HOUSE OF ASSEMBLY

Wednesday 18 June 1997

ESTIMATES COMMITTEE B

Chairman:
The Hon. W.A. Matthew

Members:
Mr M.J. Atkinson
Mr J. Cummins
Mr M.R. De Laine
Mr I.F. Evans
Mrs R.K. Geraghty
Mr E.J. Meier

The Committee met at 11 a.m.

Courts Administration Authority, $54 108 000

Witness:
The Hon. K.T. Griffin, Attorney-General and Minister for Consumer Affairs.

The Hon. J.J. Doyle, Chief Justice, attended on behalf of the Courts Administration Authority.

Departmental Advisers:
Mr J. Witham, State Courts Administrator.
Mr A. Bodzioch, Deputy State Courts Administrator.
Mr I. Rohde, Manager, Information and Services Division.
Mr T. O'Rourke, Manager, Corporate Resources.
Mr M. Church, Manager, Finance.

The CHAIRMAN: As all members would be aware, the Committee hearings are relatively informal and there is no need for members to rise when they ask or answer questions. The Committee will determine the approximate time for consideration of proposed payments, to facilitate the changeover of departmental advisers. Changes to the composition of the Committee will be notified as they occur. Members should ensure that they have provided the Chair with a completed request to be discharged form. If the Attorney undertakes to supply information at a later date it must be in a form suitable for insertion in *Hansard* and two copies submitted no later than Friday 4 July to the Clerk of the House of Assembly.

I propose to allow the Attorney and the lead speaker for the Opposition time to make opening statements, if desired, of about 10 minutes but no longer than 15 minutes. There will be a flexible approach in relation to giving the call for the asking of questions, based on three questions per member, alternating sides. Members will also be allowed to a ask a brief supplementary question to conclude a line of questioning, but I stress that supplementary questions will be the exception rather than the rule; indeed, if the Attorney answers the question fully there should be no need for a supplementary question.

Subject to the convenience of the Committee, members outside the Committee who desire to ask questions on a line of questioning currently being undertaken by the Committee will be permitted to do so once the line of questioning on an item has been exhausted by other members of the Committee. An indication to the Chair in advance from the member outside the Committee wishing to ask a question is necessary.

Questions must be based on lines of expenditure as revealed in the Estimates of Receipts and Payments, Printed Paper No. 2. Reference may also be made to other budget documentation, including Program Estimates and Information, Capital Works Program, and Financial Statement. Members must identify the page number of the financial paper to which their question relates. Questions not asked at the end of the day may be placed on the next sitting day's House of Assembly Notice Paper.

I remind the Attorney that there is no formal facility for the tabling of documents before the Committee. However, documents can be supplied to the Chair for distribution to the Committee. The incorporation of material in *Hansard* is permitted on the same basis as applies in the House of Assembly; that is, that it is purely statistical and limited to one page in length. All questions are to be directed to the Attorney through the Chair, not to the Attorney's advisers. The Attorney may refer questions to his advisers for a response if he so desires. I also advise that for the purposes of the Committee some freedom will be allowed for television coverage by allowing a short period of filming from the northern gallery of this Chamber.

I declare the proposed payments open for examination and refer members to pages 26 and 162 to 164 in the Estimates of Receipts and Payments and to pages 171 to 182 in the Program Estimates and Information. Attorney, do you wish to make an opening statement?

The Hon. K.T. Griffin: Rather than making a detailed opening statement, it may be helpful to refresh the memory of members of the Committee as to the structure of the Courts Administration Authority. It is an independent statutory authority created by statute of the South Australian Parliament. It is independent of Government in the sense that it cannot be given directions but, nevertheless, depends for its financing upon a budget that has to be approved in the first instance by the Attorney-General and ultimately by the Parliament in the Appropriation Bill.

The Courts Administration Authority is overseen by the judicial council which comprises the Chief Justice, the Chief Judge of the District Court and the Chief Magistrate, and that body actually acts very much like a board of directors and has the ultimate responsibility for the decisions taken by the authority. It has the responsibility for managing the administration of all the courts in the State. The Chief Executive Officer is Mr John Witham, the State Courts Administrator, and his deputy is Mr Adam Bodzioch.

As you have indicated, Mr Chairman, I will be primarily responsible for answering the questions but, on past performance, I will have no hesitation in referring questions to the honourable the Chief Justice as appropriate and to other officers. I do not need to say any more. Members know broadly the outline of the things we have been doing. We might as well get on with the business.

The CHAIRMAN: Does the member for Spence wish to make an opening statement?

Mr ATKINSON: Thank you, Sir. First, I think we will run ahead of schedule today, because the Opposition does not have an exhaustive list of questions, although we do have a number of generic questions which we ask across all portfolios and which I propose to put on notice at the end of today's proceedings. Secondly, I would like to compliment the Attorney on his prompt answering of questions on notice, his frank answering of those questions and his general helpfulness from a parliamentary point of view. He is certainly a model for other Ministers.

My first question concerns the Courts Administration Authority generally. Section 6 of the Legal Practitioners Act is phrased in possibly an odd way for legislation. It reads:

> It is Parliament's intention that the legal profession should continue to be a fused profession of barristers and solicitors. Voluntary establishment of a separate bar is not, however, inconsistent with that intention, nor is it inconsistent with that intention for legal practitioners to confine themselves to practise as solicitors.

It goes on to say:

> An undertaking by a legal practitioner to practise solely as a barrister or to practise solely as a solicitor is contrary to public policy and void.

That is a fairly strong statement by the Parliament. However, I understand that the Supreme Court requires of candidates for QC that they sign an undertaking in these terms:

> I hereby undertake that if I practise in future as a solicitor or in partnership or association with a solicitor I will not while so practising use or permit my partners or associates to attribute to me in connection with any such legal practice the title of QC or Queen's Counsel or any other indicia of the office of Queen's Counsel.

What are the consequences of a candidate for taking silk refusing to sign this undertaking?

The Hon. K.T. Griffin: Perhaps I will make a few general remarks and then ask the honourable the Chief Justice also to make observations on the undertaking and on the general issue of Queen's Counsel. The honourable member's question was actually dealt with to some extent by me the week before last in the Legislative Council when the Hon. Anne Levy raised the same question and chastised me for not responding to a letter which I had received from Mr Sumner in about December. I was suitably apologetic for my delay in replying and indicated that, having had the opportunity to answer in the Legislative Council, I would now be prepared to answer the question and send him a copy of the *Hansard*.

I indicated that there were differing views about the role of Queens Counsel in a fused profession. I think I indicated that the undertaking to which the member refers was first proposed and required by the former Chief Justice, Len King. It is in a form quite different from the previous undertaking, before that section to which the member refers was enacted by the Parliament. I indicated then and I indicate now that there are mixed views about the role of a Queen's Counsel who is a person recognised by ultimately the judges of the court as one who has excelled in the profession as particularly an advocate and that there is a view that, having been awarded that title, a person should be able to practise in whatever form he or she likes.

However, there is a contrary view that, because it is a preferment ultimately by the Governor in Council, the person who is a Queen's Counsel ought to be available for every citizen who is able to afford the services of that Queen's Counsel and not limited to the clients of a particular firm where the Queen's Counsel might be practising in a firm, rather than as a barrister solely.

There is a view held by Justice Perry, who made his views known at the time—I think on the public record—that having been in a firm and been appointed as a Queen's Counsel he found it in a sense liberating to be required to go to the separate Bar and be able to act for both sides, that is, for different sides of a particular argument—not in the same case but in different cases—in a way which gave him an opportunity adequately to represent citizens who required his experience, whether it is in the industrial area, on the one hand, acting for an employer or, on the other hand, acting for an employee, or whether it is a civil matter, acting on the one occasion for a plaintiff and on another occasion in a similar matter for a defendant. He took the view—and it is a view shared by a number of practitioners—that his services then became available to a much wider group than previously because, if he was a member of a firm, there would be people who would not brief him because they would be afraid of the issues of confidentiality and the fact that he was in a firm that might act for the other side. There is a whole range of issues.

I have taken the view that the undertaking required certainly does not concern me, and I recognise that it concerns others, including the Hon. Mr Sumner. However, if there are suggestions about the way in which we should otherwise deal with it, I am pleased to receive them. As the appointments are made on the recommendations of the Chief Justice, it might be appropriate if I ask the Chief Justice to identify from his perspective the issues relating particularly to that undertaking and, if he wishes, more generally the process for appointment.

The Hon. the Chief Justice: I have had some correspondence with Mr Sumner about the matter, although I did not realise it would arise today. The Attorney has probably put his finger on the essential issue, that is, as Queen's Counsel are recognised as leaders of the Bar and are an important part of the functioning of the Bar, it is generally agreed that they should be available to as wide a range of people as possible and, from my own experience in a firm for seven years and just knowing the profession generally, it is true that some firms tend to be identified with particular interests such that if a person was a QC in a particular type of firm regular clients of that firm might not be happy to see that QC appearing for an opposing interest.

I have no doubt in my mind that the individual QC would do his best whomever he was appearing for, but (and this cannot be proved) there is a fairly general feeling in the profession that there is a bit of a problem with QCs in firms where firms tend to be linked to a particular interest. As we well know, it can happen in the industrial area or with firms that regularly represent large corporate clients.

I suppose that is what it comes down to. It is not an adverse comment on the integrity of the individuals: it is problem of perception and a problem that can affect clients and also solicitors. Although this is now relatively ancient history, I do remember when I was practising in a firm, even in our own firm there was a slight reluctance to brief silks from other firms because it tended to imply that your firm could not do the job, and there was always the lingering concern about losing clients. In the end, you always do what is best for your client, but there are these perceptions.

I cannot point to any facts and figures that prove the view we have taken is correct, but that is what it comes down to: ensuring that QCs are people at the separate bar and are not perceived to have links to firms which, in turn, have links to particular interests and, as a result, you tend to get QCs who are at least thought to be not appropriate or reluctant to act for

particular interests. It is a matter on which views can differ. In the end, if Parliament decided how it should be, that is what we would have to do.

Mr ATKINSON: I have a supplementary question. Parliament has decided how it should be in section 6 of the Legal Practitioners Act. Parliament has decided that such an undertaking is contrary to public policy and void and said so in section 6(3) of the Legal Practitioners Act. It might be appropriate for the Attorney-General to bring a Government Bill to Parliament to repeal that subsection or, indeed, the whole section. Nevertheless, it remains in our law and the appearance is that the Chief Justice is requiring candidates for becoming QC to sign an undertaking which, in the words of an enactment of this Parliament, 'is contrary to public policy and void'. My original question was: what are the consequences for a lawyer who declines to sign the undertaking?

The Hon. K.T. Griffin: I am not sure. I am prepared to take it on notice. The Chief Justice is prepared to answer the question.

The Hon. the Chief Justice: At the moment the position is that the person would not be recommended to the Government for appointment. The effect of the undertaking is that if the person chooses to go into a firm they are not to make use of the title. That may seem a fine distinction, but that is the effect of the undertaking—not to use the title if they are in a firm. That touches on another aspect that I did not give in my answer. There is a view that firms would be anxious to recruit silks into the firms and, again, I can understand it from their point of view; they are in business as well as practising the law. There is a fear that the larger firms would have the ability, by offering very attractive packages, to recruit silks into firms, thereby weakening the independent bar and eroding what we are trying to establish. That is the rationale behind the form of the undertaking. The undertaking was there when I came into office. I have had correspondence with Mr Sumner about it. It is a matter on which views can legitimately differ. I took the view, rightly or wrongly, that it was not in conflict with the Act. I accept that Mr Sumner firmly holds the view that it is contrary to the spirit of the Act. If Parliament thought it was appropriate to intervene, the courts, and I, in particular, would have to abide by what Parliament decided.

Mr ATKINSON: Staying with that topic, I ask the Attorney-General: what are the consequences of signing the undertaking and later breaching the undertaking?

The Hon. K.T. Griffin: My experience of the legal profession is that when they sign an undertaking they do not breach it.

Mr ATKINSON: Mr Sumner, in his letter dated 20 December, states:

> Most reports on restrictive practices in the legal profession that have been done over recent years have pointed to the anti-competitive features of a divided profession and the loss of choice for consumers.

He goes on to point out that before 1979 QCs were permitted to practise with a firm of solicitors. Mr Sumner concludes:

> In view of the community consensus about the problems of access to justice and the recent statements of the Chief Justice supporting these, I am surprised that the court is maintaining and supporting a system which has the effect of increasing costs to clients and thereby reducing access to justice.

Does the Attorney-General regard the undertaking required to be signed as anti-competitive and one that increases the costs of justice and, therefore, access to justice?

The Hon. K.T. Griffin: I do not think there is any evidence that it increases the costs of access to justice. One would presume that a Queen's Counsel practising in a firm is likely to be charging whatever rates the market will bear, much as legal practitioners who are Queen's Counsel practising at the separate bar do at the present time—except when they are dealing with Government, where there is a very tight hold on the fees that are paid. But away from Government, they are entitled to charge what they believe the market can stand.

The Hon. Mr Sumner's letter really puts the finger on the issue, that is: is it a loss of choice for consumers for a Queen's Counsel to be practising at the independent bar, whereas the Chief Justice and I have said there is likely to be a greater range of choice available to consumers, rather than the suggestion that the Hon. Mr Sumner is making that, somehow or another, this is anti-competitive? It may, I suppose, be anti-competitive from the perspective of the Queen's Counsel, although I would argue that, if a Queen's Counsel is out in the marketplace rubbing shoulders with every other Queen's Counsel competent in a particular area, that person is as exposed to any amount of competition as any other practitioner in that position, and probably more so than being in a legal firm. So far as consumers are concerned, if they have the opportunity in fact as well as in perception to select a Queen's Counsel of his or her choice without having to worry about what might be a problem if that QC is with a firm who acts for the other side or another group, then I would have thought that the undertaking is not anti-competitive. I just do not accept the argument that it is anti-competitive. I ask the Chief Justice whether he wants to add anything.

The Hon. the Chief Justice: I think I would answer that question more confidently than I would the first—the way in which the first question was put initially, I believe, raises a philosophical issue. I do not think that there are any costs or anti-competitive effects, and there are two things I would touch on. Firms tend to have much higher overhead structures: I believe that most firms would have overhead structures around about 60 to 70 per cent of their fees—for barristers they are probably in the range of 20, 30, or 40 per cent. This cannot be proved, but there is a view which I share that silks in firms, because they are contributing to a higher overhead structure, would probably tend to charge more than they do at the separate bar. Of course, an individual might choose not to, but they are sharing a much higher overhead structure.

There is another way in which I believe maintaining the institution of silk can help to hold costs down. I am not sure whether the ultimate thrust of this is that the institution of silks or QCs should be done away with or not—if it is pointing that way—but there is a recognised higher level of fees for QCs, and that tends to mean that barristers who have not been appointed a QC do not charge that level of fees because people will say, 'What right do you have to charge that level of fees if you have not been appointed a silk?' So, in that sense, it can be said the institution at least tends to hold costs down. I do not think it can be shown that there are any anti-competitive consequences of what we are doing, but I accept that there is a real philosophical issue in terms of the freedom of the individual, and that is something that I suppose can only be resolved at that philosophical level.

Mr CUMMINS: Referring generally to the program descriptions, can the Attorney-General advise the Committee of progress on the construction of the new Adelaide Magi-

strates Court, the expected cost of the project and the anticipated date for completion?

The Hon. K.T. Griffin: I think members will remember that in the early 1990s the old Magistrates Court building became uninhabitable and that the tram barn was used as a temporary court. For the past six or seven years that building has been a temporary court, and the project on the Adelaide Magistrates Court site had been deferred on a number of occasions by the previous Government. When we looked at the accommodation in the tram barn and at a future plan for the courts precinct we took the view that the Magistrates Court ought to be redeveloped, so the work started in November 1995.

The timetable is very much on time; it is scheduled to be ready for opening some time in October. It will have much better facilities for magistrates as well as for witnesses, litigants and those who work in the building—Correctional Services, DPP, police, victim support services, court companions and so on. It will be a modern, up-to-date structure. The projected cash flow for the project is $22 784 770; payments made to the month of May this year amount to $19 842 282. It is within budget and on time. That, I think, is a significant achievement for the contractors, Baulderstone Hornibrook, as well as those in the courts and Government who are working on that project.

Some extras have had to be added in. There is the call centre, media facilities, security control room, shelving for the library, video audio equipment and fibre optic cabling which possibly will be installed; and in addition to that a decision was made to locate the Coroner's Court in what we call the Art Deco building on the southern side in King William Street. Although there was about $750 000 in the Magistrates Court funding for that, the Courts Administration Authority is itself funding an extra $850 000 so that that building will be ready for occupation at about the same time. I understand that since the plans were first drawn there have been changes in the laws relating to disability, access and occupational health and safety, and that added a bit to the original project cost.

It is one of those projects which has been well managed, is long overdue and will be well received by all those who either work in or go to the Magistrates Court, remembering that it is the Magistrates Court which really does the bulk of the work affecting ordinary men, women and young people in South Australia.

Mr CUMMINS: Referring to the program description Broad Objectives, recently there has been much media attention given to the sentences imposed by our courts and in particular to the suggestion that there is a lack of consistency in the sentences imposed. Can the Chief Justice, at the invitation of the Attorney-General, advise the Committee of any procedures that the courts have in place to ensure consistency of sentences imposed by the judiciary and does the Chief Justice share the media view that there is a problem with consistency in the sentences imposed by our courts?

The Hon. K.T. Griffin: I am happy to invite the Chief Justice to respond to that.

The Hon. the Chief Justice: I do not think there is a problem with consistency, but I would not blame people for responding sceptically to that answer. The problem is: what does consistency in sentencing really mean? It is an important principle of sentencing that like crimes should be given like sentences, but the difficulty is that sentencing also involves individual considerations. For instance, if a man aged 45 with a record commits an offence, the same offence could not be dealt with in the same way as if it was committed by a young man of 18 who has no prior record. Whilst we agree that consistency is an important feature of sentencing, when you bear in mind the individual aspects of each case which must be taken into account, even when you have like crimes you rarely have like offenders, although in a broad sense they might be similar. You could have two offenders both of whom are mature males either with a good record or without a good record. So, I understand fully what the public mean when they say most sentences do not seem to be consistent. All I can say is that in most cases if the public knew all the facts hopefully they would at least see that the sentences vary on either side of a rough band of uniformity and according to individual circumstances.

As to what the courts are doing to ensure consistency, it is a function of the Court of Criminal Appeal when appeals are brought before it to review sentences to see whether they are too high or too low. Each month when the Court of Criminal Appeal sits probably about half of its cases involve sentence appeals. So, the court is regularly checking sentences. It checks them in an individual sense by looking at a particular case and from time to time it reviews standards.

About a year ago we heard the case of *Mangelsdorf* which involved a number of sentences for drug convictions. We indicated for the guidance of courts below what should be the approximate approach to sentencing for trading in drugs such as heroin, amphetamines and cannabis. More recently, about five cases came to us at one time involving sentences for the offence of drive whilst disqualified. In our decision in that case we will attempt to indicate what should be the broad approach. The short answer to the question is that the Court of Criminal Appeal is regularly reviewing sentences in an individual sense and, where it can, with a view to indicating general guidelines, although it is not always able to do that.

Secondly, as I have said, overall I do not think there are any significant problems with consistency. Of course, you will get variations and differences of opinion. I understand why it seems as though there are problems of consistency, and I think the answer lies in the fact that in the end all sentences must take account of individual circumstances, and they vary so widely that you simply cannot confine sentences to a conveniently narrow consistent band.

Mr CUMMINS: The installation of a video link between the Remand Centre and the Adelaide Magistrates Court was an initiative of this Government in 1995. Referring generally to the program descriptions, will the Attorney-General advise of the usage of the video link?

The Hon. K.T. Griffin: The Courts Administration Authority was concerned about the transport of prisoners to the Magistrates Court. In about October 1995, the video link was established between the Magistrates Court and the Remand Centre. My understanding is that about 35 per cent of matters which otherwise would have meant the transportation of a prisoner to the court for remand were actually dealt with during the first 10 months of the operation of that facility. I am told that there has been some slowing down of the numbers of those who currently appear by video link, but that issue is being addressed by the Chief Magistrate. The use of any new technology for the purpose of ensuring a reduction in the disruption of various activities to do with the courts on the one hand and prisoners on the other must be supported. A video link to the Remand Centre was very much supported by me and the Chief Magistrate. As I said, it seems to have fallen into a bit of a decline for the moment. Hopeful-

ly, that will pick up on the basis of some additional work that the Chief Magistrate is doing.

The State Courts Administrator has just mentioned to me that data is being collected to determine whether the video link can be extended to other courts. The advantage of it is that you do not have to disrupt the daytime schedules of prisoners or the prisons, transport them to court for what might be just a matter of a few minutes' appearance and then take them back with all the attendant costs that are incurred. There are some other applications for video remands about which I will ask the Deputy State Courts Administrator to make some observations.

Mr Bodzioch: The monitoring of the use of the video facility is important because there may well be good reasons to extend its application to other magistrates courts and institutions. In addition, we are looking at the possibility of using that technology in higher courts. Some instances where video conferencing could be implemented—and we have made no decision yet—are as follows: arraignment when the defendant pleads not guilty; bail applications and applications to vary bail; status conferences; pre-trial conferences; and preliminary applications where a date for trial has not already been fixed. In essence, we are trying to cut down on the amount of traffic between the institutions and courts and unnecessarily using up court time and inconveniencing prisoners and counsel.

The Hon. the Chief Justice: This is an interesting area, and it might be wondered why we are not using it more than we do already. This is only anecdotal, but I think that prisoners prefer not to be brought to the courts, and we are conscious of the importance of not doing that unless we have to. The issue of cost is not as obvious as it may seem because if a van is going from the Adelaide Remand Centre to the court carrying 10 people and it will accommodate 20, then the incremental cost of transporting an extra 10 is virtually zero. So, to warrant the cost of the facility you must be sure that it will be used to a sufficient extent. As I said, the costs are not always as obvious as they may seem. You may think that if a prisoner is not taken it will save money, whereas if there are empty seats in the van you have not actually saved anything.

The other issue which is a factor concerns the legal profession. One advantage of a prisoner being brought to court is that if the lawyer is there they can sit down face to face whilst waiting for the matter to come on or afterwards. For that reason, on occasions the legal profession tends to like the prisoner to be brought to court because that is a convenient and efficient way for them to see the prisoner and get instructions. It is not simply a matter of saying, 'Let's have cameras in every court and do this with every case.' It does not work as easily as that. However, we are conscious of the advantages of it. As the costs of technology are tending to come down, the Courts Administration Authority is keen to use it wherever possible because it has distinct advantages, but there are a number of factors that limit the situations when we can use it.

Mr ATKINSON: I refer to the 'Civil Jurisdiction—Magistrates Court' line on page 174. Why was the expenditure for the Magistrates Court system about $1 million (18 per cent) over the budget estimate for the 1996-97 financial year?

Mr O'Rourke: The reason for the increase of $1 million relates completely to the civil reengineering of the computing system in the Magistrates Court. The reason for its showing an expenditure of a higher level than the estimate is that we reallocated the funds provided for reengineering of the computer projects to the areas where the expenditure was incurred. Previously they would have been apportioned under the support services functions within the Program Estimates. We reallocated them to show them where we were incurring the expenditure.

Mr ATKINSON: I refer to the civil jurisdiction case flow management targets referred to on page 179 of the Program Estimates. What was the outcome of the discussions about improving case flow that took place between the court and the legal profession, such discussions being referred to on page 10 of the 1996 report of the Supreme Court judges?

The Hon. the Chief Justice: The short answer is that it is still in progress. We are constantly reviewing this. The picture is different in all courts. In the Supreme Court we are dealing with an increasingly diminishing volume of cases but cases of increasing complexity, and they are becoming less suited to a standard management approach. We are finding that we have to start managing them individually. We are in the course of preparing a revised set of rules for case management that will come into being probably in the next six to nine months in the Supreme Court civil jurisdiction, and this will emphasise a much greater differential or individualised case management.

In the District Court the position is a bit the same, although probably its list is not as dominated as is ours by large cases, all of which require individual management. Likewise, the District Court is gradually slipping behind in terms of the standards. The picture is not satisfactory, but we cannot find any simple answers. When we say to the profession, 'Why are cases taking so long?', we get a couple of answers: first, that they are processing them as fast as they can, which at times makes me wonder whether the standards that we initially set were realistic. Those standards were set more or less intuitively—in other words, there was not a statistical measure that enabled them to say that 90 per cent of cases should be dealt with in a certain number of days. People thought about it and said that that was a fair target and that that is what they would fix. At times I wonder whether our targets were realistic.

From the courts' perspective the picture is rather different. When the very steps in case management come up to the court in theory they should come to the court for a given step, which should be dealt, and the next time they appear in court they should be moving onto the next step. We are finding that, with a given step, instead of one step it will be adjourned two or three times and they will come back two, three or four times before that step is completed. It is not easy to put your finger on the problem. We are examining whether the problem is professional inefficiency or, on the other hand, whether we are bringing them up too soon and whether we should be loosening the time lines.

Both the profession and the court have to look at whether we are putting into civil litigation things that do not need to be there; in other words, can we simplify the whole process and permit parties to come to court with less pre-trial preparation being done?

We have to be sure that when the case comes it is ready, but one thing for which there is a strong move now and which I am confident will come into force in the next 12 months is to substantially change the rules in civil litigation relating to discovery of documents. Under the present rules each party has to provide the other party with a full list of all documents relevant to the case. We find these days in the major commercial matters, of which we are getting more and more, that that can become one of the single most expensive parts of the

whole case. There can be hundreds of thousands of relevant documents, or, in many cases, at least thousands, and the cost of discovery in big cases can be in excess of $100 000.

A proposal, which has not be agreed to but I believe it will be, is to limit discovery to documents that are directly relevant to the case instead of documents that simply might be relevant to the case, which is the present test. We are also looking at, in effect, whether every step of the process does value add to the final outcome. We are reviewing the steps to see whether we can reduce the work that has to be done.

The short answer is that we are slipping behind. It may be because our standards were not or are not realistic for the sort of cases we are hearing today. They were set at a time when, for the Supreme Court and the District Court, 50 per cent or more of the litigation was road and industrial accidents. With them mainly dropping out of the system we are now dealing with a different type of case. It may be that our standards are not realistic for the casemix we have got. My personal view is that the profession can lift its game in this area, but the court can also probably lift its game. We are looking at our own procedures to ensure that we are not making parties do things unnecessarily and adding to costs and time.

The courts are still working with the profession on it and the profession is cooperating with us. Everyone has the same interest. It is in the interests of all of us to reduce the time and cost of cases. It is a complex matter and, while we are making progress there are no easy answers.

Mr ATKINSON: On the subject of case flow management, what will the Attorney be doing to address the problem noted in the 1996 judges report on page 11 under the heading, Criminal Jurisdiction' where it states:

> The authority's annual report indicates that the volume of work is more than the two courts can manage within existing time standards.

The Hon. K.T. Griffin: It is a question of the time standards. They were fixed by the court. I will ask the Chief Justice to comment, but they were fixed before he became Chief Justice. I understand that there was no input by the Attorney-General or the Government of the day to endeavour to establish appropriate standards. On the one hand, if the standards were set without consultation with Government it means that no consideration is given to the cost of meeting those standards, and that is an important consideration.

I know that attention has been given to that issue. Part of the problem is the lack of criminal courtrooms to deal with the number of cases that are now going to court. It was not a problem in the past because in many cases, even criminal cases, there could have been a plea of guilty at the door of the court and the trial fell through or a *nolle prosequi* might have been entered by the DPP at short notice for a variety of reasons. With the committal unit being established by the DPP back in 1994, we have seen a lot more cases filtered out of the system at a much earlier stage, so many more criminal cases now go to trial than occurred before.

From a Government perspective, we are not putting more resources into it presently. We are looking with the Courts Administration Authority at the way in which additional courtrooms might be made available, but I know the court is taking some steps through the management of its own resources to try to get the best value for money in dealing with those issues relating to the criminal jurisdiction. I ask the Chief Justice to add to that.

The Hon. the Chief Justice: This is one of the issues on which we are spending a lot of time. Our standards are for 90 per cent of cases to commence within 90 days of first arraignment, which means the first time the accused appears in court. The standard on that in the District and Supreme Courts, on our achievement rate from 1994-95 to 1996-97, has slipped from 21 per cent, which in any event is low, to 8 per cent. The second part of the standard is for 98 per cent of cases to commence within 180 days. On that we have slipped from 74 per cent to 61 per cent. Once again, I wonder whether the initial standard was realistic.

I think any practitioner will tell you that three months from first appearance in the higher court to actual commencement of the trial is a fairly short time line. I have no doubt it was set as a target, to keep everyone up to the mark, but maybe it is a target which is unrealistic. Once again, you will probably think my favourite word is 'complex', but it is a complex problem. I chair a committee that is looking at this very problem. In the first stage, you must look at police resources and how quickly they get the papers to the DPP, once the case leaves the Magistrates Court. Then there are DPP resources in getting the information filed and getting the papers to the defence. Then there are professional practices and defence resources in getting the case ready for trial.

We have found—and this is what we are hearing—that DPP says, 'The police take a while to get the papers to us,' and then when the defence says, 'We are unhappy,' and the DPP say, 'We do not have necessarily all the resources to process it as quickly as we would like,' the court tends to focus on bit on the private profession, which says, 'Well, we are restricted because Legal Aid does not provide unlimited funding.' The court plays a part in it also, and then you get into matters of listing practices.

I was talking only this morning to our criminal listings coordinator, who was making the point to me that we are getting more long criminal cases than we used to, and she said (although she does not have the figures at her fingertips) she thinks we are getting more pleas of guilty late in the piece in these cases. This means that if, say, two weeks ahead of a 10 day case the person says they will plead guilty, it is impossible to list other cases to make use of that time. In fact, the only way you can do it—and we do it to some extent—is by deliberately over-listing.

In other words, if in this coming November we know we have eight judges in the criminal jurisdiction, we might list enough cases to occupy nine or even 9.5 judges. If a few cases fall through, all is well. In effect, then you get rid of all of them. On the other side of the coin, if cases do not fall through, you are in the position of having to say to people, 'We know you expected your case to be heard this month. However, it will not, because we do not have a judge available.' Not only is that inefficient, because it means the final preparation tends to get done twice, but also I am confident—although I do not know for sure—that it must be very traumatic for victims and people involved in crimes to think they are going to court in, say, November, and then about a week ahead to hear that their case cannot be listed.

We watch what we call that over-listing formula very carefully and we keep statistics on cases not reached. At the moment it is averaging about two or three a month, but there were two months this year, about three or four months ago, when we had respectively eight and six cases not reached. When you see that coming up in the monthly statistics, it gives you a fright. You think that if that carries on for a few more months, we will have an unacceptable result for the year. As it happened, it was followed by two or three months of no cases not reached, so our average figure is looking all right. However, the reality is that we had two months where,

added together, there were 14 cases where everyone was expecting the case to be heard and the court having to saying that it did not have a judge.

It is a complex business getting this over-listing right, that is, listing more cases than you can actually handle, but you are making an informed judgment of how many are likely to fall through. All you can rely on is experience, and the pattern tends to alter over time. Once again you are looking at, I suppose, the volume of cases coming in, the resources of police, DPP and the profession, and then the number of courts, the number of judges, and then things like the rate of guilty plea, and so forth, that affect your ability to make the best use you can of the resources that you have.

With respect to that area, I referred earlier to a committee which I am chairing and which is looking specifically at our pretrial processes, because we are finding the same thing in crime as in civil: although we case manage the cases, they are taking too long through those stages, and we are looking again at ways of making sure that we case manage better than we are. Once again, that tends to come down to matters such as Legal Aid practices, professional practices and things like that. At the moment the figures suggest we are fighting a losing battle. We are slipping gradually further behind and so we are doing what we can. That is all I can say.

The Hon. K.T. Griffin: I make one other observation. A few months ago we translated Judge Anderson, who was Master of the Supreme Court, across to the District Court. He had actually been sitting in the District Court but was not a permanent feature of that court, so he has been moved with the concurrence of the Chief Justice to become a judge of the District Court on their complement. That will make a little difference. I am not saying it will make a large difference. Again, Judge Sulan was appointed a few weeks ago, and that overlaps about two to three months with Judge Taylor whose position he will ultimately fill. Judge Taylor retires at the end of July. That was designed to try to just build a little more into the system to assist in getting rid of at least some of the backlog which has occurred.

Whilst it is of concern that there are those difficulties which are being experienced by the court, we are still in a fairly good position in South Australia compared with most if not all other States. I think that is an important consideration. We are, as I said earlier, looking at some other means by which we can provide some additional facilities to the courts.

It is not the sort of decision that you make quickly to, say, appoint an additional judge, because the cost of a District Court judge is approximately $350 000, including support staff. A Supreme Court judge costs about $550 000 including support staff, and they are appointed until age 70. So, no Government wants to make a decision to appoint additional resources, at least in the short term, without being convinced that there is a longer-term need. You can, of course, make an appointment which is over-complement on the basis that you will not appoint someone to replace another judge who might be retiring in two or three years time. However, that is not a particularly satisfactory way of dealing with the processes.

Mr EVANS: Referring to page 178 of Program Estimates and Information, under Program Descriptions, one of the 1996-97 targets is the recruitment of Aboriginal youth justice coordinators for the Port Augusta office. Can the Attorney-General advise the Committee of the steps taken by the Courts Administration Authority and the judiciary to improve court services for the Aboriginal people in South Australia?

The Hon. K.T. Griffin: I think the courts have taken a fairly important lead in dealing with Aboriginal people, and I will ask the Chief Justice in a moment to comment on some of the judicial education initiatives which are occurring in that area. There is an Aboriginal youth justice coordinator in the Port Augusta office dealing with Aboriginal young offenders in the juvenile justice system, and that has proved to be particularly effective.

With respect to cases dealt with by the Aboriginal youth justice coordinator in the year to April 1997, approximately 72 per cent were disposed of within five weeks, whereas in the previous year up to April 1996, 38 per cent had been disposed of. There is a genuine attempt to deal with youth justice issues among Aboriginal people. The judiciary is involved in cultural awareness programs and I will ask the Chief Justice to make an observation about that. The staff of the Courts Administration Authority has been running an Aboriginal cross cultural awareness program for staff and there are six Aboriginal employees presently within the ranks of the authority in a complement of 600 employees. The authority is working towards introducing an Aboriginal recruitment, training, education and career development strategy.

There are other issues relating to that in which the court is involved. Some of the judges of the District Court are presently discussing conducting some court proceedings in the Aboriginal lands—the Pitjantjatjara lands. Magistrates do circuits up there regularly, so there is a fairly conscious decision taken by the courts to place an emphasis on dealing with Aboriginal defendants, who all our surveys indicate are over represented in the criminal justice system.

The Hon. the Chief Justice: We provide a cross cultural training awareness for our own staff and, on the figures I have over four years, 222 of our staff have participated in these programs. That is an important aspect of our work. At the level of the judiciary, particularly through the work of Justice Mullighan, we have had two or three cultural awareness days and they have been particularly significant. That has involved the judiciary: magistrates, the District Court, the Supreme Court and other specialist courts going to the Aboriginal Centre for a day where, in effect, we go to their place and let them tell us about how they see the interaction between indigenous people and the system of justice. That has my strong support. It is very important for us to understand their perspective of the justice system and also to give them a chance to see us at a less formal level.

We are anxious at a less formal level to understand their problems because we all know there are great problems for indigenous people in a number of areas in relation to our legal system. We are working hard at that with their assistance. That is already having a lot of spin-offs. There is an increasing number of contacts in various ways between the judiciary, the legal system and the indigenous peoples. They are coming to see that, although at times it may seem as if the legal system is hostile to them, increasingly they are coming to understand that people who administer the legal system are not hostile to them and are trying to work with them in ways which will ensure that particularly criminal justice is administered in a way that is most beneficial.

The Attorney-General referred to the fact that magistrates already go on circuit to the Pitjantjatjara lands and we are looking at having circuits of the Supreme and District Courts there, but that is not as simple as it may seem because they tend to be cases where more often the person is in custody and that creates a problem up there and, because they intend

to involve more serious crimes, it is not quite so simple to hear evidence and do things like that in remote locations. We are currently exploring the possibility of having circuits of the higher courts up there and conducting them in circumstances that would make them more meaningful for the indigenous people, particularly the people who are remote area indigenous people.

A lot is happening there and it is one of those things that is not easy to summarise but, first, I think it is important and, secondly, I have been very encouraged to see increasingly signs that the indigenous people are coming to us more and more often and saying, 'We are doing this; are you interested in it?' Sometimes we have to say it is a Government matter and not for us, but increasingly they are coming and talking to us and we are doing what we can to respond, to show an interest and make a contribution wherever we can.

Mr EVANS: As a supplementary question, is it the intention to expand that program to cover other cultural backgrounds that may be over represented in the courts system?

The Hon. the Chief Justice: I would like to. First, for reasons of resources we have not and, secondly, I tend to think that we have a particular obligation to the indigenous peoples but I agree wholeheartedly in principle that, if you are doing something for a particular race or cultural group, other groups can say, 'Why won't you do the same for us?' I think we should and I am confident that we will, but resources are limited and at the moment, because we have a particular obligation to Australia's indigenous people, that is where we are committing the resources.

Mr EVANS: Again on page 178 another specific target is 'Access to registry services by clients in remote country areas'. Can the Attorney advise the Committee of this initiative?

The Hon. K.T. Griffin: Several years ago some concern was expressed about magistrates no longer residing in regional parts of South Australia. There has also been some concern about courts not sitting in particular country locations and, as a result of those concerns, the Courts Administration Authority has embarked upon some pilot projects which ultimately will be proved to be realistic permanent options. Equipment has been installed at Christies Beach Magistrates Court, in the Victor Harbor council chambers and the Victor Harbor courtroom which enables video conferencing between people who live in Victor Harbor, where there is a fairly large number of people, and the court. My information is that since the equipment began official operation on 24 February 1997 up to the end of May, a period of three months, the equipment has been used on 23 occasions for two community service applications, 13 civil arrest warrants, six civil inquiries and two time to pay applications. I will ask Mr Witham to speak on it in a moment.

I am very supportive of the project because it does give people in regional South Australia a much better contact with those who make decisions in the court environment and, having looked at Victor Harbor, there is some discussion about extending the same sort of service to Mount Gambier. Even though magistrates are there on a weekly basis, that sort of video link may prove to be an added benefit to people who live in Mount Gambier and who want to deal directly with the court officers in Adelaide. It provides a good service. It is innovative and I commend the authority for its initiative and I invite Mr Witham to make any additional comments.

Mr Witham: This initiative arose out of the court process review, which is a project where we look at all the operations of the court in every jurisdiction. The overall objective is to make the courts function better in every sense of the word. Our first project was the minor civil claims system which is an area where most of our 60 000 civil customers go. When we looked at who was using the court and who was not using the court, people we thought ought to be using the court and who would seem to be typical clients, such as milkies and newsagents, were not using it. The reasons for this were several but one was access to the courts. If someone is pursuing a relatively small amount of money, they will not travel many kilometres. Whilst Victor Harbor is hardly a remote area—it has a catchment population of about 28 000 people—the nearest court previously for lodging a minor civil claim was Christies Beach, which is a fair distance to go to claim $50 or $100.

Many courts throughout the State are used presently for court hearings on a circuit basis, yet there are no court facilities for registry purposes and so on. We believe that, by the provision of video booths at local government offices, people will be able to talk face-to-face with a person at a suburban or city registry and perform any transaction that could be performed in person. It is an access issue. There is nothing in it for the authority in terms of revenue or anything like that. It is very much trying to take services to people in the country.

Mr EVANS: Page 178 also indicates a review of the current fines enforcement system. How will this review be progressed?

The Hon. K.T. Griffin: There is some concern about the way in which we enforce our fines in the sense that there is not, at times, as diligent follow-up as would be necessary to get the best response from those defendants who have not paid their fines. The Courts Administration Authority has done some work on this issue. Mr Wayne Johns, who is the Principal Registrar of the Magistrates Court, has been seconded to the Attorney-General's Department for three months to head up a group which is looking at ways in which we can change our system of fine enforcement. We are looking for something that is simple, easy to explain to the public, denies opportunity for abuse of the process and is effective in its primary objective of improving payment rates.

Mr ATKINSON: Too late.

The Hon. K.T. Griffin: Western Australia, for example, has a system which is quite different; New South Wales and Queensland are adopting a new system of more constant follow-up. I agree that it may be that we need some good luck, but it also helps if we have some good processes in place and good follow-up. The longer one leaves a fine unpaid the more difficult it is to ensure that ultimately it is paid. The ultimate sanction is still imprisonment for fine default, although there are a number of other options between the incurring of the fine and imprisonment. There are substantial costs involved in putting fine defaulters into prison if they have not paid their debt.

The Courts Administration Authority did propose as a core to a revised system the establishment of a debt collections registry to encourage the earliest possible collection of newly imposed fines and to reduce the amount of currently overdue fines. That will become a greater issue with the new expiation system, because there is now more readily available community service obligations as an alternative to payment of an expiation notice where hardship is suffered. It is of concern that, again, there is a significantly greater cost involved in community service orders being imposed and served than in

getting someone to pay by instalments or take some other course which ultimately means that the fine is paid.

There is also the perception that if a fine defaulter does not pay and gets away with it, the integrity of the justice system is in question. We are putting together a project which will seek to develop a much better system for payment of fines. The approach which is being proposed is in the nature of a scoping exercise: examination of other schemes, in New South Wales and Queensland in particular; design of processes and performance including impacts on organisations; technology; interface issues; consideration of commercial payment arrangements, for example, credit; alternative payment arrangements; whether any changes are required to the Sheriff's Act, Criminal Law (Sentencing) Act and Expiation of Offences Act; court administration issues such as a debt collection registry, to which I have referred; and a variety of other issues. The emphasis is on trying to find a much more appropriate and effective system than we presently have for ensuring that people pay their fines.

The Hon. the Chief Justice: I have one short comment, picking up on Mr Atkinson's comment. It may be a bit of dream but if we can change the philosophy of the system it can work. At the moment, the philosophy is that a fine is imposed and, if by the date of payment it has not been paid, then enforcement measures are taken. We can try to swing it around to a system more like credit management used by stores. In other words, if a person is at court when the fine is imposed, a court official says, 'Now this fine has been imposed. How will you organise payment?', and right at that stage we talk to them about it. If they are not present, we telephone them and say, 'Although you were not there today, you have been fined X dollars. You have X days to pay; how will you organise that?' The underlying philosophy is to move it completely from a default system to a management system and work with the fine payers. There are obvious benefits for the State as a whole: we can reduce enforcement costs.

I think that there is reason to think that that should work with quite a few people. It is not just a newfangled scheme: it is changing the philosophy of collecting fines and trying to work cooperatively with the persons fined to help them organise their lives because that is what many of them require.

Mr ATKINSON: I was interested in the Attorney-General's and Chief Justice's responses to the member for Davenport's question about Aboriginal youth justice coordinators recruited for Port Augusta and mentioned on page 178 of the Program Estimates. The weekly reports of crime in the Port Augusta newspaper, *The Transcontinental*, are much longer than four weeks' worth of crime reports in my local paper for Adelaide's western suburbs, *Weekly Times Messenger*. From doorknocking in Port Augusta West and from listening to accounts from Port Augusta residents, I have formed the impression that Port Augusta is the most lawless place in South Australia. There are some places in the Port Augusta region where the Government's writ does not run.

Apart from the Aboriginal youth justice coordinators, what methods has the Government been using to restore confidence in criminal justice in Port Augusta, or does the Attorney-General say that no special methods are required for Port Augusta?

The Hon. K.T. Griffin: Special measures have been taken to address these issues. It is a fluctuating problem. The information which we have is that, certainly, it is more likely to be a serious problem in the warmer months of the year than when it is colder. Predominantly, Aboriginal young people are involved. Parents of those Aboriginal young people are concerned to endeavour to do something about it, but feel powerless to do so.

A number of initiatives have been taken. In 1995, a coordinating committee was established in Port Augusta comprising all of the relevant agencies and personnel who have a responsibility in this area—family and community services, police, a youth justice coordinator, the local council and a number of others, all directed towards at least talking to each other about how to deal with the problem. Part of the difficulty in the past has been that people have not really talked to each other as effectively as they are now doing in trying to develop some strategies to prevent this from occurring in the first place. I certainly would not agree that Port Augusta is one of the most lawless places in the State. It has problems which are, I believe, peculiar to Port Augusta, particularly because of the focus of Aboriginal young people. That is why it is important for us to endeavour to ultimately provide job opportunities, and that has been one of the focuses of the Government in relation to the sale of Australian National: to ensure that there is some replacement for any potential loss of employment in the town as a result of that sale. So, we have placed a very strong emphasis on that.

I believe that from about March to May a special police task force was established there to place a special emphasis upon detection and apprehension of offenders who were causing concern to the community. The local council raised some issues about the lack of Aboriginal aides in the area and lack of policing numbers, and my understanding is that the Minister for Police has indicated that the Commissioner is proposing—if he has not already done so—to appoint additional police aides in the locality and at least several more police officers. But the strategy, whether it is in Port Augusta or elsewhere, is that if there is a particular problem which becomes obvious and which needs additional targeted police activity then the Police Commissioner will have in the nature of a flying squad. I believe that the Chairman, as Minister for Emergency Services, was responsible for ensuring that that got off the ground as a core initiative.

It is not an easy problem to solve. We can read in the press all of the events that occur, whether they are in Port Augusta or elsewhere. It is not just a Government problem, it is not something which can be flick passed to Government alone or to police. It is a matter for the whole community. That is one of the important issues which has arisen out of the coordinating committee which has been established in Port Augusta, that people do have to take some responsibility for their own lives and affairs. The Crime Prevention Committee in Port Augusta now has a closer relationship with the local council. I had some discussions with both the committee and the Mayor last year with a view to trying to bring them closer together. There was a stand-off, and I do not believe that is good for crime prevention or for the council or for the community. As a result, they are now working much more closely together in relation to some strategic programs to deal with crime prevention.

Street Legal is supported by the State Crime Prevention Unit and by other areas of State Government but, as a result of some Commonwealth Government funding, I believe something like $30 000 or $40 000 was withdrawn. But, having made contact with Senator Vanstone, the appropriate Federal Minister, she has indicated that there are other programs which have taken the place of the programs which have been cut and the local community has been encouraged

to make application for funds to enable programs like Street Legal to continue. There is also the bail hostel, funded through ATSIC, which has been closed because ATSIC removed its funds. We have made representations to the Federal Minister about that, because the Juvenile Justice Review picked up that bail hostels for Aboriginal young people are a pressing need, and to have the funding removed by ATSIC really kicks one in the stomach when trying to deal with these sorts of issues.

We have made representations through the Federal Minister for some action to be taken in relation to that, and it may well be an issue which arises at the Aboriginal Justice Summit in Canberra in July, which I will be attending. It is all very well for ATSIC to cut its funds and say that the Federal Government has cut its funds, but if it cuts it at the coalface where it affects directly the interests of Aboriginal people—Aboriginal young offenders in particular—whilst it may maintain its administrative structure, I do not believe that it is setting its priorities correctly. And that is an issue that we have taken up through the Federal Government. So, there are those sorts of issues which are being addressed. It is not an easy problem to solve. I know the local member has concerns about it. He and I have had a number of discussions, all directed towards trying to put in place some programs which will not just pick up young offenders and put them in detention, but will have some longer term benefits for that community.

Mr ATKINSON: I refer the Committee to pages 175 and 181 of the Program Estimates relating to the Coroner. Why does there appear to be a predicted increase in employees under the Coroner's budget line on page 175—an increase on the 1996-97 estimate of 5.6 full-time equivalents to a 1997-98 estimate of 8.7—when the workload of the Coroner's office, as shown on page 181 of the Program Estimates, suggests no significant increase in workload?

The Hon. K.T. Griffin: There has been a long-running problem in the Coroner's office that we inherited when we came to Government about the level of police resourcing in the Coroner's office. That was a problem which appeared to be insoluble. There was a complaint by police that they were being required to do too much administrative work and not enough investigative work. There was a problem about police officers who were allocated to that office being moved away by the Police Commissioner to other tasks. There was a whole range of issues, and it was really quite unsatisfactory. I am pleased to say it has been resolved, and it has been resolved largely because the Police Commissioner has agreed that there should be a restructuring of the office to ensure that those who are police officers are involved in doing police investigative work for the Coroner and are dedicated to that. So, there has been a core of police officers reduced, I believe, from seven to four, and they will be involved in investigation. There has been a transfer of resources from police to the Courts Administration Authority to enable those resources to be expended upon administrative support staff. That is the essence of the change.

Mr ATKINSON: Still referring to page 181 in the Program Estimates, I notice that one of the 1997-98 specific targets/objectives is a review of legislation pertaining to the disposal of human remains. Can the Attorney-General inform us of that specific target?

The Hon. K.T. Griffin: It is not involving the issue of how long a burial plot lease should be, which was one of the most contentious issues that arose in a select committee that some of my colleagues were on about 10 years ago. It is more directed towards a review of process. The Registrar of Births, Deaths and Marriages has initiated a review of legislation. Currently, when a Coroner issues an authority to dispose of human remains, the body can either be buried or an application can be made to the Registrar of Births, Deaths and Marriages for a cremation permit. There is a broad agreement across all the stakeholders—the Coroner, Births Deaths and Marriages and the funeral industry—which have been consulted so far that it is not appropriate for Births, Deaths and Marriages to be involved at all in authorising disposal; rather, they should deal only with the registration of death. I have supported a review of the legislation, which is to be coordinated by the Registrar and the manager of the Coroner's Office. It is anticipated that this will be done over several months and that there will be legislation at the end of it.

The issues for discussion include the removal of the need for a separate authority for disposal by cremation and burial, the removal of the need for medical practitioners to have paper work checked by another medical practitioner, the introduction of medical review of cause of death and so on. So, it is focused upon streamlining processes and to make it a bit easier for medical practitioners, the Coroner, the bereaved relatives, police and everybody else. That is the focus of it. That more contentious area of the length of leases for burial plots is not one of the issues that I will buy into.

Mr MEIER: I refer to the following specific target/objective at page 181 of Program Estimates:

> Contracting out of the conveyance of deceased persons in the metropolitan area (to Services SA through the Forensic Science Centre).

I understand that this has been something of a vexed issue for many years but it would appear that a resolution has finally been achieved. Can the Attorney elaborate?

The Hon. K.T. Griffin: This is another of the longstanding problems that we have solved, fortunately, involving both the Coroner and police. The difficulty was that police were collecting the bodies, and it is hardly a responsibility of police officers to be collecting bodies and delivering them to the Mortuary. It was a longstanding problem. There has been a transfer of resources ($129 000 a year) from the police to the Courts Administration Authority. That has equated to the cost of leasing the two coronial ambulances plus the funding of two senior constables. This was equivalent to the amount that was transferred to the police when the ambulance service withdrew from providing the service some years previously.

One has to remember that the ambulance service was involved at one stage. The ambulance officers said, 'It's no longer our job to pick up the bodies when they're dead, it's our job to pick up the bodies when they're alive.' So they moved out. Then police took it over; and now it is being dissolved out of police. The Courts Administration Authority considered contracting out through public tender and called for expressions of interest through public advertisement, but no outside agency which could have provided the service at significant savings made a bid. There were concerns about access to certain areas and potential conflict of interest particularly for the funeral industry, which would have been the most competitive of the potential tenderers; and so it made the expression of interest from the Forensic Science Centre the most viable in a practical sense.

The amount that has been contracted with Services SA is $135 000 per annum, which is paid monthly by the Courts Administration Authority to Services SA. Forensic Science Mortuary technicians provide a 24-hour seven day a week

conveyance service for the Coroner within an agreed and specified area of the State. Outside that area police officers authorise the local funeral director to undertake the conveyance on behalf of the Coroner. The authority is responsible for the payment of funeral directors who conduct conveyances outside the designated metropolitan area. So it is another problem that has been resolved, and I think to the satisfaction of everybody who has been involved. The Chairman, as Minister for Emergency Services, was again involved in helping us to get to a solution on that.

Mr MEIER: I note the following statement on page 178 of the Program Estimates under Specific Targets/Objectives:

> The outsourcing of in-court management of prisoners within Magistrates Courts has been completed.

Can the Attorney advise on the completion of the outsourcing and the benefits to the court of this initiative?

The Hon. K.T. Griffin: This is another longstanding problem which we have resolved, fortunately. It was a problem particularly for police and the Magistrates Court. There were difficulties for police who would frequently have to drop their normal policing duties to pick up prisoners and bring them to the Magistrates Court. There were all sorts of difficulties with both delay and the Correctional Services institutions about availability of prisoners for court.

Frequently in my discussions with the Chief Magistrate he expressed some frustration that prisoners were not delivered when the courts were able to and wanted to hear particular matters. On one occasion there was a matter involving I think the Corporations Law where there was a body of four or five highly paid legal counsel in the court and the prisoner was not delivered to the court for several hours, well after the scheduled starting time. So you had the problem of resources being idle and you had difficulties in coordinating those adequately for the courts.

Fortunately the problem has been resolved and my discussions with the Chief Magistrate only a week or so ago indicated that he was delighted with the way in which the new outsourcing contract was operating. As a consequence of moving to an outsourced environment an agency's coordinating centre (which compromised police, corrections, Family and Community Services and Courts Administration Authority) has been established and it has been instrumental in achieving change within the various agencies. I think it is important to recognise that there are those agencies involved in bringing prisoners to court and dealing with them, and if you do not have proper coordination and even consultation and communication it can become something of a nightmare. It is working well. I will ask Mr Witham if he wants to add anything to the observations I have made.

Mr Witham: We carried out a post-implementation review in March this year. The judiciary and court officers at each of the court locations were contacted and we have had discussions with the police and all the major players to see how the system is working. Apart from very few teething problems, which were inevitable, services have been improved at every location. In a nutshell, we are delighted with the new setup.

Mr MEIER: I note the following reference at page 182 of the Program Estimates:

> New courts software system has been successfully tendered to another State's courts and is being considered for use for several other States and overseas courts.

What is the potential for the case management system to be marketed to other courts both here in Australia and overseas?

The Hon. K.T. Griffin: I am happy to handball that to Mr Witham and the Chief Justice, if he wishes to add anything. It is a good initiative. It shows that South Australia is at the forefront of case management and the processing of that, and we have been seeking to ensure that what we have in South Australia really takes hold in other jurisdictions in Australia and overseas. I will get Mr Rohde, who has had the carriage of this, to deal with it in detail.

Mr Rohde: I am designing the new case management system to replace the existing system, which has been in use for varying periods over a period of up to eight years. We have been attempting to satisfy the different requirements of 40 jurisdictions through the one system. Looking at the inherent capability of that design, we have recognised that the software at least has the potential to meet the needs of other courts, not just the courts of South Australia but outside South Australia both nationally and internationally.

Currently, Australia's courts spend in excess of $30 million per annum just on their day-to-day IT systems and service needs. In addition to this figure, many courts like ours have old systems that need to be replaced. If you add the high cost of development, the time taken for development and the attendant risk of development, this figure of $30 million increases substantially.

The authority has invited those other courts to consider using its software rather than undertaking the development themselves. Ultimately, all participating courts can benefit from such an approach. Since the development costs are shared across many courts, the ongoing costs of maintenance and enhancement will also be shared.

In terms of the opportunities to be pursued, the authority's software has been bid for by EDS through its company UPE in Malaysia. It is ranked in the top two tenders for a system to go across the whole five jurisdictions within Malaysia nationally. No decision has yet been reached on that tender.

DMR Consulting, an Australian company, which is a subsidiary of Amdahl, has tendered the new system in response to two separate requests for offers for two of the larger States of Australia. The authority has entered into a memorandum of understanding with DMR to facilitate that tender bid. One of those States—and for confidentiality reasons we are not able to mention which one at this stage; it is still subject to an announcement by that State and its Attorney-General—tendered the software for ultimate extension throughout all jurisdictions. So, the potential for our software to be used in that State is substantial.

Presentations have also been given to the Federal Family Court, Western Australian courts, New South Wales courts and Tasmanian courts. Through SAGRIC International (the South Australian organisation) the proposal has also been put to the courts of Papua New Guinea, and the progress on that proposal is subject to completion of a study that is being funded by AusAid entitled The Legal Strengthening Project. DMR has also responded to a registration of interest in relation to the New Zealand courts, but of course that registration of interest stage is still very preliminary.

In terms of the future, plain logic suggests that all courts should use the South Australian system. Those who have seen it have extolled its wide functionality and the simplicity of its design so that one system meets the need of all jurisdictions. Therefore, the courts are somewhat optimistic that this initiative will lead to recouping some of the costs of the development and also to a reduction in long-term costs.

However, we need to temper that with the parochial view—'the not invented here syndrome'—and strong

preferences which other courts might have for particular hardware and software environments. Nevertheless, from a business perspective the system offers a good and sound solution. It can lead only to advantages for litigants, law firms and participating courts.

Mr ATKINSON: I refer the Attorney to page 173 of the Program Estimates and the resources summary, which shows that capital expenditure for 1996-97 is 19 per cent above the 1996-97 estimate. So far as employment is concerned, full-time equivalents are 13 above the 1996-97 estimate. What is the explanation for this?

Mr O'Rourke: The reason for the $18 million as quoted as opposed to the $21.9 million revised is the Adelaide Magistrates Court redevelopment, which is on schedule. In addition, other minor works have been undertaken by the Courts Administration Authority in respect of the Holden Hill redevelopment and the Coroner's Court relocation to the AMC. Preliminary work is being done on that, and that has incurred a cost. Additional minor works have been carried out by the authority in relation to occupational health and safety matters that were found within buildings.

Mr ATKINSON: I am quite prepared to accept that it involves mainly the Magistrates Court, but why is it 19 per cent above the estimate?

The Hon. K.T. Griffin: I will ask Mr O'Rourke to correct me if I am wrong, but on my understanding the work has been ahead of schedule. In addition to that, as I indicated earlier, the Courts Administration Australia is putting in $850 000 in total for the Coroner's Court facilities. In the budget, it was $740 000-odd as part of the Adelaide Magistrates Court redevelopment, but because we decided to put the Coroner's Court in the art deco building there was an additional cost to outfit it and make some other modifications which the Courts Administration Authority is paying out of its reserves. As Mr O'Rourke says, there are some additional minor works, which all add up, but there is no blow-out in the cost of the Magistrates Court. In fact, as I said earlier, it is on target.

Mr ATKINSON: I am a little confused. Mr O'Rourke said the Magistrates Court was on target, but the Attorney-General said that it was ahead of target. Where precisely is the Magistrates Court?

Mr O'Rourke: The timing of claims is ahead of schedule; that is where the discrepancy occurred.

Mr ATKINSON: I refer to page 182 of the Program Estimates, being support services. What is the explanation for the Courts Administration Authority being unable to obtain experienced staff as indicated on page 182, where it reads 'Loss of staff to other reporting agencies'?

Mr Witham: Court reporting is becoming a very sought after profession. The emergence of computer-aided transcription greatly enhances the productivity of court reporters and makes them relatively less expensive than other methods of reporting. There are not that many avenues for the training of people to gain these skills. South Australia is in many respects a training ground for court reporters. As the demand for court reporters has increased, so have the salary levels in certain areas.

In other States the salaries for court reporters have increased and court reporters generally coming through now are fairly young and quite interested in moving around, and there are good opportunities for court reporters virtually anywhere. We have lost people to the United Kingdom, the United States and other States of Australia. It is that sort of profession. It is like the IT industry in that people can move around. We are coming to grips with that. We are switching to real time reporting in the near future, or hope to, and we hope that will encourage our own reporters to stay in South Australia.

Mr ATKINSON: I refer to page 179 of the Program Estimates, specific targets/objectives, and recall that we had legislation on mediation before the Parliament last year. I notice that one of the specific targets/objectives is mediation of minor civil claims successfully trialled in Adelaide. Could the Attorney tell us more about this?

The Hon. K.T. Griffin: I am a strong supporter of mediation and alternative dispute resolution. Ultimately people who end up in the courts system will suffer the costs of having to pay for legal representation and the personal trauma of going through a difficult litigious process. We did enact legislation, as the honourable member may recall, which sought to bring to a common standard the legislative base for mediation and alternative dispute resolution across the courts in South Australia.

The Adelaide Magistrates Court began a pilot project in May 1996 in relation to mediation, and that related to minor civil claims. I am told that the parties are offered a mediation conference with a trained court officer soon after an offence is lodged. If the mediation is successful the agreed terms are recorded as a judgment. If one party does not attend, the matter is referred to a magistrate for default judgment. If mediation is not successful, the matter is listed for trial with the advantage of the issues having been already identified, and that results in a more efficient trial process.

From May 1996 to April 1997, in the 12 months of its operation, 80 cases were set for mediation, 23 were settled, 13 were adjourned for parties to provide more information, 29 went to trial, and 15 were set for mediation but were resolved before mediation. According to the Magistrate, Mr Cannon, there is a growing acceptance of the process as an effective means of resolving minor civil claims. They have also introduced directions hearings in defended minor civil claims, which again the magistrates regard as having been very effective, reducing the trial waiting times from eight to seven weeks. In some instances waiting times have been only three to four weeks. If a matter is urgent and a magistrate is available, it can be listed virtually the same day.

The direction hearing statistics in the period May 1996 to April 1997 showed that 1 791 matters had been for directions hearings. Of that a consent to judgment has been recorded in 312 (or 17 per cent) of cases; 346 (or 19 per cent) cases were settled or discontinued after direction hearing but before trial; 405 (or 22 per cent) cases were struck out or dismissed, and default judgment entered; adjourned cases totalled 153 (or 8 per cent); cases listed for trial totalled 547 (or 30 per cent); cases cancelled prior to hearing totalled 28 (or 1 per cent); and in that period 58 (or 3 per cent) went to mediation. The conclusion of an evaluation is that the impact of directions hearings and mediation on case load management have shown a marked decrease in matters proceeding to trial.

The Hon. the Chief Justice: The courts are encouraging the use of mediation, and the trial in the minor civil claims area seems to have been particularly successful. It arose out of the court process review to which the Attorney referred earlier, that is, examining each stage of the process and seeing what we can do—to value add or make it simpler. So far it has worked well.

The CHAIRMAN: As there are no further questions on this line, I declare the examination of the vote completed and

thank members of the Courts Administration Authority for their attendance.

[Sitting suspended from 1 to 2 p.m.]

State Electoral Office, $5 312 000

Departmental Advisers:

Mr S. Tully, Acting Electoral Commissioner.
Mr P. Brennan, Financial Officer.

The CHAIRMAN: I declare open for examination the proposed payments for the State Electoral Office line for $5 312 000 and refer members to pages 74 and 165 to 167 in the Estimates of Receipts and Payments booklet and pages 183 to 192 in the Program Estimates and Information booklet.

The Hon. K.T. Griffin: I do not intend to make an opening statement.

The CHAIRMAN: Does the member for Spence, as lead speaker for the Opposition, wish to make an opening statement?

Mr ATKINSON: No. I refer to page 189 in the Program Estimates and, in particular, under Specific Targets/ Objectives, 'Liaison with other State organisations on roll update mechanisms'. I would have thought that, as a result of the postal ballot system used in the recent local government elections in most local government areas, a vast number of envelopes would have been returned 'No longer at this address', and the State Electoral Office would go through a process of objection to remove the people named on those addresses from the electoral roll. The member for Davenport nods with enthusiasm about their being removed from the roll, which confirms our suspicions! How many people will be removed from the roll by objection process if those objection processes are fulfilled, and in what month could we expect they would be removed from the roll?

The Hon. K.T. Griffin: I invite the Acting State Electoral Commissioner to respond.

Mr Tully: I have invited the Australian Electoral Commission to have complete access to the 'return to sender' envelopes that were returned to the electoral office in its capacity as returning authority for the local government elections that it conducted. The Australian Electoral Commission, as I understand it, is considering what action it will take on those return to senders, bearing in mind that it has three other activities happening at the moment.

First, it is currently conducting a vacant habitations review. It is also doing an address match with Australia Post to see whether there are any enrolment cards or enrolment activity that could be initiated as a result of that match. Of course, there is also the possibility of a close of roll with the proposed constitutional convention occurring. So, bearing those three major activities in mind, I have not heard back from the Australian Electoral Commission in its capacity as registrar, if you like, on whether it sees the need to do further work on the return to sender mail that we have received, given its activities in the three areas I have mentioned.

Mr ATKINSON: I take it that the vacant habitation review works by the Australian Electoral Commission becoming aware of dwellings that are vacant and then writing to either the householder or the last known person on the roll at that address, and is this conducted entirely by mail rather than by officials doorknocking the dwellings?

Mr Tully: My understanding is there is a visitation process involved with the vacant habitation review, so there is a visit to the premises.

Mr ATKINSON: As a supplementary question, does the dwelling receive mail and then a visit, or does it just receive a visit?

Mr Tully: I am not fully aware of the processes that are being undertaken in all areas, so I can take that on notice and get back to the honourable member.

The Hon. K.T. Griffin: We will ensure that that is done where the answers to questions are not readily available. Members will appreciate that Mr Tully was the Deputy Electoral Commissioner only for a relatively short period of time, then Acting Electoral Commissioner only for a matter of weeks, and in those circumstances, if he is unable to answer the questions immediately, we will get back with replies.

Mr ATKINSON: I appreciate that offer. That is satisfactory to me. Could perhaps the Attorney-General explain how the Australia Post match works in following up citizens who are possibly not enrolled?

Mr Tully: Quite a detailed study has been undertaken and the conclusions are now being drawn in Queensland with the Australia Post address data and the electoral roll data. That has proven to raise some challenges and difficulties because of the differences in the way that addressing is conducted. As I understand it, it has led to a conclusion that, for good address matching to be carried out, there need to be address standards developed and implemented because differences in spacings or in the initials used for various States, for example, create certain difficulties. That process is being undertaken and there are similar difficulties in South Australia, but my understanding is that an attempt is being made to match the addresses.

Mr ATKINSON: My next question relates to the habitation reviews. My understanding of the habitation review conducted in 1992 is that it was a doorknock and that the casual employees who were undertaking that doorknock were given a payment per person enrolled as an incentive to do their job well and, if necessary, to brave savage dogs and other obstacles in getting to the front door and ensuring that all the people in that dwelling were on the roll. However, in 1995, I understand that a lot of it was conducted by post and it is only after returns were received from a mail out that a little bit of doorknocking was done.

It is my observation from looking at the monthly accumulated roll that the 1995 habitation review was not as effective as the 1992 review. Would the Attorney care to comment on the relative merits of the habitation reviews, how often they are done, what methods will be used in future, and when the next one is due?

Mr Tully: The habitation review process normally takes place every two years. As the honourable member has mentioned, it has been traditionally undertaken by way of house visitation and doorknock, together with a mail out and a mail review in country areas. The member would be correct that the doorknock and the face to face approach has proven more effective than mailouts. People tend to deal with mail differently from how they tend to deal with face to face contact, and the follow-up that also accompanies a face to face arrangement has proven to be more effective than post-outs.

Throughout Australia Electoral Commissioners at their meetings at all times look for ways to improve the roll through what they refer to as continuous roll update or a

continuous roll review process and they are looking at Australia Post type information being used and motor registrations. The State Electoral Office already has an arrangement with the Residential Tenancies people so that when bonds are lodged and discharged the material on electoral enrolment accompanies such processes. There are also possibilities of using public utilities addresses and information such as telephone, electricity, gas and whatever in keeping the roll more continuously updated.

Mr ATKINSON: All these suggestions are admirable and I support them. It just strikes me from doorknocking and canvassing in my electorate that the roll is about 10 per cent inaccurate and it has got to the point where compulsory attendance at a polling booth is very much optional around the edges, which I am sure will be music to the ears of the Attorney-General.

Mr Tully: It is generally accepted that the population, if treated as a mass number, moves entirely about every six or seven years or the like and there is no doubt that people are mobile these days and there are challenges in keeping the roll maintained to the level we are striving for.

Mr CUMMINS: In relation to the new electors' update, I understand there is going to be a different system in place. What is going to happen and what assurance can we have that there will be proper updates? I am referring to program descriptions generally.

Mr Tully: I am not sure I understand the question.

Mr CUMMINS: A recent memo I received indicated that we will not get electronic updates on new electors. Is that the case? What is going on?

Mr Tully: As to roll information, it is my understanding that each district electoral office will receive a full roll each month on diskette. That replaces the updates that were on diskettes previously. They will be supplied through the office of the Minister for Industrial Affairs. As well as that, it is my understanding, as is the case now, that additions and other roll changes in a hard copy format will be supplied from the State Electoral Office.

Mr CUMMINS: I am not talking about return to sender letters, but the commission has been notified of changed addresses and from my experience doing doorknocking it appears that the roll has not been amended. In the event that it is not a return to sender situation and the letter is sent and we send you, say, the envelope, which is the practice, what procedures are adopted to ensure that the roll is cleansed in that situation?

Mr Tully: There are clear procedures and protocols that exist between the Australian Electoral Commission and ourselves and those letters are forwarded to the Australian Electoral Commission and objection procedures, or whatever is appropriate, are undertaken in response to what material is sent into the office.

Mr CUMMINS: What about third parties, not necessarily a member, but when someone living in a household notifies that a person has left, as opposed to notification from a member of Parliament? Is it the same procedure?

Mr Tully: An enrolment card might be generated to that address if there is a chance that new people have moved into the dwelling, and if the material is received back by the Australian Electoral Commission the roll is updated to reflect that new enrolment.

Mr CUMMINS: There is a misunderstanding: I am talking about a situation where A lives with B and C and B leaves and A writes to the Commissioner saying that B has left. What is the procedure there?

Mr Tully: The roll is updated predominantly through an enrolment card procedure, in which case an elector is responsible for maintaining their enrolment under the laws of the State. An enrolment card would be forwarded to the person who has left so that they could re-enrol in their new area or followed up in some way.

Mr CUMMINS: You would not know where they had moved. The difficulty I have had is that people, literally in the last week, have been telling me that they notified the commission about two years ago that someone has left the address, and I have physically doorknocked the place and they have not been there but they are still on the roll after a couple of years and after a Federal election and going into a State election. What can be done to address this issue?

Mr Tully: The principle is that it is up to the elector to maintain their address. If information is made available, through whatever means, that enrolment can be followed up, varied or amended. Of course, registrars in the Australian Electoral Commission can raise objection against those people and you may be aware that happens in Commonwealth elections where people are taken off the roll by the registrar and they subsequently apply for their vote to be counted because it has been lodged as a provisional vote. They claim that they still live at that address. Under Federal legislation that vote is re-admitted. Under State legislation, if a person is taken off the roll through objection their vote is not admitted to the count.

Mr CUMMINS: I refer to page 189 of the program descriptions and the 1996-97 specific target to develop a computer strategy for the next election. Can the Attorney advise of progress on this issue?

The Hon. K.T. Griffin: I ask the Acting Commissioner to deal with that.

Mr Tully: Members may be aware that the strategic plan was completed in 1996 for the State Electoral Office. It identified the need to implement computerisation of some election procedures. The office believes computerisation will be most beneficial in areas including the issue and receipt of postal votes, the receipt and collation of election results and the scrutiny of the Legislative Council.

The above procedures are expected to be undertaken in what we are calling the centralised computing processing centre which will be located in the ABC building at Collinswood along with the tally room. We are proposing to have 20 IBM compatible computers which we will purchase to facilitate the automation processes and which will be supported by EDS and Protech. The office has determined to centralise the computerisation of these processes in order to refine and document the associated procedures prior to its full computerisation strategy being adopted for implementation into returning officers in the year 2000 or 2001 elections. This is the first step. I might add that the scrutiny of the Legislative Council vote is subject to legislation currently being considered in Parliament.

The processing of postal votes, as I mentioned, would be centralised and we have developed from a CD an arrangement with the roll that we can use as a powerful database the ability to issue all postal votes from one central location. This will help electors to know whether or not their papers have been issued. In the past they have been issued through a number of issuing points and this has caused some confusion. I might add that only the first vote returned is counted, but it has led to confusion when people have received ballot papers from more than one place because they have applied more than once.

We are looking forward to an efficient and effective central processing of postal votes. We are also looking forward to establishing an efficient and effective collation of election results on election night. On election night, votes will be faxed in by returning officers to the centralised facility and information entered into a software package which has been specifically implemented and developed by the State Electoral Office in consultation with System Services Pty Ltd. The results will be entered against each polling place and candidate and will be collated for each district. The tally board, which will be located in the ABC orchestral studio at Collinswood, will have results updated every 10 minutes. As I mentioned earlier, the scrutiny of the Legislative Council is dependent on legislative amendment.

The CHAIRMAN: I would appreciate clarification of part of the answer to the first question asked by the member for Norwood. I am given to understand that the electoral roll update information provided to members of Parliament will be provided through the office of the Minister for Finance. The answer indicated the office of the Minister for Industrial Affairs. If the information is not immediately available, this can perhaps be taken on notice.

The Hon. K.T. Griffin: That is my understanding too. The Minister for Finance currently has responsibility for a number of these matters, although we will check that and let the Committee have an appropriate answer.

Mrs GERAGHTY: The member for Norwood covered most of the questions that I wanted to ask. I make the point, however, that I have had mail returned because the roll has been so long in coming out to members. At times there seems to be quite a delay. I have doorknocked and those people have not been there for quite a while. In some instances their names have appeared on the roll when I get the next update yet they are definitely not there.

Mr Tully: I take note of those comments. As part of the election advertising campaign a considerable effort on enrolment will be made during the first part of that campaign and a special segment of the advertising campaign will be dedicated to encouraging people to enrol or to check their enrolment status. The office will have a hotline established which will operate between the hours of eight and six on Monday to Friday to provide services for people who are interested in enrolment procedures and possibilities. As well as the efforts that I mentioned earlier that are being undertaken to improve enrolment accuracy there will be a strong campaign at the front end of the election to encourage people to enrol and maintain their enrolment.

Mrs GERAGHTY: In answer to a question from the member for Norwood, you stated that, if you are notified of returned mail, it may generate an enrolment form going out. Why does it not always generate a form going out?

Mr Tully: I am not sure whether I have caused some confusion. I would assume that in most cases a new enrolment form would be sent to the household; in fact, I cannot think of any situation where it would not.

Mrs GERAGHTY: If a member notified you that 'Mr Smith is no longer at this address' then you would automatically send out a notice?

Mr Tully: I will check with the registrars and the Australian Electoral Commission to ensure that procedures are being implemented as I am led to understand they are.

Mrs GERAGHTY: Are death notices checked on a regular basis? I get complaints from time to time that people are having mail forwarded to them yet the spouse or partner has passed away quite some time ago. Do you check the death notices and address that on the roll situation where it is possible?

Mr Tully: The death notices are regularly looked at by the registrars and action is taken as a result of those notices. I am also very confident that the Registrar of Births, Deaths and Marriages forwards to registrars on a regular basis reports on people who have passed away.

The Hon. K.T. Griffin: That area is a matter of considerable interest and I will ensure that we present to the Committee some answers to the questions, perhaps with more detail than has been given at the present time, so that members can understand the processes which are followed and, by reason of that, they may be able assist in the process.

Mr ATKINSON: The question may have been asked while I was on Radio 5AD vigorously supporting the Attorney-General's tendering of legal services for defence of criminal defendants. On page 186 of the Program Estimates on the line 'Operation of the State Electoral System—production and maintenance of State electoral roll', I notice the actual expenditure came in at only about one-third of the estimate for 1996-97, but next year it bounces up to even more than the estimate. What is the story there?

Mr Tully: The reason for that is the deferral of payment arrangements associated with the habitation review for 1996-97 and the money being spent and reincorporated into the 1997-98 estimate.

The CHAIRMAN: There being no further questions, I declare the examination of the vote completed.

Attorney-General's Department, $27 393 000

Attorney-General and Minister for Consumer Affairs—Other Payments, $20 334 000

Departmental Advisers:

Mr K. Kelly, Chief Executive Officer, Attorney-General's Department.

Ms K. Lennon, Deputy Chief Executive Officer.

Mr K. Pennifold, Manager, Business and Financial Services.

The CHAIRMAN: I declare the proposed payments open for examination and refer members to pages 20, 21, 157 to 161 and 167 of the Estimates of Receipts and Payments and pages 47 to 170 in the Program Estimates and Information.

Mr ATKINSON: Will the officers of the various authorities we are looking at, such as the Complaints Authority and Ombudsman, be attending?

The Hon. K.T. Griffin: No. It has not been the practice in the past, and when I sent out the suggested schedule I certainly did not indicate they would be present—nor did I indicate they would not be present. But according to past practice, neither the Police Complaints Authority nor the Ombudsman have been present during the Estimates Committee. So, if there are questions which the honourable member wishes to raise in relation to the performance of their tasks, unless I can answer them I would have to take them on notice and refer them to those officers.

The CHAIRMAN: I remind the member for Spence that the purpose of budget estimates is to question the Minister concerned—in this case, the Attorney—and the presence of advisers is for the assistance of the Attorney if he requires that assistance and for the greater elaboration of points to the

Committee. The advisers are not open to question. However, if the member for Spence believes the Attorney may benefit in a particular instance from the presence of an adviser, I am sure the Attorney would not object to receipt of a question in advance to facilitate that.

Mr ATKINSON: I am aware of those rules, and it was that greater elaboration for which I was looking. My first question is about the Ombudsman and freedom of information. In his 1995-96 annual report the Ombudsman stated:

> One of the constant features during the external review process is agencies' abrogation of their responsibilities under the Freedom of Information Act to provide proper reasons for their determinations, both at the determination and external review level. This abrogation appears due to lamentable ignorance but, on occasions, is attributable to a deliberate evasion of legislative obligation.

The Ombudsman then observed that this failure by agencies helps drain the resources of his office. The Ombudsman also stated that it has been his 'experience in external review that many agencies are still bound up in the culture of caution and secrecy'. What action has the Attorney-General taken to address these concerns of the Ombudsman?

The Hon. K.T. Griffin: Whilst I have responsibility for the Ombudsman Act—it is committed to me as Attorney-General—the Ombudsman is an independent statutory officer under the Act. In addition, I am not the Minister responsible for the Freedom of Information Act. Notwithstanding that, those observations of the Ombudsman are a matter of concern. In relation to the Freedom of Information Act, according to information received from the Ombudsman, to the end of April of this year 60 applications for review have been received, compared with 62 for the full financial year 1995-96.

The Ombudsman suggests that there are a number of other reviews, particularly in relation to WorkCover, which may be lodged in the future. He made an application for additional funding for resources, but that application was made very late in the budget process. My department assisted him in making that application but, traditionally, the Ombudsman has not dealt through the department with budgeting issues and has always dealt directly with Treasury and Finance on issues of budget and resources. It was very late in the piece that the Ombudsman made the approach to Treasury. We were informed of it very late and, by that stage, the budget had been very largely formulated, so it was not possible to give attention to the resource requirements which he believed was necessary. As a result of that experience the Ombudsman, as I understand it, is making further representations and, if the matter cannot be resolved before the next budget, the issue will be dealt with very quickly.

Can I make one other comment about the Ombudsman's office. With the expanded health complaints area, and for other reasons, the Ombudsman's office is to be relocated, I believe from about 23 June. It will be located on the fifth floor of its current building, sharing facilities with the Police Complaints Authority and the Commonwealth Ombudsman's office. That may add to some efficiency gains but that is obviously a matter still to be assessed. The honourable member has made reference to some deliberate evasion being referred to by the Ombudsman. I have no personal knowledge of that. The personal knowledge I have is that agencies are encouraged to seek appropriate advice at an early stage when they receive a freedom of information application. There are occasions where, in accordance with the law, the application is refused. The applicant may decide to dispute that, and there are appropriate processes to deal with that. However, we are, as a Government, encouraging agencies to deal promptly with requests for freedom of information and, where they are matters of possible contention, not leave it until the last minute to seek appropriate advice. Whether or not we are making headway I do not know but I can assure the Committee that we are diligently endeavouring to ensure a proper analysis of applications, the seeking of advice at an early stage and prompt attention to those requests.

Mr ATKINSON: I refer to page 151 of the Program Estimates and the line 'Legal Services to the State'. The second subject heading 'Advising' shows that the revised recurrent expenditure is up 33 per cent on the estimate; and the third subject heading 'Bank Litigation' shows that the revised recurrent expenditure is up 93 per cent on the estimate. I understand that at page 160 of the Estimates the 93 per cent increase in 'bank litigation' is explained, although the Attorney might want to say more about that. Why is the 'Advising' expenditure up 33 per cent on the estimate and the full-time equivalents up five from 52 to 57?

The Hon. K.T. Griffin: In relation to 'bank litigation', a significant amount of effort is being put in by the State to prosecute the two major claims. They are complex claims and they are being dealt with at the legal resources level by a bank litigation section which comprises both officers from the Crown Solicitor's Office and lawyers from the private sector. The pace of the work on the actions is increasing. There is significant expenditure on experts' reports, which are nearing completion, and those reports are an essential part of the progress towards bringing the matters on for trial.

There are a number of interlocutory matters, one of which achieved some publicity in the last few weeks—a strike out application in the KPMG Peat Marwick matter. That application by the defendants to strike out is to be further considered in court, I think at the end of next week, before Justice Olsson. We have taken an initiative in the Price Waterhouse matter to seek to gain access to information about insurance which may have been held by that firm so that the Government will have all the facts before it as it proceeds with that litigation. That has been resisted. We were successful, as I recollect, at the court of first instance; we were unsuccessful when it went to the court of appeal. Currently leave to appeal is being sought from the High Court because it is a key issue which has to be explored in the context of this litigation and is also relevant to a wide range of other litigation in which the State is not necessarily a party, and there will be argument in the High Court in relation to that application for leave.

My understanding is that a substantial part of the expenditure provision is for experts' reports, auditors, accountants and others assessing the half-yearly audit and annual audit statements and reports of the auditors for both the Beneficial Finance Corporation and the State Bank. Because that work is gathering pace and is coming to fruition, it seems to be a natural consequence that the costs are increasing. I do not think I can take it any further than that at this stage. I will ask the Chief Executive Officer, Mr Kelly, to deal with advising.

Mr Kelly: In addition to the ordinary advising functions, the advising section has been involved in some large scale litigious and other projects over the past years and some of the projected increases are to do with its involvement in these large scale matters, which include the Hindmarsh Island Bridge Royal Commission, the Golden Egg litigation, the Ophix litigation, challenges to the Mount Gambier Prison Management Agreement and other judicial reviews. The section's resources have been stretched and expanded by

those projects and by an increase in the volume of freedom of information applications, which was the subject of the last question in relation to the Ombudsman, particularly so far as those FOI applications relate to major Government projects.

Another aspect of the work of the section involves the native title unit which is gathering pace: it is very active, particularly in relation to issues such as the Wik policy debate and other related issues of regional and local agreements. The resources of the advising section have been expanded to take that in. In addition, there is provision in that amount for several out-posted lawyers, that is, lawyers who are posted out from the Crown Solicitor's Office to other agencies. Although those other agencies pick up certain of the costs for those lawyers, there are still residual on-costs that are paid for by the advising section in the Crown Solicitor's Office. I think that is the basic broad brush as to the increase in those figures.

The Hon. K.T. Griffin: It is important to recognise in relation to native title that there are five full-time equivalents in that full-time equivalent calculation, and they comprise not only lawyers but also historians and anthropologists. The Committee has to recognise that that will become an area of increasing importance and expanding expenditure as matters have to come up to courts. There are 20 native title claims in this State at the present time. Members may have heard me say that if all those end up in the court processes it will mean $100 million in legal fees for the State alone. There are 10 claims currently under mediation; I think two have gone to the Federal Court; and it is assumed that six will complete mediation by the end of 1997-98 and move to the court.

Once matters get to the court we will have to do an incredibly large amount of further work to get it to the point of properly representing the interests of the State. One of the ways in which we have been seeking to deal with that is to try to get some negotiated area or regional agreements to avoid the uncertainties of litigation. Of course, with the 10-point plan at the Federal level we will end up having to give some consideration to perhaps some State based legislation, but we are placing our emphasis, as I have indicated in the media recently, on area agreements or regional agreements.

The other issue relating to the additional expenditure is that there has been an increasing demand for legal advice which has required us to buy in expertise from the private profession.

Mr ATKINSON: On page 157 of the Program Estimates there is a reference to the reduction of Commonwealth grants for community legal centres. At the same time, the response to Part 1 of the Legal Services Commission Report of the Legislative Review Committee states:

> The Attorney-General's Department will have an increasing role in monitoring the operation of community legal centres.

Does this represent an intention to have more central political control over the activities of community legal centres?

The Hon. K.T. Griffin: Certainly I do not intend to take any more control over community legal centres. A review in relation to community legal centres is currently being conducted jointly by the Commonwealth and State Governments. That report has not yet been completed. If one looks at the funding that is available to community legal centres, one will see that over the years State funding increased from $165 700 in 1989-90 to $269 000 in 1996-97. The 1996-97 figure also reflects community service award increases for salaries. In addition, my department has provided $30 000 towards the cost of a consultancy to review community legal centres which, as I have indicated, is a joint State-Commonwealth project. So, since 1989-90 the increase in annual funding has been in excess of $100 000.

I am very supportive of legal community centres because they fill a need at local community level, but they have never been the subject of a review. In conjunction with the Commonwealth, we decided that because a substantial amount of taxpayers' money at State and Federal level goes into legal centres it would make sense to have a good look at how they perform and review their operations.

Mr CUMMINS: I understand that the Government is now considering conducting a tender process to seek bids from members of the legal profession who are prepared to represent the defendants in the Garibaldi prosecution. Will the Attorney-General advise the Committee of the process that will be followed in tendering out this work and whether or not the establishment of a public defender's office has been considered in relation to these sorts of situations?

The Hon. K.T. Griffin: I have already announced today that the Government is proceeding to call for tenders for the legal representation of defendants in the Garibaldi prosecution. Mr Atkinson has already indicated that he is speaking in support of that, so I am encouraged. There is also a significant measure of support from the private legal profession (those who practise in the criminal jurisdiction) for tendering out, although the President of the Bar Association, Mr Abbott QC, and a representative of the Law Society previously have been critical of the proposal.

Cabinet authorised me to tender out. I did not immediately make the decision to do so because I wanted to have some discussions with the Law Society and the Bar Association. Those discussions are continuing in relation to the general issue, but the Garibaldi matter is one which I do not think ought to wait for those discussions to be completed. I say that for two reasons: first, it is in the public interest that the defendants who have been charged by the DPP actually stand trial and, secondly, and as importantly from the defendants' point of view, the continuing uncertainty about whether the trial will go ahead needs to be resolved.

An advertisement will be placed in the *Advertiser* on Saturday calling for tenders, which will close on 1 August. Separate notification will be made to all chambers and legal firms enclosing both the notice and some other details. It is intended that those who wish to tender will have access to the relevant documents in the Director of Public Prosecutions' office by arrangement with the DPP and subject to signing an appropriate confidentiality document and undertaking. Tenders will be assessed on the basis of competence.

Tenders are being invited from those who practise in the criminal jurisdiction and deal with indictable, or more serious, matters. A panel will be established comprising an independent person nominated by me, a representative of the Attorney-General's Department and a legal practitioner from the private profession appointed by me following consultation with the Law Society. If the Law Society wishes to participate in that consultation process, I would certainly welcome it.

When the tenders have been assessed, a recommendation will be made to me, and I will make the decision. An offer of representation will then be made to the defendants. If they choose to accept it the contractual arrangements with the successful tenderers will be put in place. If they are not accepted, we will go back to court to argue for the stay order to be lifted. Of course, that will then become something that is in the control of the court.

A number of competent legal practitioners have contacted my office to ask when the tenders will be called and to express their interest in being a participant in the process. This all came about because the Government, I think in December, indicated that because there was a stay order in place—that is, an order which the court had made to stay the proceedings because the defendants were incapable of fully funding their defence—it would make available straight from Consolidated Revenue up to $600 000 for the defence. A condition of that amount being made available was that there be a contribution by the defendants from superannuation entitlements and, in one instance, a jointly owned house.

The defendants declined to contribute. They said that the offer was inadequate. The Government does not believe that to be the case for what is likely to be an eight-week trial. In those circumstances, it had no option than to seek tenders from the private profession. I acknowledge that this is a new approach for criminal legal representation for individual cases, although in Queensland a tender has been called by the Legal Aid Commission for block representation of criminal defendants. We think that good representation can be achieved in the way in which we propose.

The other part of the honourable member's question relates to a public defender's office. In some jurisdictions they do not have much difficulty with Dietrich matters because they have a public defender. I think the Milat case in New South Wales was dealt with through the Public Defender's Office.

We have certainly given consideration to the establishment of a public defender's office. It has presently been ruled out, but if it were to be established the private profession may or may not get a look in in the representation of defendants in these circumstances and the right of choice would certainly not be available to defendants. We have endeavoured to preserve the right of choice of solicitor as much as possible, but in this case there is no option but to go to public tender for legal representation.

Mr CUMMINS: Will the Attorney-General outline the role that South Australia is taking in coordinating a national anti-crime strategy and the relationship between that strategy and the Commonwealth Government's national campaign against violence?

The Hon. K.T. Griffin: Members will know that I have been fairly strong on issues of crime prevention as well as dealing with crime as it occurs and apprehending and bringing to justice those who offend. My predecessor also placed emphasis on issues of crime prevention, although when the Liberal Government came to office it substantially reviewed the crime prevention strategy and set somewhat different courses in some areas. There have been some developments on what was then in place. The Premiers and Chief Ministers comprise the Leaders Forum and back in 1994 they established a national anti-crime strategy. The then Premier argued quite strenuously that South Australia ought to take a leading role because it had placed a specific emphasis on crime prevention. I was then appointed both the lead Minister for South Australia and the Chair of the national anti-crime strategy.

The Commonwealth was not a part of that. The previous Federal Government had a Safer Australia Program, which it developed without any consultation with the States, but all jurisdictions were generally critical of the approach that the previous Government had taken, namely, to call for interest from community-based organisations for crime prevention projects as well as providing funding of $4 million or $5 million directly through the Police Ministers Council. There was an intention on the part of the Commonwealth to endeavour to deal directly with issues that were basically within the province of the States and in respect of which the States had more experience.

When the new Government came to office federally, we invited the Attorney-General, Daryl Williams, QC, to participate. The Federal Government took up that offer and there is now a joint approach to both the national anti-crime strategy, which is the implementation arm of the process, and the national campaign against violence in crime, which the Prime Minister launched in Canberra about two weeks ago. That is providing a lot of the funding as well as some of the momentum. The encouraging thing is that the funding is being provided through the Commonwealth to the States, each of which is sharing responsibility for different projects. They cover things like break and enter, domestic violence, standards for crime prevention, good practice, young people and crime, young people in public places and a whole range of issues which cause a great deal of tension for more senior citizens in the various States and Territories.

South Australia can be quite proud of the fact that it is taking the key role in the national anti-crime strategy and the fact that it is a genuinely cooperative project. The Commonwealth has $13 million over three years. So far the States between them have put into projects about $500 000 and the Commonwealth $1 million. These projects have been agreed and the State of South Australia has put $150 000 into servicing the lead Ministers and the national anti-crime strategy.

Mr CUMMINS: Continuing generally with the issue of crime prevention and referring again to the program descriptions, will the Attorney report on the work of the retail industry's Crime Prevention Committee and advise of the support provided by the Government for this important initiative?

The Hon. K.T. Griffin: At about the end of 1995 or early 1996 I invited the Retail Traders Association to participate in a retail shop theft crime prevention project. David Shetliffe chairs that committee now and it has the full support of the retail industry as well as the Insurance Council, the police and the Government. It is identifying the size of the problem. We believe that around $100 million a year in South Australia is lost not just in shop theft but also in fraud and crime by both employees and customers as well as through criminal acts such as assault.

Very soon a survey of all retail outlets will be undertaken, designed to establish the real size of the problem and to ascertain what sort of strategies we can put in place to address those problems from a prevention and apprehension viewpoint. One of the ideas which has come out of this and which I have now put into the public arena is a report from the committee that recommends that there be something akin to the cautioning process in the juvenile justice system for young offenders, but in this respect in relation to first offenders who commit shoplifting. They are proposing a more formal cautioning process which will ensure that the matters are dealt with promptly and not have to wait for court processes and police investigation processes. They will be dealt with on the spot or within a matter of weeks after the event. A record will be kept of the caution and a range of options will be available for a sanction as a result of the cautioning process. That has gone out for public comment. We are inviting comment by the end of June before deciding what the next step should be in this regard. The survey will

be an integral part of that and my department through the Crime Prevention Unit is making available a person for the purpose of servicing that committee, particularly to focus upon the survey and the analysis of the survey once the results have come in.

There is a wide range of support on the committee, from police to retailers to the insurance industry, for some alternatives to the present process by which a first offender may be charged and brought before the court at some time in the future, often at cost to the police, the courts, the retailer and the citizen charged. The committee is also proposing an education program in schools and we have a person from the Department for Education and Children's Services on the committee looking at education for standards in schools in relation to retailing and other projects. There are cautioning schemes in place in Belgium and Great Britain. One in Milton Keynes in Great Britain indicates a reduction in reoffending rates from 35 per cent per annum to 3 per cent per annum. The Victorian shop stealing warning program I understand is also currently being assessed. It was reviewed in 1987, so it has not been reviewed for 10 years. In that study period cautions were administered to 8 800 offenders and that constituted about 66 per cent of all shop thieves apprehended during that period. It is an exciting development and one which will be the subject of a Government policy decision once responses have been received to the report and the analysis of the survey is available.

Mr ATKINSON: I refer the Attorney-General to page 167 of the Program Estimates, a program entitled, 'Births, deaths and marriages registration service'. Many South Australians are interested in the origins of their ancestors and work away at what is known as genealogy, tracing their family tree. The cost to them of going through the Births, Deaths and Marriages Registry can be prohibitive, especially when they are expected to buy certificates. I have been asked whether this high cost could be avoided by discounting searches on nineteenth century records so that these people, often pensioners, could trace their family tree and not require the usual certification.

The Hon. K.T. Griffin: That is something we could deal with when we get to the line on Consumer and Business Affairs, because the Registrar of Births, Deaths and Marriages is actually dealt with in that line. Rather than giving the honourable member an answer off the top of the head, could we put it down as a question we will deal with when we get to OCBA?

Mr ATKINSON: That is fine. I notice from page 150 of the Program Estimates, under the heading 'Law Reform/Law Policy—General Law Reform', the cost of general law reform jumped 15 per cent above the 1996-97 estimate, which seems a fair whack given that the full-time equivalents employed did not increase. If we turn to page 157 in the Program Estimates, one of the broad objectives is stated as follows:

> To represent the Attorney-General on interdepartmental, intergovernmental and public committees to ensure recognition of the views of the Attorney-General.

What is the reason for the increase in expenditure in this area, and on which particular intergovernmental reviews or public committees has the Attorney-General had a delegate?

The Hon. K.T. Griffin: I understand that it is due to additional receipts from the Commonwealth for community legal centres. This is due to an additional three programs being administered and managed by the community legal centres not budgeted for in the original estimates. This additional revenue is directly offset by an increase in the grant provided to the community legal centres in 1996-97 having a nil impact on departmental resources. Those additional programs are: Environmental Defenders Office, $68 986; Welfare Rights Centre SA, $143 725; Women's Legal Services SA, $354 787; total, $567 498.

Mr ATKINSON: That comes under general law reform? The figures are on page 150 under 'Law Reform/Law Policy—General Law Reform'. The full-time equivalents employed were eight.

The Hon. K.T. Griffin: I will ask Mr Kym Pennifold to deal with it. My answer was correct, but he might be able to explain it more adequately.

Mr Pennifold: There is a reference to page 159 of Financial Paper No. 2 under Program 3, 'Law Reform/Law Policy'. It does break down the make-up of the figures and part of those amounts is the grants payment to community legal centres which reflects the additional receipts received by the State from the Commonwealth which was then forwarded onto the community legal centres by way of grants.

Mr ATKINSON: It is not where I would have expected that line to be expended. With regard to page 157 of the Program Estimates and that line about representing the Attorney-General on interdepartmental, intergovernmental and public committees, one of the Attorney-General's officers, Mr Matthew Goode, was on the national inquiry into the model criminal code which came down with a draft report on sexual offences. That report controversially involved lowering the age of consent to 10, but I acknowledge only for the benefit of 10, 11 and 12 year olds; a sliding scale was involved. Further, there was reference to abolishing the offence of incest.

In a ministerial statement on that report, the Attorney-General went into quite a long discussion of necrophilia and buggery with an animal, neither of which are canvassed in that report. Why did the Attorney-General turn his attention to those matters in response to criticism of the report, since they are not in the report? Secondly, he said:

> But it is very doubtful that it—

referring to the offence of incest—

> was ever aimed at preserving the nuclear family from the disharmony engendered by sexual jealousy because the nuclear family—

and I pause here, with 'nuclear family' meaning mother, father and children—

> is a creature of a social era far later than 1876, and we have not had nor do we now have a law against sexual jealousy.

Where on earth did the Attorney-General come up with the notion that the nuclear family only came into vogue after 1876? I refer him to Ferdinand Mount's book titled *The Subversive Family*, which establishes that it is thousands of years old.

Secondly, who wrote this ministerial statement for him? Thirdly, why did he canvass necrophilia and buggery in the ministerial statement when it was not in the original report and was never the subject of criticism by the Festival of Light or anyone else?

The Hon. K.T. Griffin: We could have an interesting afternoon, Mr Chairman! In terms of who wrote the ministerial statement, I accept responsibility for it. I do not think it matters who writes ministerial statements, whether it is the Minister, an officer or anyone else. I accept responsibility for the decisions and statements which are made, and the buck stops with me.

Mr ATKINSON: Hear, hear!

The Hon. K.T. Griffin: It does. It is a fact of life and I am not prepared to do anything other than that. You can blame officers for a lot of things sometimes, but that is a bit of a cop out. I have always tried to adopt the position ultimately that, although I might blame them privately, certainly publicly I will accept responsibility for things I say or do. Having said that, I point out that the ministerial statement really arose out of a lot of misrepresentation of what was in the model criminal code officers' committee report, and not in it for that matter.

Mr Atkinson interjecting:

The Hon. K.T. Griffin: Well, if one reacts to it, maybe it is because of one's conscience. There was a lot of misrepresentation about it. I can tell the Committee that it is not easy to withstand the criticism on something which the Government has not even considered but which is properly in the public arena as a matter for discussion. The object of the ministerial statement was not to debase the debate but to draw attention to some of the issues that might be directly, indirectly or not at all affected by the report to try to put them into a context. I do not think it was particularly fair of some members of the community to indicate that, as a result of the ministerial statement, from their interpretation, I necessarily supported a particular point of view. When one is in Government you do have to be prepared to support public discussion, however difficult it might be about issues of some concern to members of the public. There is no doubt that there is a lot of concern about the references to incest and about the age of consent in the context of considering the whole range of matters that impinge upon the law affecting sexual offences.

I suppose the difficult aspect is that this was about the fifth or sixth discussion paper—it was not even a report—which was seeking to raise the issues. There has been some criticism that it does not put the other side in relation to incest, for example, and that may well be the case. But anyone who had a view on it was invited to make that view known through the appropriate channels as the discussion paper is assessed. Once that occurs, it will go to the Standing Committee of Attorneys-General not necessarily with the endorsement of the Standing Committee but as a report of that committee exploring the issues and I have made the point publicly that as a Government we are not wedded to a model criminal code. We believe that the best should be picked out of the code as it is drafted for adoption as South Australian law but we are entitled not to pick up and we do not intend to pick up those recommendations which we do not support.

I have indicated that theft, fraud and related offences is one of the reports where we have accepted the recommendations for change, but drafting is presently occurring. That is in principle, but there will undoubtedly be modifications to it. To suddenly cut off the process because of the controversy which surrounded these two issues would in my view have been irresponsible. I do not believe that the Australian community would necessarily have wanted that to occur, although I guess that that is making a very broad generalisation and perhaps might have been presumptuous in reaching that conclusion.

In the not too distant future I intend to put out an abbreviated statement which more clearly identifies what the discussion paper is not doing, what it is doing and to indicate clearly that the State Government has not considered these matters as a matter of policy. I will put into perspective that we would need to be persuaded by sound argument that there was a good reason for change before any changes which ultimately might be recommended would be adopted, if adopted at all. That is an important context in which to put the issues that are raised by the model criminal code officers committee.

In respect of the issues of necrophilia and buggery, they are not referred to in the code and, because they are not in the code, it means that the draft recommendations in the discussion paper suggest that the offences be abolished, because the whole concept of a code is to put into statute law the law which you wish to have reflected as a matter of policy. So, if it is not picked up in the code, one can presume that it is not in it. It is as simple as that. Whilst it may not be referred to in the discussion paper, it is important to recognise that as a code that is what was being proposed.

In summary, and I am sorry it has taken a while to get this through, the fact is that I recognise there is concern in some parts of the community about some of the recommendations, but I also recognise that there are a number of persons and bodies who have supported both the process and even the recommendations: the Archbishop of Sydney, the Baptist Church of New South Wales, the Women's Christian Temperance Union; the process is supported by the Commonwealth Attorney-General, Mr Ray Groom, and I think Jeff Shaw in New South Wales. Some people might say that some of those people are not particularly good bedfellows but the issue goes across political boundaries. I recognise the concerns and the anxiety it is creating for some people. All I can say is the fact that the issue is being discussed should not be seen to be a threatening development in the context of a review of the criminal law because no Government in Australia has any formal recommendations before it and obviously has not therefore given any consideration to the draft recommendations proposed.

Mr ATKINSON: I desire to ask a supplementary question. Does the Attorney stand by his ministerial statement that the nuclear family is a creature of a social era far later than 1876 and given that Mr Jeff Shaw, the New South Wales Attorney-General, supports the process but his Government has nevertheless ruled out accepting the recommendations on lowering the age of consent to 10 and abolishing the offence of incest, will he now take the opportunity I offer him to rule out the abolition of the offence of incest in South Australia and lowering the age of consent in South Australia to 10 years?

The Hon. K.T. Griffin: The honourable member is generous with his offers. It may have been an unfortunate reference to the nuclear family. Some people have said, 'We are surprised you do not support the nuclear family.' I do not think anyone can read into that ministerial statement a position that I do not support the nuclear family. I have always been of a very strong family persuasion and given support to those who are endeavouring to raise families in difficult circumstances. But you also have to recognise that there are many who do not live in that environment where we again endeavour to set appropriate high standards which we know many people are not going to meet and in some cases we fail ourselves to meet those standards. This should not be regarded as any attempt to undermine the family or to seek to set lower standards than we would seek to set and live by in our own lives and in community life.

In terms of the issue of incest and the age of consent, various statements have been made about lowering it from 16 or 17 down to 10, about making incest legalised in families from the age of 10 upwards, legalising homosexuality from the age of 10, that it is a licence for paedophiles and recom-

mends that paedophiles should receive lower sentences than other sexual offenders. All of that is blatantly untrue.

Mr ATKINSON: It has been said by Liberal MPs: it has not been said by me.

The Hon. K.T. Griffin: I am not worried about what Liberal MPs are saying. The fact is that the committee does not recommend that the age of consent be lowered from 16 or 17 to the age of 10. The committee does not recommend that incest be legalised in families from the age of 10 up. The committee does not recommend the legalisation of homosexuality from age 10. The committee does not recommend that disabled people be able to have consensual sex at the age of 10. The committee does not recommend that intellectually disabled people should have unrestricted sexual relations with their carers. The recommendations of the committee are not a licence for paedophiles. The committee does not recommend that paedophiles should receive lower sentences than other sexual offenders, and the committee does not recommend that paedophiles should escape criminal charges simply by arguing that the child looked older than he or she actually was.

Mr Atkinson interjecting:

The Hon. K.T. Griffin: Do not worry, these are the messages, and some of them are contributed by some of your colleagues, Mr Atkinson. This is not what the discussion paper is proposing. I want to make it clear: the Government has no propositions for change on the agenda and change will be made only if it is strongly and persuasively argued, and there is nothing of that sort before us at the present time.

Membership:

Ms Stevens substituted for Mrs Geraghty.

Mr ATKINSON: My question relates to page 159 of the Program Estimates in relation to the Director of Public Prosecutions. In a ministerial statement to the House after a highly contentious debate over the self-defence law, the Attorney-General told the Legislative Council:

> I have received advice from the Director of Public Prosecutions in relation to the Albert Geisler case to which the member for Spence constantly refers. If the new law were in place at the time Mr Geisler shot the man who entered his home, Mr Rofe's decision not to prosecute would be exactly the same. I seek leave to table the advice from the Director of Public Prosecutions.

Since when did the independent DPP provide advice on hypothetical cases to the Liberal Government for the purposes of use in a highly contentious debate on legislation, and will the DPP provide the shadow Attorney-General with answers to hypothetical cases?

The Hon. K.T. Griffin: I do not know what conclusion the honourable member is seeking to imply. It was certainly not a hypothetical case. It was a real fact situation and the law had been enacted by the Parliament, so there is nothing hypothetical about applying the law to a set of known facts as the DPP did. In respect of the question of advice, it is a matter for the DPP whether or not he provides advice to me or anyone else about issues such as that.

The honourable member will know that the DPP can make and does make decisions independently of the Attorney-General of the day and is required to do so by law. That does not mean that he cannot talk to me or that I cannot talk to him. An exchange of views happens frequently. That happened, as I understand it, with the previous Attorney-General and the current DPP. Whether or not the DPP is prepared to provide advice to the shadow Attorney-General is a matter for the DPP.

Mr ATKINSON: I have a supplementary question. Did you request advice from the DPP on this contentious matter and did you do it orally or in writing?

The Hon. K.T. Griffin: I did not do anything in writing. I do not make any secret of it. I asked the DPP, in the light of the law which was enacted, how he would have treated the Geisler case and he gave me a written response which I tabled.

Mr ATKINSON: That's hypothetical.

The Hon. K.T. Griffin: It is not hypothetical. We can argue about what is or is not hypothetical. I asked him to consider it and he indicated that he would. No-one can suggest that any pressure was put on him. It was the matter of an invitation.

Mr ATKINSON: Maybe he did not need pressure.

The Hon. K.T. Griffin: I do not know what is meant by that. The DPP in his 1996 annual report, as I recollect, was complimentary about the relationship he had with me. There certainly has been no evidence of any pressure at all. I am not insensitive to the consequences if it were asserted that I was guilty of placing any pressure on the DPP, but I am sure, if you ask him, he will tell you that he will do as he believes is appropriate in the circumstances of each and every case.

Mr ATKINSON: Could I ask the Attorney-General to confirm that the advice from the DPP on the hypothetical application of the new law to the 1995 Geisler case was, despite his being a busy man, provided within 24 hours of the Attorney-General's request?

The Hon. K.T. Griffin: I cannot remember and I do not acknowledge that it is a hypothetical case.

Mr ATKINSON: On page 157 of the Program Estimates is a reference to unspent crime prevention moneys. How much has been unspent and why has this occurred?

The Hon. K.T. Griffin: There is a total carryover figure of $729 000 from the previous two years—or that is what is expected to be the carryover. The total budget for 1997-98 is $1 950 500. The carryover amount is attributable principally to the lengthy development of programs by three local crime prevention committees. Noarlunga and Marion Crime Prevention Committees are now fully operational—although it was only a few months ago that Noarlunga became operational and, I believe, towards the end of last year for Marion. The Ceduna Crime Prevention Committee has been in abeyance during the 1996-97 financial year but is expected to be reconvened in 1997-98. In addition, the evaluation of the local crime prevention committee is not anticipated to absorb the allocated amount, as much of the data collection has been undertaken over the course of the three years.

The honourable member should note that in the light of the experience with evaluation from Monash University, where I believe the previous Government committed to something like $350 000 and received a report which was not worth very much at all, we have followed a different strategy for evaluating the crime prevention programs, and that is very much on a continuing basis rather than waiting until the end of the program. We have also required the local crime prevention committees to provide much more detail in the establishment of their program than had occurred in the past and there are formal agreements entered into between Government and the crime prevention committees and local government, where appropriate, all directed towards ensuring that the moneys which are made available by the State are properly accounted for and expended and programs are

evaluated. Some committees took much longer to get their programs up and running than others. I mentioned three in particular where there have been difficulties but the other 13 committees took longer than expected to get their programs up and running.

Mr ATKINSON: Staying with page 157 of the Program Estimates, in the second column one of the dot points under '1997-98 Specific Targets-Objectives' is:

To review legislation for compliance with competition policy principles.

Does the Attorney-General agree with the Government's June 1996 paper 'Review of legislation which restricts competition' that the requirement of section 82A of the Criminal Law Consolidation Act, that abortions be performed in prescribed hospitals, is a restriction on competition and ought to be reviewed with a view to deletion in 1999?

The Hon. K.T. Griffin: The Government has no plans to delete that. In fact, it also comes up under the Subordinate Legislation Act, where the regulations expire after 10 years, I believe, and my recollection is that this is the year and that those regulations will be extended. The whole issue of competition policy and the principles that one applies is still a somewhat contentious issue. In theory, one could argue that the abortion regulations, because they allow termination of pregnancy generally, I believe, in public institutions, might be anti-competitive, in the sense that private institutions are not able to terminate pregnancies. But the competition principles allow Governments to maintain anti-competitive practices where there is a social objective to be achieved or a social need to be served. So, whilst all of these so-called anti-competitive provisions must be reviewed, that does not mean that the Government is obliged to remove them. In the area of abortion, whilst that is more properly a matter for the Minister for Health, it does fall under the Criminal Law Consolidation Act, which is committed to me, and there is certainly no intention to repeal those regulations.

Mr ATKINSON: On the same page of the Program Estimates, commitment is made to ensuring that penalties for criminal offences are adequate. What has the Attorney done over the past year to ensure that penalties are adequate? Does the Attorney mean according to public standards or some other set of standards?

The Hon. K.T. Griffin: The DPP is periodically appealing against manifestly lenient sentences, and I believe that is very largely to what that refers. On the other hand, there is the broader issue to which I have referred in the past, and that is whether it is possible to achieve a more rational approach to the setting of maximum penalties in statutes, in the sense that for some crimes of violence the penalties will be lower than, for example, some environmental pollution penalties—although they may not be able to be rationalised as easily as that, because environmental pollution involves large corporate conglomerates, where the inducement to pollute may be proportionate to the ultimate maximum penalty. If one looks at penalties for property offences, such as fraud, which frequently are very high, one of the areas that we have at least been tossing around, but not yet reached any conclusion, is whether there a way in which crimes of violence, for example, can be compared with property crime, or are they disparate and not capable of a rational examination in terms of maximum penalties?

So, all that dot point is intended to convey is that there are improvements in the system which can be made. If there is a more rational approach that one can develop, then they are issues which we are certainly contemplating. For example, in relation to the criminal law last year or the year before, we enacted an amendment to the Criminal Law Consolidation Act which dealt with persistent child sexual abuse, for which the maximum penalty is life imprisonment, because it was very difficult to get a conviction where the young victim was not able to identify specific dates upon which the offence occurred. Although it may have been contrary to what purists might have thought was appropriate in terms of principle, by the amendment to the law—supported by all sides of the Parliament, there is no doubt about that—we sought to provide a mechanism by which the prosecution would not have to allege specific dates. But there were some safeguards there for the defendant, in the sense that the DPP had to give a particular approval. That is an improvement to the law identified as a result of practice.

Mr ATKINSON: I refer to page 153 of the Program Estimates, 'Intra-agency Support Services, Minister and Minister's Office'. I congratulate the Attorney-General on coming in 19 per cent below the 1996-97 estimate in his office. Well done! It accords with my estimation of him. However, I would ask him how much of that was spent on monitoring Radio 5AA Nightline talk-back conducted by Bob Francis and John Fleming and others. Could he give us a figure on the media monitoring expenses of the office?

The Hon. K.T. Griffin: I have some information. It is not possible to break it down.

Mr Atkinson interjecting:

The Hon. K.T. Griffin: If we do not break it down the honourable member can still keep on thinking that we place a special emphasis on monitoring what he is saying, which is not the fact. He can be deluded into believing that that is a primary activity of the—

Mr ATKINSON: Bob Francis's vast audience would like to know how much you spend.

The Hon. K.T. Griffin: I am sorry that I cannot satisfy the curiosity of the honourable member in relation to the Bob Francis program. However, I periodically get transcripts and it is a matter of some interest to me, but not a consuming interest. The cost of the transcripts that we have obtained from July 1996 to April 1997 amounts to a mere $402.90. The information I have is that the department spent, from July 1996 to April 1997, $402.90 for transcripts which we have asked for and which we have received.

Monitoring of programs right across the board is done from a whole of Government perspective, and that is related to Consumer Affairs as well as Attorney-General's matters and television news services. No distinction is made between expenditure on daytime and evening radio programs nor between radio stations. The department gets a bill from the Office of the Department of the Premier and Cabinet. The media monitoring costs which we have otherwise paid amount to $24 000 for 1996-97.

I am sure the honourable member will rub his hands together with glee, but I put this cautionary note on it: that it is not possible to break it down between stations, evening and daytime programs or television and radio, and that he should not, with respect, gain too much of an inflated opinion of his performance on Radio 5AA's Bob Francis program.

Mr ATKINSON: $26 000?

The Hon. K.T. Griffin: No, $24 000, and $402.90 for transcripts—and that is for transcripts not just for Radio 5AA but right across the spectrum. So, the honourable member should probably not take that much comfort from it.

The CHAIRMAN: The Attorney may like to clarify for the member for Spence that the initial transcript with which he is provided is probably a two or three line summary, and it is only if the Attorney believes that there is something relevant in it that he would get a larger transcript.

Additional Departmental Adviser:

Mr W. Pryor, Commissioner for Liquor Licensing.

Mr ATKINSON: The Liquor Licensing Commissioner appears in the Program Estimates at pages 151 and 162. I notice some astonishing resource variations in recurrent expenditure on page 151 which are not explained on page 162, that is, that for Casino regulation the actual expenditure is up 46 per cent on the estimate, for gaming machine regulation it is up 72 per cent on the estimate and for the liquor industry it is up 50 per cent on the estimate, but with no variation in full-time equivalent employees. Will the Attorney-General account for those quite steep increases?

Mr Pryor: To get the true picture you need to compare the revised 1996-97 with the 1997-98 estimate, because that original estimate of $2.78 million included an arbitrary or a notional cut for the whole of the agency, the Attorney-General's Department. At this stage last year the three lines were cut to represent the notional cut to the Attorney-General's Department, and the true estimate for 1996-97 is the second figure of $4.332 million.

Mr ATKINSON: Why have an entirely fictional or notional estimate when you know that that is not how it will work out? Why would you do things that way?

Mr Pennifold: The notional cut was made because at the time of preparing the 1996-97 estimates in February 1996 the department was under budget pressure with regard to certain areas of funding and there was a proposal for a reduction in our budget from Treasury. Not knowing what specific lines that would affect, it was determined to adjust one program, and that happened to be the racing, gaming and liquor industry. Since then the revised figure for 1996-97 has been adjusted to show a true figure of what the expenditure would have been for the 1996-97 year.

Mr ATKINSON: I take it that the process was used because you were under pressure to cop a pretty deep budget cut across the whole portfolio: you cut everything by a nominated amount and then you sorted it out as the year went by and found that that notional cut did not apply as equally as you thought it would?

Mr Pennifold: At that time, we were not aware of the particular areas and the significance of the cut. When the budget was finalised, the amount was $300 000, which was made up of savings from the racing, gaming and liquor industry program. So, in the final figures for 1996-97 there was a reduction of $300 000 from Treasury.

Mr ATKINSON: I refer to page 162 of the Program Estimates—racing, gaming and liquor. One of the specific targets and objectives for 1997-98 states:

> Continue to evaluate and develop strategies and best practice models to minimise alcohol abuse and continue interagency accords task force activity.

The Anderson report on liquor licensing recommended that the serving of liquor to people who were already intoxicated or who were under 18 ought to become a strict liability offence, and that would have accorded with that specific target and objective. Yet, I note that that proposal has been dropped. Why is that?

The Hon. K.T. Griffin: I do not think there is anything inconsistent between that point and what is actually happening at the moment. The focus of the Liquor Licensing Bill is on harm minimisation and the responsible service of alcohol. I have put on file in the Legislative Council an amendment to the Bill that will moderate the strict liability approach of the provision to deal with issues of fraud. I take the view that that is a fair way of dealing with the issue. It is only a minimal change. The processes which will go towards developing harm minimisation strategies are still the focus of the objects clause of the Bill. So, I do not see any inconsistency.

There are some liquor licensing accords such as the City of Adelaide licensing accord in which the Liquor Licensing Commissioner is participating. There is also the Glenelg accord, and there are other projects with which the Commissioner is involved which deal with alcohol abuse—for example, working in conjunction with Aboriginal communities. The Commissioner is a member of the drug, alcohol and crime working party. I do not see anything there that suggests any inconsistency of approach.

Mr CUMMINS: I understand that a code of conduct for under age venues has been developed. Will the Attorney advise the Committee on this initiative?

The Hon. K.T. Griffin: I will ask the Liquor Licensing Commissioner to make some observations about that in a moment, but some concern has been expressed about drug related deaths associated with rave functions. There was a meeting in April 1996 between rave promoters and police, liquor licensing and other agencies to discuss the issue. The meeting resolved to establish guidelines for the conduct of this type of event which included the establishment of liaison between the promoters and regulatory authorities. As a result, guidelines have been produced which cover particularly safety aspects of large functions.

Any rave or dance party on licensed premises or in respect of which a limited licence is sought is discussed with the licensee, promoters, the police and the Liquor Licensing Commissioner. As a result, a number of conditions have been prescribed which cover the safe operation of these events. The sorts of conditions which the Commissioner imposes relate to: the presence of adequate numbers of licensed security staff, paramedical attendance, restrictions on the admission of minors, safe capacities, and other fire and public safety matters. So, a very positive approach has been taken. I invite the Commissioner to add to those comments.

Mr Pryor: This is a very important initiative. We have attempted to recognise that there is a demand by people under 18 to be able to listen to bands and attend dance parties and raves. They are not happy simply to go to an institute hall as people would have 10 or 15 years ago. My office worked with the Police Department, the Metropolitan Fire Service, Youth SA, the Adelaide City Council, about 20 young entrepreneurs who provide these type of venues, and the security industry to develop guidelines that were acceptable to young people. We could not see any point in controlling venues because they would simply not comply and go underground. Together with the Commissioner of Police we have tried to say that, rather than having raves held on premises with secret addresses and no control, we preferred to say, 'Come and speak to us, we will work with you and cooperate in the interests of ensuring the safety of young people who attend these venues.'

That approach has worked, and we have now extended it. Of late, I have been dealing with licensees of some major

entertainment venues such as the Planet in Pirie Street which has applied to have its licence suspended to enable young people to attend non-licensed entertainment at a licensed venue. Again, we work with the police, the council, the operator and the young people who are putting on the show to try to minimise the danger and to ensure that young people are safe while inside the venue and when they leave. It is easy simply to agree to suspend the licence, but then if young people are leaving the venue at midnight and going out into Pirie Street or some other precinct, we would have some concerns. So, in respect of venues and operations such as this, we do not provide pass-outs so that parents know that when they drop their young people off they cannot leave the venue until 11 p.m. If they want to leave earlier, they can do so only by going to management, and management will then contact the parents. That may appear to be an overreaction, but it provides a safe venue for young people, recognises the need and their demands, and gives all the participants, including the police, my office and young people, the opportunity to have control over a function.

Mr ATKINSON: There is a reference to the Associations Incorporation Act, which raises the issue of the sometimes complicated responsibilities of mothers and fathers who sit on boards and committees of sporting clubs and community groups in Adelaide. What resources is the Attorney setting aside to ensure that those people who sit on boards and committees of incorporated associations are adequately educated as to their role and the penalties they face if they are less than careful?

The Hon. K.T. Griffin: As the honourable member would know, we have endeavoured to distinguish between small and large organisations. Those people who are members of committees of management of small organisations have much less stringent obligations than those who are members of boards of bigger associations such as large sporting clubs with an extensive revenue turnover or any number of big charitable organisations. We have not taken any initiative with those two groups.

On the one hand, in relation to those who are on the boards of small associations, where the obligations are not so stringent, if there is some difficulty there is generally a great deal of flexibility which the office exercises to ensure that people will not be penalised and ultimately prosecuted without at least some warning and assistance in the early stages. With the big organisations we have not run any educational program and there are no plans to do so. We are tending to leave that to the private sector. Some of the big accounting and legal firms run seminars periodically for those who might be involved with associations. We have tended to regard that as an appropriate way of dealing with the issue. Some brochures or pamphlets are available and help at least to identify some of the issues.

Mr ATKINSON: The Attorney would be aware that the Ombudsman has openly claimed that a lack of resources has prevented a timely response to numerous freedom of information requests from his office, yet the budget estimates appear to provide no more than a CPI increase for the Ombudsman's office. I put to the Attorney that this shows a lack of concern at the plight of citizens and MPs experiencing delays in the process after review by the Ombudsman is sought.

The Hon. K.T. Griffin: I answered that question before lunch, although maybe not to the satisfaction of the honourable member. I said and will say again that the Ombudsman has traditionally made his own approaches to Treasury for resources. If there is to be an increase in resources, he applies to Treasury directly rather than through the department. I do not know why that is; it maybe that there is a sensitivity about relying upon the executive arm of Government to argue his case for additional resources. Belatedly in the context of the current budget he raised with the Attorney-General's Department additional resources that he believed he needed. That was too late in the budget process. He had had some discussions with the Department of Treasury and Finance, but it was too late in the budget process and the request could not be satisfied in the short time frame that occurred.

The matter certainly will be considered in the course of the next round of discussions for the next budget. I do not know whether the issues can be addressed before then, but I am cognisant of the concerns he has. In relation to the way he has operated in the past, I am told that he has full financial delegations from the Chief Executive Officer, and has all the delegations necessary under the Public Sector Management Act to deal with his staff. That is why he has always gone direct to the Department of Treasury and Finance.

Mr ATKINSON: Has the Attorney decided in favour of permitting the Legal Services Commission to tender out defence services generally and, if so, what are the cost implications for the commission, which obviously has less funds than last year?

The Hon. K.T. Griffin: The honourable member knows that under the Legal Services Commission Act I cannot give directions to the Legal Services Commission, although we talk about budgets and a range of other things. Whether or not the Legal Services Commission tenders out is ultimately a question for the commission and I cannot give it a direction on it. If it tenders out I will not raise any objection to it. If it does not tender out, again that is really a matter for it. In the discussions that have occurred with the Commonwealth Government in relation to funding, the Commonwealth Government wants to have a say in relation to the priorities upon which Commonwealth Government funding is made available. Those issues are still being addressed in consultation with the Commonwealth and the Legal Services Commission.

Mr ATKINSON: In December 1996 the Legal Services Commission submitted a proposal to the State Government for funds to be made available for law students to act as duty solicitors in our suburban courts. Has the Attorney agreed to this proposal and what are the budgetary implications? More importantly, what are the implications for the quality of services provided to indigent defendants?

The Hon. K.T. Griffin: My recollection is that that was an application to the Legal Practitioners Guarantee Fund in relation to the excess in that fund. It was not an application to Government.

Mr ATKINSON: In response to part 1 of the Legislative Review Committee's report on the Legal Services Commission, on page 4 there is a discussion of a disbursement lending scheme which may contain an uplift in terms of repayment to the Legal Services Commission in the event of the assisted person succeeding in litigation. The scheme is apparently subject to the operation of the new Consumer Credit Code. Has the Attorney determined whether the Consumer Credit Code would preclude the adoption of such a scheme?

The Hon. K.T. Griffin: Was that the litigation assistance fund to which the honourable member was referring or the disbursements from the Legal Services Commission?

Mr ATKINSON: The disbursements.

The Hon. K.T. Griffin: The issue arose in relation to the litigation assistance fund. Legal advice was taken and the Consumer Credit Code did not apply. I think that the disbursement fund referred to in the review was also the litigation assistance fund. I will take the question on notice and bring back a reply.

Mr ATKINSON: I refer to the criminal law. In answer to a question in the House on Tuesday 25 February, in response to a question from the Hon. Angus Redford about a Bill I had moved to outlaw self-induced intoxication with drink or drugs as an excuse for crime, the Minister said:

> The reason why the matter has not been dealt with as a matter of some urgency and at the urging of Mr Atkinson is that it does not deal with a real and pressing problem.

You went on to say:

> In fact, I am not aware, and our researchers are not able to detect, how many intoxication acquittals, if any, there may have been and, if there were any, they are few and far between. The fact is that it is not an issue where there is a range of people getting off in the courts because they are pleading that they were so intoxicated by the consumption of alcohol or a drug that they did not know what they were doing and therefore ought not to be acquitted.

Subsequently, I asked the Attorney's representative in the House of Assembly the following question on notice:

> How many criminal defendants in South Australia pleaded intoxication last year and how many were acquitted on this basis?

It is interesting that the member for Norwood has left the Chamber because I believe that he could supply some useful information on this matter. The Attorney-General, through his Minister in the House of Assembly, replied:

> Alcohol is often raised in pleas and trials to negate specific criminal intent.

Well, I thank him for the frankness of his reply in that answer. How does he reconcile it with his answer to the Hon. Angus Redford?

The Hon. K.T. Griffin: The answer provided by the DPP is correct. On 4 June 1997 the honourable member took the 'often' out of the second statement, alleged that it was inconsistent with the first statement and therefore that I had misled the House. That is not the case and quite clearly so. Intoxication is often argued but rarely, if ever, succeeds. The DPP did not cite any example in which it did. They are all quite consistent.

The fact is the Bill which the honourable member did introduce was really the product of the 1990-91 parliamentary select committee on self-defence. I had proposed a new regime for intoxication in the law on criminal responsibility which was unique. It had never been seriously canvassed by any of the numberless reviews of the law on intoxication in Australia or overseas. The approach taken by the Bill was subject to very serious flaws and was vigorously opposed by the Bar Association. I do not know whether or not the Law Society was consulted on it. The merits of the Bill were debated in the House of Assembly and it was defeated.

Mr Atkinson interjecting:

The Hon. K.T. Griffin: That is a matter for them. In answer to the Hon. Angus Redford, to which the honourable member has referred, I said:

> In fact, I am not aware, and our researchers are not able to detect, how many intoxication acquittals, if any, there may have been, and if there were any, they are few and far between. I am not aware of any acquittals on this ground. We know of no case where this has occurred.

Well, that is correct. The fact that it is often raised in pleas and trials but is never, or rarely, successful is also true. This is an issue that we have certainly debated. The Bill which the honourable member introduced is very seriously flawed.

Mr ATKINSON: As a supplementary question, I am not quite sure how the Attorney-General can assert that the matter is rarely, if ever, successful because, in response to my parliamentary question, which was answered by him, not the DPP—in fact, the DPP does not answer parliamentary questions—

The Hon. K.T. Griffin: A mere technicality.

Mr ATKINSON: It says:

> The number of cases where intoxication is pleaded is not recorded. Therefore the answer to this question is unknown.
>
> 2. Are such pleas and outcomes recorded and, if so, by whom?
>
> Answer: No.
>
> 3. Have records of such pleas and outcomes been kept for any of the past 25 years?
>
> Answer: No.

How can the Attorney-General assert that this plea is hardly ever successful when the anecdotal evidence from the courts—and I was about to say from the member for Norwood—is the opposite?

The Hon. K.T. Griffin: The anecdotal evidence is not. The anecdotal evidence is that it is rarely, if ever, successful. There are no records kept, so you cannot tell. So, both statements are quite consistent.

Mr ATKINSON: I thank the DPP for his answer!

The Hon. K.T. Griffin: Drawing on the accumulated wisdom of the DPP staff, I am prepared to rely on that as well as some of the answers which I gave to the Parliament in answer to the statements made by the Hon. Mr Redford.

Mr ATKINSON: Referring to page 152 in the Program Estimates, I notice that payments to victims of crime is down 19 per cent on the 1996-97 estimate. Could the Attorney-General account for this, given that when the criminal injuries compensation legislation was last before the Parliament, the Attorney-General warned the Parliament that, if it did not support the Government Bill, there was a danger of an explosion in payments of criminal injuries compensation, and could he now comment on the accuracy of the member for Ross Smith's characterisation of him as Scrooge in this area?

The Hon. K.T. Griffin: The characterisation is quite unfair and does not accord with the facts. In the information I had at the time I dealt with that Bill, which was in relation to the increase in the levy, there was a prediction that the claims and the payouts were in fact going through the roof. I am told that, in a review of the figures at the end of May, the number of claims that will be paid out in the 1996-97 year is still likely to be in the vicinity of 1 200. During that same period, approximately 1 300 new claims would have been received. Although there is a reduction in the number of claims settled, there is likely to be an increase in the number of claims instituted.

There does happen to be a downward trend in the average amounts paid to each claimant, but that results from the 1993 amendments made by the previous Government, and particularly in relation to the 0 to 50 points basis for calculation of non-economic loss. It is always difficult in this area to know exactly what the outcome will be, but over the last three years there has been a total payout from the fund in excess of $13 million, and the number of claims is increasing. For example, we have just printed another 10 000 brochures for victims and their rights under the Criminal Injuries Compensation Act, and they are handed out by police as a matter of course now, whereas five years ago they were not. Quite obviously, more and more people are becoming

familiar with the opportunity to claim and they are making claims.

Mr ATKINSON: Referring to page 161 of the Program Estimates, under 'Crime Statistics Services', I notice one of the broad objectives of the department is to keep crime statistics for the purpose of '. . . discouraging unwarranted fears in the community about the extent and threat from crime'. That seems to be rather a strong value judgment. Might not the collection of crime statistics also be there to alert citizens to increases in the rate of particular crimes or new crimes of which they would be otherwise unaware?

The Hon. K.T. Griffin: It could equally be to alert citizens to the fact that crime in some areas is going down. The Office of Crime Statistics has been in existence for a long time and has been refining its processes over a long period. It is highly regarded around Australia with the Director of that office being a member of the Board of the Institute of Criminology and also the Criminology Research Council. The object is to try to put crime in a perspective which is not distorted by the emphasis which sometimes members of the Opposition might seek to give to them. Also, one has to be cautious about relying solely on statistics because statistics can fluctuate. The important thing is the trend line. There have been distinct trends downwards for dwelling break and enters and the member would have seen those on a number of occasions and heard me talk about them. They are all directed at reassuring the public that we are not in the grip of the crime wave which sometimes members of the Opposition might seek to suggest is occurring.

Dwelling break and enters were down by 15.1 per cent during 1994-95 and were the lowest since 1986. Shop break and enters are the lowest in 15 years and other break and enters are the lowest since 1987. Total property damage show the first decrease recorded since 1991; major assaults are down; other assaults down and so on. If you look at motor vehicle theft—

Mr ATKINSON: People have given up reporting them.

The Hon. K.T. Griffin: I do not mind. It is always good on talk back radio because you can put it into a perspective. Rather than creating unnecessary fear and anxiety we can put it into a proper context. In relation to motor vehicle theft, the peak of motor vehicle theft in the history of this State occurred in 1990-91, when about 15 600 vehicles were stolen, whereas in the last financial year the number of vehicles stolen is about 8 000, about half what it was six or seven years ago. That is all good for the community and it is pretty important in the use of crime statistics to get a sense of proportion about the issue so that unnecessary concern and alarm is not created in the mind of ordinary South Australians.

Mr ATKINSON: Does it not seem unfortunate that the Program Estimates indicate that the Crime Statistics Office is a good news office rather than an objective reporter, according to the broad objectives that you have written for it?

The Hon. K.T. Griffin: That is quite unfair and unreasonable. If the member had an association with the Office of Crime Statistics, he would know that is unfair. It is a body which assesses statistics objectively and puts out information bulletins, a range of information which seeks to put the whole of the crime issue into a perspective. If you look at what I have said periodically, I have indicated that some offences have gone up and if you look at the publications—I am not going to draw the member's attention to those publications which he may find relevant, he can find them himself—some statistics go up. I keep saying that you cannot place all your eggs in the crime statistics basket. The crime statistics are a useful means for determining trends and getting some feel for whether or not there is a huge escalation and, if so, what that might be. Statistics in the context of the juvenile justice review have been used to identify that there is an over-representation (something which I suppose you did not need statistics to tell you) of Aboriginal people in the juvenile justice system as there is in the adult justice system. There is an over-representation and it seeks to identify why that should be so and enable Governments to develop strategies to remedy that position. One of the things in relation to Aborigines which the Office of Crime Statistics is doing presently is studying in conjunction with the Aboriginal Justice Advisory Committee Aboriginal involvement in the South Australian criminal justice system. A lot of good work is occurring and I am disappointed that the member should think they are marching to a tune that I might set.

Mr ATKINSON: My comment was only drawn from the broad objective goals written by the Government for the office. I was questioning the Attorney on that.

The Hon. K.T. Griffin: That is misrepresenting the position.

Additional Departmental Advisers:

Mr H. Gilmore, Commissioner for Consumer Affairs, Office of Consumer and Business Affairs.

Ms M. Cross, Deputy Commissioner, Policy and Legal.

Mr A. Martin, Director, Business and Operations Section.

Mr ATKINSON: I refer to page 163 of the Program Estimates. In respect of the fair trading budget line, will the implementation of the regional areas review mean a reduction in the provision of services and, if so, what are the details?

The Hon. K.T. Griffin: I will ask the Commissioner to comment in a moment. The short answer is no, it will not mean a reduction in services. It is designed to enhance the services that will be available. I ask Mr Gilmore to add to that.

Mr Gilmore: We have offices in Berri, Mount Gambier, Port Augusta and Whyalla and in the majority of those cases they are collocated with the Department for Industrial Affairs. The purpose of this review was to look at ways we could enhance the relationship between the Department for Industrial Affairs and OCBA. In some of those locations we also have the Public Trustee collocated. It is recognised that there are advantages in having the collocation through the sharing of joint facilities such as reception, photocopying and general office procedures.

The objective of the review was to look at whether we had these people in the right locations and in which ways we could enhance that relationship. As a result of that review, we have drawn up a memorandum of understanding which has been entered into between the heads of the two agencies—the Attorney-General's Department and the Department of Industrial Affairs—and which sets out how we propose to work together, the objectives we seek to achieve in being collocated and to maximise the opportunities for advantages to both agencies in order to enhance service delivery in country areas.

Mr EVANS: Referring generally to the program description, why do individual members of partnerships require a licence under the Building Work Contractors Act, the Plumbers, Gasfitters and Electricians Act, and the Security Investigation Agents Act, even if they do not intend to carry

out work, and has this matter been addressed through legislation?

The Hon. K.T. Griffin: If we can deal generally with the issue, partnership is a structure which at law means that the partners have equal authority in relation to dealings with third parties. They are equal partners, they share both losses and profits and they have equal authority. There are many partnerships which are husband-wife and wife-husband partnerships, and they are the partnerships which cause the most concern in these occupational areas.

Prior to the new Building Work Contractors Act and the Plumbers, Gasfitters and Electricians Act there was no flexibility. Both partners had to be licensed and they both had to pay full fees. We undertook to deal with that when the new legislation was enacted. They both have to be licensed because they are at law both equally liable for anything that the partnership does.

However, we have provided that partnerships pay fees calculated on a sliding scale. The first person is required to pay the full cost of licence fees; the second person is not required to pay a fee to obtain and maintain his or her licence; the third person is required to pay only 25 per cent of the normal fees; and the fourth person is required to pay 50 per cent of the fees. The practice of fee discounting stops with the fourth person in the partnership and the fifth person pays full licence fees. At that point, if you have a partnership of five, six, seven or eight people, generally speaking, it will not be all the members of a family group but it will contain people who are, themselves, out there in the field undertaking building work or plumbing, gas fitting or electrical work.

The partnership savings are available to contractors or agents under the Building Work Contractors Act, to plumbers, gasfitters and electrical contractors, as well as to security and investigation agents. It is important also to recognise that plumbing, gas fitting and electrical contractors may also be building work contractors, and there is a merger of the two streams to ensure that there is not double dipping, overlapping and so on. So far as the husband-wife partnership is concerned, we have, for the first time, recognised that they do generally work in a close family relationship and concessional fees are applicable.

Mr MEIER: I would like to ask a question in relation to a headline, 'Dealers to fight Kearns compo win', that appeared above a report in Saturday's *Advertiser*. The article referred to the fact that a recent appeal to the Supreme Court had been dismissed in relation to the Second-Hand Vehicles Dealers Compensation Fund as a result of the collapse of Kearns Brothers Auctions last year. Quite a few dealers in my electorate expressed concern after the original court decision and, certainly, I was hopeful that the appeal may have been successful.

What are the implications for dealers not only in country areas but also throughout the State because, although metropolitan dealers are affected, they are much larger and the impact is not as great? Secondly, can the Government appeal to the High Court on this issue?

The Hon. K.T. Griffin: I doubt if there will be any appeal to the High Court. In fact, there will not be an appeal to the High Court. It is not an issue that the High Court would entertain. The decision is firm and final. The object of going to the court of appeal was to try to clarify the law. The law had been as it is in the present Act since 1983, but strangely the position of auctioneers had never been tested. There was no doubt that, if an auctioneer was also a licensed motor vehicle dealer, the law would cover the vehicle sold by that auctioneer for himself or herself as the licensed dealer. Selling vehicles for some other person who was not a licensed dealer might raise some questions. We decided that the matter should be clarified.

The motor vehicle industry had been pressuring me to amend the law. I said that I would give serious consideration to that when the court of appeal had given its decision, but I made it clear from the start that I was not prepared to retrospectively amend the law because, if customers had rights which had accrued, it would be improper in my view to pass retrospective legislation which took away those rights.

About 70 people may have claims on the fund and they may amount to $500 000. The fund has $1.4 million in it. I cannot believe that there will be any increase in the $350 per yard contribution that is presently required. I cannot see any need for that to be increased, but I have indicated that I will consider proposing legislation to the Government to make the issue clear beyond doubt.

On 13 June, the day the judgment was handed down, I wrote to Mr Flashman of the Motor Trade Association of South Australia putting to him a number of options which should be considered, because a range of options and issues need to be addressed in the context of any amendments. For example, what do you do with a person who is a licensed dealer but who fails to renew his or her licence and offers vehicles for sale? Do you include those people or do you exclude them? In my view, their having been a licensed dealer, there is no option but to include them so that their customers are protected by the Second-Hand Vehicle Dealers Compensation Fund.

On the other hand, what about a backyarder, a person who has never been licensed but been carrying on, in effect, a business? Their customers have been previously covered, but are not covered at present. I think with some difficulty one can come to grips with that and agree with it. But do you put them in or do you put them out? It is both dealer and customer oriented. I am now waiting on both the Motor Trades Association and the RAA, the two key bodies in this area, to respond to me with their views on some of the options which I have raised and addressed. They have until Friday 27 June to respond. After that time, we will give consideration to the policy issues and they will be dealt with by the Government in the normal way.

Mr EVANS: I want to flesh out a concept I have had coming from the building industry. I have always wondered why the trade licences do not cover everything taught at the trade school or the training courses relating to that apprenticeship or training program. For example, a plumber, during the course of a four year apprenticeship, would be taught roof sheeting as part of the training to become a roof plumber, how to electrically connect a hot water unit, and maybe even some bricklaying, to brick up a bath, or tiling to tile around a vanity unit. However, as I under the licensing system—unless I am wrong, through recent changes—they gain a licence as a plumber to do their sewerage work, sanitary wear work and the plumbing work within a house but, as soon as they want to get onto the roof to do sheet metal work, they need another licence.

I cannot understand why everything that is taught in the trade school is not covered by that licence. I would accept that would mean that some of the trade courses would overlap because a carpenter, for instance, might also be taught sheet metal work for roof work. However, to me, that is not the issue. This measure would reduce one licence that the trades

people would need, and I wonder whether that concept has ever been thought of and what the downside is.

The Hon. K.T. Griffin: We have tried to address those issues in the licensing framework—and people have to realise that some substantial reforms have been made in the area of occupational licensing. The system is streamlined: the fees in relation to partnerships, for example, are very much reduced and second-hand vehicle dealers have to be licensed. So previously had the manager, but until there is an amendment to the Act the manager is being licensed, but without fee, by administrative action. So, a lot of reforms have occurred. I will ask Mr Alan Martin, who is Manager of the Business and Occupational Services Branch to explore the issues that Mr Evans has raised.

Mr Martin: Roof plumbing, which I believe is the example that the honourable member has raised, has traditionally been covered by the Building Work Contractors Act, and the Builders Licensing Act before that. That was the licensing authority for that legislation—and, of course, the Commissioner for Consumer Affairs. Prior to the introduction of the Plumbers, Gas Fitters and Electricians Act, the licensing authority for plumbers, electricians and gasfitters were SA Water, the ETSA Corporation and the Gas Company. With the passing of the Plumbers, Gas Fitters and Electricians Act that responsibility for licensing transferred to the Commissioner for Consumer Affairs.

That has introduced a possibility of rationalising a number of these licensing arrangements and, in particular, in relation to roof plumbing and plumbers, there have been discussions recently with the members of the Plumbers and Gas Fitters Advisory Council about the possibility of rationalising the licensing in this area. We are currently exploring that, and I believe there is every possibility of accommodating an arrangement whereby roof plumbing could be regarded as an area of work covered under the Plumbers, Gas Fitters and Electricians Act. However, we want to thoroughly examine that matter before we make a recommendation to the Government along those lines. However, I think it is an eminently sensible suggestion, and it recognises that roof plumbing is covered ordinarily in the range of skills that plumbers are taught.

Mr ATKINSON: Going back to page 165 of the Program Estimates titled 'Tenancies', the Attorney may not be aware that my electorate is the location of many boarding houses, owing to its inner suburban location and its comparatively cheap real estate prices. I notice that one of 1997-98 specific targets and objectives is that old favourite 'develop a code of conduct for boarders and lodgers for implementation'. It has been around for a few years now, I believe, and has been promised each year that this Government has been in office.

An honourable member interjecting:

Mr ATKINSON: I don't think that's right. Maybe the Attorney can tell us when this code of conduct was first promised. When can we expect it to be the law?

The Hon. K.T. Griffin: There is a technical difficulty which we will be addressing in a portfolio Bill which I hope to be able to introduce the week after next. We circulated draft codes of conduct at the end of 1995. The main concern was that they imposed a criminal sanction on residents in inappropriate circumstances for which a maximum penalty of $200 is set. The Code requires, among other things, that residents keep their rooms clean and pay rent on time. That means that a rooming house resident may be liable to a criminal penalty when a tenant is not.

I have taken the view that it is inappropriate to impose a penal sanction for that sort of breach. One might want to impose that sort of penalty on one's kids, but at arm's length it is not particularly fair. The concern, I believe, can best be met by attaching a civil sanction, an action for breach of a running house agreement to a breach of most residents' requirements, while retaining the power to impose a fine for serious or safety related breaches.

So, in the portfolio Bill which I know the honourable member has not seen yet we seek to insert a new provision in the Residential Tenancies Act enabling the Governor to make regulations prescribing terms which must be included in every rooming house agreement. That amendment will I hope be made quickly to enable the amended provisions to come into operation by 10 August. It might be expecting a lot of the Parliament to pass it in that period of time, as there are some other matters in the portfolio Bill. But on 10 August under, I think, the Acts Interpretation Act, even though we have suspended the provision, it comes into operation automatically and we will not have a code in place. So, it is a bit of a problem for us which I believe we can now resolve in a satisfactory way. I believe that is probably about as far as I need to take that.

Mr ATKINSON: Speaking of old chestnuts under this line, what is happening with the existing retail tenants' proposed right of renewal of a retail tenancy, a recommendation of the joint select committee on retail tenancies, of which we were both members?

The Hon. K.T. Griffin: I have made several ministerial statements in relation to this and answered one or two questions that have been raised in the Legislative Council about it. Members of the Committee may recall that in December representations had been made to me by members of the Retail Shop Leases Advisory Committee because it was quite obvious that the Bill that had been brought in and the differing points of view with the Opposition and the Australian Democrats that—

Mr Atkinson interjecting:

The Hon. K.T. Griffin: No, I didn't hear of any rebellious backbenchers.

Mr Atkinson interjecting:

The Hon. K.T. Griffin: So be it. That was not of significant consequence in the whole scheme of things, because there was the potential for no-one to get anything that they wanted out of the amendments. The Retail Shop Leases Advisory Committee was of the view that there was merit in trying to develop a code of practice as a basis for determining what happened at the end of the lease. The committee was too big to enable that to occur constructively in a reasonable time frame, so Mr Max Baldock of the Small Retailers Association, Mr David Shetliffe of the Retail Traders Association, Steven Lendram of the Property Council and Steve McCarthy of Westfield were appointed to be a small working group representing the interests of tenants on the one hand and property owners and managers on the other, and that committee has been doing a lot of work.

I made available, I think in March, some resources from the Crown Solicitor's Office for research and development purposes. More recently Mrs Margaret Cross has been carrying the day-to-day responsibility for developing the appropriate framework. I hope that by the time we resume in early July I will be able to indicate a substantial level of progress that will enable us to advance the Bill before the end of the session in a framework where all groups have been working in a real spirit of cooperation, even though they do

not necessarily agree with all the potential outcomes, and on the basis that they will have to continue to live and work together. Moreover, in the framework of the parliamentary process it would be better to have an agreement as to the principles and the legislative framework than to have confrontation in the Parliament with deadlock conferences and all the rest where no-one really knows what will come out of it.

Mr ATKINSON: Does that mean that this matter could be wrapped up and on the statute book by the end of the session?

The Hon. K.T. Griffin: I do not want to be unduly optimistic in the public arena at this stage. I am cautiously optimistic that we will be able to resolve it satisfactorily at least among those who have an interest in the area, but whether that is something which is adopted by the Parliament is another matter.

Mr ATKINSON: How many retail shop lease disputes have gone to mediation and what is the success rate?

The Hon. K.T. Griffin: So far none, but that does not mean the Office of Consumer and Business Affairs has not been involved in trying to settle disputes. There is a fee attached to the mediation process, but I am told by retailers and property interests that they have been using OCBA to resolve a number of disputes before they have had to resort to mediation.

Mr Gilmore: One officer deals with these matters and he adopts the normal process that we would with any other dispute whereby we try to find out from both parties what their issue is and whether there is common ground which can be worked on to come to a suitable compromise between the parties. We have had a reasonably high degree of success in providing that informal conciliatory approach to resolving those problems and it has not been necessary to go to the next step which is to engage a formal arbiter or conciliator at the expense which the Attorney mentioned. The one officer has been able to handle the majority of these problems without the need to go to that next step.

Mr ATKINSON: What proportion of the officer's day is devoted to that task?

Mr Gilmore: The officer is in the residential tenancies advisory area and is capable of being used on other work. He is specifically designated to deal with the retail shop lease type issues and I think he is more or less full-time on that type of issue because he is providing advice to tenants and landlords on things other than disputes. He is there as an advisory person and while he does not provide legal advice he would suggest methods whereby issues can be resolved and processes that people can follow, but he is available to work on other residential tenancy issues if there is not a sufficient volume of work in the retail sector for him to be engaged on full-time.

Mr ATKINSON: With regard to the Consumer Services fair trading lines on page 163 of the Program Estimates, can the Attorney say what obstacles or objections in principle there are to the Government's defining free range eggs in legislation so that consumers are not misled by the sale of battery produced eggs as free range?

The Hon. K.T. Griffin: I had some expectation that we might have a discussion about free range eggs.

Mr Atkinson interjecting:

The Hon. K.T. Griffin: No, just from the number of occasions I have been asked to comment on it. It may seem rather simple on the face of it but when it comes to delving more deeply into it it is not so easy. I have indicated what should be done from my perspective. A number of interested parties are involved—Primary Industries SA, the egg industry and the consumer affairs area. I have asked that discussions begin with Primary Industries SA as a basis for developing an appropriate approach to it. There are a number of approaches: one is a mandatory code of practice but, generally speaking, mandatory codes of practice require detailed enforcement and it is very difficult to manage detailed enforcement when considering the branding or non-branding of eggs. There is also a voluntary production standard or a code of marketing practice, even the existing fair trading legislation.

Whilst there is difficulty in definition, all South Australian retailers have to comply with the State's Fair Trading Act and, if they are companies, also with the Trade Practices Act. Section 58 of the Act prohibits a range of specific false or misleading representations. It is an offence to falsely represent that goods are of a particular standard, quality, value, grade, composition, style or model or that they have a particular history or particular previous use, and that would cover the false claim that eggs come from free ranging hens. It may be that there will even have to be some litigation by a disenchanted consumer who is disputing the description 'free range' if adequate evidence can be developed for that purpose.

There has been a lot of research since the issue was first raised and more is occurring, as well as consultation with various interest groups including Primary Industries SA. Southern Egg Pty Ltd, which is a large supplier of eggs in South Australia, in conjunction with a large Victorian producer, has prepared a production standard which its eggs must meet to be sold under the brand name of Mrs McKechie's free range eggs. The Animal Health Committee of the CSIRO's Standing Committee on Agriculture and Resource Management has produced a model code of practice for the welfare of domestic poultry which defines 'range poultry' as including back yard poultry and any other housing or management practice where poultry is not confined to cages.

The European Community has egg marketing regulations which cover stocking rates; there is the United Kingdom Ministry of Agriculture's Fisheries and Food Code; and a variety of other issues. I acknowledge that the issue does cause emotions to run high but it is not just simply a matter of saying, 'This is an egg produced by a free range hen' when there are so many variables.

Mr Gilmore: The Attorney has pointed out that one of the difficulties if we do have an established code, even if it is a voluntary one, will be in establishing the origin of the egg. All eggs look similar when they are in a carton in a store. So, whilst the carton might say that it is free range, determining whether an egg is free range will require being able to trace the history of the egg. So, any compliance process will have to rely on being able to go through the retail chain, the suppliers, the packagers and finally the producers and being able to demonstrate categorically where the egg came from. So the difficulty in enforcing compliance, even if we do have a standard, will create some difficulty for us. It will rely on the industry and producers abiding by a code if they want to package an egg and state that it is free range. As the Attorney points out, if we can demonstrate that they have contravened section 58 of the Fair Trading Act, we would have grounds to prosecute them, but it would be a matter of being able to establish that full line of evidence (as you would in respect

of any other court matter) right back to the source, in this case the hen.

The Hon. K.T. Griffin: I invite the member for Spence to turn his mind to the drafting of a legally sustainable definition and the process of proof.

Mr ATKINSON: All we want is a definition that says that chooks can walk outside in the sun in a minimum number of square metres and that they not be fed exclusively on pellets. What is happening now is that battery produced eggs are being sent into stores as free range eggs. When it is established that this has happened, nothing can be done. The Attorney has given a long explanation of how nothing can be done and the reasons why. I would have thought that if you had a definition of free range eggs in a particular Act—and the Attorney might wish to nominate which Act is suitable—if they were not free range someone could bring an action under either section 52 of the Federal Trade Practices Act or section 58 of the State Fair Trading Act for false and misleading conduct by a trader. As things stand, that cannot be done. What about that for a solution?

The Hon. K.T. Griffin: I did not say that nothing could be done. I outlined what we are doing. What I suggest is that the honourable member sit down and carefully draft a definition which he believes will satisfy the objective that he seeks. The challenge is there for the shadow Attorney-General to do the drafting. Let us have it and we will then look at it. In the meantime we will take the courses of action that I have already outlined that we are pursuing.

Mr ATKINSON: I turn now to the births, deaths and marriages registration service. A Lockleys man has written to me saying:

> During research into our family I had to leave several questions unresolved due to the high cost of certificates from Births, Deaths and Marriages. Could you make inquiries into implementing a scheme whereby access to these records for family histories could be obtained for a nominal amount—say $5? Some safeguards to maintain the *bona fides* of researches could include: limited to records up to say 1899; not available to researchers who are not able to establish a family connection; not necessarily in an official certificate form.

The writer goes on to say:

> The State need not lose revenue as the scheme would stimulate family research and the work could be done by young people working in a traineeship role. It would provide a good example to other States and give some 'humanity' to otherwise locked up statistics.

Given the enthusiasm for genealogy amongst so many South Australians, I wonder whether there is merit in such a proposal.

The Hon. K.T. Griffin: I will let the Committee have a detailed response, but we do have a program through the Registry of Births, Deaths and Marriages for the public release of indexes to the general register of births, deaths and marriages. In the public domain are: births from 1842 to 1922; deaths from 1842 to 1970; and marriages from 1842 to 1937. Indexes in microfiche format currently on sale at the Births, Deaths and Marriages registration office include: births from 1907 to 1922; deaths from 1916 to 1970; and marriages from 1917 to 1937. Births, deaths and marriages registration through earlier years are being reindexed by the South Australian Genealogy and Heraldry Society and new indexes in microfiche book and CD-ROM format will be published by the society. I recently publicly launched that program.

Early South Australian indexes are unfortunately quite uninformative and in some cases unreliable. So far, the transfer of them to electronic formats for publication has not been justified. In 1991, an agreement was entered into by the previous Government with the South Australian Genealogy and Heraldry Society that embarked on a project to completely reindex the registration of certain births, deaths and marriages. There is a lot more information currently in the public domain. I will take on notice the balance of that question and let the Committee have a reply.

Mr ATKINSON: Is the Attorney saying that enthusiasts for researching family trees in South Australia could have access to an index of births, deaths and marriages and for a small fee spend all day looking at it rather than getting extracts?

The Hon. K.T. Griffin: They can have access to it. I will check the actual position and provide a reply for the honourable member.

Mr ATKINSON: On page 163 of the Program Estimates two of the broad objectives in respect of consumer services are stated as follows:

> To provide impartial advice to consumers to assist them in the resolution of disputes arising from the supply of goods and services.
>
> To facilitate the resolution of disputes between consumers and traders by negotiation, mediation and conciliation and where necessary arbitration in the courts.

How far is it usual for officers to go in civil disputes, was there a time when the Office of Consumer and Business Affairs did prepare civil litigation for consumers and, if so, when did that cease to be a service offered by the office?

The Hon. K.T. Griffin: Since the present Government came to office, the focus in the Office of Consumer and Business Affairs has been to try to act as a mediator or conciliator in those areas where there are consumer disputes. Previously, there had been an attitude of 'them and us'—Government and consumers versus business—and I was anxious to change that attitude. I must say that there has been a significant cultural change in the agency, but in any event there has certainly been the development of an approach which has been designed to try to resolve a dispute on behalf of a customer. If that dispute cannot ultimately be resolved then it is recommended to the customer and the trader that the matter go to court.

There was a time when, under the relevant Act—the Prices Act or the Fair Trading Act—the Commissioner could take matters to court on behalf of a complainant at taxpayers' expense. I do not know of any that has been instituted in the past four years. It was rarely used, but when it was used it was generally to run up fairly significant legal bills to determine a matter in the public interest. One has to be very cautious about using a Government agency to prosecute a particular complaint unless there are very clear public policy reasons for so doing and it can be established to be clearly in the public interest.

Mr ATKINSON: I refer to page 166 of the Program Estimates under 'Fair trading—1996-97 Specific targets/objectives'. It states:

> Participate in a number of national survey programs to assess the safety of various nursery infants products.

Will the Attorney supply us with more information about that?

The Hon. K.T. Griffin: I will ask the Commissioner to respond immediately and, if matters remain outstanding, I will have them followed up.

Mr Gilmore: Members would have heard in the media about babies cots. We have been acting in conjunction with the Health Commission to issue information to parents about

safe sleeping procedures for children in cots. Baby walkers were of concern in New South Wales. They are now not readily available in the marketplace and are being investigated. In addition to babies cots, we are also looking at bunk beds as children have injured themselves falling out of bunk beds. A safety standard is being developed for the design and manufacture of safe bunk beds. In those three areas we have been working in conjunction with our interstate counterparts to establish national safety standards for the manufacture and production of those items.

Other things come to our attention from time to time such as safety vests, toys and objects that can break and contain small items that can obstruct airways, but it is mainly cots and bunk beds that are in focus at the moment.

Mr ATKINSON: I refer to the Program Estimates, page 152 under 'Industry/occupational regulation', subheading 'Policy and legal services'. I notice that the 1996-97 revision of recurrent expenditure is up 140 per cent on the 1996-97 estimate, although the full-time equivalent employees remained at three. Can that be explained?

Mr Martin: It is simply that the policy and legal unit was created as a separate cost centre in the department's accounts and some of the overheads relating to that cost centre were previously under another subprogram in that line. They were created as a separate cost centre, which now fully reflects the costs associated with that function.

Mr ATKINSON: From where did they come?

Mr Martin: Those costs would previously have been under the licensing and registration subprogram lines.

Mr ATKINSON: On the same page under the heading 'Tenancies—Residential tenancies', I notice that the 1996-97 revision of recurrent expenditure is up 33 per cent on the estimate and the number of full-time equivalent employees is up five on the estimate. I know that South Australian Housing Trust tenancies came under the residential tenancies jurisdiction, but at page 165 of the Program Estimates it says that the cost of the extra full-time equivalent employees and accommodation has been reimbursed by the Housing Trust. How is it that the revision is up 33 per cent?

The Hon. K.T. Griffin: Revenue is up as well, but I ask the Commissioner to comment, as well.

Mr Gilmore: Two factors contribute to both those increases. The first, as the honourable member correctly points out, is the issue of Housing Trust matters coming to the tribunal, which is paid for by the Housing Trust and therefore is an increase in revenue. The other increase in expenditure in that area is work that has been done on the bonds management system. We are in the process of computerising the bonds records as a customer service improvement so that people who have previously had to wait considerable time while we have matched up manual records to check the signatures both on the application for the bond refund and the original documents when lodged can now have it done via imaging and the computer process within five minutes. In the past, they had to wait half to three quarters of an hour for the docket to be found with the right signatures on it so that we could issue the bond cheque.

In the past year an extensive program of expenditure and additional staff have been required to load all the data onto the computer files, which explains the variation. The Residential Tenancies Branch is funded from the Residential Tenancies Fund and, when the original budgets were put together, it was not known exactly what the project would cost and we are still in the process of getting approvals through, so it is not reflected in the estimates.

Expenditure for the Residential Tenancies Tribunal has also been up this year on previous years simply because it has remained in the old building when we moved out of 50 Grenfell Street. When OCBA moved out, the Residential Tenancies Tribunal was left there. We have taken up a lease on accommodation at 100 Pirie Street and we are getting quotes to have work done to provide new accommodation for it. For a short period, we incurred two lots of rent for the old and the new premises.

The Hon. K.T. Griffin: The Acting Electoral Commissioner has clarified one of the issues raised under the electoral line. The Minister for Finance has administrative responsibility for electorate offices, but the Minister for Finance has contracted programs from the office of the Minister for Industrial Affairs to look after the PCs and the electorate programs. The Minister for Finance has the administrative responsibility, but has subcontracted a lot of it out to the Department for Industrial Affairs.

Mr ATKINSON: How many staff have left the Equal Opportunity Commission in the 1996-97 financial year?

The Hon. K.T. Griffin: I do not have the answer to that, but if I could take it on notice, I will respond in due course.

Mr ATKINSON: On page 155 of the Program Estimates, the following assertion is made:

> The backlog of unresolved complaints has been significantly reduced as a result of special initiatives to address this situation.

Do these special initiatives reflect a determination to have a higher proportion of complaints declined by the commission?

The Hon. K.T. Griffin: As members of the Committee will know, the Equal Opportunity Commissioner is a statutory officer who has independent responsibilities. In her first annual report delivered in November 1996, she indicated that the complaint handling function of the commission required review. When she was appointed Commissioner, there was a substantial backlog of complaints which had not been finalised and there were therefore consequential delays in complaint handling.

At the end of the 1995-96 financial year, there were 813 complaints on hand and unfinalised. Shifting the backlog of complaints was an obvious priority. From September 1996, a system of mandatory review of old files was introduced. A special team was formed to undertake the review and process old files out of the system. The results were spectacularly successful. Not only were 267 old files closed between September 1996 and February 1997 but the general productivity in the area of complaint handling was significantly lifted.

In part this was due to a mandatory review of files if they were not closed within a defined period. In addition, parties realised that, if they could not resolve complaints, they faced the possibility of declination or referral for hearing. By the end of February 1997, the total number of unfinalised complaints had been reduced from 813 to 460. In short, the number of unfinalised complaints on hand had been reduced by 44 per cent in the space of four and a half months. In order to achieve this net reduction of 353 complaints, the complaint handling staff had closed over 600 complaint files in that period.

A new model for complaint handling was established in March 1997. The new model features the role of a case manager whose task is to ensure that complaints are monitored and moved on through the system. Another feature is that directions are given by the Commissioner and the senior managing solicitor at the very beginning of the complaint

handling process, that is, when complaints have only just come into the system. The process of initiation has been made more flexible and less legalistic, and the standard initiation letter has been much simplified.

Coinciding with this, the complaint form has been redesigned to make it more user friendly and to ensure that more relevant information is provided to the commission by the complainant at the very beginning of the process. It is expected that these changes will reduce further the number of complaints on hand and will ensure that the backlog, which the Commissioner indicates has been recently eradicated, will not occur.

To some extent, the recent initiatives have been assisted by a drop in the number of complaints received, but notwithstanding that reduction, there seems to be an increase in complexity of complaints and a greater tendency for parties to seek representation. Both of these trends obviously increase the difficulty of complaint handling.

The proportion of complaints which relate to the area of employment still appears to be increasing. In the year to date, some 77.4 per cent of complaints are in that area. That is a slight increase over the figure of 76 per cent recorded for the financial year 1995-96. I hope that adequately addresses the issue. If there are other matters which the member wishes to raise related to complaint handling, I am prepared to take them on notice.

Mr ATKINSON: What are the details of the proposed relocation of the Equal Opportunity Commission, why is the move necessary, and will not this mean less accessibility for complainants?

The Hon. K.T. Griffin: I do not think it will mean less accessibility. In fact, it might make it more accessible, particularly if people come closer to the centre of the city. I will ask Ms Kate Lennon to respond.

Ms Lennon: The Equal Opportunity Commission in its present premises is actually located over three floors. It was not actually very efficient in terms of running the organisation because there had to be different reception points which were not necessarily efficient or needed. The move to 45 Pirie Street, the department's head office, actually will allow the Equal Opportunity Commission to have one whole floor which will be designed to meet their specifications.

There has been a current review of the commission's library which was not used to the extent it should have been. Because there is a library in our building, it will mean that the legal staff will be able to access that more efficiently. They will have a greater access to the tools they need to carry out their work. By moving to our building, there will be one receptionist point. Therefore, the other staff will be freed up to actually manage complaint handling.

In terms of accessibility, having worked in both buildings, I believe that the lifts are much more efficient in our building. Disabled people will be able to go straight to their own floor. It will have security. There will be greater access to conference rooms, because a major issue with many clients was that there was no provision for large groups to break. A move to 45 Pirie Street will actually streamline the organisation; it will be better for the clients; we will have better facilities and access to the library for the staff. They will also have upgraded information technology and a PABX system which is also a problem in the current location.

Mr MEIER: I move:

That the suspension of the Committee be extended beyond 6 p.m.

Motion carried.

The Hon. K.T. Griffin: I did indicate I would provide an answer to the question in relation to how many staff have left. Does the honourable member just want the number of staff who have resigned or details of those who have actually been transferred to other positions?

Mr ATKINSON: Left—died, sacked, whatever.

The Hon. K.T. Griffin: No-one has been sacked. I will ask the Deputy Chief Executive to answer.

Ms Lennon: To my knowledge no-one has been sacked. A number of contracts have concluded involving people who were acting or who came into the organisation during the last year of the previous Commissioner and who acted while we were looking for another Commissioner. One person was on a traineeship and that came to an end as well. No-one has been sacked. Another person who had been there for a number of years left for promotional opportunity. I think about three or four in all have left, but I will double check that. Certainly no-one has been sacked or retrenched.

Mr ATKINSON: Staying with the same line, my next question is about the racial vilification law. Does the Attorney-General have any news about Commonwealth and State cooperation on that law? Have there been any complaints under that law yet?

The Hon. K.T. Griffin: There have been some discussions and negotiations with the Commonwealth in relation to the cooperative agreement. There has been an in-principle agreement that the Commonwealth will fund the State handling of federal matters through a grant of $288 000 a year. The agreement is yet to be finalised but it is an agreement in principle. We indicated in the context of those discussions on the cooperative arrangements that we would not handle Disability Discrimination Act matters, partly because of the potential for conflict within the State in any event because of the application of the Federal law to State Government agencies.

In relation to racial hatred, those matters will continue to be dealt with by the Commonwealth. We indicated that we were prepared to deal with racial hatred and racial vilification matters on the basis that we were adequately funded for them. The $288 000 does not really take us beyond what the Commonwealth had been paying in the past when we were not required to handle those matters. The State offered to handle racial hatred and racial vilification matters for the Commonwealth outside the $288 000 for a flat payment of $1 100 per complaint, which I understand is the basis upon which the New South Wales Equal Opportunity Commission is reimbursed for handling complaints in relation to Commonwealth matters.

That means that for the moment at least until the Commonwealth determines otherwise it will continue to handle racial vilification matters at the Federal level and we stand ready to assist provided that we are adequately reimbursed. However, it was one issue upon which the Commonwealth was not prepared to make appropriate payments.

Mr ATKINSON: That was my last question on the Equal Opportunity Commission but I have three other questions. One is about the classification of publications, although I cannot find it in the Program Estimates. There is a shop in an Adelaide suburban shopping centre to which access may be had by minors, indeed almost exclusively minors, and it has in it a vending machine for cards, rather like basketball cards, except that the cards dispensed by the machine are basketball

size cards with *Playboy* centrefolds on them. It seems there is an interplay here of the Summary Offences Act indecency provisions with classification and publications. If this is a fact, how would the Attorney propose to approach this?

The Hon. K.T. Griffin: Just off the top of my head, I would say it is a matter covered by the classification of publications legislation. There are two ways. One is immediately to draw it to the attention of the police, who have the responsibility for enforcement, and the other is to forward examples of the cards to the South Australian Classification Council and the matter will be addressed by it. I suggest that the first stop would be to identify to your local police the circumstances to which you refer and the address of the vending machine, and allow them first of all to investigate. If for one reason or another it is not satisfactorily dealt with, let me know.

Mr ATKINSON: Returning to the criminal injuries compensation, I neglected to follow up on a question. When I attended a meeting at the Victims Support Service during Victims of Crime Week it was suggested to me that the Government ought to be following up criminals who, when called upon to pay criminal injuries compensation, were not able to do so at the time they were called upon to pay but that they should be followed up later when they might have gained employment or set up a business and were in a position to pay. There was a feeling among some of the victims there that perhaps some perpetrators of crimes were getting away with not paying criminal injuries compensation because they were indigent when called upon to do so by the system.

The Hon. K.T. Griffin: The Crown Solicitor's Office is now doing much more debt collection in-house. They were given approval to appoint a debt collection officer about 12 months ago because a lot of the debt collection had previously been outsourced and there was dissatisfaction with the way in which those outsourcers had not followed up people who ultimately should pay criminal injuries compensation. So, it was brought in-house as a trial program to determine how effective such more diligent follow-up could be. That matter is still being assessed by the department. Certainly, from my perspective, I have insisted on matters being followed up so that we do recover, but I am not sure what difficulties there may be. My understanding is that in the previous financial year 1995-96 about $600 000 or $650 000 was recovered, and that is a marked improvement on some of the earlier years, when it was down to $200 000 or $300 000. I understand that—

Mr Atkinson interjecting:

The Hon. K.T. Griffin: Yes—recoveries this year are down a bit but still in excess of $500 000 and we are looking at why that might have occurred. Also, through the Crown Solicitor's Office we are requiring them to pay monthly, even if they are on social security. There is an arrangement whereby it can be deducted immediately.

Mr ATKINSON: Is it garnisheed?

The Hon. K.T. Griffin: Effectively it is, but not technically.

Mr ATKINSON: Some victims at the meeting complained that they were required somehow to take action in their own name against the convicted criminal who they knew had no income or assets as part of the criminal injuries compensation process, and I was unsure of the validity of that claim but I undertook to convey it to you.

The Hon. K.T. Griffin: I will have it checked but I do not know. I have not heard of that and I do not believe that is the case. The proceedings are always issued in the name of the State, from my recollection. I undertake to have the issue raised and I will respond to it in due course.

Mr ATKINSON: My last question relates to page 169 of the Program Estimates, support services and the commentary on major resource variations between the years 1996-97 and 1997-98. Listed there is an inquiry regarding the Hon. Dale Baker in 1996-97. Can the Attorney give us an estimate of the cost of the inquiry into the Hon. Dale Baker?

The Hon. K.T. Griffin: Not at this stage, but when the matter has been concluded those figures will be made available.

Mr ATKINSON: I put on notice the following questions to the Minister:

Boards, Committees and Councils:

1. For what boards, committees and councils does the Minister have responsibility within his department and what are the roles and functions of each board and committee?

2. Who are the members of each committee, board or council; when does the term of office of each member expire; what is the remuneration of members; and has this changed since June 1996?

3. Who appoints the members and on whose recommendation or nomination is the appointment made?

Employees:

1. What are the names, classifications, salaries and titles of all staff employed in the Minister's office?

2. How many officers in the Minister's department have a salary or combined salary package exceeding $90 000 and what positions do they hold?

3. How many officers in the Minister's department are now on contract of service rather than permanent employment, and at what Public Service classification levels are they serving?

4. Of those employees on employment contract, who, if any, of these officers are subject to performance reviews?

5. How is performance measured, who measures it, who reviews it and what are the consequences of failure to perform?

6. Are any performance bonuses paid and, if so, what are they and how are they measured?

Performance Indicators:

1. How many performance indicators have been established for the agencies controlled by the Minister?

2. What are those indicators, how are they measured and who measures them?

3. How often has the Minister been involved in a review of performance indicators, and what has been the result of any performance reviews that have been undertaken?

General Questions on Cuts:

1. Can the Minister summarise the extent of cuts made this year to his department's budget and say whether they will be achieved by downsizing of staff or by reducing programs and services and, if so, what are the details of these reductions?

2. What is the staff reduction target used as the basis for framing this budget for 1997-98 and what are the targets for the next three years?

3. How many staff have accepted separation packages since January 1996, what classifications did they hold and were any classifications denied access to the scheme?

Fees and Charges:

1. Have any fees and charges levied by the Minister's department been increased since June 1996?

2. Were these increases subject to public notification by advertisement or statement and, if not, why not?

3. Will the Minister provide details of all increases since June 1996?

Outsourcing:

1. What functions have been outsourced since June 1996?

2. What savings are anticipated in the 1997 financial year from outsourcing?

3. Has the Minister's department been complying with the commitment given in last year's June financial statement at page 30 to 'market test' the contracting out of functions that are more efficiently conducted in the open market, who is undertaking this market testing and how is it to be done?

Asset Sales:

1. In view of the Government's significant program of assets sales, can the Minister detail those assets, including any land, controlled by his department which may be sold under this program, and will any of these disposals require legislative change?

2. What assets were sold during 1996-97 and what were the details of all sales above $20 000?

3. Which assets are to be sold this year and what is the revenue projection for 1997-98 and the three-year forward estimates from 1997-98 to 2001-02 for returns from the sale of assets controlled by the Minister's department?

Information Technology Systems:

1. What information technology systems are now operated by the Minister's department and what functions are carried out using these systems?

2. How many staff are engaged to maintain and operate the systems?

3. What did it cost the department to operate the systems in 1996-97 and what will be the cost in 1997-98?

The Hon. K.T. Griffin: I am happy to provide the answers in due course.

The CHAIRMAN: There being no further questions, I declare the examination of the votes completed. I thank the Attorney-General for his attendance at the Committee today and for his willingness to answer questions fully. I also thank the officers of the Attorney-General and members of the Committee for the manner in which they have conducted themselves today. It certainly makes the role of Chair much easier when members act in a responsible manner. I think today's proceedings may perhaps serve as a good example to members for other proceedings. I also thank the officers of the Parliament and the *Hansard* reporters for their assistance during the day.

ADJOURNMENT

At 6.15 p.m. the Committee adjourned until Thursday 19 June at 11 a.m.