LEGISLATIVE COUNCIL

Tuesday 18 October 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.18 p.m. and read prayers.

ASSENT TO BILLS

Her Excellency, the Governor, by message, assented to the following bills:

Correctional Services (Parole) Amendment,

Dog Fence (Miscellaneous) Amendment,

Superannuation Funds Management Corporation of South Australia (Miscellaneous) Amendment.

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That the sitting of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Industry and Trade (Hon. P. Holloway)—

- Reports, 2004-05—
  - Code Registrar for the National Third Party Access Code for Natural Gas Pipeline Systems
  - Commissioner for Public Employment
  - Department of Treasury and Finance
  - Distributor Lessor Corporation
  - Electricity Supply Industry Planning Council
  - Essential Services Commission of South Australia
  - Funds SA
  - Generation Lessor Corporation
  - Lotteries Commission of South Australia
  - Motor Accident Commission
  - Police Superannuation Board
  - RESI Corporation
  - SAICORP—South Australian Government Captive Insurance Corporation
  - South Australian Asset Management Corporation
  - South Australian Classification Council
  - South Australian Government Financing Authority
  - South Australian Motor Sport Board
  - South Australian Police
  - South Australian Parliamentary Superannuation Scheme
  - South Australian Superannuation Board
  - State Emergency Management Committee
  - Technical Regulator—Electricity
  - Technical Regulator—Gas
  - Transmission Lessor Corporation
  - Venture Capital Board
- Report and Determination of the Remuneration Tribunal—
  - Members of the Judiciary, Members of the Industrial Relations Commission, Commissioners of the Environment, Resources and Development Court (No. 3 of 2005)
- Statutes Amendment (Relationships) Bill 2004—
  - Government's Response to the Recommendations of the Twenty-First Report of the Social Development Committee
- Regulations under the following Acts—
  - Motor Vehicles Act 1959—Prescribed Licences
  - Passenger Transport Act 1994—Airport Service Fee
  - Southern State Superannuation Act 1994—Death Insurance Benefits
- Rules of Court—
  - Coroner's Court—Coroners Act 2003—Practice and Procedure
- Rules under Acts—
  - Legal Practitioners Education and Admission Council 2004—Renewal of Practising Certificate
- Motor Accident Commissioner Charter
- Summary Offences Act 1953 (Section 83B)—Dangerous Area Declarations—1 April 2005 to 30 June 2005
- Summary Offences Act 1953 (Section 74B)—Road Block Establishment Authorisations—1 April 2005 to 30 June 2005

By the Minister for Urban Development and Planning (Hon. P. Holloway)—

- Removal of a Significant Tree at the Norwood Morialta High School—Section 49(15)(a) Development Act 1993

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

- Reports, 2004-05—
  - Carrick Hill
  - Department of Families and Communities
  - History Trust of South Australia
  - HomeStart Finance
  - Libraries Board of South Australia
  - Playford Centre
  - State Theatre Company of South Australia
  - Supported Residential Facilities Advisory Committee.
- The State Opera of South Australia
- Windmill Performing Arts Company
- Regulations under the following Acts—
  - Freedom of Information Act 1991—Exempt Agencies
  - Liquor Licensing Act 1997—Long Term Dry Areas—
    - Golden Grove
    - Renmark

By the Minister for Emergency Services (Hon. C. Zollo)—

- Primary Industry Funding Schemes Act 1998—Marine Scalefish Industry Fund—Report, 2003-04
- Reports, 2004-05—
  - Boundary Adjustment Facilitation Panel
  - Forestry SA
  - Local Government Finance Authority of South Australia
  - Mallee Health Service
  - Mt. Barker and District health Services Inc.—
    - Incorporating Mt. Barker District Soldiers Memorial Hospital and Adelaide Hills Community Health Services
  - Naracoorte health Service Inc
  - Podiatry (Chiropody) Board of South Australia
- Regulations under the following Acts—
  - Aquaculture Act 2001—General
  - Fire and Emergency Services Act 2005—General
  - Fisheries Act 1982—
    - Pilchard Fishery Transit Form
    - Pilchards
    - Prescribed Fishing Activities
    - Vessel Monitoring Scheme
  - Health and Community Services Complaints Act 2004—Definition of Community Service
  - Local Government Act 1934—
    - Cemetery
    - Exhumation of Human Remains
- Rules under Act—
  - Local Government Act 1999—
    - Rule Amendments by the Local Government Superannuation Board—
      - Conversion to Cash Option
      - Employer Contributions
- By-laws under Act—
  - South Australian Health Commission Act 1976—
    - Flinders Medical Centre
    - Modbury Hospital
- District Council By-laws—
  - Le Hunte—

No. 3—Local Government Land
No. 4—Permits and Penalties.

OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION COMMITTEE

The Hon. J. GAZZOLA: I bring up the report of the committee for 2004-05.

Report received.

NATURAL RESOURCES COMMITTEE

The Hon. R.K. SNEATH: I bring up the report of the committee for 2004-05.

Report received.

QUESTION TIME

AUDITOR-GENERAL'S REPORT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation prior to asking the minister representing the Treasurer a question about the Auditor-General's Report.

Leave granted.

The Hon. R.I. LUCAS: The Auditor-General, under the heading 'Appropriation of Administered Items', looking at the Department of Treasury and Finance, makes the following comments:

> The ex-post model for dispersing appropriation exposes the risk that it would be too late for the department to take corrective action if an agency overspends their authority, particularly for large transactions carried out in June. Audit considers that the ex-post model can result in agency bank accounts going into overdraft in cases where they have insufficient funds to cash flow both their departmental and administered expenditures. The 2004-05 audit observed two agency bank accounts—the Department of Education and Children's Services and the Department of Premier and Cabinet—going into overdraft due to the ex-post model.

Further, the Auditor-General comments that, in July 2004, the Under Treasurer approved the implementation of a strategy requiring the establishment of non-interest bearing special deposit accounts to receive appropriation for those operations of departments which are currently on a reimbursement basis. The Auditor-General's Report also makes it clear that, more than 12 months later, no action has been taken by the Treasurer or the government in relation to this risk issue and the recommendations for resolving it from the Under Treasurer. My questions to the Treasurer are:

1. To what extent did the Department for Education and Children's Services and the Department of the Premier and Cabinet go into overdraft during the 2004-05 audit period?

2. Why has the Treasurer not taken any action as recommended by his Under Treasurer (and, obviously, supported by the Auditor-General) to correct this issue?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Treasurer and bring back a reply.

JUVENILE JUSTICE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General and/or the Minister for Police, a question about juvenile justice issues.

Leave granted.

The Hon. R.D. LAWSON: Last year members will recall that there was a spate of tyre slashing in the western suburbs of Adelaide. Over 400 vehicles were damaged in this protracted, debilitating and very expensive exercise. A special police operation was established to crack the gang which was responsible; and, in March 2004, Superintendent Barry Lewis of the Port Adelaide police reported that the police were hoping to make a second arrest shortly. Superintendent Lewis said:

> We have three of the core group and a fourth one shortly. We will be working away on the others until we are satisfied. The arrests follow last week's charging of two other youths over the attacks which occurred mainly in Semaphore, Exeter, Birkenhead and Largs Bay.

A constituent of the Attorney-General wrote to him seeking information about the result of proceedings against the offenders. In his response, the Attorney stated:

> I am told that four juveniles were arrested for offences directly associated with the suspected tyre-spiking group. These offences included theft, illegal use, breach of bail, property damage, hinder police and fail to cease loiter. Two of the juveniles attended family conferencing and were formally cautioned by the South Australia Police. Charges of property damage against a third offender were withdrawn owing to insufficient evidence. Charges against a fourth offender are currently before the courts.

When this matter was more recently raised, the Attorney-General was on public radio saying that, in fact, no charges were proceeded with in relation to this matter. However, notwithstanding the fact that I asked a series of questions in February this year about the matter (including a question, 'Was any and if so what action was taken against the offenders, and what if any penalties were imposed?') which remain unanswered, my questions to the Attorney are:

1. What is the position in relation to these offences? Is it the case that no charges at all were ever proceeded with?

2. In relation to the next matter, which deals with the statistics that the South Australia Police publish annually in relation to reported crime, will these incidents be classified as 'cleared' within the South Australia Police reported crime statistics?

3. When can the parliament expect to receive a response to the question posed by me in parliament in February this year?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer the question to the Attorney-General and bring back a reply.

The Hon. NICK XENOPHON: I have a supplementary question. To what extent were the victims of these incidents kept informed of the outcome and processes involved?

The Hon. P. HOLLOWAY: I will also refer that question to the Attorney-General and bring back a reply.

AUDITOR-GENERAL'S REPORT

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Emergency Services a question about the Auditor-General's Report.

Leave granted.

The Hon. A.J. REDFORD: The Auditor-General handed down his report yesterday and, in the case of this minister, it is her first report. That report states, at page 392, that controls exercised by the Emergency Services Administrative Unit in relation to matters raised under credit cards, accounts payable and purchasing, assets and payroll, as outlined under 'Audit Communications to Management', are not sufficient to

provide a reasonable assurance that the financial transactions of ESAU are being conducted properly or in accordance with the law. Indeed, the Auditor-General's Report said that 'Matters arising during the course of the audit were detailed in a management letter to the Chief Executive.'

In the section on Overall Comment, the report states that 'little progress has been made in affecting improvement.' It continues:

> In Audit's opinion it is extremely unsatisfactory that these matters have gone uncorrected for so long and this reflects poorly on the management of ESAU.

Hardly a glowing recommendation for the minister's first Auditor-General's Report. My questions are:

1. Has the minister seen the management letter to the chief executive and the response?

2. If not (and I assume that this is the case), will the minister read the correspondence?

3. What is the minister doing to correct the matters that have gone uncorrected for so long?

4. What are the matters that have gone uncorrected?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his questions in relation to ESAU. Of course, as he would know, ESAU no longer exists; we now have (after several years of regrettable protraction in the other house) a new Fire and Emergency Services Act, and many of us are very pleased to see that happen.

I am aware that the Auditor-General did raise some concerns in relation to credit cards, and they were responded to. At the time, ESAU indicated that it would review and monitor the procedures to ensure that monthly statements were returned and supporting documentation provided. Under the section Accounts Payable and Purchasing, ESAU indicated—

The Hon. A.J. REDFORD: I rise on a point of order. I have asked a series of questions but the minister seems to be reading from a prepared statement. I would be grateful if she could direct her answers to my questions. Has she seen the letter?

The Hon. CARMEL ZOLLO: I am actually reading from the Auditor-General's Report.

The Hon. A.J. Redford: I have read that; I want to know the answers to my questions.

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: You have asked me a question and I am answering. I am actually reading from his report.

The Hon. A.J. Redford interjecting:

The Hon. CARMEL ZOLLO: Obviously you did not read all of it, otherwise you would have read the response from ESAU.

The PRESIDENT: The minister is entitled to answer the question asked of her and she is entitled to answer it in the way she sees fit, which includes reading notes.

The Hon. CARMEL ZOLLO: Under Accounts Payable and Purchasing it states that ESAU, at the time, 'indicated that procedures will be reviewed and complied with to address these issues'. Under Assets, it advised the following:

> . . . they would review the accounting processes in relation to capital projects, and they would ensure that reconciliations of work in progress were performed on a timely basis and reviewed.

Under the section headed Payroll, the report states that ESAU advised 'payroll policies and procedures would be improved and segregation of duties would be viewed.' It also said:

> . . . action would be taken to ensure bona fide reports were distributed and returned in a timely manner and that active management of excessive leave balances would be undertaken.

As we were just saying, the audit findings noted that some volunteers had breached some of those instructions and the matter has been dealt with—

The Hon. A.J. Redford interjecting:

The Hon. CARMEL ZOLLO: I am sorry; I meant SES.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Well, ESAU and SES were looked at together.

The Hon. A.J. Redford: No, they're not.

The Hon. CARMEL ZOLLO: Well, they were in the report.

The Hon. J.M.A. Lensink interjecting:

The Hon. CARMEL ZOLLO: What are you laughing at?

The Hon. J.M.A. Lensink: You.

The Hon. CARMEL ZOLLO: They were looked at together under that Auditor-General's Report. ESAU was doing the administrative work at the time; they were looked at together. So, I am not sure what the honourable member's problem is. As I have said, all of them were appropriately addressed. I am not quite sure what the honourable member is laughing at.

Members interjecting:

The PRESIDENT: Order! Let us confine the debate to the question.

The Hon. CARMEL ZOLLO: As I have said, the issues raised were looked at. ESAU no longer exists; we now have SAFECOM. We very much welcome SAFECOM. Procedures have been put in place to ensure that those excesses and the administration issues that had arisen will not happen again.

The Hon. A.J. REDFORD: The minister is disgraceful. She will not answer a simple question.

The PRESIDENT: Order! The honourable member cannot debate the issue.

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. Clearly, if the Hon. Angus Redford is to ask a supplementary question, he cannot make comments. I request that you withdraw leave.

The PRESIDENT: I have pointed out to the Hon. Mr Redford that he cannot debate the issue, but he can ask a supplementary question.

The Hon. A.J. REDFORD: It is the same question I asked that was not answered. Has the minister seen the management letter to the Chief Executive and the response?

The Hon. CARMEL ZOLLO: I have not seen that particular letter but, obviously, I have been advised of it. I will bring back a report to the honourable member.

The Hon. A.J. REDFORD: I have a further supplementary question. Will the minister take the time and trouble to read the management letter written to the Chief Executive Officer and the response?

The PRESIDENT: I thought the minister said that she would do so and that she would bring back a report.

The Hon. A.J. REDFORD: In the absence of seeing such letters, how can the minister give an assurance to this place that the matters which the Auditor-General has said had 'gone uncorrected for a considerable period of time' are still not corrected?

The Hon. CARMEL ZOLLO: I give an assurance to the honourable member that they are being corrected. They were obviously raised in the Auditor-General—

The Hon. A.J. Redford interjecting:

The Hon. CARMEL ZOLLO: I can give the honourable member an assurance that they are certainly being corrected. I have been advised of that—and I also have obviously been briefed—and they are being corrected.

The Hon. A.J. REDFORD: I have a further supplementary question. Does the minister agree with the Auditor-General when he says, 'This reflects poorly on the management of ESAU'?

The Hon. CARMEL ZOLLO: Does the honourable member agree that you probably should not have introduced ESAU in the first place? In fact, you welcomed the SAFECOM legislation.

The PRESIDENT: Order! Questions soliciting opinion are out of order.

The Hon. IAN GILFILLAN: I have a supplementary question. The minister referred to the phrase 'payroll will be reviewed'. I ask her, in the light of the transfer of staff, as listed in the *South Australian Government Gazette* of 20 September 2005, where approximately 200 staff have been transferred from ESAU to SAFECOM, what actual saving has been effected to the cost of South Australia as a result of this so-called payroll review?

The Hon. CARMEL ZOLLO: I am sure the honourable member would be aware that the SAFECOM act came into being on 1 October. We had a transition working committee leading up to that. I obviously cannot give the honourable member a figure off the top of my head, but I can undertake to bring back some advice for the honourable member.

METROPOLITAN FIRE SERVICE

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question regarding new MFS appliances.

Leave granted.

The Hon. J. GAZZOLA: I am aware of the importance of ensuring that appliances for our emergency services are up to date, well maintained and safe. Have any new appliances been commissioned to the MFS this year?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the Hon. John Gazzola for his important question about new MFS appliances. On 8 September this year I was pleased to commission three new appliances and vehicles as part of the ongoing program of appliance upgrades for the MFS. The replacement vehicles will ensure continuation of the core business of the MFS, that is, ensuring a timely and appropriate response to all reports of hazards, emergencies and other calls for assistance from the community. The appliances will aid firefighters in containing and minimising the impacts of emergencies, in performing rescues and in reducing the unfortunate occurrence of death and injury.

To assist the MFS to provide timely and improved service delivery in response to vehicle accidents, rescues and non-fire-related emergencies, I was pleased to commission one rescue tender worth $416 000. The addition of this new rescue tender means that the MFS now has several rescue tenders. This allows for one rescue tender to be off duty for training or service without affecting the rescue response capabilities of the MFS. The addition also enhances the state's resources to respond to vehicle accidents or other emergencies anywhere within South Australia.

The MFS Rescue Officers Group was actively involved in the design of the rescue tender. It was their experience and planning that developed a functional appliance that will best aid firefighters when attending rescue incidents. A South Australian company, Moore Engineering at Murray Bridge, built the rescue tender rear body component. This company also built the new vehicles recently delivered to the SES units around the state. The MFS engineering workshop completed the internal equipment storage system. I was pleased to be able to meet Mr Quentin Moore when I commissioned the SES vehicles recently, and I do congratulate that company for its innovation and commitment to South Australia.

Also commissioned were two refurbished Skyjet appliances worth $450 000 each. Because of the durability and robustness of the existing aerial components, a refurbishment rather than a full replacement of the appliances was considered appropriate. The Skyjets enhance the capability of the MFS to meet its operational requirements for multi-storey buildings. They have a universal role in firefighting, rescue, incident control and support. On top of the three appliances now added to the MFS fleet, six new heavy duty urban pumping appliances worth $453 000 each will be ready for operations later in the year. The heavy duty urban pumpers are the backbone of MFS operations, often being the first vehicles to respond to emergency calls or calls for assistance. The government is committed to keeping our state's firefighters well equipped, well resourced and safe. These new appliances are evidence of that, as is our recent $2.5 million commitment over the coming years to new personal protective equipment.

The Hon. A.J. REDFORD: I have a supplementary question. I am sure this will elicit substance. How many CFS trucks were commissioned in the same period?

The Hon. P. HOLLOWAY: On a point of order, Mr President, the Hon. Angus Redford insists on abusing standing orders. Is it possible to withdraw leave?

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: He just does it repeatedly. Again he makes comments in a supplementary question. I ask you to—

The PRESIDENT: The honourable member has not sought leave. He has sought to ask a supplementary question and, as such, he must ask a question. He cannot comment or debate. If the Hon. Mr Redford has a supplementary question, he can ask the supplementary question, but he cannot debate it.

The Hon. CARMEL ZOLLO: Did you ask how many CFS vehicles are being replaced?

The Hon. A.J. Redford: During the same period.

The Hon. CARMEL ZOLLO: If the honourable member recalls, the last state budget, which was a very good budget for this government, states that the Country Fire Service intends to replace 69 vehicles.

The Hon. A.J. REDFORD: How many of those have been commissioned?

The Hon. CARMEL ZOLLO: They will all be rolled out in this financial year.

The Hon. A.J. Redford interjecting:

The Hon. CARMEL ZOLLO: I can assure the honourable member that quite a few have already been rolled out.

If he travelled through country South Australia and visited a few CFS stations, he would know.

FERAL DEER

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries a question about the state government's response—

Members interjecting:

The PRESIDENT: Order! Ther is too much conversation on both sides of the council. I cannot hear the Hon. Mrs Kanck.

The Hon. SANDRA KANCK: —to problems posed by an upsurge in the number of feral deer.

Leave granted.

The Hon. SANDRA KANCK: Over the past few months in the course of my parliamentary work I have had reason to visit the South-East of the state and Fleurieu Peninsula. Although it was not the purpose of my visits, in both areas farmers told me about the problems they are experiencing with feral deer. They shoot them when they can, but they fear that their efforts are ineffective in controlling their numbers. The farmers have informed me that there is no state government assistance to eradicate the deer. In fact, my colleague the Hon. Ian Gilfillan tells me there is apparently an emerging problem with feral deer on Kangaroo Island. My questions are:

1. What damage do feral deer cause both environmentally and economically?

2. What is the extent of the feral deer problem in South Australia in terms of both the geographic spread and numbers?

3. What current action is the government taking to solve the problem, and what future action does the government propose?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her question in relation to feral deer. I will refer the question to the Minister for Agriculture, Food and Fisheries in the other place and bring back a response.

The Hon. IAN GILFILLAN: Will the minister also address the issue of the transfer by feral deer of ovine and bovine transportable disease?

The Hon. CARMEL ZOLLO: I will refer that further question to the Minister for Agriculture, Food and Fisheries in the other place and bring back a response for the honourable member.

STOJAN, Mr J.

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the minister representing the Attorney-General questions about the arrest and prosecution of Mr Jim Stojan.

Leave granted.

The Hon. NICK XENOPHON: Last night, on the *Today Tonight* program on Channel 7, the entire program was devoted to the case of Mr Jim Stojan, a Penfield man who was involved in an horrific incident in the early hours of 9 December 2003. The program set out in graphic detail a series of events where an acquaintance of Mr Stojan was visiting his home at Penfield. This acquaintance, Paul Davis, went on a drinking binge and stayed in the home after Mr Stojan had gone to bed. Mr Davis's daughter aged eight and Mr Stojan's daughter aged 10 were also asleep in the house at the time.

Mr Davis became aggressive and violent and assaulted Mr Stojan in his bed. He then punched and dragged Mr Stojan around the house. By all accounts, Mr Davis was in a frenzy. When Mr Davis moved towards the bedroom where the two young girls were sleeping in an aggressive and threatening manner, Mr Stojan pulled out an old .22 calibre rifle kept on the property for shooting snakes. This further enraged Mr Davis who attacked Mr Stojan and the gun discharged. Mr Stojan overpowered Mr Davis, knocked him unconscious with the gun and held him at bay and immediately rang 000.

Last night, the program replayed some of Mr Stojan's desperate pleas for help on the 000 call. Despite evidence to the contrary, police treated the incident as a siege and Mr Stojan as the assailant and hostage taker. The police took 1½ hours to arrive, by which time Davis had fled to a neighbouring property. The police then arrested Mr Stojan, charged him with attempted murder, and no action was taken against Mr Davis. Mr Stojan was put on remand in custody for two months, and 18 months later the matter went to trial in the District Court, at which time Judge Clayton directed the jury (after the prosecution case of some two weeks) in effect to acquit Mr Stojan (what is known as a Prasad direction) without the defence being heard, which the jury did in less than an hour.

Mr Stojan was on the telephone to the police, on the OOO number, continuously for an hour and a half but, for some reason, the last 20 minutes of the OOO call went missing prior to the trial. Part of this missing 20 minutes was crucial to the defence because it confirmed that the crisis was over, that the two young girls were safe, that Mr Davis had fled, and Mr Stojan had put the gun down and was coming out with the girls. Mr Stojan not only spent two months in custody but also spent $35 000 on his legal defence. My questions are:

1. Will the Attorney apologise to Mr Stojan for what he has been subjected to and make efforts to compensate him for his incarceration and needless prosecution?

2. Will the Attorney seek an independent view of the way this matter was conducted by the DPP's office?

3. How many taxpayer dollars were expended in prosecuting and incarcerating Mr Stojan?

4. What guidelines exist for the prosecution of matters where self-defence appears, on the evidence, to be a significant factor?

5. Will the Attorney seek an explanation, via the police minister, for the missing 20-minute tape, and will he advise whether there will be an investigation into that missing 20 minute tape?

6. Will the Attorney provide information and clarify for all South Australians the law of self-defence and what action is reasonable for citizens facing such circumstances as Mr Stojan to protect themselves?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Attorney-General and bring back a reply.

The Hon. A.J. REDFORD: I have a supplementary question. Can we have an answer to these questions before parliament gets up prior to Christmas?

MOANA ROUNDHOUSE

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the Moana roundhouse.

Leave granted.

The Hon. T.J. STEPHENS: Members may be aware of the situation surrounding the roundhouse at Moana, as it has gained some prominence in the local southern press. The former Minister for Urban Development and Planning (Hon. Trish White) placed the roundhouse on the Local Heritage Register. When the Hon. Paul Holloway assumed those responsibilities, he removed it from the Local Heritage Register. The local member and minister for the environment (Hon. John Hill) has publicly stated that he is opposed to this removal and will attempt to protect the roundhouse. I am advised that the minister's own office has admitted it made a mistake in removing the roundhouse from the register. My questions are:

1. Does the minister agree that he got it wrong?

2. Given the concern of the public and his cabinet colleague, what will the minister do to rectify immediately his mistake?

The Hon. P. HOLLOWAY (Minister for Urban development and Planning): In relation to the Moana roundhouse, the advice I had was that it had not been recommended for heritage listing by the appropriate advisory council. Subsequent to that decision being made, some additional information has been brought to my attention by the Minister for Environment and Conservation, and others, in relation to that and I have been urgently reconsidering the matter. I have a meeting planned for later this week in relation to this matter, which I believe will also involve the Onkaparinga council.

CHARLES STURT CITY COUNCIL

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Local Government, a question about the City of Charles Sturt.

Leave granted.

The Hon. D.W. RIDGWAY: As the minister would be aware, there has been some controversy of late over the activities of the City of Charles Sturt. Most of the debate has been about the proposed ward boundary changes within the council area. It is interesting to look at some of the statistics in the area. The City of Charles Sturt consists of approximately 100 000 people comprising 101 nationalities. It is interesting that most candidates, when running for election in the City of Charles Sturt, distribute brochures written in at least three or four languages when trying to convey their message to electors and looking for their vote on election day. However, in regard to the public consultation that was undertaken by the council on the proposed ward boundary changes, it would appear that only one small advertisement was placed in the Messenger newspaper, in English, advising that the review was taking place and pointing out that if residents wanted more information they must go to the Charles Sturt council office to pick up a copy of the periodic review document.

Also, I have been recently and reliably informed that some members of the council have been participating in occasional meetings outside the official council meetings and excluding other councillors. I refer the council to the Local Government Act. Section 90(2) provides:

> A council or council committee may order that the public be excluded from attendance at a meeting to the extent (and only to the extent) that the council or council committee considers it to be necessary and appropriate to act in a meeting closed to the public in order to receive, discuss or consider in confidence any information or matter listed in subsection (3) (after taking into account any relevant consideration under that subsection).

Section 90(8) provides:

> The duty to hold a meeting of a council or council committee at a place open to the public does not in itself make unlawful informal gatherings or discussion involving—
>
> (a) members of the council or council committee; or
>
> (b) members of the council or council committee and staff,
>
> provided that a matter which would ordinarily form part of the agenda for a formal meeting of a council or council committee is not dealt with in such a way as to obtain, or effectively obtain, a decision on the matter outside a formally constituted meeting of the council or council committee.

There are suggestions that these meetings may have taken place with the knowledge of the member for Croydon and the member for Cheltenham. My questions are:

1. Can the minister give us an assurance that these meetings have not taken place outside the official council meeting schedule?

2. Will the minister give us an undertaking that no more exclusive meetings of this nature will take place in the City of Charles Sturt?

3. Will the minister advise this council whether he is satisfied that there was an adequate level of public consultation prior to the proposed ward boundary changes?

4. Has the minister received any correspondence from the City of Charles Sturt regarding the ward boundary changes?

5. Can the minister advise this chamber why the ward boundaries were changed, when the periodic review was not due until 2008?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the member for his question in relation to the City of Charles Sturt. At this rate, we will have to send the Hon. David Ridgway to the other place as well, to help his lot over there.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: We definitely cannot send the member there. I will refer the questions to the Minister for State/Local Government Relations and ensure that the member receives a response.

LOCAL GOVERNMENT, RECONCILIATION INITIATIVES

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about reconciliation initiatives.

Leave granted.

The Hon. R.K. SNEATH: From reports provided by the minister to this council previously, it is clear that considerable work has been carried out by local government in the area of reconciliation. Will the minister report to the council on reconciliation initiatives in the area of local government?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question. Two consecutive questions on local government relating to two different issues is probably a record in this council. In this case, as the honourable member knows and understands, I have been very complimentary to local government with respect to the way in which it is dealing

with reconciliation and trying to facilitate enterprise building within some areas of local government in this state.

Certainly, on Fleurieu Peninsula and further south down to the Coorong council, councils have cooperated jointly and individually to work with local Aboriginal communities to enterprise build, to protect heritage culture and to display heritage culture, where appropriate, for tourism reasons. Where appropriate, the culture and heritage of these communities have been protected and, in a way, that has enhanced the history and development of protective programs within those councils. I have to be further complimentary to the LGA in dealing with this issue. It is a complicated issue in some local government areas, but the LGA has been up front in dealing with reconciliation and providing network services and, in some cases, assisting to build up networks within the broader community through education programs and display to make sure that the broad Aboriginal heritage within those council areas is protected and displayed.

The LGA has put together, with the Coorong council, a document entitled 'A Local Government-Aboriginal Service Agreement Case Study Guide'. This guide aims to encourage councils to explore the notion of service agreements and consider approaches to implementing them and provides evidence—hard copy template programs—where local government has been successful in building bridges between Aboriginal communities and driving them into programs that have brought about genuine benefits within those local government areas. The guide features a checklist of steps to take and issues to think about, and it includes practical guidance by showcasing actual alliance agreements developed by the Coorong council and the Raukkan Community Council.

Murray Bridge council also has put together packages within its community to showcase some of the Aboriginal history within the Murray Bridge district, and that is on display by the river, under the bridge where the steamboats pull in, and there is also a meeting place for Aboriginal people within that area. So the Murray Bridge council is also doing good work.

The guide also highlights 16 other good practical examples of the interaction between councils and communities. These include examples that I have mentioned before such as the Kaurna Tappa Iri agreement and the Narungga native agreement signed by the Narungga Nations Aboriginal Corporation. My colleague in another place, the Minister for State/Local Government Relations (Hon. Rory McEwen), launched the guide at the Local Government Association conference earlier this month.

I also take this opportunity to congratulate the LGA President, councillor John Legoe, who resides in the South East. The local councils that are taking up this challenge and the Aboriginal communities are demonstrating a willingness to work towards these outcomes, and I wish councillor Legoe all the best in his struggle with his health at the moment. I have a lot of sympathy for councillor Legoe in the struggle he is having, the workload he is still carrying and the spirit he still has in dealing with both his workload and his illness.

CHEMCERT

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Emergency Services, representing the Minister for Agriculture, Food and Fisheries, a question about ChemCert.

Leave granted.

The Hon. IAN GILFILLAN: ChemCert, which was originally called Farm Chemical Users Course, is a not for profit program providing accreditation to farmers in chemical handling. It is recognised in the regulations under the Agricultural and Veterinary Products (Control of Use) Act 2002 as an approved accreditation provider, and it is well-recognised and respected by users of farm chemicals in South Australia. The organisation works nation wide and has accredited over 200 000 people and 22 000 in South Australia. Its mission is:

> To promote the safe and responsible use of agricultural, veterinary and horticultural chemicals through the delivery of high quality training programs.

I have received a copy of a letter from ChemCert Australia (SA) Inc. to the minister dated 4 August 2005, which states:

> Dear minister,
>
> We have evidence that you, through the Department of Primary Industries and Resources, will soon launch a chemical handling training program called SmartTrain. On behalf of the ChemCert (SA) Inc. Board I express grave concerns with your proposal. It will directly compete with ChemCert, a training and accreditation program which was developed some 13 years ago by industry in South Australia and which has subsequently extended Australia wide.

It goes on to detail the history of the organisation and raises a number of concerns at the prospect of PIRSA entering as a competitor to ChemCert. One point of great concern relates to the quality of assessment and the use of on-farm assessment, and it states:

> ChemCert Australia's policy is that participants will be assessed under the AQTF guidelines for competency-based assessment. ChemCert SA's policy is that this will include, where appropriate, a workplace assessment of each participant in the program. A recent survey conducted by Chemcert SA (a copy of the report can be provided) affirmed a positive response to the workplace assessment by those who had undertaken it. SmartTrain will not require a workplace assessment; thereby:
>
> (1) lowering the standard of chemical stewardship that has been achieved in SA by ChemCert; and
>
> (2) providing your department with an unfair advantage in the marketplace.

The letter closes as follows:

> Minister, we urge you to reconsider your department's involvement in SmartTrain. We urge you to put the launch on hold and instead to affirm your support of industry's own chemical training and accreditation program.
>
> We will be pleased to meet with you to discuss the issues raised above, as well as any concerns you may have with ChemCert. We have several other issues that would be best discussed in private.
>
> Yours sincerely,
>
> Richard Way, Chairperson.

As the minister will be aware, a notice appeared in the *Government Gazette* of 22 September 2005 in which he gave formal approval for the use of SmartTrain courses. My questions are:

1. What advice did the minister receive, and what industry consultation was involved before he made this decision?

2. Does the minister recognise that ChemCert offers a higher quality of training than SmartTrain, particularly in its introduction of on-farm assessments?

3. Does the minister agree that the quality of training that will be provided as a result of this decision will be a poorer standard than currently delivered through ChemCert and is likely to force a lowering of the current standard of training of farmers in South Australia?

4. Does the minister believe that the market in South Australia is large enough to support two agricultural chemical authorities?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his questions in relation to ChemCert. I will refer his questions to the Minister for Agriculture, Food and Fisheries in another place and bring back a response.

RAIL, TRAIN DERAILMENT

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about a train derailment.

Leave granted.

The Hon. A.L. EVANS: On 21 November 2004 a train derailed at the Glenalta level crossing in the Adelaide Hills. Fortunately, no injuries resulted from the accident, but there was considerable damage to nearby properties, as well as to the station and railway tracks. It took several days to clear the wreck and debris and, as a consequence, rail services were disrupted during that time. This is not the first time that a train has derailed on this route. Whilst there has been no loss of life on this occasion, the trains that operate in the area run considerably close to residential properties and pedestrian and road traffic, which makes the risk unacceptably high. My questions to the minister are:

1. Has he investigated the cause of the derailment of the freight train on 21 November 2004, and were any recommendations or advice received regarding the prevention of further derailments?

2. If there was any such advice and/or recommendations, will the minister produce a public report detailing that advice and recommendations?

3. Is the minister satisfied that the safety of passengers, residential dwellers and pedestrians between the Belair and Eden Hills stations is adequate, and has the minister taken steps to prevent further derailments and risks to South Australians?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): It is my understanding that the railway track is the responsibility of the National Rail Track Corporation. I am sure that it would have investigated any major derailment. I am not sure whether the Minister for Transport has access to that commonwealth body's report, but I will refer the questions to him and bring back a response.

HINDMARSH SOCCER STADIUM

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, questions about the assets of the South Australian Soccer Federation at the Hindmarsh stadium.

Leave granted.

The Hon. J.F. STEFANI: I refer to a deed of agreement dated 29 March 2001 signed between the Treasurer, the Minister for Recreation, Sport and Racing and the Minister for Government Enterprises, as well as the South Australian Soccer Federation Incorporated. Clause 4 of the agreement provides that the deed was operative for a two-year term, commencing from the date of execution, and would automatically be renewed every two years subject only to the parties exercising certain rights referred to in clauses 4.3, 4.4 and 4.5. I am advised that those rights have not been exercised and, therefore, the agreement is current and legally binding on both parties.

Clause 6.2 of the agreement provides that the federation would retain the exclusive use and control of the federation's offices, that the federation's offices are specifically excluded from the government's management of the stadium, and that any costs or charges relating to the federation's offices shall be a federation cost. Clause 7 provides that the federation has the exclusive use of Hindmarsh stadium for up to 30 days in each year during the government's management of the stadium. Clause 7.4 of the agreement provides that, for as long as the government maintains the management of the stadium, the federation reserves for itself the following rights:

1. The exclusive use of corporate box Nos 11 and 12 at all National Soccer League matches.

2. The exclusive use of corporate box No. 12 at all international soccer matches conducted at the stadium.

3. For all soccer events conducted by the National Soccer League, the exclusive use of 250 seats in the middle deck of the grandstand area in front of corporate box No. 11 (known as the chairman's box).

4. At all soccer events conducted by the National Soccer League, the display of five roller signs promoting and advertising the sponsors of the federation.

5. The exclusive use of the chairman's suite and entitlement to badge the chairman's suite as its presence in the stadium, provided however that the stadium management shall, upon reasonable notice, be entitled to the use of the chairman's suite during non-soccer events at times when the same is not being used by the federation.

I now wish to refer to statements published on the web site of *Soccer News* entitled 'Rann government screwing local football', as follows:

> The Rann government is attempting to take advantage of the present transition in local football administration to screw the South Australian Soccer Federation out of funds that it is due. The South Australian Soccer Federation has substantial assets at the Hindmarsh stadium, including its administration offices built on the site just five years ago. The South Australian Soccer Federation has had these assets professionally valued and the administration offices alone are valued at $800 000. However, the Rann government is refusing to compensate the South Australian Soccer Federation for its takeover of these assets.
>
> The steadfast refusal of the Rann government to compensate the SASF is forcing the sporting organisation to delay winding up its activities with the impending takeover of its function by the new Football Federation of SA. It has left many creditors including local clubs, local businesses and staff of the SASF out of pocket. Further it is forcing the SASF to waste its limited resources to pursue the matter with the Rann government. This includes having to obtain expensive legal advice from a QC.
>
> The Hindmarsh Stadium upgrade quickly became a political football with the then opposition leader Mike Rann, a so-called football fan, unashamedly using the Hindmarsh stadium to score political points. The end game being pursued by the South Australian government was to take over the Hindmarsh stadium and ultimately it proved to be successful in achieving this. The Rann government did not put a single cent into the upgrade of the Hindmarsh stadium. It was able to score political points over an extended period of time against the government of the day. Now it appears the final step of the Rann government is to deny the SASF the compensation that it is due from the Rann government taking ownership of Hindmarsh stadium.

All of this comes when only a fortnight ago the Rann government forgave a substantial debt owed by the South Adelaide Football Club. Clearly, the Rann government is attempting to screw local football.

I have been informed that the Rann government is acting in collusion with a number of officials of the FFSA for its own devious reasons, in order to force the premier and state league clubs to join the new organisation which, since its inception, has not been capable of formulating any organisa-

tional plans or preparing forward operational budgets. As many soccer people have said, the fact that one of the board members of the FFSA has condemned these actions speaks volumes for the unconscionable conduct of the Rann government, which has been said to be secretly plotting against the interests of 20 soccer clubs, their many volunteers and the thousands of players and parents who feel they are the victims of the disgraceful behaviour of the Rann Labor government. Because of the serious allegations that have been raised publicly, and in view of the unlawful actions of the Rann government which are causing enormous problems to the 20 premier and state league soccer clubs, which represent the engine room of soccer in South Australia, my questions are:

1. Will the Premier, as the self-proclaimed No. 1 soccer fan in South Australia, take immediate steps to ensure proper recognition of all rights enshrined in the legally binding agreement signed between the South Australian government and the South Australian Soccer Federation?

2. Will the Premier instruct the Minister for Recreation, Sport and Racing to immediately address the issues that are impeding the orderly conclusion of South Australian Soccer Federation affairs to enable the merger arrangements with the new Football Federation of South Australia to proceed?

3. Will the Premier grant the clubs an immediate meeting, as requested in their letter sent to him some weeks ago?

4. Does the Premier acknowledge that, through his government's unlawful actions, the Salisbury Soccer Club, of which he is the patron and No. 1 ticket holder, is in danger of losing its status due to the collusive and oppressive processes that have been forced upon all clubs without consultation by the Office for Recreation and Sport and the FFSA?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The honourable member's question was highly out of order. However, in spite of that, I will—

Members interjecting:

The Hon. P. HOLLOWAY: Well, I am surprised it was allowed, frankly. However, I will refer it to the Premier to do what he will with those allegations.

The PRESIDENT: Indeed, the minister makes a fairly accurate observation: there was an extremely long explanation. I was confident on about six occasions that the honourable member was about to ask his questions. The honourable member needs to shorten his explanations in future.

SOCIAL INCLUSION UNIT

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Families and Communities, a question about Social Inclusion Unit initiatives.

Leave granted.

The Hon. KATE REYNOLDS: In September 2004, a number of organisations that had participated in consultations run by the Social Inclusion Unit received a letter signed by Ms Brinkworth saying that they would be kept informed about the Social Inclusion Unit board's progress in the development of a draft action plan for a social inclusion response to reducing recidivism amongst young people in South Australia. I understand that they have not received any further communication or updates since that time, which is more than 12 months ago. The Social Inclusion Unit also has a youth employment reference group, and I am told that the last meeting of that group was held in November 2004, when feedback was requested about a draft discussion paper that had been developed by, I think, Ms Cooper and Mr Moss.

Again, organisations involved in that reference group have had no further communication about either the discussion paper or the status of the reference group. In August this year the Social Inclusion Unit announced—I am not sure where but certainly there is information about it on its web site—that it had entered a form of collaboration. That is not the word it uses in the first sentence, but it talks about a new collaboration with Vibewire Youth Services, which had agreed to contribute youth views on social issues to the Social Inclusion Unit. My questions to the minister are:

1. What progress has been made in the last 12 months on the draft action plan for a social inclusion response to reducing recidivism amongst young people in South Australia? I think if anybody can even get the title right they will be too exhausted to go much further.

2. What is the current status of the draft discussion paper on youth employment, and what is the current status of the youth employment reference group?

3. What are the terms of the collaboration between Vibewire Youth Services and the Social Inclusion Unit?

4. What opportunities were provided to South Australian based organisations to undertake this work before the collaboration with the Sydney based Vibewire Youth Services was announced?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer that question to the minister in another place and bring back a reply.

URANIUM MINING

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development questions regarding state government subsidies for the exploration of uranium.

Leave granted.

The Hon. T.G. CAMERON: The value of share market listed companies searching for uranium in South Australia has plummeted over the past week, largely due to the state government's contradictory stance on uranium mining. The Rann government last week endorsed the federal Labor party's no new mines policy—although I am not quite sure where they are at the moment after reading today's papers—despite having subsidised the exploration cost of uranium companies over the past year through its plan for accelerated exploration (PACE).

The move by the state government and continuing debate between conservation groups and mining explorers has rattled investors, leading to a fall in the share prices of explorer companies such as Adelaide based Curnamona Energy and New South Wales based Pepinnini Minerals by as much as 10 per cent. Curnamona chairman, Mr Bob Johnson, was recently quoted in *The Advertiser* as saying Australia had the world's biggest known reserves of uranium and claimed nuclear power was the way of the future. However, the Australian Conservation Foundation has called on the state government to scrap the PACE subsidy, calling it an irresponsible waste of funds.

I understand that more than $25 million was spent by explorers in the search for uranium in South Australia in

2005. It seems odd that the state government is subsidising exploration for further deposits while at the same time endorsing a no new mines policy. My questions to the minister therefore are:

1. What companies have been assisted with the plan for accelerated exploration subsidies for each of the three years 2002-05, and how much did each receive?

2. Is the government planning to continue the PACE subsidy and, if so, by how much for each of the next three years, or is it to be scrapped, as called for by the Australian Conservation Foundation?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): Most of the answer to the question was given yesterday in answer to a question asked by the Leader of the Opposition. In relation to the PACE program, that is $22.5 million to be spent over five years: no, the government will not be scrapping the program. I can provide a list of the individual companies. Two of the companies which received grants specifically sought a grant to explore for uranium—I can tell the honourable member that much in advance—however, the government will not change its policy. As I indicated yesterday, it is the intention of the Premier, the Deputy Premier and me that this matter should be revisited—that is appropriate after 20 years—at the ALP convention in early 2007.

Again I make the point that I made yesterday: there are no uranium projects currently on deck that would be affected by the current policy stance. Indeed, one uranium mine in this state has received all the approvals, and that is Honeymoon, but that project has not proceeded for reasons not related to obtaining approvals; rather, economic conditions or other conditions affecting the company. That was the only project that was on the verge of seeking approvals. There are not likely to be any at that stage in the near future, but personally I hope there will be some in the future. The honourable member is correct in that there was a fall in the share price of a number of companies as a result of some adverse publicity, but I believe that the market has recovered, and I hope that is the case.

REPLY TO QUESTION

WHYALLA DUST

In reply to **Hon. IAN GILFILLAN** (28 June).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. Yes.

2. The DustTrak project has been established in the greater Adelaide region to develop a system that allows schools to participate in and contribute to the collection of particulate matter data. This allows a comparison of data relating to the airshed of Adelaide, in particular the difference wood smoke pollution may make in the Adelaide Hills as compared to the Adelaide plains, in winter season.

The project has been established as a pilot that will aim to assess not only the quality and use of the data collected but also provide an understanding of the technical and logistical issues associated with having the systems located within schools.

Should the pilot be successful, expansions to further areas, including regional schools, will be considered.

3. Monitoring sites already in place in Whyalla provide the EPA and the community with data that enable an assessment of the significance of dust as an air pollutant.

PETROL SUPPLIES

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I seek leave to make a personal explanation.

Leave granted.

The Hon. P. HOLLOWAY: In answer to a question yesterday from the Hon. Angus Redford on the subject of petroleum, I made the following statement: 'Diesel is imported and it always has been.' I have been advised that when Port Stanvac was operating the majority of diesel for the state came from Port Stanvac and some was imported. Since Port Stanvac's closure, all diesel has been imported from interstate and Singaporean refineries.

PUBLIC FINANCE AND AUDIT (AUDITOR-GENERAL'S POWERS) AMENDMENT BILL

The Hon. P. HOLLOWAY (Minister for Industry and Trade) obtained leave and introduced a bill for an act to amend the Public Finance and Audit Act 1987. Read a first time.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

The bill forms part of the government's 10-point Plan for Honesty and Accountability. One critical element of that plan is to widen the powers of the Auditor-General. This bill is now introduced for that purpose. In order to understand the need to give the Auditor-General these additional powers, one need only point to the time when the parliament found it necessary to pass the Hindmarsh Soccer Stadium (Auditor-General's Report) Act 2001 in order to permit the Auditor-General to carry out an examination under section 32 of the act. During the debate, the present Treasurer said:

> The parliament was shocked when we had a document—the two-page Auditor-General's Report—brought into this parliament that was an appeal by the state's Auditor-General for help, for protection, and for this parliament to stand up and take notice of the bullying and the threats that have been levelled at him and his office.

This bill will ensure that in future the Auditor-General has all the powers he or she needs to report to the parliament and the public on matters which ought to be examined in the public interest.

In the process of preparing this bill, the Treasurer wrote to the Auditor-General to seek his views on provisions which should be included in the legislation. Responding to that request, the Auditor-General confirmed the need to extend the measures in the Hindmarsh Soccer Stadium (Auditor-General's Report) Act 2001 to any inquiry conducted at the request of the Treasurer under section 32 of the Public Finance and Audit Act 1987. He also suggested a number of other matters, all of which are dealt with in this bill.

The role of the Auditor-General and his or her relationship with the parliament are critical to the effective operation of the Westminster system of government. Auditors-general are independent statutory officers. They provide the results of their audits or examinations to the parliament, but the parliament cannot direct them as to the matters they are to examine or the manner in which they conduct their inquiries. The parliament currently has only one power, on the resolution of both houses, to endorse the Governor's decision to remove the Auditor-General from office. This bill gives the parliament an additional role in recommending the appoint-

ment of an auditor-general when there is a vacancy in the office, but it reinforces the fact that once in office the Auditor-General cannot be directed in the way he or she performs his or her duties.

The bill extends the powers of the Auditor-General in a number of ways in order to address problems which have been identified through experience. In 2001 the Auditor-General was requested to inquire into the Hindmarsh Soccer Stadium project following concerns repeatedly raised by members of this parliament. Section 32 of the Public Finance and Audit Act 1987 requires the Auditor-General to examine publicly-funded bodies or projects when requested to do so by the Treasurer. The Auditor-General faced many obstacles in conducting that examination from persons who took a very narrow view of his powers under section 32. The Hindmarsh Soccer Stadium (Auditor-General's Report) Act 2001 ensured that the Auditor-General had the powers he needed to conduct that inquiry. Clause 5 of the current bill will ensure that he or she will have the same powers in any future examination requested by the Treasurer. Specifically, the Auditor-General will be able to:

- consider and report on any matter, even if that matter does not relate to a publicly-funded body within the meaning of the act;
- conduct the inquiry in such a manner as he or she sees fit; and
- set time limits and impose requirements.

Any legal challenge to the way in which the Auditor-General exercises his powers must be commenced within 28 days of the conduct to be challenged, and this will ensure that legal proceedings are not used to cause unreasonable delays to the conduct of examinations.

Section 32 of the Public Finance and Audit Act 1987 currently permits the Treasurer to request the Auditor-General to inquire into projects or activities substantially funded by local councils or council subsidiaries. The expanded powers of the Auditor-General under this bill will also apply to any such investigations into councils. However, the government intends to maintain past policy of allowing councils a reasonable opportunity to remedy their own problems before requesting the Auditor-General to investigate any matter. This intention will be embodied in protocols for the initiation of such an investigation to be developed by the relevant agencies. The power is rarely used and the government has no intention of expanding its use. However, in the event of a local council refusing to investigate an apparent problem in the financial management of a project or activity, the Auditor-General can be asked to investigate. Local government will continue to be subject to the same standard of honesty and accountability as is the state government in South Australia.

The Auditor-General can audit the accounts of those who carry out functions on behalf of or jointly with a public authority—a very necessary power, given the extent of contracting out in public-private partnerships which are a feature of modern government. This bill broadens the powers of the Auditor-General in these areas to make it clear that he or she can report on any matter he or she considers relevant to the public interest. The bill will also allow the Auditor-General to:

- make findings as regards the conduct of any person;
- make a finding of fact and law; and
- report on any other matter relevant to the public interest in any examination or audit.

This will allow auditors-general to report to parliament regarding the conduct of any person, whether that conduct is in accordance with the law, and on any other questions of public interest. If they exercise this power improperly the Governor will be able to remove them from office, with the support of both houses of parliament. That is the only control (and, I might say, the only appropriate control) on the complete independence of the Auditor-General to report on the situation as he or she sees it.

The bill also ensures that the public will have rapid access to the Auditor-General's findings by providing that reports delivered to the parliament are to be published immediately. In the absence of the President of the Legislative Council or the Speaker of the House of Assembly, the Clerk of the relevant house will receive the report on their behalf. When the parliament is not sitting, the report is to be published within one clear day of its receipt. This will avoid the problems which arose in the 1997 election campaign when the Auditor-General delivered his report to parliament but it was not available to the public. The Auditor-General has indicated that he intends to make his reports available on his web site as soon as they are published under the provisions of this bill.

The bill is a critical element of the government's 10-point plan for honesty and accountability in government, and it is intended to give the people of this state greater confidence in the probity and transparency of this and future governments. I commend the bill to members. I seek leave to have the explanation of clauses incorporated in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

4—Amendment of section 24—Appointment of Auditor-General

It is proposed that the Auditor-General be appointed by the Governor on the recommendation of both Houses of Parliament, after due inquiry by the Statutory Officers Committee. The independence of the Auditor-General is also to be reinforced by stating that the Auditor-General is an independent statutory officer who is not subject to the direction of any person, body or authority as to the manner in which functions are carried out or powers exercised, or as to the priorities of his or her actions.

5—Amendment of section 31—Audit of public accounts etc

It is proposed to make express provision to the effect that the Auditor-General may, in conducting an audit of the accounts of a public authority, consider and report on any matter that is relevant to the proper management or use of public money or that should, in the opinion of the Auditor-General, be examined in the public interest.

6—Amendment of section 32—Examination of publicly funded bodies and projects

These amendments are intended to give the Auditor-General greater flexibility and protection in the conduct of an examination under section 32. In particular, an examination under that section will now be able to encompass any matter associated with the governance or financial management of a publicly funded body, issues associated with the proper management or use of public money, and other matters relevant to public finances or to the management or use of public resources. It will also be made clear that the Auditor-General may conduct an examination in such manner as the Auditor-General thinks fit, and will be able to set time limits and impose other requirements, and make determinations and draw conclusions if these time limits or requirements are not met. Furthermore, any action challenging an act or omission

of the Auditor-General will be required to be commenced within 28 days so as to ensure that the processes and proceedings of Auditor-General are not unduly delayed if legal action is threatened.

7—Amendment of section 33—Audit of other accounts

The amendments will make it clear that the Auditor-General may, in conducting an audit under section 33, consider and report on any matter that is relevant to the proper management or use of public money or that should, in the opinion of the Auditor-General, be examined in the public interest.

8—Amendment of section 34—Powers of the Auditor-General to obtain information

The penalty for failing to comply with a requirement of the Auditor-General or an authorised officer under section 34 is to be increased from $5 000 to $10 000.

9—Amendment of section 37—Recommendations relating to public authorities

This is a consequential amendment.

10—Repeal of section 38

Section 38 of the Act is to be repealed and replaced with a new section (section 39B) that will require the President and the Speaker to cause a report of the Auditor-General received at Parliament to be immediately published (as well as laying the report before their respective Houses). If Parliament is not sitting when a report is received, the report will be taken to be published at the expiration of one clear day after the day of receipt of the report. A report published in this way will be taken to be published under the authority of the Legislative Council and the House of Assembly.

11—Insertion of Division 7

It is intended to provide expressly that the Auditor-General may, in connection with an audit or examination, make findings as to the conduct of any person or body, make findings whether they are findings of fact or law, and report on any other matter in the public interest. New provision is also made with respect to reports to Parliament (see above).

Schedule 1—Transitional provisions

1—Transitional provision

This clause provides for transitional matters associated with the commencement of the measure.

2—Report on operation of amendments

This Treasurer will report on the operation of these amendments within 6 sitting days after the second anniversary of the date of the commencement of the measure.

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

GUARDIANSHIP AND ADMINISTRATION (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That this bill be now read a second time.

I seek leave to have the second reading speech and explanation of clauses incorporated in *Hansard* without my reading them.

Leave granted.

The President of the Guardianship Board has requested minor amendments to the *Guardianship and Administration Act 1993* (the ***Act***) to enable the Board to operate more effectively. These amendments are not controversial and should improve the efficiency of the Board. The amendments are supported by the recent Review into the interaction between the mental health and justice systems conducted by Ian Bidmeade.

The Guardianship Board currently hears applications for guardianship and administration orders under the Act and continuing detention orders under the *Mental Health Act 1993*. Guardianship orders are concerned with the care and welfare of a person, and administration orders are about a person's estate, in particular, his or her financial, legal and business affairs.

Single-member Boards

Currently, the Act allows for a single-member Board to be constituted to deal with matters as specified in the Regulations. Section 13 of the Act allows for the Board to appoint assistants. It has been the practice of the Board to sit as a quasi two-member Board with one of the members being designated an assistant to the Board. This is seen as offering improved decision making, giving the Board the opportunity on occasion to sit as two members rather than one.

Given this practice, the President has suggested that the Board should be able to be constituted with two members. To achieve this, the Act will be amended to allow for a two-member Board to be constituted where the Board is currently authorised to be constituted as a single-member Board. This would allow for a greater flexibility in the combination of members who could be appointed to the Board, thus improving decision-making.

If a two-member Board is unable to reach a unanimous decision, then the presiding member will have the casting vote. If the decision is a question of law, then the matter must be referred to the President or a Deputy President for a decision.

Consecutive terms of appointment to panels

The Act contemplates the creation of two panels from which Board members are drawn. One panel consists of professionals, the other is made up of persons interested in promoting the rights of the mentally incapacitated or with other relevant expertise.

The Act currently allows a person to be a member of a panel for two consecutive terms only. This has led to the Board's being deprived of valuable and experienced members when selecting persons from the panel to constitute the Board in its various forms. The Bill removes this restriction on re-appointing members to a panel. It does not mean that all members will be re-appointed for longer terms but offers greater flexibility.

Interim orders

Currently the Act gives the Board authority to issue interim orders for up to seven days, if the Board is satisfied that urgent action is required. This is problematic because the matter must then be listed for a substantive hearing and reasonable notice given to all interested parties within the seven days. This is often not enough time for recipients of the notice to view evidence and seek legal advice before the hearing. Procedural fairness is not afforded to the parties to the hearing.

The Bill will allow for interim orders to have effect for up to 21 days, except for orders issued under section 32(1).

Section 32 (1) allows for a direction that a protected person reside in a specified place, or that the protected person be detained for medical reasons. These types of orders are issued as interim orders when a protected person's health and safety are seriously at risk; usually the person requires immediate medical treatment or hospitalisation and is unwilling to attend a hospital. The section specifically excludes detaining or treating a protected person for mental health reasons.

Under the Bill, interim orders issued under section 32(1) will have effect for a maximum of 14 days. A balance has been struck between the detaining a protected person to receive urgent medical treatment, and the pubic interest in providing procedural fairness to the subject of the order and other interested parties who may be participating in the hearing.

Adjourning proceedings

There are times when the Board may have to adjourn a proceeding for a particular reason, such as obtaining a report to be used in the proceeding, or requiring the Public Advocate to interview the potential protected person or her relatives. Currently the Act is silent on whether the Board can adjourn proceedings and what orders the Board can make if there is an adjournment. The Bill will allow the Board to make such orders as are necessary or appropriate in the circumstances. It may be that the Board wishes to make an order to stop the potential protected person's assets being dealt until the hearing is completed.

Enduring guardians

Section 25 is intended to prevent hospital or medical staff being appointed as enduring guardians of persons in their care. The section incorrectly refers to "appointee" rather than "appointor". The Bill corrects this anomaly.

Special powers to authorise protected persons to undergo medical treatment etc

Section 32 provides the Board with power to make particular orders in respect of a protected person on the application by the guardian of the protected person. These powers relate to where the protected person should reside, the detention of the protected person and the use of such force as may be reasonably necessary for the purpose of ensuring the proper medical treatment, day-to-day care and well-being of the protected person. The section currently does

not refer to ensuring proper dental treatment and the Bill will include this.

Constitution of the Administrative and Disciplinary Division of the District Court

The Administrative and Disciplinary Division of the District Court allows for a panel to operate as assessors. To provide consistency with other amendments in the Bill, the appointments to the panel will no longer be limited to two consecutive terms of three years. Again, the Governor retains her complete discretion in reappointments to the panel.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Guardianship and Administration Act 1993*

4—Amendment of section 3—Interpretation

It is proposed to expand the definition of ***health professional*** to include—

- chiropractic or osteopathy;
- nursing;
- occupational therapy;
- optometry;
- pharmacy;
- physiotherapy;
- podiatry;

It is also proposed to change the definitions of dentist and medical practitioner to reflect current drafting practice which avoids referring to an Act that will, or may, be superceded at some time in the future.

5—Amendment of section 6—Establishment and constitution of Board

This amendment proposes to substitute current subsection (5) which provides that the regulations may provide that the Board may be constituted of a single person sitting alone in relation to matters specified by the regulations. The substituted subsection will allow for the regulations to provide that, in relation to the exercise of specified functions or matters of a specified class, the Board may be constituted of a member sitting alone, or any 2 members sitting together as listed in the subsection.

6—Amendment of section 8—Panels

The proposed amendments to this section will allow for members of panels to be reappointed at the end of a term of appointment without limiting the number of consecutive terms of appointment that a member may serve. The current position is that persons cannot be appointed for more that 2 consecutive terms.

7—Amendment of section 12—Decisions of Board

This section makes provision for how decisions of law, procedure and fact are to be determined by the Board when variously constituted. Any question of law or procedure must always be determined by the President or a Deputy President (however the Board is constituted in a particular matter) and any other question is to be determined by unanimous or majority decision. In the event that the Board is unable to reach a decision on a question (apart from a question of law or procedure) before the Board, the decision of the presiding member will prevail as the decision of the Board.

8—Amendment of section 14—Powers and procedures of Board

Current subsections (7) and (8) allow the Board, if satisfied that urgent action is required in proceedings, to make an interim order with effect for a period not exceeding 7 days, without complying with subsections (4) and (6) (which provide for notice, etc). The proposed amendment will allow for interim orders to have effect for up to 21 days, except for orders issued under section 32(1) which will have effect for a period not exceeding 14 days.

Section 32(1) allows for a direction that a protected person reside in a specified place, or that the protected person be detained for medical reasons.

9—Amendment of section 25—Appointment of enduring guardian

This proposed amendment corrects a drafting anomaly.

10—Amendment of section 32—Special powers to place and detain, etc, protected persons

This proposed amendment to section 32(1)(c) will allow the Board to make an order on application by a protected person's guardian in relation to any proper dental treatment for the protected person as necessary. The paragraph currently only refers to medical treatment.

11—Amendment of section 66—Constitution of ADD

The proposed amendments to this section will allow for members of panels of assessors to sit with the Administrative and Disciplinary Division of the District Court to be reappointed at the end of a term of appointment without limiting the number of consecutive terms of appointment that a person may serve. The current position is that persons cannot be appointed for more than 2 consecutive terms.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

PITJANTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 October. Page 2717.)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Many of the issues that this bill deals with have been thoroughly discussed over the past few years with current and past AP executives, broadly with communities through Rolling Thunder and then later through direct communications, with government and executive input, and also with many individuals and groups that hold a general interest in the AP lands. Groups in the metropolitan area also have shown an interest in being informed and have made contact with my office. Meetings have been arranged for briefings, not only with respect to this bill but also previous bills which the government has introduced into this council which have impacted on the AP lands.

This bill increases the term of the executive to three years, provides for the chair to be elected from the executive, inserts the 'Y' into APY and strengthens accountability and good governance by bringing the Yankanyjatjara people directly into the naming of the executive. The bill has had some criticism, and that has been made over the level of consultation prior to this bill being introduced into parliament. There was general agreement on three of the major issues before us and there were differences of opinion in relation to the level of consultation that had taken place on one of the major issues in relation to some of the changes within the bill. Adjustments have been made along the way. A number of meetings have been held in the metropolitan area and in the lands—seven meetings in all, with three being held in different communities. Finance was provided to encourage people to travel to the meetings and meetings were broadcast over the radio.

No matter how much consultation occurs there will still be criticism that it is not enough, not only with this bill but with others. That has been the case and I am sure that both the government and the APY Executive have learnt lessons from the process that we have just completed and that could benefit or improve future consultations. Given the changes we have included with this bill, it is quite clear that the next changes will include continuing consultation.

I thank the Hon. Robert Lawson for his support of this bill. He made a number of remarks, which I endorse, and the honourable member is right when he says that successive

governments have failed to provide proper services to the people of the APY lands. I thank him for commending this government on taking decisive action in recent times and, as the Hon. Robert Lawson said in his contribution, it would have been all too easy to sit back and do nothing and say, 'Well, it's nothing to do with us. Let them go to hell in a hand cart'. I think they were his words. That is not this government's way and it is not what we have done in recent times or since coming to government. Self determination does not include determining whether you live in abject poverty, have very poor health, little education or training and bleak prospects of employment.

The government has been and will continue to work in partnership to address these problems. They are the key words for us: working in partnership. The Hon. Robert Lawson spent some time dealing with disputes between the Pit Council and the AP Executive that occurred a few years ago, and the involvement of Chris Marshall. Again, when this dispute was raging, it would have been easier to sit back and do nothing, but this dispute was crippling local governance in the lands and consuming the time of far too many people, so we engaged the services of people like Mick Dodson to attempt to sort it out. If it is a criticism to consult with a wide range of people and to attempt to have various groups and parties work together, then I as minister am guilty of such action.

The Hon. Kate Reynolds spent much of her time talking about what she claims is the lousy track record of this government. These criticisms cannot be left unchallenged. Whilst there is still room to improve, and taking into account the considerable challenges faced in providing services and infrastructure to the APY lands, this government is doing very good work in a very difficult area. I pay tribute to all those committed people in Adelaide, Canberra, Alice Springs and on the APY lands who are committed to improving the lives of people on the APY lands and who receive very little thanks, often receiving only criticism from some members opposite.

It has a lot to do with morale, as well. If criticism is continual, the morale of people working in these areas diminishes. I would like to remind members of the council exactly what this government has done. We have committed additional funds of the order of $25 million over four years to help alleviate these problems; and, as I said, it is not as if the moneys that will be expended will solve all the problems that have led to concerns in the lands as we speak. It will take some time for those problems to be fixed, and I have raised the reasons why in this chamber on many occasions.

The state has responded in a comprehensive and coordinated way to deliver critical programs to the APY lands that will ultimately lead to much better outcomes for the people. The progress on the APY lands is outlined in detail in an 11-page report that is available on the web site of the Department of the Premier and Cabinet. However, I will briefly refer to some of those initiatives. Police are now allocated on the lands at all times in addition to the community constables. Police facilities are being upgraded, and night patrols and community safety committees have been established.

Better managed sentencing options, including community service orders, are now available to courts. Police also run Blue Light discos and have constructed a bike track in Fregon. Programs and initiatives to improve the health and wellbeing of Anangu include enhanced programs to address substance misuse (including planning for a rehabilitation facility); improved youth family support, disability and psychiatric services; and increased funding to screen children for eye and ear diseases. As I have said, this is a start for the government's programs. They will not cure all the problems immediately, but we are coming off a very low base.

These problems exist not only in South Australia within remote communities but throughout Australia. There is improved school attendance at both primary and secondary school levels, and the department is addressing issues of HIV/AIDS, hepatitis, substance abuse and sexuality as part of the Countering Risky Behaviours curriculum for students in years six to 10. Students who are showing signs that they may be petrol sniffing are monitored and, with their families, are helped to get back to school and away from petrol sniffing.

As well as upgrading TAFE facilities, training components are part of most positions established as part of a new program. Training is being offered in the area of health and disability, horticulture, housing, construction and maintenance, land management, business, IT and retail. Improvements to infrastructure include the upgrading of airstrips, the installation of water disinfection equipment, the establishment of rural transaction centres and town and infrastructure planning. There are also a number of projects to improve the amenities of communities, including native gardens growing native foods, swimming pools that are being planned and constructed and the production of a stores' policy to improve access to healthy food.

In relation to these improvements on the lands introduced by the government, again, the Hon. Kate Reynolds has failed to give all the facts. In his latest report, the Coroner commended the government for placing the issue in the most authoritative department in the public sector and acknowledged the efforts that are now being made. Responsibility was transferred to the Department of the Premier and Cabinet (a more powerful and influential department), which reports through its Chief Executive Officer to the Premier.

I have no doubt that this has resulted in much more concerted action, and the early signs are good. The government understands that there are no overnight remedies to the longstanding and complex problems on the APY lands, but we have a long-term commitment to improve the wellbeing of Anangu living in the lands. I could go on with more detail but, as I said, the full report is available on the web site. What must underpin all that we are doing is stability on the lands. Amendments to the legislation have been called upon for a very long time by Anangu themselves, and by Bob Collins in the short time that he was on the lands.

Professor Lowitja O'Donoghue has been an advocate for change, as well as Tim Costello who worked with Professor Lowitja O'Donoghue in the early days. There has been widespread consultation about this for many years, and more recently the consultation has been intensified. I note that the Hon. Kate Reynolds also agrees that changes need to occur. I will now consider the arguments and amendments that she has put forward in detail.

I first wish to respond to the Hon. Kate Reynolds's claim that the government is seeking to rush the bill through parliament without due consideration and debate. As I have said, the bill is a result of many months—in fact, a number of years—of careful consideration and, over the last year, negotiations by the government with AP and its local representatives. As part of the process, the government invited written submissions from the public generally in March of this year, and I note that the Hon. Kate Reynolds

failed to take this opportunity to provide us with the benefit of her views as to the manner in which the act should be amended by providing us with a submission.

This very involved process of consideration and negotiation has, in fact, led to an agreement between the government and the AP that amendment of the act will be split into two separate stages. This bill, which is stage one of the amendments to the act, amends the act to provide for greater accountability and transparency in decision-making by the AP executive. There is one amendment in the bill which deals with commercial leases on the lands. To encourage commercial investment in the lands the bill has extended the period for which commercial leases can be granted from five years to 10 years, but any such leases can be granted only if traditional owners approve of such a lease period. Other than this one change, matters which deal with commercial leasing of the lands, access to the lands for mining, pastoral leasing of the lands and other controversial matters have been held over to stage two so that further intensive consultation can occur with the traditional owners prior to the amendments of the act in relation to these matters. And as I said earlier, lessons can be learnt out of the way in which the negotiations were held in the first round of this bill.

I reiterate that this bill, which deals with the stage one amendments, does not in any way change the manner in which access to the land will be granted to mining companies. The Hon. Kate Reynolds is totally incorrect in her view that this bill is, in some way, furthering an agenda that there may be greater mining access to the lands. This government is not interested in pushing any such agenda. I repeat, the bill does not in any way alter the manner in which mining companies will be given access to the lands or change the power of traditional owners to refuse such access, so there is no change within those parameters.

The Hon. Kate Reynolds has claimed that the agenda of this government in introducing the bill is to weaken the power of traditional owners, encourage Aboriginal people to leave their country and allow mining companies unfettered access to Aboriginal lands. However, the government's agenda in introducing the bill is quite the opposite. The government has engaged in consultation with the AP in order to introduce amendments to the act that will result in more accountable governance on the lands, but the requirement in the act that the traditional owners must approve any decision of the executive that relates to the administration or use of any portion of the lands is not changed in any matter by this bill. This requirement will remain in the act.

The Hon. Kate Reynolds has stated that the role and powers of the executive board of the AP will be significantly changed by the amendments introduced in the bill. She has stated that the executive will no longer be bound by resolution of the AP (which will become the APY), but the requirement for consultation with traditional owners in the act remains unchanged. The executive cannot carry out, or authorise the carrying out of, any proposal relating to the administration, development or use of any portion of lands until they have obtained the informed consent of traditional owners.

I have obtained carefully considered advice in relation to the amendments to the bill proposed by the Hon. Kate Reynolds, and in my view none of them are necessary in even assisting or improving accountability and transparency in decision-making by the AP executive, with the exception of amendment Nos 29 and 31 which correct gender specific language. The proposed amendments are not necessary; however, the government is required to review all these amendments, so if some can be improved upon or do not work as well as it wishes they can be changed as part of the required review.

The first amendment that the Hon. Kate Reynolds moves is in relation to the Aboriginal Lands Parliamentary Standing Committee. This amendment introduces a definition of the standing committee into the act, but that is only necessary if those amendments that the Hon. Kate Reynolds is referring to are accepted. The second amendment is in relation to the spelling of Ngaanyatjara; our advice from the APY is that the spelling of Ngaanyatjara in the bill is correct.

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: It may be a contestable issue, which we might be able to sort out during the committee stage. However, our advice is that the original spelling is accurate. In relation to amendment No. 3, which is in response to the administrator, we believe this amendment is unnecessary, as the administrator receives the power of the executive board and can act only in circumstances where the executive board has power to act.

In relation to amendment No. 4 (to acknowledge and support Anangu ownership of the lands and to make provision for that support), the object in the bill is that the act is to provide for and subsequently acknowledge Anangu ownership of the lands. The Hon. Kate Reynolds suggests that the object of the legislation should be amended to provide that the act acknowledges ownership. In fact, this would misrepresent the fact that legal title to the land was granted under the 1981 act to APY as a body corporate.

Our response to amendment No. 5 (clause 7, page 5, line 15) is that this is only an evidentiary provision, which creates a presumption in the absence of proof to the contrary of clause S12, which creates conclusive proof. As such, in view of the AP's request to make the execution of documents less difficult, there seems little need to restrict execution in the manner proposed by this amendment, that is, to insert two of the following (one of whom must be the Chairperson or the Deputy Chairperson):

The government's position in relation to amendment No. 6 (clause 8, page 5, lines 27 to 29—delete subclause (2) and substitute (2) is that a lease of 99 years is effectively ownership. In my view, making mention of the 99 year lease would create expectations amongst those seeking a lease that they should receive a 99 year lease. In my view, it is not appropriate to amend the act in a manner which creates such an assumption until such time as extensive consultation has been undertaken. Any such amendment should be held over until stage 2 amendments are under consideration.

Our response to amendment No. 7 (clause 9, page 6, after line 31—Insert (1a), section 8(3)) is that this matter is more appropriately dealt with in AP's constitution. In relation to setting such a date in the act (that is, 'shall be held not more than 15 months after the last preceding annual general meeting' and substitute 'must be held in September or October each year'), this can be dealt with in the constitution. Setting such a date in the act may be overly restrictive in view of the need to allow for business, deaths and mourning periods within the lands. In fact, it may be detrimental to good governance. It is the government's view that it would not be appropriate to amend the act in this manner without first undertaking extensive consultation with Anangu as to whether such an amendment would be practical. As I have said, they are important issues which have been raised by the honourable member which need to be examined. However,

they should be part of the next round of consultations, which will be broader and more detailed and which is when we will bring down further amendments to the legislation. They have to be done with more consultation.

In relation to amendment No. 8 (clause 9, page 6—After line 41, insert section 8—After subsection (4) insert: 'Despite any other provision of this act, a quorum at an annual general meeting of Anangu Pitjantjatjara Yankunytjatjara is 100 people, which must include not less than 10 members from at least six electorates, the government's response to this amendment is that the matter of the quorum is dealt with in the AP's constitution. As to proposed new subsectons (6) to (8), these matters could be dealt with again in the constitution. Corresponding provisions regarding provisions of minutes for executive meetings appear in the bill, but this is because the executive has the power to exclude Anangu from executive meetings. All Anangu may attend general meetings of AP, so it is not considered necessary for formal access to the minutes of these meetings to be enshrined in the act in the same manner.

In relation to the provision of the bill that allows the executive board to exclude a class of Anangu from a meeting of the executive board, the Hon. Kate Reynolds has stated that she has sought an explanation for the meaning of the phrase 'a class of Anangu'. In this provision, clause 12, it is my understanding that parliamentary counsel have used the term 'class' in the provision because of its very wide meaning, thus giving the executive board discretion in this regard. Previously, there was no requirement for AP to conduct open executive meetings, but this bill introduces such a requirement that allows the executive on reasonable grounds to exclude a group of Anangu from that meeting. An example might be that, if a particular group are hell bent on disturbing an executive meeting and not letting it proceed, the executive can exclude them from the meeting.

I refer to amendment No. 9 proposed by the Hon. Kate Reynolds. The government's response is that these provisions are already in the bill; see clause 14 on page 18, section 13A(1) and (5), and see clause 15 on page 18, section 13A(4)(a) and (c). As to amendment No. 10 proposed by the Hon. Kate Reynolds, the government's response is that this amendment would be necessary only if there were the addition of an eleventh electorate, such as Kalka, that the honourable member mentioned. Consultation on this issue with traditional owners has not been undertaken by the government, and this matter would be dealt with in stage 2, so that proper consultation can be undertaken prior to the act being amended in this manner. As to amendment No. 11 proposed by the Hon. Kate Reynolds, the government's response is that this amendment only introduces (2a)(d) to the bill, and this addition is, in my view, not necessary.

The Hon. Kate Reynolds also seeks clarification as to who will be considered to be an employee of AP for the purposes of this provision and particularly whether an employee of AP Services may become a member of the executive board. In my view this will be a straightforward matter to determine in each case. In this regard, I note that she appears to be confused in saying that the current incumbent of the position of the Director of AP Services and the Director of APY Executive is an elected member of the executive board. This is not the case.

I refer to amendment No. 12 proposed by the Hon. Kate Reynolds. Our response to this amendment is that the view of the electorate is to ensure that the most electoral representation is developed before an election. In view of the large amount of movement that occurs on the lands, a review at six months would be less useful than one at three months. In this regard, I note that the Hon. Kate Reynolds has queried the timing of the review of electoral boundaries in circumstances in which this bill is not passed prior to the November elections of the AP executive. Clearly, if the bill is not passed, the existing act without amendment will apply, and there is no requirement that the minister review the electoral boundaries at all.

In relation to amendment No. 13 proposed by the Hon. Kate Reynolds, it is the government's view in seeking to improve governance on the land that the government's bill include a requirement that members of the executive board attend governance training and, to ensure that the governance training will be appropriate to the role of the executive, the minister is to approve the training to be undertaken. The amendment proposed by the Hon. Kate Reynolds seeks to remove the minister's right to ensure that a course in governance is appropriate and to veto the requirement to attend a course if it is impossible to fulfil this requirement. A requirement to attend a governance course would not be appropriate without these additional two powers of the minister. The provision as it appears in the bill is worded in the manner agreed to by the current AP executive. The minister's power to excuse a member of the executive from training was requested by the AP executive to allow for situations in which attendance at a course was impossible.

Amendments Nos 14 and 15 proposed by the Hon. Kate Reynolds are almost identical. These amendments are not necessary as the standing committee like any standing committee of the parliament has the power to demand an explanation on any issue or the production of documents. So the power is in the hands of the standing committee to determine those destinies.

In relation to amendment No. 16 proposed by the Hon. Kate Reynolds, this amendment would remove the requirement for yearly audits of AP's accounts by an auditor of AP's choice. This requirement existed in the 1981 act. It was not introduced by the bill.

In relation to amendment No. 17 proposed by the Hon. Kate Reynolds, the government's position is that this amendment requires the Auditor-General to audit AP's accounts. This would mean greater government intrusion into AP's affairs, something which seems to be a source of much objection. In relation to amendment No. 18 proposed by the Hon. Kate Reynolds, the government's response is that requiring that AP's annual report must be laid before both houses of parliament is an unnecessary measure; and the standing committee, again, can request a copy of the report.

In relation to amendment No. 19 proposed by the Hon. Kate Reynolds, our response again is that this requirement is an unnecessary measure given that the standing committee can compel this information to be supplied. In relation to amendment No. 20 proposed by the Hon. Kate Reynolds, the response by the government is that this amendment gives AP discretion about whether or not to appoint a director of administration. This is an essential function and an important Anangu position that must be protected. In relation to amendment No. 21 proposed by the Hon. Kate Reynolds, the government's response is that the bill seeks to establish the means of approving salaries and conditions of the incumbents of such positions whilst maintaining the confidentiality of the people appointed to them.

In relation to amendment No. 22 proposed by the Hon. Kate Reynolds, again, the government's response is that it is

important to maintain the confidentiality of the incumbents. In relation to amendment No. 23 proposed by the Hon. Kate Reynolds, again, the government's response is that, should it wish to have this information, it could be asked for and compulsorily acquired by the standing committee by request. In relation to amendment No. 27 proposed by the Hon. Kate Reynolds, the government's response is that it reverts to the position under the 1981 act when the tribal assessor conciliated disputes between Anangu. The bill changes this so that he or she only conciliates a dispute that Anangu has with the executive board.

In relation to amendment No. 28 proposed by the Hon. Kate Reynolds, the government's response is that the addition of the word 'trivial' adds no meaning. 'Trivial' is already covered by 'frivolous' and 'vexatious'. In relation to amendment No. 29 proposed by the Hon. Kate Reynolds, this was a parliamentary counsel oversight, and the government will accept the amendment. In relation to amendment No. 30 proposed by the Hon. Kate Reynolds, as noted in response to amendment No. 2, after consultation with the relevant people, the spelling in the bill will be used. We believe that we have the right spelling.

I refer now to amendment No. 32 proposed by the Hon. Kate Reynolds. The government's response is that this amendment will be considered during stage two, when such matters will be addressed. This section was only amended during stage one to bring it up to date. At a personal level, I must say that I think it is an important issue that needs to be addressed. In relation to amendment No. 36 proposed by the Hon. Kate Reynolds, the government's response is that it requires the minister, when reviewing the amendments introduced by the bill, to seek submissions from the standing committee. The standing committee or any member of the standing committee will be more than welcome to make submissions and would be encouraged to make submissions.

In relation to amendment No. 37 proposed by the Hon. Kate Reynolds, it requires the review to be undertaken prior to the second anniversary of the bill's becoming law rather than the third anniversary. It is the government's position that this is too short a period in which to adequately test the amendments to the act, but we will certainly be monitoring the changes that not only this amendment to the act have brought about but also the previous amendments that were moved to the 1981 act. If any of the amendments act against the interests of the Anangu, we will certainly look to move further amendments or to remove the amendments that act in a way that does not encourage better practices in either governance or administration.

I met with the AP executive this morning and I can advise that, because of the difficulties with respect to communications, we have improved electronic methods of communicating. We have had some direct linkages with the AP executive through my office using teleconferencing. We can improve the way in which we respond to implementation of failed policy or, if there are sections of the act which have been amended which have adversely affected Anangu within their communities, we can be told directly and we can act directly. It is a matter of building up confidence with respect to contact and negotiation and having trust and respect for each other's position. I think we can do that through better consultation and better use of existing methods of governance, both our own and those of the Anangu. There is no point in our telling Anangu they have to change the way in which they govern themselves and their lands if we do not respond by changing the way in which we react to their requests.

Certainly, some of the problems associated with remoteness mean that many of the problems that Anangu and other Aboriginal communities live with are left untended because they are not reported early enough, as they emerge. By the time many of the problems are reported they have become life threatening or at least, in other cases, have weakened the Anangu response and their being able to deal with problems.

Amendment No. 38 proposed by the Hon. Kate Reynolds requires the minister to table a report before both houses of parliament within three rather than six days of receiving the report. I consider six days to be a more reasonable period. It would still be a timely response. Six days is a reasonable time within which to respond to a report. If urgent issues are being dealt with in that report that need a shorter response time, I am sure that some flexibility will be shown. Again, if problems are emerging, one would not expect the report to be the only line of communication for changes to be incorporated into a governance plan. As I have said, teleconferencing methods and telephone hook-ups can be put in place. However, it is an acknowledgment by government that remoteness brings with it its own special difficulties in dealing with online administration.

I am sure that all past governments have been neglectful with respect to the time frames they have set themselves in dealing with Anangu problems because of the distances involved and the travelling difficulties—and I understand that the roads are washed out at the moment. There does not have to be a lot of storm damage to roads within that remote region to make it difficult—and not only there but also at Oodnadatta and other remote parts of South Australia, where our roads do not have bitumen surfaces but are all-weather roads, and communications are difficult on occasions.

I think that this government now has a better understanding, having had more bureaucrats, in particular, attend in situ in response to many of the problems that AP have had over the past couple of years. Many more bureaucrats and ministers are discovering how difficult it is to travel within these communities without an appropriate four-wheel drive or all-weather airstrips. The government is spending more time and money in dealing with the commonwealth in a productive way in getting money spent on making the airstrips more secure. I know that some committee members were surprised when the light aircraft flying in had to land on gravel strips in all sorts of weather. There were a lot of surprised faces when the planes lined up to land.

In relation to amendment No.39 proposed by the Hon. Kate Reynolds, the government's position is that it is not an amendment that is required as amendment No.7 has not been accepted. I note that the Hon. Kate Reynolds has raised the issue of a budget associated with these amendments. Funding to AP in each year is to be determined on the basis of a submission of a budget proposal prepared by AP.

Having dealt with those amendments in some detail, I advise that none of the amendments, with the exception of Nos 29 and 31, will be accepted for the reasons I have outlined. Many of them will be dealt with and I thank the honourable member for raising the issues. Many of these issues will be dealt with over time and in a broader consultative climate. Many of them are sensitive issues that were removed during the first round of drafting to enable fewer complications in dealing with the governance changes. We did not want to complicate the first draft of amendments by having, in particular, issues of land management, law and culture associated with the governance issues.

Although we have had broad agreement on the three major issues that have been discussed and requests made by Anangu to have other insertions in the bill, it is the government's view that many of the issues associated with governance are important enough to move all stages of the bill through before March. Certainly, if we can, we would like to get the governance questions moved so that the November election can be held without too many complicating issues associated with land. We separated them out deliberately.

If the detractors of the bill are saying otherwise, the government's intention in relation to the second tranche of amendments is that it will not be moving forward on them until we have broad agreement with the Anangu, the next elected executive and the communities after broad consultation. We have learnt some lessons out of perhaps not meeting in a broader number of communities. Those issues can be worked out over time during the next round of consultation. It will be done in a way that pays due respect to the executive but also pays due respect to the traditional owners and those who wish to preserve cultural law and title over the lands. We do not want to complicate any of the arguments by bringing the commonwealth's programs into the state's programs. We want to separate the commonwealth issues from the state issues.

There will be many issues where the commonwealth and the state will be working together, and there will be areas of disagreement we have with the commonwealth in some of the details around some of the issues. As a state government, we are conscious that this bill has been introduced at a time when the national debate has been complicated by a whole raft of projected changes that the commonwealth has discussed in the media that have confused communities about what the state's intentions are. The response generally is that, because the state has not been able to get its case stated publicly, the commonwealth and state positions are seen to be aligned. That is not the way the state has gone about its business.

We have not moved off our determination to work in partnership with Anangu and every other community in South Australia, but we want to get the governance questions solved so we can bring to the fore the best possible leadership within the communities to engage with government while the amendments to the bill are being discussed because a whole range of changes will be required. I respect all opinions that have been put before me by the current Aboriginal leadership, both elected and non-elected, and by traditional owners who have put before me arguments about their position in protecting culture. All of these issues have to be managed and sensitivity must be shown.

We are in a unique position historically to show that we can manage sensitively the issues of cultural and heritage protection and changing the abominable situation in which many Aboriginal people in our remote and some regional areas live in trying to work through their lives to raise their children to have both respect and rights within their own culture as well as receiving the benefits of living in a broader community, and that is the challenge. It is not easy. Everybody has a view or an opinion that they like to share and in some cases would like to impose.

We have adopted principles in developing the changes to the 1981 bill, which we found incapable of dealing with the implementation of service delivery. That bill was set up for another time and another era for another purpose. That bill took into account land ownership, tenure and protection. The facts are that, right across Australia and South Australia, too many people live in abject poverty and have abject poor health. They have not been able to receive the benefits of modern-day society through education, training and job opportunities where they are sought, and we must do something about that.

One of the challenges is working together. That is not only a challenge for us at a political level in Adelaide working so many kilometres away from our remote regions but also a challenge for Anangu to work collectively together so that their stories can be told, and that their position is endorsed as to how they see their future. The challenge for us is to get the legislation right, to continue the negotiations and to make sure that the service delivery programs that the government has put in place are appropriate; and, if those programs are not working, they are changed or removed, and that it is all done in consultation with Anangu leadership or, in the case of other communities, the leadership that exists within those communities.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.D. LAWSON: First, I thank the minister for his comprehensive conclusion to the second reading debate, and I trust the indications given by the government with respect to the attitude that it will take to the foreshadowed amendments. I must say that, consistent with the position that the opposition has taken, the government's position on almost all those amendments is one with which we would be in agreement. We do believe that this bill ought pass through the parliament as quickly as possible; that it should leave this place well and truly before the end of this week so that it can be considered in another place and, hopefully, passed quickly, and that the improvements brought by it can come into operation as soon as possible.

I would be interested to hear the authority that the Hon. Kate Reynolds has for her suggestions on the spelling and some other issues. Whilst we do not have a closed mind to some of those minor matters (and I am sure that the government does not, either), I can indicate that, generally speaking, we are supporting the bill as it currently stands. We remain to be convinced that any of the amendments foreshadowed by the Hon. Kate Reynolds will, indeed, lead to better results for the people on the lands. We believe that this bill, supported as it is by the duly elected executive of the APY, should be supported by the parliament.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. KATE REYNOLDS: I move:

Page 4, after line 2—

Insert:

Aboriginal Lands Parliamentary Standing Committee means the committee of that name established under the Aboriginal Lands Parliamentary Standing Committee Act 2003;

It might seem a little obvious to some members but, for the record and to remind those members who might not be familiar with the committee, the Aboriginal Lands Parliamentary Standing Committee has six functions. The first function of this committee established by the parliament is to review the operation of the Aboriginal Lands Trust Act 1966, the Maralinga Tjarutja Land Rights Act 1984 and the Pitjantjatjara Land Rights Act 1981. Whilst it seems perfectly obvious to me that a number of people would like to keep that committee sidelined, silenced and emasculated, I do not go along with that. This committee, of which I am a member, has had a very difficult time dealing with the government

through the development of the bill now before us, and I have to say that it would be incredibly disappointing to think that the government intends to continue acting that way in the future—particularly in relation to the very significant changes we can all expect over the coming years to the Pitjantjatjara land rights act, as the minister has already suggested.

This process needs to be handled much better, as the minister has already suggested and as has been put to me by the many people and organisations we have been dealing with. I do not think anyone would disagree with that, and I am struggling to understand why the government has said that it will not accept the Aboriginal Lands Parliamentary Standing Committee being recognised in this act. It is shameful and it is a missed opportunity; worse, I think it reveals the agenda of either the government or of some of those providing high-level advice to it. I am really very disappointed.

The Hon. T.G. ROBERTS: It is not the government's intention to sideline the standing committee, which has rights in itself. The honourable member raises the difficulty the committee has had in dealing with government, but the government has had difficulty in dealing with this issue itself. It is not an easy question for government to deal with and each state is having the same problems—in fact, I brought cuttings from the daily papers with me yesterday in relation to some of the problems that face other states regarding their remote or regional Aboriginal communities.

In my view, no state has done it easily and none of them have had templates which have proven to be infallible. Each state is wrestling with the historical past and trying to put together programs and packages to ensure that the changes they bring about are beneficial. At the same time you have that amount of change taking place at a commonwealth level and the demise of ATSIC and ATSIS, which were all difficult issues. There were also funding stream programs that governments had to deal with, as well as trying to get Aboriginal leadership within those communities to stand up and take responsibility alongside government to get the changes required for the benefit of the large majority of those communities.

I understand the frustrations of people who want to get issues dealt with immediately and who want to get change so that people in those communities can benefit. We do have communities that are worse than Third World countries in South Australia, as well as other parts of Australia, and one would think we should be able to get immediate results that bring about benefits. The frustrations of the standing committee were that we had a lot of information given to us about the state of the communities, about how bad they were, about how bad the administration was, about the corruptness of non-Aboriginal people within those communities, about lack of housing, health and other facilities within communities, but the frustration the honourable member had was the same frustration that every other committee member had. It is a frustration shared by every bureaucrat who deals with these issues and by every Aboriginal leader within Australia and South Australia.

We have to remember that there are no silver bullets. Our frustrations have to be turned into a positive power for change—and one of the best ways to get change is to get consensus on a way to move forward. If we are moving in different directions then we only get the same frustrations that Aboriginal people have had for centuries where support and assistance is misdirected and we end up going backwards. So, I understand what the frustrations are, and I make that comment on this clause only because there will be other clauses that will not be accepted about which the honourable member will be frustrated. Splitting the bill into two parts was a tactical response to a difficult question that would allow us to deal with the governance issue so that human services can be delivered in the best possible way through the interaction of both our and Aboriginal governance within the communities.

The best way the standing committee can operate is to pass on the information it picks up directly from the communities, so that the government is able to get cross-agency support for Aboriginal communities (which we have done); and to pass on that information to the cross-agencies to get the bureaucratic support and professionalism of the staff dealing directly with those communities in order to get effective service programs implemented. The standing committee can be part of measuring those results and consulting. So there are a lot of challenges for that committee.

I understand the frustrations the honourable member has, but the best way we can succeed is in a bipartisan way, working with the community leadership to try to get rid of corrupt and ineffective leadership within the communities and to try to work with the emerging leadership as we discuss these issues and try to get the best possible results with the commonwealth's and the state's dollar. That is the other relationship that has changed. The relationship between the commonwealth and the state is vital. Working with the commonwealth, the funds that the state now has at its disposal have broadened.

It is not an open cheque-book but at least the commonwealth is now working in conjunction with the state, and if we can get local government and incorporated lands policy bodies working together we will have achieved something that no other generational politicians have achieved. We have had in Australia three service delivery programs, plus the non-government agencies, working separately to try to achieve the same results, cutting across each other's path. What we are trying to do now is to get all those agencies to work together.

The Hon. R.D. LAWSON: I indicate that we do not support this amendment, nor the consequential amendments to which it relates. This amendment merely seeks to insert a definition of the Aboriginal Lands Parliamentary Standing Committee. Further amendments that are foreshadowed give the committee certain functions in relation to operations on the Anangu Pitjantjatjara lands.

I am a member of the Aboriginal Lands Parliamentary Standing Committee. I believe that it is a very good committee, and I am proud to a be a member of it. I think it is one of the committees of the parliament that functions very well. I commend the minister for the fact that, as chair of the committee, he has been very effective, committed and consultative. However, the purpose of the honourable member's inclusion of the standing committee is to insert certain functions into this act for the Aboriginal Lands Parliamentary Standing Committee. For example, in foreshadowed amendment No. 18, the honourable member seeks to ensure that the reporting and budgetary mechanisms involve the Aboriginal Lands Parliamentary Standing Committee. I believe that that would be inappropriate.

The Aboriginal Lands Parliamentary Standing Committee, as its name suggests, is a parliamentary committee. It is not part of the executive functions of government; it is part of the legislature. It has a mandate to make inquiries, to receive evidence and to make submissions, etc. in respect of the

Anangu Pitjantjatjara lands, as well as all other Aboriginal lands in South Australia. However, I do not believe it has the function of overseeing the minister or usurping the functions of the executive government.

The Hon. T.G. Cameron: He will be pleased to hear that.

The Hon. R.D. LAWSON: Well, the government has certain responsibilities, as does the executive board. The reports and budgeting mechanisms involve an interaction between the minister and the executive board. It seems to me to be unnecessary to insert the standing committee into that relationship. If the executive is not satisfied with a decision the minister takes, I have no doubt that members of the executive will be in communication with members of parliament to indicate their position.

The Hon. T.G. Cameron: Especially the opposition.

The Hon. R.D. LAWSON: Well, not necessarily the opposition. The Hon. Kate Reynolds, or any other member of this parliament, might well receive submissions, as we do at the moment, from people on the lands who are not satisfied with what is going on. However, I think that to put the committee into some formal line of communication is to misunderstand the function of the committee. I believe that, if the committee does get involved in those things, it will cease to be an effective committee of the parliament. It will be setting itself against the government of the day in certain circumstances—not that I am afraid to do that. However, the function of this committee is to have a cooperative relationship with the chairman, who happens to be a member of the government, as well as good lines of communication with the executive board on the lands.I indicate that we oppose this amendment and, rather than repeat what I am saying now, I indicate that we will oppose all the other consequential amendments.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Kate Reynold's amendment. I see nothing wrong with enshrining the role of this standing committee in the scheme of the act. I do not follow the view of the government and, indeed, of the opposition, that it would somehow be counterproductive. I would have thought that enshrining the role of this committee in the legislative framework is a desirable thing to do, and it would not be counterproductive.

The Hon. T.G. CAMERON: I indicate my support for the government on this issue, notwithstanding the excellent and passionate argument outlined by the Hon. Kate Reynolds. This is one case where boredom has won the day over passion.

The Hon. R.D. LAWSON: For the purpose of completeness, I should say that I also believe that this amendment and the philosophy behind it is flawed. We talk about self-government; we talk about self-determination; and we talk about imposing responsibilities onto the executive board. I believe that they are responsibilities that ought appropriately reside with the duly elected executive board. There is, of course, an accountability with the government, which is providing the funds for programs. I do not believe that the board should also be answerable to some other committee or to anyone else.

The Hon. KATE REYNOLDS: I will make a quick response to some of those comments. First, in response to the Hon. Robert Lawson's last comment, I am not suggesting in any way that the APY executive should be made more accountable to the parliament or to the government than it is already. It should not have any additional impost than any other board or committee in this state. I am really not sure where that notion comes from.

This is a committee of the parliament we are talking about, and it has four parliamentary parties represented on it. I suggest to all members in this place that, if they are concerned about the parliament making it more difficult to either improve services to people on the lands or to improve recommendations to government, perhaps they should get behind all Aboriginal people and encourage them to stand for parliament and perhaps, in time, to even aspire to chairing that committee. Certainly, being an active and very welcome member of that committee would be a terrific thing.

I do not need to remind people outside this parliament but I might need to remind people on the floor today and other honourable members that we do not have any Aboriginal members of parliament, so we rely upon people who take an interest in Aboriginal affairs to be providing advice energetically to the parliament as well as to the government. I still cannot see the problem with having a committee which I am sure all members have said publicly and at some time or another in this or the other place is attempting to act in a bipartisan way. We make a very genuine effort to lay aside the particular political perspectives of our parties, whether it is Liberal, Labor, Democrat or Green, when we meet as a committee and certainly when we travel as a committee.

We cannot entirely take those hats off and throw them over our shoulders, but I think there is a genuine attempt to examine the issues that the committee either has brought before it or chooses, itself, to consider. There is a genuine attempt to understand how this parliament as well as the government can assist Aboriginal people, whether it is in the remote communities, whether it is in Pipalyatjara or Indulkana or those people who are living in Fregon or whether it is other Aboriginal communities in this state. We are genuine in that attempt. Why not hope, assume, try to build on that bipartisan attempt? Why not say, 'Let's have this committee acknowledged within this act. Let's have this committee acknowledged as a significant and valued contributing voice to debate'?

I think also some of the remarks made by previous speakers show a disregard for committees of parliament. This is the only committee that I am on. For the record, members of this committee, as are members of all standing committees, are paid an additional sum on top of their salary to be part of this committee, and I believe this places on each and every one of us a responsibility to take our role even more seriously and to apply ourselves with as much energy as we can possibly muster and as much passion as we can for the issue. I am certainly energetic and passionate about this issue, but for that extra money that the taxpayer provides us, we are expected to come up with some results. We are not expected to be considered as tokens by the government, by agencies of the government or by other committees of this parliament, and we are not expected, I would have thought, to be treated with tokenism by either this place or the other place either. So I am, again, very disappointed that the government and the opposition are not prepared to consider this.

I have one final comment. In his contribution on this amendment, I think the minister said that the relationship between the commonwealth and the state is 'increasingly important'. Yes, that is so but, as I have previously said, both in my second reading speech on this bill and also at other times in this place, it is the nature of that relationship that is incredibly important, too. Honourable members would know that time and again the Democrats have questioned the nature of that relationship between a state Labor government and a federal Liberal government, given that that relationship

appears to have become cosier and cosier, which would be of significant concern to some people. We see that as an even stronger argument for enshrining the role of this bipartisan committee in the act.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 4, line 6—delete 'Ngaanyatjara' and substitute:
Ngaanyatjarra.

As I mentioned in my second reading speech, the accepted spelling of Ngaanyatjarra, that is, the spelling that I have proposed in my amendment, is used by the Institute for Aboriginal Development, which I am told is the main publisher of dictionaries of Aboriginal languages, the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council and the Ngaanyatjarra Council, which is the peak landholding body for Ngaanyatjarra people in Western Australia. I have just had some documents handed to me that give me further evidence of this spelling. I think they are both from those bodies that I have just mentioned but, very clearly, the spelling here is different from the spelling that the government has proposed in its bill. We are not sure what research was undertaken by the government, but it seems a little extraordinary that the accepted spelling has not been used. So I would hope that, even if they cannot accept anything else, honourable members will support this amendment.

The Hon. T.G. ROBERTS: We have not got any broader than negotiating a name with the AP executive. Their definition or their spelling is the spelling that we will use after consultation.

The Hon. Kate Reynolds: It doesn't mean it's right.

The Hon. T.G. ROBERTS: No, I grant you that. It is something we may leave for further investigation, but we are sticking with what we have until we have further evidence that it is wrong. We can do some more work on getting it totally accurate. There may be a variance between groups within Ngaanyatjara. We will continue to investigate during the life of the committee.

The Hon. R.D. LAWSON: I am grateful for the government's indication. Frankly, I am not convinced by the Hon. Kate Reynolds. If she were to produce material that the Ngaanyatjara people who live on the lands or in the vicinity of the lands are actually complaining about the spelling of their name, I would be impressed. However, I am not convinced by the fact that some linguists from the Institute of Language Studies say that the correct way to spell this particular word is one way rather than another. I would prefer to hear what the people on the lands say about it. I have received no communication indicating that there is any problem with this particular spelling. Until I receive convincing evidence, the opposition will not change its stance. If between the houses some material comes forward, I gather the minister will be prepared to consider it, and so will we.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 4, line 25—After 'Yankunytjatjara' insert 'or by an administrator'.

Amendment negatived; clause passed.

Clause 6.

The Hon. KATE REYNOLDS: I move:

Page 4, lines 30 and 31—Delete paragraph (a) and substitute:
(a) to acknowledge and support Anangu ownership of the lands and to make provision for that support;

Clause 6 seeks to insert section 4A—Objects. I am concerned that this seems to be putting the cart before the horse. We believe that the proper process begins with the parliament's first acknowledging Anangu ownership of the land and then on that basis making provision for Anangu to manage the lands. I would appreciate it if the minister could restate his earlier comments because I was engaged in brief discussion with another member at the time and I am not sure that I heard all his points. We believe that the order of the words is confusing and seems illogical. We do not think it is such a big deal for the government to approach this in a slightly more ordered and respectful manner.

The Hon. T.G. ROBERTS: The explanation that I provided earlier was that the first object of the act in this bill states that the act is 'to provide for and subsequently acknowledge Anangu ownership of the lands'. This was proposed by the body corporate when the 1981 Land Rights Act was passed. Because no single native title claim had been put forward by any one of the three major language or cultural groups, we can be thankful, as it has been difficult to manage the differences between the groups from time to time, but this has been done separately from the Land Rights Act and the ownership is incorporated in one body for all Anangu represented by the major language and cultural groups so that it is singularly administered under the one corporate body. It has worked thus far.

The Hon. R.D. LAWSON: We support the objects in the government's bill which, after all, were the subject of consultation. Whatever criticism one might make about the extent of that consultation, clearly there was consultation with the people on the lands and the executive regarding the objects. For something as sensitive as the objects of an act of this kind, I would have to be convinced that the objects in the bill are in some way deficient and require amendment. Frankly, I am not convinced.

I also believe that to extend the objects of the act by the inclusion of another object which introduces yet another subject matter—namely 'acknowledge and support Anangu ownership. . . and to make provision for that support'—creates in my mind some uncertainty. I think the objects which have been agreed by the people on the lands are perfectly plain and consistent with the rest of the act. I do not know that I can say the same for the honourable member's suggested improvement. For those reasons I will not support the amendment.

The Hon. KATE REYNOLDS: I think this reveals such a philosophical difference between the South Australian Democrats and the Rann Labor government and the Liberal opposition that it is not worth spending a lot more of our time discussing and debating it except to say that our intent is to take a more respectful approach that acknowledges that it was Anangu land long before any of us came along, and to suggest that the government has to provide for ownership is in our view offensive, which is why we have suggested that the terms be switched so that, first, it acknowledges ownership and, second, supports that ownership. I probably should not be surprised that this is so unacceptable to both the government and the opposition, but I think sometimes one has to maintain some optimism in the face of so much pessimistic, intellectual information. So, once again, I am disappointed that the government is not willing to accept such a minor change.

In relation to the comments about consultation on the bill and consultation on this provision, I suspect that honourable members here, and those who might be listening in other

places, will probably get tired of my saying this, but it was the extent of consultation about which we had significant concerns, and I am yet to see any evidence that the objects of the bill were widely consulted on. I am not necessarily suggesting that they were but, if the government suddenly wants to take the position that it cannot do anything until it has consulted with either the APY executive or with Anangu more broadly, or even with Aboriginal people more broadly, I think we will find ourselves with a very interesting set of circumstances.

In the past, the government has proceeded to make a whole series of pronouncements and announcements without consultation, then it suddenly rushed in and decided that it had to consult—at least it told us that it was going to consult—very widely with a whole range of communities on a whole range of issues. It then undertook some very selective consultation and now suddenly it cannot wake up in the morning unless there has been consultation with Aboriginal people from the APY lands. So I place on the record my disapproval of these attempts by the government to have it both ways. This amendment was an attempt to acknowledge that Anangu owned this land and that they should be supported to manage the land—in that order, rather than the ownership coming at some point down the track, graciously bestowed by a white fella parliament.

The Hon. T.G. ROBERTS: I think the Hon. Kate Reynolds is being a bit discourteous. Anangu will know, and we all know, that they own the land. The land rests with them, and it was an historic struggle that they fought in the 1970s and into the 1980s. They rest easy that that battle has been fought and won. They do not rest easy with the delivery of services. It is the service delivery that we are talking about now in terms of those things that are on the table and what the consultation processes are about. Anangu did not put on the table any changes required to the objects of the act to incorporate any debate about how the objects were to be listed in terms of priority or how the objects were to be changed to meet the requirements of the year 2005. It may be something they will want to put on the table for the next round, but I suspect not. I suspect that they feel comfortable and confident that the struggles they fought during those years are over, and everyone acknowledges politically, legally and historically that it is their land.

I think there would have been a degree of nervousness if we were going to put it up for debate and change. Even if we did have a response that was going to be favourable, there would be a degree of nervousness, because it was quite easily picked up by myself when I returned to the portfolio that some of the concerns that Anangu had about a wide range of issues came from the fact that some people had suggested that the government was trying to change land tenure. We are not trying to change land tenure. We do not want to do anything about land tenure, for a whole range of reasons.

Amendment negatived; clause passed.

Clause 7.

The Hon. KATE REYNOLDS: I move:

Page 5, line 15—
Delete 'any 2 of the following' and insert:
2 of the following (1 of whom must be the Chairperson or the Deputy Chairperson)

I will not go into detail about this because it was outlined in my second reading contribution. A number of people approached us who were concerned about the look of the way the AP Executive conducted its affairs, even if there was no actual change being proposed by the government. I spent a lot of time working with small not-for-profit organisations before I came to this place and, for the record, I miss it. It is really important in small volunteer organisations, particularly those who are working with disadvantaged people and particularly those who are working without a lot of money, that they involve their members in ways that are both meaningful and respected.

Many organisations would have stories to tell about their growth over perhaps many years but, certainly, those who have grown very quickly over a short number of years will talk about the problems they had in managing large sums of money when they were also trying to manage staff and elected and volunteer roles in complex political and service delivery landscapes. Here we also have an environment where remoteness poses a series of challenges, notwithstanding the comments the minister made earlier about how information technology can better be used to communicate between either the minister's office or the government and the AP executive. It is still really difficult.

I understand that there are occasions when it may seem logical and sensible to have staff members signing off on documents that are legally binding on the AP executive. The concerns that were put to us were that, if two employees of APY can sign documents, there will be Aboriginal people in the communities who will feel that that decision no longer belongs to them; that these decisions are being made by staff. I understand that this is about an evidentiary provision, and I understand that those two employees cannot sign documents properly unless they are acting on a resolution that already has been passed by the executive board. I accept that. This is, as much as anything, about how it looks.

Again, I think the government wants to have it both ways here. It wants to say, 'We are ensuring that things look and feel right for Aboriginal people on the Pitjantjatjara Yankunytjatjara lands,' but other times it will say, 'We don't care how it looks; these are the sorts of requirements we will have or demands we are going to make.'

Not surprisingly, I do not expect the opposition to support this amendment. However, I think it is important that the government takes note that the look of these things is as important as what happens in these communities, which have been through a really rough time. They have been the subject of all sorts of accusations, and wild claims were made by the Deputy Premier, for instance, less than 18 months ago. They have had people traipse in and out. More public servants and members of parliament have traipsed in and out of those communities in the past 18 months than has been the case in probably the past 20 years. I think the Anangu have been incredibly patient and tolerant about that, given some of the offensive and inaccurate claims that have been made, including in this parliament.

I understand the concerns that some people have raised about white fellas from the city (which is what has been put to me, although that is not necessarily the case) and about non-Anangu people who are not elected. The perception is that these people are being given significantly more power because they are able to use their signature to sign documents that are legally binding. This amendment is intended to ensure that one of the signatories is an elected member. It is not saying that employees could not or should not sign legally binding documents; it is saying that we should take note of those concerns about ensuring that the role of elected decision makers is not either diminished or seen to be diminished, and let us have one of those signatories as an elected decision maker.

The Hon. T.G. ROBERTS: The government opposes the amendment. It is quite possible that, in the review process, if there are problems with the current administrative form being perceived to be detrimental to goodwill or to the functioning of the body corporate, that is something that might be considered during the review process. It is not a major issue. However, certainly, there have been many issues relating to the administration of programs and funding, but it is certainly not an administrative matter that has been raised as being a major issue, and it is not something that has been shown to be a major problem. If, in the review process, recommendations are made that make a more efficient, new APY management process more streamlined, it is perhaps something that we will look at.

Amendment negatived; clause passed.

Clause 8.

The Hon. KATE REYNOLDS: I move:

Page 5, lines 27 to 29—
Delete subclause (2) and substitute:
(2) Section 6(2)(b)(i)—delete 'any period it thinks fit, in respect of any part of the lands (being a part of the lands vested in Anangu Pitjantjatjara) to a Pitjantjatjara or an organisation comprised of Pitjantjatjaras" and substitute:
a period not exceeding 99 years, in respect of any part of the lands to an Anangu or an organisation comprised solely of Anangu

I will not repeat the comments made in my second reading contribution, because I am very aware of the time. The opposition has already indicated that it is not prepared to support this amendment, so I am happy to move on.

The Hon. R.D. LAWSON: Whilst I am not prepared to support the amendment at this juncture, I am by no means saying that the opposition would not support the granting of extended leases to Anangu on the lands. However, I believe that that is a major policy issue that ought be the subject of appropriate debate and consultation. Whilst we support the fact that the Northern Territory government and the federal government, as well as many others in the country, are now looking at the possibility of extended rights of ownership to Aboriginal people in Aboriginal lands, I do not believe that such a major policy change should be introduced by way of a side wind into a bill that is dealing with the governance of the lands. If we are to embrace that concept, let us do it, but only after proper consultation and a proper debate.

Amendment negatived; clause passed.

Clause 9.

The Hon. KATE REYNOLDS: I move:

Page 6, after line 31—Insert:
(1a) Section 8(3)—delete 'shall be held not more than fifteen months after the last preceding annual general meeting' and substitute 'must be held in September or October of each year'.

This amendment relates to the timing of the annual general meeting. As I outlined in my second reading speech, the act currently says that Anangu Pitjantjatjara Yankunytjatjara must hold an annual general meeting once in every calendar year and that it must be held not more than 15 months after the last preceding annual general meeting. The bill is not proposing to change either of these requirements but, as members might understand, the function of annual general meetings has changed considerably since the act was passed in 1981 and in our view will change considerably more if the government's amendments pass, as it appears they will do. The annual general meeting previously elected the executive board and chairperson, and now it elects the executive board and chairperson through a separate process conducted by the Electoral Commissioner.

I outlined in my second reading contribution some of the concerns we had around dates and how those dates might either gridlock or take us into periods of the year in which it would be very difficult to have a successful meeting with any number of people attending. I also outlined in the second reading debate why we believe it is logical and sensible for September or October to become a fixed date for the holding of the annual general meeting each year. I do not recall the minister providing any detailed response to that in his summary, but we believe that if the timing of the election can be fixed, as it will be from this year onwards, then the timing of the annual general meeting effectively can be narrowed down to a certain period, namely, September or October.

This will bring some additional stability and certainty to the governance process for people on the lands. This government says that it is all about trying to improve governance, service delivery and land management, so we think it should be supportive of our amendment. We are disappointed that the minister has indicated that it will not be. It is a simple change that could be made. I think the minister will argue that he has not consulted on this, but in reality this decision can be made quickly and easily. There are not a whole lot of months in the year when it is even possible to have an annual general meeting, so to us stalling is not acceptable. The government could and should be supporting this amendment.

The Hon. T.G. ROBERTS: Having fixed dates is very difficult in the remote regions because, first, weather conditions can make roads impassible for up to a week. At one period it was washed out for a fortnight. Pipalyatjara was left stranded from the rest of the lands. The other reason is that, if there is a death in the community, a tragedy or tribal business, flexibility needs to be built in so that the executive can take that into account. So, if sorry time is required, then they can make a decision based on local cultural requirements around those sorts of issues.

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: The honourable member says that it is very democratic. It also takes cultural diversity into account. It is all right for us to have fixed dates for elections because we can plan and present, but the vagaries of the lands can sometimes upset dates where the majority of people cannot make themselves available. We have had situations in the recent past where meetings have had to be postponed because of sorry time and sorry camps being set up and cultural business being carried out by various communities in the regions. We would prefer the time to be set in the constitution to give the APY executive the flexibility to set the dates itself.

The Hon. KATE REYNOLDS: The amendment says 'September or October', so it is not a fixed date. I am not sure whether the minister or his advisers have read the amendment, but we certainly are not narrowing this down to a particular day, a particular week or even a particular month. We are saying: let us introduce some certainty here, some predicability, and let us not have a crazy situation where external factors, which might be governments who occasionally interfere in the election process on the lands (as I know from my short experience here), can influence the timing.

This is a two-month period. It is not an outrageous request at all. It is not ignoring the other factors. It is simply saying, 'Let's just narrow this period down so that people can be confident that this annual general meeting is held at a predictable time each year.' I do not see the issue. I think that it is extraordinary. This just shows that the government is not prepared to accept a single amendment because it has come

from the South Australian Democrats who have shown that the government's record on these matters is appalling.

The Hon. R.D. LAWSON: I agree with the honourable member and, certainly, in my belief, there have been occasions when the government (and, in fact, the minister in the chamber) has sought to influence the result of elections on the lands. I know, of course, that the minister denies that he has attempted to influence those elections. We deprecated the fact that the minister and his staff were interfering, but I cannot see how this amendment would make any difference to that. If the mover of the amendment can demonstrate how her amendment would prevent inappropriate interference from ministers and ministerial advisers, I would be interested to hear the reason.

Frankly, I am not convinced that this amendment would have any effect of that kind. As for the honourable member's somewhat petulant statement that it is because these amendments come from the Australian Democrats that they are not being supported by my party, I can assure the honourable member that that is not the reason at all. We came to this debate with an open mind; and, if the honourable member can convince us that any of her proposals would be consistent with the expressed desires of the Aboriginal people on the lands, we would be prepared to support them. However, to date, the amendments have not had that effect, and the reason that we are not supporting them is not through any prejudice but simply because we do not believe they represent an improvement.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 6, after line 41—

Insert:

(3) Section 8—after subsection (4) insert:

(5) Despite any other provision of this act, a quorum of an annual general meeting of Anangu Pitjantjatjara Yankunytjatjara is 100 people, which must include not less than 10 members from each of at least six electorates (and, to avoid doubt, a resolution made at a meeting that is inquorate is void and of no effect).

(6) The Executive Board must have accurate minutes kept of an annual general meeting or special general meeting of Anangu Pitjantjatjara Yankunytjatjara.

(7) Any Anangu is entitled to inspect (without charge) the minutes at the places on the lands, and during the times, nominated by the Executive Board and approved by the minister.

(8) Any Anangu is entitled, on payment of the fee prescribed by the regulations, to a copy of the minutes.

Again, this is one of those amendments where we think it is extraordinary that the government did not initiate it. Concerns have been raised from numerous quarters over many years about the lack of records that have been kept about important meetings where important decisions are made. Concerns have also been expressed about the lack of access to the records of those meetings. I fully accept that many people living on the AP lands do not have quite the same level of understanding that some of us do about the importance of record keeping, minutes and access to records.

I think that we probably all have rather overactive glands when it comes to those experiences. Many of us come from backgrounds where an understanding of what issues have been discussed and what decisions have been made by organisations is second nature. We demand that we understand that, and we are really comfortable with that. We speak English, we read English and we are familiar and comfortable with written documents. Many Anangu are not anywhere near as comfortable with reading and writing in any language, let alone English, as we are.

However, please, do not let any member here or any person anywhere else assume that Anangu are not passionately interested in the outcome of meetings where matters of great importance to them are discussed and decided. They are interested. Anangu go to meetings in significant numbers when it is possible. They are very keen to participate, to follow the decisions that are made, to participate in discussion and debate whenever they can and to hold their decision maker accountable.

The fact that minutes have not been kept appropriately in previous years is no reason that minutes cannot be kept appropriately in the future. It is not to say that that system has not, perhaps, already improved. I hope that it has. But not to bother putting this in the legislation, when so many other pieces of legislation that govern other organisations and statutory bodies are quite explicit about this, seems to us extraordinary. It is not a big deal. This amendment is saying that this organisation needs to keep proper records about meetings that it has. It needs to keep proper records about decisions that are made at those meetings, and members of this organisation ought to be able to have a look at those records.

It is not unreasonable, and members would be hard pushed to find any Anangu who opposed this. I think that, if it looks back through some of the records marked 'unfavourable criticism of the government', the government will find that people have been critical in previous years of this government's and former governments' lack of enthusiasm for enforcing that sort of thorough record keeping and access to decisions that have been made. Part of this amendment relates to the quorum required at annual general meetings. As I outlined in my second reading contribution, as the act stands very few people need to be present in order for an annual general meeting to proceed.

We believe that number is inadequate and that if other organisations can manage to have a reasonable number of people present at their annual general meeting before it can proceed then the APY executive can, too. When I talk about other organisations, I am not talking about organisations in urban Adelaide or downtown Mount Gambier, I am talking about other organisations in remote communities in central Western Australia as well as far northern South Australia.

In summary, I do not understand why the government is not willing. I am sure that, once again, we will get a statement about how this is something that can addressed in the next round of consultations. That is better than nothing, but it would not be difficult to take this opportunity right here and now to ensure that minutes of meetings are kept and that reasonable numbers of Anangu are required to be present before an annual general meeting or special meeting can occur.

I point out that my amendment requires that the executive board keep these minutes. I understand that in previous years records of important meetings have been kept by various people but not necessarily by the elected body itself. Again, it is not a big deal and it is no different to what the rest of us are used to. I urge the government to support this amendment (although I will not be surprised if it does not), which we see as improving transparency and good governance—something we thought the Rann Labor government said it was trying to achieve.

The Hon. T.G. ROBERTS: Minutes of the annual general meeting are already kept by way of record. At those

I have attended much of the meeting has been recorded either by film or tape recorder, and I understand this is normal. That is not legislatively mandatory under the act; it is something which has come about with the development of PY Media's facilities and with the general sophistication of the minute-taking that has developed.

There are still criticisms of the quality of the minutes taken within the annual general meeting arena. Most of these meetings are held in public places in outdoor settings; in some cases they go for two days and, while I am not saying that it is so onerous that it cannot be done, you then need interpreters. With three language groups, would we be doing a disservice to take the minutes in English and not in Pitjantjatjara, Yankunytjatjara or Ngaanyatjarra? It is one of those decisions which has been left to the APY executive, and there have been criticisms. However, it is not only in Aboriginal organisations. I have been to a lot of meetings in non-Aboriginal organisations where the minutes have been contested and the qualifications or credentials of delegates questioned.

We would expect the organisation to conduct themselves in a professional way. Mind you, there are two methods of making decisions within the lands. There are the traditional ways of dealing with issues that have nothing to do with our legislation (and no-one is doing anything to discourage that) but, when it gets to the broader meeting where transparency and expectations are for what our style of meeting would produce, I am aware that the executive has, over the years, tried very hard to keep minutes in a form that we would see as being adequate.

As I have said previously, the main argument put to me is that the quality of the minutes is as important as the taking of the minutes. The constitution itself can deal with the other matters; we do not have to come back and do a review process. If the APY executive request us to look at other matters in relation to quorums, etc., then we can have a look at that in the future—not in a disparaging way but in such a way that they may recommend how to do it. The more impediments put in front of the Anangu in terms of how they run their meetings and how they conduct their discourse over a two day period, the more likely you are to get breaches without penalties that will be hard to police. So it is the quality of the meeting procedure. I have been to meetings that have made members who filibuster in this place look like amateurs, when you have all that time at your disposal to make your address.

The Hon. J.S.L. Dawkins interjecting:

The Hon. T.G. ROBERTS: No; the conversation is usually very short. So we oppose the amendment but, if the APY executive want to recommend it to us for the next tranche of changes, we would consider it.

The Hon. R.D. LAWSON: I indicate that the opposition will not be supporting the amendment. We believe that the imposition of requirements of this kind by statute is onerous and unnecessary. We believe that the imposition of quorums by us sitting here in Adelaide may lead to unintended consequences. As members would appreciate, where you have a quorum, as is suggested here, at a particular location of 'not less than 10 members', it is possible to frustrate the process by withdrawing people from attendance at the meeting, thereby frustrating the election entirely. I am not suggesting that that would happen, but I do not believe it is appropriate for us here, sitting in Adelaide, 1 000 kilometres from where these meetings are held, to dictate that they have to conduct their meetings in a particular way or that they have to document them in a particular way.

I agree with the minister's suggestion that the constitution of Anangu Pitjantjatjara, which has to be approved by the minister and the Corporations Commission, is the appropriate place for rules of this kind. I think it is rather paternalistic of us in this place to be seeking, by statute, to determine these procedural issues. So, we will not support this amendment.

The Hon. KATE REYNOLDS: In summary, I think it is important for people to know that the constitution of the AP—and the minister will confirm this—is actually subject to approval by the minister. So, whilst it may seem inappropriate to some people for us here to be suggesting, dictating or legislating these sorts of terms, the minister has enormous authority—in fact, ultimate authority—over what rules can and cannot be enforced on the AP executive and its members.

Amendment negatived; clause passed.

Progress reported; committee to sit again.

[Sitting suspended from 5.55 to 7.50 p.m.]

DEFAMATION BILL

Adjourned debate on second reading.

(Continued from 17 October. Page 2720.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): This bill is to enact the model provisions for defamation law agreed to by the attorneys-general of the states and territories so that the substantive defamation law of Australia will be uniform and so that people who publish throughout Australia will no longer have to worry about eight different sets of defamation laws.

The bill takes account of the changes that have occurred in the ways in which matter is communicated—for example, by the internet. Our existing statutory provisions were last updated when television first became common. The main features of the bill are, first, the retention of the common law to determine whether matter is defamatory and, secondly, the enactment of provisions to encourage the early resolution of civil disputes about defamation without litigation. There is an optional statutory procedure that parties may use to attempt to settle disputes before the issue of proceedings or, at latest, the serving of a defence. It has been formulated with a view to encouraging publishers to make early offers of amends and apologies. There is also a provision that makes it clear that an apology does not constitute an admission of fault or liability.

If a defendant makes a reasonable offer which the plaintiff refuses, the defendant will have a defence. Thirdly, there is the imposition of a limitation period for civil actions for defamation of one year subject to a discretion in the court to grant an extension for a period of up to three years following publication. The circumstances in which an extension may be granted are set out in the bill and are not the same as for extensions of time generally. Fourthly, there is the abolition of the now inappropriate common law distinction between slander and libel.

Fifthly, there is the maintenance of the common law position that each publication is a cause of action, and the rejection of the New South Wales law under which each imputation carried by matter founds a separate cause of action. Sixthly, there is the maintenance of the common law defence of justification, which means that proof that the matter was true is a defence to a civil action for defamation

without the added element that has existed for a long time in some states and the ACT of public interest or public benefit. Seventhly, there is the setting of a statutory cap on the amount of damages for non-economic loss and the abolition of exemplary damages in defamation proceedings.

There are several other changes of importance that I have not mentioned yet. A choice of law provision will be enacted to deal with situations in which the tort is committed in several jurisdictions. In those cases, the law to be applied is the law of the place where the damage caused has its closest connection. The bill sets out matters that the court is to take into account in determining this. It will be useful for deciding whether state or territory statutory immunity clauses apply or whether some differences between acts should occur. The right of corporations to sue for defamation will be limited to those that are not-for-profit corporations and corporations that employ fewer than 10 people (counting according to full-time equivalents) and are not related to another corporation under the corporations laws.

There will be no change to the common law rule that local government and other government corporations cannot sue for defamation. There is a provision to limit abuses of process by providing that a person who has brought proceedings for damages in one jurisdiction cannot bring proceedings for damages in another jurisdiction for the same matter without leave of the court. When there is publication in more than one jurisdiction, the damages awarded will take that into account.

A defence of contextual truth will be enacted (a) to clarify the common law and (b) to make it consistent throughout Australia. This will be applicable when the defendant publishes seriously defamatory matter that is true and also minor defamatory matter that is untrue but the minor defamatory matter does not increase the harm to the plaintiff's reputation. At present, the plaintiff may choose to sue only for the minor defamation, saying nothing about the serious and true defamation. This was confirmed recently by the Full Court of the Supreme Court of South Australia. The statutory defence of contextual truth will change this.

The defence of absolute privilege will be expanded to recognise the absolute privilege of the proceedings of other parliaments. The privilege attaching to the publication of public documents and the publication of fair reports of proceedings of public concern will be expanded. Our existing statutory qualified privilege provisions that protect publishers of fair reports of proceedings of certain bodies and public meetings by newspaper, radio or television will be replaced by provisions that will cover modern means of communication such as by the internet or other electronic devices. The defence of fair comment will be called the defence of honest opinion. This is a more accurate description of the defence.

The bill will clarify the law for people who publish an opinion of an employee or agent or of a third party, for example, a letter to the editor. As amended, it will also restrict the circumstances in which the plaintiff may rebut a defence of honest opinion. The plaintiff can do so only by proving that the defendant did honestly hold the opinion, with provisions to deal with the defendant's knowledge and belief when publishing the opinions of other people.

It will modernise the defence of innocent dissemination and also put the common law about people like librarians and newsagents in the statute, which will give them some comfort. A defence of triviality will be enacted. Damages for non-economic loss for defamation will be capped at $250 000. The cap will be indexed. Exemplary damages for defamation will be abolished. It will remain open to a court to award aggravated damages in appropriate cases. A more modern statutory aid to the proof of numerous publications will be enacted.

The shadow attorney-general has mentioned some of the defamation cases that have been tried in South Australia, particularly cases in which one of the parties has been a politician or trade unionist. It is true that politicians and trade unionists have sought to protect their reputations by suing for defamation, perhaps because they are so much in the public eye, but all sorts of people avail themselves of that right.

I am informed that during about the last 15 years some of the plaintiffs before the South Australian courts (not all of whom have succeeded) have been: an egg producer; Bob Gilbert Motors Pty Ltd and Bob Gilbert a secondhand car dealer; a high school principal; a school teacher; a goods delivery person; a proprietor of a gelataria; a forensic pathologist; developers; operators of a school of Ayurveda; an activist; a worker against a co-worker; a chief executive of a large company; a businessman who succeeded in defamation proceedings against his former de facto wife who made unpleasant remarks on television about his conduct as a husband; and lawyers upon whom aspersions of unethical attitudes were cast by the mass media.

At least one member of the council would like to have civil defamation actions tried by a jury. South Australia has not had a civil defamation trial by jury in living memory. The South Australian courts just do not have the facilities to deal with even a small number of civil jury trials. I am informed that already criminal cases are not being heard as soon as they could because of a shortage of courtrooms with jury facilities. It would not be acceptable to delay criminal trials, particularly when the accused is in custody, because of a civil trial. Further, there is a strong argument that defamation trials should be treated similarly to claims for other allegedly tortious conduct. They should neither be given preferential treatment nor delayed merely because they are defamation cases.

Mention has been made in the council of possible legislation to protect people who unlawfully participate in matters of public interest from defamation or other legal proceedings, especially those issued by corporations. This is a topic that could be considered by the Standing Committee of Attorneys-General under the inter-governmental agreement that underpins the model defamation provisions. This area of law is not static. It is expected that as time goes by some amendments to the bill will be needed. It is the intention of state and territory governments to do their best to ensure that any changes will be made uniformly throughout Australia. I commend the bill to the council.

Bill read a second time.

JUSTICES OF THE PEACE BILL

Adjourned debate on second reading.

(Continued from 17 October. Page 2722.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank members for their support for this bill. The main points of this bill are: it will provide a basis on which processes for appointment of justices of the peace and the maintenance of acceptable standards of behaviour and competence by justices of the peace can be improved; over a period of five years it should become easier for the public to find justices of the peace who will assist them; and it will

give due recognition to justices of the peace who have served for a long time but who are no longer able to do so.

The government intends to supplement the provisions about eligibility for appointment of justices of the peace with regulations for criteria of lesser importance than those set out in the bill. I will talk about the term for which JPs will be appointed when the bill is in committee. On a related matter (the transitional provisions) the shadow attorney-general has said that the opposition will seek assurances that the mechanism will not be used selectively to cull the roll of justices of the peace. I am able to tell the parliament that it will not be so used. The process will be used to remove the names of JPs who are dead, who have moved interstate or overseas, who are no longer able and willing to serve, or who have been convicted of offences that render them no longer of good repute and suitable to be JPs.

The shadow attorney-general has referred at some length to a letter from the Chief Justice to the former Chief Executive of the Department of Justice dated 22 May 2002. Much has happened since then. The work that will be done by special justices has been refined and defined. The Chief Justice has been consulted further. On 1 April 2005 he wrote to the Attorney-General and said:

> In the light of information that you have provided about how special justices will be used, there is only one further comment I wish to make. It is that I am content to leave the question of whether there should be a protocol governing the use of Special Justices to the Chief Magistrate.

Since then, the House of Assembly has passed amendments to make it clearer when and how special justices will be used. Also, a training course for special justices has been developed, the Chief Justice and the Chief Magistrate have been consulted about it, and the course has been approved.

Remarks were made by the Hon. Mr Evans about the position of local government councillors. At present, the Local Government Act 1999 makes the principal member of a local government council a justice of the peace ex officio. The bill would repeal that provision. Instead, clause 5 of the bill would provide that the Governor will appoint the principal member of a council upon the principal member making application for appointment. This will enable the Attorney-General's office to record the person's name on the roll of justices. Also, it will enable the Governor to take disciplinary action in the unlikely event that the principal member misbehaves as a justice of the peace. The same would apply to members of parliament.

Some people have reservations about any justice of the peace exercising judicial functions. In the past, two justices of the peace sitting together have exercised judicial functions in the Magistrates Court and the Youth Court, and also as visiting tribunals in prisons. At present, the Magistrates Court Act provides that the court may be constituted of two justices of the peace if there is no magistrate available. There is a similar provision in the Youth Court Act. The bill would bring about a change. With one exception, two ordinary justices of the peace will not be able to constitute a Magistrates Court, Youth Court or visiting prison tribunal. Instead, one trained and selected special justice will be able to do so. The exception is that the Magistrates Court may be constituted by two ordinary justices of the peace to deal with a bail application if there is no magistrate or special justice available. This exception was requested by the Chief Magistrate. He said that in the remoter parts of the state there might not be either a magistrate or a special justice available within a reasonable time. Although a special justice will be able to constitute a Magistrates Court or Youth Court, the special justice will have no power to sentence anyone to imprisonment.

The Chief Magistrate is very supportive of having minor judicial and quasi-judicial functions being carried out by special justices. A new division will be created in the Magistrates Court called the Petty Sessions Division. The Chief Magistrate will be able to constitute this division of a special justice whenever he thinks appropriate. This division will deal with minor traffic matters for which there is no penalty of imprisonment. Common examples are parking offences, driving without due care, some speeding offences and driving with more than the prescribed concentration of alcohol in the blood. Less common offences include refusing an alcotest, overloading, driving a vehicle with noncomplying tyres, and cyclists failing to sound a warning bell.

The Petty Sessions Division also will be able to deal with some matters under the Criminal Law (Sentencing) Act. These are cases in which a person has been fined and subsequently a registrar of the court is satisfied that the person cannot pay without undue hardship. The registrar refers the matter to a Magistrates Court. A magistrate or special justice will then consider whether to substitute some other penalty such as community service or driver's licence suspension for the fine.

Special justices are appointed by the Governor. A person is eligible for appointment only if he or she has successfully completed a course of training, the Attorney-General considers the person to be suitable, and he or she meets any other requirements prescribed by regulation. The Attorney-General must consult the Chief Justice before giving his approval to a training course. The Attorney-General has in mind that the Chief Magistrate will personally interview prospective special justices.

An appointment could be subject to conditions specifying or limiting the official powers that the special justice may exercise. The nature of any prescribed requirements for appointment and any conditions of appointment will be the subject of further discussion with the Chief Justice and the Chief Magistrate. However, to give the council an indication of the type of conditions that could be imposed, I will give some examples. A special justice might be appointed subject to the condition that he or she may deal only with matters that come before the Magistrates Court in a specified location, or only with minor traffic matters, or only with adoption matters in the Youth Court, or only with matters in the Nunga Court. However, I stress that those decisions have not yet been made.

The required training will be provided by TAFE SA at its Adelaide campus, and TAFE proposes to make the course available in rural and remote areas. It will consist of the course 'Carry out designated judicial functions', and a subject called 'The justice system', which forms part of a TAFE Certificate IV in 'Justice studies'.

The Hon. Ian Gilfillan: Has a curriculum been worked out yet?

The Hon. P. HOLLOWAY: I guess if they have the name of it it probably has, but perhaps we can deal with that in committee. The government will pay the fees for these subjects. There will be two other training courses available to justices of the peace. The first is suitable for all justices of the peace. It is called 'Fulfil the basic functions of a justice of the peace'. The course requires one day of training and then completion of assessment exercises. At present, this is a voluntary course. It was first taught in April this year, and

I understand it has been taught on several occasions since. So, I guess to answer the honourable member's question, one would assume that these are existing courses. The second course comprises two subjects called 'Audit services for vulnerable clients' and 'Authorise and verify legal documents and processes'. It is expected that these courses will be done by justices who will act as prison inspectors and justices performing auditing functions.

The Hon. Mr Evans mentioned the clause of the bill that would protect justices of the peace from honest acts and omissions. This is clause 15. Special justices will be protected like any other judicial officers when they are performing judicial functions. Clause 15 is in the bill to protect justices of the peace when they are performing or attempting to perform non-judicial JP duties. It was included because it is the more knowledgeable people in our society who are likely to be concerned that they might expose themselves to legal action if they make a mistake, and so be deterred from applying to be justices of the peace.

The Hon. Mr Evans is concerned that it might send a message to justices of the peace that they can be 'honestly careless' in carrying out their duties. It would be most unfortunate if it did, because they might find that they are not protected. Clause 15 will protect justices of the peace only if their conduct is honest. 'Honest' is the word that parliamentary counsel uses now in place of 'bona fide'. It is a matter of fact and degree whether a careless act or omission is honest or bona fide. A JP who signs a document to indicate that he witnessed another person sign it when, in fact, he did not, is unlikely to be protected. This would be because he knowingly made a false representation that he did witness the person sign it. I commend the bill to the council.

Bill read a second time.

CORPORATIONS (COMMONWEALTH POWERS) (EXEMPTION OF PERIOD OF REFERENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 September. Page 2579.)

The Hon. R.D. LAWSON: I rise to indicate that the Liberal opposition will support the second reading and the passage of this bill. The bill will have the simple effect of extending for a further five years the corporations and securities investment scheme that currently operates in this country. Prior to 1991, the regulation of companies in Australia was governed by a complex arrangement of complementary state and federal laws enacted pursuant to an intergovernmental agreement. This so-called cooperative scheme was complex and was said to inhibit not only the formation and regulation of companies but also the financial and capital raising markets in Australia.

A new scheme came into operation on 1 July 1991. It was based on the Corporations Law of the Australian Capital Territory, which was applied to each state and to the Northern Territory by separate acts of the various parliaments. Two decisions of the High Court of Australia undermined the legal efficacy of that scheme. The decision of Wakim in 1999 circumscribed the effectiveness of cross-vesting, which was an important element in the legal enforcement of the provisions of the scheme, and R v Hughes, decided in 2000, created some uncertainty about the reference of state powers to commonwealth officers. I think that that uncertainty was overstated, but it is undoubtedly true that there were those who strongly argued that the uncertainty ought be resolved.

Accordingly, in the year 2000, the commonwealth government, with the governments of New South Wales and Victoria, reached agreement on a new scheme, which involved the states referring their exclusive legislative power in respect of the formation of companies to the commonwealth. The fact that the two largest states in this country—New South Wales and Victoria—embraced that scheme left very little room for other states such as South Australia to move and eventually, in 2001, a truly national scheme was finally achieved, the state of South Australia agreeing with Tasmania to participate in it. This scheme involved the reference to the commonwealth parliament of a power that it did not previously enjoy under the constitution. It did not enjoy that power because, although section 51 of the constitution gives the commonwealth parliament power to enact legislation with respect to corporations, it had been held by the court that that power did not extend to the question of the formation of companies.

In 2001, the legislative mechanism for the scheme was acts of the commonwealth parliament, namely, the Corporations Act 2001 and the Australian Securities and Investment Commission Act of the same year, together with state legislation referring necessary power to the commonwealth. This was a comprehensive and constitutionally effective package. It was only made possible by all the states referring those residual powers to the commonwealth. Some might argue that the appropriate way in which to achieve a change to our constitutional compact was by the manner enacted in the constitution itself, namely, by a referendum of the people—although it is hard to imagine that much enthusiasm could be generated by a referendum for this specific important, but narrow and not widely appreciated, purpose. In this state, we enacted the Corporations (Commonwealth Powers) Act 2001. That act contained a five-year sunset clause, which expires on 15 July next year. I think there was some hope that, within that period of five years, the commonwealth might submit a referendum to the people on this subject, but I think it is fair to say that the commonwealth authorities were less than lukewarm about that possibility and the situation is that, if the national scheme is to continue, it will be necessary to extend the commonwealth powers act that this parliament enacted.

South Australia is slightly different from other jurisdictions. We require legislation for the purpose of extending the sunset clause. Other states can achieve the same by proclamation. There have been some reservations about the operations of our corporations and securities and investment schemes—and I refer to the collapse of companies such as HIH, One.Tel, the depredations of Mr Rene Rivkin and the Steve Vizard affair earlier this year—which attracted a great deal of publicity and which have generated in certain quarters reservations about the effectiveness of ASIC. However, the fact is that the regulatory mechanism is in place.

It is a major part of corporate governance enforcement in Australia, and accordingly it is far better than the chaos that might occur if we did not have a truly national scheme. South Australian companies compete in the national and global markets. It is only appropriate that they do not have to face competing regulatory regimes within Australia. We should therefore have a national scheme that is agreed by all governments—and business, of course, is highly supportive of the current scheme. All states and territories have agreed

to the extension of powers, and accordingly we indicate support for the five-year extension.

Personally I express some doubt as to whether the commonwealth will in that five years bring before the Australian community a referendum to change the constitution to grant the necessary residual powers to the commonwealth parliament. It is important that we preserve and honour the constitutional structure of this nation and, whilst we hope the scheme continues, we also live in hope that there will be a more rational legal solution to this issue. We support the passage of the bill and look forward to its early enactment.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT AND RATING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 September. Page 2569.)

The Hon. CAROLINE SCHAEFER: This bill is a result of the great consternation and anxiety that has been caused over recent years with constantly rising local government rating systems. The bill has been developed over 12 months in consultation with local government and the public. A number of changes have been mooted, and I understand that many of them have been agreed to following consultation between the two houses. I do not wish to speak at any length tonight because my understanding is that the government is bringing in a series of quite sweeping amendments, which I have not yet seen and I understand the shadow minister has not yet seen, so it is very difficult to put down a position when one has not seen the final result of the consultations that have taken place.

The changes effectively require councils to better plan their expenditure and to be more transparent in their expenditure planning and rating methodology. Their methods under this bill must be more transparent than they are currently and they must have forward financial plans. However, they have some flexibility as to which systems of rating they apply and how their forward financial planning is announced. It is required that they model changes in property values against changes in rates, and they must consult with communities in determining rate valuations for any particular year.

The consultation process is left up to the individual council. They may or may not have public meetings. However, they must advertise locally and ratepayers must be given an opportunity to have input. Therefore a minimum of at least 21 days notice will be required in order to change ratings. Every council must have a formal consultation policy and must follow it. It will be mandatory for each council to have an audit committee, which will set the audit policy for probably up to five years. It is also mandatory that no council may have the same auditor for more than five years. The opposition has an amendment on file which requires—

The PRESIDENT: Order! There is too much audible conversation in the chamber. I am having difficulty hearing the Hon. Mrs Schaefer. I ask visitors in the gallery to please be seated: it is not normally acceptable for people to be standing in the galleries on the side.

The Hon. CAROLINE SCHAEFER: It is envisaged that after a council auditor has served a five-year period it may not then reappoint that auditor. The opposition has an amendment on file that would change the current bill's requirement to not reappoint that auditor for five years to a two year period, which would then bring that part of the bill in line with the Public Corporations Act. I am sure that you, sir, coming from a country area as I do would recognise that, while this is an admirable aim, it will be in many cases difficult for small country councils to have a pool of auditors from which they can access these people, so there has been some discussion between the houses as to whether the new auditor must be from a new firm or whether it can simply be another auditor from the same firm.

Councils under this bill must have regard to the impact on disadvantaged people, and there will be an option for anyone eligible for a state Seniors Card to defer rate payment until the property is sold, which is, of course, a charge on the land. This is, of course, very similar—in fact, unless you look very hard, it is the same—to a reverse mortgage; however, it will be cheaper to obtain because the LGA is, for the want of a better word, prepared to act as the banker. The money would be obtained by the Local Government Finance Authority, and it would be approximately 2 per cent cheaper than commercial rates from a bank. Councils are now satisfied that this scheme is workable; however, there would be an additional 1 per cent to cover administration costs. It would be a considerably cheaper option for people taking out such a loan and, hopefully, it would cover the needs of those who are asset rich and income poor.

Councils have some flexibility under this bill as to how they rate—whether it is on unimproved value as a basis for setting rates, differential rates or rebates; they have some flexibility. However, the flat rate, which was an option previously, has been removed from the bill. Frankly, that probably does not matter, because I do not think that any council in this state currently uses a flat system of rating. As I have said, every council must have an audit committee and must undertake efficiencies and greater transparency than is the case at the moment. After some discussion the other night, I understand that the minister is moving amendments that would allow for the audit committee to set the forward plans, for the council to enact those forward plans and for there to be, for want of a better explanation, a 'tick the box' method, if you like—a set of minimum principles and standards to which councils across the state must adhere and which would make auditing considerably simpler. Ratepayers across the state, hopefully, would then understand what the requirements for each of their councils were.

I understand that discussions are still taking place between the shadow minister in another place and the minister and, indeed, between the Local Government Association and those two people. It is very difficult for me to do more than make a cursory second reading contribution because, as I speak, I understand that we are in a state of change. The Liberal opposition retains the right to move amendments or object to the amendments once we have seen them. However, my understanding from discussions with the shadow minister last night is that we will probably reach a consensus, and that there will be very few, if any, amendments at that time.

The Hon. NICK XENOPHON: I support this bill, which does lead to an improvement in issues of financial management for local government. In some respects the bill is long overdue. I know that my colleague the Hon. Julian Stefani has been quite assiduous in the way in which he has pursued issues of increases in local council rates, and I am grateful to

him for his research and work in relation to that. This bill does improve procedures. There has been an exhaustive and extensive process of consultation with the local government sector but, in some respects, I still feel that the bill ought to go further. However, last night I attended a meeting convened by the Minister for Local Government, and my colleague the Hon. Caroline Schaefer and other members also attended. That process was useful because it also included representatives from the Local Government Association. At the very least, it was a useful process in terms of clarifying some of the issues and points of difference, and I commend the minister for initiating that process. I will make further remarks in committee in relation to some of the processes and clauses of this bill.

It is interesting to note, however, that, in relation to the issue of public consultation with respect to ratepayers, the draft version of the bill provided for a degree of consultation for a public meeting process, yet those provisions in the bill before this place were removed as a result of lobbying and representations by the local government sector. I believe that that was the wrong thing to do on the part of the minister and the government. It was a retrograde step, because I believe that what was contained in the draft bill made a lot of sense. At the very least, there ought to have been a version of that in this current bill, that is, incorporating the essential principles of a greater degree of consultation with the public in relation to ratings issues.

I propose to move amendments in relation to public consultation which, as I understand it, was more like what was in the draft version of the bill. I note that New Zealand does have a process of public consultation whereby ratepayers can meet with (and, in some cases, confront) their elected representatives and executives of a local government area to ask them questions about rates, how they are set and the financial plans of local government. My understanding is that that process works very well. That process has empowered local communities, and it has given some direct participation for ratepayers.

I believe that it has given a greater degree of connection to ratepayers with their elected representatives and their local councils. In that regard, I will be moving an amendment which I believe is true to the spirit of the draft of this bill. I urge my colleagues to consider supporting that amendment, because there have been some considerable anxieties in the community about the accountability of local government and, in particular, some local councils. I know that my colleague the Hon. Julian Stefani has been quite assiduous in relation to one local municipality in particular. That gives a context for the dissatisfaction that many people—particularly those on fixed incomes—feel about significant increases in rates.

I also foreshadow that I will be moving amendments in relation to the Auditor-General, or a person nominated by him, having a direct role in terms of the auditing of council books. I know that that is unlikely to have the support of a majority of my colleagues in this place; however, it is worth raising because I believe that the standard that applies to the public sector generally ought to apply here in terms of the role of the Auditor-General.

I also wish to raise the whole issue of rebates of rates for volunteers—not in a prescriptive sense but as something that ought to at least be considered by the minister and a report handed down. The mayor of Port Adelaide Enfield, Fiona Barr, has been outspoken on this issue that there should be some acknowledgment for volunteers in the context of a rebate of rates. Honourable members may or may not agree with that principle, but I believe that the fact that it has been raised in the local government sector, and the fact that the mayor of one of our significant local government areas has raised it, means it ought to be the subject of further investigation and consideration by the minister, and that is why I will be moving an amendment to that effect. It does not prescribe that volunteers be given a rebate but it should at least be considered and be on the agenda in a structured way so that the minister can consider the options and provide a report to the parliament within a specified period.

I look forward to the committee stage of the bill, and I particularly urge my colleagues to consider a method of public consultation in relation to rates and the rating process. I believe that what was deleted by the government in its draft bill as a result of representations from the Local Government Association—and, I presume, others in local government—has been a retrograde step. At the very least consideration ought to be given to a greater degree of accountability in the consultation process. It has been put to me, for instance, that an alternative may be for at least one meeting to be open to the public where they can ask questions—in a sense, without notice—of their representatives or of the CEO of the council in relation to the issue of rates so that there is some degree of transparency and accountability that does not now exist, and that does not appear to exist in the current version of this bill following representations made by the Local Government Association.

The Hon. G.E. GAGO secured the adjournment of the debate.

MARITIME SERVICES (ACCESS) (FUNCTIONS OF COMMISSION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 September. Page 2612.)

The Hon. D.W. RIDGWAY: I rise on behalf of the opposition to speak in support of this bill. It is a very simple bill to which the opposition has no amendments. The bill amends the Maritime Services (Access) Act 2000, which established a South Australian ports access regime and which regulates essential maritime industries. Amending the bill would confer the compliance and responsibilities onto the Essential Services Commission of South Australia.

There is no body currently appointed to resolve disputes that might occur at the ports and between the ports authorities and their customers. I guess you could say that there is no party to resolve a dispute at all and, therefore, an aggrieved party would have to go to the Supreme Court in South Australia in order to resolve such a dispute. This may be costly and time-consuming. The government has advised that as yet there have not been any access disputes of a significant nature and our own inquiries have confirmed that; however, such a dispute could potentially arise between a customer and a ports authority—for example, ABB Grain could have a dispute with Flinders Ports over some matter. The opposition understands that the government has confirmed that it is the Essential Services Commission that identified the need for amendment to the act in the first place, and during our own inquiries we also found that a number of users thought the Essential Services Commission had this power even though it had not been tested.

We consulted with a number of industry groups, and the government assured us that it had spoken to ABB Grain, the

South Australian Farmers Federation, Flinders Ports, the South Australian Freight Corporation and Shipping Australia Limited. The opposition made some of its own inquiries, and in particular spoke to the manager of P&O, the general manager of Dubai Ports International terminals, the managing director of ABB Grain, the CEO of Flinders Ports and the manager of Patrick General Stevedoring. I would like to thank those people for their comments. With those few remarks, I support the bill on behalf of the opposition.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the Hon. David Ridgway for his support of the bill and can advise that the Hon. Sandra Kanck has written to me indicating that the Democrats also support the bill. I thank them and other members for their support and look forward to its speedy passage.

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

PITJANTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 2749.)

New clause 9A.

The Hon. SANDRA KANCK: On behalf of the Hon. Kate Reynolds, I move:

After section 8 insert:

Section 8A—Special report.

(1) The executive board must, at each annual general meeting, present a report on the operation of the executive board.

(2) The report must contain—

(a) the information prescribed by the regulations; and

(b) be made available to Anangu in the form specified in the regulations.

(3) An Anangu is entitled to inspect (without charge) the most recent report presented under this section at the places on the lands, and during the times, nominated by the executive board and approved by the minister.

(4) An Anangu is entitled, on payment of the fee prescribed by the regulations, to a copy of the report.

(5) This section is in addition to and does not derogate from any other provision of this or any other act requiring the executive board to provide a report.

I want to indicate a degree of dissatisfaction that we are dealing with this bill at the moment. By rights, the Hon. Kate Reynolds should be doing it. She had arranged for a pair for this evening. She was ready to do it last night, but this chamber, in its wisdom, decided not to sit. The Hon. Kate Reynolds has gone to Birdwood High School for the practical music exams of her two sons. She missed the older son's practical last year, and she really wanted to be there tonight because it is his year 12 exam. As a consequence, she has gone up to Birdwood. She telephoned five minutes ago to say that she is on her way back so that she can continue to take carriage of this bill for the Democrats. I hope members will be a little sympathetic towards me, because I am labouring a little to try to work out exactly what the amendments do.

The Hon. R.D. LAWSON: I thank the Hon. Sandra Kanck for that intimation. We certainly were prepared to accommodate the Hon. Kate Reynolds; we understand that members of parliament, like other citizens, have family commitments. It is a pity the government could not accommodate that tonight, but we will certainly be assisting the honourable member in getting her through the committee stage of the bill.

New clause negatived.

Clause 10.

The Hon. SANDRA KANCK: On behalf of the Hon. Kate Reynolds, I move:

Page 7, line 4—Delete '10' and substitute '11'.

When she spoke yesterday on the bill, the Hon. Kate Reynolds indicated that she believed that the Kalka Pipalyatjara electorate should be separated into two electorates, and that is what this amendment does.

The Hon. T.G. ROBERTS: The government opposes the amendment on the basis that no consultation has been undertaken with the stakeholders or the Anangu on this issue. We believe that it should be dealt with in the next tranche of amendments, or it should first be discussed broadly with Anangu before any changes are made to the way in which elections are held and the way in which electorates are drafted. We prefer more consultation.

The Hon. R.D. LAWSON: The Liberal opposition I think takes the same view as the government on this issue. Kalka is a discrete community not far from Pipalyatjara on the western side of the lands and, in the fullness of time, it may well be appropriate that Kalka be identified as a specific district for the purpose of elections for the Anangu Pitjantjatjara Yankunytjatjara council. However, our position is that unless suggestions of this kind come through the Anangu themselves, and especially through their elected representatives on the APY executive, it would be inappropriate for us to alter the act. I should remind the honourable member that there has been extensive consultation on the lands and elsewhere. I know that it is a matter that is contested in some regard by the Hon. Kate Reynolds, but certainly the proposal to separately recognise Kalka is one that at this stage we are not prepared to support.

Amendment negatived.

The Hon. SANDRA KANCK: On behalf of the Hon. Kate Reynolds, I move:

Page 7, lines 6 to 8—Delete subsection (2a) and substitute:

(2a) Subject to subsection (3), a person may not be a member of the Executive Board while holding office—

(a) as the Director of Administration;or

(b) as the General Manager; or

(c) as an employee of Anangu Pitjantjatjara Yankuntjatjara; or

(d) in a position, and in a body, specified in the regulations.

(3) The minister may, by notice in writing, exempt a person from the operation of subsection (2a)(d) (and such an exemption may be subject to any condition the minister thinks fit and may be varied or revoked by the minister at any time).

The Hon. T.G. ROBERTS: The government opposes the amendment on the basis that it is unnecessary.

The Hon. R.D. LAWSON: I would prefer the mover of the amendment to provide some further explanation. It is certainly true that we have not been convinced to date that this should be supported. I know that the honourable member currently handling the bill is at quite a disadvantage in this regard, but on behalf of the opposition I do not wish to simply stand up as the minister did and say, 'We are opposing it.' I would prefer to have on the record what it is that we are opposing.

It may be appropriate if we report progress on the bill at this stage. The Hon. Caroline Schaefer has a matter on the *Notice Paper* that she is ready to proceed with and, when she concludes, the Hon. Kate Reynolds may be here to move the amendments that she has in her name.

The Hon. T.G. ROBERTS: I know where the numbers lie if the matter is pressed. I can provide more explanation on

the Democrat amendments in opposing them. We have made a decision to oppose all amendments except two. I can give more of an explanation if that will assist the process. We can proceed on that basis if that is agreeable.

Progress reported; committee to sit again.

CARERS RECOGNITION BILL

Adjourned debate on second reading.

(Continued from 20 September. Page 2646.)

The Hon. J.S.L. DAWKINS: I rise to support this bill on behalf of the Liberal Party. The term 'carer' is defined as a person who provides ongoing care and assistance to a person who has a disability, a chronic illness or who, because of frailty, requires assistance with everyday tasks, but does not include people paid to provide those services or those who provide them in the course of doing community work. In South Australia there are an estimated 250 000 carers who provide care, usually for relatives or loved ones. Australia-wide, it is estimated that carers save the community $18.3 billion per annum, and much of that is done in the area of adult care alone.

There is no doubt that carers face significant difficulties. Research had shown that carers tend to have higher levels of stress and anxiety than non-carers, difficulties with work and study, restricted social and recreational opportunities, and feelings of grief, resentment and great emotional upheaval because of the caring situation. The role of carer also often has adverse effects on their physical and financial well being. In the case of some particular groups of carers (for example, children and people from a non-English speaking background) there may be additional stress, barriers or difficulties.

The government says that this bill in furtherance of its 2002 election commitment 'will recognise the important role of carers in South Australia.' Its election commitment was actually to ensure that carers have access to support and advocacy for themselves in their role as carers. The bill is the third element following the earlier carers policy and carers charter. Similar legislation has already been enacted in Western Australia and is being considered in the ACT. The policy provides a broad overview of the needs of carers in many caring situations and supposedly will provide direction to government departments in the provision of services to many people who are carers.

The charter is intended for use by service providers to ensure that carers are included as an integral component of their work in supporting the cared for person's health and well being. The bill is supposed to add to the policy and charter by providing a formal mechanism for carers involved in the provision of services that impact upon them as carers. It does this by inserting the carers charter as a schedule to the bill and requires applicable organisations to report on the actions taken to reflect the principles of the charter. Applicable organisations are: first, a public service administrative unit that provides relevant services; secondly, anyone providing services under a contract with such a unit; and, thirdly, potentially any private sector person or body engaged in the sector declared by regulation.

I have correspondence from the Carers Association of South Australia, as I believe do many other members, which recommends the passage of this bill. This week, 16 to 22 October, is designated as Carers Awareness Week, and I am pleased to reiterate the opposition's support for this bill during that week.

The Hon. G.E. GAGO secured the adjournment of the debate.

PARLIAMENTARY COMMITTEES (PUBLIC WORKS) AMENDMENT BILL

Consideration in committee of the House of Assembly's message.

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

That the council do not insist on its amendments.

The Hon. R.D. LAWSON: I wish to speak against the motion put by the minister. The outstanding disagreement between the houses is currently on the question of the threshold for automatic reference of public works to the Public Works Committee. The current threshold is $4 million. All projects over $4 million are required to be examined by the Public Works Committee. The government, without any real explanation, has increased that threshold to $10 million, thereby reducing parliamentary scrutiny of public works. In the spirit of progressive compromise, we have agreed to increase the threshold to $5 million, which is a fair reflection of inflation since the $4 million limit was set. But we believe that all projects over $5 million ought be examined by the Public Works Committee. This is an important part of parliamentary scrutiny and accountability, and I urge the committee to insist upon the amendments which this council has made into the future.

The Hon. SANDRA KANCK: I supported the opposition's amendments at the time because I believed it was important for accountability. There have been no new arguments to persuade me that we should reduce accountability, so we do not support the government's motion.

Motion negatived.

BROKEN HILL PROPRIETARY COMPANY'S STEEL WORKS INDENTURE (ENVIRONMENTAL AUTHORISATION) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

LIQUOR LICENSING (EXEMPTION FOR TERTIARY INSTITUTIONS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): 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 amends the *Liquor Licensing Act 1997* to enable the supply of liquor to a student, who is a minor, enrolled in a tertiary educational course declared by liquor licensing regulations to be an approved course under the Act, and the liquor is supplied to the minor as part of that course.

Under section 110 of the *Liquor Licensing Act 1997* if liquor is sold or supplied to a minor on licensed premises by, or on behalf of, the licensee, the responsible person for the licensed premises and the person by whom the liquor is sold or supplied are each guilty of an offence.

A licensee who permits a minor to consume liquor on the licensed premises is guilty of an offence.

In this section, licensed premises includes areas appurtenant to the licensed premises.

The University of Adelaide holds a special circumstances licence under the Act in respect of the National Wine Centre. The University conducts its Bachelor of Science (Oenology) course at the Centre and is concerned that, as some first year students are minors, it will breach section 110 of the Act if, as part of the course, liquor is supplied to minors on, or in an area appurtenant to, the licensed premises.

The University has requested that the Act be amended to enable the supply of liquor to a student, who is a minor, at the National Wine Centre as part of a course of instruction or training declared by liquor licensing regulations to be an approved course.

Effectively, this would exempt the licensee from the provisions of section 110 of the Act in those specific circumstances. It would also exempt other tertiary educational institutions in similar circumstances.

This amendment does not weaken the provisions of the Act prohibiting access to liquor, or to licensed premises, by minors, but provides practical relief for tertiary educational institutions where a limited number of minors may be enrolled in an approved course.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Amendment provisions

This clause is formal.

Part 2—Amendment of *Liquor Licensing Act 1997*

3—Amendment of section 110—Sale of liquor to minors

Section 110 of the *Liquor Licensing Act 1997* prohibits the sale or supply of liquor to minors on licensed premises. It is also an offence under the section for a licensee to permit a minor to consume liquor on licensed premises. Subsection (5) provides that the section does not apply to the gratuitous supply of liquor to, or the consumption of liquor by, a minor in certain specified circumstances.

This clause amends section 110 by recasting subsection (5) so that the section does not apply to the gratuitous supply of liquor to, or the consumption of liquor by, a minor enrolled in a tertiary educational course declared by the regulations to be an approved course for the purposes of section 30 of the Act if the liquor is supplied to the minor as part of that course.

Under section 30, which relates to cases where a licence is not required, educational courses may be declared by the regulations to be approved courses for the purposes of the section.

4—Amendment of section 114—Offences by minors

Section 114 of the *Liquor Licensing Act 1997* provides that a minor who consumes liquor in regulated premises is guilty of an offence. A person who supplies liquor to a minor in regulated premises is also guilty of an offence. Subsection (3) provides that the section does not apply to the gratuitous supply of liquor to, or the consumption of liquor by, a minor in certain specified circumstances.

The amendment proposed to be made by this clause recasts subsection (3) so that the section does not apply to the gratuitous supply of liquor to, or the consumption of liquor by, a minor enrolled in a tertiary educational course declared by the regulations to be an approved course for the purposes of section 30 of the Act if the liquor is supplied to the minor as part of that course.

The Hon. R.I. LUCAS secured the adjournment of the debate.

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

The House of Assembly agreed to the bill without any amendment.

PITJANTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 2756.)

Clause 10.

The Hon. SANDRA KANCK: I have gone back to my colleague's speech notes from last night, and I think this is the explanation. She said that the bill proposes inserting a provision preventing the director of administration, the general manager or any employee of APY from being a member of the executive board. We support the provision, but this amendment is clarification of who will or will not be considered to be an employee of APY. The observation that my colleague made yesterday was that currently AP Services is administratively answerable to the APY Executive Board. The same person is the director of both organisations. Can an employee of AP Services be a member of the executive board? I hope that explains the amendment.

The Hon. T.G. ROBERTS: Just as a point of clarification, the position held by the current Director, Mr Rex Tjami, does not make him an executive member: it makes him the director of a body. There is some confusion as to why the amendment was drafted. It may be that at some time in the future that may occur. But at the moment, as I said, we do not see the amendment as necessary, based on the current structure.

The Hon. R.D. LAWSON: I indicate that, for the same reasons, the opposition will not be supporting this amendment.

Amendment negatived.

The Hon. SANDRA KANCK: I move:

Page 7, line 16:
Delete '3' and substitute '6'.

I will again go back to notes from the Hon. Kate Reynolds's speech yesterday. She said that she was pleased to find the provision in the bill requiring the minister to cause the electorates constituted by schedule 3 to be reviewed not later than three months prior to each election. My colleague has suggested that we need a larger time frame, so she has had this amendment drafted to make it a six-month rather than a three-month time frame. The point she makes is that this would ensure that the Electoral Commission had plenty of time to prepare and, most importantly, it would lessen the opportunity for people on the lands to confuse changes to the electorates with the conduct of the next election.

The Hon. T.G. ROBERTS: As I explained in my second reading speech, our position is that the review of the electorates is to ensure that the most electoral representation as possible is developed for an election. In view of the large amount of movement (that is, the movement of people) that occurs on the lands, a review at six months would be less useful than a review at three months. In this regard, I note that the mover of the amendment has queried the timing for a review of electoral boundaries in circumstances in which the bill is not passed prior to the November elections of the AP executive. Clearly, if the bill is not passed the existing act without amendment will apply, and there is no requirement that the minister will review the electoral boundaries at all. On that basis, we will be opposing the amendment.

The Hon. R.D. LAWSON: I indicate that the opposition will not be supporting this amendment. The case for changing the three-month period has not been made. One might suggest three months, four months, five months, or any other number of months, but the fact is that three months was included in this bill, which was taken to the people on the lands. I have heard no suggestion from anyone on the lands at all, and certainly not from the AP executive, that the three-month

period is unsatisfactory. For those reasons, we will not be agreeing to an amendment to this period.

Amendment negatived.

The ACTING CHAIRMAN (Hon. R.K. Sneath): If there are no further amendments to clause 10, I will put that clause 10 stand as printed.

The Hon. R.D. LAWSON: There is another one: amendment No. 13.

The ACTING CHAIRMAN: Amendment No. 13 has been put. If the mover does not agree with that, she can have another go.

The Hon. SANDRA KANCK: On behalf of the Hon. Kate Reynolds, I move:

Page 7, lines 19 to 29—Delete subsections (9) to (11) (inclusive) and substitute:

(9) A member of the Executive Board must, within 3 months after being elected or appointed, commence a course of training related to corporate governance.

In her speech yesterday Ms Reynolds made it very clear that we support the training and have done so for a long time. What is of concern is the paternalism in subsections (9), (10) and (11). As a consequence this amendment continues to support the training but removes any reference to the minister.

The Hon. T.G. ROBERTS: The government opposes the amendment. In seeking to improve the governance on the lands the government's bill includes a requirement that members of the executive board attend governance training, and to ensure that the governance training will be appropriate to the role of the executive the minister is to approve the training to be undertaken. The amendment proposed seeks to remove the minister's right to ensure that a course of governance is appropriate and veto the requirement to attend a course if it is impossible to fulfil this requirement.

The requirement to attend a governance course would not be appropriate without these additional two powers of the minister. The provision as it appears in the bill is worded in the manner agreed to by the current AP executive. The minister's power to excuse a member of the executive from training was requested by the AP executive to allow for situations in which attending courses would be impossible, and there are a number of circumstances in which Anangu would find itself not being able to attend these courses in some circumstances. In the main, people avail themselves of it, but for all sorts of reasons—sickness, business, absence from the lands and so on—Anangu would find itself not meeting the requirements of the act if this was included in the act and it is an unnecessary encumbrance.

The Hon. R.D. LAWSON: I have a question for the minister in relation to this matter. The government's bill provides that a member of the executive board must, within three months after being elected, commence a course of training. It provides, in subsection (10), that the minister must determine an application for approval of such a course within 28 days of receiving an application, and subsection (11) provides that the minister may exempt a member of the executive board from the requirement to undergo governance training.

There is no provision in the bill specifically providing for the payment of such training. How does the government envisage that training will be paid for? What is envisaged will be the case if, notwithstanding this requirement that a member undergo a course of training, the member simply does not have the financial wherewithal to get himself or herself to the place where training is offered?

The Hon. T.G. ROBERTS: The government has already made provision for governance training within the budget process and, as with any other expense that can be anticipated by the APY executive (as it will be constituted), it will be able to anticipate how many people and what sort of courses they will have to attend. They will make application for appropriation of funds for governance training and apply a formula to the payment that would be appropriate and include TA and travelling, I expect. Those considerations would be made after it was known where the courses were going to be held and from where the Anangu person would be coming. Sometimes courses would be held in Alice Springs and sometimes in Umuwa. Those considerations will be made by the executive and the appropriate forms will be filled out and justification made.

The Hon. R.D. LAWSON: I ask the minister to give an undertaking to the committee that the government will provide reasonable funding to the APY executive for the purpose of facilitating this training.

The Hon. T.G. ROBERTS: Appropriation has been made. The honourable member is accurate in requesting that we continue with that policy. I can say that, to comply with the act, we will have to make appropriate funding available.

Amendment negatived; clause passed.

Clause 11.

The Hon. SANDRA KANCK: On behalf of the Hon. Kate Reynolds, I move:

Page 8, after line 40—

Insert:

(6) If the minister determines to not approve the proposed allowance, the minister must prepare a written report of the reasons for the determination, and a copy of the report must be provided, as soon as is practicable, to the Executive Board and to the Aboriginal Lands Parliamentary Standing Committee.

The bill contains a number of proposed amendments that would require the executive board to obtain financial and budgetary approval from the minister, and for this approval or disapproval to be granted within a 28-day period. The Democrats are supportive of this, but we want to ensure a greater level of transparency. Hence, this amendment is effectively asking for the minister to explain his actions if he disapproves.

The Hon. T.G. ROBERTS: The government opposes the amendment.

The Hon. R.D. LAWSON: I indicate that the opposition is opposed to this amendment on two grounds. The first ground relates to excessive bureaucracy. If the minister makes a determination, no doubt he or she will tell the executive why the determination is made. Secondly, we oppose the amendment on the ground that it seeks to involve the Aboriginal Lands Parliamentary Standing Committee in an issue which, as I indicated in my contribution to amendment No. 1 of the Hon. Kate Reynolds, we do not support. We will not be supporting this amendment.

Amendment negatived.

The Hon. KATE REYNOLDS: My following amendment is consequential.

The CHAIRMAN: Does the honourable member intend to pursue that amendment?

The Hon. KATE REYNOLDS: No.

Clause passed.

Clause 12 passed.

Clause 13.

The Hon. KATE REYNOLDS: I move:

Page 17, lines 29 to 31—
Delete subsection (2)

I assume that this amendment will not get through, so I will not bother speaking to it.

The Hon. T.G. ROBERTS: The government opposes the amendment.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 17, lines 32 and 33—
Delete 'audit the accounts of Anangu Pitjantjatjara Yankunytjatjara at any time' and substitute:
at any time, and must at least once in each year, audit (without fee) the accounts of Anangu Pitjantjatjara Yankunytjatjara

This amendment will require the Auditor-General to audit the financial records of APY each year. Members will recall that, when I spoke previously, I expressed considerable concern about some of the claims that had been made by the state government, as well as by the federal government, about the expenditure of funds provided to the executive. I will not, as tempting as it is, recap all of the sorry saga of funds that were allocated to be spent on petrol sniffing services, family violence programs, youth worker programs, and so on.

The saga is disgraceful, to put it mildly. In fact, I will take this opportunity to say that, whilst I was driving at the speed limit (not over the speed limit) to Birdwood to attend my son's musical performance, I received a number of calls from people who expressed their support for the views that we have been expressing during this debate, so it would be remiss of me not to proceed with this and other amendments. This amendment intends to make sure that there is an absolutely open, transparent and full audit of the books of the AP executive.

We seek that not because we are suggesting that moneys have been mishandled, misappropriated or anything like that, but because we believe that this body needs all the help it can get to prove that governments have not fulfilled many of their promises; that governments have not acted in the way they claimed on the public record to have acted; and that moneys have not been released at those times that the government or governments claim that they have.

In case any member wants to roll their eyes and look sceptical, they might just contact any member of the Aboriginal Lands Parliamentary Standing Committee or the executive itself and ask for copies of the cash-flow statements. They will see that, from time to time every year for many years, this organisation has been expected to operate almost insolvent, because money simply has not flowed at the time that it was supposed to.

I recall that when our Aboriginal Lands Parliamentary Standing Committee visited the lands (we were not taking evidence so I am able to discuss this) we were shown diagrams, both on paper and on the whiteboard, prepared by the staff of the executive which showed that money was months overdue from this state government. So, it is our view that the Auditor-General needs to be able to have a thorough look at all the records of the executive and, where necessary, highlight that it is the state or the commonwealth that is putting them in the dire situation they have found themselves in over and over again. You simply cannot provide programs if the money has not been released from Treasury, and it is not acceptable that this government—or any of its agencies or task forces or any oneelse—continues to dump blame on an organisation that simply has not been provided with the money that the government claims it has been.

I have full confidence that the Auditor-General would reveal such situations if they occurred in the future and, frankly, I am tired of numerous successive governments dumping blame. This is an opportunity for the executive to ensure that they are not vulnerable to those sorts of claims in the future. I think the Hon. Robert Lawson made some comments or interjections through my second reading speech about this being patronising. It is not in any way, shape or form intended to be patronising: it is intended to be a protection for the body corporate and a protection for taxpayers who expect that, when the government says it is going to allocate certain moneys, it not only puts them on a piece of paper but that it also puts them in the appropriate bodies' bank accounts.

The Hon. R.D. LAWSON: I agree with a good deal of what the Hon. Kate Reynolds has said in relation to events when this government failed in its duty to the AP executive and failed to provide program funding. My criticism of the government's performance in that matter is on the record and documented; however, I cannot support this amendment and cannot see how the imposition of this additional audit burden on the organisation is going to improve the situation for those on the lands. Accordingly, whilst I agree with the honourable member's criticisms, I simply do not see this as the solution to that problem. The opposition will be opposing this amendment.

The Hon. T.G. ROBERTS: The government will also oppose the amendment, and not because we do not want transparency or that we do not want to assist Anangu to run their financial affairs in an effective and efficient way. The current act allows for a registered auditor to audit the books once a year. If there is a spot audit I am sure that a request made by Anangu for whatever reason, if it falls in line with what would be seen as justification, would be favourably considered if it was going to assist the orderly processes for the APY executive.

It is in the government's interest to assist the APY to have good financial management, and from time to time there may be special requests. AP does not supply programs itself but funds bodies and organisations that do, and sometimes the accusation is pointed not at the funding body but at the provider of the service that AP has engaged as not getting the benefits of the funds that are outlaid. Downstream may be more of a problem than the application of the amendment to the APY executive, but with non-government organisations we have no power.

The Hon. KATE REYNOLDS: Without wishing to discuss another bill that is currently before this place, there is some work being done in the local government sector that is intended to improve the scope of audits conducted for local governments. There may well be some very good lessons to be learnt from that and some frameworks and 'prescribed factors' (I think the term will be) that the executive could be assisted to apply to its auditing. Can I have the minister's undertaking that he will facilitate some exchanges of information and, if necessary, assistance to the AP executive to ensure that their audits are of the highest possible standard and similar to those that will, within the next two years or so, be expected of each and every one of our local governments in this state?

The Hon. T.G. ROBERTS: We can make that undertaking.

Amendment negatived; clause passed.

Clause 14.

The Hon. KATE REYNOLDS: I move:

Page 18, after line 35—Insert:

(7) If the minister determines to not approve the proposed budget, the minister must prepare a written report of the reasons for the determination, and a copy of the report must be provided, as soon as is practicable, to the executive board and to the Aboriginal Lands Parliamentary Standing Committee.

We can proceed very quickly with this amendment. It will be lost, because none of the other amendments have been supported.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 18, line 39—Delete 'will' and substitute 'may'

This amendment is about whether or not there has to be, by statute, the positions of both director of administration and general manager. In my second reading speech, I asked whether the minister could provide some clarification about the difference in those roles and some justification for why both must exist in the act. In our view, at this point in time, unless the minister can come up with a persuasive argument, we do not see that both need to be prescribed. It appears to us that one—that is, the manager—implements the resolutions of the executive board, while the director oversees the implementation of those same resolutions. So, unless the roles were substantially different, we cannot see why the executive (which also means the government and the taxpayers as well) needs to fund these two positions. I would appreciate the minister giving some explanation.

The Hon. T.G. ROBERTS: The tradition has been a good one in terms of how mentoring perhaps should operate: that is, there has been a tradition of one being non-Anangu and the other being Anangu to provide a balance within the executive administration. I would certainly like to see the principle applied in many other cases through the service delivery programs, where mentors are financed on a salary basis, where perhaps 1½ salaries can be applied to allow mentoring to take place. That is something that can be looked at in the future.

In response to the honourable member's question, the traditional position has been for one Anangu and one non-Anangu person, and it has worked well. The balance has generally worked well where the AP executive's intentions have been carried out cooperatively. In some cases, there have been clashes between the director and the manager. But, certainly, we have a good balance at the moment, and we hope that balance will continue. Let us hope that the mentoring partnership principle carries over into broader aspects of Anangu life on the lands.

The Hon. CAROLINE SCHAEFER: The opposition opposes the amendment.

The Hon. KATE REYNOLDS: I would find those explanations a little more palatable if the government's record was not so clearly one of ignoring desperate pleas repeated over many years for the mentoring of employees on the lands. Honourable members will recall that I have asked a number of questions in this place, and previously I have made speeches about this. Letters have been written to the Premier—and certainly copies have been provided to the minister and to me, and I assume also to the Hon. Robert Lawson—by Makinti Minutjukur, who is the MSO employed in the community of Pukatja.

They have experienced all sorts of difficulties in recent times, and they have pleaded—and I do not think that is too strong a term—for the government to provide some assistance. The assistance the government provided was far too little and far too late, and it has not gone anywhere near meeting their needs for professional development. What they were specifically asking for, though, was a mentor. The government knows that we have previously put on the record our strong recommendation that this government take a closer look at some of the overseas aid programs Australia funds and the mentoring programs where we send police, and specialists in the areas of health and education, to other countries, such as Papua New Guinea, which I visited earlier this year. I saw how successful those mentoring programs are—where, on a daily basis, workers are placed alongside people whose skills need to be developed.

If this is about mentoring, that is great. However, it does not look like it; it does not sound like it; and it does not read like it. I do not accept that that is an excuse or a reason for not taking the opportunity to more clearly define those rules. I appreciate what the minister has said about his interest in mentoring programs in the future, but this is not one: this is not about mentoring at all.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 25, after line 27—Insert:

(ab) neither the Director of Administration nor the General Manager may be appointed as administrator;

It seems to us that, if the body corporate has found itself in a situation where the minister needs to appoint an administrator, it is highly unlikely for a whole range of reasons that either the director of administration or the general manager would be in a position to carry out that role of administrator.

I think if we were discussing any other bill, nobody would have any qualms about this amendment that we have proposed, so I find it a bit extraordinary that the government has suggested that it cannot support it. The bottom line is that, if the body corporate is in trouble, it needs an external person to come in and assist it to get out of trouble. This would be a bit like appointing the chief executive officer of a local council as administrator if the elected body got itself into a situation where the minister for local government wanted it removed for a time.

We would like the legislation to reflect that there should be an external person appointed, and this amendment also deals with perceptions or actual conflicts of interest that could occur if the government of the day chose to take what might look on the surface like an easy option.

The Hon. R.D. LAWSON: I indicate that the opposition will not be supporting this amendment. I think it is highly unlikely that the minister would in any circumstances ever appoint the director or the general manager as administrator. However, it could well happen that unusual circumstances make it appropriate and in the public interest and in the interest of the people on the lands for the director of administration or the general manager to be appointed administrator. The circumstances in which an administrator may be appointed are many and varied, and it might be for a very short period of time. An interim administrator may be appointed during some particular situation when it might be appropriate to appoint the director of administration for a short time. I do not believe it is appropriate to limit the discretion of the minister in the way proposed. I think this is rather more theoretical than actual provision. I do not think we should burden the legislation with restrictions of this kind.

The Hon. T.G. ROBERTS: The government's position is similar. If you are to get to the truth in relation to providing the reasons for why you have provided an administrator, you are more likely to bring somebody from outside to do that, but there may be occasion where it is appropriate to do it. It

is highly unlikely to involve either the director or the general manager in such a task. It would be seen as Caesar judging Caesar by those people who have raised objections to whatever the behaviour is that is going on within an organisation. So, we find the amendment unnecessary.

Amendment negatived; clause passed.

Clause 15.

The Hon. KATE REYNOLDS: I move:

Page 27, line 23—Before 'Anangu' insert 'Subject to this Act'

This amendment is again one of those attempts by the South Australian Democrats to assure traditional owners that the government is not attempting in any way to weaken their role in decision making or weaken their recognition as traditional owners of their lands. So, by inserting before that line the words 'Subject to this act' it spells out very plainly that anything that the administrator does, should one ever be appointed, requires that all of the pre-existing usual arrangements remain in relation to any decisions that are made or any leases that are considered, or anything like that.

It is not designed to change the intent of the existing act. It is not designed to change the intent of the amendments that the government has proposed. It simply spells out very clearly that the government is not in some back-hand back-door kind of way trying to give itself additional powers. We know that that has been a serious concern for people, so we are suggesting that the government agrees to the insertion of these four words that simply make that plainer. This is on the assumption, of course, that the government is not seeking to give itself more powers, certainly more powers than it had in March last year.

The Hon. T.G. ROBERTS: It is not the intention of the government to have a power grab over the legislation. It is just seen as an unnecessary encumbrance to the act and, as it is implicit that this clause is subject to the act, we see it as unnecessary.

The Hon. R.D. LAWSON: I indicate that I see this as unnecessary surplusage which ought not be added to the act.

Amendment negatived; clause passed.

Clauses 16 to 19 passed.

Clause 20.

The Hon. KATE REYNOLDS: I move:

Page 29, line 25—Delete all words in line 25 and substitute:

(1) Section 22(1)—delete 'Royalty' and substitute:
Despite a provision of any other Act or law, royalty

(2) Section 22(2)(a)—delete 'one-third' and substitute 50 per cent

(3) Section 22(2)(b)—delete 'one-third' and substitute 50 per cent

(4) Section 22(2)(c)—delete paragraph (c)

(5) Sections 22(3) and (4)—delete subsections (3) and (4)

This amendment is intended, should there be mining on the lands, to alter the way that any royalties are distributed. The act currently requires that one third is paid to Anangu Pitjantjatjara Yankunytjatjara; one third is paid to the Minister for Aboriginal Affairs and Reconciliation to be applied towards the health, welfare and advancement of the Aboriginal inhabitants of the state generally; and one third is paid to general revenue. At the moment, the act provides a prescribed limit for the amount that can be paid to traditional owners. We propose that that prescribed limit (which has not actually ever been prescribed—no amount has been applied to it, I believe) be deleted and that, instead, one half of the moneys be paid to traditional owners and one half to the minister.

Previous speakers have indicated that this amendment will not be supported—we did not expect to get a great deal of support for it—but we believe that for many years the act has been unfair. The fact that there has not yet been any mining to create any royalties to be paid is sheer good luck, but we expect that in future years there will be mining on the lands and royalties earned that will need to be distributed. We believe that traditional owners should get their fair share. That is not one-third up to a prescribed limit that nobody really knows about.

We think the deal needs to be far more acknowledging of the fact that traditional owners own this land and that any resources that are taken from it are theirs. However, we are certainly not suggesting that all the royalties paid should go to traditional owners at this stage. As I mentioned in my second reading speech, my research shows that that is what former premier Don Dunstan wanted, but we are not going that far at this stage. I think the indications are that this amendment will not be carried, but at least it might generate some discussion amongst traditional owners before stage 2 of the changes to the Pitjantjatjara Lands Rights Act commence either next year or the year after or whenever the next government proceeds with it.

The Hon. T.G. ROBERTS: It will certainly be on the map as far as a discussion point is concerned for the next tranche of amendments to the act. It has been an historic point in relation to the sharing of funds from royalties. The inclusion of it in the bill in 1981 was groundbreaking, if I can make a pun, but if it has to be altered or changed it will be done with full consultation with Anangu. We will have a look at programs around Australia in the other states that are similar to ours and look at the ways in which the benefits of mining royalties are shared.

However, let us crawl before we walk, and let us have a look at the issues associated with access and traditional owners' permission. All those issues are complex. We do not want to scare the horses, we do not want to build up expectations, and we certainly do not want to kill off expectations within communities about alternative income sources. It is clear that employment opportunities are required within regional and remote areas. Those issues will be the subject of discussion over the next period. I am sure that everyone has a view on what is a reasonable and fair distribution of royalties.

The Hon. R.D. LAWSON: The opposition agrees with the government and will not support this amendment. It is an easy amendment to make. It sounds as if you are being a very good fellow for Anangu, but at the moment the royalty regime is one-third, one-third, one-third. To date, it has been one-third, one-third, one-third of nothing. So, to offer 50 per cent of nothing is not really offering them much at all. I regard this as a fairly cheap amendment on behalf of the Hon. Kate Reynolds. With the greatest of respect, it sounds good, it will be popular with everybody, but it is not thoroughly thought through and it is not part of a compact. The current arrangement was actually part of an important compact. I do not believe we should lightly, in a spirit of benevolence, change that compact, so we will not support the amendment at this stage.

Amendment negatived; clause passed.

Clauses 21 to 25 passed.

Clause 26.

The Hon. KATE REYNOLDS: I move:

Page 30, lines 16, 17 and 18—Delete subclause (1) and substitute:

(1) Section 36(1)—Delete 'Any Pitjantjatjara who is aggrieved by a decision or action of Anangu Pitjantjatjara, or any of its members and substitute 'An Anangu who is aggrieved by a decision or action of Anangu Pitjantjatjara Yunkunytjatjara or the Executive Board'.

This is really a drafting error that may well have been a result of my unclear instructions or exhaustion on the part of the South Australian Democrats and parliamentary counsel when drafting the amendments for this bill. I take this opportunity to put on the record my thanks to parliamentary counsel, who have been working extremely hard for us on a number of bills in the last couple of weeks, and they have done it with great good grace.

Currently, under the bill in clause 36(1) a person can appeal a decision or action of Anangu Pitjantjatjara or any of its members. Other parts of the act link decisions made by the executive board to Anangu Pitjantjatjara. For example, under existing clause 11(2) an action of the executive board is only binding on Anangu Pitjantjatjara if it conforms with a decision of Anangu Pitjantjatjara. It can only be legitimate if the body corporate has decided to do that. So, at present, Anangu Pitjantjatjara is the peak body, not the executive board. Every decision, whether it is a decision of Anangu Pitjantjatjara or a decision of the executive board, can be appealed.

The government's amendment proposes to change this situation so that Anangu can only appeal a decision or action of the executive board, so that the government's amendment means that Anangu will not be able to appeal any decision made at an annual general meeting or a special general meeting and, given that my earlier amendments about quorums did not pass, that means that in reality only 10 people need to be present for there to be an annual general meeting. So this amendment seeks to change that and make it possible for someone to appeal or to take to the conciliator a decision made by either the body or the executive board.

The Hon. T.G. ROBERTS: The government opposes this amendment. This amendment reverts to the position under the 1981 act when the tribal assessor conciliated disputes between Anangu. The bill changes this so that he or she only conciliates a dispute which an Anangu has with the executive board. One practical reason for this is that, when there were disputes in recent times, the tribal assessor was next to useless as a tool to get a conciliated outcome. There was provision in the act, but getting an agreed position between disputing parties and enforcing it was almost impossible. So, conciliation between groups is best encouraged by trying to get disagreeing individuals or groups within the communities to solve their own disputes. It is the government's view that that is the best way to solve disputation within the communities. I think this takes us back to the bad old days. When we looked at the act in relation to disputation, no-one could remember the tribal assessor ever being used successfully. I think it is something from a bygone era, and there are much more enlightened ways of settling differences of opinion.

The Hon. R.D. LAWSON: The opposition certainly agrees that the current dispute resolution mechanism in the act has not worked effectively and that the tribal assessor provisions are basically a dead letter. We believe it is appropriate to have a dispute resolution mechanism, and the conciliation mechanism to be amended by this bill is a distinct improvement on the previous mechanism. We support the government's bill, because that is what was taken to the lands, that is what has been consulted upon and that is what the duly elected representatives of Anangu have agreed to. So we oppose the amendment.

The Hon. KATE REYNOLDS: I am not sure that the government's bill is what was taken to the lands and consulted on, but we will not reopen that argument. I do not have any further comment.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 30, line 23—
After 'is' insert:
trivial,

I would appreciate it if the minister could recap on the government's objections that were put some many hours ago now so that they are on the record in this section.

The Hon. T.G. ROBERTS: The government's position is that 'trivial' adds no meaning. 'Trivial' is already covered by 'frivolous' and 'vexatious' in a legal sense.

The Hon. KATE REYNOLDS: My understanding of the word 'trivial' is not that it means vexatious or frivolous but that it might just be a very minor matter. So, by refusing to have this word included, the government is suggesting that someone might have motives that are quite unlike their reasons for wanting to have something conciliated. I am not going to stand and argue this for hours, but I think a simple check of the dictionary would show that 'trivial' is not the same as 'frivolous' or 'vexatious'. We know that, from time to time, people take matters to those in positions to conciliate, arbitrate or mediate which are not vexatious and frivolous but which might be of a minor nature and better dealt with in another place.

The Hon. R.D. LAWSON: I indicate that the opposition opposes this amendment. The effect of the amendment is to restrict the powers of the conciliator by adding not only frivolous and vexatious disputes that everyone would consider ought not be bothered with but also to remove trivial disputes. There may well be disputes that are regarded as trivial that ought properly be the subject of conciliation. A conciliator should not be able to say, 'I am not going to touch this because it is a serious matter. It is very important to the parties, but it is trivial in the whole scheme of things.' We believe that he or she should have the power to dispense with that which is frivolous or vexatious but ought not lightly brush aside something on the grounds that it is merely trivial to the conciliator.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 30, after line 26—
Insert:
(3a) Section 36(3)—delete 'himself in such manner as he' and substitute:
herself or himself in such manner as she or he

I think we have reached the happy occasion where we might even receive some support for this amendment. This amendment attempts to introduce some gender equity into the legislation, because currently the government's amendments assume that the holder of this position (I am not even sure which position we are talking about; I think it is the conciliator) will be a man. As any sensible thinking person knows, women often make far better conciliators than men, so we would like to know that there is at least a 50 per cent chance that the conciliator might be a woman, and the South Australian Democrats, as long campaigners for equal opportunity, would like to make sure that the legislation reflects those opportunities. I hope that the government and

the opposition can bring themselves to support both this amendment and amendment No. 31.

The Hon. T.G. Roberts: Hot diggity dog!

The Hon. R.D. Lawson: We also support the amendment.

The Hon. KATE REYNOLDS: Because neither member was on their feet when they spoke, I am not sure whether what they said will appear in the record. I think it is probably worth repeating that the minister said, I think, 'Hot diggity dog', and the Hon. Robert Lawson, speaking for the opposition, said, 'We also support the amendment.' I say: hear, hear!

Amendment carried.

The Hon. KATE REYNOLDS: I move:

Page 30, after line 35—
Insert:
(4a) Section 36(5)(a)—before 'he' insert:
she or

I happily move this amendment. As I said a few minutes ago, the South Australian Democrats always like to see gender equity and equal opportunity reflected, not only in the community and the workplace but also in legislation.

The Hon. T.G. ROBERTS: I will pay due respect by standing this time. I will not say 'Hot diggity dog', but we accept the amendment.

The Hon. R.D. LAWSON: We also support the amendment.

Amendment carried; clause as amended passed.

Clause 27 passed.

Clause 28.

The Hon. KATE REYNOLDS: I move:

Page 31, after line 28—
Insert:
(2) The minister responsible for the administration of the Pastoral Land Management and Conservation Act 1989 must, on or before 31 December in each year, present to the Aboriginal Lands Parliamentary Standing Committee and to the Executive Board a report on the depasturing of stock on the lands.
(3) A report under subsection (2) must contain the following information:
(a) the number of livestock grazed on the lands during the previous financial year;
(b) an inventory of any grazing licences and leases that operated on the lands during the previous financial year, including the names of the persons or bodies holding those licences or leases;
(c) an account of the monies received by Anangu Pitjantjatjara Yankunytjatjara from grazing licences and leases during the previous financial year;
(d) a summary of the findings of any assessment and monitoring program conducted by the Pastoral Land Management Group to ensure that grazing ventures operating on the lands are not impacting on the long-term sustainability of the lands.

I gave some explanation for this amendment in my second reading contribution, and I will not go through it all again. Essentially, through the act we are trying to require that the government provide greater assistance to APY to ensure that their lands do not suffer from further degradation, particularly through overstocking and so on. We all know that there are some serious concerns at the moment. We know that, for various reasons, the funds have not been applied to undertake some of the audits, and so on, that are required. The inventory of grazing licences and other such matters remain issues.

This is a large parcel of land, and these problems cannot be solved quickly. However, we believe it is appropriate that there be a legislative imperative for the government to do the work that is necessary and to provide the funds that are necessary, whether it is through Treasury or the collection and disbursement of the various permit funds and so on. This is not something that we are proposing lightly. We know that it would cause a significant amount of work to be done, but we believe that that work is extremely important. We have spent a lot of time during the debate on this bill talking about the lands, but the physical lands, the thousands of square kilometres, are suffering as a result of both neglect and overstocking in some areas. We would like the government to take some action on that very quickly and, as I said, we would like that legislative imperative included.

The Hon. CARMEL ZOLLO: I indicate that the government will not be supporting this amendment. It will be considered during stage 2, when such matters will be addressed.

The Hon. R.D. LAWSON: We will not support the amendment, either. One might argue that the provisions of the current act, section 42B, which provide that the provisions relating to stock, and which apply to pastoral leases, also apply in respect of the lands. One might argue that that provision is inconsistent with the notion of fee simple land being granted to Anangu. However, that is the provision that has always been in the legislation. The government has not in this bill changed that in any manner in principle, although the language used is slightly different but to the same effect.

We certainly do not agree with the notion of imposing additional burdens upon the Anangu and, even if it might not be the intention, that would be the effect of the honourable member's amendment. So, we will not support it. We do not believe that the Aboriginal Lands Parliamentary Standing Committee ought to have a monitoring role in relation to matters such as the Pastoral Land Management and Conservation Act.

The Hon. KATE REYNOLDS: I was trying to put my hands on the piece of paper that outlines the functions of the committee. I disagree with the Hon. Robert Lawson, given that the committee has taken a considerable interest and evidence on this. There is a role for us to play in terms of receiving reports and informing ourselves on issues such as the protection or degradation of land, but clearly the numbers are not with me, so I will not speak any further on this amendment.

The Hon. R.D. LAWSON: Just briefly on the last point, I accept that the Aboriginal Lands Parliamentary Standing Committee ought seek information from the APY executive about matters, and the pasture rates on lands may be a relevant matter, but we should seek that information on a case by case basis rather than expect the executive or anybody else to report to us on any sort of annual basis about the activities on their land.

The Hon. KATE REYNOLDS: To make some points of clarification, this amendment does not require that the executive report but that the minister report. Referring to function (c) of the Aboriginal Lands Parliamentary Standing Committee's role, it states:

To inquire into the manner in which the lands are being managed, used and controlled.

I would have thought that, where there are well identified and well known issues that relate to grazing and so on on the lands at the moment, the parliament's own committee, which clearly has as one of its functions to take note of such issues, should do that. I would have thought that requiring a minister to provide a copy of that report to the committee and to the executive board of APY is not an unreasonable burden.

The Hon. R.D. LAWSON: Unless there be any misunderstanding, the effect of the honourable member's amendment is not only that the minister responsible for the Pastoral Land Management Act will be required to report to the executive board and to the parliamentary standing committee, but that obligation would mean that somebody has to report to the minister, and presumably the people on the lands will be required to report to some additional bureaucrat about what they are doing on their own lands.

The Hon. KATE REYNOLDS: I am not an expert in this area and would never claim to be, but my understanding is that PIRSA has already done some preliminary work and that there have been recommendations for a great deal more work to be done. I understand that there is general agreement that traditional landowners do not have among themselves at this time sufficient expertise to carry out that work that needs to be done. I understand that the minister, through the Department of Aboriginal Affairs and Reconciliation, has his and the PIRSA staff working on a number of strategies, plans and frameworks.

It seems that there is general agreement that the work needs to be undertaken, that the lands need to be managed in a different way that takes account of the capability of the varying areas across the lands and that this is not in contention. I accept that the government does not want to be compelled to report to the Aboriginal Lands Parliamentary Standing Committee on anything, unfortunately, but I would have thought that if this government is serious about environmental management and about assisting Anangu to manage the resources it has, which is not just its land but also includes cattle and so on grazed on those lands, it would welcome this and not show such reluctance to be compelled to fulfil its responsibilities.

The Hon. T.G. ROBERTS: I do not think the government is ducking its responsibilities. We take seriously the issues related to land management, whether it be pastoral or freehold land. We should not make decisions in haste. A number of grazing leases operate on traditional land by traditional owners who have private arrangements with private organisations or individuals who are running cattle on the lands at the moment. We can learn a lot about what is happening up there. It is not a completely happy circumstance.

In some cases there are abuses of land, and they have been reported. There have been some unhappy circumstances for some of the lease holders with respect to the placement of fences, etc., in areas, which have caused some disputation. That does not mean to say that we throw the baby out with the bath water. There are opportunities for Anangu to earn good grazing rights for cattle within the area where the land itself is able to sustain that sort of grazing. We do not want to make a knee-jerk reaction to what is happening up there at the moment.

Certainly, it is being monitored by PIRSA and DEHAA; and, through education and partnership, we can bring about a negotiated outcome with Anangu by building on the experiences—the good and the bad—that have come with the opportunities for Anangu to gain income from those grazing rights. We will be addressing it. I know that the committee discussed it informally. I think that some members of the committee have visited some of the land that has been grazed. Certainly, some Anangu (not just in the AP lands but in the Northern Territory) have reported where grazing has caused disputation between groups.

Fires have been deliberately lit. That is not where we want to go. We do not want to get into that situation. We want to have good outcomes where Anangu are able to earn income and have alternatives to welfare.

The Hon. KATE REYNOLDS: I will be as brief as I can. I reiterate that this amendment requires that a report be developed by the minister that contains (and I paraphrase) the number of livestock grazed on the lands during a financial year, an inventory of grazing licences and leases, an account of the moneys received by Anangu Pitjantjatjara Yankunytjatjara from those leases and a summary of the findings of any assessment and monitoring programs conducted by the Pastoral Land Management Group to ensure that grazing ventures operating on the lands are not impacting on the long-term sustainability of the lands.

I think that anyone would find it pretty tough to argue that this is an unreasonable request for information. Whilst I take some heart from some of the minister's comments, it sounds to me as though he is saying that this work has begun and that much more is to be done. Again, I do not understand the government's reluctance to formalise that in legislation. However, I will do my very best to hold the minister to his suggestion that wording of a similar nature will be considered in stage 2.

Amendment negatived; clause passed.

Clause 29 passed.

Clause 30.

The CHAIRMAN: I have some indication of amendments to clause 30. I point out to the committee that, as it is a money clause, it is in erased type. Standing order 298 provides:

> No question shall be put in committee upon any such clause. The message transmitting the bill to the House of Assembly is required to indicate that the clause is deemed necessary to the bill.

The shorthand of that is that the matter must be transported to the other house for consideration before any amendments can be recommended. I note that the Hon. Ms Reynolds has, I think, three amendments to this clause, but it must be dealt with in that way. I do not need to do anything with it. It will be transmitted to the other place, and that house will insert a clause or an amendment, and then it will be sent back to us. This matter relates to money bills and the separation of the responsibilities of the two houses. Standing order 298 provides that we must proceed in that way.

The Hon. R.D. LAWSON: I seek a point of clarification on that ruling, Mr Chairman. I see that clause 30 is printed in erased type. However, the provisions of this schedule all relate to the conduct of elections, and I cannot—

The CHAIRMAN: I ask the honourable member to look at clause 31, which provides:

> Any money required for the purposes of an election under section 9 is to be paid out of the Consolidated Account (which is appropriated to the necessary extent).

That clause qualifies the whole of the clause as a money clause, so it must be treated according to the standing orders.

The Hon. R.D. LAWSON: I think that I should put on the record that I can quite understand clause 31, which specifically deals with costs and provides that money required for the purposes of election should be paid out of the consolidated fund. However, clause 30, which does not deal with any monetary matter at all, is a schedule relating to elections and the way in which they are conducted—advertising, etc.

The CHAIRMAN: My advice is that this section is inserting into the schedule after clause 30 a clause 31,

'Costs'. Clause 31 with which you are dealing as part of the principal part of the bill is the next clause for consideration, which is where we will be moving to, I suspect, right now.

Clause passed.

Clause 31.

The Hon. KATE REYNOLDS: I am also confused. Can you clarify for me when I will have the opportunity to deal with my amendment No. 35, which seeks to amend clause 30? Will that occur when the bill comes back to us?

The CHAIRMAN: When the bill comes back and the House of Assembly has inserted the clause, it is then a matter for consideration and recommendation by this committee. It is unfortunate that clause 31 is also a money clause, because that causes some confusion.

Clause passed.

Clause 32.

The Hon. KATE REYNOLDS: I move:

Page 34, lines 20 and 21—delete 'and the Executive Board of Anangu Pitjantjatjara Yankunytjatjara' and substitute:

, the Executive Board of Anangu Pitjantjatjara Yankunytjatjara and the Aboriginal Lands Parliamentary Standing Committee

I will also speak to my following two amendments (Nos 37 and 38). We believe these amendments seek to improve the review process proposed by the government in its amendments. We are suggesting that, first, the Aboriginal Lands Parliamentary Standing Committee be asked to provide a submission to the government. If we return briefly to our terms of reference, members will recall that our first term of reference is to review the operation of the three acts, which includes the Pitjantjatjara Land Rights Act. We can do that at any time ourselves as a committee but, for the reasons I have outlined previously, I am proposing that the act recognises the Aboriginal Lands Parliamentary Standing Committee and requires it to make a submission.

I am extremely frustrated with the lack of regard shown by the government and some of its agencies for the work of that committee. I do not expect this amendment to succeed, but I think it is important that we attempt to have that committee recognised and that we attempt, through legislation, to ensure that it is given the opportunity to provide a submission that might be considered with just a little more seriousness by the minister and the government than has previously occurred.

I should also make a couple of remarks about amendment Nos 37 and 38, because I think that will expedite matters a little. We are concerned that the time frames proposed by the government's amendments are too short. If changes are going to be made to the act—in particular to elections and so on—then that is a very short period of time for those changes to come to the parliament, to be properly considered here, to move through both houses and then to have those changes provided to whichever bodies or authorities might need them, particularly the electoral commissioner who now conducts elections. We believe it is a reasonable change and worthy of support and, although I think the government has already indicated that it is not comfortable with it, I will proceed with having these amendments put on the record.

The CHAIRMAN: The honourable member's amendment is to delete 'a review' and substitute 'an independent'.

The Hon. KATE REYNOLDS: I thought that was a later amendment, Mr Chairman. I will move that amendment now and speak to it. I move:

Page 34, line 16—Delete 'a review' and substitute 'an independent review'

So that in 100 years, if someone who does not have anything better to do is reading through *Hansard*, what we are doing now is going through the amendments that were circulated a couple of hours ago when I was listening to my son Joshua playing drums at Birdwood High School. I suspect that we will briefly consider those amendments, and then return to the amendments I have just spoken about, that is, the time line for a review of the act conducted by the minister.

This amendment seeks to have an independent review of the Pitjantjatjara act, and the following amendment spells out a little more information about that. It provides that a review would be conducted by a panel of three people selected by the Ombudsman of whom one must be an Anangu (within the meaning of the Pitjantjatjara Land Rights Act 1981). It also provides:

The minister must ensure that the Ombudsman is provided with the resources the Ombudsman reasonably requires for the purposes of carrying out functions under subsection (1a).

I think it is important that I place on the record the history of this amendment. Many hours ago, when we began this debate, the Hon. Nick Xenophon shared some of our concerns. Our concerns were not so much about the process for review; we were very concerned about the lack of transparency we felt was creeping into some of the parts of the act. In some informal discussion in between other discussion and debate, the Hon. Nick Xenophon suggested that we have something drafted that might allow for an improved review process.

I am not convinced that this is the best. My concerns stand about the government's reluctance to have the parliamentary standing committee involved, but the Hon. Nick Xenophon has worked with me to have these words proposed. I am not expecting that the government will support them. I am certainly very keen to hear what the Liberals have to say. This is an attempt to make sure that there is a bit of a step back about the review that will be required, in one form or another, under these changes that are expected to pass during this debate.

So, the amendment provides for a panel of three, one of whom must be Anangu, and it would require that the Ombudsman be provided with the resources that he or she—in this case, the Ombudsman—requires for the purposes of carrying out that function.

The Hon. R.D. LAWSON: I indicate that we will support this amendment to require that the review of the operation of the amendments being made by this bill is independent. We think this is an improvement to the provisions of the bill. Certainly, the government's own bill would suggest, by using the term 'review', that it would be a true review and not simply some internal analysis by the government itself of the operation of the amendments. We believe that, consistent with the spirit of the government's own bill, the government should accept an independent review of the operation of these amendments.

I must say that, in saying that we will support this proposal, this is the first proposal we have accepted that has not been the subject of consultation with people on the lands. The Hon. Kate Reynolds said, in response to an earlier contribution of mine, that another provision of the act had not been the subject of consultation. I accept that because, as a result of discussions following the formal consultation process, the AP executive and its legal advisers have come to some agreements on some other amendments. I pay tribute to Mr John Sterk, a solicitor of Alice Springs, who has been advising the APY executive in that regard. However, notwithstanding that, I believe that our support for an

independent review is entirely consistent with the government's own rhetoric, and we will hold it to its rhetoric on that.

The Hon. T.G. ROBERTS: I am not sure what rhetoric you are implying, but the government opposes the amendments. It is the responsibility of government to govern and it is the responsibility of government to police the application of its own legislation. I guess the numbers are there for it to go through. I am not quite sure what the situation is with the Ombudsman's Act or whether the Ombudsman has the power to set up an independent review process as indicated. The amendment has been done on the run, and I am not sure whether the mover of the amendment has that information to give to the government either, but with the lateness of the hour I guess we will take the clause through its processes in another place and discuss it as we go.

The Hon. KATE REYNOLDS: I am reasonably confident that this is possible. However, if on closer examination it is found not to be then I hope that the government will take the spirit of the intent and deal with that matter between the houses (I think that is the phrase that the minister used earlier when we were talking about the spelling of the word Ngaanyatjarra), so that is acceptable to me. I take this opportunity though to put on the record how frustrating it is for me as a legislator, as the South Australian Democrat spokesperson for Aboriginal affairs and for somebody who has spent their life working with groups and individuals and communities who do it tough, to be standing in this place debating something that has an effect on people whose first language is not English, when all this debate is conducted in English in highly technical terms that some of us understand some of the time. It is tough and for Anangu who are going to be affected by this amendment and by other amendments it is really unfortunate that we are not able in this place to provide interpreting services or even other ways of explaining what the hell it is we are talking about at this very late hour, far removed from their homelands and their communities.

I just want the record to show that I am quite uncomfortable with the way that whitefella democracy debates and makes its decisions in relation to people whose first language is not English. I wish that greater effort could be made to make it more inclusive for those people. Of course, if there were people who had been sitting in the gallery for hours and hours today, then they would probably deserve some recognition and acknowledgment for their stamina, patience and endurance, and I think that shows how strongly they feel about these matters, if of course they were here in the gallery, but of course we cannot comment on that.

The Hon. T.G. ROBERTS: Perhaps we could offer that the review be done by the standing committee as an alternative, if the mover of the amendment would like to consider that option.

The Hon. KATE REYNOLDS: I would certainly be very willing to consider that. The committee would, I assume, bring in some additional expertise to assist it with that; we have only one staff member. I seek some clarification about how far we are intending to progress this now. Are we intending to stay and go right through all of the amendments so we get a final decision on that now?

The Hon. R.D. LAWSON: The minister has indicated that the Aboriginal Lands Parliamentary Standing Committee might be an appropriate body to undertake a review of this kind. That would not be consistent with our support for an independent review. Whilst it is true that the government currently does not have a majority of the members of the committee, that would not ordinarily be the case. In accordance with usual parliamentary traditions, the government might be expected to have a majority of the members of the Aboriginal Lands Parliamentary Standing Committee and, in those circumstances, it would be inappropriate, it seems to me, for a committee controlled by the government to be analysing the government's own legislation.

We are talking here of course about the situation more than three years down the track from now; no-one knows what the composition or enthusiasm of the committee might be at that stage. We have supported, and deliberately supported, an independent review. That means one that is independent of the government and, we accept, independent of the parliament. We also believe it is important that a member of that review panel of three be an Anangu, and much as one might like to think that there might be an Anangu member of the parliament and a member of the parliamentary standing committee in three years, realistically, that is probably not going to happen. Accordingly, we would not be supporting a review of that kind, and we would prefer the government's existing bill if we were to go down that route.

The Hon. KATE REYNOLDS: I think the Hon. Robert Lawson has made some very important and relevant points and that we need to confine ourselves to the amendment before us. If the government finds that an independent review was completely unpalatable to it, then I guess that is something that could become the subject of debate in the other house or between the houses—I am not sure where that occurs, in Centre Hall or the Blue Room—but I think the Hon. Robert Lawson's points are well made.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 34, after line 18—Insert:

(1a) A review under this section must be conducted by a panel of 3 people selected by the Ombudsman of whom one must be an Anangu (within the meaning of the Pitjantjatjara Land Rights Act 1981).

(1b) The minister must ensure that the Ombudsman is provided with the resources the Ombudsman reasonably requires for the purposes of carrying out functions under subsection (1a).

I think we have covered the debate fairly extensively.

Amendment carried.

The Hon. KATE REYNOLDS: I move:

Page 34, lines 20 and 21—Delete 'and the Executive Board of Anangu Pitjantjatjara Yunkunytjatjara' and substitute ', the Executive Board of Anangu Pitjantjatjara Yunkunytjatjara and the Aboriginal Lands Parliamentary Standing Committee'.

I spoke to this amendment before. I want to ensure that the executive and the Aboriginal Lands Parliamentary Standing Committee are involved in the review process. We seek by way of the two following amendments to alter the time line to give the parliament and other statutory bodies (including the state Electoral Commissioner) a few more months to proceed with any recommendations or changes that would result from that review.

The Hon. R.D. LAWSON: The opposition supports this amendment. The only effect of this amendment, as I understand it—the member will correct me if I am wrong—is that, in conducting this independent review of the act, the views of not only APY but also the executive board and the Aboriginal Lands Parliamentary Standing Committee will be sought.

I indicated earlier why we do not support certain additional roles for the Aboriginal Lands Parliamentary Standing Committee as being outside of its mandate. However, a

matter such as this where the view of the committee is sought on the review of a piece of legislation might be appropriate. Whether or not the committee at the time will take up the offer to present its views is quite another matter, but I think the committee ought be given an opportunity to present to the independent review such views as it may have on the review. So, we support this amendment.

The Hon. T.G. ROBERTS: Opposed.

Amendment carried.

The Hon. KATE REYNOLDS: I move:

Page 34, line 22—Delete 'third' and substitute 'second'.

This is to give further time.

Amendment negatived.

The Hon. KATE REYNOLDS: I move:

Page 34, line 25—Delete '6' and substitute '3'.

Amendment negatived; clause as amended passed.

Schedule 1.

The Hon. KATE REYNOLDS: I move:

Page 34, after line 34—Insert:

3 Section 8(3) of the Pitjantjatjara Land Rights Act 1981 as amended by this act does not apply to the first annual general meeting held after the commencement of this clause.

Amendment negatived; schedule passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

LOCAL GOVERNMENT (LOCHIEL PARK LANDS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): 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 *Local Government (Lochiel Park Lands) Amendment Bill 2005* is a Bill that will protect the open space at Lochiel Park (to be known as the Lochiel Park Lands) for the use and enjoyment of all South Australians for generations to come.

The Rann Government has reversed a decision by the former Liberal Government to develop the entire Lochiel Park site for residential purposes and instead preserve 100% of the open space and develop only the land formerly occupied by the TAFE College and MFS Training Centre.

In 2004, the Premier announced the Lochiel Park development would become the nation's model 'Green Village' incorporating Ecologically Sustainable Development (ESD) technologies.

This is the first Act of Parliament that seeks to control the use of the Lochiel Park Lands and preserve the open space. The Bill will amend Schedule 8 of the *Local Government Act 1999* as well as the City of Campbelltown's Development Plan.

The Lochiel Park Lands will include a wetland system and an urban forest, created as part of the State Government's Urban Forest – Million Trees program. The Lochiel Park Lands will be integrated with the River Torrens Linear Park and will contribute to the health of the river ecosystem. A system of walking and cycling paths through the Lochiel Park Lands will provide access through the open space, connecting with the existing River Torrens Linear Park trail.

The urban forest will feature vegetation native to the City of Campbelltown area and will provide an important habitat for local fauna and bird species, act as a 'sink' for greenhouse gases and help to preserve flora species. The wetlands system will be established to collect and treat stormwater from the site and the surrounding residential area for reuse in the irrigation of parks and gardens.

The Lochiel Park Lands will be integrated with the 81-dwelling model 'green' village. This development will demonstrate leading-edge ESD technologies including innovative stormwater, wastewater and rainwater solutions, biodiversity and energy conservation measures and efficient building and urban design.

The Bill defines the Lochiel Park Lands as two distinct parcels of open space, which surround the future Lochiel Park 'green' village. On proclamation of this legislation, the Lochiel Park Lands will revert to the status of unalienated Crown Land, with a licence to the Land Management Corporation (LMC) to occupy the land for the purposes of establishing and maintaining the Lochiel Park Lands.

The responsible Minister will establish, in consultation with the City of Campbelltown (Council), a scheme to be undertaken by LMC to establish the Lochiel Park Lands. LMC will consult with Council in relation to the works to be undertaken in accordance with the scheme.

Following the establishment of the Lochiel Park Lands, LMC will occupy the land for a period of between 24 and 30 months after practical completion of the development. The land will then be placed under the care, control and management of the Council and the land will be classified as community land.

Schedule 1 of the legislation will require amendments to the Council's Development Plan to ensure consistency with this Bill. The LMC and the Council will jointly prepare a management plan for the Lochiel Park Lands, which will be finalised and adopted within two months following the transfer of the land to the Council.

The Bill prevents the Council from developing or adapting the Lochiel Park Lands for any purpose that restricts free access, or alters the use of any part of the Lochiel Park Lands. The Bill also requires the Council to take reasonable steps to preserve any vegetation within the Lochiel Park Lands and to maintain all existing infrastructure on the site.

The Bill will ensure the Lochiel Park Lands are protected for the enjoyment of all South Australians for future generations.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Local Government Act 1999*

4—Amendment of Schedule 8—Provisions relating to specific land

This clause amends Schedule 8 of the *Local Government Act 1999* to insert a new clause as follows:

11—Lochiel Park Lands

This clause provides for the ***Lochiel Park Lands*** (as defined in the measure) to be established as park lands and held for the benefit of the community.

On commencement of the clause, the Lochiel Park Lands are to revert to the status of unalienated Crown Land with a licence to be granted to the Land Management Corporation (***LMC***) to occupy the lands for the purpose of carrying out functions under the clause. The responsible Minister is to establish, in consultation with The Corporation of the City of Campbelltown (the ***Council***), a scheme specifying works to be undertaken by LMC to establish the Lochiel Park Lands as park lands. LMC is to consult with the Council on a regular basis while undertaking the works and is to continue to occupy the Lochiel Park Lands during that period and for a period of between 24 and 30 months after practical completion of the works (determined by the responsible Minister after consulting with the Council).

At any time after 24 months after practical completion, the Governor may, by proclamation, cancel the licence granted to LMC and place the land under the care, control and management of the Council (and if that is not done within 30 months after practical completion, the licence will be taken to be cancelled and the land placed under the care, control and management of the Council by force of the clause). On the Lochiel Park Lands land being placed under the care, control and management of the Council, the land will be taken to be classified as community land and the classification is irrevocable. The clause imposes certain obligations on the Council in relation to the ongoing management of the land and requires the Council (with the assistance of LMC) to prepare and adopt a management plan for the land.

Schedule 1—Amendment of Development Plan
1—Interpretation
This clause provides that references to ***the Development Plan*** in the Schedule are references to the Development Plan that relates to Campbelltown (City), as consolidated on 10 March 2005.
2—Amendment of Development Plan
This clause makes minor changes to the Development Plan to ensure consistency with the measure.

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

VICTORIA SQUARE BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): 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 April 2005 the Rann Government announced it would extend the Glenelg tramline from Victoria Square, down King William Street to the Adelaide Railway Station. This extension of Adelaide's tramline is a project that has long been desired and will bring light rail to North Terrace.

The *Victoria Square Bill 2005* (***the Bill***) is required to ensure that this iconic project can be realised whilst minimising the impact on the Square and ensure that it remains a significant public asset.

Victoria Square was dedicated in 1849 as public land for specific use as a Square and cannot be dealt with in a manner inconsistently with this use. This will be the second Act of Parliament that seeks to alter the use of Victoria Square.

The first was the *Victoria-square Thoroughfare Act 1883* which enabled a roadway to be constructed through the Square. A tramway was subsequently constructed and operated on that roadway. The existing tramline which terminates in the centre of the Square is located on that roadway. The Bill enables the Glenelg tramline in the Square to be relocated and the line extended along the edge of Victoria Square towards North Terrace and provides mechanisms to clarify the status of land in Victoria Square. Without the Bill, the tramline and Victoria Square stop would have to stay in the centre of the Square, remaining as an obstacle to the improvement of the Square.

To accommodate the extension project, the Bill designates land (known as the ***defined area*** and delineated in Schedule 1) in Victoria Square within which the tramline and a new stop can be constructed. The majority of construction works will be within the defined area. Any auxiliary tramline structures, such as poles to suspend overhead electricity wires, must also be constructed within the defined area. The Bill also enables the Minister, once the tramline is constructed, to dedicate a corridor of land within the defined area for the purposes of a tramline by deposit of a plan in the Lands Titles Registration Office. The effect of these dual provisions is that the much narrower final constructed tramline corridor, rather than the whole of the defined area, will be dedicated for the purposes of a tramline. The remaining land in the defined area will continue to be used as it is at the moment, either as parkland or roadway.

The Bill also provides a mechanism to clarify the legal status of existing uses of the Square and to enable the centre strip of Victoria Square (where the Victoria Square stop is currently located) to be designated as parkland once the new line and stop are operational and the remediation of the old tramline and stop in the centre of the Square is completed.

Between the 1880's and 1960's, King William Street bisected the Square from north to south. Electric trams operated along this alignment through the Square from 1909 to 1958. In 1965, the part of the street that passed through the Square was closed and was physically reinstated for public use as parkland. Records show that the legal status of this strip of land through the Square, which currently accommodates the fountain, is closed road. There are also four small portions of land in each corner of the Square whose legal status is also closed road. While these portions of closed road are currently physically used as parkland, their legal status does not correspond with this existing use. This Bill will also clarify the legal status of the diagonal roads that currently dissect the Square.

Since the strip of land through the centre of the Square has the legal status of closed road, the tramline extension could proceed through the centre of Victoria Square without further legislation (and would replicate the original tramline alignment). However, a centre alignment through the Square would ultimately take more land from Victoria Square, would divide the Square and would not provide the best access for pedestrians. The western alignment proposed in this Bill is preferred since it provides the best traffic management outcome, better integrates pedestrian activity towards the Adelaide central markets and leaves a larger area of the Square as a single unit. The western alignment also takes the least land from Victoria Square since the centre strip where the Glenelg tramline currently terminates will be returned to the Square for public use and will be legally dedicated as parkland after the extended tramline has been constructed.

The Government's *Adelaide City Park Lands Bill 2005* provides similar mechanisms to deal with status of land within the Adelaide City parklands and squares, however it is appropriate that this Bill, which deals with land in Victoria Square, deal with **all** land within the Square at the same time.

It is my intention that the centre strip that currently accommodates the fountain and the four small portions of land in each corner of the Square will be legally redesignated as parkland as soon as practical. Similarly, it is my intention that the diagonal roads will be designated as public roads established in accordance with the *Roads (Opening and Closing) Act 1991* at the same time. As I said previously, the centre strip where the Victoria Square stop is currently located will be designated as parkland once the new line and stop are operational.

I tabled a plan that shows the current legal status of land in Victoria Square and the proposed tramline corridor. The plan illustrates the legal status of land in Victoria Square and clearly demonstrates the actual land that will be taken up by the tramline. The legend on the plan indicates what the legal status of land in Victoria Square will be once this Bill is passed.

Although the alignment along the western edge of Victoria Square provides the greatest flexibility for future development of the Square, it does impact on some existing vegetation and on the statue of Sir Charles Cameron Kingston. There are up to 18 trees that may need to be removed along the proposed alignment in Victoria Square for the project. The trees form part of the overall planting in Victoria Square that, over the years, has become disjointed with no particular theme or context. Only one tree of those impacted by the tram alignment is deemed to be of sufficiently good condition, health and size to be worth consideration for transplanting.

The project creates an opportunity to improve Victoria Square as a significant public open space and the Government is working with the Adelaide City Council on a landscaping scheme to make the best use of that opportunity. That scheme will determine the form and type of trees to be established to replace those removed, the value of transplanting any trees and the best location for the Charles Cameron Kingston Memorial. The Government is aware of the significance the site has for Aboriginal people. The Tarndanya clan of the Kaurna people had their central camp near or in Victoria Square and it is important that developments in the Square recognise this.

The Adelaide City Council has been consulted on the tramway extension project and on this Bill and is supportive. The tramway extension is a priority project for the joint Adelaide City Council and State Government Capital City Committee. The Development Assessment Commission is currently considering the project and as part of this consideration a public consultation process will be undertaken.

This Bill will enable the Glenelg tramline to be extended along Victoria Square with the least amount of land taken from the Square and the best possible traffic management and pedestrian outcomes. The Bill also ensures that the legal status of land in Victoria Square is clarified and that the strip of Square where the tramline currently terminates can be given back to Victoria Square for public use.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

1—Short title
2—Commencement
These clauses are formal.
3—Interpretation
This clause defines certain terms used in the measure. In particular, it includes a definition of the ***defined area***, which

is the area within Victoria Square (depicted on the map in Schedule 1 of the measure) within which a tramline is proposed to be constructed.

4—Dedication of land for purposes of tramline

This clause provides that the Minister may, by deposit of a plan in the Lands Titles Registration Office, dedicate a corridor of land within the defined area for the purposes of a tramline. The Minister may exclude areas of public road from the dedicated corridor, so that those particular areas would remain dedicated as roads even if the tramline is built over them. The corridor may be subsequently varied, but only provided that it remains wholly within the defined area. The provision also provides for the dedicated land to be placed under the care, control and management of the Minister or another person or body and allows the Minister, by deposit of an instrument in the General Registry Office (the ***GRO***), to make any necessary consequential provision relating to the status, vesting or management of land.

5—Power to construct tramline etc

This clause gives the Minister responsible for the administration of the *Passenger Transport Act 1994* power to erect structures on land in the defined area and carry out other works on land in, or adjacent to, the defined area for the purpose of the construction and operation of a tramline in Victoria Square.

6—Designation of other land in Victoria Square as park land or as road

This clause allows the Minister, by deposit of plans in the GRO, to designate areas of closed road (depicted in Schedule 2) as being reserved for use as park land or as being incorporated into the Adelaide Park Lands and to designate land within Victoria Square that was, immediately before the commencement of the provision, being used as a road (or as part of a road) as being a public road or a part of a public road. Land designated as road may also be designated as having been established in accordance with the *Roads (Opening and Closing) Act 1991*.

The provision also provides for the determination of road boundaries (where the Surveyor-General has certified that there is uncertainty as to the location of the boundary) and allows the Minister, by deposit of an instrument in the GRO, to make any necessary consequential provision relating to the status, vesting or management of land.

7—Presumption as to closed road boundaries

This clause provides a conclusive presumption that the boundaries of the areas of closed road in the centre strip of Victoria Square are the same as the boundaries of the road authorised by the *Victoria-square Thoroughfare Act 1883*.

8—Notice of deposit in GRO

This clause requires the Minister to give public notice of the deposit of a plan or instrument in the GRO.

9—Duties of Registrar-General and other persons

This clause imposes a duty on the Registrar-General, and any other persons required or authorised under an Act or law to record instruments or transactions relating to land to take action necessary to give effect to actions under the measure.

Schedule 1—Defined area

This Schedule indicates the defined area within which the tramline is to be constructed.

Schedule 2—Areas of closed road

This Schedule shows the areas of closed road referred to in clauses 6 and 7.

Schedule 3—Related amendment

Part 1—Preliminary

1—Amendment provisions

This provision is formal.

Part 2—Amendment of *Passenger Transport Act 1994*

2—Amendment of Schedule 3—Public transport assets

This provision makes a minor consequential amendment to change a reference to the tram track from "Victoria Square (Adelaide) to Glenelg" to a reference to the tram track from "Adelaide to Glenelg".

The Hon. T.J. STEPHENS secured the adjournment of the debate.

ADJOURNMENT

At 11.10 p.m. the council adjourned until Wednesday 19 October at 2.15 p.m.