am not going to get drawn on the matter.

The Hon. NICK XENOPHON: With respect to the Minister, there is an interplay between the Crown Lands Act and this proposal, and I would have thought my question—or the implications—was capable of at least being considered.

The Hon. DIANA LAIDLAW: I did not say it could not be considered: I said I was not going to respond on the spot.

The Hon. NICK XENOPHON: If I go back a step, I just wanted an indication from the Minister with respect to the current position of the Crown Lands Act. Is it the case that the Government can use its powers pursuant to that Act to develop parts of the parklands without consultation or without this matter being dealt with in Parliament?

The Hon. DIANA LAIDLAW: I hope that the honourable member does not represent me as a lawyer, because the Crown Lands Act very clearly says that what the honourable member has suggested is impossible where consultation is required: it is only for resumption of the land and not for development. So, on both counts the honourable member is wrong.

The Hon. NICK XENOPHON: I thank the Minister for her gratuitously offensive comments.

An honourable member interjecting:

The Hon. NICK XENOPHON: Yes. Will the Minister indicate whether, if the land trust is in place, there are any developments which currently require parliamentary approval but which following the passage of this land trust amendment will not require such approval? Could the Minister give us circumstances where parliamentary approval will not be required in the context of these amendments?

The Hon. DIANA LAIDLAW: I can think of a number, but I will take the question on notice.

The Hon. NICK XENOPHON: Does that mean that the Minister cannot give an undertaking that there are some developments that will take place as a consequence of the proposed land trust which currently require parliamentary approval?

The Hon. DIANA LAIDLAW: I said that I would take the question on notice.

The Hon. T.G. Cameron: When will we get an answer?

The Hon. DIANA LAIDLAW: If he wishes, the Minister can give an answer when the Bill is returned to the other place.

The Hon. NICK XENOPHON: I have a great degree of sympathy for the Government's land trust proposal and for the Hon. Mr Cameron's proposed amendments. I think that this proposal does have some merit, but there has been a great deal of community disquiet, partly because the Government has not properly sold its message. I believe that the intention of the member for Adelaide and, in particular, the Minister for Local Government, has been a good one, that this is a well-intentioned clause that has potential to benefit the parklands. My understanding was that this proposal would not allow any developments that currently need parliamentary approval to take place without that approval. The fact that the Minister is now saying that that is not necessarily the case means that—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: Okay. But the fact that the Minister cannot give me an absolute assurance with respect to that means that I have difficulty in supporting this amendment. It is a clause that I am inclined to support, along with the amendments of the Hon. Terry Cameron, but in the absence of rock solid assurances from the Minister it causes some difficulty. I have always worked on the assumption that this would not change anything with respect to the requirement for parliamentary approval: that the nub of the issue, as stated eloquently by the Hon. Mr Gilfillan, was that it could create some form of legislative expectation that there ought to be developments once credits were in place. But, in terms of the legislative framework, it would not give any authority for any additional development without parliamentary approval. The Minister has not assured me on that and, whilst I am very sympathetic—

The Hon. Diana Laidlaw interjecting:

The Hon. NICK XENOPHON: If the Minister does not understand where I am coming from I am more than happy to explore that with her further in the context of the Committee stage.

The Hon. A.J. REDFORD: I was not intending to speak, because I was considering my football tips, but perhaps I can suggest to the Hon. Nick Xenophon as was suggested to me that, being a lawyer in this place at the other end of the Minister sometimes attracts some gratuitous critical comments, as the honourable member might have observed in my case yesterday. Before the Hon. Trevor Crothers interjects, whilst yesterday I might have been one of eight lawyers it is now down to five and they are now all coming around to my point of view. To be fair to the Hon. Nick Xenophon, it is a reasonable question. I must say that my reading of the amendment is that the answer is that there can be no development either by the council or the Government without some mutual agreement on their part or alternatively a referral to either House of Parliament. Whether or not that is sufficient to protect the parklands in the eyes of everybody here is a matter for our own individual judgments.

I have listened to the debate at length and it seems to me that everybody is in agreement. We all want to protect the parklands, and what is happening at the moment is that we are going through a process of stating that my idea of protecting the parklands is better than your idea. We in this place all need to take a very deep breath and acknowledge that we are all in agreement and that we all want to protect the parklands for the future and for our children. The question is how we can do that. There is one area from which we cannot protect the parklands, no matter how hard we try, and that is if Parliament passes an Act or legislation permitting development. This Parliament cannot bind future Parliaments, so there is nothing we can do about that. However, as members have quite correctly said, we need to protect the parklands from incursions by State Governments.

We can look back over the 150-odd year history of the parklands. I have learnt quite a lot about that history, and the Minister is to be congratulated on fully informing himself about the history of the parklands. Most of the incursions have occurred on the part of State Governments or State Parliaments. With the odd exception every now and again, the Adelaide City Council has been a worthy custodian of the parklands, and over a considerable period of time it has proven that it is the most appropriate body to preserve and protect the parklands from the odd intrusion by State Governments or State Parliaments.

If one accepts those propositions it becomes a question of how we come up with a form of words to protect the parklands from the intrusion of the State Government. Whether we have a land bank, land trust or blanket prohibition, there are many different options. At the moment the debate seems to be simply a big argument among lawyers, with the greatest respect to the Hon. Nick Xenophon and indeed myself, and the criticisms we get from the Minister. We should be taking a deep breath and saying that we all agree that we must protect these parklands, but let us come up with the best form of words to be able to achieve that.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: I am very loath to do anything out of step with the Government. I made a slight comment yesterday and you saw what happened.

An honourable member interjecting:

The Hon. A.J. REDFORD: The Hon. Nick Xenophon has an opinion. Occasionally I might agree with it, but I will not comment on it at this stage. However, it is on the record. What we ought to be doing is just taking a deep breath. At the end of the day, the South Australian community is pretty well agreed on this. There are some extremes. I would not go as far as the Hon. Ian Gilfillan in some of the comments he makes, but we are all agreed on the basic principle: we need to protect the parklands. The greatest potential risk the parklands have is intrusion by State Governments, whether it be this one, previous ones or future ones. The Parliament wants to have some oversight to ensure that that does not happen.

Whatever form of words we get, we will have the weekend to consider them, without any rancour, without any politics. This Bill will go back to the Lower House, because there have already been successful amendments, and we can quietly and carefully consider the best form of words. If we do not get the best form of words today, there are opportunities in this parliamentary process to get the best form of words before this Bill ultimately goes through, and I understand it has to go through ultimately by some time next week. I would really hope that we can do that with the support of the City of Adelaide. I know you, Mr Chairman, have often said to me—and I hope you do not mind my quoting private conversations, but you have a proud tradition with your family in relation to the City of Adelaide—that it is State Governments that have been the vandals; it has not been the City of Adelaide.

Whether or not you like the current administration, whether you are a fan of it or opposed to it, whatever you think of the administration, it does not matter. Generally speaking, the City of Adelaide has been wise and careful in its administration of the parklands, and we as a Parliament ought to acknowledge that. Indeed, I am sure, certainly having had lots of discussions with the local member, that we are all agreed on that.

I would urge you, Minister, to consider seriously all the options on the table and approach the matter without any politics, without any, 'Mine is better than yours', 'Mine is bigger than yours' or, 'Mine is tougher than yours' proposals, get the best result—and not everybody will agree—get the endorsement of the City of Adelaide (that is absolutely fundamental) and get the end result. In a rather convoluted way, that is the way we ought to go. In some ways, we have got too rancorous about this debate.

The Hon. T.G. Roberts: Some of us.

The Hon. A.J. REDFORD: Yes. I must admit this is quite unlike me. Normally I go into the fray and start throwing the fists about. On this one, I am a bit bemused by some of the positioning—and we are all at fault here—that we have taken. In that regard, I would urge the Minister and the Hons Terry Cameron, Trevor Crothers, Nick Xenophon and Ian Gilfillan—in fact, all of us—to acknowledge that the single biggest point in this is to protect the parklands, and the question is how we go about it. We must approach the suggestions with an absolutely open mind, because it may well be that the best idea to protect the parklands could come from any one of us or, indeed, any one person from the City of Adelaide. However, if we all agree with the starting point—that is, that the City of Adelaide is the best custodian, that State Governments, generally speaking, on past performance have not been great custodians in preserving open space parkland—we would take a big step towards coming up with a solution that will make everybody happy.

I would sincerely hope that this issue does not become politicised in terms of any political Party or become another dispute or point of tension between the current administration of the City of Adelaide and the current Government because, at the end of the day, we have come a long way over the past 18 months and I would hate to see us take any step backwards. This State cannot afford to have a rancorous debate between the State Government and/or State Parliament and the City of Adelaide. We have too much to do, too much at stake and there are so many challenges facing the Capital City Committee. We should not be distracted by getting into some sort of lengthy debate between lawyers about who has the best words to protect the parklands.

I urge everybody to take a very deep breath. Whatever we do today we can fix next Tuesday, if need be. All of us here agree, and I know that you, Sir, would have a great contribution to make given your very strong views about the City of Adelaide and the protection of the parklands.

The Hon. IAN GILFILLAN: The Minister was earlier asked a question relating to the powers of the Crown Lands Act. That Act, referring to the Minister's powers to deal with Crown lands under section 5, provides:

> The Minister may, subject to the provisions of this Act, from time to time—
>
> (a) on behalf of the Crown, sell, lease or otherwise alienate (other than by way of a grant of fee simple) any Crown lands;

Further, paragraph (d) states:

> by notice in the *Gazette* dedicate any Crown lands for any of the following purposes:—

and there is a great range of them, but they include: market-places or abattoirs; institutions for public instruction or amusement; parklands or places for the recreation and amusement for the inhabitants of any city, town or place; forest reserves; public reservoirs; and hospitals, asylums or cemeteries. Finally, it states:

> . . . for any other purpose he thinks fit, whether similar to the purposes referred to in the preceding subparagraphs or not.

Whatever legislation we pass today or in whatever form this clause is passed, any Government that wishes to alienate parts of the parklands can use this legislation. We have well acknowledged that any Government that can get a Bill through this Parliament can also alienate parklands, totally ignoring any of the conditions that have been put in through this clause. I raise that matter because I believe the Minister was not fully aware of the consequences of the Crown Lands Act in her answer and it is important that it be in *Hansard* to indicate just what power a Minister of the Crown has in this respect.

However we deliberate and refine this clause, essentially a Government that is hell bent on putting development on the parklands can go ahead, which is why my principal argument is that it needs a conviction. If it needs a sea change of approach so that no future Government would dare use those Acts or use the power to put through Bills in Parliament, we will be on a win. This clause by itself will certainly not achieve that.

The Hon. DIANA LAIDLAW: I will put the Hon. Mr Gilfillan's mind at rest and let him know that I am fully aware of what is in the Crown Lands Act, having made reference to it three times today already. The Act was framed in 1929 and for various purposes, which apply not just for the city area but for the whole of the State, it essentially sets up the basic infrastructure of this State. We have long moved on since then in terms of abattoirs, water courses, wharves and health facilities. There are even opportunities here for asylums and other things. I am well aware that some of those measures that allow the Minister to alienate Crown lands are essential public infrastructure today, are valued, and bring a lot of jobs and economic development to this State. Most, if not all, of that infrastructure is in place, and some of the provisions here are antiquated. As I say, the Act was promulgated in 1929 and perhaps we should look at some of those matters.

I am trying to assist the Hon. Mr Xenophon. I think the honourable member was asking if any further right was granted by this Bill to further develop Crown land, and the answer is 'No.' I have said that several times, but I repeat it if that is the question that is still worrying him. I mentioned earlier, and I stress again, that the further amendment to the Bill which is to be moved by the Hon. Terry Cameron provides that this section does not in itself confer a right on the Crown or any agency or instrumentality of the Crown to remove land from the land trust. I raised that matter earlier, and, again, I repeat the opinion of Mr Brian Hayes that this Bill has nothing to do with, and could not possibly be construed as either promoting or encouraging, development on the parklands.

The Hon. NICK XENOPHON: I understand and appreciate the Minister's answer that it does not promote any class of development, but are there certain classes or types of development which currently require parliamentary approval and which would not require parliamentary approval with the land trust in place?

The Hon. DIANA LAIDLAW: No.

Progress reported; Committee to sit again.

INDUSTRIAL AND EMPLOYEE RELATIONS (WORKPLACE RELATIONS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1815.)

The Hon. CARMEL ZOLLO: I read in the Minister's second reading explanation that this Bill is about allowing employers and employees to share the benefits of a more flexible and user friendly system that encourages greater freedom for employers and employees to determine their own relationships. The phrase that I like the most is:

> The Government recognises the desirability of encouraging parties to reach and 'own' their own solutions to difficulties in their work places.

The Minister might have added, 'We have now reached the promised land.' I am afraid that, when it comes to industrial relations, there is only one relation that the Liberals believe in, namely, the benevolent (and at times not so benevolent) master and servant.

Their attitude seems to be one of paying themselves huge salaries and maximum profits by paying as little as they can get away with and having as few workers as possible. They believe that they need to join with others of like mind to promote common interests, that workers no longer have any need for unions because employers are so good to them—not that unions were ever readily accepted. It would appear to conservative State and Federal Governments that workers are simply a commodity, not individuals, and therefore should be treated as any other commodity. Conservative Governments try to outdo one another as to who can have the most draconian anti-worker laws, all in the name of reform and that workers will all be better off. If unemployment levels are high and unions are weak or non-existent then wage levels will be reduced and profits increased.

Have there ever been national wage cases that have been genuinely supported by employer groups? Is there ever a right time to award a wage increase to the vast majority of the population who are well below so-called average wages? Of course there is not. However, are there any controls on the salaries and packages of directors, chief executives and other high fliers? Of course not. The philosophy seems to be to pay whatever they can get away with. In fact, the more workers they can sack, the more they can pay themselves and their shareholders, and they invent a new language to make it easier to sell this philosophy: 'downsize' is the word that quickly springs to mind. I am not an avid fan of either Chris Kenny or the *Sunday Mail*, but I was pleased to read his comments in an article of 4 July, which stated in part:

> Brown [former Premier Brown] pointed out that in the 1950s and 1960s the gap between the rich and the poor in Australia was the second lowest of any developed country. 'Today that differential has become a yawning chasm into which people are falling.' Pay rises for workers have not kept pace with the lavish increases being heaped upon executives. Ever since the early 1980s the proportion of Australia's wealth held by the 200 richest people has more than doubled. 'Yet, there is no coherent case being put forward for a more egalitarian Australia or how best to achieve it,' lamented Brown.

This Bill has nothing to do with genuine improvements to industrial relations and economic management. It is to do with long existing, irrational hatred of trade unions and everything they stand for. One has only to look at the vendetta carried on by the Federal Government against student associations, a vendetta it has been waiting to settle since the 1960s. Apparently it is all right for people to pay levies or to be members of professional associations, but they are not classed as unions. It is okay in those cases. Thankfully, it looks as though the Government will have to shelve that proposal for now.

I wonder what a user friendly system really means in relation to a work situation? How can two people use one another and come out feeling satisfied with such an agreement when the guidelines are prescriptive in favour of one more than the other? When things go wrong one can always infuse a bit of guilt. Whenever protection of workers is removed from our society, it is removed from the most vulnerable, the people who are least able to stand up to the system.

I have great difficulty with the philosophy of members opposite when it comes to employer-employee relations. I am sure that, given the chance, and given reasonable laws, most employers and employees are reasonable people and it is in the best interests of both to ensure a good working relationship that, in the end, ensures stability in the working life of an employee and translates to profit for the employer. Such stability is threatened by the introduction of the proposed workplace agreements, the most inflammatory of the changes introduced by this Bill. We will be able to replace apparent restrictive workplace practices with prescriptive workplace practices. The two types of agreements are collective workplace agreements (to be made with a group of employees) and individual workplace agreements (made between an employer and individual employees), with individual agreements overriding collective workplace agreements. So, we will end up with two types of newly regulated workers.

In workplaces with AWAs and union membership, the relationships are already strained. When a worker does not feel that they have the collective support of their co-workers and that they are all working together for the common good, their self-esteem suffers. The attempt to attack and weaken unions by regulating deductions and a weakening in the protection against unfair dismissal laws is further ample evidence of downgrading workers' conditions and the importance of unions in their lives.

The Bill also seeks to weaken the Industrial Relations Commission—a system that has worked well for many years—as well as weaken the powers of the Employee Ombudsman. Since the creation of the position of Employee Ombudsman, things have worked reasonably well, and he has been an excellent advocate for many people outside the union system. Given the Liberal track record in industrial relations, I think one could be forgiven for being suspicious as to what rationalising the functions of the Employee Ombudsman actually means.

I believe the worst thing that an employee can feel is loss of security in their employment, and AWAs are a threat to that, because individual people having to negotiate their own conditions of employment with an employer become vulnerable. Does the Government really expect us to believe that both parties are equal? What chance does an individual have to protect employment conditions and wages against large and powerful organisations?

Restricting the right of entry of unions is further proof that this Government is hell bent on downgrading workers' rights of association. By virtue of the fact that an employee with a grievance may not want to be immediately identified, this restriction further reduces their rights. One would have thought that the giving of reasonable notice, as is now the

case, would suffice. When such access is made more difficult, it can only add to the lack of trust between all parties.

Last year, I attended an interstate conference on vocational training and education, specifically in relation to women. Not surprisingly, much concern was expressed that so many jobs these days are becoming part time and casual. People often lose bargaining power because of their vulnerability. Some women work part time by choice because it suits their family situation, but many cannot get anything else and take up part-time work because of the very urgent need to boost the family income. Many young people similarly work part time but, increasingly, it is often not by choice, other than for those who are supplementing their income during studies. It is becoming increasingly the norm, because it is the only type of employment out there for them, and some money and some work experience is better than nothing. Such people lose bargaining power, and the need for their protection in the form of union membership is even more important. Unfortunately, Australia is well up there as one of the leading western nations in this type of precarious employment.

I recently received correspondence from the Migrant Women's Lobby Group, a peak women's lobby group, in relation to this Bill. The group expressed its grave concerns as to how the proposed changes will affect migrant women, particularly working women from non-English speaking backgrounds. It is not surprising to see such concern expressed, given the large number of women from non-English speaking backgrounds employed in the lower income, casual, small business sector. The correspondence went on to say:

> We believe that these women will be seriously disadvantaged as a result of the implementation of the proposed changes.
>
> Women from non-English speaking backgrounds, particularly as individuals and because of linguistic and cultural barriers, will not be able to draw up proper agreements which will safeguard their rights. If, for example, they omit any reference to award rates then their legal rights in a dispute will be minimised.
>
> Women from non-English speaking backgrounds are already disadvantaged and are therefore unlikely to challenge their employers about a range of conditions and entitlements. It is unlikely that women from non-English speaking backgrounds will identify and interpret certain words and actions as coercion and they will accept the conditions as specified by the employers.
>
> Employers could exploit the lack of knowledge, understanding and vulnerability of women workers from non-English speaking backgrounds by establishing agreements which could mean many years of unjust pay, working long hours and overtime, a lack of holiday entitlements and other unacceptable working conditions.

They believe, as I do, that the unfair dismissal section of this Bill will impact unfairly on many of these women as they are often employed in the private sector and in small businesses employing fewer than 15 people.

As to be expected, the Migrant Women's Lobby Group is also concerned about the restriction of powers and ability of unions and the Ombudsman to act on behalf of women of non-English speaking backgrounds. The role of advocates in the dissemination of rights and information is an even more important one in the case of women of non-English speaking backgrounds. Like other members in this Chamber I also received correspondence from the Adelaide Diocesan Justice and Peace Commission, correspondence in which they expressed similar views in response to a briefing held by the Workplace Relations Division of the Department for Administrative and Information Services. It wrote to the Minister and, in part, said:

> Following careful consideration of the proposed amendments, the commission is concerned that in a number of respects, the Bill would adversely impact on the indispensable role of trade unions, and open the door to exploitation of the most vulnerable. . . The Catholic Church has placed great stress on questions of work as the key to building a just society. That is why teachings about work and the rights and duties of workers have been central to the church's teachings about social justice. It has continued to call attention to the dignity and rights of workers, and to raise its voice in situations where that dignity and those rights are violated.

However, I am pleased to see the provision in this Bill for the protection of children under 14 years of age with door-to-door selling. I note that my colleague in the other place the member for Torrens wanted to introduce such legislation much earlier—so, like all members I welcome this proposal. It is regretful that as an Opposition we cannot vote for this part of the legislation only because the rest of is so abhorrent. I believe this Bill is an attack on all workers, their unions and, indirectly, the Labor Party. Liberal Governments cannot quite come to terms with the power of the collective good, unless it seems to support those whom they feel should benefit from such cooperation.

This Bill is nothing more than the pursuit of a conservative and irrational ideology and does not consider whether there is anything wrong with the actual system and the manner in which it is working. It is all about reducing workers' rights and conditions of work. Removing security from people's lives is self-defeating, as it ultimately removes confidence and spending power and ends up being to the detriment of the whole community. I oppose the second reading of this Bill and urge all members to do the same.

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

LOCAL GOVERNMENT BILL

In Committee (resumed on motion).

(Continued from page 1842.)

Clause 208.

The Hon. NICK XENOPHON: An enormous amount of debate has occurred about this issue. It is an issue of great emotion and with just cause because it relates to the parklands. I am assured that these amendments do nothing to make it easier for developments to take place in the parklands. The amendment effectively gives an added degree of protection. I believe that the Government has done an appalling job of selling this proposal to the community. As a result of advice I have received, the wording of the clauses and the Government's very clear position that this does not make it any easier for any development to take place without parliamentary approval, on balance I support this clause. Having said that, however, I do appreciate the work done by the Hon. Ian Gilfillan in relation to the parklands. I understand his concerns but, at the end of the day, given the drafting of this clause and these amendments, it will not have those consequences.

I foreshadow that I will be moving some amendments, which I think will give added protection to the process with respect to any credit units held in the land trust. I understand, as of a few minutes ago, that the Government and the Hon. Terry Cameron will be supporting my amendments, and obviously they will shortly be debated. The Opposition may also support them.

The Hon. IAN GILFILLAN: I assume that we are dealing with the first listed amendment?

The CHAIRMAN: The Hon. Mr Cameron has moved his amendment to page 154, after line 3. The Committee appears to be ready to vote.

The Hon. T.G. CAMERON: Before we vote, I would like to record my appreciation to the Hon. Nick Xenophon for his support for my amendment. I indicate for the record that I have had a close look at the amendment he is moving to this clause. I believe it adds to the process and I will be supporting that amendment.

Amendment carried.

The CHAIRMAN: If he wishes, the Hon. Mr Cameron can move all of his amendments to clause 208. We have canvassed them fairly well and they can be canvassed again but he can move his amendments *en bloc*.

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

Page 154—
Line 4—Leave out 'land bank' means land' and insert:
'land trust' means the land (being in the nature of open space)
Line 7—Leave out '1.0 credit units for every 1.1' and insert:
1 credit unit for every 2
Line 8—Leave out 'bank' and insert:
trust
Line 9—Leave out '1.0 credit units for every 1.1' and insert:
1 credit unit for every 2
Line 10—Leave out 'land bank' and insert:
land trust (including by the return, surrender or redelineation of land so as to add land to the Adelaide Park Lands)
After line 11—Insert:
(2a) Before the Council, or the Crown or an agency or instrumentality of the Crown, adds land to the land trust under this section—
(a) in the case of the Council—the Council must—
(i) take reasonable steps to consult with the Crown; and
(ii) ensure that the land is suitable for public use and enjoyment as open space;
(b) in the case of the Crown or an agency or instrumentality of the Crown—the Crown or the agency or instrumentality of the Crown must—
(i) take reasonable steps to consult with the Council; and
(ii) ensure that the land is suitable for public use and enjoyment as open space.
(2b) Any dispute between the Council and the Crown as to whether subsection (2a) has been complied with in a particular case will be referred to the Capital City Committee.

Amendments carried.

The Hon. NICK XENOPHON: I move:

Page 154, lines 12 to 15—Leave out subclause (3) and insert:
(3) The Council may only grant a lease or licence over land that forms part of the Adelaide parklands, or take other action to remove land from the land trust, if—
(a) the Council is acting—
(i) with the concurrence of the Crown; or
(ii) in pursuance of a resolution passed by both Houses of Parliament; and
(b) the Council holds credit units equal to or exceeding the number of square metres of land to be subject to the lease or licence or to be otherwise so removed.

This amendment was drafted after consultation with the Adelaide City Council, and I hope it goes some considerable way to meeting its concerns about the operation of the land trust and the provision and handling of credit units. Essentially, this amendment ensures that, first, with respect to any proposal to take action to remove land from the land trust or to grant a lease or licence over land that forms part of the Adelaide parklands, the council must act with the concurrence of the Crown or in pursuance of a resolution passed by both Houses of Parliament. It also provides that the Crown, an agency or instrumentality of the Crown may take action to remove land from the land trust only if it is acting with the concurrence of the council or in pursuance of a resolution passed by both Houses of Parliament.

Essentially, this clause does strengthen the role of the Adelaide City Council in relation to the operation of the land trust. As I have said previously in relation to another clause, this land trust will not make it any easier for developments to take place without parliamentary approval: it still must go before Parliament. It sets up a mechanism to ensure that more land is returned to the parklands. I can understand and respect the concerns of the Hon. Ian Gilfillan and others who have spoken against it.

I would like to think that honourable members who have reservations or are opposed to the principle of the land trust will at least support this proposal in that it goes some considerable way in meeting the concerns of the Adelaide City Council. It does strengthen their role. It means that their concurrence is required in terms of removing land from the land trust. If that concurrence is not obtained, it must go before both Houses of Parliament. It is a safeguard that does not exist at present. I understand that the Hon. Terry Cameron has considered this and I hope he will be supporting it. I urge all members to support this amendment.

The Hon. T.G. CAMERON: SA First will be supporting this amendment.

The Hon. DIANA LAIDLAW: The Government will support the amendment. There have been discussions between the Hon. Nick Xenophon and the Minister for Local Government, as well as the member for Adelaide, the Hon. Michael Armitage, about this amendment. As I mentioned earlier, it has always been the intention of both the Government and the local member to see that this whole initiative is in support of parklands and gain for parklands and the community generally. We believe that the amendment is in that vein and we will support it.

The Hon. T.G. ROBERTS: The Labor Party's position is that we oppose clause 208 but we will be supporting both the Cameron and Xenophon amendments. The amendments add somewhat to the safeguards in relation to reporting back to Parliament, keeping contact with the Adelaide City Council for its opinions and input, and allowing for the change in the formula. However, we will oppose the clause when it is put.

The Hon. IAN GILFILLAN: It is a nice little amendment and is well intentioned. Unfortunately, I do not believe it will do more than give people an excuse to have a chat. It reads:

The council may only grant a lease or licence over land that forms part of the Adelaide park lands, or take other action to remove land from the land trust, if—
. . . the council is acting—
. . . with the concurrence of the Crown; or—

In other words, if the Crown does not approve, it would need to have a resolution passed through both Houses of Parliament. The council holds credit in the area that it requires to take out of the land trust. The actual wording seems to cover the council's granting a lease or licence over any land, whether or not it is involved in the land trust. I am not sure whether the mover can explain to me that it has to deal only with land which is to be drawn out of the land trust equivalent to credits which the council is holding. As it reads to me, it is a blanket cover over virtually any lease or licence that the council intends to grant. Proposed new subclause (4) provides:

The Crown, or an agency or instrumentality of the Crown, may only take action to remove land from the trust if—
. . . the Crown. . . is acting—
. . . with the concurrence of the council; or

. . . in pursuance of a resolution passed by both Houses of Parliament; and

. . . the Crown holds credit units equal to or exceeding the number of square metres of land to be so removed.

That means that if the council is strenuously opposed to the actual move that the Crown makes in taking land from the land trust, it really can do no more than squawk its opposition because it has no arbitrary power through this amendment. For this amendment to have real effect, so that all principal players would have had a major role in determining what land was to be used out of the land trust, the action in both cases should require both those parties to give concurrence. If my interpretation of the current wording means that the council would require that from any of its leases or licences, it would be a very onerous task and perhaps the amendment should be revisited with that in mind so far as restricting it just to the leases or licences to be drawn from the land trust.

The main point I am making is that, for this to be really effective, it should have required the concurrence of the Crown in the first case and a resolution of both Houses of Parliament and, in the reverse case, the Crown should require the concurrence of the council as well as the resolution passed by both Houses of Parliament. If we translate the substance of the majority of the debate which has taken place this morning, it has been genuinely motivated to make sure that whatever was used for development on the parklands as a result of this legislation would be very strenuously vetted and would be implemented only if it had consensus support from all the people who were in a position to consider it and determine what nature of development it would be. I do not see the amendment as it is currently drafted doing any harm, so I will not oppose it, but I am a little concerned, first, that it may need rewording and, secondly, that it is relatively innocuous

The Hon. NICK XENOPHON: I am grateful to the Hon. Mr Gilfillan for saying that this is at least relatively innocuous. I think that is a good start. However, I suggest that it does go beyond that. In response to the Hon. Ian Gilfillan's remarks and questions, first in relation to the proposed amendment to subclause (3), effectively it applies to any land in the Adelaide parklands, not simply to any lands in the land trust or any credit units applying to that. In other words, it does provide a great degree of protection in the sense that it acts as a fetter in some respects to the city council's dealing with the land in a number of circumstances.

With respect to subclause (4), the wording is slightly different, simply because the Crown's role with respect to the parklands is much more circumscribed. The Crown only has work to do if there is land in the land trust to be considered in the sense that the council is the custodian of the parklands. In the context of subclause (4), essentially that does provide a significant fetter to the role of the Crown, because the concurrence of the council is required—not just consultation.

In a sense, the council can provide a veto which will then require it to go before both Houses of Parliament in the context of dealing with removing any land from the land trust. So, it applies a significant obstacle in terms of the Crown's dealing with those credit units or with land in the land trust in the context of this legislative framework. That is why I think that it will significantly strengthen the council's power and role in the context of the operation of the land trust.

The Hon. IAN GILFILLAN: If I understand what the Hon. Nick Xenophon has just indicated, amended subclause (3) would actually involve the council in seeking the concurrence of the Crown whenever it grants or intends to grant a lease or licence over any part of the parklands even where such a lease or licence was purely a renewal of an existing lease or licence. That is what I think the honourable member, in answer to my question, made quite clear: it does involve any of the leases or licences that the council would be involved in considering. I suggest that it will put a quite extraordinarily onerous obligation on the council—and quite a bother to the Crown—to have to consider each one. Unless I have wrongly interpreted what the Hon. Nick Xenophon said, that is what I understand will happen.

The Hon. NICK XENOPHON: Exemptions are built into the Act. I have consulted with the council in relation to this, and my clear understanding is that it is not intended to be a bother: it is intended to be an additional safeguard in the context of the granting of a lease or licence. But there are exemptions in the Act, and I am sure that the Hon. Ian Gilfillan can get advice independently from the council in relation to that. Perhaps if my response has not satisfied the honourable member, he can revisit this particular area.

The Hon. T. CROTHERS: I indicate support for the Xenophon amendment for the following reasons. It keeps control of the parklands within the Executive arm of Government in this State and, indeed, within the control of this Parliament. It ensures that nobody can use the land trust argument in such a way as to frustrate the intention of the Parliament should it adopt and support the Land Trust Act. I think it is a very worthwhile amendment. As I said—and it bears repeating—it keeps control of the parklands ultimately within the Executive arm of Government, that is, the Crown; and, in addition, the other alternative interposed is that it ensures that Parliament still has the sovereign right over that belt of land right around the inner suburban areas of Adelaide. I support the Xenophon amendment.

The Hon. DIANA LAIDLAW: In terms of the Hon. Ian Gilfillan's concerns, it is my understanding, as the Hon. Nick Xenophon said, that this replacement for subclause (3) must be read in conjunction with exemptions 1 and 2 (small print) in the Bill. That should satisfy not only the Adelaide City Council but also this place.

Amendment carried.

The CHAIRMAN: My understanding is that the Hon. Mr Cameron should not move his amendments to lines 13 and 28 now. He might talk to Parliamentary Counsel.

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

Page 154—

Line 16— Leave out 'blank' and insert:

trust

Lines 21 and 22—Leave out 'one month' and insert:

three months

After line 22—Insert:

(ab) to the extension or renewal of a lease or licence, or to the granting of a lease or licence in place of an existing lease or licence or a lease or licence that has expired, in a case where section 207 applies; or

(ac) to the extension or renewal of a licence, or to the granting of a licence in place of an existing licence or a licence that has expired, for a term not exceeding 12 months if the grant of the licence is authorised in an approved management plan for the Adelaide Park Lands (to the extent that land is not added to the area of the licence); or

Line 24—Leave out 'blank' and insert:

trust

After line 26—Insert:

3. This subsection does not in itself confer a right on the Council to remove land from the land trust.

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

Amendments carried.

The Hon. NICK XENOPHON: I move:

Page 154, lines 27 to 29—Leave out subclause (4) and insert:

(4) The Crown, or an agency or instrumentality of the Crown, may only take action to remove land from the land trust if—

(a) the Crown, or the agency or instrumentality, is acting—

(i) with the concurrence of the Council; or

(ii) in pursuance of a resolution passed by both Houses of Parliament; and

(b) the Crown holds credit units equal to or exceeding the number of square metres of land to be so removed.

I cannot add much more than what I have said previously about the operation of this clause. It effectively gives the council a very significant role in dealing with any action to remove land from the land trust. I do not propose unnecessarily to restate what I have said in the past few moments.

Amendment carried.

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

Page 154—

Line 30—Leave out 'blank' and insert:

trust

Line 33—Leave out 'blank' and insert:

trust

After line 34—Insert:

3. This subsection does not in itself confer a right on the Crown, or an agency or instrumentality of the Crown, to remove land from the land trust.

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

Amendments carried.

The Hon. NICK XENOPHON: I move:

Page 154, lines 35 and 36—Leave out subclause (5) and insert:

(5) The Crown may (by instrument executed by the Minister) assign credit units held by the Crown to the council and the council may assign credit units held by the council to the Crown.

This amendment was filed after consultation with the Adelaide City Council. It gives a degree of flexibility in relation to dealing with credit units. Without this subclause the provision could cause some considerable difficulties for the council in the context of being able to effectively deal with credit units in the land trust in the context of the overall framework and would unnecessarily hamper and restrict the council's role.

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

The Hon. T.G. CAMERON: SA First supports the amendment.

Amendment carried.

The Committee divided on the clause as amended:

AYES (9)

Cameron, T. G. (teller)	Crothers, T.
Dawkins, J. S. L.	Griffin, K. T.
Laidlaw, D. V.	Lawson, R. D.
Redford, A. J.	Stefani, J. F.
Xenophon, N.	

NOES (6)

Gilfillan, I. (teller)	Holloway, P.
Kanck, S. M.	Roberts, T. G.
Weatherill, G.	Zollo, C.

PAIR(S)

Lucas, R. I.	Roberts, R. R.
Davis, L. H.	Pickles, C. A.
Schaefer, C. V.	Elliott, M. J.

Majority of 3 for the Ayes.

Clause as amended thus passed.

[Sitting suspended from 12.58 to 2.15 p.m.]

Clause 209.

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

Page 154, line 38—Leave out 'There will be a fund at the Treasury' and insert 'The Council must establish a fund.

Page 155—

Line 8—Leave out paragraph (a) and insert:

(a) development undertaken by the council to maintain the Adelaide parklands; or

(ab) development undertaken by a public authority to increase or improve the use or enjoyment of the Adelaide parklands by the general public; or

Line 13—Leave out 'Treasurer' and insert 'council'.

Lines 14 to 20—Leave out subclause (6) and insert:

(6) The money standing to the credit of the fund may be applied by the council for the beautification or improvement of the Adelaide parklands.

Lines 22 and 23—Leave out 'Capital City Committee' and insert 'council'.

Line 25—Leave out 'Minister' and insert 'council'.

Line 28—Leave out 'Minister' and insert 'council'.

Line 29—Leave out 'Minister' and insert 'council'.

Line 30—Leave out 'Minister' and insert 'council'.

Page 156, after line 4—Insert:

(10a) The council must, on or before 30 September in each year, prepare a report relating to the application of money from the fund during the financial year ending on the preceding 30 June.

(10b) The Minister must, within six sitting days after receiving a report under subsection (10a), have copies of the report laid before both Houses of Parliament.

(10c) The council must ensure that copies of a report under subsection (10a) are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) by the public at the principal office of the council.

Lines 6 and 7—Leave out definition of 'Capital City Committee'.

Lines 10 to 14—Leave out paragraphs (a) and (b) and insert:

(a) if the total anticipated development cost does not exceed $5 000—$50;

(b) if the total anticipated development cost exceeds $5 000—$50 plus $25 for each $1 000 over $5 000 (and where the total anticipated development cost is not exactly divisible into multiples of $1 000, any remainder is to be treated as if it were a further multiple of $1 000), up to a maximum amount (i.e., maximum prescribed amount) of $150 000;

The Hon. DIANA LAIDLAW: The Government supports these amendments, which seek to place the administration of the fund with the Adelaide City Council.

Amendments carried; clause as amended passed.

Clauses 210 to 214 passed.

Clause 215.

The Hon. DIANA LAIDLAW: I move:

Page 159, line 2—After 'highway' insert:

(and that may have an effect on the users of that highway).

The division is all about power to carry out roadworks, and the amendment seeks to clarify that council consultation with the Commissioner of Highways is required only on those occasions where the roadworks will have an impact on users of the highway.

Amendment carried; clause as amended passed.

Clauses 216 to 219 passed.

Clause 220.

The Hon. DIANA LAIDLAW: I move:

Page 161—

Lines 2 and 3—Leave out 'if the Technical Regulator' and insert:

or public lighting infrastructure if the Industry Regulator

Line 6—Leave out 'and "Technical Regulator" have the same meanings' and insert:

has the same meaning

After line 7—Insert:

'Industry Regulator' means the South Australian Independent Industry Regulator established under the Independent Industry Regulator Act 1999;

After line 8—Insert:

'public lighting infrastructure' has the same meaning as in the Electricity Corporations (Restructuring and Disposal) Act 1999.

These are technical amendments made in consequence of the Independent Industry Regulator Act 1999 and the Electricity Restructuring and Disposal Act 1999. The first amendment, which refers to the definition of 'public lighting infrastructure', ensures that all aspects of street lighting infrastructure are captured by the effect of the provisions. The next three amendments are consequential.

The Hon. T.G. ROBERTS: Labor members have some doubts about the way in which this clause is structured, but the Minister may be able to put our minds at rest. Clause 303 provides Crown immunity from the legislation unless otherwise expressly provided for, and the Committee has yet to consider that. No such express provision is made in relation to this. I conclude therefore that this clause will not be binding on ETSA. Is that correct? Will a lessee of ETSA equipment also enjoy immunity from this legislation? Similarly, will a licensee of ETSA such as Optus enjoy immunity from this Bill?

It is my understanding that Optus has received legal advice from Brian Hayes QC that, by virtue of its agreement with ETSA to use ETSA poles, Optus enjoys the same immunity as ETSA. If that is the case, the clause as it stands does not seem to fulfil its intended purpose. Can the Minister give a firm indication as to whether the lessees and licensees of ETSA equipment will have immunity from the Bill?

The Hon. DIANA LAIDLAW: I have been advised that these provisions do not bind Optus, because Optus has been established under Federal legislation. However, we can obtain further clarification of that matter if the honourable member wishes. In terms of the first question, instruments of the Crown, including ETSA, are not bound by this provision in clause 220 but other people who could provide this sort of infrastructure would be bound, and that will be relevant with respect to the leasing of this infrastructure in the future.

The Hon. T.G. ROBERTS: Is the Government happy that the clause fulfils the purpose for which it has been structured?

The Hon. DIANA LAIDLAW: I suggest that I seek further advice on that aspect. Certainly, according to my advice at this stage, the answer is 'Yes', but the Bill is to be debated further in the other place. However, there can be further comment and advice sought before the Bill is returned to the other place. Certainly, we cannot amend the clause when the Bill is before the other place, but we can receive that advice and—

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: I have been further advised that we have done as much as we can at the moment in terms of what we know of the circumstances. However, I will make sure that further information is provided to the Labor Party and the honourable member before the Bill goes before the other place.

Amendments carried; clause as amended passed.

Clauses 221 to 241 passed.

Clause 242.

The Hon. IAN GILFILLAN: I seek leave to move my amendment to this clause in an amended form. The amendment on file is to leave out the whole of paragraph (b). The clause deals with by-laws about the use of roads, and it provides:

The council may make by-laws about the use of roads for—

(b) preaching, public addresses or the broadcasting of announcements or advertisements.

With the consent of the Committee, I ask that my amendment read: 'delete the words "preaching, public addresses or"'. So, it still leaves in the words 'the broadcasting of announcements or advertisements', but deletes the words 'preaching and public addresses or'. Do I have the approval of the Committee to move that amendment?

The CHAIRMAN: The honourable member is seeking leave to move it in that amended form?

The Hon. IAN GILFILLAN: Yes.

Leave granted; amendment amended.

The Hon. IAN GILFILLAN: The motive for the amendment is that it seems quite petty and against the use of free speech for a council to be able to make a by-law to prohibit preaching or public addresses in a public place. I assume that all members would recognise the human rights and freedom of speech issues here and support my amendment in its amended form.

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

Amendment as amended carried; clause as amended passed.

Clauses 243 to 251 passed.

Clause 252.

The Hon. IAN GILFILLAN: I move:

Page 117, line 24—After 'council' insert:
, and on the Internet

It is consistent with an earlier initiative of the Democrats to encourage the use of the Internet. Clause 252 deals with passing by-laws and provides:

(1) If it is proposed that a council make a by-law, the council must, at least 21 days before resolving to make the by-law—

(a) make copies of the proposed by-law (and any code, standard or other document proposed to be applied or incorporated by the by-law) available for public inspection without charge and during ordinary office hours, at the principal office of the council; and

My amendment adds the words 'and on the Internet'.

The Hon. DIANA LAIDLAW: It has been suggested that I accept the amendment, but the Hon. Caroline Schaefer has raised the compulsion issue. The honourable member's amendment suggests that it be mandatory for a council to put by-laws on the Internet. Is that so?

The Hon. Ian Gilfillan: Yes.

The Hon. CAROLINE SCHAEFER: I just wanted to raise the issue that there are still a number of councils in this State who do not have access to the Internet, let alone the facilities to put their proceedings on the Internet. A number of councils on Eyre Peninsula do not yet have ISDN cabling, so, in moving this amendment, the honourable member is making something that is physically and economically impossible compulsory. I have no objection to those councils that have the facility available to them putting it on the Internet, but making it compulsory would cost a lot of small councils a lot of money.

The Hon. IAN GILFILLAN: In recognition of that, I wonder whether the Committee would consider the inclusion of the words 'and so far as reasonably practicable on the Internet'?

The Hon. CAROLINE SCHAEFER: Yes, I am happy to accept that.

The Hon. IAN GILFILLAN: I seek leave to amend my amendment, as follows:

After 'council' insert:
'and so far as reasonably practicable on the Internet.'

Leave granted; amendment amended.

Amendment as amended carried; clause as amended passed.

Clauses 253 to 263 passed.

Clause 264.

The Hon. IAN GILFILLAN: I move:

Page 189, line 22—Leave out 'the' and insert:
each

This clause authorises a person to enter a property to carry out inspection and work:

for a purpose related to the operation, administration or enforcement for this or another Act by the council (including to ascertain whether an order should be made or other action taken by the council under this or another Act);

Subparagraph (b) provides:

subject to subsection (2), where necessary, break into any place for a purpose related to the administration or enforcement of this Act.

I believe that that is more than just a passing authority and that where a situation involves more than one owner of a property those people should be informed of the council's intention to take this action.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. We believe it is impractical and overly bureaucratic to give notice to every owner and occupier—for instance, issuing individual notices to persons occupying the same premises. I also note that clause 281(2) provides:

If a document must be served on the owner or occupier of land and there is more than one owner or occupier, it is sufficient if the document is served on any owner or occupier (and not on all owners or occupiers).

At this stage there is no amendment to section 281, so that we assume the honourable member is happy that, if a document is to be served on the owner or occupier of the land and there is more than one owner or occupier, it is sufficient if a document is served on any but not all owners or occupiers. So, to move the amendment for the reasons given by the honourable member would be contradictory to other provisions in the Bill for which he has not foreshadowed an amendment. Also, we believe that in every sense this amendment is impractical and, at best, overly bureaucratic.

The Hon. IAN GILFILLAN: I apologise. I believe that the amendment I have moved does not completely cover the area that I felt should be covered. I will come to the 'each' owner issue in a moment but my intention was that 'or' should be replaced with 'and' so that both the owner and the occupier should be informed. As the amendment is currently worded someone who is resident, even temporarily in a property, could be given notice and the owner may not have any notice at all of what, in some circumstances, could actually be the authority to break into a property. That seems to me to be unreasonable, so I do not see why the council should be excused from having the obligation to give reasonable notice to both the owner and the occupier. If the wording in the Bill stays as 'the owner', and there are in fact multiple owners, how under those circumstances is the owner determined?

The Hon. DIANA LAIDLAW: In the Bill we have provided 'owner or occupier'. For instance, if it was a Housing Trust property, you would not have to notify the South Australian Housing Trust every time an authorised person on behalf of the council wanted to enter the land. We would see that as an unnecessary provision. Sometimes it may not be possible to contact the owner. Therefore, if there is something important that has to be undertaken on the property, it should be sufficient to just contact the occupier.

Notwithstanding the circumstances provided for in this section, the Hon. Mr Gilfillan wants to provide that in entering the land an authorised person must give reasonable notice to both the owner and the occupier. We just believe it is impractical and overly bureaucratic. I understand the motivation, but we cannot see it working in the occupier's interests, for instance, in Housing Trust premises, or if an owner is overseas. I think we have provided for the best of circumstances by saying, 'the owner or occupier' of the land.

The Hon. IAN GILFILLAN: Can I seek leave to withdraw my amendment to change the word 'the' to 'each'? Apart from the powerful argument of the Minister, she was unable to answer my question as to how the owner would be identified if there were several owners. I do not particularly regard that as a major issue.

I seek leave to move the amendment which I foreshadowed, that the word 'or' be deleted and replaced with the word 'and' between 'owner' and 'occupier'. If I can move it in that form, it would give clear expression to the issue which I really do believe is quite serious, and that is that an occupier can be a transient person with no—

The Hon. T.G. Roberts: What have you got against transients?

The Hon. IAN GILFILLAN: Nothing.

Leave granted; amendment amended.

The Hon. DIANA LAIDLAW: The Government opposes the amendment for the reasons I gave earlier.

The CHAIRMAN: The amendment as I understand it now is to leave out 'or' and insert 'and'?

The Hon. IAN GILFILLAN: Correct.

Amendment as amended negatived; clause passed.

Clause 265 passed.

Clause 266.

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

Page 192, lines 6 to 13—Leave out subclause (1) and insert:
(1) There are grounds for complaint under this Part against a member of a council if the member has contravened or failed to comply with section 74.

This amendment is consequential.

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

Amendment carried; clause as amended passed.

Clause 267.

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

Page 192, after line 19—Insert:
(1a) However, a person other than a public official cannot lodge a complaint without the written approval of the Minister.
(1b) An apparently genuine document purporting to be an approval of the Minister under subsection (1a) will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof that the Minister has given the approval.

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

Amendment carried; clause as amended passed.

Clauses 268 to 276 passed.

Clause 277.

The Hon. IAN GILFILLAN: I move:

Page 202, line 10—Leave out paragraph (d).

This does reflect an amendment that I will seek to make to schedule 2, which proves mildly complicating in that respect

in that we really need to refer to schedule 2 so that we can make some sense out of this amendment. This clause 'Action on a report' provides:

The Minister may, on the basis of a report under subsection 276, require that specified action be taken in respect of a subsidiary.

One of those requirements can be that the Minister require that steps be taken to wind up the subsidiary. However, it is my intention in schedule 2 to remove the power of the Minister to wind up a subsidiary, because it reflects again an oft-repeated claim of the Democrats that we should leave as much as possible and reasonably practicable to the autonomy of the council. I cannot see any reason why a council should not be the responsible body to determine when a subsidiary will be wound up. I refer to schedule 2 so that members have some idea of what I have in mind.

I will seek to include in schedule 2, after line 4, another paragraph to provide that the procedures be followed on the winding up of a subsidiary. This would ensure that procedures required for winding up are included in the charter of a subsidiary established by the council. It therefore would not need ministerial intervention or interference as to how that subsidiary would be wound up. The provision in clause 277 which confers on the Minister this power to require that steps be taken to wind up the subsidiary would be deleted, and it would be left in the hands of the council to ensure that those steps were in the charter of the subsidiary.

The Hon. DIANA LAIDLAW: The Government opposes this amendment. It removes the capacity for the Minister to require that a subsidiary be wound up by councils after a report by an investigator. At the present time this measure provides that if—and only if—there was a problem with the subsidiary the Minister would refer the matter to a council or councils for a report. If the Minister was not happy with the report from the council or the council refused to do so, the Minister could then appoint an investigator, and only on the basis of the investigator's report could the Minister then move to wind up the subsidiary.

The progressive, considered measures here are not the Minister acting simply on a whim: a series of reports and investigations are required before it would come to the stage where a Minister could wind up a subsidiary. All these measures reflect steps that are provided elsewhere in the Bill and the current Act for the Minister to appoint an investigator if a council is not performing well.

In those instances relating to the non-performance of a council, the Minister can appoint an administrator. Because a subsidiary is a different legal entity, we cannot have the circumstances of a subsidiary defaulting or not performing under the circumstances of a council not performing. That is why we must have this different section of the Act under 'subsidiaries' and different arrangements for winding up if it is necessary. This reflects all the steps and checks and balances that are required for appointing an administrator for a council when that council is in default or not performing. We require the same sort of pathway for a subsidiary, because it is a separate legal entity from the council.

I highlight that years ago, when I was working with the Hon. Murray Hill, who was then Minister of Local Government, I was involved in the appointment of an administrator at Victor Harbor. It is only at the last resort that such action is taken, and I am not sure whether it has been taken since that time. Whether or not this provision is a last resort, the Government believes it is very important to address an issue, based on an investigator's report which identifies that a subsidiary has defaulted and that the Minister should act to wind up.

The Hon. T.G. CAMERON: SA First will be opposing the amendment.

The Hon. IAN GILFILLAN: This is another desperate attempt by the Minister and the Government to hang onto control of local government. It really is a cause of some desperation. What is the point of rewriting an Act and referring back to certain matters in the current Act? Why bother about rewriting that legislation if it is such a great piece of legislation? For those who have taken any interest in it, this clause—even with my amendment—allows the Minister to require the adoption of specified management practices, requires a subsidiary to cease a specified activity (and I hope the Minister is listening) and requires that steps be taken to amend the charter of the subsidiary. Is that not enough power? Does that not satisfy the Minister's lust for control over local government? I must say that this attitude of the Government disgusts me.

Amendment negatived; clause passed.

Clauses 278 to 300 passed.

New clause 300A.

The Hon. T. CROTHERS: I move:

Page 212, after line 11—Insert new clause as follows:

Vegetation clearance

300A. (1) A council may, on the application of the owner or occupier of the land (the 'relevant land'), by order under this section, require the owner or occupier of adjoining land to remove or cut back vegetation encroaching on to the relevant land.

(2) An order must specify a reasonable period within which compliance with the order is required.

(3) If the requirements of an order are not complied with within the period specified in the order—

(a) the council may itself have the work required by the order carried out and recover the cost of the work as a debt from the person to whom the order was directed; and

(b) the person to whom the order was directed is guilty of an offence.

Maximum penalty: $750.

Expiation fee: $105.

I would like briefly to address the Committee in respect of this amendment. Last night, somewhere early in the piece, one of the delegates from the LGA came to me and said, 'We're supporting your amendment.' This morning I got a fax, which I have just read, from the LGA, setting out some seven cardinal points which it considers to be worthy of negotiation. Indeed, before the lunchbreak a member of the LGA raised with me four or five points, and I believe I answered them in a very suitable way.

A person less cynical than I would take this fax and the information I got last night as an attempt by the Local Government Association to influence my voting patterns relative to the whole Bill in respect of, perhaps, the land trust. Who knows? I do not know. I am not that cynical. A person more cynical than I could assume that. This is a very important amendment. From the start, I declare that I have some personal interest in this matter. I was involved in respect of the matter that affects our strata title units and I asked the Hon. Joe Scalzi from another place to handle the issue because of my own interest in it—which he did most thoroughly and competently, and I pay tribute to Joe Scalzi.

As a consequence of that, in particular in relation to me, we had the Chief Fire Inspector come up from the metropolitan fire brigade and he wrote a scathing report on the three trees that are adjacent to the fences of our three properties, half of which are overhanging the property. I was told that the worst fire they have is when gum nuts and leaf litter get into

the roof space: because of the electric wiring in the roof space of a house, if there is a short, there can be a smouldering fire with that leaf litter, and it can smoulder for two or three days without anyone knowing it is there. When eventually the conflagration takes place, they cannot save the house.

With respect to this matter, it seems that one of the hold-ups has been the misguided environmentalists who jump at all sorts of shadows and are extreme in their views. As a consequence of that, genuine environmentalists like me are often put off by their extremism. Human life is as important as anything on this earth, yet every year in this State when we get a tempest or a storm we see property damaged by falling trees, people killed and trees falling across roads, thereby causing accidents. There is something wrong with the order of priorities in this matter.

Having said that, and having declared the experience I had that first gave me an interest in this, I go on further to say this. I sat on the Ash Wednesday select committee that went on for a very long time, and at a particular inquiry into the cause of those Ash Wednesday fires it was held that it was tree branches hanging over high tension wires that caused the arc that ignited the fire. As a consequence of that the Stirling Council was about to be sued for damages and compensation. I cannot recall the extent of the money involved—$10 million, $12 million or $15 million: it was enormous—and because of its insurance policy and because it was held that the council was at fault for not cutting back the trees over the high tension cables, the council was up for that money.

History records that the then Minister (Hon. Barbara Wiese) and the then State Labor Government had to step in and pay the costs, otherwise the council would have had to go bankrupt or the ratepayers in the area would have had to pay rates each year amounting to thousands of dollars, in order for the council to pay off the debt. As a consequence, one of the committee's recommendations was that councils have the power to enforce the cutting back of trees hanging over high tension cables where they could arc and cause fire.

The individual I am talking of had to be ordered by the council to cut the trees in his front yard that were hanging over high tension wires. I do know whether he ignored it, but the trees were cut back. However, he had a label on his front gate headed 'Greening the plains of Adelaide', and as soon as that event was dealt with the label disappeared, I suspect in regard to some legal advice he received from someone who said , 'Get that off your gate'. We visited this individual on a number of occasions, but it fell on deaf ears. In fact, he threatened to set his dog on to a poor old 89 year old, so that is the sort of character he was.

I will persist with this amendment as this is another example of where a council could go for millions of dollars. I know a barrister who is just about ready to go with respect to rates charged on property. Councils use the Valuer General's property valuation to set their rates. It could well be argued—and I am assured that it would have a fair chance of getting up if it was tested in the Supreme Court or the High Court—that people who have these trees hanging over their fence lose a lot of the value of their property. It could be argued that councils would have to assess their property individually so as to give some allowance in respect of the rates charged as opposed to using the Valuer General's rate assessment of the sites.

There is a statute of limitations in this State of six years and, if such a case were to get up, if the plaintiff were to succeed in a such a challenge, the millions of dollars that might have to be paid back in lesser rates would be astronomical. I asked Parliamentary Counsel Mr Richard Dennis to draft this amendment in line with the schedule of fines in the Local Government Act and in line with the type of legislation that already exists about high power lines and trees. I must congratulate Mr Dennis who has done an excellent job—as is his wont—in his drafting of this amendment.

I believe that councils should embrace this because of the legal advice I have had about levels of rates. I believe that this amendment is worth pursuing and it is something that should have been done for a long time. I believe that the councils ought to insist that the people in question (the plaintiffs) ought to approach the other person first and, if the other person is obdurate—as, indeed, I have found to my chagrin—then the council should be advised and should act accordingly, and no less similarly than the way they do in respect of overhanging branches over high tension cables.

It is a simple amendment. I understand where the LGA is coming from, but I am persisting with the amendment because it is not possible, as good as Richard Dennis is, to craft an amendment which can be challenged, or it is not possible, always, to craft it so as to make it immune from legal challenge. However, I think this amendment is fairly immune: I am not a lawyer, but I proffer that comment as a lay person. If it should be challenged or if there should be a deficiency, we can come back and revisit it. But one will never know where the anomalies lie, one will never know where the weaknesses are, unless it is put to the test. It can be put to the test only by being given effect in law in the Local Government Act. Without anything more from me, I commend the proposition for the reasons I have outlined—and many more that problems with my motorboat are not permitting me to dwell on. I commend the proposition to the Committee.

The Hon. DIANA LAIDLAW: The Government will accept the amendment. We respect the fact that the Local Government Association through its faxed advice to us today has some concerns. The LGA outlined the fact that it was not consulted on this amendment—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: I am just saying that this is the LGA's perspective; the LGA says that it was not consulted and that it did not seek the amendment. It outlines some practical concerns in relation to the inspection costs and the like. The Government, however, considers that there is merit in the issues that the honourable member has raised. We believe that it is timely to address the matters, and we are satisfied with the form as outlined in the amendment. It may be that there is reason for some further discussion on some finetuning of the words between now and debate in the Lower House, and the Hon. Mr Crothers has outlined that possibility, but we certainly support the sentiments.

The Hon. T.G. ROBERTS: The Labor Party has been over-consulted in this—

The Hon. T. Crothers: It is one of the advantages you have of sitting in front of me!

The Hon. T.G. ROBERTS: —almost to the point of my taking out a restraining order against the member! I suspect the lobbying will still continue on the basis that we have adopted the same position as the Government, that is, that there may be some finetuning. As perfect as the honourable member is—

The Hon. Diana Laidlaw: And his amendment.

The Hon. T.G. ROBERTS: And his amendment—there are times when the odd word falls through the hatch which

makes things a little more complicated for local government than what, perhaps, the Minister understands. We have dubbed it the Blinky Bill or the Gumnut amendment. Although the honourable member did not raise it, there is some responsibility on individual householders and/or owners to ensure that they keep their trees and the limbs of their trees in a safe manner, so prevention is built into the clause that prevents damage and/or danger of fire. There is a role for everybody in this and I hope that the honourable member's amendment will highlight the issue so that people who live in the Hills and in tree-lined avenues and who have trees in their yard will take note of the cautionary measure included in the amendment.

New clause inserted.

Clauses 301 to 303 passed.

Clause 304.

The Hon. IAN GILFILLAN: I move:

Page 213, line 22—Leave out 'should, so far as is reasonably practicable' and insert:
must

This makes it an obligation on the Minister to have discussions or consult with the LGA before regulations under this legislation are compiled.

The Hon. DIANA LAIDLAW: In my experience it has always been a wise practice to consult with the LGA on matters that affect it, but the Government does not believe that it must do so in every instance. One of the reasons for the Government's concern is that it could become a basis of challenge. A difficult situation might arise if somebody challenged the regulations from a council perspective, quarrelling about the quality of the consultation or suggesting that the Government had not adequately consulted with the council, especially if the measure uses the word 'must', which would be the case if the honourable member's amendment were passed. We believe that 'should' is the appropriate requirement in terms of progressing regulations, not because we do not wish to consult but because it takes out that difficult situation which could involve the LGA in challenging the validity of regulations under the Act.

Amendment negatived; clause passed.

Schedule 1.

The Hon. IAN GILFILLAN: I move:

Clause 2, page 214, line 23—After 'councils' insert:
(including their subsidiaries)

This is to oblige subsidiaries under the local government indemnity schemes to have a workers' compensation scheme in their charter.

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

Amendment carried; schedule as amended passed.

Schedule 2.

The Hon. IAN GILFILLAN: I move:

Clause 5, page 220, line 29—Leave out 'Subject to an exemption by the Minister by notice in the *Gazette*' and insert 'Unless otherwise determined by the charter of the subsidiary'.

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

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Clause 5, page 220, lines 33 to 39—
Leave out subclauses (8), (9) and (10).

The amendment seeks to ensure that subsidiaries will have open meetings under the same regime that we looked at for councils, unless their charter declares otherwise. As the Minister must approve the charter, there is that supervision with respect to this whole issue.

The Hon. Diana Laidlaw interjecting:

The Hon. IAN GILFILLAN: As I am receiving the signal that the Minister supports this amendment, I think that my explanation is adequate.

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

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Clause 7, page 221, line 29—Leave out 'his or her' and insert 'official'.

This is a technical amendment to ensure consistency of language with clause 62. I note that the Democrats have an identical amendment on file.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Clause 15, page 224, lines 3 to 12—Leave out this clause and insert:

Principles of competitive neutrality

15. If a subsidiary is declared by its charter to be involved in a significant business activity, the charter must also specify the extent to which the principles of competitive neutrality are to be applied to the activities of the subsidiary and, to the extent that may be relevant, the reasons for any non-application of these principles.

[1.] See Part 4 of the Government Business Enterprises (Competition) Act 1996.

The amendments relate to the principles of competitive neutrality. With this amendment, the Government is seeking to add some flexibility to the means by which subsidiaries that are significant business activities can implement competitive neutrality practices.

This is consistent with the outcomes of a review of competitive neutrality implemented by the State Government and local government. There is a mirroring amendment for regional subsidiaries in clause 33 which we will address as part of this schedule. I note, too, that the Hon. Mr Gilfillan has an amendment to schedule 2, clause 15. It differs in the fact that he also wishes to remove the need for regulations, and the Government does not believe that that is sound practice in this matter.

The Hon. IAN GILFILLAN: I move:

Clause 15, page 224, line 12—Leave out 'or principle'.

Whether or not it is a sound practice in this matter, if the Government's amendment is successful, mine does not apply because the words will have been deleted and replaced. The Government's amendment does not create too much pain, but it does open up another area of concern because in relation to the principles of competitive neutrality (which sound great) the footnote says:

See Part 4 of the Government Business Enterprises (Competition) Act 1996.

The principles are merely declared by the Government. This merely places subsidiaries on the same footing as other Government enterprises and, although I do not intend to deal with it now, the indications are that the Government Business Enterprises Act, which I hope will be before this place before too long, will need to be looked at quite closely, so that there is a more satisfactory spelling out of competitive neutrality as a principle to guide both this Bill (or Act as it will be) and other Government businesses.

The Hon. T. CROTHERS: Mr Chairman, I draw your attention to the state of the Committee.

A quorum having been formed:

The Hon. T.G. CAMERON: SA First will be supporting the Government's position.

The CHAIRMAN: The question before the Chair is that all words in clause 15 down to but excluding 'or principle' in line 12 stand as printed.

The Hon. IAN GILFILLAN: Does that embrace the substance of my amendment?

The CHAIRMAN: We are getting to it.

The Hon. IAN GILFILLAN: It just stops before it?

The CHAIRMAN: It is a test. It is moving towards your amendment.

Question negatived.

The CHAIRMAN: We have now gone past the Hon. Mr Gilfillan's amendment. The question now before the Chair is that the remaining words in line 12 stand as printed.

The Hon. IAN GILFILLAN: Mr Chairman, what you are putting to the Committee now has no significance as far as my amendment is concerned.

The CHAIRMAN: No, you have gone past it.

The Hon. IAN GILFILLAN: That is what I understood to be the case.

Question negatived.

The CHAIRMAN: The question before the Chair is that the words proposed to be inserted by the Minister be so inserted.

Question carried.

Clause 16.

The Hon. IAN GILFILLAN: I move:

Strike out this clause.

I oppose this clause. It is rather prettily written in that, at first blush, it looks as though it is all plain sailing as far as special sale arrangements are concerned.

The Hon. Diana Laidlaw interjecting:

The Hon. IAN GILFILLAN: I thought you might. But on closer study, it actually does put the purchaser of the asset at an extraordinary disadvantage in that this would prohibit any purchaser from seeking relief for any of the matters that are under subclause (12) and protects the vendor from any legal consequences of the sale. So, they are protected from any breach or default under an Act or other law—I will not go through it all, but it is clearly spelled out—in terms of anything that constitutes a civil or criminal wrong. It really is quite a remarkable piece of drafting, and it is a relief that the Government can see how unfair that would have been if it had remained in the Bill, so I am confident that my amendment will be supported.

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

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 225, line 23—Leave out 'request' and insert 'requirement'.

This is a technical amendment to ensure consistency of language between section 276 and schedule 2. It mirrors amendments to clause 35.

The Hon. IAN GILFILLAN: I do not see any point in moving my amendment to lines 23 to 25. I will not proceed with that. I thought that the Government's amendment was to amend that paragraph. I do not see any great problem with it. I am happy with the Government's amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I will take the liberty of referring back to the previous amendment which I did support. I knew there was a very good reason for supporting it, and I ought to perhaps explain. Clause 20 currently provides:

A subsidiary maybe wound up by the Minister acting at the request of the council.

The Government has happily replaced 'request' with 'requirement', so there is an obligation for the council to require the Minister to be involved with the winding up, which does console me somewhat. It takes a little less of the sting out of the Minister having such authority in that matter. As to my proposed amendment to line 20, I will not be moving it. However, as to page 229, I move:

Page 229—

Line 6—Leave out 'Subject to an exemption by the Minister by notice in the Gazette' and insert:

'Unless otherwise determined by the charter of the subsidiary'.

Lines 10 to 16—Leave out subclauses (8), (9) and (10).

The Hon. DIANA LAIDLAW: The Government accepts the amendments.

Amendments carried.

The Hon. IAN GILFILLAN: I move:

Clause 22, page 230, line 8—Leave out 'his or her' and insert: official.

It might be of interest to the Committee to know that there are quite a lot of similarities between the two halves of schedule 2. One deals with a single council-owned subsidiary and the other with a joint owned. So we are duplicating, in effect, amendments which we dealt with in the first part of schedule 2, which probably explains why we are not going into detailed explanation over some of them. Incidentally, the next amendment will show an individuality because it deals with the fact that they are jointly owned or regional subsidiaries.

The Hon. DIANA LAIDLAW: The Government has an identical amendment on file, so we will support this amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Clause 30, page 232, lines 1 and 2—Leave out 'and with the approval of the Minister'.

Schedule 2, clause 30—'Council becoming or ceasing as a constituent council' would thus read:

A council may, in accordance with the charter of the subsidiary—
(a) become a constituent council of a regional subsidiary. . .

As is consistent with my attitude right through the Bill, I have left the determination of these matters, as far as it possibly can be, in the hands of the council. In my opinion, it does not require the approval of the Minister for a council to become a constituent council of a regional subsidiary.

The Hon. DIANA LAIDLAW: The Government opposes the amendment, not for any sense of power or excitement about having the Minister approve such matters but because there has been a longstanding position that the Minister has a formal role in either bringing a council into operation or, as in this instance, bringing a separate incorporated local government body into being. It is a bit like the arrangements that we have between Executive Council and Cabinet and Government. It is just a formality which has been longstanding. These bodies are separately incorporated local government bodies and we think it is appropriate that the normalities that are around in terms of the Minister bringing into being local councils should apply equally in these instances.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Clause 33, page 232, lines 23 to 33—Leave out this clause and insert:

Principles of competitive neutrality

33. If a regional subsidiary is declared by its charter to be involved in a significant business activity, the charter must also specify the extent to which the principles of competitive neutrality[1] are to be applied to the activities of the subsidiary and, to the extent that may be relevant, the reasons for any non-application of these principles.

[1] *See* Part 4 of the Government Business Enterprises (Competition) Act 1996.

We had a good debate on this matter earlier, in terms of schedule 2, clause 15, and on that occasion SA First and Independent Labour supported the Government and I hope they will again.

The Hon. IAN GILFILLAN: On what may be a soundly based assumption of the Minister, that this will mirror what happened previously on the first part of the schedule, her amendment will be successful and my amendment on file thus becomes redundant.

The CHAIRMAN: That is a grand assumption.

Amendment carried.

Clause 34.

The Hon. IAN GILFILLAN: I move:

Strike out this clause.

The Hon. DIANA LAIDLAW: In a funny sort of way I did support this amendment, because I did not insist that we continue with what is in the Bill. So, this reflects earlier amendments moved by the Hon. Mr Gilfillan, and the Government will support it.

Amendment carried.

Clause 35.

The Hon. DIANA LAIDLAW: I move:

Page 234, line 6—Leave out 'request' and insert:
requirement

Amendment carried; schedule as amended passed.

New schedule 2A.

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

New schedule, after page 235—Insert new schedule as follows:

SCHEDULE 2A

Register of Interests—Form of returns

Interpretation

1. (1) In this schedule, unless the contrary intention appears—

'beneficial interest' in property includes a right to re-acquire the property;

'family', in relation to a member, means—

(a) a spouse of the member; and

(b) a child of the member who is under the age of 18 years and normally resides with the member;

'family company' of a member means a proprietary company—

(a) in which the member or a member of the member's family is a shareholder; and

(b) in respect of which the member or a member of the member's family, or any such persons together, are in a position to cast, or control the casting of, more than one half of the maximum number of votes that might be cast at a general meeting of the company;

'family trust'' of a member means a trust (other than a testamentary trust)—

(a) of which the member or a member of the member's family is a beneficiary; and

(b) which is established or administered wholly or substantially in the interests of the member or a member of the member's family, or any such persons together;

'financial benefit', in relation to a person, means—

(a) any remuneration, fee or other pecuniary sum exceeding $1 000 received by the person in respect of a contract of service entered into, or paid office held by, the person; and

(b) the total of all remuneration, fees or other pecuniary sums received by the person in respect of a trade, profession, business or vocation engaged in by the person where that total exceeds $1000, but does not include an annual allowance, fees, expenses or other financial benefit payable to the person under this Act;

'gift' means a transaction in which a benefit of pecuniary value is conferred without consideration or for less than adequate consideration, but does not include an ordinary commercial transaction or a transaction in the ordinary course of business:

'income source', in relation to a person, means—

(a) any person or body of persons with whom the person entered into a contract of service or held any paid office: and

(b) any trade, vocation, business or profession engaged in by the person;

'a person related to a member' means—

(a) a member of the member's family;

(b) a family company of the member;

(c) a trustee of a family trust of the member;

'return period', in relation to an ordinary return of a member, means—

(a) in the case of a member whose last return was a primary return the period between the date of the primary return and 30 June next following; and

(b) in the case of any other member the period of 12 months expiring on 30 June on or within 60 days after which the ordinary return is required to be submitted.

'trade or professional organisation means a body, corporate or unincorporated, of—

(a) employers or employees; or

(b) persons engaged in a profession, trade or other occupation, being a body of which the object, or one of the objects, is the furtherance of its own professional, industrial or economic interests or those of any of its members.

(2) For the purposes of this schedule, a person who is an object of a discretionary trust is to be taken to be a beneficiary of that trust.

(3) For the purpose of this schedule, a person is an investor in a body if—

(a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds $10 000; or

(b) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of life insurance issued by the body.

(4) For the purposes of the schedule, in relation to a return by a member—

(a) two or more separate contributions made by the same person for or towards the cost of travel undertaken by the member or a member of the member's family during the return period are to be treated as one contribution for or towards the cost of travel undertaken by the member;

(b) two or more separate gifts received by the member or a person related to the member from the same person during the return period are to be treated as one gift received by the member:

(c) two or more separate transactions to which the member or a person related to the member is a party with the same person during the return period under which the member or a person related to the member has had the use of property of the other person (whether or not being the same property) during the return period are to be treated as one transaction under which the member has had the use of property of the other person during the return period.

Contents of return

2. (1) For the purposes of this Act, a primary return must be in the prescribed form and contain the following information:

(a) a statement of any income source that the member required to submit the return or a person related to the member has or expects to have in the period of 12 months after the date of the primary return; and

(b) the name of any company, or other body, corporate or unincorporated, in which the member or a member of his or her family holds any office whether as director or otherwise; and

(c) the information required by subclause (3).

(2) For the purposes of this Act, an ordinary return must be in the prescribed form and contain the following information:

(a) if the member required to submit the return or a person related to the member received, or was entitled to receive, a financial benefit during any part of the return period—the income source of the financial benefit: and

(b) if the member or a member of his or her family held an office whether as director or otherwise in any company or other body, corporate or unincorporated, during the return period—the name of the company or other body; and

(c) the source of any contribution made in cash or in kind of or above the amount or value of $750 (other than any contribution by the council, by the State, by an employer or by a person related by blood or marriage) for or towards the cost of any travel beyond the limits of South Australia undertaken by the member or a member of his or her family during the return period, and for the purposes of this paragraph cost of travel includes accommodation costs and other costs and expenses associated with the travel; and

(d) particulars (including the name of the donor) of any gift of or above the amount or value of $750 received by the member or a person related to the member during the return period from a person other than a person related by blood or marriage to the member or to a member of the member's family; and

(e) if the member or a person related to the member has been a party to a transaction under which the member or person related to the member has had the use of property of the other person during the return period and—

(i) the use of the property was not acquired for adequate consideration or through an ordinary commercial transaction or in the ordinary course of business: and

(ii) the market price for acquiring a right to such use of the property would be $750 or more; and

(iii) the person granting the use of the property was not related by blood or marriage to the member or to a member of the member's family,

the name and address of that person; and

(f) the information required by subclause (3).

(3) For the purposes of this Act, a return (whether primary or ordinary) must contain the following information:

(a) the name or description of any company, partnership, association or other body in which the member required to submit the return or a person related to the member is an investor; and

(b) the name of any political party, any body or association formed for political purposes or any trade or professional organisation of which the member is a member; and

(c) a concise description of any trust (other than a testamentary trust) of which the member or a person related to the member is a beneficiary or trustee (including the name and address of each trustee); and

(d) the address or description of any land in which the member or a person related to the member has any beneficial interest other than by way of security for any debt; and

(e) any fund in which the member or a person related to the member has an actual or prospective interest to which contributions are made by a person other than the member or a person related to the member: and

(f) if the member or a person related to the member is indebted to another person (not being related by blood or marriage to the member or to a member of the member's family) in an amount of or exceeding $7 500—the name and address of that other person; and

(g) if the member or a person related to the member is owed money by a natural person (not being related to the member or a member of the member's family by blood or marriage) in an amount of or exceeding $10 000—the name and address of that person: and

(h) any other substantial interest whether of a pecuniary nature or not of the member or of a person related to the member of which the member is aware and which he or she considers might appear to raise a material conflict between his or her private interest and the public duty that he or she has or may subsequently have as a member.

(4) A member is required by this clause only to disclose information that is known to the member or ascertainable by the member by the exercise of reasonable diligence.

(5) Nothing in this clause requires a member to disclose information relating to a person as trustee of a trust unless the information relates to the person in the person's capacity as trustee of a trust by reason of which the person is related to the member.

(6) A member may include in a return such additional information as the member thinks fit.

(7) Nothing in this clause will be taken to prevent a member from disclosing information required by this clause in such a way that no distinction is made between information relating to the member personally and information relating to a person related to the member.

(8) Nothing in this clause requires disclosure of the actual amount or extent of a financial benefit, gift, contribution or interest.

Schedule 6—Leave out this schedule.

The Hon. DIANA LAIDLAW: The Government accepts the new schedule.

New schedule inserted.

Schedule 3 passed.

Schedule 4.

The Hon. DIANA LAIDLAW: I move:

Page 238—

Line 8—After 'Registers' insert:

and Returns

After line 9—Insert:

· Campaign donations returns under the Local Government (Elections) Act 1999

This is a drafting amendment.

Amendments carried.

The Hon. IAN GILFILLAN: I move:

Page 238—

After line 20—Insert:

· Policy for the reimbursement of members' expenses

After line 32—Insert:

By-laws

· By-laws made by the council

These add to the list in schedule 4 covering documents to be made available by councils. As to the first amendment, under 'policy and administrative documents', I was successful in getting a policy for reimbursement of members' expenses into the Bill in an earlier clause. As to the second amendment, it is hard to argue that by-laws made by the council should not be a document to be made available by the council, and I am glad to have Government support for both those amendments.

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

Amendments carried; schedule as amended passed.

Remaining schedules (5 to 7) and title passed.

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

That this Bill be now read a third time.

Briefly, I want to thank honourable members of all political persuasions for the extraordinary time they have devoted to the Bill not only on the floor of this place but in discussions with local councils, with the LGA and the Government. The Government appreciates the attention that members have given to the Bill, in some instances over two years, during which this major piece of legislation has been developed, with more concentrated attention being given to it over the past six to eight weeks. Also, I want to acknowledge the work of the officers, Jenny Gerlach, Gwyn Rimmington, Prue Archer, Colin Hore and Joe Haslam; Parliamentary Counsel,

Richard Dennis, who has done a fantastic job on behalf of all members on a complex Bill; and to Steve Condous and Michael Armitage, I acknowledge their role also in terms of the land trust.

Bill read a third time and passed.

AUSTRALIA ACTS (REQUESTS) BILL

Consideration in Committee of the House of Assembly's message.

(Continued from 28 July. Page 1772.)

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

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

Paragraph (1) of the preamble is to be amended to change 'proposes to introduce' to 'has introduced' on page 1, line 11. That will bring the Bill up to date. When the Bill was introduced on 26 May 1999, the Commonwealth Government proposed to introduce a Bill for the Constitution/Alteration/Establishment of a Republic 1999. The Commonwealth has now introduced its Bill. It did so on 10 June 1999. The amendment is technical.

Motion carried.

INDUSTRIAL AND EMPLOYEE RELATIONS (WORKPLACE RELATIONS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1843.)

The Hon. CAROLINE SCHAEFER: Most of the time in this place, although we may disagree, we can see and understand the arguments of the other side. But every now and again a Bill is presented which shows that there is a fundamental chasm between the thinking of the Government and that of members opposite, and this is one of those occasions. There seems to be an attitude on the other side that employers are fundamentally bad, just lying in wait for some way to rip off their employees and that a change to industrial relations laws will give them just such a vehicle.

This is a very important piece of legislation, which will protect workers but which will give employers the flexibility they want and, therefore, create jobs. We hear enough about unemployment in this State. I have been both an employee and an employer, and I am well aware that there are good and bad in both categories, but the bottom line is that, unless employers are able to make a profit, they will be unable to continue employing and in the end everyone loses: no boss, no business, no job. And this Bill is about jobs. It can be summarised as having three main aims: to help create jobs; to create a flexible workplace relations system; and to provide employees with the necessary protections. We must help South Australian companies to become nationally competitive or, even better, to gain an advantage. Why? The answer again is jobs—jobs for ordinary South Australians.

Critics of the Bill say that workers will be worse off, their protections will be fewer and employers will have all the advantages. This is simply not the case. It will encourage extra jobs and job security because of flexibility. It retains dispute resolution by the renamed Workplace Relations Commission, but it also introduces a non-judicial mediation service to encourage negotiated settlements rather than the present adversarial system of settling workplace disputes. Most importantly, the safety net of the award system is retained.

One of the interesting innovations in this Bill is the right by written agreement between employer and employee to transfer the observance of public holidays. For instance, many people see no great significance in the Adelaide Cup, but some of them may wish to observe Orthodox Easter, so they could effectively swap their public holidays. If, however, no agreement is reached and they are required to work on the public holiday, the employer will be required to pay the award rates, which on public holidays, as we know, are often penalty rates. However, added income is not always the main criterion for people who want a balanced lifestyle. This kind of flexibility will allow families to spend time together, synchronise holidays and so on.

Obviously, this is a complex piece of legislation and it is not my place to dissect every bit of it. But I would like to spend some time on individual workplace agreements. This Bill would allow individual agreements between employer and employee, which were previously only available to employees of incorporated bodies and, in practice, to larger incorporated bodies. This Bill is about affording the same privileges to the small as to the large and I really believe that, if this were to happen, many more small employers would be inclined to move away from employing casuals and into these workplace agreements. After all, many people keep employing casually simply so that they can have the kind of flexibility described in this Bill.

Western Australia has had individual workplace agreements for six years and, far from the end of the world, 145 000 jobs were created in that time—89 400 full-time and 55 800 part-time, in comparison to 88 000 in the preceding six years, of which only 35 000 were full-time jobs. Western Australia also continues to outperform other States on unemployment trend figures. It also has the second highest average weekly ordinary time earnings in the nation after New South Wales. So, workplace agreements have not diminished real earnings. Workers are in fact generally better off than they would be under the award.

Since the introduction of individual workplace agreements in New Zealand, unemployment has dropped from 10.3 per cent in 1991 to 6.7 per cent in 1997. Admittedly, there are other factors in those figures, but it is a startling trend. Workers' protections under individual workplace agreements will mirror the protections of collective workplace agreements which already exist, including the right to choose between a workplace agreement and the award.

The award will continue to be the minimum terms of employment—the safety net. There will also be a cooling off period of seven days for both parties after signing. Agreements will not, as has been suggested, be secret. Unless there is a contra agreement, both parties will be free to show the agreement to whomever they choose. Agreements will not be available for public inspection but it will be possible to inspect an agreement with the written authority of the signing parties as it is lodged at the Registry of Workplace Relations Commission or the Workplace Agreement Authority.

By law an employer will be obliged to inform an employee that they may be represented by whomever they choose during the negotiation stage, including a union representative or the Employee Ombudsman. Examples of issues of flexibility for workplace agreements will include annualised salaries, for example, base rates plus increased pay in lieu of overtime; performance-based pay, for instance, a lump sum payment for past performance—what used to be called an end of year bonus; a performance-based salary above the award which could be altered after 12 months if the performance did

not meet standards; employee participation, that is, a bonus percentage of profits to all employees after annual performance comparisons have been made; salary packaging, whereby an employee could sacrifice part of their salary for the private use of a car; an annual bonus allowance could be converted into salary increments; employees could cash out certain allowances and load them into hours of work; and shifts could also be made more flexible, whereby an employee may be able to work more hours one week and take more time off the next.

An employee may be able to take time off instead of being paid overtime. Provided ordinary rates were paid, up to 50 per cent of the overtime worked could be converted into time off. Employees would also be able to take annual sick leave on a *pro rata* basis instead of relying on a set accrual date each year; or they may be able to cash out untaken sick leave.

The following minimum conditions, however, would always apply to all full-time employees and *pro rata* for part-time employees: annual leave of four weeks per year of continuous service; sick leave of 10 days per year of continuous service; bereavement leave; parental leave of 12 months unpaid leave after at least 12 months continuous service; and long service leave of 13 weeks after 10 years continuous service. However, under this Bill there would be considerable flexibility in how and when these entitlements could be used.

As I said, this is a large and complex Bill, and this late in the parliamentary session it would be unwise for me to go on and on giving many examples, but I do want to put my point of view because I believe strongly that this will be of benefit to the future of South Australia. One honourable member told me yesterday that there was very little in the Bill that he does support—and, frankly, I cannot see why. This Bill, as I said, allows for flexibility, honesty and agreement between the employer and employee. It is about agreement: it is not about compulsion.

This is about agreements which would allow real involvement by workers. It affords the same entitlements to small business as to large business. It encourages jobs. It allows employer-employee relations to move into a new, conciliatory and trusting era. It is pro jobs, pro employment. I would ask those who have not really read this Bill but have gone with the rhetoric that is always bandied about this place to have a good look at the Bill to see whether there are not some things in the Bill that would be better for workers rather than worse. I support the Bill.

The Hon. A.J. REDFORD: I support the second reading of the Bill. It is not a very common experience for my name to appear either in the *Hansard* or, indeed, on a court transcript late on a Friday afternoon. I have normally found other things to do.

The Hon. K.T. Griffin interjecting:

The Hon. A.J. REDFORD: Well, I had the opportunity of junioring a barrister whose skills at advocacy in managing to secure adjournments at about 12.45 on a Friday afternoon for all sorts of obscure reasons was, is and remains legendary. He passed those skills onto me on many occasions, but they have deserted me in the case of today.

I support the second reading. I must say that I understand that, in issues of industrial relations, the two major Parties almost instinctively hive off into two separate camps and proceed to lob grenades at each other and paint each other as neanderthals and ideologues, depending on your political persuasion. When one looks at the history of the Labor Party one can understand why that sort of reaction is likely to happen.

There are major areas of ideological difference and major areas of battle to be had, and they have been pretty well outlined in many of the previous contributions. There has been a lot of rhetoric and in some respect it is unfortunate and disappointing to see members occasionally pull out the old speeches dating back to the 1930s, dust them off, upgrade the language a bit and away they go. With that sort of approach it is impossible to take anything that is said with any degree of seriousness. I am not often inclined to give advice to the ALP, but it would be interesting to see what it might come up with if it could put aside for just one moment its ideological rhetoric and sit down and carefully consider what it wants in terms of the industrial relations landscape. All I have seen since I have been elected to this place is a negative and reactionary position in so far as labour relations is concerned.

A number of things must be worthy of consideration in this Bill, and I will go through each of them in turn. The first relates to the establishment of the Workplace Agreement Authority. The underlying principle in the establishment of a Workplace Agreement Authority is to enable simple procedures of an informal nature to take place at a workplace to deal with workplace agreements and associated matters in relation to industrial relations. I cannot see how anyone could possibly disagree with that as a principle. I know there is some argument that there is no need to establish a Workplace Agreement Authority, that it might be better to reform or change rules associated with existing structures. If the Labor Party went down the path of embracing that sort of approach, there might well be some common ground to be found.

The second issue relates to children's employment, and I would have thought that this provision was non-controversial and subject to some agreement between the two major Parties. The third issue relates to workplace agreements and the extension of the term to a period of five years. Currently the negotiation and the implementation of workplace agreements can be compared with the painting of the Sydney Harbour Bridge. No sooner have you finished the bridge than you start at the other end, painting again, so you are constantly painting the Sydney Harbour Bridge. It has been said to me by numerous practitioners, both from an employer and union perspective, that the negotiation of workplace agreements is not dissimilar to that. As soon as you have concluded one agreement you have to start negotiating the new one.

I have spoken to at least three union leaders, and I will not name them unless pressed, in the company of the Hon. Terry Cameron, who have said that the current period for which workplace agreements apply is too short and that unions are constantly in negotiation phases in relation to workplace agreements. It may well be that the period of five years as set out in the Bill is too long. It is worthy of debate and in that regard I am grateful that the Hon. Trevor Crothers has said that, despite substantial misgivings about the Bill, he will allow the second reading to proceed. We can all then sit down and discuss rationally and clearly what is an appropriate time frame for the existence of a workplace agreement. It may well not be five years, and three years might be better. One thing that has been said to me by those in the union movement who are involved in this process is that two years is too short. They are constantly negotiating. I think that, even if that was the only clause we got up, it would be an improvement worthy of consideration and an improvement that would benefit the economy of South Australia.

Another issue relates to long service leave. I will not go into that at all, except to say again that that has always been a rhetorical and emotional issue, irrespective of which side of the fence you might stand on.

Another issue in the Bill relates to holidays, and the Hon. Caroline Schaefer covered that issue adequately. I do not quite understand why some people would oppose the ability of a worker to say, 'I do not want to have the Queen's Birthday holiday. I am a pretty keen republican [I know that is misguided]; I would rather make the Labour day weekend'—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: —I am a constitutional monarchist, yes—'into a four day weekend and celebrate Labour Day good and proper—or even take the Tuesday off Labour Day to overcome the Labour Day picnic.' What worker would not want the opportunity to be able to negotiate that right with his employer? I have not yet heard any argument to say why that should not happen, except that the bosses will exploit the workers. I am not sure how that is likely to happen, and I would be interested to hear those opposite—and there is some skill in members opposite—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: The appropriate penalty?

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: I would be very interested to hear the debate on that. I think that there are arguments both ways. I think the starting point should be that there will not be an added cost to the employer by giving the employee the right to substitute a holiday. Within that framework I do not have a problem.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: I am not sure how that works, and I will be interested to hear the honourable member's contribution with respect to that matter. The other comment that I would like to make (and this is a bit of a hobby horse of mine) relates to the issue of regional holidays. We have Adelaide Cup Day, and Adelaide Cup Day describes a geographical location—that is, Adelaide—yet the holiday is Statewide. Employers and all sorts of people have substantial misgivings that the Adelaide Cup Day should not have come into existence in the first place. I am a political realist: I know that members opposite will not give away a holiday. But I do think that, if that is the case, maybe we ought to look at giving our regions the right to declare their own holiday.

It might well be that people on the west coast decide that they want to have their holiday to coincide with their Tunarama festival. It might well be that the people in Mount Gambier want to have their holiday to coincide with some sporting festival, some artistic festival or, indeed, as some people have suggested to me, the Mount Gambier Gold Cup. I have raised this in our Party room and I am heartened by the fact that the relevant Ministers (and there are three or four Ministers who are affected by this) have all indicated that they are prepared to look at this issue. So, it is on the agenda and I am sure that, before we see the new millennium, there will be something on the table from the Government about enabling regional holidays to be declared in substitution of, for example, the Adelaide Cup holiday. I think that would be one small step to enable the regions to become more in control of their destiny.

Another issue is the right of mediation. I will be interested to hear the debate on that clause. I am rather pre-empting the fact that the second reading will get through. But, again, I cannot see what the problem is with mediation. In fact, I would have thought that that concept was embraced by members opposite.

The other issue I wish to raise relates to wrongful dismissal. It is clear that there is a perception among our employers, particularly small business employers, that the current legislation relating to wrongful dismissal is an impediment to employment growth. Members may argue until they are blue in the face that either it is or is not an impediment to the employment of workers, but the reality is the perception in this particular case. If small business feels so vulnerable through wrongful dismissal legislation that they are disinclined to employ, then we as a Parliament have a responsibility and a duty to address that issue—and that is what this Bill seeks to do. I must say—and I am speaking entirely from a personal point of view—that I would go about it in a slightly different way.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: I will come to that. I have had some discussions with the Hon. Nick Xenophon, who I know would agree with me. I would go about it on the basis of making it simply a cost jurisdiction. I know from my own personal experience that, when employees have come to see me in relation to a wrongful dismissal application—and I hope this is not held against me in the future, because occasionally I do get genuine cases—I have always been able to advise them—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: —I will come to that in a minute—that they have nothing to lose by taking out an application, because there is no down side to taking out a wrongful dismissal application. The likelihood of any costs award being made is absolutely negligible. I do not disagree with the process: going into arbitration very quickly after the event occurs is a good one, but it can often take the negotiation stance of, 'Well, I'm going to run this.' Then the employer's lawyer, quite properly advising the employer says, 'You are on a hiding to nothing, even if you take this to court. If it lasts three days, it will cost you $4 000 or $5 000. You may as well offer the worker $2 000 or $3 000 to go away.' That happens not just on a daily basis but on numerous occasions every single day.

I have also had the opportunity to represent employers. On every single day I have been confronted, on my instructions, with an unanswerable case; from the employer's perspective, he was entirely justified in dismissing that particular employee. However, the reality is that, when you explain to the employer that to prove or to justify their decision they must spend two or three days in court and it will cost them $3 000 or $4 000, they want to make a commercial decision and they make an offer. The end result is that offers are not made within the context of the right or wrong of a particular case: they are made purely and simply with some commercial justification attached to them.

I suspect that, if it was a cost jurisdiction, the reality is that those rogue employers—and there are rogue employers who abuse and exploit workers and who dismiss workers for reasons other than poor work performance—should run the risk of paying an employee's costs whether that employee be represented by someone from a union or someone from the legal profession. A union or an employee group can say, 'We will take this employer on irrespective of the offer because we know we will win this case.'

The same applies with an employer who has a case with a particular employee and that employer knows that, unless strong action is taken, other workers will adopt the same

practices and, if he takes that employee to court—irrespective of the financial aspects—and knows that he can win and, if he wins, he gets the costs, that provides a salutary message to both sides of the equation. I have to say that my experience of wrongful dismissal currently as it operates is that it is merely a *de facto* redundancy payment.

The reality is that if that is what we are going to have in this system then perhaps we ought to be honest and not call it a wrongful dismissal payment but a *de facto* or quasi (or indeed whatever adjective with which one wants to describe it) redundancy payment. That is the reality of the situation. I hope the Hon. Nick Xenophon does not mind, and I will stop if he does, but I had some discussions with the Hon. Nick Xenophon and, in some areas, he is far more thorough than I. He approached the Chamber of Commerce, and it said that it did not want a cost jurisdiction: it would much prefer the regime contained within this Bill, which may well go some way towards reducing the perception amongst employers that the wrongful dismissal system is loaded against employers and therefore it is an impediment to employment.

That is the argument that the chamber supports. I will support the Government in relation to the insertion of clause 50. However, I have a concern that it does provide a regime for two classes of employer. It also repeats, in some respects, the problem associated with the imposition of payroll tax. I well remember as an employer reaching the position where I was about to become liable to pay payroll tax.

The engagement of the next employee, I must say, was a very difficult exercise, because once you exceeded a certain payroll limit you were liable to pay payroll tax not just on the additional employee (that was the case back in those days, at least) but on the whole of your payroll.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: There are some concessions now, but it can still have that effect. That is also a big impediment to employment. I was in the middle of that dilemma as an employer myself. I am a little concerned that this might have the same effect. I know that there may well be situations where an employer who has 15 employees says, 'Well, I will do my level best not to employ the sixteenth because that will bring me into a wrongful dismissal regime.' I know that I do not have the numbers and that I will not get the support but, like yesterday, I know that I am right and that ultimately and eventually the numbers will come my way.

If we make this a wrongful dismissal jurisdiction, a cost jurisdiction applying across the board, I think members will see a substantial reduction in the number of applications for wrongful dismissal, and I think members will see that over a period of time. Only those people who have merit will make the applications. Lawyers will advise them not on the basis of some economic decision but on the merits of their case and whether or not their case has any prospect of success.

The Hon. T.G. Cameron: For what it is worth, I agree with you.

The Hon. A.J. REDFORD: I am very grateful: 'That's two of us,' the Hon. Terry Cameron interjects. Through small numbers—

The Hon. K.T. Griffin: It is an incremental gain.

The Hon. A.J. REDFORD: The Attorney-General says that it is an incremental gain, and I suppose, in one sense, it might be described as that. However, I would prefer to say that, as support has grown one from one to two, I have achieved a 100 per cent increase in the space of one short speech—and that is a significant achievement. I have put my view on the record. I would be interested to hear the views of other members during the course of the debate, particularly when we reach the wrongful dismissal section. It may be (and hope springs eternal) that the ALP, having got all the rhetoric off its chest during the second reading debate, will sit down and give that some consideration. I know that the ALP is not totally and utterly opposed to small business. I know that it will at least attempt to go some way towards answering the concerns of small business.

The Hon. T.G. Cameron: You are an optimist as well as being misunderstood.

The Hon. A.J. REDFORD: Yes, but miracles have happened and we have seen a few in the past six months. I would hope that there would be some debate on that. In closing, I understand that there are some issues in relation to this Bill that the ALP is fundamentally and philosophically opposed to, and I acknowledge and accept that. I know that from their perspective there are some things, if I happened to be in their Party, I would never ever agree to, even if I reconciled that from the point of view that I did not want to lose my preselection.

However, there are some issues that are worthy of consideration. I urge members in the ALP to talk to some of the union leaders. Go and talk to Rick Newland about the negotiation of workplace agreements. Ask him, 'Rick, is this two year period a good period?' I would not want to put words in Rick Newland's mouth, but I suspect he would say, 'It's a bit like painting the Sydney Harbour Bridge, comrade. No sooner have I finished one, I have to start another one, and there are other things I would like to do. I would like to get more members for the ALP.' I sincerely hope that the Labor Party will look at it from a proper perspective.

I would like to think that the Hon. Paul Holloway would ring up Mr Sneath and say, 'Comrade, I know we will try to get you into this place, and we will value your opinion, but we need your help now. Tell us what you think about this perpetual negotiation of workplace agreements.' I am sure that comrade Sneath would say, 'Paul, between you and me, we will negotiate this, but let's not keep to the two years, because I have branches that I have to look after; I have members to recruit; I have strategies to develop; and I have a political career to plan. I cannot do all these things if I am perpetually negotiating a workplace agreement.'

You might go and talk to some other unionists, particularly those who really do get on and look after their workers, in relation to some of these rogue employers, and say, 'Why can't we have a cost jurisdiction so that the union can get the money in terms of cost applications for unfair dismissals?' Perhaps you might go to Don Farrell and say, 'Mr Farrell, what do you think about the swapping of holidays?'. I have met him a few times and I must say that he is a pretty reasonable guy. He supports some very capable members of Parliament—and I see that the Hon. Paul Holloway is blushing.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: I am sure the Hon. Paul Holloway will sort that out. I am sure he would say, 'My members would love to be able to have that little extra flexibility to swap their holidays around.' I am sure he would say that. I know it is fun and that it gets the hairs up on the back of the neck to get a couple of hundred people on the steps of Parliament House, and you have had your day—and it has been a great day for all concerned. I urge you all to sit down and look at this rationally. If you do not like the concept of the development of a workplace agreement authority, where officers go down to the workplace to

negotiate at the workplace and deal with people there, come up with some suggestions on how we can reform the existing bodies.

Because the Hon. Paul Holloway is a careful man and a man who understands workers, he would understand the sheer intimidation of some poor worker having to go to the Industrial Commission with all the regalia, all the lawyers and all the people associated with it to simply negotiate some small aspect of a workplace agreement. If you do not like the new authority, perhaps with this new bipartisanship that we have been promised on many occasions by the Leader of the Opposition, the Opposition can come up with a suggestion itself to make this whole process informed.

My understanding is that this will get through the second reading process, and ultimately we will have 24 or 48 hours of Labor Party rhetoric saying that the scorched earth policy is about to engulf us and that Armageddon is around the corner—and I accept that occasionally, for political purposes, you need to do that to jolly up the members and keep up the numbers.

But, when members come back in here in the cold, hard light of day and participate in careful, reasoned debate, I ask them to think about some of the provisions of the Bill. They are not designed to belt workers; there is no hidden agenda. I am not saying that the Bill is absolutely perfect, but the Government has put on the table certain options in terms of improving our system. There may be better answers: I have suggested one in terms of wrongful dismissal, and in a short space, as I said, I have increased my numbers by 100 per cent—and there may be other options. But let us improve it and try to get the sorts of results achieved in Western Australia, as mentioned by the Hon. Caroline Schaefer.

It would be terrific if unemployment came down to 5 per cent. It would be great if the Leader of the Opposition stood up and said, 'We were part of that; we participated in that; we enabled industrial legislation to get through that created an environment to improve that', because there are some things in this Bill which go past the ALP rhetoric and which can be incorporated without jeopardising the preselection chances of the Hon. Paul Holloway or, indeed, many others. I urge members to support the second reading.

The Hon. NICK XENOPHON: I rise to make a brief contribution to this Bill. I can indicate that there is very little in the Bill that I find attractive. In many respects, there are a number of clauses in the Bill that are ill considered and ill conceived and will not by any means necessarily have the intended effect to increase levels of employment. However, I do acknowledge that the Bill makes an effort to address a number of issues. I believe that it is a case of the Government taking an approach in respect of those issues that need to be reformed. I think that the Government is right in relation to that, but I do not think the solutions suggested by the Government really address the issues that it seeks to deal with.

There is one clause to which I am attracted, clause 72B(2), relating to a prohibition on the employment of children. Clearly, this is a step forward. It is appropriate that tribute be paid to the member for Torrens in another place, Robyn Geraghty, who has done an enormous amount of work in the community on this issue and who has been responsible for bringing this issue forward in a substantive fashion. Whilst this amendment may not be all that Ms Geraghty wants, at least it is something that I cannot oppose. In particular, I refer to Ms Geraghty's campaign with respect to door-to-door lolly sales by children, something that clearly seems to have been a rort. Children have been exploited in some instances, and if it were not for Ms Geraghty's very vocal and strong campaign and the leadership she has shown in the community I do not believe this clause would have seen the light of day.

I support the second reading of this Bill, but with a degree of reluctance. I note that the Hon. Trevor Crothers, with very heavy qualifications, has indicated his support for the second reading of this Bill. I also understand that the Hon. Terry Cameron, with perhaps similar qualifications, has indicated support for the second reading. I also understand—and I stand corrected—that the Minister will not proceed further with the Committee stage in this parliamentary session, and the Bill will need to be re-committed in the next session. I understand that this will give an opportunity for the Government and for interested stakeholders, in particular, the trade union movement, the Employers Chamber, other employer bodies and small business bodies such as the Small Retailers Association, an opportunity to negotiate further on aspects of the Bill to see whether there can be a constructive way forward.

I am indebted to the UTLC for the information it has given me. I do not necessarily agree with a number of its positions, but I believe it has given me a lot of useful information in relation to its concerns. I have also had discussions with the Employers' Chamber, and I have to say that I have not been all that impressed with or convinced by a number of its arguments. However, I think there is scope for the Government, unions and employers to get together in the context of this Bill being debated in the Committee stage to determine whether there is room for sensible compromise and a way forward.

I have also received correspondence from a number of people opposed to the Bill. I will not mention who they are or their organisations, but reference was made to the dignity of the employee and the importance of maintaining rights of workers in the context of this Bill. I agree with those sentiments. I believe that many aspects of this Bill are really quite unacceptable. I think we should also reflect on the dignity of the unemployed person. If some clauses in this Bill would not unduly affect the existing rights of workers but could in some way open up the employment market even to some moderate extent and give people who are currently unemployed a chance, they ought to be considered as well.

I also note that the Queensland Labor Government introduced a Bill earlier this year which made amendments with respect to codifying the probationary period for employment. I understand that it has put forward a three month period, rather than the 12 month period that I regard as quite unacceptable. Having done a bit of industrial work over the years (and I should disclose that I am still the principal of a law firm that does a small amount of industrial work, but a negligible amount in the context of industrial relations law), it is my view that a three month probationary period is very much the common law position. If all the Queensland Government did was to codify that to give some degree of certainty to small businesses, I do not think that is necessarily a bad thing.

I propose to make a fuller contribution in Committee. As I have indicated, at this stage there is very little in this Bill that I could support, but I think it is important that it go to Committee. The Government ought to be able to be scrutinised at the Committee stage, and the Opposition should be able to put its position forward with respect to all the clauses in this Bill.

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

MEMBER'S REMARKS

The Hon. P. HOLLOWAY: I seek leave to make a personal explanation to express regret at some comments made on my behalf.

Leave granted.

The Hon. P. HOLLOWAY: As shadow Minister for Primary Industries it is my responsibility to prepare material for my House of Assembly colleagues to base their questions on during Primary Industries Estimates. During Primary Industries Estimates on 29 June 1999 my colleague Annette Hurley asked a question which began, 'The Minister stated during Estimates last year' (referring to 1998), and she then went on to quote the Minister, as follows:

> I am sure that, at the end of the year if the research came back that if we had to reduce it (the pilchard allocation) by a lot, it would make for a hard but necessary decision that we would just have to tell those people (new ATBOA entrants to the fishery) that they could not go fishing the next year.

That was Estimates Committee A of Thursday 29 July (*Hansard*, page 170). During discussions with the Minister for Primary Industries yesterday, Thursday 29 July, it was drawn to my attention that the bracketed interpretation of the Minister's words which described 'those people' as 'new ATBOA entrants to the fishery' is incorrect. While the question asked during 1998 Estimates referred to new ATBOA entrants, the relevant part of the Minister's response in 1998 reads as follows:

> One of the big problems with allocation of quota within a fishery such as the pilchard fishery—and this was always in the back of everyone's mind, the working party as well as my own—is that, if we went out willy-nilly and took, say, some marine scale fishermen and turned them into pilchard fishermen overnight, we may well be giving them a quota for only one year. Human nature is such that they would go and invest enormously on that. I am sure that, at the end of the year if the research came back that we had to reduce it by a lot, it would make for a hard but necessary decision that we would just have to tell those people that they probably could not go fishing the next year.

That was from Estimates of 18 June 1998 (page 112). I accept that, in the context of the original answer, the Minister's reference to those people was the possible new marine scale fishery entrants. The quotation used in this year's Estimates was based on material I supplied to my colleague, and I accept full responsibility for it. This error was not deliberate, and I regret any confusion caused by it.

GAMBLING

The Hon. NICK XENOPHON: I seek leave to make a personal explanation in relation to a question I put to the Treasurer with respect to the level of problem gambling in South Australia.

Leave granted.

The Hon. NICK XENOPHON: Yesterday during Question Time, I put a question to the Treasurer (Hon. Robert Lucas) to the effect that one-third of the State Government's gambling taxes come from some 26 000 South Australians, making up one-third of gambling industry losses. The Treasurer took me to task, saying that the previous week I had referred to 25 000 problem gamblers and that this week it was 26 000. I have since had an opportunity to re-check the figures in the Productivity Commission's report, in relation to significant problem gamblers who make up the basis of the assertion that one-third of gambling losses are made up of significant problem gamblers. The national figure is 2.33 per cent, which would mean in excess of 26 000 South Australians, based on research that my staff carried out and inquiries of the Australian Bureau of Statistics that there are 1 131 852 adults in the State as at June 1998, and there has been a slight increase. The actual figure for South Australia is 2.19 per cent, which means on that basis that there would be some 24 787 problem gamblers making up one-third of gambling losses. I just wanted to clarify that for the record.

MINING (PRIVATE MINES) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill seeks to include in the *Mining Act 1971* new provisions dealing with private mines in substitution for section 19 of that Act.

The Bill establishes a new legislative regime in the *Mining Act 1971* for the proper management and control of mining operations at private mines.

This objective is consistent with the fundamental purpose of the *Mining Act 1971*, which is '*to regulate and control mining operations*'. In establishing this new legislative regime, the Bill will introduce wider environmental controls than those afforded by the *Environment Protection Act 1993* but will not limit or derogate from the powers of that Act.

When the *Mining Act 1971* came into operation on 3 July 1972, it resumed to the Crown ownership in all minerals. As an alternative to have to pay compensation to private landowners that lost ownership of the minerals in their land, the Government, at that time, introduced the concept of a Private Mine into section 19 of the Act.

A significant feature of section 19 is that it excludes, except if expressly provided for by another section in the Act, operations at Private Mines from the operation of other provisions of the Act. The only section in the Act which expressly relates to Private Mines other than section 19, is section 76(3a) which deals with the requirement for the operator of a Private Mine to submit production returns to the Director of Mines every six months and pay royalties.

Administrative difficulties arise as operations at Private Mines are not regulated or controlled by other provisions in the Mining Act and there are no requirements in section 19 for the proper control of operations at a Private Mine.

These amendments rectify this by requiring that any operation at a Private Mine must operate according to Mine Operations Plan. Such a plan will include a requirement for rehabilitating the site after completion of mining.

In conjunction with the introduction of Mine Operations Plans, these amendments will place an obligation on the operator to exercise a duty of care to avoid undue damage to the environment. This general duty is then linked to the mine operations plan.

Another issue that is to be addressed relates to the fact that currently Inspectors of Mines and officers authorised under the *Mining Act 1971* cannot legally enter upon a Private Mine for the purpose of undertaking investigations or surveys. These amendments ensure that Inspectors of Mines and authorised officers can legally enter upon a Private Mine for appropriate purposes.

As there are many Private Mines that are not being operated and cannot be operated in the future because they either do not contain minerals of value, or because environmental or planning constraints prevent them from being mined, this Bill provides for an efficient process for the revocation of these Private Mines.

To provide the community with a level of assurance that operations at Private Mines will meet appropriate community expectations, these amendments provide for community participation in the development of the objectives and criteria of new mine operations plans. Further, they provide for compliance orders, rectification orders and rectification authorisations.

The transitional provisions allow for developmental plans authorised under the *Mines and Works Inspection Act 1920* to be deemed mine operations plans over a phasing-in period. This ensures that existing

operations at Private Mines will be required to operate under the new system but are not disadvantaged by it.

The passage of this Bill will fulfil the Government's desire to assure the community that mining operations at Private Mines will be undertaken in a manner that is consistent with best environmental practice. It will also fulfil the Government's desire to assure industry that the regulation and control of mining operations at Private Mines will be addressed through a comprehensive legislative approach while delivering environmental outcomes consistent with the Government's environmental objectives.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of s.6—Interpretation

This amendment recasts the definition of "proprietor" of a private mine to reflect the fact that the relevant divesting of property occurred on the commencement of the principal Act.

Clause 4: Amendment of s. 17—Royalty

The amendments effected by this clause will allow an assessment of the value of minerals recovered from a private mine that are subject to the payment of royalty to be served on the person carrying out mining operations at the mine, rather than the proprietor, if a notice has been given to the Minister under proposed new section 73E(3) of the Act.

Clause 5: Repeal of s. 19

Section 19 of the principal Act is to be repealed and replaced with a new Part relating to private mines.

Clause 6: Insertion of Part 11B

It is intended to enact a new Part relating to private mines. New section 73C provides various definitions for the purposes of the new Part. It will also be made clear that all related and ancillary operations carried out within the boundaries of a private mine will be taken to be within the concept of "mining operations" for the purposes of this Part. New section 73D continues the position under the *Mining Act 1971* that the other parts of the Act will not apply to private mines unless explicit provision is made to that effect. Section 73E will relate to royalty. As is presently the case, royalty will only be payable on extractive minerals recovered from a private mine. It will now be possible for the proprietor of a private mine to nominate another person (being a person carrying out mining operations at the private mine) as the person who will be primarily liable for the payment of royalty. The Minister will be able to make an order suspending mining operations at a private mine if royalty has remained unpaid for more than three months after the day on which it fell due. A monetary penalty will also apply in such a case (although the Minister will have the ability to remit any penalty amount). Section 73F is similar to current section 19(12), (13) and (14) (except that the relevant jurisdiction is now to be vested in the Warden's Court, which has greater experience in dealing with private mines under the Act). Section 73G relates to the requirement to have in place a mine operations plan that relates to mining operations at a private mine. A mine operations plan will have a set of objectives and a set of criteria for measuring those objectives. The objectives must include specific objectives to achieve compliance with the general duty under proposed new section 73H. Section 73H will require a person, in carrying out mining operations at a private mine, to take all reasonable and practicable measures to avoid undue damage to the environment (as defined under new section 73C(1)). A person will comply with the duty if the person is meeting the objectives contained in a mine operations plan (when measured against the approved criteria). Sections 73I, 73J, 73K and 73L establish a scheme for compliance with the requirement to have a mine operations plan, to meet the relevant objectives and to comply with the general duty. Sections 73M and 73N provide a scheme for the variation or revocation of a declaration of an area as a private mine. Section 73O sets out the powers of an inspector or other authorised person to inspect a private mine and to carry out investigations in connection with the administration or operation of the new Part. Section 73P relates to the service of documents. Section 73Q will require registration of a mine operations plan. Section 73R will empower the Governor to correct any error that may have occurred in the declaration of an area as a private mine.

Clause 7: Revision of penalties

The penalties under the *Mining Act 1971* have been reviewed and new amounts proposed.

Clause 8: Amendment of Development Act 1993

This is a consequential amendment of the *Development Act 1993* on the basis that mining operations at private mines will now be controlled through the mechanism of mine operations plans.

SCHEDULE 1

Revision of Penalties

The penalties under the *Mining Act 1971* are to be revised.

SCHEDULE 2

Transitional Provisions

This schedule enacts various transitional provisions associated with the measures contained in this Bill. The requirement to have a mine operations plan will arise six months after the commencement of the new scheme. A development program under the *Mines and Works Inspection Act 1920* will be taken to be a mine operations plan for the purposes of the new Part enacted by this Act.

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

ADJOURNMENT

At 4.49 p.m. (Friday) the Council adjourned until Tuesday 3 August at 2.15 p.m.