HOUSE OF ASSEMBLY

Wednesday 4 December 1996

The SPEAKER (Hon. G.M. Gunn) took the Chair at 2 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

ANZ Executors & Trustee Company (South Australia) Limited (Transfer of Business),

Lottery and Gaming (Sweepstakes) Amendment.

LIVESTOCK BILL

His Excellency the Governor, by message, recommended to the House the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

JIMMY BARNES CONCERT

The Hon. J.W. OLSEN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. OLSEN: I am pleased to advise the House that South Australia has today secured the Jimmy Barnes New Year's Eve concert, to be held at Alberton Oval. The concert will be both televised and broadcast nationally. The telecast will include tourism advertisements for South Australia focusing on the 'Sensational Adelaide' theme. I have been advised that all necessary details to hold the event, including crowd control, police attendance, public safety, licences and community consultation, have been adequately addressed by the promoters. In particular, I should note that the Port Adelaide Football Club canvassed the views of local residents and found overwhelming support for the concert to go ahead.

I would like to express my thanks to the many people involved in the discussions to secure the concert. These include: the Minister for Tourism, Australian Major Events, Port Adelaide-Enfield Council, the Port Adelaide Football Club, the police, local residents, promoters and sponsors. The concert will showcase South Australia to hundreds of thousands of Australians. I am also told that the telecast might well still include New Zealand, which will, of course, increase the marketing exposure of the 'Sensational Adelaide' theme and South Australia. There is no doubt that South Australia, as the place where Jimmy Barnes grew up, is the right State in which to hold this concert, and I am pleased with the successful conclusion of these negotiations. For 90 minutes this telecast will be national and the countdown for New Year's Eve nationally on Triple M and Channel 10 will be from Adelaide, South Australia.

PAPERS TABLED

The following papers were laid on the table:

By the Premier (Hon. J.W. Olsen)—

Carrick Hill Trust—Audit Report, 1995-96
South Australian Country Arts Trust—Report, 1995-96
Telstra Adelaide Festival 96—Biennial Report, 1994-96

By the Minister for Industry, Manufacturing, Small Business and Regional Development (Hon. J.W. Olsen)—

Environment, Resources and Development Committee—Report into Aspects of the MFP—Response by the Minister for Industry, Manufacturing, Small Business and Regional Development

By the Minister for Health (Hon. M.H. Armitage)—

Institute of Medical and Veterinary Science—Report, 1995-96

By the Treasurer (Hon. S.J. Baker)—

Commissioner for Equal Opportunity—Report, 1995-96

By the Minister for Emergency Services (Hon. W.A. Matthew)—

State Emergency Service—Report, 1995-96

By the Minister for Housing, Urban Development and Local Government Relations (Hon. E.S. Ashenden)—

Corporation of Hindmarsh and Woodville—Local Heritage Plan Amendment Report—Interim Operation
South Australian Housing Trust—Code of Practice.

333 COLLINS STREET, MELBOURNE

The Hon. S.J. BAKER (Treasurer): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.J. BAKER: I hereby inform the House of the latest developments in relation to the 333 Collins Street property in Melbourne. The saga of 333 Collins Street stands as testimony to the financial incompetence of the former Labor Government, and now the final chapter has been written. I am pleased to inform the House that the property has been sold for $243 million to Hong Kong based, Wing On Company International Limited. The principal activities of Wing On include the operation of department stores, property investment, restaurant operation and mortgage servicing. Included in the sale of the 29 storey, 56 800 square metre building is the adjacent five-star Sebel of Melbourne Hotel in Flinders Lane and an interconnecting 397 space basement car park.

The sale of 333 Collins Street is part of the Government's debt reduction strategy. This property was owned by the State Government through the South Australian Asset Management Corporation and was put on the market in September this year. As members would be aware, the previous Labor Government saddled the South Australian community with massive losses following the decision of the then Premier (Hon. John Bannon) to approve the former State Government Insurance Commission's $520 million put option on the 333 Collins Street property. This decision ultimately forced the State Government, and therefore taxpayers, to accept liability for a major piece of inner Melbourne city real estate that collapsed in value following the property market crash.

South Australians have paid dearly for such financial ineptitude with accumulated losses on the building of approximately $550 million (net of the sale price), including the ongoing interest costs. However, due to the professional work of the Asset Management Task Force, the high level group established by this Government to oversee the State's asset sales and debt reduction program, I am pleased to announce a return to taxpayers of $243 million following the sale of the building—an outstanding result. The successful sale of the property follows an active campaign to increase its occupancy rates, which saw the leased office space rise from just 56 per cent last year to its current level of over 90 per cent. Once again, the Asset Management Task Force has completed its job in an extremely competent manner and

has achieved a good result for the State. The South Australian community will see yet another improvement in the State's finances as a result of the sale of 333 Collins Street, and the Liberal Government will continue to clean up the mess left behind by the former Labor Government.

LEGISLATIVE REVIEW COMMITTEE

Mr CUMMINS (Norwood): I bring up the seventh report, fourth session, of the committee and move:

That the report be received and read.

Motion carried.

Mr CUMMINS: I bring up the eighth report, fourth session, of the committee and move:

That the report be received.

Motion carried.

Mr CUMMINS: I bring up the report of the committee on regulations under the Firearms Act 1977 together with minutes of evidence and move:

That the report and minutes of evidence be received.

Motion carried.

PUBLIC WORKS COMMITTEE

Mr OSWALD (Morphett): I bring up the forty-fourth report on the MFP economic development stage one project and the forty-fifth report on the filtration plant at the Bolivar waste water treatment plant and move:

That the reports be received.

Motion carried.

The Hon. G.A. INGERSON (Deputy Premier): I move:

That the reports be printed.

Motion carried.

QUESTION TIME

TOURISM COMMISSION

The Hon. M.D. RANN (Leader of the Opposition): Will the Premier offer witness protection to the former Chief Executive of the Tourism Commission, Mr Michael Gleeson, and also to commission executive member, Mr Rod Hand, to meet with the Premier and give the Premier information about the role played by the Deputy Premier in the Gleeson, Ruston and Hand employment matters, and will the Premier waive any confidentiality clause in Mr Gleeson's termination agreement to allow him to give evidence to any formal inquiry established into these matters? The Opposition has today been informed by potential witnesses that they are prepared to meet with the Premier and provide him with information on these matters, and they are also prepared to give evidence before any formal inquiry.

The Hon. J.W. OLSEN: If any citizen of South Australia has information they want to pass on to me, I will be receptive to that information and will look at it, but the Leader of the Opposition dresses this up as witness protection to put a gloss on it, to up the ante and to put a bit of fuel on the fire. I have indicated to a number of people with points of view on a range of policy issues that I am receptive to those points of view—and it even includes the Leader of the Opposition. Over the past year or two, the Leader of the Opposition has been wanting a talkfest about jobs. He recycled his press release on the weekend to which I said, 'I am happy to talk to the Leader of the Opposition about job creation.' However, I am not interested in having a talkfest because South Australians want jobs created. They want us to get on with the task of creating jobs through small business.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: If the Leader of the Opposition has some ideas, I would welcome them and we will put them in place because the beneficiaries at the end of the day will be South Australians and jobs for young South Australians in the future.

MOTOR VEHICLE INDUSTRY

Mr WADE (Elder): Will the Premier advise the House on actions being taken to preserve the automotive industry in South Australia to ensure job opportunities for future generations of South Australians? The automotive industry is one of South Australia's largest employers, providing thousands of jobs for South Australians in automotive manufacturing, component supplies, accessories and general supplies. Many residents in my electorate are employed within this industry and are naturally concerned that it remains strong and viable and that it remains in South Australia.

The Hon. J.W. OLSEN: The automotive industry clearly has played a key role in the development of South Australia and is a key part of our industrial base. Its performance underpins the economic performance of South Australia and our State's manufacturing industry. The member for Elder raised the question of employment. It is not generally appreciated that 5 195 people are employed at Mitsubishi and 4 221 at General Motors. Just those two plants demonstrate the important employment base of the manufacturing industry, not to mention support companies like ROH, Lear seating, Johnson Controls, Exacto Plastics, Britax Rainfords and, of course, their suppliers—a key chain in job generation.

Overall, about 17 000 South Australians owe their employment to the automotive industry. Federal Government policy is to progressively reduce the automotive industry assistance from the high levels of the pre Button plan. Since 1988 we have seen tariff protection of 45 per cent reduced to 25 per cent, which will reach about 15 per cent by the year 2000. Therefore, the Industry Commission has now been asked to review the position and recommend what should happen beyond the year 2000 for the automotive industry.

The way in which the automotive industry in this country has responded to the challenges of the Button plan, the way in which it now produces a motor vehicle that is internationally competitive, the way in which the automotive component suppliers can export rear view mirrors to Germany and to Ford in the United States and steering wheel columns and airconditioners to Korea, demonstrates that manufacturing in this State is internationally competitive. The importance of jobs and the fact that it is now, clearly, an internationally competitive industry underscores the importance of what happens after the year 2000. Major investment, such as General Motors at Elizabeth with the second production line for the Vectra, wants predicability and certainty in industry policy in Australia.

I think that there is somewhat of a policy free zone on industry at the moment that needs to be addressed in accord with ensuring that the manufacturing base of this country is

given some regard. That is why the South Australian Government has put in a submission to the commission, and last week the SA Development Council also provided a submission. One-sixth of this State's manufacturing outcome is from the automotive industry, it comprises one-tenth of the State's total exports and it generates 15 per cent of the gross State product, so any policy that impacts against that will have a major effect on South Australia's economy. That is why our submission has called for a freeze of tariff cuts beyond 15 per cent post the year 2000 with urgent action prior to 2000 on micro-economic reform.

On that point, the motor vehicle manufacturers in this country were promised that, with the introduction of the Button car plan and tariff levels and protection therefore being reduced, there would be commensurate off-sets through micro-economic reform in Australia to balance the books for manufacturers. Federal Governments have failed to deliver on major micro-economic reform to offset those tariff cuts. Therefore, measures clearly are urgently needed on micro-economic reform—measures to boost the size of the domestic passenger vehicle market as the base for our exports.

We have to have economies of scale, stretched over the domestic market, to give the capacity for the motor vehicle manufacturers to get into export market opportunities. Increased access to automotive exports are also needed, which means in the APAC region getting greater access for Australian products into the Asia-Pacific region.

The submission is a first step in a process of presenting South Australia's case to the Commonwealth Government over the next six months before a decision is made about industry policy post the year 2000. I have taken up the matter with the Premier of Victoria to seek his support with South Australia on industry policy in a joint and cooperative sense. Victoria is also a strong manufacturing base and is developing a reputation in R and D and the like in the automotive field. We have a vested interest and not a competitive interest in the automotive sector. It is in the interests of both South Australia and Victoria to jointly lobby the Commonwealth Government to get an industry policy that meets and underpins the survival of the industry in Australia. One of the greatest manufacturing job opportunity strengths is the car industry and everything associated with it, and we need to be seen to be getting and in fact getting policy from Canberra on industry that ensures that there is a protection base, a level and a foundation for that. Therefore I have taken up the matter with the Premier of Victoria so that we might jointly take up the issue with Canberra.

I welcome the support of all in a bipartisan way on this important issue, including Mr Noack from the Vehicle Builders Union, as I think we share a common goal in that respect—creating and protecting jobs in South Australia for South Australians. With Victoria's support, I believe we can get an outcome in industry policy that is in the interests of the industry and, more importantly, in the interests of jobs and protection of jobs in South Australia.

DEPARTMENTAL AMALGAMATION

Ms WHITE (Taylor): How does the Deputy Premier and Minister for Tourism justify to the people of South Australia and the Parliament the fact that he has spent around $160 000 on a consultancy for a departmental amalgamation Bill that has now been scrapped in addition to a contract pay out to the former Chief Executive of the South Australian Tourism Commission? The ministerial code of conduct states on page 51:

> Ministers will recognise that they have an obligation to account to Parliament fully and effectively for all moneys they have authorised to be spent, invested or borrowed.

The Hon. G.A. INGERSON: It is amazing that a group of people who lost $3 billion to our State—

Members interjecting:

The SPEAKER: Order!

The Hon. G.A. INGERSON: —should talk about $150 000. Yesterday in the ministerial statement in relation to the restructuring, I stated that the majority of that money would still be of value in the restructuring as it relates to tourism, Major Events, the Entertainment Centre and the Convention Centre. I also made the point that, in relation to Recreation and Sport, when the Bill was being discussed there was a minor relationship in terms of restructuring of Recreation and Sport.

Let us talk now about the pay out of Mr Michael Gleeson. It is important that the House know a little about the fiasco that has developed in the past few days. It begs the question why staffing issues that relate to my department are of such major point at this time when the economy is in such a mess. I correct that: the economy that we were left was in such a mess and clearly we have the opportunity and reason to clear the whole thing up.

Let me make a few comments in relation to the termination of Mr Gleeson's contract. The contract for the former CEO has been terminated and now, in the aftermath of his removal, strangely and mysteriously, but usefully for Labor, confidential documents are floating round. The fact that Mr Gleeson was a Labor appointee, put in by the then Minister for Tourism—

Members interjecting:

The SPEAKER: Order!

The Hon. G.A. INGERSON: —just let me finish—and now Leader of the Opposition, Mike Rann, has nothing to do with his dismissal. Let me give the House an example of just one issue, the catalyst for the final breakdown, but I could detail many other examples. However, I will deal with the Estcourt House fiasco. Estcourt House was a surplus Government property zoned 'tourism use' which was put up for sale by tender. I questioned the management of the Estcourt House project on numerous occasions with Michael Gleeson. There were continual problems regarding the financing of this project. Time and again the purchasers failed to settle. I had grave concerns regarding the way the project was being managed by the Chief Executive and I requested him to provide me with information supporting the ability of the successful purchaser to complete the contract.

Because of my concerns, I instructed Michael Gleeson that legal advice be obtained. Concerns had also been raised with me by the development industry. During one of the many meetings I had with Michael Gleeson at which Estcourt House was discussed, I made it very clear to him that I was not satisfied with how things were progressing and I reiterated that the Chief Executive was personally responsible. As a result of this fiasco, I am advised that $1 million is still owing. I am advised that this is made up of two blocks of land valued at approximately $300 000 and a residual cash value of approximately $700 000.

I was let down by Michael Gleeson in the management of this project. Because of this and other concerns, I met with Michael Gleeson on 6 June 1996. At that meeting I listed a range of issues that had been raised with him on previous

occasions when I had been dissatisfied with his performance over the previous 12 months: the failure to properly manage Estcourt House; the failure or the lack of finalisation of administration and financial arrangements concerning Wilpena; the lack of action in settling problems in regions, especially the Fleurieu and the Adelaide Hills; the difficulty every year with the budget process; and the refusal to act on complaints by the industry that the South Australian Tourism Commission did not communicate with it.

I also advised Michael Gleeson that I had lost confidence in him as the Chief Executive and that I was intending to contact the Chairman of the South Australian Tourism Board to terminate his contract. Michael Gleeson's contract was finally terminated on 1 November 1996. Michael Gleeson's letter to me on 2 November 1996 agreed with the conditions surrounding the termination of his contract and he asked that no statements be made to the media. Clearly, the confidentiality he sought has been breached. I wish to make it quite clear that I have never seen the confidential documents tabled yesterday in another place. I would have expected an issue as serious as that raised in the letter from a group of staff in the Tourism Development Section to have been brought to my attention by the Chief Executive. It was not. It is another example of how Michael Gleeson failed to carry out his duties and concealed documents and information from me.

Let me correct another piece of misinformation. On radio this morning the member for Taylor said that Michael Gleeson received a three year pay out. This is wrong. He received a payment equivalent to three months for each year of service remaining: this is equivalent to $94 000. In addition, he received pay in lieu of notice worth $21 000 and received payment for outstanding leave. His contract was terminated. He is now clearly embittered and wants to damage me for that decision.

ASIA-PACIFIC BUSINESS OPPORTUNITIES

Mr BROKENSHIRE (Mawson): Will the Premier explain how South Australia and the Northern Territory—

Mr Atkinson interjecting:

The SPEAKER: Order! The member for Mawson.

Mr BROKENSHIRE: —are cooperating to achieve business opportunities in Asia?

The Hon. J.W. OLSEN: The South Australian and Northern Territory Governments are combining forces in an attempt to earn a slice of the Asian infrastructure market with a joint South Australia-Northern Territory power and water directory. The directory is an initiative under the Memorandum of Understanding on Economic Cooperation in the Asia-Pacific Region signed last year. It showcases the power and water capabilities of companies in South Australia and the Northern Territory and covers a wide range of capabilities in the power and water industries from alternative cogeneration plant construction, water and wastewater treatment to machinery refurbishment.

These industries have great synergy and are essential services which are required by urban and remote communities. The South-East Asian region requires infrastructure such as power and water systems, transport services and tradeable services. Up to 300 projects may be undertaken in the next few years. We can see that as an opportunity or simply be daunted by it. What we seek to do is combine the strength of South Australia-Northern Territory to reach out into the marketplace and gain those opportunities for this State.

As countries in the Asia-Pacific region develop, clearly their need for these essential services will increase. South Australia and the Territory are ideally suited, both in location and in capabilities, to provide these services to the region. The directory has been distributed to various local, national and international organisations including Austrade offices, regional development boards, infrastructure financiers and other international organisations with links into the Asia-Pacific infrastructure market.

South Australia's role in the emerging relationship will be reflected in the introduction (of which I gave notice today) of the Alice Springs to Darwin railway Bill, which authorises an agreement between both Governments to facilitate the construction and operation of a railway between Alice Springs and Darwin. Only last month my predecessor and the Chief Minister signed an intergovernmental agreement recording the extent of negotiations to date and agreeing in principle the financial contributions to the project to be made by each Government.

The Northern Territory Parliament has already passed the Australasia Railway Corporation Act 1996, which provides for the establishment of the Australasia Railway Corporation. With the introduction of the Bill into this Parliament, I look forward to continued bipartisan support on this major piece of infrastructure that is important for Australia in the long term.

TOURISM COMMISSION

Ms WHITE (Taylor): Given that the Deputy Premier has now told the House that it was necessary to remove Michael Gleeson as Chief Executive of the Tourism Commission because of major maladministration, why did the Minister not report these issues of maladministration to the Parliament at the time, together with an account of the specific action proposed to rectify them? Will the Deputy Premier now cooperate with an independent inquiry into the tourism portfolio? What is his reaction to the vote of—

The SPEAKER: The honourable member is now commenting—

Ms WHITE: —confidence of the board—

The SPEAKER: The honourable member is out of order. The honourable Minister.

The Hon. G.A. INGERSON: I discussed that situation with the Chairman of the board. We discussed the process, and in the end the process considered to be the most desirable action that should be taken was the termination on 1 November. I might point out to the House that the termination was an agreed position between Michael Gleeson as Chief Executive of the Tourism Commission, the Chairman of the board and myself. I can only say that once more: it was an agreed position in terms of how it should be handled, and the date on which it was finalised was an agreed position between Mr Gleeson, the Chairman of the board and myself.

DAY SURGERY

Mrs KOTZ (Newland): Will the Minister for Health inform the House whether the Government will promote day surgery within the South Australian health sector?

The Hon. M.H. ARMITAGE: I thank the member for Newland for her question about a real opportunity to advance better health care and better outcomes for South Australians who need to be participants in our health sector for whatever reason. Since the Liberal Government's election, we have

really concentrated on encouraging South Australian hospitals to utilise day surgery. As an example, the Queen Elizabeth Hospital currently performs over 50 per cent of its procedures within the surgical division on a day-only basis.

With your leave, Mr Speaker, I would like to quote from a letter I received from Professor Maddern, the Professor of Surgery at the University of Adelaide and the Queen Elizabeth Hospital. It really gives an interesting insight into a number of the reasons why this trend which we have been encouraging is in fact in the patients' interests rather than financial interests which the Opposition seems to harp upon, not realising that the world has actually advanced. In relation to an increase in day surgery, Professor Maddern says:

> This has required a major cultural shift for both nursing and medical staff as well as the patients. It is, however, creating an atmosphere of a hospital becoming a treatment centre rather than a dormitory. I believe this is the trend that hospitals should be aggressively pursuing in the best interests of both the ability to service the largest number of patients within our community and also in the patients' best interests.

Professor Maddern identified a number of important reasons relating primarily to patient care for the reduction of lengths of stay of surgical patients. He says:

> A turnover of patients contributes to reducing the incidence of hospital borne infections.

In other words, it is clearly in the patients' interests. He also identifies:

> Shorter stays in hospitals reduce deep vein thrombosis from lying in a hospital bed.

Again, clearly in the patients' interests. Professor Maddern further says:

> Shorter stays improve the psychological state of patients, in particular, by changing the sick role of hospitals to the health role which is more likely to occur at home.

So, there are three very cogent reasons why patients should be discharged as soon as is medically possible, and I repeat that all discharges obviously occur at the behest of clinical decisions. Once surgery has been performed, three major initiatives at the QEH are now able to help patients in their recovery. First, a convalescent unit has been developed to help patients improve what is known as their 'activities of daily living', and the readmission rate from this ward is less than 1 per cent, largely due to the fact that patients are extremely well prepared prior to discharge.

Secondly, some patients can go straight home from the acute wards, but they have the support of the hospital in the home service. This service is delivered by nurses who work within the division of surgery providing care within the homes of the patients. Thirdly, another extremely good initiative of the QEH is that an arrangement has been struck with a hotel opposite the hospital to provide beds for patients who may have come from the country and be awaiting admission to the hospital or who have left hospital but are not yet quite ready to go home to a domestic situation. So, in conclusion, I quote from Professor Maddern, not from a supposedly ideologically budget driven Government, because that is the accusation, and he further states:

> It is interesting to note that a large number of patient surveys we have performed for both the hospital in the home, convalescent unit and day surgery have indicated overwhelming acceptances of these practices. It is perhaps important to note that many patients and relatives who are ignorant of the benefits and processes in such facilities are initially resistant to them. However, what is becoming abundantly clear is that their outcomes and success rates are identical or better than those managed by the more conventional and old-fashioned means.
>
> I believe South Australia needs to continue to set the trend in patient care and maintain the highest standards of care delivered to our community. High quality care and first rate service has little to do with length of hospital stay, and indeed it could well be argued that a hospital that continues with a long hospital stay and a high occupancy of beds may well be one that has not kept pace with modern changes and practices within health care. The Queen Elizabeth Hospital will continue to be the benchmark by which other hospitals within South Australia and, hopefully, Australia will be measured, and I believe it is this sort of excellence that South Australia desperately needs if it is to put itself out of the perception of mediocrity that seems to be present in much of the media both within our State and interstate.

What more can I do than agree with Professor Maddern?

TOURISM COMMISSION

Ms WHITE (Taylor): Has the Deputy Premier, in giving a direction in regard to an employment matter, or at any other stage, bypassed the board of the Tourism Commission in issuing ministerial directions affecting that body or employees of that body? In relation to the method in which the powers, direction and control by the Minister are to be exercised, the 1995 Auditor-General's Report states:

> They are to be exercised by giving a direction to the board. Any other procedure would place the board in an intolerable position in discharging and being accountable for its statutory responsibilities under the Act.

The Hon. G.A. INGERSON: The reference in the Auditor-General's Report involved a direction that was given to Mr Gleeson by me in relation to funding matters. Those funding matters were listed in the annual report of the Tourism Commission. Because those instructions were not reported to the board by Mr Gleeson, the Auditor-General made a recommendation to Mr Gleeson that in future all directions that came from the Minister relating to specific grants should be notified to the board. That matter has now been corrected, and Mr Gleeson in all other instances has done that and has notified me accordingly.

MINERAL RESOURCES

Mr BECKER (Peake): Will the Minister for Mines and Energy outline what work is being undertaken to promote South Australia's mineral resources and the benefits which flow from mining to the community? I understand that the contribution of the mining sector to South Australia's development and jobs growth is increasing. In more recent times, the Department of Mines and Energy has been using the commemoration of St Barbara, the patron saint of miners, to promote its activities to the resources sector.

The Hon. S.J. BAKER: I was fortunate and honoured enough to launch Resources 96 last Sunday week with my colleague the member for Custance. The timing was impeccable, given the interest being generated in this State. Whilst there has been a lot of hype about the Gawler Craton—

Mr Quirke interjecting:

The SPEAKER: Order! The member for Playford is out of order.

The Hon. S.J. BAKER: —I believe that a number of other areas of the State bear reflection. I note the new interest in some of the more basic and unfashionable minerals such as kaolin, palygorskite, gypsum and granite, which are receiving a great deal of interest from people overseas not only in terms of exploration but also mining. We also have the Roxby initiative, which is well known to this Parliament, the Curnamona Basin and the recent Pasminco discovery in

association with the Broken Hill exploration initiative. We are also seeing some of the highest levels ever of gas exploration in this State, and on top of that the Government has been able to negotiate a contract to advance the SASE demonstration plant to utilise our coal and iron ore resources.

So, there is an extraordinary amount of interest in this State. Resources Week '96 will provide a brilliant focus for some of the activities of this State with potential to create interest interstate and overseas. We have had people from Canada, the United States and South Africa as well as a very large contingent from interstate. As I said, on Sunday we launched Resources Week '96 in the Mall. We did some gold panning, and I managed to find a gold ring and a gold chain. They would not trust me with a piece of gold in case it dropped out, but I managed to find the planted jewellery.

Importantly, on Sunday we also launched the education kit. I believe that this is one of the most important initiatives of the department that has been seen in this State: to educate our children not only in the potential of this State but also all the other issues associated with mining including the environment, ground water and the marvellous opportunity for them to have a career and a job in this industry. It has been an exciting week. This morning, I opened the conference of 300 delegates, and I put on the record not only the achievements of this State as a result of our exploration initiative but all the information that is now available to anyone who wants to walk through the door and say, 'We want to find something in South Australia.'

Included in the program for the conference is the issue of native title. Such luminaries as the Hon. Fred Chaney, the Hon. Chris Sumner and Mr Rod Williams will address the conference on this vital issue. I also mention the other vital issue of ground water and the extent to which the Department of Mines and Energy is developing a database on ground water. This is another groundbreaking first in Australia in terms of a GIS digital system. Miners and other interests will be able to access that database and determine what water is available and the quality thereof.

I pay tribute to Western Mining and its Manager, Pierce Bowman, for their tremendous support for Resources Week. It will conclude on St Barbara's Day. St Barbara, from the fourth century AD, is the patron saint of mining. I am sure that this week will prove to be another milestone for South Australia. I trust that the people of South Australia will reap the benefits of this venture for decades to come.

TOURISM COMMISSION

Ms WHITE (Taylor): How does the Minister for Tourism explain the contradiction between his statement to the House just now that the former Chief Executive of the Tourism Commission, Mr Michael Gleeson, was guilty of maladministration and the vote of confidence in the Chief Executive given by the board of the Tourism Commission at a special board meeting on 31 October 1996? The minutes of that meeting record the following:

> The board individually and collectively commended Michael Gleeson on the high standard of his work and professionalism over the past 3½ years and expressed their regret for the way in which the Minister had managed his departure.

The minutes state further that the board expressed its strong disappointment with the Minister's handling of the portfolio restructure process and its concerns relating to the Chief Executive's departure.

The Hon. G.A. INGERSON: As that is a board matter, that question ought to be directed to the board.

Members interjecting:

The SPEAKER: Order!

CRIME STOPPERS

Mrs ROSENBERG (Kaurna): Will the Minister for Police give details of the success of the police Crime Stoppers campaign, which was launched in early July this year? The Crime Stoppers approach has been successful in other States and internationally as this program involves the police, the media and the community working together to detect and clear crime.

The Hon. S.J. BAKER: The member for Kaurna has a deep interest in this issue. In fact, the honourable member and the members for Mawson and Reynell have worked closely with the police and community organisations to find solutions to some of the difficult problems faced in their areas, particularly because of a group of young people who cause difficulties. I commend the member for Kaurna and the members for Mawson and Reynell for putting forward their best ideas and getting together various community groups to address this problem.

Crime Stoppers has been and will continue to be a very successful program. It has included advertising on the back of police vehicles, and that together with the television coverage has heightened awareness of the program. Over its 20 weeks of operation, 1 707 calls (85 per week) have been received. Media targeted crimes comprise 1 012 calls (59 per cent of all calls). So, the Crime Stoppers program has generated interest. Calls about other crimes number 695 (41 per cent of all calls). The Crime Stoppers campaign, whether it be via television or the other forms of advertising, has initiated those calls.

Some 187 people have been apprehended as a result of this program, and a number of important calls were received in relation to the Knowles murder. There has been one apprehension per nine calls, and offences cleared and detected amount to 249. Stolen property that has been located is valued at $543 254, and six rewards have been approved with a payment of $1 800. I commend the Police Commissioner and his officers and the sponsors of this program, and I trust that the capacity of the community to be involved in the fighting of crime will increase. I commend everyone involved.

TOURISM COMMISSION

Ms WHITE (Taylor): How could the Minister for Tourism tell the House yesterday, 'I am not aware that the Auditor-General has any interest in my department as it relates to the Minister for Tourism' when the Auditor-General's 1995 Annual Report devotes two pages to the heading 'South Australian Tourism Commission—Ministerial Directions'?

Members interjecting:

Ms White interjecting:

The SPEAKER: Order! The member for Taylor is out of order.

The Hon. G.A. INGERSON: This question was answered yesterday but, so that the honourable member can understand it, I will do so again. It related to 1995. As I said in answer to a previous question—

Members interjecting:

The SPEAKER: Order!

The Hon. G.A. INGERSON: —it related to some directions that I gave. I advised this House a few minutes ago that that was in relation to grants and had nothing to do with any other issues.

Mr Becker interjecting:

The SPEAKER: Order! The member for Peake.

The Hon. G.A. INGERSON: It related to the Chief Executive making sure that, if I gave any directions, they were properly transmitted to the board and, as a consequence, were in the annual report. That is all it was about and, as I said to the House, I have corrected that. In recent times Mr Gleeson has made sure, as Chief Executive, that the board has always been aware of any ministerial direction in relation to grants.

MORIALTA CONSERVATION PARK

Mrs HALL (Coles): Will the Minister for the Environment and Natural Resources inform the House about the status of plans to upgrade the Morialta Conservation Park, and will the community be consulted as part of the planning process? A constituent has contacted me concerning an article in the Messenger press announcing a $500 000 upgrade of facilities at Morialta. Is this the case and, if so, why was the local community not consulted?

The Hon. D.C. WOTTON: At the outset, I acknowledge the strong support and the role that the member for Coles has played and continues to play in the development of the Morialta Conservation Park. I for one appreciate the representation that has been made by the member on behalf of her constituents over a long period regarding the development of this conservation park.

An honourable member interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition.

The Hon. D.C. WOTTON: I might also say—and I doubt whether members on the other side would agree, but I am sure that the member for Coles and other members on this side of the House recognise this—that this conservation park is an important asset to South Australia. I doubt whether members on the other side would know what a national park was. Few cities could boast such a stunning conservation park only moments from the central business district. There is an absolute need for the development of that asset. The previous administration allowed it to deteriorate, and it is important that we look at ways in which we can improve the facilities in that park.

The article to which the member refers stems from a call from a reporter to the regional manager, I understand, asking her about any plans to replace the kiosk which was burnt down in 1993. I am also told that the article bears little relationship to their conversation and was based mainly on assumptions rather than factual information. I inform the House that a draft management process is being planned. To suggest that this process will not occur or that the development has been announced without consultation is totally false. The draft management process is being planned for Morialta early next year, and it will be achieved with input from the local community to ensure that any improvements to the park are handled properly and sensitively. As a result, no decisions on any major new facility will be made until there has been adequate consultation with the member for Coles and her constituents and groups associated with Morialta.

I take this opportunity to commend the community and the support that has come from the community in that area over recent times—and I refer particularly to the Morialta Residents Association and the local Rotary Club. Both organisations have contributed significantly to this park and, along with the member for Coles, I have been very pleased to attend a number of functions at that park recently to share in the opening and the recognition that has been given to those groups.

The Government has shown a strong commitment to improving infrastructure and facilities in our parks—improvements that have led to environmental protection, economic benefits and an increase in ecotourism, as well as an increase in jobs in South Australia. We have the new Mount Lofty redevelopment; a $3 million project earmarked for the Naracoorte caves; the recently announced Innes National Park Visitors Centre; improvements to Seal Bay; and a substantial investment in improving roads within our park structures. So, it is totally appropriate that the new developments at Morialta come on stream as quickly as possible. It is also important that the local community, including the local member, is involved in any consultation as we work towards the development.

MINISTERS' CODE OF CONDUCT

Ms WHITE (Taylor): Does the Premier intend to rely on the Code of Conduct for Ministers set down by his predecessor and published in the 1994 Department of Premier and Cabinet Handbook and, if so, will he apply it or will his Government operate by other standards? The code of conduct promulgated by former Premier Brown states:

> All Ministers will recognise that full and true disclosure and accountability to the Parliament are the cornerstones of the Westminster system, which is the basis for government in South Australia today. The Westminster system requires the Executive Government of the State to be answerable to Parliament and, through Parliament, to the people. Being answerable to Parliament requires Ministers to ensure that they do not wilfully mislead the Parliament in respect of their ministerial responsibilities. The ultimate sanction for a Minister who so misleads is to resign.

The Hon. J.W. OLSEN: To the first question, 'Yes.'

GROUP 4

The Hon. H. ALLISON (Gordon): Will the Minister for Correctional Services advise the House when private management of the State's prisoner and young offender movements and in-court management first began and whether any employment and economic benefits are likely to accrue from that important Government initiative?

The Hon. W.A. MATTHEW: The Government's contract—

An honourable member interjecting:

The SPEAKER: Order! The member for Hart is out of order.

The Hon. W.A. MATTHEW: —with Group 4 Correctional Services to privately manage the State's prisoner and young offender transport and in-court management exemplifies not only the benefits that can be achieved for the two main parties, the private sector and the South Australian Government, but also the economic spin-offs that are able to be achieved for the whole of the South Australian community. On 16 December Group 4 will commence this contract and will take over the work that is presently undertaken by four Government agencies.

An honourable member interjecting:

The Hon. W.A. MATTHEW: If the member likes to sit back and listen he might, for a change, learn something. This is the sort of task that the Labor Party would not embark on. This is the sort of task that took up the time and effort of police officers around the State. This is the sort of task under the Labor Government that kept police officers off the beat, that kept police officers away from their basic duties—protecting the South Australian public and responding to calls for help, responding to calls from the public. That is a task that police officers will be freed up to undertake from 16 December because this work will now be undertaken as a dedicated task by one group of people through Group 4. Full implementation after the phased start from 16 December will be completed by 30 December this year. Obviously, a phased transition approach has been necessary to ensure an orderly take-up of this new function.

It is a significant task, because it involves work undertaken by not only the Police Department but also Correctional Services, Family and Community Services and the Courts Administration Authority. It is certainly an Australian first, and I am told by all three major private contractors presently operating in Australia in this field that this could be the first time in the world that this complete task has been undertaken for any one jurisdiction. These agencies are responsible for 70 000 prisoners and their transportation to court, from court, between prisons and from young offender institutions to court—70 000 prisoner movements per annum between 60 agency sites. The company that has been selected already undertakes 300 000 such tasks each year in the United Kingdom where it uses 1 200 staff and 200 vehicles. This company also operates the State's first and, to date, only privately managed prison in South Australia.

I am pleased to advise the House that, to fulfil its contractual obligations Group 4 has now employed some 90 staff, those staff have been trained, and training is in its finality as they prepare to take up their work. They have also opened offices—and I know the member for Playford is interested in hearing this—in Adelaide and Port Augusta—in your electorate, Mr Speaker—and also an appended office to the Mount Gambier Prison operation. Only six of the 90 staff have been drawn from existing Government staffing. The Port Augusta office will employ 12 staff from that location and five staff from the member for Gordon's electorate at the Mount Gambier office, and the remainder of the staff will work out of Adelaide.

Obviously, this provides significant benefits to the movement of prisoners and also the freeing up of police and agency resources, but I was also pleased to receive formal acknowledgment from Group 4 of its policy of using South Australian goods and services. Group 4 has advised me of the following commitment:

> It is our intention to purchase all supplies, equipment and services in respect to the provision of this service from South Australian manufacturers, where possible, or from South Australian suppliers where items that we require are not manufactured in South Australia.

It is a good result for the South Australian community, a good result for the sensible management of prisoners and a good result for the police in South Australia—a win all around.

TOURISM COMMISSION

Ms WHITE (Taylor): In light of yesterday's revelations in the House, does the Deputy Premier still stand by his statements to this House on 12 November 1996 that, in relation to staff employment matters, 'It is not my responsibility nor has it ever been my responsibility to interfere—

Mr BASS: I rise on a point of order, Mr Speaker. The question is identical to a question asked yesterday.

The SPEAKER: Order! I ask the member for Taylor to bring the question to the Chair so that the Chair can determine at a later time whether the question is the same. I do not have the *Hansard* in front of me.

MATTER OF PRIVILEGE

The Hon. M.D. RANN (Leader of the Opposition): I rise on a matter of privilege, Mr Speaker. Having listened carefully to answers given by the Deputy Premier and Minister for Tourism today, yesterday and on previous occasions regarding matters surrounding the employment of staff in his tourism portfolio, I now believe that the Deputy Premier has misled this House. On 12 November, in answer to a question asking what involvement he had in the appointment process of his former adviser, Anne Ruston, to the position of General Manager of the Wine and Tourism Council, he said 'None.'

Yesterday in a ministerial statement, the Minister acknowledged that he phoned a member of the appointment panel, South Australian Tourism Commission Chairman, Mr Lamb, in relation to Ms Ruston's application. As well, the member for Taylor yesterday quoted from the transcript of a meeting of the South Australian Tourism Commission board, held on 16 October 1996, which quoted the Chairman of the commission, Mr John Lamb, as saying, 'I certainly had one phone call on one occasion to support her for the job,' and quoted the former Chief Executive of the commission, Mr Michael Gleeson, as saying, 'I was influenced politically for the appointment.' Not to mislead the House is a fundamental tenet of parliamentary principle and I quote the twenty-first edition of Erskine May (page 119) which states:

> The Commons may treat the making of a deliberately misleading statement as a contempt. In 1963 the House resolved that in making a personal statement which contained words which he later admitted not to be true, a former member had been guilty of a grave contempt.

I ask you, Sir, to rule *prime facie* that such a case for misleading the House has been made and I ask you to give precedence to a motion to establish a privileges committee to establish whether the Minister misled the House on 12 November 1996.

The SPEAKER: Order! The Chair will consider the matters raised by the Leader of the Opposition, take advice and report back to the House when I have come to a considered decision.

ASIAN EXPORT OPPORTUNITIES

Mr D.S. BAKER (MacKillop): Will the Minister for Primary Industries explain what measures are being planned by the Primary Industries portfolio to pursue export opportunities in the Asian markets?

The Hon. R.G. KERIN: One of the key events in 1997 for exports to Asia, both food and otherwise, will be the hotel and food exhibition in Hong Kong. The HOFEX exhibition is a biennial event which showcases foods for the lucrative hotel industry. The Economic Development Authority will again coordinate the South Australian exhibitors' stand at HOFEX where two years ago food processors enjoyed quite a bit of success. In conjunction with the EDA, I am coordinating a South Australian business delegation of food producers

and processors to explore export opportunities in Asia. Next week, I will be holding a forum to explain details of the visit to HOFEX and invite interested people and companies to attend.

During their visit to HOFEX, participants will also be involved in a series of workshops and seminars organised by PISA and the South Australian Government's overseas offices. We want to highlight how these markets operate, the opportunities for South Australian food producers, the best way to do business in these regions and how to secure the business. The processors and producers will have the chance to meet buyers, wholesalers and retailers to discuss first hand what is required to supply these markets. There is huge potential for South Australia's quality fresh and processed foods in the ever growing Asian markets. Our horticulture industry continues to thrive and is now worth $820 million, an increase over the past 12 months of another $100 million and nearly double what it was three years ago. Commercial seafood is currently worth $220 million to the State's economy.

Now is the time to take advantage of the window of opportunity in the region and to secure markets that return the highest prices for our produce. It is our job now to assist more companies in developing links to these markets and realising their export potential. After HOFEX, an optional series of fact finding tours will be conducted to look at the Hong Kong, Taiwan and Southern China regions. These tours will provide targeted information on the opportunities available in these markets and how to access them. There is a need for Government and business to pursue export market opportunities together, and we should be ready to accompany South Australian business overseas and facilitate trade discussions and in that way, hopefully, lead to greater levels of food exports.

LOCAL GOVERNMENT AMALGAMATIONS

Ms HURLEY (Napier): My question is directed to the Minister for Housing, Urban Development and Local Government Relations. To date, how many proposals for council amalgamations have been endorsed by the Local Government Boundary Reform Board for approval by the Minister, and is the Minister considering resort to forced amalgamation as a result of poor progress on amalgamation? At the commencement of the reform board, South Australia had 118 councils. On 2 July this year, the Minister told the House:

> There will be no trouble meeting the 50 per cent target that the Government has set and we are expecting the majority of council initiated proposals to be lodged with the board during August, September and October.

The Hon. E.S. ASHENDEN: In fact, this morning I received a briefing on this matter from Mr Ian Dixon, who has advised me that I will be in a position to indicate to the House tomorrow that the number of councils in South Australia, with the amalgamations that have been put before the board, will be down to 90. They are fully expecting that—

Ms Hurley interjecting:

The Hon. E.S. ASHENDEN: The honourable member has not got a clue. She will have to do a bit of study as far as local government is concerned. We have said all along that, by the time of the next election, the number of councils in South Australia will be approximately 50 per cent of the number that were there when this process was started. We started with 118 councils. I have been advised by Mr Dixon that he is more than confident that that number will be less than 70 by the time of the next elections; in other words, we will meet the target. Not only will we meet the target but we are further ahead in the process than we had expected at this time. I realise how disappointed the honourable member will be by this information because the process is going well. The vast majority of the amalgamations will be undertaken on a voluntary basis, as was indicated both on radio and in the press this morning by Mr Dixon.

Some councils are now being required to provide information to the board. The board is simply saying, 'We believe that an amalgamation could be in the your council's interest; there is some information we want.' That information will be provided but, as Mr Dixon has also said, the board is confident that a number of the councils presently having information requested of them will be undertaking an amalgamation on a voluntary basis.

This Government has never hidden from the fact that the reason it wants amalgamations to proceed is that we know that in amalgamations there will be very real benefits to the ratepayers of those councils. The member for Hart would be the first to acknowledge not only that there have been substantial savings because of the amalgamation of the Port Adelaide and Enfield councils but that record public works are being undertaken and rates have been substantially reduced. I do not know where the honourable member is coming from. The process is working well: voluntary amalgamations will occur, we will achieve the target the Government originally intended and all in this State will benefit accordingly.

GRIEVANCE DEBATE

The SPEAKER: The question before the Chair is that the House note grievances.

Mr CONDOUS (Colton): For the past four days, 100 fine men and women have picketed the ETSA site on Grange Road for 24 hours a day because they feared for their lives and the health of their families and were worried about the well-being of their children and the long-term repercussions for their health. At 11.45 a.m. today, while I stood with them at one of the three gates, the police physically removed people to allow supplies and materials onto the site. The police were only doing their job and the drivers of the trucks were acting under instructions, but what is the price that we as a community may pay in the future to satisfy the multinational profits of Telstra, Vodafone and Optus?

I put on the record that Vodafone staff have been the upfront people, the low-lifes putting in the applications and forcing the erection of the towers onto the community. We only have to go back in time to realise how many things we have done in our community and the price we have paid for them. How many good men who simply wanted to earn a living for their families lost their lives because their employers told them to install asbestos in buildings as an insulation material? The price they paid was their lives and the lives of many others who worked in that environment. Their health was destroyed by their breathing in the particles of asbestos.

How many doctors were responsible for instructing pregnant women to take the drug Thalidomide, and the

community saw the birth of hundreds of limbless children who were affected? What is the price we pay for the testing at Maralinga, given that today the area is devoid of any vegetation and animal life and the Geiger counter still kicks strongly, responding to the content of uranium in the testing area?

Today decent people at Fulham Gardens tried to fight for what they believed in, having been let down badly by Federal politicians of both sides who are listening to the so-called experts telling them that the level of electromagnetic radiation is nothing to be worried about. I hope that they are right because it would be a tragedy in 10 years to say that the erection of telephone towers and our ignorance about them resulted in the death of thousands of people with cancer-related illnesses. Today I witnessed in action the insensitivity of all three telephone carriers—Vodafone, Telstra and Optus. I witnessed their total disregard for people, their insensitivity to the community, their bullying tactics and their unwillingness to communicate with people to achieve satisfactory resolutions. The people of Fulham Gardens can be proud of the fight they put up and I, as their elected representative, am proud of them.

In my time as Lord Mayor, given the hundreds of companies I had to deal with, never have I met with such unscrupulous people as the ones with whom I have had to deal at Vodafone. To the two gentlemen from Vodafone in Sydney—Gary Wallace and James McRoberts—I say to you, Sirs, that you deserve the title 'true bastards'.

Mrs GERAGHTY (Torrens): Almost every time I contribute to the grievance debate my comments revolve around economic cut backs to services, especially services for the weakest and most vulnerable in our community. Today is no exception. I refer to major problems faced by cooperative housing tenants in this State. Reforms proposed by the Federal Government threaten a program that has set the standard set for the nation, yet despite South Australia's proud history of innovation and developments in community housing—

Members interjecting:

Mrs GERAGHTY: Be quiet. Members of housing cooperatives—

Members interjecting:

Mrs GERAGHTY: Just listen. I do not interrupt you, so give me the courtesy. Most of the time I do not listen, but that would be why.

Members interjecting:

The SPEAKER: Order!

Mrs GERAGHTY: This is a serious issue: making a joke of it shows the lack of consideration that members on the Government benches have for our community. Members of housing cooperatives are disappointed by the lack of leadership, particularly demonstrated by this State Government. Cooperatives are concerned that their viability will be threatened if they are forced to charge market rents and operate commercially. Most cooperative members will be unable to meet the market rent on the property unless a Government subsidy of around $70 per week is received. I believe that the State Government should take a firm stand in negotiations over the reform of housing assistance and, in particular, changes to the Commonwealth-State Housing Agreement. This State will have greater responsibility in the provision of housing under the changes and, while the Commonwealth would manage income support measures, it is crucial that in providing community housing the State Government maintain its stated commitment to growth by ensuring that sufficient capital funding is available to the South Australian community housing authority.

Both State and Commonwealth Governments have responsibilities to ensure access to safe, secure and affordable housing, but cooperative members are concerned that the changes will not protect low income people who fall between the two areas of responsibility. There are serious doubts within the community housing sector, and cooperative members in particular, as to whether people on low incomes have the wherewithal to enable the community housing program to grow. The move to market rents shifts responsibility for the provision of low income housing from the Government to the consumer. Why should the needy be forced to carry their houses on their back?

Cooperatives are also saying that tenants could be forced out of their homes if they were forced to charge market rents and members did not qualify for the new rental subsidies. The Federal Government should be pressured to maintain its funding for the building of houses but, if it does not, this State Government must be prepared to meet its commitment by making up the difference. The direct funding of community housing organisations is a more efficient use of limited taxpayer funded assistance than are tenant subsidies, as community housing guarantees the Government a well maintained asset in the future. Individual tenant subsidies will not necessarily increase the amount of housing available and will not provide the same return on taxpayers' money.

In an era of decreasing availability of Government funding for social infrastructure, community housing provides considerably better value for money. The lack of community consultation and participation in the discussions is causing insecurity among tenants of public housing and the private rental sector. In the meantime, despite promises that the proposed reforms will not adversely affect public and community organisation housing tenants, we are still waiting for the details of the proposals. There are 90 housing co-operatives around the State which provide community housing for low income earners. The people who run the co-operatives work without pay. In the Torrens electorate about 65 co-operative houses are managed by 16 different co-ops, including the disabled, low income earners, single parents, elderly and people from non-English-speaking backgrounds, to name but a few. Housing co-ops have been a successful solution. I will continue my remarks later.

The SPEAKER: The honourable member for Kaurna.

Mrs ROSENBERG (Kaurna): I want to put on record today some of the great changes that have taken place at the Noarlunga Interchange. I have spoken at length before about the $11 million or so that has been spent to upgrade the interchange. The changes have increased safety especially for the elderly people, where there was a large stepped area between the train platform and where they catch their connecting buses. The changes have led to greater convenience by both elderly people and everyone else using the service. Security cameras have been placed in fairly strategic places around the whole interchange and, according to today's Messenger newspaper, they have been well received in terms of the area now being considered to be user friendly. A user friendly environment fits well with one of the other projects at the interchange, that is, the mural art program, about which I have spoken previously, and I look forward to that program's outcome at the interchange.

As part of the mural art program for the Noarlunga area, one can look at the Southside building and see on one of the walls the mural painted during the Australian Remembrance time. The mural was sponsored by Noarlunga council. The wall muralised, which faces out through a park to houses, was previously always covered with graffiti, and overcoming that problem was always a bone of contention with the community. Southside commissioned some local artists and created a mural on that wall which is now greatly admired by all members of the community and the council. The community sincerely thanks the council for sponsoring the mural in that location. However, the complete opposite appears to be occurring with the mural art program, the council now having introduced a white wall policy which has seriously put at risk the mural art program at the Noarlunga Interchange.

The reason for my contribution to the grievance debate today is to call on the council to rethink its support for the mural art program at the Noarlunga Interchange because of the involvement of local youth in general and because the program was always intended to be an ongoing program, not one where some mural art would be done and then people would walk away and leave it, but one that continues to involve more and more youth in the area, providing opportunities for them to progress not only their social skills but also their artistic careers. Some of the young people involved in the mural art program at Noarlunga are former graffiti artists who have now gone on to use the experience and the peer pressure to do good art and who obviously will progress to an artistic career in the future.

The mural Art program at the Noarlunga Interchange is supported by business in the area, 12 businesses already having agreed to sponsor the advertising. The problem that has arisen is that the mural art is a mixture of artistic advertising and some wild art as well. The difficulty has been that an application had to be made to DAC for permission for this to be done at the Noarlunga Interchange because it involved some advertising, some businesses having actually paid advertising costs for this. Under the Development Act it has been deemed an advertisement and it therefore involves having to go through the formal advertising and application process. I am informed by the person involved from Southside that DAC is ready to approve the project, subject to the council's coming to some agreement. The difficulty is that the council has now introduced its white wall policy which is preventing approval of this mural art program through DAC.

I make a sincere plea to the council to reconsider the program for the sake of the youth who have been involved in the program thus far and who will be involved in it in the future and to consider all those people using the interchange who have contacted not only the Senior Traffic Engineer, Peter Harper, but also me to offer to become part of a program that maintains the interchange.

The DEPUTY SPEAKER: Order! The honourable member's time has expired. The honourable member for Lee.

Mr ROSSI (Lee): Today I wish to talk about a problem I have in my electorate involving the Mayor of the Hindmarsh Woodville council. The Mayor, Mr John Dyer, has called several public meetings for residents of Hindmarsh Woodville council involving some matters which I consider to be interfering with the State's jurisdiction. He called a public meeting in regard to Optus aerial cabling, another meeting at which he opposed the State Government's action in regard to the Adelaide City Council, which I consider to be a political issue, and yet another meeting involving the closure of Findon Primary School. The council has also been involved in graffiti control in the area and, although I should praise the council for that, it did not control graffiti at all. My reason for objecting to the interference by local government in State affairs is that several other issues are more important for local government to consider.

I have lived in the Woodville district since 1962 and I have seen no great improvement in services. A 205-litre rubbish bin is provided by the council for household refuse, but after making contact with residents from other council areas, particularly from the Marion council area, I would refer to a Marion council pamphlet dealing with the recycling of rubbish in that area. The pamphlet describes how this service is highly regarded, and I believe that the Hindmarsh Woodville council should implement a similar system as soon as possible. Marion council provides one rubbish container with two compartments and the pamphlet states:

> Recycling section: materials which can be placed in the recycling compartment (rear section) of the divided bin include: all glass jars and bottles, with lids and caps removed. All plastic containers, which must be clean and have their lids off...
>
> Rubbish section: materials that should be placed in the rubbish compartment at the front include: pressure packs, all film plastic... margarine and yoghurt containers, plastic shopping bags, kitchen scraps—

Mr Atkinson interjecting:

Mr ROSSI: The member for Spence is always carrying on and asks why my wife did not do something. My wife was on the council for only two years and could not put up with the rubbish of the Labor stooges that you campaigned to put on the council. Members from your side have been there longer than my wife was there, and they are playing politics instead of representing their constituents and getting on with the job.

Mr Atkinson interjecting:

Mr ROSSI: I will name them if they give me approval to do so. I am not a coward like you, who mentions people's names in this House without their approval.

Mr ATKINSON: Mr Deputy Speaker, I rise on a point of order. The member for Lee has referred to me as a coward and I ask him to withdraw.

The DEPUTY SPEAKER: I anticipated the point of order and I ask the honourable member to withdraw.

Mr ROSSI: Mr Deputy Speaker, I withdraw the comment, but I wish that the honourable member would have some respect for a member who is raising issues affecting his electorate and that he would mind his own business. You talk about your electorate and I will talk about mine, thank you.

Mr Atkinson interjecting:

The DEPUTY SPEAKER: Order! Debate across the floor is not permissible. The member for Lee has the floor.

Mr SCALZI: I agree with the policy of sorting perishable and non-perishable rubbish. People who collect the rubbish should be encouraged to dump it in separate landfills. Non-perishable items could be buried, as farmers do with their wheat, and this could continue until such time as an appropriate recycling process is introduced. This would cost less and would cause less odour and dust when the landfills are dug up to use the recyclable material.

The DEPUTY SPEAKER: The honourable member's time has expired. The member for Napier.

Ms HURLEY (Napier): The member for Lee complained that the Mayor of Hindmarsh Woodville had interfered in areas outside his jurisdiction, but he then went on to interfere

in local government matters and dictate the way in which he believed garbage should be collected in his electorate. This illustrates the inherent contradiction with regard to this Government's attitude to local government. The Government does not know whether it is coming or going and has made life very difficult for local government in the process.

If the member for Lee wants to have some influence in local council activities it would be easy for him to do so either directly as a resident or by encouraging people to stand for council. He would probably get a better hearing from people in local government than local government has had from this State Liberal Government. It has been a constant complaint of local government that this Government has not adhered to the memorandum of understanding which was signed between the State and local government and has virtually ignored it, and that local government is unable to have a say and is not consulted about what the State Government has done in terms of legislation or actions it has taken affecting local government. It is very interesting that the member for Lee has this complaint about his local council. I suggest that he get more consultation and dialogue going there.

Mr Atkinson interjecting:

Ms HURLEY: This is particularly interesting, because a number of Liberal members have run for council either unsuccessfully (as in the case of the member for Lee) or successfully (in the case of a number of other members), and one would think that they would have a clearer understanding of what goes on in local government, but it does not seem to have quite penetrated.

Mr Atkinson interjecting:

Ms HURLEY: The member for Spence reminds me that the member for Lee ran seven times; we are pleased that he was successful in his efforts and won the State seat of Lee. I want to move on to the matter of council amalgamations. The Labor Party is not opposed to council amalgamations. It has long been Labor Party policy to encourage these amalgamations, and for very good reasons—because in many cases amalgamations lead to considerable benefits in terms of lower rates for ratepayers and better uses of equipment and resources. The Labor Party has always encouraged amalgamations and tried to encourage them when in Government, only to be opposed, in notable cases, by State Liberal members who were emphatically against them.

For example, I cite the case of Mitcham-Happy Valley, where the former Deputy Premier (now Minister for Mines and Energy, Minister for Police and Minister for a number of other things) strenuously resisted the amalgamation and it eventually fell apart. The Labor Party continues to support voluntary amalgamations and cooperated in a Bill which passed through this House seeking to increase the number of amalgamations in this State. The only caveats we had about that Bill were that it did not provide enough community consultation and it was not of a voluntary nature.

Several amendments were made to that Bill and it was passed, and we are now in the situation where amalgamations are facilitated. However, it happens in a very *ad hoc* fashion: whichever council puts forward its proposal, there seems to be no overall vision concerning how councils should best amalgamate and what would be the most efficient and effective amalgamation procedure.

Mr MEIER (Goyder): One matter that is of concern to anyone who has a home or business is that of electrical safety. Members would be aware that South Australia is undertaking significant change in the area of electrical inspections. I want to highlight two or three of the key features that will now apply in South Australia.

I was interested in an article in the *Electro-Tech Connection* magazine comparing the various inspection programs of the States. Victoria has some 130 inspectors employed or contracted by the five recently privatised distribution authorities; in New South Wales the last survey showed that there are between 200 and 240 electrical inspectors; there are about 375 full-time and part-time inspectors employed by Queensland's seven supply authorities; Western Australia has a very different system; and South Australia, according to this magazine, is experiencing the greatest change of any State.

It is interesting to recall the fact that, until now, inspections have been carried out by the Electricity Trust of South Australia Corporation's 46 electrical inspectors. In fact, those inspections have been carried out on all work where ETSA Corporation has been involved such as in the installation of new mains, new main switchboards, meter relocations, and so on, and these are complete installation inspections.

According to the magazine, this inspection technique exposes only 3 per cent of the total State electrical work to the inspector, and these inspections have to date been free of charge. Electrical contracting licensing and electrical worker registration are now the responsibility of the Office of Consumer and Business Affairs (OCBA). The defining and administration of electrical installation standards has been transferred to Mines and Energy SA (MESA). MESA is revamping the inspection system, introducing an audit inspection system, which in some ways is similar to that used in New Zealand. An interim audit inspection scheme is being introduced until further legislation is proclaimed early next year.

The proposed interim scheme will be driven by a system of certificates of compliance submitted by the electrical contractor on completion of the work. I was pleased to have the opportunity to see a brochure identifying the key features of the certificate of compliance. In fact, that brochure states:

> For safety's sake, make sure your electrician and/or electrical contractor are licensed and provide you with a certificate of compliance. Then you can be sure that electrical work carried out will be in line with Australian standards and, most importantly, will be safe.

I think all of us want to ensure that. The brochure goes on to identify how the certifying of electrical work will occur. It is very important that householders and people who want electrical work done make sure that their electrician completes a certificate of compliance. Full details are provided in this information sheet. In fact, copies need to be provided to the customer, and this guarantees that the work is safe and certifies that it meets the required standards. So, it is very much self regulation. A copy is also provided to the electrical distributor and to the electrical contractor.

It is very important that consumers know what to do if they think that the completed electrical work is unsatisfactory or unsafe. They should first contact the contractor who carried out the work to try to resolve the problem. If they are unable to resolve the problem or are not satisfied, they should contact the Energy Division of Mines and Energy. If a person still has a question about the licensing of electrical contractors, contractual matters or commercial or unlicensed contractors, they should contact the Office of Consumer and Business Affairs. Between those three avenues, I believe that a very safe and efficient service will be provided to all South Australian consumers.

POLICE (CONTRACT APPOINTMENTS) AMENDMENT BILL

Consideration in Committee of the Legislative Council's amendments:

No.1. Page 2 (clause 4)—After line 27 insert new subclause as follows:

'(6) On making and notifying to the Commissioner a decision not to reappoint the Commissioner at the end of a term of appointment, the Minister must cause a statement of the reasons for that decision to be laid before each House of Parliament within six sitting days if Parliament is then in session, or if not, within six sitting days after the commencement of the next session of Parliament.'

No.2. Page 4 (clause 4)—After line 27 insert new subclause as follows:

'(3) On terminating the appointment of the Commissioner, the Minister must cause a statement of the reasons for the termination to be laid before each House of Parliament within six sitting days if Parliament is then in session, or if not, within six sitting days after the commencement of the next session of Parliament.'

The Hon. S.J. BAKER: I move:

That the Legislative Council's amendments be agreed to.

The amendments, which were unsuccessful in this Chamber, were moved successfully in another place. I do not believe that the two amendments currently before the Committee add to the quality of the legislation, and I will explain why. The amendments deal with the act of reappointment and the issue of contracts. At the end of a contract, unless there is some compelling reason, it is up to the Government of the day to decide whether the person should be reappointed for a further term. It was clearly explained to the member for Playford during discussion on this Bill that our major concern was not to lock ourselves into a defined result but to allow for total responsibility and accountability to ensure that nobody was dismissed inappropriately. I believe that that balance was achieved by this Chamber. However, the amendments suggest that we should put an extra safety net in place.

Because I will not be dealing with the situation when it arises at the end of the contract in five years, it will not be my problem, but whoever is dealing with the legislation at that time will curse the Labor Party and the Democrats for forcing these amendments on this Chamber. I can understand why there should be a statement to the House if someone has their contract terminated early. I clearly understand that. I believe that the House would demand an explanation. Questions would be asked of the Minister, who would have to respond according to the merits of the case. However, the amendments are worded in such a way that there has to be an explanation irrespective of whether the contract term has expired.

The whole issue about contract terms is that people are hired according to a number of criteria. One is to ensure that we do not have people stuck in the system virtually until the age of 65, which is the current situation. By placing a five year term on it, we place accountability and responsibility on the Police Commissioner to perform and on the Government to be responsible in the way it oversights the operations of the Police Department. The amendments suggest that, every time a person whose contract has expired is not reappointed, there is some responsibility on the Government to explain the situation. Without adopting the conspiracy theory, which I know members of this place would wish to do, there is a whole range of reasons why someone may not wish to be reappointed. They may include ill health, running out of steam, another job offer or some other reason. The fact is that the member for Playford and the Democrats want this explained to the House.

I do not know how you deal with these matters sensitively. I have no difficulty providing for an explanation to be given if a person does not complete his or her contract term. However, when the contract is fulfilled in the normal fashion as we would expect, I do not believe it is appropriate for further action to be taken in the Parliament, unless there is some suggestion of ill feeling, ill will or wrongdoing in the process.

I will accept the amendments. I believe that any future Minister will curse the day the Australian Democrats and the Labor Party combined to put forward these amendments. I do not wish to fight the amendments or go to a conference on them. As I said, I will not be dealing with them in five, six, eight or 10 years. I am simply explaining that, for the goodwill of anybody in that position, especially if they have had some illness or tragedy in the family, I do not believe that some of those issues should be brought to the attention of the Parliament. I do not believe anyone's private life should be intruded upon in the way the member for Playford suggests in these circumstances.

Obviously the member for Playford is very firm in his belief, and a conference would not produce any different result from the one we have here. It is not my intention to waste my time or that of anybody else in rejecting the amendments and having to go to a conference. Good legislation is about not trying to look under the rocks but understanding that there are rocks which could have something under them. The amendments place future Police Commissioners in an invidious situation. I simply make that comment, and perhaps future Parliaments will reflect on it when things go wrong.

With a great deal of reluctance, the Government accepts the amendments put forward by the member for Playford. I do not believe that they will do the job he envisages. However, as I said previously, it is not my intention to rush around and hold a conference for the sake of having the same amendments thrust back in my face and being told that they are absolutely vital for the future work of the bulk of the Police Force, the Police Commissioner and senior officers in the Government.

Mr QUIRKE: There are some moments in this game to which you look forward. I remember once telling the former Deputy Premier—and it took six months before the wheel turned around—that we would be back addressing these issues because, although he had the numbers in here (and they were rather prophetic comments at the time, because the following week he did not have the numbers), when the measure reached the other end of the corridor there would be a different outcome.

The Labor Party put forward three amendments. One was that, if you are going to tell the Police Commissioner how to do his or her job, you ought to make a statement in the House within six sitting days. I put forward that amendment on behalf of the Labor Party, and the member for Florey proposed a remarkably similar amendment, and the former Deputy Premier obviously needed to woo him more than he needed to woo me. So, he accepted that amendment outright, and we congratulate the member for Florey for fixing that up.

We were told that we were incompetent and that our amendments were not right because the other two amendments were about, first, not reappointing the Commissioner—to which I will return in a moment—and, secondly, sacking

the Commissioner. You can tell the Commissioner how to do his or her job, as well as making a statement in the Parliament but, if you want to sack the Commissioner, you do not have to tell anyone anything. As I said at the time, that proposition was not going to survive the Legislative Council, and it did not.

I also told members at the time that it would have been smarter to accept all three amendments. The Minister should not be so defeatist. By saying he will not be here to deal with the contract when it expires in five years I think is just plain silly. In fact, I would like him to have a little more spine and stand up and fight, like the other four that we front every day. I think he has been a good Minister, and I must say quite sincerely that, in dealing with him on the issue of guns, for instance, he started the year off by not knowing which end went 'bang' and he finished up doing a fairly reasonable job.

However, he always knew that this legislation would come back. He was told that, quite frankly, the propositions he was kyboshing in here were always going to be included in sensible legislation. The Minister stated that the Labor Party may be intruding in some future Commissioner's private life and all the rest of it. Well, that is a good one. Members opposite should not have shifted the Minister from the number two seat, because that is putting a pretty good face on this issue.

The reality is that, after Gleeson, Blaikie and a pile of others who have been shoved out the side door, into the transit lounge or a number of other places, we do not necessarily take on face value the termination of a person's contract. If a person is not re-appointed, it is often because their wife is sick, they do not feel well or some other reason. I also want to remonstrate with the Minister, because he said that he could not deal with this matter sensitively. I cannot think of a Minister who would have dealt with the matter more sensitively. I am sure he could deal with those matters, if that is the reason for the non-reappointment.

Parliament is a transparent process. If ever there was a day when that was clear, it was today. I draw the attention of members to the fact that the rights of Parliament should triumph over members who do not treat this organisation with the respect they should, and I remind them of the events of this place today and to watch for developments in the near future. We believe that open and transparent appointment, changing of contract conditions, termination, and non-re-appointment of a person who is as important as the Police Commissioner are absolutely essential. We will stand on any soapbox anywhere and say just that, because the Commissioner of Police is probably one of the most important persons whom a democratic Government can appoint in a democratic State such as South Australia. The appointment of the Police Commissioner must be beyond repute.

It must also be absolutely crystal clear if any changes are made to the contract, if there is a termination of the contract or if there is a non-re-appointment. We are not asking to have the decision reviewed or saying that it must go to a vote of Parliament; we are saying that we want a statement to be made in this House and in the other place. Given the circumstances and the relationship between this Government and the Police Force, I thought that suggestion would be grasped by the Minister and shoved into legislation.

The Minister said that, because of his good grace, he would accept our amendment from the other place and not go to a conference. Again, I remonstrate with the Minister. We do not mind going to a conference—we are quite happy to do that. I am free all of next week, because the Minister told me several months ago that he wanted me to keep next week free. We are happy to sit next week. I am sure that we could accommodate a select committee and everything else. If the Minister wants to change his mind and come back next week and fight this, he is right in saying that it will have the same outcome, but I offer him my open hand. I am sure that my Caucus colleagues will agree with the necessity for Parliament to sit next week. We would also enjoy a couple more shows at 2 o'clock in the afternoon.

The Hon. S.J. BAKER: After listening to the diatribe from the member for Playford, I suggest that if he reads his amendment carefully he will see that it means that when a person reaches the end of the life of their contract an explanation must be given to the Parliament. That is exactly what it says. The contract may be for a five year term. It may be for five years plus an extension for two years, and that would be appropriate, or it might be five years plus a further five years; or if the person was particularly outstanding they might stand the test of time and, even after 10 years, an explanation would still have to be given to the Parliament. That is a matter that is feared in legislation. That is what I am complaining about. If the member for Playford reads his amendment, he will understand what I am saying. I did not have a difficulty until the member for Playford decided to move this amendment. I am not sure what motivated it, because neither the association nor the Commissioner have told me that they have any difficulty with the legislation.

The issue is straightforward. I think there are enough checks and balances in the system. I do not believe this amendment adds to the Bill. It has the potential to embarrass the Police Commissioner. If that person has had a distinguished career in the Police Force, I do not think it would be appropriate for them to have to explain to Parliament why their term had not been extended. This amendment, if read carefully, is not about the sudden termination of a Police Commissioner's position. This is not about Harold Salisbury, as anyone who reads the amendment could see clearly. Having said that, I have already made my comments known to the Committee. I am willing to accept the amendment. I suspect that the appointment will last for more than five years. As I said to the member for Playford, I doubt whether I will be in this Parliament in six years, as I have served the Parliament now for 14 years and there are many other challenges that must be faced.

Mr Clarke interjecting:

The Hon. S.J. BAKER: When I entered Parliament, I made the mistake of saying that I would be here for 10 years. I note in a humorous vein that it took us 11 years to get into Government. That is the nature of this job.

Motion carried.

ELECTRICITY BILL

Returned from the Legislative Council with the following amendments:

No. 1. Page 2, lines 14 and 15 (clause 4)—Leave out all words in these lines.

No. 2. Page 7, line 15 (clause 11)—After 'information' insert 'gained in the course of administering this Act (including information gained by an authorised officer under Part 7)'.

No. 3. Page 11, line 11 (clause 19)—After 'guilty of a' insert 'material'.

No. 4. Page 17, line 5 (clause 37)—Leave out 'contravened' and insert 'been guilty of a material contravention of'.

No. 5. Page 17 (clause 37)—After line 7 insert new paragraph as follows:

'(d) there has been any act or default such that the holder of a licence would no longer be entitled to the issue of such a licence,'.

No. 6. Page 20 (clause 47)—After line 10 insert the following:

'(aa) excavate public land and install underground cables; or'.

No. 7. Page 20, lines 16 to 18 (clause 47)—Leave out subclause (2) and insert new subclause as follows:

'(2) An electricity entity proposing to install electricity infrastructure for the distribution of electricity to land that has not previously been connected to a transmission or distribution network must not install powerlines for that purpose on or above public land except as authorised under the regulations.'

No. 8. Page 25, lines 5 and 6 (clause 55)—Leave out 'other than public powerlines referred to in subsection (2)'.

No. 9. Page 25, lines 10 to 16 (clause 55)—Leave out subclause (2).

No. 10. Page 25, line 21 (clause 55)—Leave out 'or council'.

No. 11. Page 25, line 24 (clause 55)—Leave out 'a council or' and insert 'an'.

No. 12. Page 25, line 29 (clause 55)—Leave out 'a council or' and insert 'an'.

No. 13. Page 25, line 30 (clause 55)—Leave out 'council or'.

No. 14. Page 26, lines 3 and 4 (clause 56)—Leave out 'that are not within a prescribed area'.

No. 15. Page 26, line 21 (clause 57)—Leave out 'or a council officer'.

No. 16. Page 26, lines 22 and 23 (clause 57)—Leave out 'or council'.

No. 17. Page 26, line 24 (clause 57)—Leave out 'or council officer'.

No. 18. Page 26, line 29 (clause 57)—Leave out 'or council officer'.

No. 19. Page 26, line 31 (clause 57)—Leave out 'or council officer'.

No. 20. Page 27, line 1 (clause 57)—Leave out 'or council officer'.

No. 21. Page 27, lines 6 and 7 (clause 57)—Leave out subclause (6)

No. 22. Page 27, lines 19 and 20 (clause 58)—Leave out 'or councils'.

No. 23. Page 36, line 30 (clause 79)—Leave out subclause (3).

No. 24. Page 37, line 11 (clause 82)—Leave out ', electricity officer or council officer' and insert 'or electricity officer'.

No. 25. Page 37, line 15 (clause 82)—Leave out ', electricity officer or council officer' and insert 'or electricity officer'.

No. 26. Page 37, line 25 (clause 83)—Leave out ', electricity officer or council officer' and insert 'or electricity officer'.

No. 27. Page 38, line 12 (clause 83)—Leave out ', electricity officer or council officer' and insert 'or electricity officer'.

Consideration in Committee.

The Hon. S.J. BAKER: I move:

That the Legislative Council's amendments be disagreed to.

I put a caveat on that. There are two amendments of our own making but, for reasons of expediency and the need to set up a conference—which I presume is to occur—we will get on with the job. The amendments basically take the Bill back to its original provisions, although not quite. Further, they enforce on Government items that I believe are unconstitutional and, therefore, the Government simply cannot accept them. We cannot—

Mr Clarke interjecting:

The Hon. S.J. BAKER: In fact, one of the amendments is just plain stupid, but then again—

Mr Clarke: You say that all the time.

The Hon. S.J. BAKER: Not quite. I say that some of them have some merit but I do not agree with them, as the member for Playford would readily agree. There are 27 amendments, most of which deal with the issue of responsibility. The force of the amendments is to take responsibility from councils and give it back to the Electricity Trust. One of the great problems we have faced over a number of years is that the councils want to have their cake and eat it too. They want some other body to be responsible, yet they want to have the right to intervene to say how trees should be cut. We all remember the 1983 bushfires, a tragedy that occurred in this State, and there was some liability attached to the Electricity Trust because many of those fires were started by the touching of wires.

Since that time, the Electricity Trust has taken its responsibilities very seriously. In fact, I highlight the insurance that is now being paid to protect the Electricity Trust from such large claims against it as were made at the time. The Electricity Trust has handled that situation by being more than responsible in removing the capacity for wires to cause serious fires and, therefore, put lives at risk.

Some council members want an artistic result. Other councils are not sure what result they want but think they can determine what is right as far as the wires and the trees are concerned but, if something goes wrong, the Electricity Trust faces the problem. I wonder when this Parliament will grow up and understand that, if councils want a say in how trees are cut, they should have the responsibility themselves. Yet the Labor Opposition, in conjunction with the Democrats, says that it will not have that; it is going to have its little protest and have each council make up its mind on how the trees should be cut and the extent to which the Electricity Trust should protect itself from future liability. That is a totally untenable situation.

This Bill is basically a technical Bill: it places the technical responsibilities for regulation of electricity generation, transmission and distribution in this State with the Minister for Mines and Energy and makes a number of important changes, including the responsibility of electrical contractors to issue certificates as to the worthiness of their work. I obviously do not want the Bill to be lost. On 1 January, for example, we could be in a very invidious situation and no-one in the system would have any protection. I highlight the seriousness of this Bill and the fact that, if agreement is not reached, households and businesses in South Australia will simply not be protected.

The major issue is who takes responsibility and who takes the Bill? The Minister responsible for the Electricity Trust has said that he is willing to put into a pool the same amount of money that is spent each year on cutting trees to reduce liability, hazard and risk and let councils determine how they should use that money. But that is not suitable to the Labor Opposition or the Democrats, who want councils to have a say with the Electricity Trust still being responsible. That leaves us in a very difficult situation because, unless there is some sanity in the system, the Electricity Trust will continue to bear the burden.

I am taking advice on the extent to which two of the amendments are competent amendments. Even if the will is not consistent with my will or that of the Premier, there may well be some ramifications at the national level should these changes be put forward because, as members would understand, certain rights are prescribed in the Federal legislation which override State legislation and these deal with the telecommunications system, which is not a Federal issue.

In terms of one of the amendments, I have not taken a large amount of time to analyse it but I presume that, if it succeeds, no-one in the country will get any electricity. However, I will take further advice on that. I have not had an opportunity to read it, nor did I wish to, given that we were to take the amendments *en bloc* and send them back to a conference of both Houses. I just wish that Labor members

would clearly explain their position to this House. I am sick and tired of their hiding behind their little friends from another place and moving irresponsible amendments.

Mr Clarke interjecting:

The Hon. S.J. BAKER: The Deputy Leader can have his say is he wishes to. I believe that the Labor Party should clearly put its view on the record. Either councils have a right of say in tree trimming or they do not. If they have a right of say, they take the responsibility. That is all I want put on the record in this House. So I ask the Labor Party in response in this Committee to put on the record the rights and responsibilities of councils in this area. Once we have that established, we may make headway. You cannot have your cake and eat it too. So, whilst amendments 3 to 5 were moved on behalf of the Government, I believe that the most efficient way of dealing with this matter is to reject the amendments in totality and sit down to see whether we can work our way through the Bill.

Mr QUIRKE: The Opposition is well aware that this is an important Bill. That is why we put all of next week aside, if necessary, for Parliament to sit to deal with it. In fact, you can even do it the week after: it really will not make much difference. We understand the necessity of most of the provisions of this Bill, but there were a couple of things which, I warned this House during the debate here, needed to be rectified in the other place. I do not know why the Government has taken up the council-bashing agenda that it seems to love.

The Hon. S.J. Baker interjecting:

Mr QUIRKE: That will come, don't worry; I will soon tell you where we stand on it. The plain fact of the matter is that these people are out there bashing not only the LGA but any council they can get in their sights. What they are saying is that ETSA was a very responsible organisation. And it is a very responsible organisation indeed. I remember the 1983 bushfire and I remember six blokes cutting down trees that protruded through power lines next to my house at Mount Lofty. I said to them at 6 p.m. that night—and the fire went through at 3.21 p.m.—'It is not hard to see who started today's fire.' The foreman of the gang said, 'Yes, but after six months of overtime you will never prove it.' I do not need any homily from the Minister about the ways trees are lopped. The plain fact of the matter is that ETSA has certain immunities. The proposal in this Bill is to hand over the responsibility for tree lopping to councils but to take away the immunity from councils.

The Minister is saying that what is good for ETSA is not good for the councils in this State; what is good for ETSA is not good for local government. The Opposition views with suspicion the way this Government and its Federal counterpart have dealt with local government not only concerning tree lopping but also today we find that there has been an extra three month extension for the cable roll-out in South Australia. We now find that the Federal Government will do everything it can for the telecommunications outfits that it has jumped into bed with.

We are happy for a conference, and it can go for as long as it wants, but we will ensure that local government is not chucked into the deep end of the swimming pool. That is where we stand.

Mr Rossi interjecting:

Mr QUIRKE: The member for Lee says that we are mugs. If I were the member for Lee, I would not be making those sorts of statements. It is probably a good idea for the member for Lee to go out to his electorate. It certainly would help us immeasurably if he doorknocked a few other houses, because everyone that he meets represents a vote that, potentially, he could lose. We have put on the table where we stand on this issue. We are happy to go to a conference. We have no problem with that. We are happy to sit here next week and the week after. I say to the Government, 'Do what you like,' and that is that.

The Hon. S.J. BAKER: The member for Playford did not explain his position. Either the councils have rights, which means they have responsibilities, or the councils do not have rights. Will the member for Playford on behalf of the Opposition clearly explain his position? I would like to go back in time. He said he would do it, but he did not because it was a little too hard. It is no good his trying to buy votes with the LGA, because the LGA has to sort itself out in a range of areas, including reform. In relation to some of the things that have happened, councils must move on in time: they cannot stick to the roles they were given 150 years ago and not take on the real responsibilities that pertain to local government. They are some of the issues that I know are being fiercely debated today.

I remind the member for Playford of a little bit of history going back to 1983. In December 1987, the Labor Government introduced a Bill providing a new regime for vegetation clearance around power lines in non-bushfire areas in South Australia based on national and international standards. A select committee reviewed the Bill and reported on 22 March 1988, as a result of which legislation was passed creating separate levels of duty for ETSA to discharge regarding clearances in bushfire and non-bushfire risk areas. The Local Government Association participated in developing the regulations, which were passed with no fewer than eight drafts over three months. When the regulations were finalised, the Local Government Association advised that it would not support them. So, I remind the member for Playford of a little bit of history. It was recognised in 1987 that they could not have these disparate rights and responsibilities which exist at the moment.

The regulations were made on 27 October 1988 and ever since a few councils have refused to allow ETSA to discharge its duties. The ERD Committee has confirmed that the regulations are appropriate and under the Public Corporations Act it is untenable for ETSA's directors to have a responsibility—a duty—that others prevent them from discharging. In evidence before the ERD Committee, ETSA propounded the concept of councils' becoming responsible for vegetation clearance, as they are in other States. The member for Playford refuses to acknowledge that if councils want a say, they must take some responsibility.

Another reason for this initiative is that some councils strongly object to or ignore the regulations regarding the species they are allowed to plant. Not only do we have councils that are irresponsible in that they want all the rights and no responsibility but also they are planting the wrong trees, which is compounding the problem. The Government has no say in controlling the tree planting process. If the honourable member wants to play footsies with the Local Government Association, I ask him to put his views on the record right now and I ask the Local Government Association to put its views on the record right now. I do not believe that the people of South Australia accept that councils can do what they like, stop responsible vegetation removal where required and, if something goes wrong, say that ETSA faces the liability.

Cabinet determined a position on this matter on 19 September 1996, and that was relayed to the Local Government Association. Indeed, when the Bill was debated in this House we did not see the Labor Opposition putting up its hand on the matter of vegetation clearance. The LGA, as it normally does, suddenly trotted through the door and said that it had a problem with a few councils which wanted to be irresponsible and it wanted the Government to allow them to continue to be irresponsible. I do not believe that that is appropriate.

On Tuesday 12 November 1996, an ETSA officer attended the LGA vegetation undergrounding subcommittee and answered questions about the proposed arrangements. On 15 November, the LGA again wrote to the Minister regarding other matters contained in the Government's package. Once again, there was no mention of the vegetation issue. Even until 15 November, we had not received contact from the Local Government Association.

The Opposition said that it would be supporting the Bill: again in this House there was no opposition to the vegetation clearance issue. We can only assume that the Council is stretching its arms and legs, saying, 'We will be as disruptive as normal and we refuse it on behalf of the people who are being irresponsible,' namely, the councils that want the right to say what is cut and what is not cut. We cannot accept the Council's amendments, and they will be dealt with over the next day or so.

Motion carried.

PARLIAMENTARY REMUNERATION (SUPPLEMENTARY ALLOWANCES AND BENEFITS) AMENDMENT BILL

Returned from the Legislative Council without amendment.

CRIMINAL ASSETS CONFISCATION BILL

Received from the Legislative Council with a message drawing the attention of the House of Assembly to clause 19, printed in erased type, which clause, being a money clause, cannot originate in the Legislative Council but which is deemed necessary to the Bill. Read a first time.

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a second time.

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

Leave granted.

The *Crimes (Confiscation of Profits) Act* was passed in 1986. It came into effect in March, 1987. It was the product of international and national movement against organised crime and drug offenders in the mid 1980s. In particular, there was agreement on the need to enact confiscation legislation in the area of drug offences at a Special Premier's Conference in 1985. Model uniform legislation was agreed by the Standing Committee of Attorneys-General but, as it turned out, the South Australian Parliament enacted the policies in a statutory form different from the model agreed and enacted in most other jurisdictions.

The legislation has now acquired quite an accretion of case law, commentary and experience. In 1994, Mr David Wicks QC was commissioned to examine the legislation and proposals that had been made to improve it, with a particular eye to putting the Act on a sound commercial basis. Mr Wicks' recommendations were examined and commented upon by the Director of Public Prosecutions and the police. In addition, the relationship between the Act and the payment of legal fees was being examined in the Attorney-General's department.

The Bill is the result of the contributions made by these various sources. The recommendations made in the course of the review and which have been picked up and incorporated into the Bill are often detailed and complex at a level which is inappropriate for comment at this stage in the legislative process. The details can, and no doubt will, be explored in the debate in this House and in reactions to the Bill from the community, particularly the legal community.

In general terms, however, the changes wrought by this Bill can be summarised as follows:

1. A significant increase in the role and powers of the Administrator in relation to forfeited or restrained property;

2. Explicit application of the powers in the Act to financial institutions;

3.Statutory recognition of the essential difference for sentencing and forfeiture purposes between the profits of criminal activity, on the one hand, and property which is tainted because it was, for example, used in the course of the commission of the offence, on the other hand;

4. Making it clear that a court may make an order for the forfeiture of a pecuniary sum which represents a part of the value of a tainted asset;

5.Extension of the forfeiture provisions to the summary offences of being in possession of personal property reasonably suspected of having been stolen or obtained by other unlawful means and the offences of producing, selling, exhibiting, and dealing with indecent or offensive material, including child pornography;

6. Extension of the powers of South Australian courts to deal with tainted property, wherever it may be, to the limits of the power of the Parliament to legislate extra-territorially;

7. The enactment of a scheme designed to limit access to restrained funds and assets in order to pay legal fees to cases in which there are no other assets or funds available to provide for defence representation;

8. Enactment of a scheme of "administrative forfeiture'.

I will address the last two of the issues in more detail.

Since the scheme involving the use of restrained property involves access by a defendant to money or other assets which may well otherwise be the subject of a restraining order and/or eventual forfeiture, it may be thought by some to be controversial. The issue here is whether, to what extent and how people accused of crime should have access to restrained assets in order to pay their legal expenses. Currently, section 6 of the *Crimes (Confiscation of Profits) Act* deals with restraining orders. These, it should be emphasised, can be granted on the grounds of reasonable suspicion, ex parte, and prior to trial—or even charging. The current legislation does not specifically mention legal fees at all. Section 6(3)(c) provides that the restraining order may provide for payment of specified expenditure or expenditure of a specified kind out of the property. This would be the source of any application to have restrained moneys released for the payment of legal expenses.

In the case of *Vella* (1994) 61 SASR 379, the defendant was committed for trial on a charge of taking part with several others in the production of methyl amphetamine. The DPP obtained an order restraining the defendant from dealing with the proceeds of the sale of four properties owned by him. The defendant applied for a variation of the order to give him access to the funds for the purpose of paying his legal expenses.

The court held that the general power conferred upon a court to authorise payments out of restrained funds for 'specified expenditure' confers power on a court to make provision for the payment of legal expenses from restrained assets. Further, the court said that the fundamental principle relevant to the exercise of the discretion is that a person accused of crime is entitled to employ from his or her own resources the legal representation of his or her choice.

King CJ and Millhouse J held that, since there are no explicit legislative directions to the contrary, it is no part of the role of the court to limit a person's access to his or her own property for the cost of his or her own defence to what the court considers to be reasonable. The court does have a role in ensuring that the assets are not depleted wastefully or dishonestly. Further, the accused should have the entitlement to engage legal representation of his or her choice and to have the defence conducted in the manner which they desire. He or she should have access to his or her assets to the degree necessary to pay the fees ordinarily charged by the solicitor and counsel of choice for cases of this kind.

Olsson J took a somewhat stricter line. He held that the court has a responsibility to ensure that funds released for the purpose are of such an amount as is reasonably necessary for an adequate, but not extravagant, defence of the criminal proceedings. Legal representa-

tives ought to be paid the going average market rate for the services that are needed to mount a proper defence.

The proposals for change are based on the following arguments:

The first variable is the kind of property at issue. Under legislative schemes currently in place and in this Bill, restraining orders can cover a number of different kinds of property.

(a) Property which is really not the property of the accused at all, but is the proceeds of fraud, theft or other such offences should not be available to meet the accused's legal expenses or any other expenses at all.

(b) Property which belongs to the accused and which has been used in the commission of an offence is property of the accused which should be made available for the payment of a pecuniary penalty should be made available for legal expenses. It has never been suggested that an accused person should not pay his or her legal expenses from funds that would be available to pay a fine if he or she were to be convicted.

(c) Property which is the proceeds of crime but which belongs to the accused—such as the proceeds of a drug sale—is much more difficult. There are conflicting policies at work.

These conflicting policies are about governmental policies. The question is whether the governmental interests in (i) assuring a fair trial for persons accused of crime and presumed to be innocent; (ii) compensating the victims of crime; (iii) making sure that an offender does not profit from the commission of crime; and (iv) not placing undue burdens on the legal aid dollar—can be brought into harmony. That is a question to which there is no one right answer.

But the overriding principle in this instance is that which has been brought into play by the decision of the High Court in *Dietrich* (1993) 177 CLR 292. In that case, although the High Court held that an accused person had no right to counsel, he or she had a right to a fair trial. It followed, said the High Court, that where an accused charged with a serious offence was indigent and therefore could not afford legal counsel and could not get legal aid, and where the court of trial was convinced that he or she could not have a fair trial because of that lack of legal representation, the trial would be stayed until there was representation. Whether that is a good decision or not is not at issue here. What is at issue is that there may well be circumstances in which a court will be faced with a person charged with a serious crime who cannot be tried until a legal defence is funded.

I take the view that the purpose of the criminal justice system is to put the guilty on trial, convict and punish them. The confiscation of the proceeds of crime are secondary to this major principle. If, therefore there is a choice between granting access to restrained or seized funds and the trial being stayed indefinitely, access to those funds should be granted. After all, all that the guilty profit from the asset in question is a legal defence and the asset in the hands of another.

It is these considerations of policy which inform the balance struck in the Bill. In relation to profits, it is proposed to set the balance by stating that such assets may be used for legal expenses only and only if there is no other source of funds available and the funds are paid out on a reasonable basis approved by the Court.

The Commonwealth DPP has argued that the applicant must be required to take all reasonable steps to bring all his or her property into the jurisdiction, or the applicant should be required to meet legal expenses first from any money or property held overseas. This suggestion forms part of these proposals.

The last issue mentioned in the list above is the enactment of what is commonly called 'administrative forfeiture', although that is, perhaps, an unfortunate name for it. In essence, where property which has a connection with a serious drug offence is the subject of a restraining order, the presumption is that the property is forfeitable. Of course, if the defendant is acquitted, the property is returned. If the defendant is convicted, however, the property is automatically forfeited after a period of six months unless the defendant or an innocent third party applies to the court showing good reason why the property should not be forfeited. In other words, the forfeiture has to be challenged or it will happen. If the forfeiture is challenged, of course, then there will be a hearing on the issue.

There are, as I have said, more detailed changes to the current position contained in this Bill. But, in general outline, a great deal of the legislation is unchanged, or changed only in a minor way. The changes that have been made have been designed to make sure that the Bill works effectively to its original purpose which is, I believe, accepted and endorsed by all sides of politics, to make the scheme commercially sound, and to put into practice the lessons that have been learned in the years in which the current scheme has been in operation.

I commend the Bill to the House.

Explanation of Clauses

PART 1 PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

This clause sets out definitions for the purposes of the Act.

The offences that may give rise to confiscation (forfeiture offences) are local forfeiture offences and offences that may give rise to confiscation under the law of the Commonwealth or a corresponding law of a State or Territory.

A local forfeiture offence is—

- an indictable offence under the law of the State; or
- a serious drug offence against the law of the State; or
- an offence against—
  - *Lottery and Gaming Act 1936*; or
  - *Corporations Law*; or
- an offence against particular sections of the following Acts:
  - *Fisheries Act 1982*; or
  - *National Parks and Wildlife Act 1972*; or
  - *Racing Act 1976*; or
  - *Summary Offences Act 1953*.

This provides for the Act to be similar in scope to the current *Crimes (Confiscation of Profits) Act 1986* except for the inclusion of all offences against the *Lottery and Gaming Act 1936* and offences against s.33(2) (indecent or offensive material) or 41 (unlawful possession of personal property) of the *Summary Offences Act 1953*.

Clause 4: Tainted property

See clause 8.

Clause 5: Property liable to forfeiture

See clause 15.

Clause 6: Corresponding laws

This is a machinery provision allowing the Governor to proclaim corresponding laws (similar to current s.3(5)).

Clause 7: Territorial application of Act

This provision is new to the scheme and provides that the Act has, as far as possible, extra-territorial application.

PART 2 FORFEITURE

Clause 8: Forfeiture of tainted property

Under this clause, the DPP may apply to a court for an order for forfeiture of tainted property.

Court is defined as the Supreme Court, District Court or, if the proceedings involve property with a value of $300 000 or less, the Magistrates Court.

Tainted property is defined in clause 4 as—

- property acquired for the purpose of committing a forfeiture offence;
- property used in, or in connection with, the commission of a forfeiture offence;
- property derived directly or indirectly from the commission of a forfeiture offence or property representing such proceeds.

Clause 4 provides that property cannot be forfeited if it has been sold for valuable consideration to another person who acquires it in good faith.

Clause 4 also provides that in the case of a serious drug offence all of the property of the offender is tainted unless the offender proves that property is not in fact tainted or was acquired more than 6 years before the date of the conviction.

Currently, forfeiture orders are dealt with in s.5 and details of the property liable to forfeiture in s. 4. (for tainted property see s.4(1)(a)). The scheme in the Bill in respect of tainted property is similar except that the provision limiting forfeiture of property in the case of a serious drug offence to property acquired in the last 6 years is new.

Clause 9: Forfeiture of criminal benefits

Under this clause, the DPP may apply to a court for an order for forfeiture of property to the value of a benefit gained by a person from the commission of a forfeiture offence. Specific property or a sum of money may be ordered to be forfeited.

The benefit obtained by a party to the commission of a forfeiture offence may be—

- for publication or prospective publication of material about the circumstances of the offence; or
- for the publication or prospective publication of the opinions, exploits or life history of the party or another party to the commission of the offence; or

· by commercial exploitation in any other way of notoriety achieved through commission of the offence.

Forfeiture of this kind of benefit is currently dealt with in s.4(1)(b) and (2).

As with tainted property, an order cannot be made against a person who is not a party to the offence who has acquired a benefit in good faith and for valuable consideration. (As in current s.4(4) a gift would be subject to forfeiture.)

Clause 10: Extent of court's discretion

This clause requires a court to make a forfeiture order as necessary to prevent the defendant from retaining the profits of criminal activity. Beyond that the matter is discretionary. This is a new provision.

The clause allows the court to consider the penalty for a forfeiture offence and any discretionary forfeiture order as a whole. This is a reversal of the situation under current s.3A.

Clause 11: Procedural provisions

This clause provides that forfeiture proceedings are civil but allows an application for an order to be made orally on conviction of the defendant. This is a new provision facilitating forfeiture proceedings.

The clause (like current s.5(5)) also ensures that any person who has an interest in property for which a forfeiture order is sought is given an opportunity to be heard.

Clause 12: Commission of forfeiture offence

Before a forfeiture order can be made, this clause requires a person to have been convicted of a forfeiture offence or the offender to be dead or otherwise not amenable to justice. This is similar to current s.5(1)*(b)*.

Clause 13: Evidence and standard of proof

This clause determines the balance of probabilities to be the appropriate burden of proof, except in relation to proving the commission of the forfeiture offence. (Similar to current s.5(3) and (4).)

The clause facilitates proof of facts alleged by the DPP and not disputed by the relevant party in accordance with the regulations. This is a new provision facilitating forfeiture proceedings.

Clause 14: Ancillary provisions about forfeiture

This clause facilitates forfeiture of property—

· in which another person has an interest (by enabling the court to order the person to be paid an amount equal to the value of his or her interest);

· that exceeds in value the amount that should be forfeited (by enabling the court to order the balance to be returned).

These provisions are similar to current s.5(2a) and (2b).

PART 3 RESTRAINING ORDERS

Clause 15: Restraining orders

This clause enables the court to make a restraining order over property that may be liable to forfeiture (similar to current s.6).

Property liable to forfeiture is defined in clause 5 as tainted property or property that may be required to satisfy a present or future forfeiture order. (This definition is also relevant to seizure of property under Part 5.)

A restraining order prohibits dealing with the property subject to any exceptions stated in the order.

If the court makes a restraining order on an *ex parte* application, the owner of the property must be given a reasonably opportunity to be heard on the question of whether the order should continue. (Similar to current s.6(2).)

Except in the case of a serious drug offence, a restraining order lapses if—

· an application for a forfeiture order is decided; or

· the defendant is acquitted of the forfeiture offence; or

· no proceedings for the forfeiture offence or a forfeiture order are taken within one month (or 2 months if a court extends the time on the application of the DPP).

Current s.6(6) has been simplified.

In the case of a serious drug offence, the restraining order is automatically converted into a forfeiture order 6 months after the offender is convicted or the restraining order is made (whichever is the later). However, property subject to such a restraining order may be applied towards certain legal costs and the court may revoke or vary the restraining order if satisfied that the property is not tainted property and was acquired lawfully or at least 6 years before the commission of the relevant forfeiture offence. This provision is new.

Clause 16: Contravention of restraining order

This clause makes it an offence to deal with property in contravention of a restraining order. As in current s.6(4), the dealing is void. However an exception is added: the dealing is not void against anyone who acquires an interest in the property in good faith and without notice of the terms of the order.

PART 4 ADMINISTRATION OF PROPERTY

DIVISION 1—FORFEITED PROPERTY

Clause 17: Effect of forfeiture order

This clause vests forfeited property in the Administrator (a person nominated by the Attorney-General). The court is given power to make incidental orders to facilitate dealings in forfeited property by the Administrator, such as ordering registration of the Administrator as owner or the issuing of certificates of title to the Administrator.

This provision is similar to current s.5(6) but the power to make incidental orders has been strengthened.

Clause 18: Sale, etc., of forfeited property

Under this clause, the court may order the Administrator to convert forfeited property into money (*eg* where another person's interest is to be paid out or an excess returned to the owner). This is similar to current s.5(7).

Clause 19: Criminal Injuries Compensation Fund

This provision is to the same effect as current s.10. In general terms it provides that forfeited property must be applied towards the costs of administering the Act and the balance paid into the Criminal Injuries Compensation Fund.

The clause continues to allow that part of the Fund derived from forfeitures related to serious drug offences to be applied towards programs directed at the treatment and rehabilitation of drug-dependant persons.

DIVISION 2—PROPERTY SUBJECT TO RESTRAINING ORDER

Clause 20: Powers conferred by restraining order

This clause gives the court power to make necessary or desirable incidental orders when making a restraining order, such as orders about the management or control of the property or allowing the owner of the property to use it as security.

The powers are similar to those contained in current s.6(3).

The clause recognises that property subject to a restraining order may be applied towards legal costs but places limits on the availability of the property for that purpose. This provision is new.

DIVISION 3—ANCILLARY PROVISIONS

Clause 21: Auxiliary orders

In the case of either a forfeiture or restraining order, the Administrator may apply under this clause to the court for other orders about delivering up possession of the property or documents related to the property.

Clause 22: Accounts at financial institutions

Under this clause a financial institution may be required to transfer to an account in the name of the Administrator the credit balance of an account subject to a forfeiture or restraining order or subject to a warrant for seizure (see Part 5 Division 2). This is a new provision facilitating the execution of forfeiture and restraining orders.

Clause 23: Power to apply for directions

This clause provides for applications by the Administrator to the court for directions about the administration of property subject to a forfeiture or restraining order. This is a new provision.

Clause 24: Return of property etc. when restraining order lapses or is revoked

This clause requires the Administrator to return property and documents if a restraining order lapses or is revoked and there is no forfeiture order made.

Clause 25: Application of property to pecuniary penalties or forfeitures

This clause authorises the Administrator to apply property subject to a restraining order to satisfy a pecuniary penalty or forfeiture.

Clause 26: Delegation by Administrator

This new provision allows for the delegation of functions or powers by the Administrator.

DIVISION 4—IMMUNITY FROM LIABILITY

Clause 27: Immunity from liability

Under this new provision, the Crown is only liable in relation to property in the possession or control of the Administrator if it is to be returned to its owner and then only in respect of any damage or loss of the property, not economic loss or damage.

PART 5 POWERS OF INVESTIGATION AND SEIZURE

DIVISION 1—POWER TO SEIZE PROPERTY THAT MAY BE LIABLE TO FORFEITURE

Clause 28: Seizure of property

This clause authorises seizure of property—

· pursuant to warrant; or

· if it is suspected on reasonable grounds of being liable to forfeiture—with consent or if the property is found in the course of a search conducted under another law (a new power).

See clause 15 for the meaning of property liable to forfeiture (as defined in clause 5).

Clause 29: Return of property

This clause requires the return of seized property if—

· there are no longer reasonable grounds to believe that the property is liable to forfeiture;
· a forfeiture or restraining order is not sought within 25 days (unless a court or the person entitled to possession of the property authorises its retention for a longer period); or
· a court orders its return.

Currently seized property may only be kept for 14 days under s.8(5).

DIVISION 2—WARRANTS FOR SEIZURE OF PROPERTY

Clause 30: Warrants authorising seizure of property

Under this clause a magistrate may issue a warrant to a police officer authorising—

· the seizure of property that may be liable to forfeiture;
· the seizure of a document or other material relevant to identifying, tracing, locating or quantifying property that may be liable to forfeiture;
· the search of a particular person or premises and the seizure of such property, documents and materials found in the course of the search.

Current s.7 authorises search warrants generally in similar terms. The power to seize is clarified.

Clause 31: Applications for warrants

This clause provides for the procedure for applying for a warrant, including for telephone applications in urgent circumstances. The procedure for executing a warrant following a telephone application is clarified.

Clause 32: Powers conferred by warrant

This clause sets out the activities of search and seizure authorised by a warrant and the procedures to be followed in executing a warrant. The powers are generally similar to those contained in current s.8.

Clause 33: Hindering execution of warrant

This clause makes it an offence to hinder execution of a warrant. This provision is similar to current s.9.

DIVISION 3—ORDERS FOR OBTAINING INFORMATION

Clause 34: Orders for obtaining information

The DPP, the Administrator or a police officer may apply under this clause to the Supreme Court for an order requiring a person to give oral or affidavit evidence or to produce documents relevant to identifying, tracing, locating or quantifying property liable to forfeiture.

As in current s.9A, the order may be for the purposes of the administration or enforcement of the Act or a corresponding law. The further purpose of investigating a money laundering offence is added in light of the transfer by Schedule 2 of that offence to the *Criminal Law Consolidation Act 1935*.

Clause 35: Monitoring orders

For similar purposes, the Supreme Court may require a financial institution to report promptly transactions affecting an account held with the institution. As in current s. 9, an order under this clause can remain in force for up to 3 months.

Clause 36: Exercise of jurisdiction

This clause allows a Judge or Master sitting in chambers to exercise the jurisdiction of the Supreme Court to make such orders. This reflects current s.9(4).

PART 6 MISCELLANEOUS

Clause 37: Registration of interstate orders

Like current s.10A, this clause provides for interstate orders to be registered (with or without adaptations and modifications) and for property in this State to be forfeited to this State (subject to an equitable sharing program) or restrained under similar terms.

Clause 38: Enforcement of judgments

The *Enforcement of Judgments Act 1991* is to apply to judgments and orders of a court under this Act. This provision is new to the scheme.

Clause 39: Regulations

This clause provides general regulation making power.

SCHEDULE 1 Repeal and Transitional Provisions

This Schedule repeals the *Crimes (Confiscation of Profits) Act 1986* and provides for continuation of orders made or registered under that Act.

SCHEDULE 2 Consequential and Related Amendments

This Schedule inserts the money laundering offence (current section 10B) into the *Criminal Law Consolidation Act 1935*. The offence becomes a major indictable offence rather than a summary offence.

The Schedule also repeals the forfeiture provisions currently in the *Lottery and Gaming Act 1936*.

Mr CLARKE secured the adjournment of the debate.

SECOND-HAND DEALERS AND PAWNBROKERS BILL

Received from the Legislative Council and read a first time.

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a second time.

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

Leave granted.

The laws relating to second-hand dealing and pawnbroking are currently contained in the Summary Offences Act. These provisions impose record-keeping obligations on those who deal in second-hand goods so that description of goods, serial number, date of receiving or buying goods, full name and address of person from whom goods are purchased etc must be recorded and kept. In addition, there are obligations on second-hand dealers where goods are suspected of being stolen. The police have powers of entry and inspection under this legislation.

The provisions in the Summary Offences Act have been in place since 1988 in relation to second-hand dealers and since 1990 in relation to pawnbrokers.

There has been increasing community and police concern over pawnbrokers and second-hand dealers and their possible role in the receipt, distribution and disposal of stolen goods. In response to this concern, the Government considered it appropriate to review the efficacy, the relevance and efficiency of the existing legislation governing second-hand dealers and pawnbrokers.

The review of the legislation took place against a background of considerable legislative change and proposals for change in many other Australian States. It is of note that nearly every state is in the process of examining laws in this area. Tasmania, Western Australia, New South Wales, Victoria and Northern Territory have reviewed their legislation in the last two years.

A draft Bill incorporating the Government's preliminary views on the direction of legislative reform was widely circulated to a variety of interest groups and individuals. Approximately 30 written submissions were received and as a result of consideration of those submissions, a revised draft Bill was prepared and circulated. Further comments were received on this second draft and this Bill takes account of those further comments.

The Bill has a number of features not contained in the present rules:

· a person or a body corporate may not commence or carry on business as a second-hand dealer (which for the purposes of the Bill includes the term pawnbroker), if convicted of an offence of dishonesty or other prescribed offence, or if the person is an undischarged bankrupt. This is a negative licensing provision.
· if a second-hand dealer has been in possession of stolen goods on at least three occasions during the past 12 months and did not notify the police in respect of the goods, the Commissioner of Police may give the dealer a notice disqualifying the dealer from carrying on business as a second-hand dealer. The disqualification will take place from a date not less than two months after the notice is given and the dealer will be able to apply to the Administrative and Disciplinary Division of the District Court for an order removing the disqualification.
· persons commencing business as second-hand dealers will be required to give notice to the Commissioner of Police at least one month before commencing business.
· persons already in the business of second-hand dealing at the commencement of the Act will need to give the Commissioner notice of details of matters such as their name, trading name, operating address, and address at which records required to be kept are available for inspection. These matters will be detailed in the Regulations.
· records of second-hand goods will need to be more detailed than at present. At present the requirement is that an accurate

description of the goods be recorded. The new requirement is that type, size, colour, brand also be recorded in a register.

- the identity of the person from whom the goods were bought or received will need to be kept as at present, but this information will need to be verified in the manner required by regulation. At this stage it is envisaged that a system similar to that used by banks to verify customers opening accounts will be utilised. This is the system which is now operating in Western Australia.
- second-hand dealers will be required to label second-hand goods so that particular goods can be identified in the register required to be kept.
- a holding period of 10 days will be introduced (there is currently no holding period in South Australia—this has been a matter of particular concern to the Police). As is the case interstate, there will be a range of goods which will not need to be held for this duration. The range of goods which will be exempted from the holding period will be determined after further industry consultation.
- goods required to be held may be sold before the expiry of the holding period only if they are held for a minimum of 3 days and the full details of the purchaser are recorded (including the manner in which identity is verified). This is the only situation where details of the identity of the purchaser is required to be kept.
- requirements to notify the Police of suspected stolen goods are maintained.
- specific provisions for persons claiming ownership of goods in a dealer's possession are made, together with a right for the person to apply to the Magistrate's Court for return of the goods, and an obligation on the part of the dealer to hold goods until the issue of ownership is determined. The Magistrate's Court will hear these matters informally as minor statutory proceedings.
- Police powers of entry and inspection are strengthened to allow the Police access to computer information and to require copies of records.
- specific provisions in relation to pawnbroking are reintroduced. "Buy-Back" arrangements will be considered to be a contract of pawn, a minimum redemption period of 1 month is set, a pawn ticket must be provided and will need to comply with requirements set by regulation. There will be no ability to contract out of the provisions of the Act. In relation to issues of harsh and unconscionable contracts of pawn, honourable members are advised that the new Credit Code, while not applying to the provision of credit by a pawnbroker, does provide that unjust transactions including unjust pawnbroking transactions may be reopened. The Courts are given, under the Credit Code wide power to reopen unjust transactions. The Courts must have regard to the public interest and all the circumstances of the case and have wide powers to vary and set aside contracts.
- persons operating second-hand markets will be required to notify the Police of their operations, keep records (as required by the Regulations) of persons who are stall-holders and the verified identity of those persons.

It is recognised that the success of this Bill will depend largely on operational policing. To this end, the Commissioner of Police has undertaken that the policing of second-hand dealers and pawnbrokers as well as second-hand markets will remain a priority for the Command Response Divisions in the metropolitan area, while in country areas uniform police and non-uniform police will be directed to pay attention to second hand dealers and related matters.

Operation Pendulum conducted by the South Australian Police related amongst other things to the retrieval of stolen property. Strategies were implemented to increase the likelihood of catching housebreaking and robbery offenders and to increase the rate of recovery and return of stolen property. The main strategy used during the Operation to identify offenders was to track the sale of stolen goods. Suspects were identified by locating stolen goods in places such as second-hand dealers shops, pawnbrokers shops, second-hand markets and garage sales.

A review of Operation Pendulum found that:

- second-hand dealers and pawnbrokers were a channel for much stolen property;
- some stalls in second-hand markets in the city handle stolen goods.

Operation Pendulum was effective in containing property offences in that there were significant deceases in the number of break and enter offences reports during the period of the Operation and stolen property to the value of $615 044 was recovered, which represented over 43% of stolen property associated with offences cleared during the Operation.

Following the success of Operation Pendulum, Command Response Divisions were established in both the Northern and Southern Commands to, among other things, investigate thefts and to ascertain who is receiving stolen property, and to implement strategies for the recovery of stolen property and its return to rightful owners.

An evaluation of the Command Response Divisions concluded that the Divisions have improved on the efficiency and effectiveness of previous operations and systems. During the months of January-May 1995, the Northern Command Response Division tasks included the monitoring and investigation of second-hand dealers targets. Dealers were identified, liaison initiated and records obtained. Several dealers were reported for failing to maintain records.

Data obtained during Operation Pendulum and the experience of the Command Response Divisions suggested several constraints on police when dealing with second hand-dealers and related areas. These constraints included lack of identification of dealers, pawnbrokers and persons operating stalls at second-hand markets, no holding period before re-sale of goods and lack of standardised records keeping, especially identification of the person or business from whom goods are purchased.

These constraints are addressed in the Bill, as well as concerns police hold about the 'character' of people in the business of dealing in second-hand goods and pawning goods.

The Bill, in large part, builds upon the provisions already in place in South Australia dealing with second-hand goods. It represents, in the view of the Government, a sensible balance between the needs of those who conduct business and the needs of the law enforcement authorities to have an increased ability to deal with traffic in stolen goods.

I commend this Bill to honourable members.

Explanation of Clauses

PART 1 PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

The main definitions are similar to those currently contained in section 49 of the *Summary Offences Act 1953*.

The concept of a second-hand dealer continues to include a pawnbroker.

A definition of pawnbroker is inserted to ensure that the expression includes a person who carries on the business of receiving goods under a contract for sale where the seller has a right to buy back the goods.

The definition of second-hand market has been modified to ensure that genuine auctions are not caught.

Clause 4: Application of Act

This clause contemplates regulations modifying or excluding the application of the Act in relation to persons, goods or transactions of a specified class. Charitable fetes and the sale of second-hand vehicles and vehicle parts are examples where special exemptions or modifications may be appropriate.

It also allows the Minister to grant individual exemptions from the Act.

Clause 5: Non-derogation

This clause makes it clear that the provisions of the Bill do not derogate from other laws.

PART 2 SECOND-HAND DEALERS

Clause 6: Disqualification from carrying on business as second-hand dealer

A person may not commence carrying on business as a second-hand dealer if—

- the person has been convicted of an offence of dishonesty or an offence of a prescribed kind; or
- the person is, in general terms, bankrupt or been involved in a body corporate wound up for the benefit of creditors.

(Similar restrictions apply in relation to directors of bodies corporate.)

A person must stop carrying on business as a second-hand dealer if—

- after the commencement of the Act, the person is convicted of an offence of dishonesty or an offence of a prescribed kind or, in general terms, becomes bankrupt; or
- the Commissioner of Police issues a written notice of disqualification on the basis that the person has been in possession of stolen goods on at least 3 occasions in the last year without notifying the police as required by the Act.

In the latter case the dealer must be given at least 2 months notice of the disqualification.

Application may be made to the Administrative and Disciplinary Division of the District Court for an order removing the disqualification.

In addition, the applicant may seek an order from the Court allowing the person to carry on business as a dealer pending determination of the application.

This clause builds on current section 49D of the *Summary Offences Act 1953* which allows a court to prohibit a dealer who is convicted of an offence against the relevant provisions of the Act from carrying on business as a second-hand dealer.

Clause 7: Notification by dealers or proposed dealers

A person must give one months notice to the Commissioner of Police before commencing business as a second-hand dealer.

Current dealers are allowed 6 months after commencement of the section within which to give the requisite notice to the Commissioner of Police.

Clause 8: Records of second-hand goods

This clause is comparable to current section 49A of the *Summary Offences Act 1953*.

It requires dealers to keep records of all second-hand goods bought or received by the dealer and in general to keep those records at the same place of business as the goods. The records must be retained for 5 years.

The information required to be recorded is more extensive than the current requirements and the identity of the person from whom the goods are bought must be verified in accordance with the regulations.

Clause 9: Labelling of second-hand goods

This clause introduces a new requirement for all second-hand goods bought or received by a dealer to be labelled or marked with an identification code.

Clause 10: Retention of second-hand goods before sale

This clause imposes requirements designed to facilitate tracing of stolen goods.

Dealers are required to retain second-hand goods for 10 days at a place of business. The goods are not to be moved from place to place and they must be retained in the form in which they are received.

The goods can be sold after 3 days if the identity of the purchaser is verified and recorded.

The requirement does not apply to pawned goods, second-hand vehicles received by a second-hand vehicle dealer, goods below a prescribed value and goods sold by an auctioneer for another if the auctioneer complies with the regulations.

Clause 11: Where second-hand goods suspected of being stolen

This clause is comparable to current section 49B of the *Summary Offences Act 1953*.

It imposes a positive obligation on dealers to check goods against police lists of stolen goods.

The clause introduces a new process for owners of stolen goods to claim the goods back from a second-hand dealer. If a person claims to own stolen goods in the possession of a dealer, the dealer is required to give the claimant a notice in the prescribed form. The claimant and dealer are to complete the notice and the claimant is to receive a copy. A copy of the notice must also be sent to the police as required by regulation and a copy kept at the place at which the goods are kept.

The goods, like any other goods suspected of being stolen, must be retained by the dealer subject to a written authorisation from a member of the police force.

If the goods are not returned to the claimant, the claimant may apply to the Magistrates Court for an order for their return, or for the value of the goods if the dealer has sold them in contravention of the clause. If the goods have been damaged, the Court may also order the dealer to pay compensation to the owner. The Magistrates Court proceedings will be as for a small claim.

Clause 12: Powers of entry and inspection in relation to second-hand goods

This clause is comparable to current section 49C(1)-(3) of the *Summary Offences Act 1953*. It allows police to enter places or vehicles used in connection with a dealer's business and to inspect goods and records.

Ancillary powers to remove, retain and copy records have been included.

The clause requires that a warrant is generally required for entry to residential premises.

PART 3 PROVISIONS OF SPECIAL APPLICATION TO PAWNBROKERS

Clause 13: Pawn tickets

This provision requires pawn tickets complying with the regulations to be given to persons who pawn goods and for copies of the tickets to be retained by the pawnbroker.

Clause 14: Redemption period and sale of pawned goods at end of redemption period

This clause is a new provision requiring pawned goods to be retained for a minimum of 1 month. The redemption period can be extended, from time to time, by agreement between the pawnbroker and the person entitled to redeem the goods.

If pawned goods are not redeemed, they must be sold as soon as reasonably practicable in a manner conducive to receiving the best price reasonably obtainable. The onus of proving compliance with that requirement is to be on the pawnbroker.

Records of the sale must be kept. Any surplus resulting from the sale belongs to the person who would have been entitled to redeem the goods if not sold and can be recovered from the pawnbroker as a debt.

PART 4 SECOND-HAND MARKETS

Clause 15: Notification by operator of second-hand market

A person must give one months notice to the Commissioner of Police before commencing to operate a second-hand market.

Current operators of markets are allowed 1 month after commencement of the section within which to give the requisite notice to the Commissioner of Police.

Clause 16: Records to be kept by operator of second-hand market

This clause requires the operator of a second-hand market to keep records in accordance with details set out in regulations.

Clause 17: Powers of entry and inspection in relation to second-hand market

This clause is comparable to current section 49C(4) of the *Summary Offences Act 1953*. It allows police to enter places used for or in connection with a second-hand market. The police are given power to inspect goods stored in connection with the market and goods in the possession of vendors.

Powers to inspect records and to remove, retain and copy records are included.

PART 5 MISCELLANEOUS

Clause 18: No contracting out

This clause prevents a person contracting out of the Act.

Clause 19: Offence to purchase goods or accept pawn from child

This clause makes it an offence for a dealer to purchase second-hand goods or to accept second-hand goods as a pawn, from a person under 16 years of age.

Clause 20: False or misleading information

This clause makes it an offence to provide false or misleading information under the Act. It also makes it an offence for a person to provide false or misleading information to a second-hand dealer under the Act.

Clause 21: General defence

This clause provides the standard general defence that the offence was not committed intentionally and did not result from any failure to take reasonable care to avoid the commission of the offence. In relation to the requirement to keep records, this clause takes the place of current section 49A(7) of the *Summary Offences Act 1953*.

Clause 22: Liability for act or default of officer, employee or agent

This is a standard provision making the person carrying on a business responsible for the acts of his or her officers, employees and agents.

Clause 23: Service of documents

This is a standard provision setting out the means by which notices may be given under the Act.

Clause 24: Evidentiary provision

This provision is similar to current section 49E of the *Summary Offences Act 1953*.

A person is to be presumed to be a second-hand dealer if within one year the person—

- sells or advertises for sale different second-hand goods for sale on 6 separate days;
- sells or advertises for sale 4 or more second-hand vehicles;
- conducts 6 or more auctions.

Clause 25: Continuing offence

This is a standard provision imposing additional penalties for continuing offences.

Clause 26: Offences by directors of bodies corporate

This is a standard provision making directors of a body corporate (as

defined) criminally liable for offences of the body corporate.

Clause 27: Regulations

This clause provides general regulation making power.

SCHEDULE Related Amendments

The schedule amends the *Magistrates Court Act 1991* to provide that proceedings by an owner of stolen goods for recovery of the goods from a second-hand dealer are to be minor statutory proceedings and so proceed as for a small claim.

The schedule also amends the *Summary Offences Act 1953* to remove the current provisions relating to second-hand dealers.

Mr CLARKE secured the adjournment of the debate.

WAITE TRUST (MISCELLANEOUS VARIATIONS) BILL

Received from the Legislative Council and read a first time.

Mr BASS: Mr Deputy Speaker, I draw your attention to the state of the House.

A quorum having been formed:

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a second time.

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

Leave granted.

This is a Bill to make variations to the terms of the Peter Waite Trust for the establishment of an agricultural high school.

In 1913 Mr Peter Waite offered a piece of land comprising about 114 acres to the State for the purposes of the establishment of an agricultural high school. This offer was accepted by the then Premier on behalf of the State, and the land was transferred to King George V. As a result of this transaction the land was impressed with a common law charitable trust. The land involved forms part of what is the Urrbrae Agricultural High School.

Subsequently, a piece of land of about 20 acres, abutting the original trust land (this is the land on the corner of Cross and Fullarton Roads), was purchased by the State from one Susan Dridan (the Dridan land). The Dridan land was also used for the purposes of the agricultural high school.

In 1952, part of the original Waite Trust land was used for the establishment of Unley High School and the boundaries of the Urrbrae land were changed to accommodate this use.

At that time, some 20 acres of land for Unley High School were excised from the Trust lands (the validity of such action is doubtful, although it appears that the objective was to free the Unley High School land from the trust in exchange for subjecting the Dridan land to the trust and adding it to the Waite lands). The end result was that the land subject to the trust remained at approximately 114 acres. At this time the whole of the land (the remaining Waite land and the Dridan land) were made subject to a statutory trust under the Crown Lands Act to be used at all times as an Agricultural High School reserve.

At various stages over the years, pieces of the trust land have been taken for road purposes, and a strip of land has been dedicated to the local council as a reserve.

Currently, approximately 10 acres of the Urrbrae land is being used for the development of a wet-lands area. This development will be used by students at the school for the teaching of biology, aquaculture, and wet-lands management. When complete, the wet lands will utilise drainage/run-off water from the local area and the Council is involved in this development. Given the educational value of the wet-lands to the school, it is a permitted use of the land.

Following a review of Horticulture and Rural vocational training in South Australia, it was determined that the existing Torrens Valley Institute of TAFE facilities for the School of Horticulture at Brookway Park were in need of up-grading and expansion. Site limitations at Brookway Park led to the consideration of other options. During recent times there has been considerable change in the approach to vocational education and training. Part of these changes has been the development of an integrated training system which offers a broad range of pathways leading to qualification offered by secondary schools, TAFE and industry. In this regard, a proposal to establish TAFE educational programs in horticulture on a site where secondary agricultural and horticultural programs are conducted was considered and developed.

The Urrbrae Agricultural High School is a special interest school of agriculture, horticulture, technology and the environment. The addition of TAFE facilities would offer students pathways into vocational programs as an integral part of the schools curriculum. An expanded and enhanced curriculum for secondary and TAFE students would also be developed in a co-located environment.

The end result is the proposal to establish an integrated educational centre of excellence focussed on agricultural and horticultural education, with links between the educational institutions involved, at the Urrbrae Agricultural High School. New facilities are planned which will be for the shared use of TAFE and Urrbrae Agricultural High School. The upgrading of the Urrbrae School site has commenced.

Legal advice has been sought as to whether the co-siting of the TAFE facilities with Urrbrae Agricultural High School may be lawfully undertaken given the terms of the trust. Although it is the general view that the use of the land for TAFE purposes would probably be within the spirit of Mr Waite's gift, this is not legally sufficient to render the proposal within the terms of the trust.

The legal advice is to the effect that the use of the land for TAFE purposes, as proposed, would not be considered to be incidental to, and would be inconsistent with, the purposes of the trust and would therefore be unlawful.

The law is that, where land is held on trust for a specific purpose, the trustee (in this case the Minister for Education) must abide by that purpose and it will be a breach of trust to deviate from that purpose by using trust property for a purpose which goes beyond or outside the limits of the purpose for which the trust was constituted.

Consideration has been given to an application to the Supreme Court for a cy pres scheme but, after all the information was gathered, it was decided that such an application was unlikely to succeed because the original trust had not failed. All legal options for varying the terms of the trust have been examined and it has now been determined that an Act of Parliament is now the most appropriate way to deal with the matter.

The legal advice is that, in view of the history of the land and the likelihood that some of the past actions in relation to the land were most likely breaches of trust, the opportunity should be taken to ratify certain past acts as well as to permit the proposed new uses of the land. Accordingly, this Bill has been prepared. The key matters dealt with by the Bill are as follows:

- The location of a TAFE facility on the site. This matter is dealt with by providing that the land may be used for the purposes of vocational agricultural education and training.
- The issue of gender is addressed because it is arguable that the original trust was for an agricultural high school for boys only.
- The releasing from the trust of the land dedicated under the Crown Lands Act as a reserve for Council purposes (this land is currently under the care and control of the Mitcham Council). This land will remain dedicated under the Crown Lands Act.
- The ratification of the exchange of the 20 acres on which Unley High School is now situated for the Dridan land, and the fixing of the Dridan land with the Waite Trust and the releasing of the Unley High School land from the terms of the trust.
- A mechanism that would allow Unley High School to exchange a portion of its land for a portion of the Trust land, to enable construction of a road to the Unley High School gymnasium.
- The releasing from the trust of the various portions used for road purposes.
- In view of past uses of the land for non-trust purposes release from liability for breach of trust for past acts is provided.

A further proposal has been developed by Primary Industries SA, for the location of the State Tree Centre on the Urrbrae site. The State Tree Centre (located at TAFE's current Horticultural campus at Campbelltown) currently comprises staff from Primary Industries SA, Greening Australia, Trees for Life and the Australian Trust for Conservation Volunteers.

It is considered that the location of the State Tree Centre on the Urrbrae site will benefit agricultural education generally. The main focus of the constituent bodies of the State Tree Centre is on re-vegetation, which is an important feature of agricultural land management. The State Tree Centre undertakes a wide variety of educational activities ranging from curriculum writing to the delivery of prevocational courses in natural resource management.

It is considered that it would be appropriate to locate the State Tree Centre at Urrbrae, but the Bill makes provision in general terms for this type of activity. This is done by allowing the use of the trust

land for other purposes beneficial to agricultural education and training approved by the Governor on the recommendation of the Attorney-General. It is the duty of the Crown to protect property devoted to charitable purposes and that duty is executed by the Attorney-General. This is a duty to protect the beneficial interest or the object of the charity. The use of the general wording in this area would allow for consideration of the use of the land for other purposes, although there are no other such purposes presently in contemplation. An approval under this provision may be subject to conditions and will be publicly notified in the *Gazette*.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Variation of Waite Trust

This clause varies the terms of the Trust (without negating the original trust requirement that the land be used for the purposes of an agricultural high school) to allow the land to also be used for vocational agricultural education and training and other purposes beneficial to agricultural education and training approved by the Governor on the recommendation of the Attorney-General. An approval may be subject to conditions and must be published in the *Gazette*.

The clause also makes it clear that the land may be used for the benefit of persons of either gender.

Clause 3: Extension of Trust to Dridan land

This clause extends the Trust to the land transferred to the Crown by Susan Dridan (which is adjacent to the Waite land).

Clause 4: Exchange of Trust land

This clause provides that the Governor (on the recommendation of the Attorney-General) may approve the exchange of a portion of the land occupied by Unley High School for a portion of the Trust land, to enable the construction of a road to the Unley High School gymnasium. If such an approval is given, the relevant portion of the Trust land will be freed from the Trust and the relevant portion of the Unley High School land will become subject to the Trust.

Clause 5: Land freed from Trust

To put the matter beyond doubt, this clause frees from the Trust certain portions of the Waite land which have subsequently been applied for other purposes (ie. the portion of the land that is occupied by Unley High School, the portion of the land under the care, control and management of the Mitcham Council and those portions that have been dedicated for road purposes).

Clause 6: Duty of Registrar—General

This clause requires that the Registrar-General give effect to the provisions of the measure by making appropriate notations etc. on the relevant certificates of title.

Clause 7: Immunity from liability for breach of trust

This clause provides immunity from liability for breach of trust for anything done under the measure or anything done before the commencement of the measure to provide for the establishment and operation of Unley High School, the reserve for Mitcham Council purposes or the land set aside for road purposes.

SCHEDULE

Lands freed from Trust

The schedule defines the lands freed from the Trust under clause 5.

Mr ATKINSON (Spence): It is with great pleasure that I am called upon to respond for the Opposition to a Bill and a second reading explanation which I have only just this second been given. It is a challenge but, as the Deputy Leader says, because I am a speed reader and an old scholar of Unley High School, I grasped the significance of this Bill immediately and I am most interested in it.

It seems that Mr Peter Waite in 1913 offered land comprising 114 acres to the State for the purposes of establishing an agricultural high school. Upon that offer (conveyed by letter) being accepted, the land was vested in King George V; so, it is not the ordinary trust that Parliament needs to amend by legislation. It is a rather more open gift and, accordingly, it is perhaps more open to us to amend the purposes of the gift, although Parliament must always be somewhat reluctant to amend the purpose of a trust where the money or land is given for a particular purpose.

After the State had acquired the Waite acreage, a piece of land of about 20 acres on the corner of Cross and Fullarton Roads was added to the land, that land having been purchased from Susan Dridan. It is on that corner that the Urrbrae Agricultural High School buildings are erected. After that another 20 acres of Waite land towards Belair Road near the bicycle track was allocated for the purpose of shifting Unley High School from its old location on Belair Road to the Netherby area. Unley High School was relocated, and that is where I attended high school. I believe the former Premier also attended high school on that site.

The Hon. H. Allison interjecting:

Mr ATKINSON: Sir Mark Oliphant, as the member for Gordon interjects, attended Unley High School but it was then on Belair Road and not at Netherby.

Mr Bass: Were you in the same class?

Mr ATKINSON: Intellectually in the same class. He attended one of our assemblies and gave an excellent talk. The school on the old Unley High School land was Mitcham Girls Tech, probably now called Mitcham Girls High School, and after school I used to walk in a due westerly direction and loiter outside Mitcham Tech, but I will not go into that because it is not relevant to what we are discussing.

The 20 acres given for the purpose of Unley High School was not excised from the trust in a formal manner and there may be some doubt as to whether the excision of that land was in accordance with the trust. It probably was not, but the thinking at the time was that the 20 acres that had been bought from Susan Dridan compensated for the excision of the 20 acres for Unley High School. I gather that more of the Waite land was stripped away for the purposes of road reserve and more of the Waite land was taken away to create a park near the bicycle track, or perhaps it was stripped away to create the bicycle track; I do not know.

Perhaps that is something the Treasurer will be able to tell us when he responds to my speech. It is something he should know, because not only is he responsible for this Bill but he is the local member for the area and, if he does not know it, he ought to know. I understand that 10 acres of the Urrbrae land is being used for wetlands and I suppose that, arguably, that is within the terms of Peter Waite's gift because, presumably, it is being used for educational purposes. I understand that the Government wants to do two things which require the trust to be amended, that is, it wants to relocate horticultural and rural vocational training that now goes on in the Torrens Valley Institute to the Waite land so that there is a technical and further education facility on the Waite land. It also wants to relocate the State Tree Centre there and it is conjectural whether the State Tree Centre has any educational purpose.

The Hon. D.C. Wotton: Have you been out to the Tree Centre?

Mr ATKINSON: I am as familiar with the State Tree Centre as the Minister who interjects is familiar with the location of the Queens Theatre. That answers his interjection.

The Hon. D.C. Wotton: I know where it is now.

Mr ATKINSON: I congratulate the Minister on that. I gathered that the Treasurer, in the explanation he tabled only a minute ago, was going to say that consideration had been given to applying to the Supreme Court for a *cy pres* scheme so that the Supreme Court could alter this charitable trust, but it was thought that that would take too long and cost too much and it was, by comparison, easier for the Parliament to amend the trust. That is why the matter is before the House. It was before another place back in October and it was

referred, as all hybrid Bills should be, to a select committee which has now reported.

Having read the debate in another place and considered the matter carefully, the Opposition is happy to agree to the Bill that changes the trust. We hope that, in any alterations the Government might make to the use of the Waite land, it respects the original gift in so far as that is possible. We trust the Government with this matter and I hope that in his reply the Treasurer, as the member representing the Waite area, will be able to tell me precisely where those acres that were excised for the purpose of the local park are located on the land and whether the bicycle track at the western end of Unley High School was part of that excision.

The Hon. S.J. BAKER (Treasurer): I thank the member for Spence for his support. In answer to his question, there is a one-chain strip at the western end vested in the council for the bicycle track.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: Yes, it was for the bicycle track. It was on the trust land. I was pleased as the local member that I had that knowledge in my head to answer the member for Spence. Whether the developments at the Waite have been in keeping with the Waite Trust has been a vexed question for some time. The Bill makes possible something that I believe is in the community's interest without departing from the Waite Trust: it upholds the provisions for developments compatible with the original interests of Peter Waite but provides for greater flexibility and education than we could possibly apply today. I think that the matter would come under contention only if the Government proceeded with the changes it intends and someone brought an action against the Government. I do not believe that that would occur, but it is important that this issue be put to bed.

The Waite land, as has been described in my second reading explanation and referred to by the member for Spence, is a special piece of land in Adelaide. I am a former student of Unley High, like the member for Spence and the member for Finniss, the former Premier, and the site has been important for the education of students, particularly in the south-eastern suburbs and well beyond; indeed, we have had students at Unley High from right across South Australia as well as people from other countries. The major issue involved is the extent to which any change on the land would be deemed to be consistent with the Peter Waite Trust. The fact that it is difficult to track down the original trust deeds and know exactly what was envisaged in the first place has added some level of complexity.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: Yes. There has been a contentious issue there for some time in terms of the Netherby Kindergarten, which is on that land. There have been indications from the university over a long period that it may have thought it a good idea when the kindergarten was put there, but it wants the land back. Fortunately, that issue will also be put to bed.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: It allows for education development on that land. The importance of that area to Adelaide cannot be understated. Not only do we have Unley High but, more importantly, with its historical influence on the training of people for agriculture, Urrbrae High School is sited there. We have seen the development of some of South Australia's best farmers through that educational institution. The Waite is one of the finest scientific, research and educational areas in Australia and perhaps in the world. The land has provided the capacity to teach young people the basic technical needs of farming. If we go further east into the Waite area, to the area that is operated by the University of Adelaide, we see the enormous capacity for research, which is a very important component of the total Waite land.

I am pleased that the Attorney has taken this initiative. We have had a number of disputes about the intent of the original trustee; we certainly had some disputes about the Netherby Kindergarten over a long time; and we had disputes about whether a TAFE college should be placed on the same area of land occupied by Urrbrae High School. I think that Peter Waite would be gratified to know that the Government of the day has thought fit to amalgamate both secondary and tertiary education on this site. I believe that he would feel that it is quite fitting that the development of agricultural education pursuits to their highest level will occur on the land that he granted in trust to the Government of the day.

I know that the various instrumentalities—Unley High School, Urrbrae High School and the Waite—will be very pleased that the matter has now been satisfied by legislation. It is far better to do it this way than to make the changes and then suffer the possibility that the change will be challenged. It does assist in the development of the TAFE institution of Urrbrae High School. I am very proud of the Waite and Urrbrae High School. I am sure that I will be very proud of the TAFE institution. As an Unley High School scholar, I am also proud of the achievements of that high school. It is not only a prime piece of educational land that we would wish to preserve for future generations for the improvement of education in a wide range of fields but it is also the site where many of our scholars of the future will learn their basic skills and go on to make marked contributions to the future of this State. I am delighted that this matter has now been satisfied. I am very pleased to receive the Opposition's support. I wish the TAFE and Urrbrae High School—

The Hon. D.C. Wotton: And the Tree Centre.

The Hon. S.J. BAKER: And the Tree Centre, as the Minister for the Environment and Natural Resources quite rightly points out. I wish them speedy progress so that we can see the full capacity and potential of that land develop. I thank members of both Houses for their support and initiative.

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

FISHERIES (PROTECTION OF FISH FARMS) AMENDMENT BILL

Returned from the Legislative Council with an amendment.

ADOPTION (MISCELLANEOUS) AMENDMENT BILL

Returned from the Legislative Council with the following amendments:

No. 1. Page 8, line 31 (clause 23)—Insert '(but the Chief Executive cannot require that a renewal be lodged in person)' after 'Executive'.

No. 2. Page 8 (clause 23)—After line 31 insert new paragraphs as follow:

(8) The Chief Executive will, if necessary, send a person who has lodged a direction under this section a renewal notice approximately 6 months, 3 months and 2 weeks before the date on which the direction will expire, unless the person has requested in writing that no such notices be sent.

(9) Subject to any written directions of the person to the contrary, a renewal notice will be sent to a person at his or her address last known to the Chief Executive.

No. 3. Page 8, line 33 (clause 23)—Leave out 'must' and insert 'may'.

No. 4. Page 8, line 34 (clause 23)—Leave out 'encourage' and insert 'invite'.

Consideration in Committee.

The Hon. D.C. WOTTON: I move:

That the Legislative Council's amendments be agreed to.

I am pleased that the legislation has passed in this form. There were a couple of issues that the Opposition's spokesperson discussed with me and raised during the debate in this place. Amendments were put forward by the Opposition in another place, and I am pleased to be able to support them. I am pleased that legislation which could have been very controversial has been passed in this way. I think that everybody would realise that this is difficult and complex legislation. Many points of view of considerable diversity have been put. This action has been taken in response to a commitment we gave prior to the last election when we indicated that we would review the legislation and introduce amendments. I think that the Bill that has now passed through both Houses takes us that little bit further in making it easier for those who are adopted to obtain a little more information and for people to be a little clearer on what can be achieved in this area.

I take this opportunity to thank those who were involved in the review for their considerable commitment to this process, which involved a lot of time. I would like to thank the officers who worked through this legislation. Because of the complexities and the need for appropriate consultation, it has taken a long time for the legislation to be brought into the House and reach this stage. I am pleased to be able to support the amendments that are before us.

Ms STEVENS: I support the amendments that are before us. The Bill has been a very challenging exercise. It was difficult in that it was a matter of trying to balance out a whole lot of competing interests and to attempt to find that point which achieved that balance. I believe that the amendments that we have before us go towards that end, and obviously we support them. I, too, would like to express my thanks and appreciation to all the groups and individuals who made contact with me and my colleagues both in this place and in the other place in relation to these matters. I thank them for the time that they were prepared to spend and for the time that they were happy to give when we did not understand things and needed to contact them again and further discuss matters.

I thank them and say that we do appreciate this and that we did our best to strike the right balance. I should like to express my thanks to the departmental officers who also were prepared to clarify issues, answer questions, seek information and make our understanding of the Bill much clearer. Finally, I should also like to thank the Minister and the Hon. Sandra Kanck for their willingness to try to work this through to achieve the best solution.

Motion carried.

[Sitting suspended from 4.57 to 5.49 p.m.]

ELECTRICITY BILL

The Legislative Council intimated that it insisted on its amendments to which the House of Assembly had disagreed.

Consideration in Committee.

The Hon. S.J. BAKER: I move:

That the House of Assembly insist on its disagreement to the amendments.

Mr CLARKE: The member for Playford did a more than adequate task of tearing apart the Minister's argument on this point last time round, so I will not belabour the point. The Opposition agrees with the Legislative Council's amendments.

Motion carried.

A message was sent to the Legislative Council requesting a conference at which the House of Assembly would be represented by Messrs S.J. Baker and Foley, Mrs Kotz and Messrs Quirke and Venning.

The Hon. S.J. BAKER (Treasurer): I move:

That the sitting of the House be extended beyond 6 p.m.

Motion carried.

FISHERIES (PROTECTION OF FISH FARMS) AMENDMENT BILL

Consideration in Committee of the Legislative Council's amendment:

Page 3 (clause 2)—After line 14 insert new subsection as follows:

(13) This section will expire on the fifth anniversary of its commencement.

The Hon. R.G. KERIN: I move:

That the Legislative Council's amendment be disagreed to.

The Hon. Mike Elliott in the other place has moved an amendment that a section of the Bill expire on the fifth anniversary of its commencement. We have sought advice on that and some legal problems accrue whereby, if someone is prosecuted within the five year period and the court case goes beyond the expiry date of the Bill, we may have problems making a conviction work. We think that that is untenable: it does not provide the level of protection that we were after for the aquaculture industry. For that reason we disagree to the Legislative Council's amendment and want the provisions of the Bill to remain.

Mr CLARKE: I know that the Minister has had discussions with the shadow Minister in another place, the Hon. Ron Roberts, and those points will be taken into account by the shadow Minister and the Opposition in that place. At this stage I am not in a position to say that the Opposition will accede to the Minister's point of view. However, I am confident that, in another place, the Hon. Ron Roberts will, after giving due consideration to the legal advice that has been provided to him by the Minister, be able to determine our position fairly swiftly thereafter.

Motion carried.

ELECTRICITY BILL

A message was received from the Legislative Council agreeing to a conference, to be held in the Plaza Room on the first floor of the Legislative Council at 10 p.m. this day.

ADJOURNMENT DEBATE

The Hon. S.J. BAKER (Treasurer): I move:

That the House do now adjourn.

Mr OSWALD (Morphett): I will use this opportunity to bring to the attention of the House a matter of great concern to a constituent of mine who took a complaint to the Office of Consumer and Business Affairs. I believe that the complaint is serious enough to request of the Commissioner for Consumer Affairs that he instigate an inquiry into this matter and, if proved, give serious consideration to the removal of one of his officers from being in contact with the public.

The complainant has given full permission for these facts to be revealed and has requested that I make them public. The complainant, Ms Alison M. Ward, states:

I am writing to complain about the lack of information, wrong information and overall conduct of Consumer Affairs with my case.

This case refers to a motor vehicle complaint. She continues:

I first contacted Consumer Affairs for help with getting my money back for a vehicle I purchased from Phil Symonds, trading as Oaklands Car Sales. At the time of the purchase I was told the car was 'one owner, immaculate condition, an old couple had owned it, etc.'—and the car looked exactly that but a couple of days later when cleaning the interior lining I found a crunching noise. I took it to Davco Crash Repairs and they said the roof was rusted through and the car had been bogged up and resprayed for cosmetic reasons only with no regard for safety. They also stated I should not drive it, the car is totally unsafe and unroadworthy.

I spoke to David Vickery [in Consumer Affairs], explained all this and that I wanted my money back as Phil Symonds said he would only repair it. David Vickery said there wasn't anything they could do for me as he (the car dealer) only had a 'duty to repair' the car and I should be thankful he would repair it. I queried part B of my contract with David which states—

and the next section details the duty to repair. She continues:

David basically fobbed all this off and wasn't sure what I was talking about so I faxed him part B and highlighted what I was talking about and he still insisted I couldn't get my money back and the dealer had a duty to repair only. These phone calls went on for some time with me repeating myself regarding the contract and misrepresentation of the vehicle only to be told time and time again the dealer had a duty to repair.

The point that my constituent made to Consumer Affairs was that the dealer misrepresented the condition of this vehicle and therefore had an obligation to return the money. This went on for 10 months. The letter continues:

Finally, about two months and five unroadworthy loan cars later (that is, no registration, no rear vision mirror, no indicators, no brake lights and no seat belts, etc.), I got the car back with all repairs unfinished and a crooked roof. So I rang Consumer Affairs again with my complaints about the car repairs. Unfortunately, they were sick of me and my complaints, so they started not to return my phone calls, wouldn't put me through to David Vickery or Mark Collett, and they [the receptionist] would tell me that they work hard and when they see people like David eating their lunch at his desk they won't disturb them. This is when I contacted my local MP, John Oswald.

With my Personal Assistant's help, she was able to get through to Consumer Affairs on each occasion. We believe that some 24 times over the course of those months my constituent had to ring my office and my secretary would then ring Consumer Affairs and arrange for them to answer her telephone call. Eventually, after being told that she would not be able to get any money back through the court, my constituent decided to go to court. The letter continues:

At my first court hearing, Magistrate Gumple asked me what happened. I told him the story and that I wanted my money back, but Phil Symonds refused and Consumer Affairs had told me I couldn't get my money back, so I had to get it fixed and now it wasn't fixed properly, etc. Magistrate Gumple asked Phil why he wouldn't give the money back to me, as the way he saw it the contract had failed due to the car being misrepresented and it was unroadworthy at the time of sale. Magistrate Gumple set a date for trial.

That trial duly took place. The letter states further:

After the hearing I rang Consumer Affairs and spoke to David Vickery. I wanted to know why I was given wrong information and that I could get my money back on the grounds which I told Consumer Affairs about at the beginning. I also asked why they didn't show up at court and they said they were there—'Ask Phil, Phil knows I was there, I was talking to him.' Neither David nor Mark bothered to introduce themselves to me!

It is a bit poor if these officers went to the court but did not make themselves known to my constituent. The trial proceeded, and judgment was made in favour of my constituent. The car firm duly appealed, and the matter went to a superior court which once again upheld the judgment. So, this case has been through two courts and both courts decided in favour of my constituent. The money has now been paid after some 10 months.

Our complaint is also with the handling of the case, because it appears that when my constituent visited Consumer Affairs, bearing in mind that she had been conducting her inquiries by telephone, she picked up a pamphlet which set out exactly what could happen. One thing that alarmed us considerably was that the officers of Consumer Affairs did not appear to know that there was a fund to which my constituent could have had access. They did not know that the Second-hand Motor Vehicles Fund was available to Consumer Affairs. She was sent to the Motor Traders Association and other organisations because the officers at Consumer Affairs did not know that that fund was available.

There are other incidents of great concern. For example, Ms Ward rang one day to speak to David Vickery and the switchboard operator said that she could see him down the corridor having coffee but refused to put the call through to him. Questions will be raised, if we can get an inquiry, with the Commissioner for Consumer Affairs regarding the advice that Mr Vickery gave regarding the Magistrates Court; the allegation that Mr Vickery was there to protect the dealer and not his client; the refusal by Mr Vickery to give Ms Ward the telephone number of the dealer when the dealer closed down and moved to his private home; and other allegations that Mr Vickery failed to pass on legitimate information.

From the electorate office point of view—and every member will be sympathetic to this—on 24 occasions my secretary had to take time to ring David Vickery at Consumer Affairs to get him to answer the telephone. That is absolutely appalling, and something that has to cease. There is no question that the way in which the department dealt with this lady was absolutely appalling. I call for the Commissioner for Consumer Affairs to have an inquiry into this incident, trace it through the two courts and ask some very serious questions of Mr Vickery about the way in which the matter was handled. If proven, the Commissioner should give serious consideration to preventing Mr Vickery and anyone else associated with this case from dealing with the public.

Ms STEVENS (Elizabeth): About six or so weeks ago, Better Hearing Australia, South Australian Branch Incorporated, lost its Government funding. I have received some information from that organisation that I want to put on the record, together with some questions that it asks about the whole process. A summary of the history states:

1. The history behind the cessation of Better Hearing Australia's [BHA] Government funding goes back several years. In the financial years 1990-91 to 1994-95 our organisation's expenditure exceeded its income by $400 000 including, in 1994-95, a record over-expenditure of $143 500. In September 1995 the then administrator was dismissed by the President and shortly afterwards, at an annual general meeting, the council...was almost entirely replaced.

2. The new council found itself faced with possible financial ruin, with only $132 000 left in an investment fund which five years previously stood at $530 000. By Christmas of 1995 staff (representing an annual wages bill of $153 000) had been drastically reduced, finances were being watched carefully on a weekly basis and we were surviving. Not long afterwards the remainder of the investment fund had been wiped out by staff pay-outs, rent and other expenses. Still we survived by careful, businesslike management. We have continued to do so. We have not only continued to operate, we have maintained virtually all the services which had previously been provided...

4. The service agreement with the DSO, which would normally be signed at the beginning of the financial year and ratifies their funding, had not yet been signed. [Colleen Johnson, Executive Director of the Disability Services Office] said it could not now be signed until after the special general meeting. In the meantime the current funding of $57 792 a year would continue on a monthly basis. We were asked to provide documentation as to how we would meet the provisions of National Disability Standard 8, which deals with service management issues, as this would be necessary before signing the service agreement.

5. The special general meeting rejected the proposal that only hearing impaired members be eligible for membership of the council and following that we submitted the documentation dealing with National Disability Standard 8.

6. We complied with all the requests to the DSO and kept the DSO informed of our financial situation and of the changes we made to our organisational structure in January. However, we have never had a reply as to whether or not the DSO would sign the service agreement which would guarantee continuance of the funding.

Question. Why were we not advised of the DSO's intentions regarding the service agreement despite our representations, our obvious financial difficulties and the distinct possibility that we could cease to exist at any time?

7. Early in February, Ms Johnson informed our Treasurer by phone that our funding would have to cease from 15 March 1996, but we would have the opportunity to tender for funding of up to $100 000 in competition with other organisations which would be invited to tender for supplying our services. Tenders would have to be supplied by 8 March 1996, a decision would be made by 15 March 1996. This was confirmed in a letter dated 5 February 1996...

Question: Why were we given such short notice of the cessation of our funding? We had a deadline of 8 March 1996 to supply the proposal, on which a decision would be made by 15 March 1996, the date at which our funding was scheduled to cease. This meant we would have no reasonable notice of the funding situation.

Why were we given such a severely limited time in which to prepare a complex proposal which was vital for our survival?

Why, when BHA had never been funded for more than $58 000 per annum, did it suddenly become possible for a successful tenderer to receive up to approximately $100 000 per annum?

8. This tendering process was a matter of great conjecture to us as no other organisation in South Australia provided anything like a comprehensive service for the hearing impaired. Who else could possibly do this without the qualified staff, the equipment and experience gained over many years? And how could any other organisation do this as from 15 March 1996?

9. We contacted several organisations who might conceivably have been invited to tender. One who had been invited was non-committal, but was obviously not in a position to tender, having no experience in our field. Another had replied to the DSO that they were not interested, it was outside their field, Better Hearing was already doing the job well and should continue doing so. Later we discovered that the organisations invited to tender were the Guide Dogs Association of SA and NT, the Royal Blind Society of SA, the School of Speech Pathology at Flinders University and the Royal SA Deaf Society.

Question: Why was there no public advertisement of the tender?

Why were invitations issued to a limited number of organisations at least some of whom were patently unable to provide our range of highly specialised services?

10. On 15 March 1996 our Treasurer inquired by telephone as to the decision. He was advised by a financial officer that a decision had been made but had to be reviewed by Ms Johnson. The Treasurer pointed out that as our normal funding was to cease on 15 March 1996, he would be legally obliged to wind up BHA forthwith as we would not be able to meet our financial obligations. The financial officer then said that the normal funding would be extended for a further two weeks to 29 March 1996 and we would be advised of the decision within that period. This was confirmed in a letter from Ms Johnson dated 18 March 1996...

Question: Why, when a decision had already been made, were we not advised on 15 March 1996?

11. On 29 March 1996 our Treasurer rang the DSO and was told again that a decision had been made and we would be advised of it shortly. The Treasurer pointed out once more that without adequate income after 29 March 1996 he would be obliged to wind up BHA. Again he was told that normal funding would be extended by a further two weeks to 12 April 1996. Seeking information as to the decision, the Treasurer rang the DSO every day from that point on, leaving messages for Ms Johnson and others. He received no reply until 12 April 1996 when he spoke to the financial officer who again said we would be advised of the decision and they would extend our normal funding for a further two weeks to 26 April 1996.

12. After several phone calls the Treasurer eventually managed to contact an officer with whom he arranged a meeting to discuss matters. A meeting was then held on 15 April 1996 between two officers of the DSO and the Executive Committee of BHA. At this meeting one of the officers produced a letter...from Ms Johnson advising that the tender had been awarded to the Guide Dogs Association(!). We were told that the only other tenderer was the SA Deaf Society. The Deaf Society in fact tendered only for hearing impaired services in country areas, hardly a competitive tender.

Question: Why were we put off on three occasions without any explanation, either then or subsequently?

Why we were advised as late as 15 April 1996 that we had lost the tender and then only after insisting on a meeting?

Why was the tender awarded to an organisation with no appropriate experience, staff or equipment to provide a comprehensive service for hearing impaired people?

13. On 24 April 1996 we received a fax from Ms Johnson...stating that the DSO would 'offer a final one-off grant of $2 409 as payment to ensure a smooth and coordinated transition of government funded services to the Guide Dogs Association'. Conditions requiring us to assist the Guide Dogs Association were attached to this proposed grant. This letter advised us, for the first time, that the Guide Dogs Association would be commencing operations on 29 April 1996.

Question: Why were we advised as late at 24 April 1996 that the Guide Dogs Association would be running their service as from 29 April 1996, less than two working days away?...

Why were we offered a 'final one-off grant' on condition that we assist the Guide Dogs Association to set up their operation? Since when have unsuccessful tenderers been expected to assist successful tenderers? If this is not illegal, it is certainly unethical.

14. On 1 May 1996 the Executive Committee of BHA, together with barrister Simon Lane, who had offered his legal services to BHA free of charge, met with the Minister for Health...to protest against the decision to award the tender to the Guide Dogs Association.

The result of this meeting was that (a) the Minister would consider what interim funding could be given to BHA and would notify us of this by 3 May 1996; (b) BHA agreed to postpone any approach to the media by one week, until 13 May 1996; (c) the Minister would review the activities of the DSO since October 1995 and give us a decision by 10 May 1996.

15. Subsequently the Minister arranged interim funding at the same rate as previously. This funding has continued on an *ad hoc* fortnightly basis until the present time (October 1996) but never with any certainty that it would continue. On more than one occasion payments have failed to arrive on time and we have had to contact the DSO for them. From the time the Guide Dogs Association commenced the operation of their hearing impaired services (29 April 1996) to 4 October 1996, BHA has received a total of $38 544 from the DSO.

Question: Why would the Minister continue funding BHA as well as the Guide Dogs Association unless he was very unsure of his ground?

16. Negotiations with the Minister continued on the understanding that BHA would not contact the media on the matter as long as negotiations were proceeding. The Minister said he would obtain a report on the matter and then make a decision. Early in July we

were informed that the decision would be made by 5 p.m. on 12 July 1996. No decision was received...

19. On 12 August 1996, the Minister wrote to the BHA President stating that it had been decided to reconstitute the tender panel 'because there was the potential for a conflict of interest in the tender panel'. Mr Lane, who had been conducting negotiations with the Minister, wrote to the Minister saying he would be unavailable for three weeks...and asking that the tender process be held in abeyance... The BHA President wrote to the Minister stating BHA's concern that the new panel should make their recommendations based on the original tenders...

20. On 11 October 1996 the Minister wrote to the BHA President advising that the new panel had been instructed to base its consideration on the original submissions only.

21. It was now obvious what the Minister's intentions were. The main thrust of our protest to him was the handling of our funding by the DSO, yet where has he referred the new panel's recommendations? To the DSO! Also, the whole matter has dragged on from 1 May 1996, when the BHA executive first met with the Minister.

This information was sent to me in the hope that I would put it on the record in Parliament, which is what I have done. That organisation—an organisation that has provided valuable service to the South Australian community for over 57 years—has considerable concerns. It deserves better. When members are able to read the facts as I have outlined them, they will see that there were serious deficiencies in that process.

Motion carried.

At 6.27 p.m. the House adjourned until Thursday 5 December at 10.30 a.m.